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April 23, 2018

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RE: In the Matter of the Proposed Amendments to Rules of the Minnesota Pollution Control Agency Governing Air Quality; *Minnesota Rules* Chapters 7005, 7007, 7008, 7011, and 7019; Revisor's ID Number RD4429

Dear Librarian:

The Minnesota Pollution Control Agency (MPCA) intends to adopt amended rules governing air quality, *Minnesota Rules* Chapters 7005 (Definitions and Abbreviations), 7007 (Air Emissions Permits), 7008 (Conditionally Exempt Stationary Sources and Conditionally Insignificant Activities), 7011 (Standards for Stationary Sources), and 7019 (Emission Inventory Requirements). The name of this rulemaking is the "exempt source/conditionally insignificant activities rule." The MPCA plans to publish a Notice of Intent to Adopt Rules in the April 23, 2018, *State Register*.

The MPCA has prepared a Statement of Need and Reasonableness (SONAR). As required by Minn. Stat. §§ 14.131 and 14.23, the MPCA is sending the Legislative Reference Library an electronic copy of the SONAR at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions about these proposed rules, please contact me at 651-757-2439 or [mary.lynn@state.mn.us](mailto:mary.lynn@state.mn.us).

Sincerely,

A handwritten signature in blue ink that reads 'Mary H. Lynn'.

Mary H. Lynn  
Rule Coordinator  
Agency Rules Unit  
Resource Management & Assistance Division

ML:mb

Enclosure: SONAR



**STATEMENT OF NEED AND REASONABLENESS**  
Proposed Amendments to Rules Governing Air Quality,  
*Minnesota Rule* Chapters 7005, 7007, 7008, 7011, and 7019  
Revisor No.: RD4429

**Minnesota Pollution Control Agency**  
**Environmental Analysis and Outcomes Division**  
**January 2018**

**Alternative Format:**

Upon request, this Statement of Need and Reasonableness (SONAR) can be made available in an alternative format, such as large print, Braille, or audio. To make a request, contact Mary H. Lynn at the Minnesota Pollution Control Agency, Resource Management and Assistance Division, 520 Lafayette Road North, St. Paul, MN 55155-4194; telephone 651-757-2439; fax 651-297-8676; or e-mail [mary.lynn@state.mn.us](mailto:mary.lynn@state.mn.us) 800-657-3864 or use your preferred relay service [info.pca@state.mn.us](mailto:info.pca@state.mn.us)

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## Acronyms or Abbreviations

40 CFR Part 52	Code of Federal Regulations, title 40, Part 52
40 CFR Part 63	Code of Federal Regulations, title 40, Part 63
40 CFR Part 63	Code of Federal Regulations, title 40, Part 64
40 CFR Part 70	Code of Federal Regulations, title 40, Part 70
CFR	Code of Federal Regulations
chapter 7005	Minnesota Rules chapter 7005
chapter 7007	Minnesota Rules chapter 7007
chapter 7008	Minnesota Rules chapter 7008
chapter 7011	Minnesota Rules chapter 7011
chapter 7019	Minnesota Rules chapter 7019
CO	carbon monoxide
CO <sub>2</sub>	carbon dioxide
CO <sub>2</sub> e	carbon dioxide equivalent
EPA	United States Environmental Protection Agency
gr	grains
HAP	hazardous air pollutant
m <sup>3</sup>	cubic meter
mg	milligram
Minn. R.	Minnesota Rules
Minn. R. ch.	Minnesota Rules chapter
Minn. Stat. ch. or §	Minnesota Statutes chapter or section
MPCA or Agency	Minnesota Pollution Control Agency
NESHAP	National Emission Standards for Hazardous Air Pollutants
NO <sub>x</sub>	nitrogen oxides
PM	particulate matter
PM <sub>10</sub>	particulate matter with an aerodynamic diameter less than or equal to 10 micrometers
PM <sub>2.5</sub>	particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers
PTE	potential to emit
psia	pounds per square inch (absolute)
scf	standard cubic foot
SIP	State Implementation Plan
SO <sub>2</sub>	sulfur dioxide

SONAR	statement of need and reasonableness
tpy	tons per year
VOC	volatile organic compound
wt%	weight percent

# 1. Introduction and statement of general need

## Summary of proposed amendments

The Minnesota Pollution Control Agency (MPCA) is proposing amendments to Minnesota Rules governing administration of its air quality protection program in Minnesota. The primary focus of the proposed amendments is to clarify and develop rules governing the treatment of small air pollution emitting activities.

These activities are defined in the air permit program as “insignificant activities” and “conditionally insignificant activities.” These are small air pollution emitting units or sources where the amounts of pollutants emitted generally do not affect the type of permit a source needs. However, sometimes these activities do affect the type of permit needed - if the total facility potential emissions are close to a permitting threshold, or if there is a large number of these small sources so that the quantity matters. The proposed amendments revise the lists of insignificant activities in part 7007.1300 and the requirements for conditionally insignificant activities in chapter 7008. The proposed amendments also clarify when these activities, and calculation of emissions from these activities, must be included in an air emissions permit application. Specifically regarding conditionally insignificant activities in chapter 7008, the MPCA is proposing a federally enforceable numeric emissions limit for particulate matter (PM) emissions from conditionally insignificant activities in part 7008.4110.

The MPCA has identified types of air emission sources where the actual air emissions will be low enough that, with technical performance requirements made enforceable through a rule, a source is eligible for an exemption from permitting. The MPCA has codified these proposed exemptions in existing chapter 7008. Existing categories of conditionally exempt sources in chapter 7008 include gasoline dispensing stations and concrete manufacturing facilities. The MPCA is proposing to adopt technical standards for auto-body refinishing facilities, small coating facilities, woodworking facilities, and a new category defined as “insignificant facility” technical standards. As a result, there are four new categories of conditionally exempt sources proposed in chapter 7008.

Finally, this rule proposal makes several small housekeeping changes to clarify or align the state rules with federal permitting requirements or state statute changes.

Where applicable, the new and revised rules will be submitted to the United States Environmental Protection Agency (EPA) for inclusion in the Minnesota State Implementation Plan (SIP). The SIP is the vehicle for states to demonstrate compliance with the air quality standards of the Clean Air Act. The SIP contains state rules and statutes, as well as site- and area-specific plans, permits, and orders that ensure that Minnesota has the needed authorities to maintain its attainment with the National Ambient Air Quality Standards as required in the Clean Air Act. Any revisions to these rules or statutes must be submitted to EPA to be approved and incorporated into the SIP. All the contents of Minnesota’s SIP can be found in 40 CFR Part 52, Subpart Y, and are federally enforceable.

A Request for Comments on planned amendments to the rules governing air quality was published in the *State Register* on January 9, 2017. The MPCA considered comments received during this comment period and all comments received during this rulemaking in developing the rule amendments.

This document fulfills the requirements of the Minnesota Administrative Procedures Act (Minn. Stat. ch. 14), which requires a statement of need and reasonableness (SONAR) justifying and explaining the need for the proposed rule amendments. It also addresses the statutory requirements associated with proposed administrative rules.

## Need for the proposed rule amendments as a whole

Minnesota's rulemaking process requires the MPCA to explain the facts establishing the need for and reasonableness of the rules as proposed, and to address specific procedural requirements (Minn. Stat. ch. 14). In general terms, this means that the MPCA must not be arbitrary or capricious in proposing rules. However, to the extent that need and reasonableness are separate, "need" has come to mean that a problem exists that requires administrative attention, and "reasonableness" means that the solution proposed by the MPCA is appropriate.

The type of permit an air emissions stationary source must hold is based on the amount of pollution it has the potential to emit (PTE). Once a facility's PTE exceeds a threshold, a permit is needed. Existing Minn. R. 7007.0150, subpart 4 describes how to calculate PTE from a stationary source; for some air emission sources, the PTE is high enough that the business is required to obtain a federal (Part 70) permit.

In order for the MPCA to administer the federal air emissions permitting program according to the Clean Air Act and the SIP for Minnesota, rules used to limit PTE must be "federally enforceable." "Federally enforceable" means in addition to the permitting program being approved by EPA in the SIP and provisions for public participation, permit terms and conditions and rules or general permits used in place of permits must be practicably enforceable. EPA has provided states with guidance<sup>1</sup> that describes the enforceability criteria:

- a rule specifies a technically accurate limitation and the portions of source subject to the limitation;
- the rule specifies the time period for the limit (hourly, daily, monthly, annually);
- the rule specifies the method to determine compliance including appropriate monitoring, record keeping and reporting;
- identify the categories of sources that are subject to the rule;
- if compliance is optional, then provide for notice to the permitting authority of the source's election to be covered by the rule; and
- recognize the enforcement consequences relevant to the rule.

Rules used to limit PTE must meet these criteria. The MPCA relies on Minn. R. 7008.4100 to 7008.4110 to exempt sources from air emission permitting. These rules do not contain technically accurate limitations that appropriately limit PTE within the language of rules themselves, and do not contain sufficient monitoring and record keeping requirements to determine whether there has been ongoing compliance with the existing rule. This rulemaking proposes amendments to chapter 7008 to include these criteria.

In reviewing the small air pollution source program, the MPCA realized that there could be administrative resource savings as well as environmental benefit if the types of air emission sources that are exempt from permitting could be expanded. The MPCA has generally found the most effective regulatory vehicle for large numbers of facilities in a source category with low actual emissions to be a rule-based performance standard, rather than the application of control requirements through a site-specific permit. The MPCA has identified four categories of stationary sources that would be exempted

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<sup>1</sup> U.S. EPA, 1995. *Guidance on Enforceability Requirements for Limiting Potential to Emit through SIP and §112 Rules and General Permits*. <https://www.epa.gov/sites/production/files/2015-07/documents/potoem.pdf>  
Accessed October 3, 2017.



from obtaining an air emissions permit, as long as the owner or operator of the stationary source complies with the technical and notification requirements so that the source's PTE will be sufficiently limited. Rules addressing these four categories are proposed in chapter 7008, including two activities that are ubiquitous: the activity of coating (spray painting), and woodworking at small businesses. The MPCA seeks to streamline the air quality permitting system whenever possible to make more efficient use of the permittee's and the MPCA's resources.

Proposed new parts 7008.2300 and 7008.2400 are intended to apply to a large number of coating sources that are located throughout Minnesota. These sources are engaged in the activity of using paints or other coatings applied for decoration, protection or other functional purpose.

To estimate the number of stationary sources that may be eligible to operate without a permit under parts 7008.2300 or 7008.2400, the MPCA reviewed EPA's database that holds records of the notifications that owners or operators must submit if they are subject to the regulation of an area source National Emission Standards for Hazardous Air Pollutants (NESHAPs), specifically 40 CFR Part 63, subpart HHHHHH. The MPCA found that 1,230 individual stationary sources had submitted a notification indicating that they were subject to the requirements of subpart HHHHHH. Based on the MPCA's 2016 emission inventory, there are 417 stationary sources that currently hold an option B registration permit (a permit option that is similar to the proposed rule parts) which perform coating operations.

Assuming most of the 417 permitted facilities are among the stationary sources that submitted a notification for 40 CFR Part 63, subpart HHHHHH, there may be up to 800 unpermitted coating sources in Minnesota that may require a permit under the current rules. The EPA NESHAP database does not contain sufficient data for MPCA to determine whether each source that submitted a NESHAP notification actually requires a permit; however, it is likely that many of these 800 sources could potentially choose to use parts 7008.2300 or 7008.2400 to continue to operate without a permit.

Proposed new part 7008.2500 is intended to cover a large number of woodworking sources that are located throughout Minnesota. These sources are engaged in the activity of creating specialty or custom wood products such as furniture, picture frames, cabinets, etc. These stationary sources can be sources of PM due to the nature of woodworking and manufacturing products from wood.

To estimate the number of stationary sources that may be eligible to operate without a permit under part 7008.2500, the MPCA reviewed the Minnesota Department of Natural Resources' database titled "Wood Industry Directory." This database contains information for primary forest product producers (such as sawmills, pulp and paper mills, oriented-strand board mills, veneer mills, and dry-kiln facilities in Minnesota) and secondary forest product producers (such as wood-product manufacturing companies, including those that make furniture, cabinets, doors, fixtures, and log homes). In reviewing this directory, the MPCA found that the primary producers totaled 342 distinct companies and the secondary producers totaled 622 distinct companies.

Based on the MPCA's experience and knowledge of these operations, it seems that primary producers likely emit large amounts of PM, and many of the secondary producers would likely have a high PM PTE, but lower actual emissions. Based on the MPCA's 2016 emission inventory, there are approximately 100 stationary sources that perform woodworking operations and currently hold an option B or option D registration permit (permit options that are similar to the proposed rule parts).

Assuming most of the 100 stationary sources that perform woodworking operations are also identified in the Minnesota Department of Natural Resources' database, there are may be up to 800 unpermitted woodworking sources in Minnesota that currently may require a permit. The Minnesota Department of Natural Resources database does not contain sufficient data for the MPCA to determine these sources

actually require a permit; however, it is likely that many of these 800 sources could potentially choose to use part 7008.2500 to continue to operate without a permit.

While the MPCA created its registration permit system to significantly streamline the permitting process for small air emission sources, it is clear that there are still enough barriers that a significant number of small businesses do not have appropriate air emission permits. If the MPCA were to issue a registration permit to each of these 1,600 coating and woodworking sources, and it took a half hour to process the application and issue the permit, that would still be 800 hours of MPCA staff time. This does not include the time spent to identify and contact each owner in the EPA database or the Minnesota Department of Natural Resources database for MPCA permitting or compliance follow-up. Nor does it include the time and resources spent by the owners or operators of these stationary sources to respond to the MPCA, engage professional assistance if necessary, and prepare and submit a permit application.

In the past, the MPCA has created general permits to cover businesses that began operating without an air permit. In particular, when the Low-emitting Facility General Permit was created, the MPCA gave examples of facilities that might apply (auto-body shops, metal fabrication facilities, cabinet shops, other businesses that coat or paint, and facilities that have engines, boilers or tanks on site). In addition, the MPCA has a Small Business Environmental Assistance Program that exists to help Minnesota businesses, such as those that began operating without an air permit, comply with environmental rules. Based on the program experience, when a small business applies for a streamlined permit, such as a registration or Low-emitting Facility General Permit, the process can take 40 hours or more of work over the course of one to four months. Several businesses that may have applied for, or would need to apply for, a Low-emitting Facility General Permit may be eligible for one of the permitting exemptions proposed in this rulemaking.

The MPCA has heard from the businesses that have applied for the Low-emitting Facility General Permit, which imposes stringent site-specific requirements, that it is administratively inefficient, complex, and frankly overwhelming for these small sources. It is clear that the MPCA lacks the administrative resources to assist in, and prepare, Low-emitting Facility General Permits for even a small percentage of these 1,600 additional sources that currently lack permits.

For small businesses with low actual emissions, the proposed permitting exemptions are simpler than the Low-emitting Facility General Permit and registration permit processes and provide a course of action towards permit compliance for both new and existing sources. The proposed rule amendments result in a lighter financial burden for the small business through reducing the amount of required paperwork, which often requires the business hire an environmental consultant, and clarifies compliance expectations by listing requirements in rule.

By proposing these new rule parts, the MPCA can also save valuable time and resources for MPCA staff. The proposed rules establish technical limitations, monitoring, record keeping and routine reporting to the MPCA making the technical standards federally enforceable, as well as encouraging improved environmental protection over current operations. Overall, the proposed changes provide greater environmental protection to more businesses at less cost to the Agency by providing the originally intended administrative streamlining for both businesses and the MPCA without increasing environmental risk.

The MPCA is also using this rulemaking to make small amendments to existing rules. Both the Minnesota Legislature and EPA have adopted rules that amend the administration of permitting programs or technical standards, making it necessary to revise the state rules.

## 2. Public participation and stakeholder involvement

The MPCA conducted several outreach activities while developing these rule amendments. This was done in part to comply with the requirements of Minnesota's rule making process, but also to notify, engage, and inform potentially interested parties about this rulemaking and solicit their input on the MPCAs proposed concepts for amending the rules. This section describes the MPCA's public outreach efforts and the steps it took to develop and solicit input on the rule amendments.

### Webpages

The MPCA maintains the following webpages that are publically accessible and relevant to this rulemaking:

- Amendments to Air Quality Rules - Exempt Source/Conditionally Insignificant Activities at <https://www.pca.state.mn.us/air/exempt-sourceconditionally-insignificant-activities>. The MPCA created this rule-specific webpage on October 12, 2016, in order to provide the public with background and other information relevant to this rulemaking, including rulemaking documents and a target schedule for rule adoption. The Exempt Source/Conditionally Insignificant Activities Rule webpage has been updated routinely to inform the public of the stakeholder meeting and developments related to this rulemaking. The MPCA will continue to update the rule webpage to include information about the proposed rule amendments and rulemaking documents, including the proposed rule language, a final version of this SONAR, and other supporting documents. This will ensure that potentially interested parties can continue to participate in the rulemaking process after the MPCA publishes its Notice of Intent to Adopt Rules in the *State Register*.
- Public Notices at <https://www.pca.state.mn.us/public-notice>. The MPCA's public notice webpage hosts all of the MPCA's public notices. The MPCA posted its notice of Request for Comments for this rulemaking on the public notice webpage on January 9, 2017, the same day the notice was published in the *State Register*. The Request for Comments specifically requested comment on the MPCAs proposed concepts to amend the rules and announced the January 19, 2017, stakeholder meeting on the proposed concepts. Public notices remain posted for the entire term of the comment period. As discussed in Section 8, Notice plan, the MPCA will continue to post official public notices for this rulemaking on the public notice webpage.
- Minnesota Rulemaking at <https://www.pca.state.mn.us/regulations/minnesota-rulemaking>. The MPCA's rulemaking webpage provides the public with centralized information about current rulemaking projects and the rulemaking process. It also explains how the public can receive notice of rule changes. The MPCA's "Public Rulemaking Docket," updated monthly, is located on this webpage and includes information about current rulemaking projects such as the rule webpage, contact person, and timeline.

### GovDelivery

The MPCA uses a self-subscription service called "GovDelivery" to provide notice electronically (via email) to interested and affected persons of various updates and public notices issued on a wide range of topics, including administrative rulemakings. Any person may visit the GovDelivery subscription page at <http://public.govdelivery.com/accounts/MNPCA/subscriber/new> to subscribe and choose the notifications they want to receive.

The MPCA lists rule projects on the “Public Rulemaking Docket” (see above). Once a rule project becomes active (i.e., it is no longer listed as a future project), a GovDelivery self-subscription list for that specific rulemaking is established. GovDelivery alerts individuals who have signed up to receive notice for all rulemakings to notify them of new rule projects.

On October 17, 2016, the MPCA sent a GovDelivery notice to 2,019 subscribers of the list for “New Rulemaking Announcements.” This notice encouraged interested parties to visit the GovDelivery subscription page and sign up for the Exempt Source/Conditionally Insignificant Activities Rule list to receive information about this rulemaking. Subscribers were added to a rule-specific list that the MPCA used to disseminate rule-related information to interested and affected parties. Also on the same date, the MPCA provided specific notice of the new rulemaking to the 11 federally recognized tribes in Minnesota. The MPCA maintains a list of the federally recognized tribes and edits the list quarterly. Notification sent to the designated tribal contact persons for air quality contained the information in the October 17, 2016, GovDelivery notice about the new rulemaking.

The MPCA also promoted the GovDelivery list for this rulemaking and encouraged interested persons to subscribe by posting a related announcement on the Exempt Source/Conditionally Insignificant Activities Rule webpage. There are 1,311 persons subscribed to the GovDelivery list specific to this rulemaking as of November 2, 2017.

The MPCA will continue to send GovDelivery notice of public notices and other relevant information for this rulemaking as discussed in Section 8, Notice plan.

### **Newsletters**

The MPCA also uses GovDelivery to send interested parties electronic newsletters that include updates on rulemaking. Any person may visit the GovDelivery subscription page and sign up for MPCA newsletters that they would like to receive. For this rulemaking, the MPCA included articles in the following newsletters: Air Mail, which provides updates on air quality issues, and Small Business Enterprise, which covers compliance issues, pollution prevention, and training. Air Mail is a quarterly newsletter that goes out to 1,924 subscribers as of November 2, 2017. Small Business Enterprise is a quarterly newsletter that goes out to approximately 1,200 subscribers as of November 2, 2017. Subscribers to these newsletters include a wide range of stakeholders, including private citizens, regulated parties, consultants, small business owners, government entities of all levels, nonprofits, and media organizations.

The MPCA published articles about this rulemaking in the following newsletters:

- November 7, 2016, Small Business Enterprise - information about the MPCA’s plan to amend the air quality rules for exempt sources and conditionally insignificant activities. Small Business Enterprise is available at <https://www.pca.state.mn.us/quick-links/sbeap-newsletters-calendars-and-guides>.
- November 14, 2016, Air Mail - information about the MPCA’s plan to amend the air quality rules for exempt sources and conditionally insignificant activities. Air Mail is available at <https://www.pca.state.mn.us/air/air-mail-newsletter-and-bulletins>.
- February 2, 2017, Small Business Enterprise - information about the Request for Comments published in the *State Register* January 9, 2017.
- February 13, 2017, Air Mail - information about the Request for Comments published in the *State Register* January 9, 2017.

The MPCA will continue to publish updates for this rulemaking in Air Mail and the Small Business Enterprise newsletters, as discussed in Section 8, Notice plan.

Lastly, the MPCA Small Business Environmental Assistance Program staff also writes a column for publication in the Alliance of Automotive Service Providers of Minnesota *AASP News*, the trade associations' newsletter. Circulation of *AASP News* is 2,000 as of November 1, 2017. Staff submitted a column for publication in late December 2017 about the Exempt Source/Conditionally Insignificant Activities Rules being open for public comment soon, and how to find the proposed rules on the MPCA webpage.

### Meetings

On December 16, 2016, in the early stages of rule development, the MPCA sent a GovDelivery notice to 2,244 subscribers announcing a public informational meeting on the proposed concepts for amending the rules. The meeting was held on January 19, 2017, during the Request for Comment public comment period, at the MPCA St. Paul office, and was webcast and recorded to allow those who could not attend in person to participate. The MPCA presented an overview of the proposed concepts, solicited input, and answered questions about the proposed concepts. The webcast presentation and recording of the meeting was made available to the public.

The MPCA staff also met with interested parties, as listed below, to discuss the proposed concepts and solicit input on the anticipated effects. In its communications, MPCA staff offered to meet with any interested party to discuss their issues in a format that best met their needs. In addition to these meetings, staff participated in numerous phone and email conversations to keep stakeholders informed of the rulemaking, and answer related questions.

- January 17, 2017, meeting with the Alliance of Automotive Service Providers of Minnesota to provide an overview of the rulemaking and the proposed concepts for amending the rules.
- February 16, 2017, meeting with 3M to discuss the rulemaking and 3M's questions on several of the proposed concepts for amending the rules.
- March 20, 2017, meeting with Complete Health Environmental and Safety Services (CHESS), Inc. to discuss the rulemaking and to learn about the potential impacts of the rule on owners of coating operations, including auto-body shops.
- April 17, 2017, meeting with a CHESS representative for a woodworking shop visit to learn about woodworking shop operations and processes.
- April 20, 2017, meeting with a CHESS representative for an auto-body refinishing shop visit to learn about auto-body refinishing operations and processes.
- July 12, 2017, meeting with the Alliance of Automotive Service Providers of Minnesota to discuss the rulemaking and solicit input on the proposed concepts for amending the rules.

Additionally, because some of the proposed changes involve federal requirements, the EPA was included in early discussions. The MPCA had conversations with EPA Region V during development of the draft rule amendments including specific discussions about chapter 7008 conditionally insignificant activities. The MPCA sent EPA Region V the draft rules and draft SONAR on October 17, 2017, with a request to EPA to identify any significant issues they may have with the draft rules.

## 3. Statutory authority

The MPCA's statutory authority to adopt these rules is set forth in Minn. Stat. § 116.07, subd. 4 (2010), as follows:

#### Subd. 4. *Rules and standards.*

(a) 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.

Under the state statutory provision, the MPCA has the necessary statutory authority to adopt the proposed amendments into Minnesota Rules.

## 4. Reasonableness of the amendments as a whole

The Minn. Stat. ch. 14 requires the MPCA to explain the facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the MPCA must not be arbitrary or capricious in proposing rules. However, to the extent that need and reasonableness are separate, “need” has come to mean that a problem exists that requires administrative attention, and “reasonableness” means that there is a rational basis for the MPCA’s proposed action.

### **Amend the lists of insignificant activities contained in Minn. R. 7007.1300**

Chapter 7007 contains the air permitting requirements. The MPCA is proposing to amend the lists of insignificant activities in Minn. R. 7007.1300 to provide greater clarity and utility in the permit application process. The intent of the insignificant activities lists is to help streamline the permit application process, for both regulated sources and MPCA permitting and compliance activities, by specifying those activities whose emissions are insignificant by their very nature, and therefore require minimal regulatory oversight.

### **Create new categories of conditionally exempt sources**

The MPCA is proposing to expand the “conditionally exempt” source categories in chapter 7008 to include:

- auto-body refinishing facilities
- coating facilities
- woodworking facilities
- insignificant facilities

The conditionally exempt source standards are intended for certain well-defined businesses, or for stationary sources where actual emissions related to business activities are very low, but PTE is very high, such that a permit would otherwise be required.

In 1998, EPA provided guidance<sup>2</sup> to states on how a state could develop prohibitory language in rules to properly restrict stationary source’s PTE whose actual emissions of regulated pollutants is very low. By

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<sup>2</sup> U.S. EPA, April 14, 1998. *Potential to Emit Guidance for Specific Source Categories*.  
<https://www.epa.gov/sites/production/files/2015-08/documents/lowmarch.pdf> Accessed October 3, 2017.

restricting a small source's PTE through a rule, it is possible to avoid the requirement for obtaining an air emissions permit, saving resources at both a small source as well as the MPCA permitting program. The 1998 guidance established permitting thresholds the EPA believes are reasonable for eight air emission source categories. Using EPA's guidance, the MPCA adopted rules for two air emission source categories: exemptions for gasoline dispensing stations and concrete manufacturing. In these rule amendments, the MPCA is proposing to expand the types of facilities exempt from permitting by adding "coating sources" (and its subcategory, auto-body refinishing).

As described in the statement of need as a whole, the MPCA is seeking to streamline permitting, in this case by creating categories of small sources and imposing federally enforceable technical requirements in a rule such that they do not need a permit. It is reasonable to adopt technical standards for these small sources in a rule so that using resources to create site-specific conditions in a permit is avoided. Second, by having technical standards codified in rules, affected facility owners have a common understanding of their environmental protection responsibilities, and like facilities are regulated similarly to one another. Third, creating standards that limit the source's PTE may provide certainty to owners and operators that they comply with air emission requirements.

In the process of revising Minn. R. 7008.4110 (Conditionally Insignificant Activity: Finishing Operations), the MPCA found it was helpful to create a source group called "woodworking facilities" to clarify the application of the PM control requirements. It is reasonable to continue to find opportunities for providing for permitting exemptions, saving MPCA permit program resources, as well as small source owners' resources, when technical standards that adequately control air pollution can be made enforceable through a rule.

#### **Amend conditionally insignificant activities: materials usage and PM-only emitting**

This rulemaking will develop a federally enforceable numeric emissions limit for conditionally insignificant activities covered by Minn. R. 7008.4110. EPA requires a "technically accurate limitation" so that the limit is enforceable as a practical matter. In its current form, the rule does not meet the conditions for being federally enforceable. Because permit holders rely on this rule frequently to manage small sources within their permits, it is reasonable to amend this rule so that it meets federal guidance for federal enforceability.

Nearly every air emission facility relies on the procedures of Minn. R. 7008.4000 and 7008.4110 to properly account for emissions from conditionally insignificant activities. In developing the PM limit, the MPCA will reduce regulatory requirements for small, low-emitting sources, and streamline and simplify requirements for larger, permitted sources that include conditionally insignificant activities in their operations. It is important that the rule work for both small and larger sources while protecting the environment and human health. For smaller sources, providing clear requirements with manageable compliance demonstration is imperative. For larger sources, it is important to provide streamlined requirements that will protect the environment and human health, and ensure that emissions from conditionally insignificant activities do not, when combined with other permitted activities, result in exceedances of permitting thresholds.

#### **Make small housekeeping changes to air emission permit rules**

The MPCA is proposing to make miscellaneous housekeeping changes and corrections to its air quality rules in chapters 7005, 7007, 7008, 7011, and 7019. In particular, these rule amendments correct or delete outdated rules, and make changes to align state and federal rules. Amendments to these rule chapters will provide consistency and clarity, and make the rules easier for regulated parties to understand.

## 5. Rule-by-rule analysis: proposed changes and specific reasonableness

Minn. Stat. ch. 14 requires the MPCA to explain the facts establishing the reasonableness of the proposed rules. "Reasonableness" means that there is a rational basis for the MPCA's proposed action. Explained in this section is the specific reasonableness of the proposed rules, together with an explanation of the need for each change. Since this rulemaking affects multiple chapters of existing air quality rules, the rule changes are grouped by rule chapter to aid the reader in reviewing this document.

- A. Minor amendments to chapter 7005 affect definitions and abbreviations used in the air quality rules and permits.
- B. Amendments to chapter 7007 affect applications, contents, and issuance of air quality permits.
- C. Amendments to chapter 7008 affect conditionally exempt stationary sources and conditionally insignificant activities.
- D. Minor amendments to chapter 7011 affect definitions and abbreviations for the air program, and correct rule references.
- E. Minor amendments to chapter 7019 relate to the air emission inventory.

As recommended by the Office of the Revisor of Statutes, a number of existing language changes have been made as a stylistic matter to modernize the rule language where possible, for example, changing "shall" to "must." The Office of the Revisor of Statutes, "Minnesota Rules Drafting Manual," recommends using "must" not "shall" to impose duties. Because these are recommended changes only, in some instances, the MPCA believes it is appropriate to use "shall" which is why there are some parts where no change to "must" is made.

The revisions to the rule parts listed below, revised by deleting "shall" and adding "must," are made without changing the applicability of the rules. These revisions are reasonable because they provide consistency and clarity to the proposed rules.

- . Part 7007.0400, subpart 2
- . Part 7007.0850, subpart 2 and subpart 3
- . Part 7007.1144, subpart 5
- . Part 7007.1145, subpart 2
- . Part 7007.1147, subpart 1
- . Part 7007.1250, subpart 3
- . Part 7007.1300, subpart 5
- . Part 7008.2100, subpart 1, subpart 2, and subpart 3
- . Part 7008.4000, item B
- . Part 7011.2300, subpart 2
- . Part 7019.3020, item A

### **A. CHAPTER 7005 DEFINITIONS AND ABBREVIATIONS**

Chapter 7005 provides the definitions and abbreviations used in the state air pollution control rules and the MPCA's air program. Definitions in existing Minn. R. 7005.0100 apply to all rules related to air pollution control or air quality. New terms and definitions proposed in this rulemaking will have general applicability to the air quality program.



## **PART 7005.0100 DEFINITIONS.**

Subp. 4f. **Conditionally exempt stationary source.** The existing definition of “conditionally exempt stationary source” is revised to clarify that conditionally exempt stationary source categories are listed in parts 7008.2100 to 7008.2600. The proposed changes to chapter 7008 add new conditionally exempt stationary source categories in parts 7008.2300 to 7008.2600. It is reasonable to correct rule references to prevent confusion.

Subp. 11f. **Gasoline service station.** Subpart 11f defines the term “gasoline service station.” This existing definition is deleted from part 7008.0100 and moved to this part. The part 7008.0100 definitions specifically apply to the terms used in chapter 7008, unless otherwise defined. Because the term gasoline service station is used in multiple rule chapters, not just chapter 7008, it is reasonable to move the definition to chapter 7005 which contains the definitions for terms used in the state air pollution control rules.

## **B. CHAPTER 7007 PERMITS AND OFFSETS**

Chapter 7007 provides the conditions regarding the issuance of permits to construct, modify, reconstruct, or operate emissions units, emissions facilities, or stationary sources that emit any air pollutant, and the revocation, reissuance, or amendment of those permits.

The amendments to chapter 7007 primarily affect the insignificant activities lists in Minn. R. 7007.1300 to provide greater clarity in the permit application process. In addition, several proposed housekeeping revisions to chapter 7007 will correct or delete outdated rules, and will align state and federal rules.

### **AIR EMISSION PERMITS**

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

Subpart 1. **No permit required.** Subpart 1 is revised to delete existing item D. Because the MPCA is expanding and clarifying the conditions that must be met by a stationary source with only insignificant and conditionally insignificant activities to be exempt from permitting, item D is no longer needed. The MPCA proposes that these stationary sources be defined as a new exempt stationary source category in chapter 7008. The MPCA expects that most stationary sources that previously relied on item D in this part will be able to rely on the new proposed part 7008.2600, “Insignificant Facility; Technical Standards.” Therefore, it is reasonable to delete rule language that is no longer applicable to chapter 7007.

Subpart 1, item E is renumbered to item D and revised to clarify where the conditions related to the exemption from permitting are found in the rules. It is reasonable to provide guidance and clarity in rules so that the requirements are consistently interpreted and applied.

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

Subp. 2. **Permit reissuance after transition period.** Subpart 2 is revised to change the earliest date that a permit reissuance application could be required from nine months to eighteen months prior to permit expiration. Federal rule (40 CFR 70.5(a)(1)(iii)) currently allows EPA to require a permit application up to eighteen months prior to permit expiration to ensure the permit does not expire prior to permit renewal. This change is proposed to align state rule with federal rule. It is reasonable to be consistent with federal rule and to provide a longer timeframe for a permit reissuance application to ensure that a permit does not expire prior to permit renewal.

This changes the earliest allowable reissuance application due date. It applies to all sources that have expiring permits. However, the current practice of requiring an application 180 days before the expiration date is not changing (expiring permits currently contain a requirement to submit a reissuance application 180 days prior to expiration). If a reissuance application were required from a specific facility earlier than 180 days prior to expiration, the permit requirements would identify the earlier due date.

#### **PART 7007.0850 PERMIT APPLICATION NOTICE AND COMMENT.**

Subp. 2. **Public notice and comment.** On October 18, 2016, EPA revised public notice regulations for certain permit actions under Clean Air Act air permitting programs, including Title V programs, by removing mandatory requirements to provide public notice by newspaper publication and instead allowing for electronic notice of these permit actions.

Item A, subitem (1) identifies how the Agency must give public notice before issuing, reissuing, or making a major amendment to any Part 70 permit. Subitem (1), unit (a) is revised to require that public notices for Part 70 permits be electronically posted for the duration of the comment period on the MPCA's Web site for public notices instead of published in a newspaper. This provision is also referenced in items B, C, and D of this subpart, as well as in Minn. R. 7007.1100, subpart 2 (General Permits), which address all of the air permit programs administered by the MPCA. Therefore, the notice procedures described in item A also apply to the notice procedures for all of the MPCA air emission permits.

Printed newspaper is no longer the only way the public may receive or view public notices, so alternative methods of communication are necessary for the MPCA to give notice. Digital technology use in media communications is ubiquitous, so revising public notice rules to allow public notices to be published electronically in lieu of or in addition to notice printed in a newspaper is a more effective way to communicate information and reach more members of the public. The MPCA anticipates providing electronic notice via the MPCA's Web site for public notices for all permits, and providing notice in newspaper publications for permits where greater community interest is expected or where internet access may be limited. This change aligns state rules with federal rules. It is reasonable to be consistent with federal rules and for the MPCA to provide an alternative means of giving notice to the public.

Item A, subitem (2) identifies what at minimum must be included in the notice. Subitem (2) is revised by numbering the rule's existing requirements for a public notice, and adding the requirement to include a copy of the draft permit with the notice. Because of the ease of sharing digital documents, it is reasonable to provide the draft permit within the notice itself, saving the time and expense of making and responding to requests for copies of a draft permit for review. Subitem (2) is also revised to add the email address of a person or website address from whom the public may obtain information about the permit on notice. This change is reasonable because electronic communication is an effective way to communicate.

Items B, C, and D are revised to delete reference to providing notice in a newspaper, the *State Register*, or other EPA approved general circulation procedure. As stated above in item A, revising public notice rules to allow public notices to be published electronically in lieu of or in addition to notice printed in a newspaper is a more effective way to communicate information and reach more members of the public. The MPCA anticipates providing electronic notice via the MPCA's Web site for public notices for all permits. However, item A, subitem (1), unit (d) provides the Agency other means necessary to ensure adequate notice to the public. This could include providing notice in newspaper publications for permits where greater community interest is expected or where internet access may be limited or publication in the *State Register*.

Subp. 3. **Petitions for meetings and hearings.** Subpart 3 identifies the types of meetings and hearings a person may petition for regarding a draft permit subject to public notice under Minn. R. 7007.0850. This subpart is revised to delete item C, the petition for placement of the permit on the agenda of an agency board meeting. During a special session on June 13, 2015, the Minnesota Legislature voted to disband the MPCA Citizens Board effective July 1, 2015. It is reasonable to delete reference to the agency board because the MPCA Citizens Board disbanded and therefore this requirement is obsolete. Subpart 3 is also revised to add that any meeting held must be in accordance with 7007.0850, subpart 2. It is reasonable to update the rule references so they are accurate. The requirements of subpart 3 are renumbered to provide clarity for the reader.

#### **PART 7007.1144 CAPPED PERMIT PUBLIC PARTICIPATION.**

Subp. 5. **Petition for contested case hearing; exemptions.** Subpart 5 identifies how the public may submit a petition for a contested case hearing. This subpart is revised to delete reference to the petition for placement of the permit on the agenda of an agency board meeting. During a special session on June 13, 2015, the Minnesota Legislature voted to disband the MPCA Citizens Board effective July 1, 2015. It is reasonable to delete reference to the agency board because the MPCA Citizens Board disbanded and therefore the need to place a permit on the agency board agenda no longer exists. The requirements of subpart 5 are numbered to provide clarity and a clear rule reference for the reader.

#### **PART 7007.1145 CAPPED PERMIT APPLICATION.**

Subp. 2. **Information included.** Subpart 2 is revised to more clearly state that standard information is required to be submitted in a capped permit application, and that this subpart does not limit the MPCA's statutory authority to require additional information. It is reasonable to provide clear direction to the applicant on the information required in a capped permit application.

Item D, subitem (1) is revised to correct the cross-reference to fugitive emissions from roads and parking lots, defined as an insignificant activity under part 7007.1300. The proposed amendment to part 7007.1300, subpart 3, renumbers this activity from item J to item G. It is reasonable to update the corresponding rule references so they are accurate.

#### **PART 7007.1147 CAPPED PERMIT CALCULATION OF ACTUAL EMISSIONS.**

Subpart 1. **Methods used.** Subpart 1 is revised to correct the cross-reference to fugitive emissions from roads and parking lots, defined as an insignificant activity under part 7007.1300. The proposed amendment to part 7007.1300, subpart 3, renumbers this activity from item J to item G. It is reasonable to update the corresponding rule references so they are accurate.

#### **PART 7007.1250 INSIGNIFICANT MODIFICATIONS.**

Subp. 3. **Record keeping requirements.** Subpart 3 is revised to correct the cross-reference to authorized changes in the part 7007.1300, subpart 3, item F. The proposed amendment to part 7007.1300, subpart 3, renumbers the authorized changes from item I to item F. It is reasonable to update the corresponding rule references so they are accurate.

#### **PART 7007.1300 INSIGNIFICANT ACTIVITIES LIST.**

EPA's rules for Part 70 permits allow states to adopt lists of insignificant activities (40 CFR 70.5(c)). The MPCA's list includes activities that do not have to be listed in a permit application (subpart 2), activities that must be listed but do not require emissions calculations to be submitted unless requested (subpart 3), and a specific list of sources that must be submitted for Part 70 permit applications (subpart 4). By designating insignificant activities, permitting can be streamlined by minimizing the effort directed towards addressing the minimum emissions.

The MPCA has not updated the insignificant activities list since it began administering the air emissions program in 1995. Therefore, in the Request for Comments for this rulemaking, the MPCA asked for suggestions from interested parties on what other emission units or activities might also be insignificant activities that were not already listed in the rule.

The MPCA received no comments from the public with suggestions to add additional emissions sources to the insignificant activities list. However, based on the MPCA's experience administering the air permitting program and evaluating similar lists used by other states' air programs, the MPCA made certain additions to the insignificant activities list, as discussed below. Where appropriate, certain activities are proposed to be deleted from the Minn. R. 7007.1300, subpart 3 lists and added to the Minn. R. 7007.1300, subpart 2 lists. These revisions are intended to update these lists and provide clarification for both regulated parties and the MPCA.

**Subpart 1. Insignificant activities.** Subpart 1 is revised to identify requirements under part 7007.1300 that are applicable to multiple subparts—subpart 2, subpart 3, and subpart 4. With this revision, the only location of these requirements is in subpart 1, and the duplicative requirements in subparts 2, 3, and 4 are deleted. It is reasonable to consolidate requirements that apply to multiple subparts in one place, rather than repeat the requirements in multiple subparts.

Subpart 1 is also revised to add items A through D. Item A is the existing subpart 1 rule language that establishes that the actions and operation of emissions units listed in part 7007.1300 are insignificant activities.

Item B is existing rule language previously located in in subparts 2, 3, and 4 that requires calculation of emissions from the emission units listed in part 7007.1300 be provided in a permit application if required by the MPCA.

Item C, subitems (1) and (2) are revised to add the new requirement that emissions from emissions units listed in part 7007.1300, subpart 3, item F and part 7007.1300, subpart 4 must be calculated and provided in a permit application. Part 7007.1300, subpart 3, item F establishes thresholds for individual emissions units, based on a unit's PTE certain pollutants, that determine whether the emissions unit may be treated as an insignificant activity that is required to be listed in a permit application. Part 7007.1300, subpart 4 identifies individual emission units that have potential emissions, or actual emissions, below certain thresholds that can be treated as an insignificant activity required to be listed in a Part 70 permit application.

The MPCA has found it almost always asks permit applicants to submit emissions calculations from the emissions units that fall within 7007.1300, subpart 3, item F and part 7007.1300, subpart 4. Permit applicants already calculate these emissions in order to determine that a particular emissions unit qualifies as an insignificant activity under part 7007.1300, subpart 3, item F or part 7007.1300, subpart 4. Therefore, it is reasonable to require permit applicants to provide this information in the initial permit application. The inclusion of this information will streamline the permit application preparation process for permit applicants, and will streamline permit application review and drafting for the MPCA. This rule amendment will eliminate the time needed to notify a permit applicant to provide the additional information and the time for applicants to respond.

Item D specifically adds the new requirement that emissions units listed in part 7007.1300 must be listed in a permit application, as well as the calculation of emissions from these emissions units, if the emissions units are subject to certain additional requirements. These additional requirements in item D, subitems (1) through (3) were previously located in part 7007.1300, subparts 2, 3, and 4. The existing rule already requires that emissions from these emissions units must be provided in the permit application. The MPCA has found it requests the identification of the emissions units as well, so it is

reasonable to require this information in the permit application. Doing so will streamline permit application preparation process for permit applicants, and will streamline permit application review and drafting for the MPCA. This rule amendment will eliminate the time needed to notify a permit applicant to provide the additional information and the time for applicants to respond.

Subp. 2. **Insignificant activities not required to be listed.** Subpart 2 describes the activities that are not required to be listed in a permit application. Subpart 2 is first revised to clarify when calculation of emissions from these activities must be provided in the application. Subpart 2 is next revised to delete certain requirements that are moved to subpart 1, as described above. These revisions are reasonable because they clarify for the applicant, which emissions units are required in the permit application, and they reduce confusion by removing duplicate rule language.

Item A identifies “fuel use” activities that can be treated as an insignificant activity not required to be listed. Item A, subitem (3) is revised to add “heat input” when referring to capacity of fuel burning equipment. This revision clarifies that the capacity of fuel burning equipment is based on a unit’s heat input capacity, as opposed to some other capacity (such as heat output), and to be consistent with common interpretation. It is reasonable to clarify ambiguous rule language that does not change the intent of the rule.

Item B identifies activities related to maintaining the physical structure of a facility (plant upkeep) that can be treated as an insignificant activity not required to be listed in a permit application. Item B, subitem (1) is revised to delete the reference to spray painting equipment in subpart 3, item K of this part. The MPCA proposes to delete Minn. R. 7007.1300, subpart 3, item K from the list of insignificant activities, so this cross-reference is obsolete.

In practice, the MPCA has found that spray paint equipment used for housekeeping or plant upkeep activities could involve primarily hand-held aerosol spray cans. Therefore, Item B is revised to add a new subitem (7) to include the use of hand-held aerosol spray cans for routine building and equipment maintenance as an insignificant activity not required to be listed in a permit application.

Spray cans of paint generally range from 10 ounces to 18 ounces in volume and weigh roughly one pound or less dependent on the density of the contained paint. The pollutants emitted from these spray cans depend on the material contents of the paint, found on a Safety Data Sheet (SDS) provided by the manufacturer. The SDS provides the composition/information on ingredients in percent by weight (wt%) which is used to calculate the amount of pollutant emissions from spraying the paint. Even if the entire contents of the spray can is assumed to be a single regulated pollutant, the amount of a single pollutant emitted from a single spray can would be approximately one pound at most. Even if a facility uses hundreds of cans, this very low amount of emissions is unlikely to affect permitting applicability. Therefore, it is reasonable to treat the use of aerosol spray cans for plant upkeep as an insignificant activity.

Item C identifies “fabrication operations” that can be treated as insignificant activities. Item C, subitem (2) is revised to add the extruding of hot metals as an insignificant activity not required to be listed in a permit application. This insignificant activity is proposed to be deleted in Minn. R. 7007.1300, subpart 3, item C, and moved to Minn. R. 7007.1300, subpart 2, item C. The operations in subitem (2) are physical alterations to metal. There are no known emissions from extruding hot metals; therefore, it is reasonable to include it in this list of fabrication operations that can be treated as an insignificant activity. While the process to heat the metals, which is not covered in item C, will have combustion related emissions, the physical alteration operations in subitem (2) are unlikely to generate a significant amount of emissions. Therefore, it is reasonable to add extruding hot metals to this list.

Item D identifies “processing operations” that can be treated as insignificant activities. Item D, subitem (3) is revised to add blast-cleaning operations using a suspension of abrasive in “sponge media”. Based on technical reports and guidance provided by the EPA, the use of sponge media provides a greater level of control than identified for wet blasting operations already identified as an insignificant activity (“...blast cleaning operations using suspension of abrasive in water”). EPA guidance document, AP-42, *Compilation of Air Pollutant Emission Factors* provides an emission factor for PM<sub>10</sub> emissions of 13 lbs PM<sub>10</sub> per 1000 lbs of sand blasting abrasive, and reports control efficiency values between 50% and 93% for the use of wet blasting. A Midwest Research Institute report, “[Control of Abrasive Blasting Emissions through Improved Materials](#)” by Gregory E. Muleski and Jason Downing (available on EPA’s Technical Air Pollution Resources webpage), compares emission factors from a Midwest Research Institute study to the 1997 emission factors for abrasive blasting in AP-42, *Compilation of Air Pollutant Emission Factors*, Section 13.2.6 (Abrasive Blasting), October 1997.

The report found a percent reduction in the average PM<sub>10</sub> emission factor of 99% with the first use of the sponge media to 96% for the 10<sup>th</sup> reuse of the same sponge media. This percent reduction is equivalent to 0.13 - 0.52 lbs PM<sub>10</sub> per 1000 lbs of sponge media abrasive, which is a greater level of control than identified for wet blasting operations. Therefore, it is reasonable to treat blast-cleaning operations, which use sponge media as an insignificant activity.

Item D is also revised to add a new subitem (4) to include open tumblers with a batch capacity of 1,000 pounds or less used for cleaning or deburring metal products as an insignificant activity not required to be listed in a permit application. This insignificant activity is proposed to be deleted in Minn. R. 7007.1300, subpart 3, item D, subitem (1) and moved to subpart 2, item D, subitem (4), with the qualifier that it must be used for cleaning or deburring metal products. This activity was originally included as an insignificant activity under existing subpart 3, item D, subitem (1), along with several other activities, as part of the 1993 rulemaking which amended MPCA’s operating permit program so it met the requirements of Title V of the federal Clean Air Act, and EPA regulations, 40 CFR Part 70.

It appears that in the 1993 rulemaking, the MPCA borrowed from Texas Rules, section 106.313, which covered “closed tumblers used for cleaning or deburring metal products without abrasive blasting, and open tumblers with batch capacity of 1000 lbs or less.” At that time, MPCA included open tumblers as a processing operation that was required to be listed in a permit application. In the present rulemaking, the MPCA proposes to add open tumblers to the subpart 2 list of insignificant activities not required to be listed in a permit application, contingent on the qualifier that the operations are performed specifically to clean or deburr metal products.

This is reasonable because this activity will result in low amount of pollutants emitted. AP-42, *Compilation of Air Pollutant Emission Factors*, Section 12.10 (Gray Iron Foundries), May 2003, provides emission factors for vibratory tumblers and cleaning operations--referred to as “shakeout operations”--that involve shaking out the sand from the mold and casting, as well as deburring the casting. The emission factors are 3.2 lbs PM, 2.24 lbs PM<sub>10</sub>, and 1.34 lbs PM<sub>2.5</sub> per ton of metal processed. This corresponds to 1.6 lbs PM, 1.12 lbs PM<sub>10</sub>, and 0.67 lbs PM<sub>2.5</sub> of pollutants emitted per batch, respectively. Based on the low amount of pollutants emitted, it is reasonable to treat this activity as an insignificant activity not required to be listed in a permit application.

Item D is further revised to add a new subitem (5) to include hand held equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning as an insignificant activity not required to be listed. In EPA’s “[White Paper for Streamlined Development of Part 70 Permit Applications](#)” (July 10, 1995), EPA stated “handheld equipment used for buffing, polishing, cutting, drilling, sawing, grinding, or turning of wood or plastic” may be treated as trivial activities and not listed in a permit application.

Listing these activities will also help clarify how potential emissions from PM generating activities in proposed revisions to Minn. R. 7008.4110 are to be calculated. In that rule, the MPCA is proposing to clarify the definition of “finishing operations” which includes the same activities as listed here. This list should help make the distinction between the applicability of part 7008.4110 and the treatment of hand-held equipment.

Lastly, item D is revised to add a new subitem (6) to include ultraviolet light curing and disinfection processes as an insignificant activity not required to be listed in a permit application. Ultraviolet light can be used to cure and dry a variety of inks, adhesives, and coatings. Other industries that use ultraviolet light curing include screen-printing, fine instrument finishing (such as guitars and violins), woodworking, medicinal equipment manufacturing (such as catheters, hearing aids, and syringes), automobile coating, and cosmetic applications (such as artificial fingernails and gel nail polish).

A typical application of ultraviolet light for disinfection is for drinking water treatment. The ultraviolet light treatment destroys bacteria and other organic contaminants by creating a spectrum of ultraviolet light that produces ozone, hydroxyl, and other free radicals that destroy bacteria and other organic compounds.

EPA examined emissions from ultraviolet light curing of coatings, inks, and adhesives in a July 2001 technical bulletin, “[Ultraviolet and Electron Beam \(UV/EB\) Cured Coatings, Inks and Adhesives](#)”. EPA acknowledges that ultraviolet curing is a very low emitter of air pollutants, but some emissions of VOCs, PM, NO<sub>2</sub>, ozone, and odors do occur. Ultraviolet light has the potential to ionize oxygen and generate ozone and potentially NO<sub>2</sub>. However, EPA states that total emissions of ozone and NO<sub>2</sub> are relatively small and should not significantly affect concentrations of these pollutants in the atmosphere.

Emissions of other pollutants are dependent on the material processed by the ultraviolet light. For example, EPA states using ultraviolet light to cure coatings, inks, and adhesives can result in VOC emissions of 1% to 5% by weight of the coating, ink, or adhesive used. However, these emissions are associated with the materials used and not from the actual ultraviolet light curing process itself.

While the material usage portion of an operation, which is not covered by this new subitem (6), may have emissions of VOCs and PM, among others, the ultraviolet light curing processes are unlikely to generate a significant amount of emissions, if any. The same reasoning applies to ultraviolet light disinfection processes. Therefore, it is reasonable to treat these processes as an insignificant activity.

Item E identifies “storage tanks” that can be treated as insignificant emissions units not required to be listed in a permit application. Item E is revised to add a new subitem (5) for storage tanks holding inorganic liquids including water, except for acids that volatilize VOCs or hazardous air pollutants (HAPs), as an emissions unit not required to be listed. Emissions from storage tanks, primarily VOCs, occur because of evaporative loss of the liquid during storage and because of changes in the liquid level. Estimating emissions from storage tanks involves a complex relationship between the liquid stored, tank dimensions, filling and emptying events, among other factors. However, comparisons between properties of different liquids can be used to estimate emissions of different liquids stored. The volatilization rate of inorganic liquids is generally lower than organic compounds, and therefore would contain less, if any, VOCs that could be emitted. Acids with the potential to volatilize HAPs are specifically excluded as storage of these compounds and the resulting emissions are potentially subject to a variety of regulations (such as the NESHAP regulations). For these reasons, it is reasonable to include inorganic liquid storage tanks as an insignificant activity not required to be listed in a permit application.

Item G identifies residential activities that can be treated as insignificant. Item G, subitem (1) is revised to add “heat input” when referring to capacity of fuel burning equipment. It is reasonable to clarify that

the capacity of fuel burning equipment is based on a unit's heat input capacity, as opposed to some other capacity (such as heat output), and to be consistent with common interpretation. It is reasonable to clarify ambiguous rule language that does not change the intent of the rule.

Item J identifies "miscellaneous" activities that can be treated as insignificant activities not required to be listed in a permit application. Item J is revised to add several activities to this list. For this rulemaking, the MPCA reviewed the existing list of insignificant activities in Minn. R. 7007.1300, subpart 3 that are required to be listed in a permit application, and proposes to move several of these activities to Minn. R. 7007.1300, subpart 2 because these activities are either falling out of use, or the MPCA has learned that they have very low total emissions. As a result, the activities added to subpart 2 are not required to be listed in a permit application.

Item J, subitem (4) is revised to add purging of liquid petroleum gas lines as an insignificant activity not required to be listed. The MPCA already lists purging of natural gas lines as an insignificant activity in subpart 2. While natural gas is primarily composed of methane, liquid petroleum gas is composed primarily of propane and butane. Propane and butane both have lower global warming potential than methane. Releasing 1 lb of methane into the atmosphere is equivalent to releasing 25 lb of carbon dioxide, while releasing 1 lb of propane or butane is equivalent to releasing 3.3 or 3 lb of carbon dioxide respectively. In addition, there are typically little to no emissions of criteria pollutants from this activity as it is only the process of purging the gas lines (versus ongoing combustion of the gases). Based on the level of emissions, it is reasonable to include purging of liquid petroleum gas lines in this list of miscellaneous operations that can be treated as an insignificant activity.

Item J is revised to add a new subitem (8) to include equipment used exclusively for packaging lubricants or greases, and water-borne adhesives, coatings, or binders as an insignificant activity not required to be listed. This insignificant activity is proposed to be deleted in Minn. R. 7007.1300, subpart 3, item H, subitem (1) and added as a new subpart 2, item J, subitem (8). It is also revised to include equipment used for packaging water-borne adhesives, coatings or binders. These water-borne materials are typically packaged at ambient temperatures and have few components, if any, that could be emitted as VOC or HAPs. Therefore, it is reasonable to treat this activity as an insignificant activity.

Item J is revised to add a new subitem (9) to include equipment used exclusively for mixing and blending of materials at ambient temperature to make water-borne adhesives, coatings or binders as an insignificant activity not required to be listed. These water-borne materials are typically mixed at ambient temperatures and have few components, if any, that could be emitted as VOC or HAPs. Therefore, it is reasonable to treat this activity as an insignificant activity.

Item J is revised to add a new subitem (10) to include equipment used for hydraulic or hydrostatic testing as an insignificant activity not required to be listed. This insignificant activity is proposed to be deleted in Minn. R. 7007.1300, subpart 3, item H, subitem (2) and added as a new subpart 2, item J, subitem (10). In EPA's ["White Paper for Streamlined Development of Part 70 Permit Applications"](#) (July 10, 1995), EPA stated "hydraulic and hydrostatic testing equipment" may be treated as trivial activities and not listed in a permit application. Therefore, it is reasonable to treat this activity as an insignificant activity.

Item J is revised to add a new subitem (11) to include plasma or laser cutting operations using a water table as an insignificant activity not required to be listed. This activity is generally performed to precisely cut a material for further manufacturing or processing that could generate small amounts of PM. A water table is typically used as part of this operation to prevent the material and equipment from overheating. As a result, the water spray controls any emissions of PM as the plasma or laser cuts. Therefore, it is reasonable to treat this activity as an insignificant activity.



Item J is revised to add a new subitem (12) to include blueprint copiers and photographic presses as an insignificant activity not required to be listed. This insignificant activity is proposed to be deleted in Minn. R. 7007.1300, subpart 3, item H, subitem (4) and added as a new subpart 2, item J, subitem (12). In practice, the MPCA has seen a decline in the use of blueprint copiers and photographic presses and has not typically requested emission calculations for these insignificant activities. Therefore, it is reasonable to treat this activity as an insignificant activity.

Item J is revised to add a new subitem (13) to include equipment used exclusively for melting or application of wax as an insignificant activity not required to be listed. This insignificant activity is proposed to be deleted in Minn. R. 7007.1300, subpart 3, item H, subitem (5) and added as a new subpart 2, item J, subitem (13). In practice, the MPCA has seen a decline in the use of equipment for melting or applying wax and has not typically requested emission calculations for these insignificant activities. Therefore, it is reasonable to treat this activity as an insignificant activity.

Item J is revised to add a new subitem (14) to include nonasbestos equipment used exclusively for bonding lining to brake shoes as an insignificant activity not required to be listed. This insignificant activity is proposed to be deleted in Minn. R. 7007.1300, subpart 3, item H, subitem (6) and added as a new subpart 2, item J, subitem (14). In practice, the MPCA has seen a decline in use of this equipment and has not typically requested emission calculations for these insignificant activities. Therefore, it is reasonable to treat this activity as an insignificant activity.

Item J is revised to add a new subitem (15) to include solvent distillation equipment with a batch capacity of 55 gallons or less as an insignificant activity not required to be listed. Based on emission factors from AP-42, *Compilation of Air Pollutant Emission Factors*, Section 4.7 (Waste Solvent Reclamation), February 1980, emissions from this batch equipment would be roughly 0.005 lbs VOC per batch. (Assuming a 10 lb solvent per gallon solvent density, 0.2 lb VOC per ton solvent results in roughly 0.005 lbs VOC emitted per 55-gallon drum.) Based on the low level of emissions, it is reasonable to treat this activity as an insignificant activity.

Item J is revised to add a new subitem (16) to include electric steam sterilizers as an insignificant activity not required to be listed in a permit application. In EPA's "[White Paper for Streamlined Development of Part 70 Permit Applications](#)" (July 10, 1995), EPA stated "steam sterilizers" may be treated as trivial activities and not listed in a permit application. Therefore, it is reasonable to treat this activity as an insignificant activity.

Subpart 2 is revised to add a new item L to include commercial self-service laundries, not including dry cleaners or industrial laundries, as an insignificant activity not required to be listed in a permit application. This insignificant activity is proposed to be deleted from the list of insignificant activities in Minn. R. 7007.1300, subpart 3, that are required to be listed in a permit application, and added as a new subpart 2, item L. The commercial laundries category in Minn. R. 7007.1300, subpart 3, was intended to cover the coin-operated variety of laundries. EPA provides emission factors for VOC emissions from commercial laundries based on use of detergent per capita. Based on Minnesota's population data, commercial laundries in the state could potentially account for a total of approximately 110 tpy of VOC emissions from all consumer/commercial laundry detergent use in Minnesota (0.04 lb/yr/capita \* 5.457 million people). Based on very small total emissions from commercial self-service laundries, it is reasonable to treat this activity as an insignificant activity. Dry cleaners and industrial laundries remain excluded from this activity, because the PTE of HAPs and VOCs often exceed permitting thresholds.

Subp. 3. **Insignificant activities required to be listed.** Subpart 3 describes the emissions units that are required to be listed in a permit application. Subpart 3 is revised to delete the requirements that described when calculation of emissions from these emissions units must be provided if required by the

MPCA, and when emissions must be calculated in the permit application. As discussed above in subpart 1, these requirements apply to multiple subparts of part 7007.1300, including subparts 2, 3, and 4, and are now located in subpart 1. It is reasonable to consolidate requirements that apply to multiple subparts rather than repeat the requirements in the rule.

As discussed above in subpart 2, the MPCA proposes to update the Minn. R. 7007.1300, subpart 2 and Minn. R. 7007.1300, subpart 3 insignificant activities lists based on MPCA's experience implementing these rules, changes in the use of the activities themselves, technical reports and guidance, and also to clarify the rules for the regulated parties and the MPCA. Therefore, where appropriate, certain activities are deleted from subpart 3, which lists activities that are required to be listed in a permit application, and added to subpart 2, which lists activities that are not required to be listed. These changes are identified below in the subpart 3 revisions.

Item A identifies certain types of "fuel use" for space heaters that can be treated as an insignificant activity required to be listed. Item A is revised to add "heat input" when referring to capacity of space heaters. It is reasonable to clarify that the capacity of space heaters is based on a unit's heat input capacity, as opposed to some other capacity (such as heat output), and to be consistent with common interpretation. It is reasonable to clarify ambiguous rule language that does not change the intent of the rule.

Item B identifies infrared electric ovens and indirect heating equipment that can be treated as an insignificant activity required to be listed. Item B, subitem (2) is revised to add "heat input" when referring to capacity of indirect heating equipment. It is reasonable to clarify that the capacity of indirect heating equipment is based on a unit's heat input capacity, as opposed to some other capacity (such as heat output), and to be consistent with common interpretation. It is reasonable to clarify ambiguous rule language that does not change the intent of the rule.

Item B, subitem (2) is further revised to clarify that the definition of indirect heating equipment is defined in the indirect heating equipment rule at Minn. R. 7011.0500, subpart 9 instead of the direct heating equipment rule at Minn. R. 7011.0600, subpart 6. While the definition of indirect heating equipment is defined in both subparts and are substantially similar, it is reasonable to reference the definition in Minn. R. 7011.0500, subpart 9 because parts 7011.0500 to 7011.0550 identify the standards of performance for indirect heating equipment, and Minn. R. 7007.1300 item B, subitem (2) identifies indirect heating equipment as an insignificant activity required to be listed. A redundant reference at the end of this subitem that also identifies where the term is defined is deleted. It is reasonable to correct rule references and remove unnecessary language to prevent confusion.

Item C identifies "fabrication operations" that can be treated as insignificant activities required to be listed. Item C is proposed to be moved to part 7007.1300, subpart 2, item C. There are no known emissions from this activity; therefore, it is reasonable to include this activity in the list of fabrication operations that can be treated as an insignificant activity not required to be listed in a permit application. (See part 7007.1300, subpart 2, item C.)

Item D identifies "processing operations" that can be treated as insignificant activities required to be listed in a permit application. Item D, subitem (1) is proposed to be moved to part 7007.1300, subpart 2, item D, subitem (4) with the qualifier that open tumblers with a batch capacity of 1,000 pounds or less must be used for cleaning or deburring metal products. Based on the low amount of pollutants emitted per batch, it is reasonable to include this activity in the list of processing operations that can be treated as an insignificant activity not required to be listed in a permit application. (See part 7007.1300, subpart 2, item D, subitem (4).)

Item D, subitem (2) is deleted in its entirety. MPCA staff has encountered instances in permitting of equipment venting PM inside a building without air filtering where the potential emissions affect permit applicability. However, the MPCA believes it can account for emissions from these types of equipment with the addition of part 7007.1300, subpart 2, item D, subitem (5) which describes how hand-operated equipment should be treated, and the revisions to the conditionally insignificant activities included in Minn. R. 7008.4110, which establishes PM limits for entire finishing operations that are not hand-held. Therefore, it is reasonable to delete subpart 3, item D, subitem (2).

Item F identifies commercial laundries, not including dry cleaners and industrial launderers that can be treated as insignificant activities required to be listed. Item F is moved to part 7007.1300, subpart 2, new item L. Based on very low total emissions from this activity, it is reasonable to include this activity in the list of cleaning operations that can be treated as an insignificant activity not required to be listed in a permit application. (See part 7007.1300, subpart 2, new item L.)

Item H identifies the “miscellaneous” activities that can be treated as insignificant activities required to be listed. The revisions to the miscellaneous activities in item H include deleting subitems (1), (2), and (4) through (7) and moving those activities to the insignificant activities list not required to be listed in a permit application, with some revisions as discussed below. The rule amendments retain “brazing, soldering or welding equipment” as a miscellaneous activity, previously listed as subitem (3).

Subitem (1) identifies equipment used exclusively for packaging lubricants or greases. Subitem (1) is deleted, added to part 7007.1300, subpart 2, item J, new subitem (8), and revised to include packaging water-borne adhesives, coatings or binders. These water-borne materials have few components that could be emitted as VOC or HAPS; therefore, it is reasonable to include this activity in the list of miscellaneous activities that can be treated as an insignificant activity not required to be listed in a permit application. (See part 7007.1300, subpart 2, item J, new subitem (8).)

Subitem (2) identifies equipment used for hydraulic or hydrostatic testing. Subitem (2) is deleted and added to part 7007.1300, subpart 2, item J, new subitem (10). In EPA’s [“White Paper for Streamlined Development of Part 70 Permit Applications”](#) (July 10, 1995), EPA stated “hydraulic and hydrostatic testing equipment” may be treated as trivial activities and not listed in a permit application. Therefore, it is reasonable to treat this activity as an insignificant activity not required to be listed in a permit application. (See part 7007.1300, subpart 2, item J, new subitem (10).)

Subitem (4) identifies blueprint copiers and photographic presses. Subitem (4) is deleted and added to part 7007.1300, subpart 2, item J, new subitem (12). In practice, the MPCA has seen this activity falling out of use and has not typically requested emissions calculations for these insignificant activities. Therefore, it is reasonable to treat this activity as an insignificant activity not required to be listed in a permit application. (See part 7007.1300, subpart 2, item J, new subitem (12).)

Subitem (5) identifies equipment used exclusively for melting or application of wax. Subitem (5) is deleted and added to part 7007.1300, subpart 2, item J, new subitem (13). In practice, the MPCA has seen this activity falling out of use and has not typically requested emissions calculations for these activities. Therefore, it is reasonable to treat this activity as an insignificant activity not required to be listed in a permit application. (See part 7007.1300, subpart 2, item J, new subitem (13).)

Subitem (6) identifies nonasbestos equipment used exclusively for bonding lining to brake shoes. Subitem (6) is deleted and added to part 7007.1300, subpart 2, item J, new subitem (14). In practice, the MPCA has seen this activity falling out of use and has not typically requested emission calculations for these activities. Therefore, it is reasonable to treat this activity as an insignificant activity not required to be listed in a permit application. (See part 7007.1300, subpart 2, item J, new subitem (14).)

Subitem (7) identifies cleaning operations that use alkaline/phosphate cleaners and associated cleaners. Subitem (7) is entirely deleted and not moved to subpart 2. These types of cleaning operations are typically used to clean and pretreat a metal surface for corrosion resistance, lubrication, or as a foundation for powder coating. MPCA staff has identified that this type of activity has potential emissions that affect permit applicability. For example, MPCA staff examined a particular case at a small machine shop that demonstrated that it is not appropriate to treat this activity as an insignificant activity. Based on a material balance calculation examining the cleaning solution flow rate (5 gallons per minute), chemical concentration (0.03 gallons of chemical per gallon of solution), chemical density (9.99 lb chemical per gallon chemical), transfer efficiency in applying the cleaner (95%), and the capture efficiency of the ventilation hood (100%), MPCA staff found that the operation at the machine shop had the PTE up to 19.7 tons per year (tpy) of PM or PM<sub>10</sub>, approximately 20% of the total PM PTE threshold for an individual permit (100 tpy) or 40% of a registration permit (50 tpy). Based on the level of emissions, this emission activity is not significant, and therefore it is reasonable to delete subpart 3, item H, subitem (7) and not include it as an insignificant activity in part 7007.1300.

Item K identifies activities related to maintaining the physical structure of a facility (plant upkeep) that can be treated as insignificant activities required to be listed. In practice, the MPCA has found that spray paint equipment, identified in permit applications, used for housekeeping or plant upkeep activities is primarily hand-held aerosol spray cans, which, due to their likely low emissions level, are unlikely to affect permit applicability. Therefore, subpart 3, item K is deleted and subpart 2, item B is revised to add a new subitem (7) to include the use of hand-held aerosol spray cans for routine building and equipment maintenance, as an activity that is not required to be listed in a permit application. (See part 7007.1300, subpart 2, item B, new subitem (7).)

Subp. 4. **Insignificant activities required to be listed in a part 70 application.** This subpart identifies the emissions units and emissions limits that must be listed in an initial Part 70 permit application. Subpart 4 is revised to delete the rule language that states this subpart does not apply to a state permit application or to an amendment to a state permit. This statement is redundant in this subpart because the first sentence indicates that this subpart is used when owners or operators apply for an initial Part 70 permit. A clarification was made in the recent Omnibus rulemaking (41 SR 763) that this subpart applies only to initial Part 70 permit applications. It is reasonable to remove this reference to prevent confusion.

Subpart 4 is also revised to delete the requirements that describe when calculation of emissions from these emissions units must be provided if required by the MPCA, and when emissions must be calculated in the permit application. As discussed above in subpart 1, these requirements apply to multiple subparts, including subparts 2, 3, and 4, and are now located in subpart 1. It is reasonable to delete duplicative rule language.

Subp. 5. **Hazardous air pollutant threshold table.** Subpart 5 is revised to clarify that the HAP threshold table in this subpart applies to part 7007.1300, subpart 4, item C, subitem (1). Specifically, the HAP thresholds in the subpart 5 table are used to determine if an emission unit qualifies as an insignificant activity required to be listed in a Part 70 application. MPCA staff have experienced some permittees attempt to use this subpart to treat any emission source that had emissions below the displayed thresholds as an insignificant activity. It is reasonable to make this clarification to reduce confusion for permit applicants and reduce MPCA staff time in processing permit applications.

## **C. CHAPTER 7008 CONDITIONALLY EXEMPT STATIONARY SOURCES AND CONDITIONALLY INSIGNIFICANT ACTIVITIES**

Chapter 7008 provides the conditions under which stationary sources are exempt from the requirement to apply for and obtain an air emission permit as provided for under Minn. R. 7007.0300. States can develop rules following EPA guidance to establish federally enforceable restrictions to limit PTE that apply to categories of stationary sources that are similar in nature. In these rule amendments, the MPCA is proposing four categories of technical standards that impose best operational practices for controlling air emissions that would be similar to the conditions found in a site-specific, low-emitting facility permit. It is reasonable to impose technical standards through a federally enforceable rule, so that the MPCA no longer needs to rely on general permits or site-specific permits.

The amendments to Minn. R. 7008.4000 and 7008.4110 are intended to resolve the lack of enforceability in Minn. R. 7008.4110. As described in Section 1, Need for the proposed rule amendments as a whole, EPA guidance describes the criteria rules used to limit PTE must meet to be enforceable. Minn. R. 7008.4110 does not contain technically accurate limitations that limit PTE by the rule itself, and does not contain sufficient monitoring nor record keeping requirements that MPCA could rely upon to determine compliance with the existing rule.

#### **PART 7008.0100 DEFINITIONS.**

The MPCA is revising part 7008.0100 to add seven new definitions and revise one existing definition in Minn. R. 7008.0100. This rule amendment also deletes one definition and moves this definition to chapter 7005. In general, definitions for new terms are needed to clarify the terms as they are used throughout chapter 7008.

Subp. 2. **Gasoline service station.** Subpart 2 defines the term “gasoline service station.” This definition is deleted from part 7008.0100 and moved to part 7005.0100. The part 7008.0100 definitions specifically apply to the terms used in chapter 7008, unless otherwise defined. The term “gasoline service station” is used in multiple rule chapters, not just chapter 7008; therefore, it is reasonable to move the definition to chapter 7005, which contains the definitions for terms used in the state air pollution control rules.

Subp. 2a. **Material usage.** Subpart 2a is proposed for repeal. The definition of “material usage” must be revised and renumbered to be consistent with new definitions of “cleaning material” and “coating” in part 7008.0100.

Subp. 5. **Transfer efficiency.** Subpart 5 is proposed for repeal. The definition of “transfer efficiency” must be revised and renumbered to be consistent with the revised material usage requirements in Minn. R. 7008.4100.

Subp. 6. **Auto-body refinishing facility.** A new subpart 6 defines the term “auto-body refinishing facility.” This term is needed to identify those stationary sources that may be conditionally exempt from the requirement to obtain an air emissions permit under the proposed rules in Minn. R. 7008.2300. It is reasonable to define this term to clarify which stationary sources are within the scope of the proposed rules. The definition parallels how the other types of conditionally exempt source categories are defined in Minn. R. 7005.0100, subpart 4e (concrete manufacturing plant) and in Minn. R. 7008.0100, subpart 2 (gasoline service station).

Subp. 7. **Cleaning material.** A new subpart 7 defines the term “cleaning material.” “Cleaning material” defines certain solvents, which contain VOC or HAPs that may emit VOC, HAPs, or a combination thereof. This means that the “cleaning material” used in cleaning activities may emit any one or all of the pollutants listed.

The definition of “cleaning material” is needed to determine the applicability of the proposed auto-body refinishing facility and coating facility conditionally exempt source categories, and compliance with the record keeping and notification requirements. It is reasonable to define this term because the owner or

operator of a stationary source needs to know what qualifies as a “cleaning material” for the purposes of determining applicability, and complying with record keeping and notification requirements in the conditionally exempt source categories.

The definition for “cleaning material” also parallels the definitions for the same term as found and used in 40 CFR Part 63, subparts MMMM, PPPP, and HHHHHH. It is reasonable for state rules to align with federal regulations when appropriate. Using the same term as the federal rule ensures common understanding and facilitates compliance.

Subp. 8. **Coating.** A new subpart 8 defines the term “coating.” “Coating” defines certain materials, which contain VOC or HAPs, and are applied to a surface for decorative, protective, or functional purposes. The use of coatings may emit VOC, HAPs, or a combination thereof. This means that the “coating” activities may emit any one or all of the pollutants listed.

The definition of “coating” is needed to determine the applicability of the proposed auto-body refinishing facility and coating facility conditionally exempt source categories, and compliance with the record keeping and notification requirements. It is reasonable to define this term because the owner or operator of a stationary source needs to know what qualifies as a “coating” for the purposes of determining applicability, and complying with record keeping and notification requirements in the conditionally exempt source categories.

The definition of “coating” parallels the definitions for the same term as found and used in 40 CFR Part 63, subparts MMMM, PPPP, and HHHHHH. It is reasonable for state rules to align with federal regulations when appropriate. Using the same term as the federal rule ensures common understanding and facilitates compliance.

Subp. 9. **Coating facility.** A new subpart 9 defines the term “coating facility.” This term is needed to identify those stationary sources that may be conditionally exempt from the requirement to obtain an air emissions permit under the proposed rules in part 7008.2400. It is reasonable to define this term to clarify which stationary sources are within the scope of the proposed rules. The definition also parallels how the other types of conditionally exempt source categories are defined in Minn. R. 7005.0100, subpart 4e (concrete manufacturing plant) and in Minn. R. 7008.0100, subpart 2 (gasoline service station).

Subp. 10. **Finishing operations.** A new subpart 10 defines the term “finishing operations.” This definition is needed to be consistent with changes in Minn. R. 7008.4110. “Finishing operations” is defined as the activities listed in the existing Minn. R. 7008.4110, subpart 2. The definition in this subpart will apply to the new and revised requirements in Minn. R. 7008.4110. By defining “finishing operations,” the applicable activities will be defined one time in chapter 7008 rather than every time the term is used within the chapter. It is reasonable to define this term to clarify which activities are within the scope of the rule, to enhance reader understanding, and to reduce confusion.

Subp. 11. **Insignificant facility.** A new subpart 11 defines the term “insignificant facility.” This term is needed to identify those stationary sources that may be conditionally exempt from the requirement to obtain an air emissions permit under the proposed rules in Minn. R. 7008.2600. It is reasonable to define this term to clarify which stationary sources are within the scope of the proposed rules. The definition parallels how the other types of conditionally exempt source categories are defined in Minn. R. 7005.0100, subpart 4e (concrete manufacturing plant) and in Minn. R. 7008.0100, subpart 2 (gasoline service station).

Subp. 12. **Material usage.** The existing definition of “material usage” is revised to be consistent with new definitions of “cleaning material” and “coating” in part 7008.0100. First, the definition is revised to

remove the reference to “ink”, “paint”, and “adhesive” in the list of activities identified in this definition. This change is needed to be consistent with the newly proposed definition of “coating”, which also addresses ink, paint, and adhesive. It is reasonable to make this change to remove redundant and potentially confusing references to the same materials.

Next, the existing definition of “material usage” is revised to add “cleaning material” to the list of activities identified in this definition. Including “cleaning material” in this definition makes clear that the activities involving “cleaning materials” are included as “material usage” activities.

The existing definition of “material usage” is further revised to remove the reference to “PM 10” and “PM 2.5.” The MPCA is proposing revisions to the treatment of PM in Minn. R. 7008.4100.

Removing the reference to “PM 10” and “PM 2.5” simplifies the definition and makes it consistent with the requirements of Minn. R. 7008.4100. It is reasonable to provide consistency across requirements in chapter 7008.

Lastly, the existing definition of “material usage” is revised to remove the reference to “mass balance.” The existing rule states that emissions of the pollutants (identified in the definition) can be calculated on a mass balance basis as described in part 7008.4100. The Office of the Revisor recommends, and MPCA agrees, that “on a mass balance basis” be deleted because part 7008.4100 does not use the phrase “mass balance” to describe the process. Consequently, use of the term “mass balance” in part 7008.0100 in reference to part 7008.4100 is confusing. It is reasonable to make this change to reduce confusion.

Subp. 17. **Transfer efficiency.** “Transfer efficiency” is defined because it is a variable used in the calculation of PM emissions from material usage activities in Minn. R. 7008.4100. The MPCA is proposing revisions to the treatment of PM in Minn. R. 7008.4100. Deleting the reference to “PM10” and “PM2.5” simplifies the definition and makes it consistent with the requirements of Minn. R. 7008.4100. It is reasonable to provide consistency across requirements in chapter 7008.

Subp. 18. **Woodworking facility.** A new subpart 18 defines the term “woodworking facility.” This term is needed to identify stationary sources that may be conditionally exempt from the requirement to obtain an air emissions permit under the proposed rules in Minn. R. 7008.2500. It is reasonable to define this term to clarify which stationary sources are within the scope of the proposed rules. The definition parallels how the other types of conditionally exempt source categories are defined in Minn. R. 7005.0100, subpart 4e (concrete manufacturing plant) and in Minn. R. 7008.0100, subpart 2 (gasoline service station).

## **PART 7008.0200 GENERAL REQUIREMENTS.**

Minn. R. 7008.0200 establishes the general requirements for conditionally exempt stationary sources and conditionally insignificant activities. This part is revised to add a new item F.

Existing rules do not provide clear guidelines to owners or operators of stationary sources that are operating without a permit pursuant to an exemption, on what to do when changes at their facilities might increase air emissions. In the case of some facility changes, exemptions may no longer apply.

Therefore, item F is added to clarify to owners and operators that if there is a change at the facility that affects the amount of type of air pollutants the facility emits, the owner or operator must determine the permit status, and if a permit is needed, follow the requirements of Minn. R 7007.0400, subpart 4. To increase compliance with all applicable air quality rules, it is reasonable to include this requirement within chapter 7008 as an ongoing reminder to the owner or operator to comply with the air emission permitting rules procedures of chapter 7007.

## **PART 7008.2100 GASOLINE SERVICE STATIONS TECHNICAL STANDARDS.**

Subpart 1. **Eligibility.** Subpart 1 identifies the eligibility requirements for the owner or operator of a gasoline service station to operate without a permit under chapter 7008. The requirements of this subpart have been renumbered to items A to D. Subpart 1, new item A, is existing rule language revised to clarify who is responsible for complying with the rule and to correct the reference to the general requirements in Minn. R. 7008.2000, not Minn. R. 7008.0200.

Subpart 1, item A is further revised to remove the phrase “general operating” as a qualifier in front of requirements. The proposed revisions no longer point to only the general requirements of Minn. R. 7008.0200 but point to the eligibility requirements in Minn. R. 7008.2000. It is reasonable to make the proposed change to prevent reader confusion.

New item B is existing rule language revised to identify the correct rule citation for insignificant activities and conditionally insignificant activities. This change is reasonable because it makes clear to the owner or operator that emissions from the gasoline service station must be from insignificant activities or conditionally insignificant activities, or both, in order to operate without a permit under this chapter.

Subp. 3. **Notification.** Subpart 3 establishes the requirements for notification when an owner or operator begins construction of a gasoline service station. The existing notification timelines provided for a transition period for the original implementation of these rules. The notification deadline relevant to the transition period is now obsolete. It is reasonable to delete obsolete rule language.

## **PART 7008.2200 CONCRETE MANUFACTURING; TECHNICAL STANDARDS.**

Subpart 1. **Eligibility.** Subpart 1 identifies the eligibility requirements for the owner or operator of a concrete manufacturing stationary source to operate without a permit under chapter 7008. Subpart 1 is revised to correct the reference to the general requirements in Minn. R. 7008.2000, not Minn. R. 7008.0200.

Existing rule language does not direct an owner or operator to follow the requirements of Minn. R. 7008.2000. The proposed revision is reasonable because it provides clarity and prevents confusion by clearly identifying all requirements that a stationary source must comply with to be eligible to operate without a permit under chapter 7008.

Subpart 1 is further revised to remove the phrase “general operating” as a qualifier in front of requirements. The proposed revisions no longer point to only the general requirements of Minn. R. 7008.0200 but point to the eligibility requirements in Minn. R. 7008.2000. It is reasonable to make the proposed change to prevent confusion.

Subpart 1 is also revised to delete the reference to the requirements of Minn. R. 7008.2250. Minn. R. 7008.2250 contains the record keeping requirements for a concrete manufacturing stationary source. Minn. R. 7008.2250 is proposed for repeal and the language is proposed to be added to Minn. R. 7008.2200 as new subpart 6. The proposed change makes the structure of the rule for this category consistent with other conditionally exempt source categories, by locating requirements that apply to this category in one rule part. It is reasonable to make this change because it provides clarity and prevents confusion.

Subpart 1 is further revised to replace the phrase “meet the requirements of” with the phrase “comply with.” The proposed change provides consistency across the different conditionally exempt source categories through parallel construction of similar requirements (for example, see the eligibility requirements for gasoline service stations and auto-body refinishing facilities). It is reasonable to make this change because it provides clarity and prevents confusion.



Subp. 6. **Record keeping.** The record keeping requirements in existing Minn. R. 7008.2250 are proposed to move to a new subpart 6, items A through D in Minn. R. 7008.2200. Existing Minn. R 7008.2250 is proposed for repeal. It is reasonable to move the part 7008.2250 requirements to part 7008.2200 in order to locate all requirements for concrete manufacturing stationary sources in one rule part. Doing so consolidates and clarifies the rules so owners and operators can more easily locate, understand, and comply with the record keeping requirements for concrete manufacturing plants.

The proposed changes also revises the sentence structure of the existing record keeping requirements but does not change the content of the requirements. The proposed changes provide consistency across the different conditionally exempt source categories through parallel construction of similar requirements (e.g., see the record keeping requirements for auto-body refinishing facilities and woodworking facilities). It is reasonable to make this change because it provides clarity and prevents reader confusion.

#### **PART 7008.2250 RECORD KEEPING FOR CONCRETE MANUFACTURING PLANTS.**

Minn. R. 7008.2250 is proposed for repeal. This part provided the record keeping requirements for concrete manufacturing plants. These requirements are moved to new subpart 6 in part 7008.2200. Doing so consolidates and clarifies the rules so owners and operators can more easily locate, understand, and comply with the record keeping requirements for concrete manufacturing plants (see part 7008.2200, subpart 6).

#### **PART 7008.2300 AUTO-BODY REFINISHING FACILITY; TECHNICAL STANDARDS.**

This new part establishes technical standards such that if the owner or operator of an auto-body refinishing facility complies with the technical requirements of the standards, the source is exempt from needing an air emissions permit. The structure of the technical standards are proposed in order to ensure federal enforceability so that EPA can approve the inclusion of these standards in Minnesota's SIP.

Subpart 1. **Eligibility.** A new subpart 1 establishes the federally enforceable requirements for eligibility under part 7008.2300. Item A requires that for an auto-body refinishing facility to operate without a permit under chapter 7008, the owner or operator must comply with this part and part 7008.2000, which establishes the generally eligibility requirements for conditionally exempt stationary sources. It is reasonable to identify what an owner or operator must do and the requirements they must comply with in order to operate without an air emissions permit.

Item B establishes the scope of equipment located at an auto-body refinishing facility that is eligible to operate without a permit under this part. This item identifies that painting automobiles and automobile parts must account for substantially all equipment at the stationary source. This item establishes that for an owner or operator to claim this exemption, the stationary source's primary activity is painting automobiles and automobile parts and all other emissions from the stationary source must be from insignificant activities in part 7007.1300, subparts 2 and 3, or the conditionally insignificant activities under parts 7008.4000 and 7008.4110 (Finishing Operations), or both.

The emission limits proposed for this exempt source category (in Item C of this subpart) relies on the source having emissions from equipment and processes commonly found at an auto-body refinishing facility. Other processes or activities unrelated to auto-body refinishing cannot be present at the facility as no other activities were assessed in creating this exempt source category. Other activities could result in a stationary source not being a low air emissions emitter and make an air emissions permit necessary. For this reason, it is reasonable to state that "substantially all" of the emissions from this stationary source must be from the described equipment.

The list of insignificant activities specifies common activities whose emissions are insignificant by their very nature, and therefore require minimal regulatory oversight. These ancillary activities may be present at auto-body refinishing facilities and are not expected to result in significant emissions.

The proposed rule references parts 7008.4000 and 7008.4110 to allow an auto-body refinishing facility to include conditionally insignificant activities that qualify as finishing activities under this permit exemption. The proposed rule intentionally does not reference part 7008.4100 (“material usage” emission sources that could be treated as conditionally insignificant activities). Including emission activities regulated by part 7008.4100 (also proposed for amendment in this rulemaking) would allow material usage activities up to an additional 1,000 gallons per year, which changes the conditions used to set the exemption threshold.

It is reasonable to limit the types of equipment at the stationary source to only these primary activities to ensure there will be no other significant sources of emissions at the source that would have otherwise required an air emissions permit.

Item C establishes the maximum amount of coating and cleaning materials that an auto-body refinishing facility can purchase or use each calendar year to be eligible to operate without a permit under part 7008.2300. The limit is set at 2,000 gallons each calendar year. In 1998, EPA provided guidance to states on how to develop prohibitory language in rules to properly restrict a small source’s PTE pollutants. By restricting a small source’s PTE, it is possible to avoid the requirement for obtaining an air emissions permit, saving resources at both a small source, as well as the MPCA permitting programs. The 1998 EPA memorandum establishes the criteria for state-promulgated PTE limiting rules. The limiting pollutant for surface coating operations, such as this stationary source category, are emissions of HAPs.

The threshold for HAP emissions for a stationary source that would be required to obtain a permit is 10 tpy of any individual HAP. The guidelines included in the memo were derived from an assumption that 6 pounds per gallon as the worst-case value for any individual HAP and corresponds to approximately 6 tpy when 2,000 gallons of coating or cleaning materials are used. See the example calculation below:

$$\frac{6 \text{ lbs HAP}}{\text{gal}} \times \frac{2,000 \text{ gal}}{\text{yr}} \times \frac{1 \text{ ton}}{2000 \text{ lb}} = 6 \text{ tpy}$$

The 2,000 gallons per year threshold was chosen to mimic a permit option (option B registration permit) that is currently used by roughly 400 owners or operators in Minnesota. This exemption is intended to have the same threshold as the registration option B permits but serve as an additional regulatory option with more specific requirements tailored to owners and operators of these auto-body refinishing facilities. The MPCA intends that these standards could be used by any new, existing permitted, and existing unpermitted auto-body refinishing facility. Based on a continuous operation methodology (i.e., spray guns operating at full capacity for 8760 hours per year) to calculate potential HAP emissions, these stationary sources would typically have PTE enough HAP emissions that a Part 70 permit would be required if another means of limiting potential emissions is not employed. However, these sources do not typically operate in that manner and, based on MPCA experience, have actual emissions that are far below the relevant permitting thresholds.

MPCA chose to use gallons purchased or used as its eligibility parameter due to the relative ease that this information (e.g., purchase records or records of usage) is available to owners and operators who use this kind of equipment. This is similar to the eligibility parameters in option B registration permits. MPCA is allowing the owner or operator to use either the gallons purchased or gallons used also provides flexibility when ordering materials. For example, an owner or operator might purchase more than 2,000 gallons in a calendar year for a particular reason (such as initial product stocking or

manufacturer price reductions for large orders), but still use less than 2,000 gallons in a calendar year. In this scenario, the owner or operator must keep records to show that they used less than 2,000 gallons to remain eligible to operate without a permit under this part. Through this method, the MPCA has used practicably enforceable means to limit HAP emissions below the Part 70 permitting threshold. Because substantially all of the allowable emissions from this conditionally exempt stationary source must be from painting automobiles or automobile parts, it is reasonable to base the emissions limit on the described parameters.

Subp. 2. **Operational requirements.** A new subpart 2 establishes the operational requirements the owner or operator of an auto-body refinishing facility must comply with to be eligible to operate without a permit under part 7008.2300. In general, the requirements in items A through E parallel the requirements found in 40 CFR Part 63, subpart HHHHHH. It is reasonable for state rules to align with federal regulations when appropriate. Using similar requirements as the federal rule provides common understanding and facilitates compliance.

Item A establishes that all painters at the stationary source must be trained in the proper spray application of surface coatings and the proper setup and maintenance of spray equipment. The intent of this item is to promote good operational practices so that the auto-body refinishing facility's emissions from coating and cleaning material usage activities are minimized. In addition, requiring that painters be trained as indicated ensures that the spray painting equipment is in good operating condition. It is reasonable to require the owner or operator to train their staff in good practices and proper setup and maintenance because the effects reduce emissions. It is also reasonable because training on good practices and proper setup and maintenance benefit the owner or operator by reducing overuse or waste of materials.

Item B establishes that the spray painting operations, excluding the small volume operations, must be completed inside a particulate control system that is designed to confine and direct paint overspray, fumes, and vapors to a powered ventilation system and is equipped with either dry filtration or water wash system to capture paint overspray. This requirement was selected by the MPCA as the method to limit potential emissions of PM and certain HAPs (such as metal-based colorants) that exist in the solids portion of coating materials. It is reasonable to require the use of control equipment at all times to establish an enforceable requirement that limits the potential emissions of equipment within this category.

Item C establishes that the owner or operator must operate and maintain the spray-painting application equipment, exhaust filtration systems, and spray booths as required by the manufacturer's specification. This item is intended to ensure that the described equipment is always in good operating condition and capable of achieving the emissions reductions credited for its use. It is reasonable to require the owner or operator to follow the manufacturers recommended operation and maintenance practices because the owner or operator is credited with emission reductions for installing and using the control equipment.

Item D establishes that all paint spray gun cleaning must be done so that an atomized mist, or spray, of gun cleaning solvent and paint residue is not created outside of a container that collects used gun cleaning solvent. The requirement further includes examples of how cleaning activities could be performed. The intent of this item is to promote good cleaning practices so that the auto-body refinishing facility's emissions from cleaning activities are minimized. In addition, requiring that cleaning be performed as indicated ensures that the spray painting equipment is in good operating condition. It is reasonable to require good cleaning practices because the effects reduce emissions. It is also reasonable because good practices benefit the owner or operator as the described cleaning methods reduce overuse or waste of cleaning materials.

Item E establishes that the owner or operator must comply with the booth specifications, stripping management practices, overspray capture efficiency, spray gun specifications, solvent storage, and training requirements in 40 CFR Part 63, subpart HHHHHH, as applicable. The requirements of 40 CFR Part 63, subpart HHHHHH will likely apply to any auto-body refinishing facility that is eligible under the requirements of this part to operate without a permit. The requirements of 40 CFR Part 63, subpart HHHHHH apply to a stationary source regardless of whether the source operates with or without a permit. Therefore, it is reasonable to make clear that owners and operators eligible to operate an auto-body refinishing facilities eligible to operate without a permit under this part still must comply with the requirements of 40 CFR Part 63, subpart HHHHHH, if applicable.

Subp. 3. **Record keeping.** A new subpart 3 identifies the information owners or operators of an auto-body refinishing facility must maintain for record keeping requirements to be eligible to operate without a permit under part 7008.2300. In general, the requirements in items A through C parallel the requirements found in 40 CFR Part 63, subpart HHHHHH. It is reasonable for state rules to align with federal regulations when appropriate. Using similar requirements as the federal rule provides common understanding and facilitates compliance. In addition, it is reasonable to include record keeping requirements that ensure an owner or operator can demonstrate they qualify for the conditionally exempt source category.

Item A, subitem (1) requires the owner operator to keep records that show that the painters at the stationary source are trained in the proper spray application of surface coatings and the proper setup and maintenance of spray equipment. It is reasonable to include record keeping requirements that ensure an owner or operator can demonstrate they qualify for the conditionally exempt source category. In addition, the records may demonstrate that spray-painting equipment is in good operating condition and their staff is knowledgeable in good practices and proper setup and maintenance.

Item A, subitem (2) requires the owner or operator keep records to show that inspections, maintenance, or repairs on the spray painting application equipment, exhaust filtration system, and spray booths are performed. It is reasonable to require an owner or operator to keep a record of the inspection, maintenance, and repair activities since the owner or operator is required to inspect and maintain the control equipment in accordance with the manufacturer's specifications as identified in subpart 2.

Item A, subitem (3) requires the owner or operator to keep records to demonstrate compliance with the coating and cleaning material gallon usage limits in subpart 1. Substantially all of the allowable emissions from this conditionally exempt stationary source must be from painting automobiles or automobile parts; therefore, it is reasonable to require record keeping of the number of gallons of coating and cleaning materials purchased or used. It is reasonable to include record keeping requirements that ensure an owner or operator can show they qualify for the conditionally exempt source category. In addition, yearly record keeping is sufficient as the usage limit is based on a calendar year.

Item A, subitem (4) requires the owner or operator to keep records of gallons of waste material from coating and cleaning activities shipped off-site for recycling. If coating or cleaning materials are shipped off-site, then these materials do not contribute the potential emissions generated from activities performed at a stationary source. It is reasonable to require owners or operators to keep records of this information if they choose to subtract the amount recycled from the combined coating and cleaning materials purchased or used as allowed in item E. It is also reasonable to encourage owners or operators to recycle, versus disposing of, waste materials.

Item B establishes that if the owner or operator ships waste material from coating and cleaning activities off-site for recycling, the gallons of material recycled may be subtracted from the 2000 gallons of

combined coating and cleaning materials. Allowing the owner or operator to claim credit for recycling waste coating or cleaning materials promotes a more environmentally friendly option than waste disposal. It is reasonable to include record keeping requirements that ensure an owner or operator can demonstrate they qualify for the conditionally exempt source category.

Item C establishes that the owner or operator must maintain records of the monitoring, record keeping, and reporting requirements in 40 CFR Part 63, subpart HHHHHH, as applicable. As described earlier in this part, 40 CFR Part 63, subpart HHHHHH will likely apply to any auto-body refinishing facility that is eligible under the requirements of this part to operate without a permit. It is reasonable to identify that a stationary source eligible to operate without a permit under this part must maintain records of the monitoring, record keeping, and reporting requirements of 40 CFR Part 63, subpart HHHHHH, if applicable. It is also reasonable to include this item as it clarifies for owners and operators that, even if they are eligible to operate without a permit under this part, they are still required to comply with the requirements of 40 CFR Part 63, subpart HHHHHH.

Subp. 4. **Notification.** A new subpart 4 establishes the notification requirements for owners or operators that operate without a permit under chapter 7008. This subpart requires the owner or operator of an auto-body refinishing facility to submit a one-time notification informing the commissioner that the owner or operator intends to comply with the requirements identified in this part rather than apply for an air emissions permit. This notification is more streamlined and less burdensome than a permit application. EPA guidance for federal enforceability requires that sources provide notification to the permitting authority when relying on rule requirements to avoid applying for a permit. It is reasonable to require notification so that the technical standard is federally enforceable, thus approvable by EPA for inclusion in Minnesota's SIP.

Item A requires owners or operators of a stationary source which are covered by a permit issued under chapter 7007 to submit a notification requesting the Agency void the permit issued for the stationary source prior to operating under the requirements of chapter 7008. If the previously issued permit for the stationary source is not voided, it would cause confusion for both the MPCA and the regulated party. The requirements of the source's permit may be different than the requirements described in chapter 7008 and could set up the owner or operator for noncompliance. Requiring that the existing permit be voided first also provides the Agency the ability to review any reasons why the permit should not be voided (e.g., whether the owner or operator meets the eligibility requirements under chapter 7008). Therefore, it is reasonable to require that the owner or operator submit a request to the Agency to void the permit issued under chapter 7007 for the stationary source.

Item B requires owners or operators of a stationary source not described in item A (such as owners or operators of new auto-body refinishing facilities, or facilities with an expired permit) to submit notification within 90 days of the effective date of the proposed rules or within 90 days from commencing operations of the stationary source. Ninety days is a reasonable time period because the information required to be submitted is limited and easy to obtain. (See item C of this subpart, below.)

Item C, subitems (1) to (4) establishes the information required in the notification under item A or B. This information includes owner or operator name, facility name and address, and the number of gallons of coating and cleaning materials purchased or used. This is the minimum information necessary for the MPCA to determine if the stationary source is likely to be eligible for the permit exemption. This information should be readily available to the owner or operator of the stationary source and therefore should not be a burden to collect. As stated above, this requirement provides notification to the MPCA that the owner or operator intends to comply with the requirements identified in this part rather than apply for an air emissions permit. For these reasons, it is reasonable to require this information in the notification.

## **PART 7008.2400 COATING FACILITY; TECHNICAL STANDARDS.**

This new part establishes technical standards such that if the owner or operator of a coating facility that is not an auto-body refinishing facility complies with the technical requirements of the standard, the source is exempt from needing an air emissions permit. The technical standards are proposed in order to comply with federal enforceability standards, so that EPA can approve the inclusion of these standards in Minnesota's SIP.

Subpart 1. **Eligibility.** A new subpart 1 establishes the requirements for eligibility under part 7008.2400. Item A requires that for a coating facility to operate without a permit under chapter 7008, the owner or operator must comply with this part and part 7008.2000, which establishes the generally eligibility requirements for conditionally exempt stationary sources. It is reasonable to identify what an owner or operator must do and the requirements they must comply with in order to operate without an air emissions permit.

Item B establishes the scope of equipment located at a coating facility that is eligible to operate without a permit under this part. This item identifies that coating must account for substantially all equipment at the stationary source. This item establishes that for an owner or operator to claim this exemption, the stationary source's primary activity is coating and all other emissions from the stationary source must be from insignificant activities in part 7007.1300, subparts 2 and 3, or conditionally insignificant activities under parts 7008.4000 and 7008.4110 (Finishing Operations), or both.

The emission limits proposed for this exempt source category (in Item C of this subpart) relies on the source having emissions from equipment and processes commonly found at a business that is engaging in coating products in some manner. Other processes or activities unrelated to coating cannot be present at the facility as no other activities were assessed in creating this exempt source category. Other activities could result in a stationary source not being a low air emissions emitter and make an air emissions permit necessary. For this reason, it is reasonable to state that "substantially all" of the emissions from this stationary source must be from the described equipment.

The list of insignificant activities specifies common activities whose emissions are insignificant by their very nature, and therefore require minimal regulatory oversight. These ancillary activities may be present at coating facilities and are not expected to result in significant emissions.

The proposed rule references parts 7008.4000 and 7008.4110 to allow a coating facility to include conditionally insignificant activities that qualify as finishing activities under this permit exemption. The proposed rule intentionally does not reference part 7008.4100 ("material usage" emission sources that could be treated as conditionally insignificant activities). Including emission activities regulated by part 7008.4100 (also proposed for amendment in this rulemaking) would allow material usage activities up to an additional 1,000 gallons per year, which changes the conditions used to set the exemption threshold.

It is reasonable to limit the types of equipment at the stationary source to only these primary activities to ensure there will be no other significant sources of emissions at the source that would have otherwise required an air emissions permit.

Item C establishes the maximum amount of coating and cleaning materials that the coating facility can purchase or use each calendar year to be eligible to operate without a permit under part 7008.2300. The limit is set at 2,000 gallons each calendar year. In 1998, EPA provided guidance<sup>2</sup> to states on how to develop prohibitory language in rules to properly restrict a small source's PTE pollutants. By restricting a small source's PTE, it is possible to avoid the requirement for obtaining an air emissions permit, saving resources at both a small source, as well as the MPCA permitting programs. The 1998 EPA memorandum

establishes the criteria for state-promulgated PTE limiting rules. The limiting pollutant for surface coating operations, such as this stationary source category, are emissions of HAPs.

The threshold for HAP emissions for a stationary source that would be required to obtain a permit is 10 tpy of any individual HAP. The guidelines included in the memo were derived from an assumption that 6 pounds per gallon as the worst-case value for any individual HAP and corresponds to approximately 6 tpy when 2,000 gallons of coating or cleaning materials are used. See the example calculation below:

$$\frac{6 \text{ lbs HAP}}{\text{gal}} \times \frac{2,000 \text{ gal}}{\text{yr}} \times \frac{1 \text{ ton}}{2000 \text{ lb}} = 6 \text{ tpy}$$

The 2,000 gallons per year threshold was chosen to mimic a permit option (option B registration permit) that is currently used by roughly 400 owners or operators in Minnesota. This exemption is intended to have the same threshold as the registration option B permits but serve as an additional regulatory option with more specific requirements tailored to owners and operators of these coating facilities. The MPCA intends that these standards could be used by any new source, any existing permitted source, and any existing unpermitted source. Based on a continuous operation methodology (i.e., spray guns operating at full capacity for 8760 hours per year) to calculate potential HAP emissions, these stationary sources would typically have PTE enough HAP emissions that a Part 70 permit would be required if another means of limiting potential emissions is not employed. However, these sources do not typically operate in that manner and, based on MPCA experience, have actual emissions that are far below the relevant permitting thresholds.

MPCA chose to use gallons purchased or used as its eligibility parameter due to the relative ease that this information (e.g., purchase records or records of usage) is available to owners and operators who use this kind of equipment. This is similar to the eligibility parameters in option B registration permits. MPCA allowing the owner or operator to use either the gallons purchased or gallons used also provides flexibility when ordering materials. For example, an owner or operator might purchase more than 2,000 gallons in a calendar year for a particular reason (such as initial product stocking or manufacturer price reductions for large orders), but still use less than 2,000 gallons in a calendar year. In this scenario, the owner or operator must keep records to show that they used less than 2,000 gallons to remain eligible to operate without a permit under this part. Through this method, the MPCA is providing the owner or operator additional flexibility while still limiting HAP emissions below the Part 70 permitting threshold. Because substantially all of the allowable emissions from this conditionally exempt stationary source must be from coating operations, it is reasonable to base the emissions limit on the described parameters.

**Subp. 2. Operational requirements.** A new subpart 2 establishes the operational requirements the owner or operator of a coating facility must comply with to be eligible to operate without a permit under part 7008.2400. In general, the requirements in items A through E parallel the requirements found in 40 CFR Part 63, subpart HHHHHH. It is reasonable for state rules to align with federal regulations when appropriate. Using similar requirements as the federal rule provides common understanding and facilitates compliance.

Item A establishes that all painters at the stationary source must be trained in the proper spray application of surface coatings and the proper setup and maintenance of spray equipment. The intent of this item is to promote good operational practices so that the coating facility's emissions from coating and cleaning material usage activities are minimized. In addition, requiring that painters be trained as indicated ensures that the spray painting equipment is in good operating condition. It is reasonable to require the owner or operator to train their staff in good practices and proper setup and maintenance

because the effects reduce emissions. It is also reasonable because training on good practices and proper setup and maintenance benefit the owner or operator by reducing overuse or waste of materials.

Item B establishes that the spray painting operations, excluding the small volume operations, must be completed inside a particulate control system that is designed to confine and direct paint overspray, fumes, and vapors to a powered ventilation system and is equipped with either dry filtration or water wash system to capture paint overspray. This requirement was selected by the MPCA as the method to limit potential emissions of PM and certain HAPs (such as metal-based colorants) that exist in the solids portion of coating materials. It is reasonable to require the use of control equipment at all times to establish an enforceable requirement that limits the potential emissions of equipment within this category.

Item C establishes that the owner or operator must operate and maintain the spray-painting application equipment, exhaust filtration systems, and spray booths as required by the manufacturer's specification. This item is intended to ensure that the described equipment is always in good operating condition and capable of achieving the emissions reductions credited for its use. It is reasonable to require the owner or operator to follow the manufacturers recommended operation and maintenance practices because the owner or operator is credited with emission reductions for installing and using the control equipment.

Item D establishes that all paint spray gun cleaning must be done so that an atomized mist, or spray, of gun cleaning solvent and paint residue is not created outside of a container that collects used gun cleaning solvent. The requirement further includes examples of how cleaning activities could be performed. The intent of this item is to promote good cleaning practices so that the coating facility's emissions from cleaning activities are minimized. In addition, requiring that cleaning be performed as indicated ensures that the spray painting equipment is in good operating condition. It is reasonable to require good cleaning practices because the effects reduce emissions. It is also reasonable because good practices benefit the owner or operator as the described cleaning methods reduce overuse or waste of cleaning materials.

Item E establishes that the owner or operator must comply with the booth specifications, stripping management practices, overspray capture efficiency, spray gun specifications, solvent storage, and training requirements in 40 CFR Part 63, subpart HHHHHH, as applicable. As described earlier for this part, 40 CFR Part 63, subpart HHHHHH will likely apply to any coating facility that is eligible under the requirements of this part to operate without a permit under chapter 7008. The requirements of 40 CFR Part 63, subpart HHHHHH apply to a stationary source regardless of if the source operates with or without a permit. Therefore, it is reasonable to make clear that owners and operators eligible to operate a coating facility without a permit under this part still must comply with the requirements of 40 CFR Part 63, subpart HHHHHH, if applicable.

Subp. 3. **Record keeping.** A new subpart 3 identifies the information owners or operators of a coating facility must maintain for record keeping requirements to be eligible to operate without a permit under part 7008.2400. In general, the requirements in items A through C parallel the requirements found in 40 CFR Part 63, subpart HHHHHH. It is reasonable for state rules to align with federal regulations when appropriate. Using similar requirements as the federal rule provides common understanding and eases compliance. In addition, it is reasonable to include record keeping requirements that ensure an owner or operator can demonstrate they qualify for the conditionally exempt source category.

Item A, subitem (1) requires the owner or operator to keep records that show that the painters at the coating facility are trained in the proper spray application of surface coatings and the proper setup and



maintenance of spray equipment. It is reasonable to include record keeping requirements that ensure an owner or operator can demonstrate they qualify for the conditionally exempt source category. In addition, the records may demonstrate that spray-painting equipment is in good operating condition and their staff is knowledgeable in good practices and proper setup and maintenance.

Item A, subitem (2) requires the owner or operator to keep records to show that inspections, maintenance, or repairs on the spray painting application equipment, exhaust filtration system, and spray booths are performed. It is reasonable to require an owner or operator to keep a record of the inspection, maintenance, and repair activities since the owner or operator is required to inspect and maintain the control equipment in accordance with the manufacturer's specifications as identified in subpart 2.

Item A, subitem (3) requires the owner or operator to keep records to demonstrate compliance with the coating and cleaning material gallon usage limits in subpart 1. Substantially all of the allowable emissions from this conditionally exempt stationary source must be from painting automobiles or automobile parts; therefore, it is reasonable to require record keeping of the number of gallons of coating and cleaning materials purchased or used. It is reasonable to include record keeping requirements that ensure an owner or operator can show they qualify for the conditionally exempt source category. In addition, yearly record keeping is sufficient as the usage limit is based on a calendar year.

Item A, subitem (4) requires the owner or operator to keep records of the gallons of waste material from coating and cleaning activities that are shipped off-site for recycling. If coating or cleaning materials are shipped off-site, then these materials do not contribute the potential emissions generated from activities performed at a stationary source. It is reasonable to require owners or operators to keep records of this information if they choose to subtract the amount recycled from the combined coating and cleaning materials purchased or used as allowed in item E. It is also reasonable to encourage owners or operators to recycle, versus disposing of, waste materials.

Item B establishes that if the owner or operator ships waste material from coating and cleaning activities off-site for recycling, the gallons of material recycled may be subtracted from the 2000 gallons of combined coating and cleaning materials. Allowing the owner or operator to claim credit for recycling waste coating or cleaning materials promotes a more environmentally friendly option than waste disposal. It is reasonable to include record keeping requirements that ensure an owner or operator can demonstrate they qualify for the conditionally exempt source category.

Item C establishes that the owner or operator must maintain records of the monitoring, record keeping, and reporting requirements in 40 CFR Part 63, subpart HHHHHH, as applicable. As described earlier for this part, 40 CFR Part 63, subpart HHHHHH will likely apply to any coating facility that is eligible under the requirements of this part to operate without a permit. It is reasonable to identify that a stationary source eligible to operate without a permit under this part must maintain records of the monitoring, record keeping, and reporting requirements of 40 CFR Part 63, subpart HHHHHH, if applicable. It is also reasonable to include this item as it clarifies for owners and operators that, even if they are eligible to operate without a permit under this party, they are still required to comply with the requirements of 40 CFR Part 63, subpart HHHHHH.

Subp. 4. **Notification.** A new subpart 4 establishes the notification requirements for owners or operators of a coating facility that operate without a permit under chapter 7008. This proposed subpart requires the owner or operator of the stationary source to submit a one-time notification informing the commissioner that the owner or operator intends to comply with the requirements identified in this part rather than apply for an air emissions permit. This notification is more streamlined and less burdensome

than a permit application. EPA guidance for federal enforceability requires that sources provide notification to the permitting authority when relying on rule requirements to avoid applying for a permit. It is reasonable to require notification so that the technical standard is federally enforceable, thus approvable by EPA for inclusion in Minnesota's SIP.

Item A requires owners or operators of a stationary source which are covered by a permit issued under chapter 7007 to submit a notification requesting the Agency void the permit issued for the stationary source prior to operating under the requirements of chapter 7008. If the previously issued permit for the stationary source is not voided, it would likely cause confusion for both the MPCA and the regulated party. The requirements of the source's permit may be different than the requirements described in chapter 7008 and could set up the owner or operator for noncompliance. Requiring that the existing permit be voided first also provides the Agency the ability to review any reasons why the permit should not be voided (e.g., whether the owner or operator meets the eligibility requirements under chapter 7008). Therefore, it is reasonable to require that the owner or operator submit a request to the Agency to void the permit issued under chapter 7007 for the stationary source.

Item B requires owners or operators of a stationary source not described in item A (such as owners or operators of new coating facilities, or facilities with an expired permit) to submit notification within 90 days of the effective date of the proposed rules or within 90 days from commencing operations of the stationary source. Ninety days is a reasonable time period because the information required to be submitted is limited and easy to obtain. (See item C of this subpart, below.)

Item C, subitems (1) to (4) establishes the information required in the notification under item A or B. This information includes owner or operator name, facility name and address, and the number of gallons of coating and cleaning materials purchased or used. This is the minimum information necessary for the MPCA to determine if the stationary source is likely to be eligible for the permit exemption. This information should be readily available to the owner or operator of the coating facility and therefore should not be a burden to collect. As stated above, this requirement is also intended to serve as notification to the MPCA that an owner or operator intends to rely on the requirements identified in this part rather than apply for an air emissions permit. For these reasons, it is reasonable to require this information in the notification.

#### **PART 7008.2500 WOODWORKING FACILITY; TECHNICAL STANDARDS.**

This new part establishes technical standards such that if the owner or operator of a woodworking facility complies with the technical requirements of the standard, the source is exempt from needing an air emissions permit. The technical standards are proposed in order to comply with federal enforceability standards so that EPA can approve the inclusion of these standards in Minnesota's SIP.

The MPCA is proposing this new category to ease the treatment of woodworking facilities. These emission sources emit PM from cutting, sawing, and sanding of wood. Some may have VOC emissions from the coating of the wood.

Subpart 1. **Eligibility.** A new subpart 1 establishes the requirements for eligibility under part 7008.2500. Item A requires that for a woodworking facility to operate without a permit under chapter 7008, the owner or operator must comply with this part and part 7008.2000, which establishes the generally eligibility requirements for conditionally exempt stationary sources. It is reasonable to identify what an owner or operator must do and the requirements they must comply with in order to operate without an air emissions permit.

Item B establishes the scope of equipment located at a woodworking facility that is eligible to operate without a permit under this part. This item identifies that woodworking must account for substantially

all equipment at the stationary source. This item establishes that for an owner or operator to claim this exemption, the stationary source's primary activity is woodworking and all other emissions from the stationary source must be from insignificant activities in part 7007.1300, subparts 2 and 3, or the conditionally insignificant activities under parts 7008.4000 and 7008.4100 (Material Usage), or both.

The emission limits proposed for this exempt source category (in subpart 3 of this part) relies on the source having emissions from equipment and processes commonly found at business that is engaging in woodworking. Other processes or activities unrelated to woodworking cannot be present at the facility as no other material usage or PM generating activities were assessed in creating this exempt source category. Other activities could result in a stationary source not being a low air emissions emitter and make an air emissions permit necessary. For this reason, it is reasonable to state that "substantially all" of the emissions from this stationary source must be from the described equipment.

The list of insignificant activities specifies common activities whose emissions are insignificant by their very nature, and therefore require minimal regulatory oversight. These ancillary activities may be present at woodworking facilities and are not expected to result in significant emissions.

The proposed rule references parts 7008.4000 and 7008.4100 to allow a woodworking facility to include conditionally insignificant activities that qualify as material usage under this permit exemption. The proposed rule intentionally does not reference part 7008.4110 ("finishing operations" emission sources that could be treated as conditionally insignificant activities). Including emission activities regulated by part 7008.4110 (also proposed for amendment in this rulemaking) would allow finishing operation activities up to an additional 5 tons of PM per year, which changes the conditions used to set the exemption threshold for this permit exemption.

It is reasonable to limit the types of equipment at the stationary source to only these primary activities to ensure there will be no other significant sources of emissions at the source that would have otherwise required an air emissions permit.

Subp. 2. **Operational requirements.** A new subpart 2 establishes the operational requirements the owner or operator of a woodworking facility must comply with to be eligible to operate without a permit under part 7008.2500.

Item A requires that the equipment at the woodworking facility relying on this part to operate without a permit, must vent emissions to controls meeting the requirements in subpart 3. Subpart 3, discussed below, requires the use of control equipment at all times the equipment is operating, thereby limiting the potential emissions from the woodworking facility. The MPCA selected this method to limit potential emissions from equipment at this stationary source based on its experience with permitted and unpermitted stationary sources that perform woodworking operations. Typically, these sources are controlled either through a centralized or tool-mounted collection system that captures the PM emissions generated (such as shavings, sawdust, sander dust, etc.) through vacuum suction. It is reasonable to require the use of control equipment at all times to establish an enforceable requirement that limits the potential emissions of equipment within this category.

Item B requires the owner or operator to operate and maintain the control equipment, as required by the manufacturer's specification and part 7008.0200, item D. This requirement ensures that the control equipment is always in good operating condition and capable of achieving the emissions reductions credited for its use. It is reasonable to require the owner or operator to follow the manufacturer's recommendation operation and maintenance practices because the owner or operator is credited with emission reductions for installing and using the control equipment.

Item C is proposed to establish the opacity performance standard required for this stationary source. Item C requires that opacity from the control equipment exhaust must not exceed 20% opacity when venting externally.

These sources are currently subject to Minn. R. 7011.0100 to 7011.0115, which impose a 20% opacity limit on stationary sources that do not have a specific standard of performance. Opacity is the degree to which emissions reduce the transmission of light and obscure the view of an object in the background (Minn. R. 7005.0100, subpart 29). Woodworking facilities typically use fabric filters to control PM emissions, which if properly operated and maintained, emit flue gasses well below 20% opacity. Opacity serves as a measurable parameter to evaluate the performance of the control equipment to ensure it is in good operating condition and capable of achieving the emissions reductions credited for its use. Because the MPCA expects woodworking facilities to continue to use fabric filters to meet the technical PM control requirements of this rule, it is reasonable to continue the 20% opacity limit.

The MPCA is not requiring owners or operators of a stationary source to conduct a performance test as identified in part 7011.0115; however, including an opacity limit gives MPCA staff a method to determine whether or not the control equipment required to be used is being operated and maintained appropriately.

Item D requires that when emissions are vented externally, an owner or operator must check the control equipment exhaust for visible emissions once each day. This item also establishes what to do if visible emissions are observed, including inspecting the control equipment and making repairs. Visible emissions checks serve as a method for owners and operators to verify that the control equipment at the stationary source is in good operating condition in lieu of a performance test. The owner or operator is credited with emission reductions for installing and using the control equipment; therefore, it is reasonable to require the owner or operator to perform visible emission checks and to take corrective action if necessary. This is less burdensome than a performance test while still ensuring that the control equipment is functional.

Item E establishes the minimum frequency by which the owner or operator must inspect the control equipment used on woodworking operations at the stationary source. Inspections are required every year to ensure that the control equipment is always in good operating condition and capable of achieving the emissions reductions credited for its use. In addition, manufacturer's specification may indicate that more frequent inspections are appropriate for certain control equipment, and therefore this rule requires inspections be conducted according to those timelines. It is reasonable to establish a minimum inspection frequency to ensure the equipment is operating properly because the owner or operator is credited with emission reductions for installing and using the control equipment.

Subp. 3. **Control requirements.** A new subpart 3 establishes the control equipment requirements the owner or operator of a woodworking facility must comply with to be eligible to operate without a permit under part 7008.2500.

Subpart 3, items A through E establish five control options dependent on the aggregate exhaust airflow rate and the PM concentration that the control equipment is designed to emit. Each option in item A to E allows for increasing airflow rate the lower the design PM concentration. These options allow owners and operators flexibility in the amount of wood product manufacturing, refinishing, and/or restoring equipment used at the stationary source. Owners and operators can have more equipment if they have a greater degree of control. Each item corresponds to approximately 20 tpy of potential PM emissions when vented constantly (8760 hours per year) from wood product manufacturing, refinishing, and/or restoring equipment as shown in the example calculation below:

$$\frac{53,000 \text{ scf}}{\text{min}} \times \frac{0.01 \text{ grains}}{\text{scf}} \times \frac{1 \text{ lb}}{7000 \text{ grains}} \times \frac{60 \text{ min}}{\text{hr}} \times \frac{8760 \text{ hr}}{\text{yr}} \times \frac{1 \text{ ton}}{2000 \text{ lb}} = 19.9 \text{ tpy}$$

In 1998, EPA provided guidance<sup>2</sup> to states on how a state could develop prohibitory language in rules to properly restrict a small source's PTE pollutants. By restricting a small source's PTE, it is possible to avoid the requirement for obtaining an air emissions permit, resulting in resource savings for both a small source as well as the MPCA permitting programs. The 1998 EPA memorandum establishes the criteria for state-promulgated PTE limiting rules. The criteria includes thresholds that are 50% less than the Part 70 permitting threshold and are based on the expected emissions from the typical stationary source examined.

The emission thresholds established in this proposed rule, were selected to restrict emissions below 50% of the Part 70 permitting threshold for PM emissions (100 tpy), and to keep emissions below the state permitting threshold for PM<sub>10</sub> (25 tpy). Subpart 3, items A through E, limit PM emissions according to the aggregate exhaust airflow rate from all wood-product manufacturing, refinishing, and restoring equipment at the facility. Establishing a limit of 20 tpy ensures a source does not approach a permit threshold, and may encourage sources to further reduce their emissions to avoid the need for an air permit. Other permit options (such as registration permits) are still available for smaller sources that intend to expand, or for larger sources that likely have more emission activities at their facility and cannot rely on this part to operate without a permit.

The airflow rate and associated PM concentrations were selected because this information is generally available to owners and operators who use this kind of equipment. Because substantially all of the allowable emissions from this conditionally exempt stationary source must be from wood product manufacturing, refinishing, and/or restoring equipment, it is reasonable to base the emissions limit on the described parameters.

Subp. 4. **Record keeping.** A new subpart 4 identifies the information owners and operators of a woodworking facility must maintain for record keeping requirements to be eligible to operate without a permit under part 7008.2500. It is reasonable to include record keeping requirements that ensure an owner or operator can demonstrate they qualify for the conditionally exempt source category.

Item A requires the owner or operator to keep inspection, maintenance, and repair records, including records of the inspection, maintenance, and repair performed as specified by the manufacturer of the control equipment. It is reasonable to require an owner or operator to keep a record of the inspection, maintenance, and repair activities since the owner or operator is required to perform inspections, maintenance, and repair of the control equipment, as described in subpart 2.

Item B requires the owner or operator to keep records of the design airflow rate from each control equipment associated with each wood product manufacturing, refinishing, and/or restoring equipment in order to calculate PM emissions. In addition, yearly record keeping is sufficient since the design value of a control device does not change. This information is typically provided by the manufacturer in the nameplate specifications and easily available to the owner or operator.

Item C requires the owner or operator to keep records of the information needed to calculate PM emissions. These records include the design PM concentration from each control equipment associated with each wood product manufacturing, refinishing, and/or restoring equipment. In addition, yearly record keeping is sufficient since the design value of a control device does not change. This information is typically provided by the manufacturer in the nameplate specifications and is easily available to the owner or operator. The annual checks are needed so that if equipment is modified, added or changed

out, there is a record maintained that ensures that the facility continues to qualify for the permitting exemption.

Item D requires the owner or operator to keep records to demonstrate that the visible emission observation requirements in subpart 2 are performed as required. Keeping records of this information is reasonable because the visible emission observations serve as a method for owners and operators to verify that the control equipment at the stationary source is in good operating condition, and the owner or operator is credited with emission reductions for installing and using the control equipment.

Subp. 5. **Notification.** A new subpart 5 establishes the notification requirements for owners or operators of a woodworking facility that operate without a permit under chapter 7008. This proposed subpart requires the owner or operator of the stationary source to submit a one-time notification informing the commissioner that the owner or operator intends to comply with the requirements identified in this part rather than apply for an air emissions permit. This notification is more streamlined and less burdensome than a permit application. For this reason, it is reasonable to require owners or operators to submit a notification.

Item A requires owners or operators of a stationary source which are covered by a permit issued under chapter 7007 to submit a notification requesting the Agency void the permit issued for the stationary source prior to operating under the requirements of chapter 7008. If the previously issued permit for the stationary source is not voided, it would likely cause confusion for both the MPCA and the regulated party. The requirements of the source's permit may be different than the requirements described in chapter 7008 and could set up the owner or operator for noncompliance. Requiring that the existing permit be voided first also provides the Agency the ability to review any reasons exists why the permit should not be voided (e.g., whether the owner or operator meets the eligibility requirements under chapter 7008). Therefore, it is reasonable to require that the owner or operator submit a request to the Agency to void the permit issued under chapter 7007 for the stationary source.

Item B requires owners or operators of a stationary source not described in item A (such as owners or operators of new woodworking facilities, or facilities with an expired permit) to submit notification within 90 days of the effective date of the proposed rules or within 90 days from commencing operations of the stationary source. Ninety days is a reasonable time period because the information required to be submitted is limited and easy to obtain. (See item C of this subpart, below.)

Item C, subitems (1) to (4), establish the information required in the notification under item A or B. This information includes owner or operator name, facility name and address, and the manufacturer's design PM concentration and airflow rates for the control equipment. This is the minimum information necessary for the MPCA to determine if the stationary source is likely to be eligible for the permit exemption. This information should be readily available to the owner or operator of the stationary source therefore should not be a burden to collect. As stated above, this requirement is also intended to serve as notification to the MPCA that an owner or operator intends to rely on the requirements identified in this part rather than apply for an air emissions permit. For these reasons, it is reasonable to require this information in the notification.

#### **PART 7008.2600 INSIGNIFICANT FACILITY; TECHNICAL STANDARDS.**

The MPCA is proposing that stationary sources that have only insignificant and conditionally insignificant emission sources be defined as a new exempt category in this part, and at the same time remove this stationary source from the list of exempted sources in Minn. R. 7007.0300, subpart 1, item D. The MPCA is expanding and clarifying the conditions that must be met by a stationary source with only insignificant and conditionally insignificant activities in this part by adding conditions that make the technical requirements federally enforceable. Because the nature of these additions make the resulting rule much

more similar in structure and effect to the standards of performance in this chapter, the exemption from permitting for this stationary source is being codified in this chapter.

The structure of the rules for insignificant sources in part 7007.1300 allow for any number of insignificant sources. Because insignificant sources do emit some amount of pollution, albeit small, eventually a source could accumulate enough of them where the sum of all emissions might cross a permitting threshold. To ensure that the presence of insignificant activities does not threaten a source's permitting threshold, the MPCA is proposing to create federally enforceable emission limits for insignificant activities. To be federally enforceable, emission limits must be technically accurate, specify the time period for the limit, and have the means to determine compliance, including appropriate monitoring, record keeping and reporting. The MPCA expects that most stationary sources that previously relied on item D in this part will be able to rely on this new part.

**Subpart 1. Eligibility.** A new subpart 1 establishes the requirements for eligibility under part 7008.2600. Subpart 1, item A requires that for an insignificant facility to operate without a permit under chapter 7008, the owner or operator must comply with this part and part 7008.2000, which establishes generally eligibility requirements for conditionally exempt stationary sources. It is reasonable to clearly identify what an owner or operator must do and the requirements they must comply with in order to operate without an air emissions permit.

Item B requires that the stationary source can only consist of emission units that are listed as insignificant activities in part 7007.1300, subparts 2 and 3, or are conditionally insignificant activities under chapter 7008 or both. This requirement is unchanged from the permitting exemption in part of Minn. R. 7007.0300, subpart 1, item D.

Item C requires that the owner or operator must limit the number of emission units at the stationary source such that potential emissions from the stationary source are less than the identified permitting thresholds.

The thresholds identified in part 7008.2600, represent a combination of state permitting thresholds and federal permitting thresholds, and are included so that there is a technically accurate emissions limit that are part of a federally enforceable permit limit.

**Subp. 2. Operational requirements.** A new subpart 2 establishes operational requirements the owner or operator of an insignificant facility must comply with to be eligible to operate without a permit under part 7008.2600. These operational requirements establish in part a means of determining compliance with the emission limits; compliance with operational requirements (and record keeping and reporting) indicates compliance with the emission limits.

Item A requires that the emission units at the stationary source must comply with all applicable requirements as defined in part 7007.0100, subpart 7. This requirement also exists in part 7008.2000, the general eligibility requirements for conditionally exempt stationary sources. However, including the relevant requirements that the owner or operator must follow in one location simplifies the regulatory burden on these small business owners or operators. It is reasonable to provide guidance and clarity in rules so that the owner or operator knows what is required to operate the stationary source without a permit.

Item B requires that all conditionally insignificant activities at the facility must comply with parts 7008.4000 to 7008.4110. This requirement was previously part of Minn. R. 7007.0300, subpart 1, item D. The requirements in parts 7008.4000 to 7008.4110 provide a means to limit the potential emissions from the activities addressed, which can be relied on to demonstrate that the source has potential emissions below the relevant permitting thresholds. It is reasonable to require that conditionally

insignificant activities at the stationary source meet all the requirements necessary to qualify as conditionally insignificant activities.

Subp. 3. **Record keeping.** A new subpart 3 identifies the information owners or operators of an insignificant facility must maintain for record keeping requirements to be eligible to operate without a permit under part 7008.2600.

Item A requires the owner or operator to keep records of all emission units and the Minnesota Rules citation that defines those emission units as an insignificant activity or conditionally insignificant activity. It is reasonable to include record keeping requirements that ensure an owner or operator can demonstrate that they qualify to operate without a permit under part 7008.2600.

Item B requires the owner or operator to permanently keep these records on site at the stationary source and be readily available for examination and copying by the Agency. It is reasonable to include record keeping requirements that ensure an owner or operator can show they qualify to operate without a permit under part 7008.2600.

Subp. 4. **Calculating emissions.** A new subpart 4 establishes the requirement for an owner or operator of an insignificant facility to calculate their emissions to determine eligibility under this part. This subpart provides two calculation methods for an owner or operator to determine the potential emissions from the stationary source. The owner or operator may use either item A or item B to calculate emissions from their stationary source.

Item A establishes that the owner or operator may use the electronic "Insignificant Facility PTE" spreadsheet (Attachment 1) that the MPCA has developed and incorporated by reference in this rule. This spreadsheet method provides the owner or operator a simplified method to estimate potential emissions from their stationary source for purposes of eligibility under part 7008.2600. The spreadsheet can be used by any facility where all sources of air emissions are listed as insignificant activities in Minn. R. 7007.1300, subparts 2 and 3, or are conditionally insignificant activities in chapter 7008, or a combination of both. The spreadsheet allows the owner or operator to identify the rule citations that define each emission unit as an insignificant activity or conditionally insignificant activity. Based on the emission units identified, the spreadsheet provides a conservative estimate of the potential emissions of the stationary source. It is reasonable to provide a simplified means for an owner or operator to calculate potential emissions.

The MPCA posts documents incorporated by reference and related to the rule on the MPCA's rulemaking webpage at <https://www.pca.state.mn.us/regulations/minnesota-rulemaking>.

Item B establishes that the owner or operator may calculate the stationary source's potential emissions using the definition in part 7005.0100, subpart 35a. Item B provides the owner or operator with a more precise method, similar to the calculation method identified in part 7007.0150, subpart 4, item A, to calculate potential emissions as originally intended and described in a previous rulemaking (19 SR 1345). This adjusted method, instead of referencing part 7007.0150, subpart 4, item A, is stated within the requirements of part 7008.2600 to simplify the regulatory burden for small business owners or operators. In addition, the method described in part 7007.0150, subpart 4, item A includes references to part 7007.0500, subpart 2, item C, subitem (2) that point to permit applications and states calculation of emissions from insignificant and conditionally insignificant activities only need to be included when requested by the Agency. Providing an adjusted method clearly identifies that the MPCA is requesting this information, removes a potentially confusing reference to a permit application, and provides the relevant calculation method in one location. Doing so simplifies the regulatory burden on these small business owners or operators. It is reasonable to provide guidance and clarity in rules so that the owner or operator knows what is required of the stationary source to be able to operate without a permit.



## **PART 7008.4000 CONDITIONALLY INSIGNIFICANT ACTIVITIES.**

Minn. R. 7008.4000 establishes the operational conditions that must apply to activities in order to qualify as an insignificant activity for the purposes of parts 7007.0100 to 7007.1850. The existing paragraphs in part 7008.4000 are a lengthy list of requirements and have been numbered items A and B as part of the revisions to this part. It is reasonable to reorganize and number the requirements to provide clarity for both regulated parties and the MPCA.

The existing PM control requirements of Minn. R. 7008.4110 are not federally enforceable; therefore, Minn. R. 7008.4110 must be revised. Permit applicants rely on this rule to claim that emissions from this source are sufficiently limited and therefore, that it can be treated as insignificant. However, the rule does not meet the definition of a federally enforceable requirement, as it does not impose a technically accurate limitation, so it cannot be used to determine permit eligibility.

In the absence of that technically accurate limitation, the MPCA has found that it must routinely ask for emissions calculations when a permittee is relying on Minn. R. 7008.4110 to determine whether emission units are actually “insignificant activities.” Sometimes, the calculations show that the emission units will emit enough PM to push the entire stationary source into a different type of permit (usually into a more complicated permit) or to require other site-specific conditions. Revising Minn. R. 7008.4110 to include conditions that make the rule federally enforceable will create a known cap on total PM emissions, and potentially reduce the frequency that the MPCA must ask the permittee for additional information. As a result, the MPCA and the facility save resources and avoid permit processing delays.

Item A is revised to delete the reference to part 7007.0300, subpart 1, item D, subitems (2) and (3). Since the MPCA is expanding and clarifying the conditions that must be met by insignificant and conditionally insignificant sources, it proposes to delete part 7007.0300, subpart 1, item D, and establish the exempt stationary source category in chapter 7008 (see part 7007.0300, subpart 1). In addition, the proposed exempt source category in part 7008.2600 that will replace Minn. R. 7007.0300, subpart 1, item D will contain the eligibility and compliance requirements. Therefore, it is reasonable to delete rule language that is restated in the proposed part 7008.2600 and will no longer be applicable to chapter 7007.

Item B is revised to clarify what information must be included in a permit application when a permit is required under chapter 7007, and that this information must only be submitted if a permit is required. It is reasonable to provide guidance and clarity in rules so that the requirements are consistently interpreted and applied.

Item B is further revised to require that calculations from the activities described in parts 7008.4100 and 7008.4110 must be provided in a permit application for a Part 70 permit or an amendment to a Part 70 permit. The activities described in part 7008.4100 often rely on pollution control equipment in the calculation of PM emissions, and to maintain their very low emissions, the control must be operated. Federal rule 40 CFR Part 64 (Compliance Assurance Monitoring) requires that when an emissions unit in a Part 70 permit is subject to an emission limitation or standard (even one that makes the unit “insignificant”), the permit must contain sufficient monitoring of the control device to ensure the emissions source is indeed controlled. It is reasonable that the permit applicant provide this information upfront in a permit application to streamline the permit application review and development of a draft permit.

## **PART 7008.4100 CONDITIONALLY INSIGNIFICANT ACTIVITY: MATERIAL USAGE.**

The title of Minn. R. 7008.4100 is revised to Conditionally Insignificant Activity: Material Usage. The proposed revision provides clarification that the activities described in this part are a conditionally insignificant activity. It is reasonable that the title of the rule part matches the contents of the part.

Subp. 2. **Material usage limits.** Subpart 2 requires the owner or operator to limit emissions from all material usage at the stationary source to qualify as a conditionally insignificant activity.

Item A identifies the VOC emission and usage limits for all material usage at the stationary source. Item A is revised to increase the VOC emission limit to 10,000 pounds in each calendar year. The MPCA is proposing to increase the limit to provide increased flexibility to owners and operators of stationary sources that have material usage that qualifies as a conditionally insignificant activity under Minn. R. 7008.4100. The MPCA used its engineering judgment and familiarity with material use activities and chose this conservative value to account for emissions of volatile HAPs. Even if 100% of the VOCs emitted were assumed to also be one individual HAP, the maximum emissions of a HAP would be 10,000 pounds in each calendar year (or 5 tpy). This corresponds to 50% of the major HAP source threshold defined in the Clean Air Act section 112 (a source that has PTE more than 10 tpy of a HAP, or more than 25 tpy of all HAPs). As a result, states incorporate a “margin of safety” as established by EPA in its guidance, and promulgate rules that exempt emissions sources from permitting at thresholds of generally 5 tpy, that is, 50% of the major HAP source threshold. It is reasonable to provide additional flexibility for owners or operators of stationary sources while remaining protective of the environment and human health.

Item A is further revised to change the VOC usage limits to gallons of “VOC-containing material usage” instead of gallons of “VOC usage.” Determining gallons of VOC usage required the owner or operator to follow the calculation method in subpart 4 to determine the gallons of VOC purchased or use for comparison to the VOC limits in subpart 2. The existing Minn. R. 7008.4100 is the only rule part that relied on gallons of VOC usage as a measure to determine compliance. Other existing rules in chapter 7007 (option B, C, and D registration permits) and in chapter 7008 (concrete manufacturing conditionally exempt source category) use gallons of VOC-containing materials. In addition, the proposed conditionally exempt source categories in parts 7008.2300 (auto-body refinishing facilities) and 7008.2400 (coating facilities) use the term VOC-containing materials. The proposed change intends to provide consistency across the requirements in chapters 7007 and 7008. It is reasonable to provide consistency and prevent confusion across requirements in chapters 7007 and 7008.

Item A is also revised to increase the maximum gallons of material usage allowed in each calendar year to 1,000 gallons. The existing limits implied an inherent maximum VOC content of each material of 10 gallons VOC per gallon of material used. Using this same assumption and the increase in the VOC emission limit to 10,000 pounds in each calendar year, 1,000 gallons is equivalent to the original relationship of 2,000 pounds of VOC and maximum usage of 200 gallons VOC. It is reasonable to maintain the original relationship between gallons used and VOC emissions.

Item A is further revised to separate the limit from how pounds of VOC emissions must be calculated. Item A previously directed the owner or operator to follow the calculation method in subpart 4 to determine VOC emissions or VOC usage. With the proposed revision to change “VOC usage” to “VOC-containing material usage,” there is no calculation necessary to convert gallons of VOC-containing material to gallons of VOC. In addition, there is no calculation necessary to support compliance with the usage limit in subpart 2 as the record keeping requirements in subpart 3 require the owner or operator to maintain records of the gallons of VOC-containing material purchased or used in each calendar year. It is reasonable to clarify that the calculation performed is only for the mass-based limits as no calculation is necessary for the volume-based limits.

Item B is revised to delete the reference to "PM-10, and PM-2.5". PM<sub>10</sub> and PM<sub>2.5</sub> are separately regulated types of PM pollution.

The calculation for PM emissions performed in subpart 5 is based on the solids content (in lbs/gal or wt%) of the material used. The material manufacturer typically provides this value in the Safety Data Sheet and "solids" is defined in Minn. R. 7008.0200 as the nonvolatile portion of the material applied or used in a material usage activity. This value is not specific to each pollutant (PM, PM<sub>10</sub>, and PM<sub>2.5</sub>) and using this value in the calculation described would result in the emissions of each pollutant being the same. Deleting the reference to "PM-10, and PM-2.5" and only limiting emissions of PM simplifies the emission limit and provides consistency across the requirements in Minn. R. 7008.4100 that govern conditionally insignificant material usage. It is reasonable to provide consistency across requirements in chapter 7008.

Subp. 3. **Record keeping.** Subpart 3 identifies the record keeping requirements that an owner or operator of a stationary source must comply with when claiming material usage as a conditionally insignificant activity.

Item F, subitem (2) is revised to delete the reference to "PM-10, and PM-2.5" since those calculations are no longer required, as described above. As a result, there is no need to identify record keeping requirements regarding PM<sub>10</sub> or PM<sub>2.5</sub> emissions.

Subp. 4. **Calculating VOC emissions.** Subpart 4 contains the requirements that an owner or operator of a stationary source must follow when calculating emissions of VOCs from material usage activities. Subpart 2, item A previously directed the owner or operator to follow the calculation method in subpart 4 to determine VOC emissions or VOC usage. With the proposed revision to change "VOC usage" to "VOC-containing material usage," there is no calculation necessary to convert gallons of VOC-containing material to gallons of VOC. In addition, there is no calculation necessary to support compliance with the usage limit in subpart 2 as the record keeping requirements in subpart 3 require the owner or operator to maintain records of the gallons of VOC-containing material purchased or used in each calendar year. It is reasonable to clarify that the calculation performed is only for the mass based limits as no calculation is necessary for the volume-based limits.

Subp. 5. **Calculating PM emissions.** Subpart 5 contains the requirements that an owner or operator of a stationary source must follow when calculating emissions of PM from material usage activities.

Subpart 5 is revised to delete the reference to "PM-10, and PM-2.5" for the pollutants that must be included in the calculation described in this subpart.

The calculation performed is based on the solids content (in lbs/gal or wt%) of the material used. The material manufacturer typically provides this value in the Safety Data Sheet and "solids" is defined in Minn. R. 7008.0200 as the nonvolatile portion of the material applied or used in a material usage activity. This value is not specific to each pollutant (PM, PM<sub>10</sub>, and PM<sub>2.5</sub>) and using this value in the calculation described would result in the emissions of each pollutant being the same. Therefore, it is reasonable to remove the requirement to calculate emission of PM<sub>10</sub> or PM<sub>2.5</sub> as performing this calculation two additional times does not provide any new information.

Items A and B are revised to delete the reference to "PM-10, and PM-2.5" in each item for the same reasons as described above.

Subpart 5 is further revised to provide that in addition to a transfer efficiency, an owner or operator can apply a control efficiency in the calculation of PM emissions, and how the calculation is to be performed. If the owner or operator does not apply the control efficiency, the calculation results in higher, or more conservative, emissions of PM. When the owner or operator uses control efficiency in the PM

calculations, the results may be more accurate, but the owner or operator needs to maintain additional records. The allowable control efficiency, general requirements, monitoring, record keeping, and other associated requirements for proper operation and maintenance of a control device are located in parts 7011.0060 to 7011.0080. It is reasonable to provide a calculation methodology for owners or operators when using a control device to demonstrate that an activity qualifies as conditionally insignificant.

#### **PART 7008.4110 CONDITIONALLY INSIGNIFICANT ACTIVITY; FINISHING OPERATIONS.**

The title of Minn. R. 7008.4110 is revised to Conditionally Insignificant Activity; Finishing Operations. The proposed revision provides clarification that the activities described in this part are a conditionally insignificant activity. This revised part establishes the requirements specific to stationary sources that claim finishing operations, as defined in Minn. R. 7008.0100, emitting PM as a conditionally insignificant activity. The conditionally insignificant activities have been a source of confusion for permit applicants at times and revising the title of this part provides clarification. It is reasonable that the title of the rule part matches the contents of the part.

Revisions to Minn. R. 7008.4110 are needed to clarify which activities qualify as conditionally insignificant activities. Historically, the activities described in existing Minn. R. 7008.4110, subpart 2 were included in Minn. R. 7007.1300, subpart 3 as insignificant activities required to be listed in a permit application. The rule was originally written to identify lower emitting types of activities. Specifically, the 1995 rule identified the qualifying activity in this way:

*Finishing operations:*

*(2) equipment vented inside a building used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic, precision parts, leather, metals, plastics, masonry, carbon, wood, or glass”.*

The activities were later moved to chapter 7008 as conditionally insignificant activities for two reasons. First, the PTE of these activities could be rather high. Therefore, the activities do not necessarily fit the intended types of activities in Minn. R. 7007.1300, which are activities where the PTE is anticipated to be very low (generally less than 1%) when compared to regulatory permitting thresholds. Second, the activities must be operated under certain conditions (e.g., emissions must be vented inside a building and filtered through an air cleaning system) to qualify as insignificant activities for permitting purposes.

In later rulemakings, chapter 7008 was revised and the activities listed were generalized, thereby expanding the types of activities that qualify as insignificant. Rather than identifying the activities specifically, the rule was revised to reference activities in a general way “for example: buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning equipment.” The intent of generalizing the types of qualifying activities was to reduce the amount of work for permit applicants and MPCA staff by allowing more activities to qualify under this rule. However, MPCA staff have determined that permit applicants are applying this conditionally insignificant activity rule to activities that are not similar to the type of activities listed or intended. Instead, some permit applicants use this rule for any PM emitting activity venting emissions through an air cleaning system and inside a building. This has resulted in increased work for permit applicants and the MPCA in processing permit applications. The dissimilar activities often have higher PTE and need additional review to determine the applicability of various air programs. For these reasons, Minn. R. 7008.4110, subparts 1 and 2 are revised to identify exactly the types of activities that qualify under this conditionally insignificant activity as well as revise the conditions that an owner or operator must follow. It is reasonable to revise the rule to clarify the types of activities that qualify as conditionally insignificant activities under this rule to reduce confusion about rule applicability.

Subpart 1. **Applicability.** Subpart 1 identifies the applicability of part 7008.4110 for conditionally insignificant finishing operations. This subpart is revised to identify that the requirements of this part apply to the owner or operator of the stationary source, rather than the source itself. It is reasonable to clarify that the owner or operator is responsible for complying with the rule.

This subpart is further revised to identify that any activity emitting any other pollutant in addition to PM does not qualify under this part. The MPCA has identified situations where lead was one of the pollutants emitted from the activity being proposed as conditionally insignificant under Minn. R. 7008.4110. Pollutant emissions from this activity have always been limited to the pollutants identified in this part. However, because there has been some confusion by permit applicants, subpart 1 is revised to specifically state that this part does not apply to any activities that emits any pollutant other than those identified in this subpart. This is reasonable, as it provides clarification regarding the types of pollutants that apply to this part.

Revisions to this subpart also identify how to qualify as a conditionally insignificant activity under this part. In order for the owner or operator to claim certain activities as conditionally insignificant, all finishing operations at the stationary source must be included in the limits under subpart 2. The rule needs to specify the conditions under which the finishing operations qualify as a conditionally insignificant activity. It is reasonable to identify the conditions that an owner or operator needs to meet for their finishing operations to qualify under this part.

Lastly, revisions to subpart 1 establish that lead is excluded as a pollutant allowed under this part because the state permitting threshold for lead is 0.5 tpy and the Prevention of Significant Deterioration significant emission rate is 0.6 tpy. Both of these thresholds are well below the 10,000 pound per year limit on PM in this part. Therefore, in order to ensure compliance with state and federal permitting rules, this conditionally insignificant activity will not allow for emissions of lead. It is reasonable to exclude lead as a pollutant from this conditionally insignificant activity to ensure an owner or operator does not exceed permitting thresholds.

Subp. 2. **Requirements.** Subpart 2 requires the owner or operator to limit emissions from all finishing operation activities at the stationary source to qualify as a conditionally insignificant activity.

This subpart is revised by adding “finishing operations” and deleting the example activities listed in this subpart. This change is reasonable because the types of activities and materials as they relate to finishing operations are now identified in the revised subpart 1 and defined in Minn. R. 7008.0100. Listing this equipment in this subpart would be duplicative. These types of activities, as first identified in the original rule, relate only to finishing operations. Other activities not identified in this subpart will not qualify as a conditionally insignificant activity. Because finishing operations have certain activities specific to their use under part 7008.4110, it is reasonable to identify these activities so permit applicants understand the types of activities and material that qualify for this conditionally insignificant activity. Identifying activities specific to finishing operations assists the permit applicant to determine applicability of the rule.

This subpart is further revised to identify that the requirements of this subpart apply to the owner or operator of the stationary source, rather than the source itself. It is reasonable to clarify that the owner or operator is responsible for complying with the rule.

Item A is first revised to delete the requirement that emissions must be filtered through an air cleaning system. Item A is next revised to add the requirement to install, operate, and maintain control equipment designed to control PM emissions on the finishing operations. Air cleaning system is a term that is not defined in chapter 7008 nor is it defined in chapter 7005 (definitions and abbreviations). The purpose of the existing language was to require that the emissions from these activities were not

emitted without first being filtered in some manner to reduce airborne pollutants. The proposed revision clarifies the requirement as it uses already defined terms to clearly identify that what is required of owners or operators. It is reasonable to provide clarity in rules so that the requirements are consistently interpreted and applied.

Item B is first revised to remove the requirement that emissions from finishing operation activities must be vented inside a building 100% of the time. Item B is next revised to establish a numeric emission limit of 10,000 lbs of PM in a calendar year from all finishing operations. The MPCA is proposing this change to impose a practically enforceable emission limit on conditionally insignificant finishing operations. The value was chosen based on MPCA experience with these activities and is comparable to the existing PM limits for the material usage conditionally insignificant activity. This change ensures these activities are properly restricted and able to be exempt from permitting under part 7008.2600 while still providing flexibility to owners and operators of larger, permitted stationary sources under chapter 7007. Clarifying language is also added to specify that the limit applies to all finishing operation activities at the stationary source. An owner or operator cannot have multiple activities at their source that qualify independently as conditionally insignificant finishing operations but exceed the emission limit when aggregated. It is reasonable to set a limit on PM emissions to allow finishing operations to qualify as a conditionally insignificant activity under this part. It is also reasonable to include limits that ensure owners and operators can qualify for the conditionally insignificant activity as originally intended.

**Subp. 3. Monitoring and record keeping.** Subpart 3 identifies the monitoring and record keeping requirements that an owner or operator of a stationary source must comply with when claiming finishing operations as a conditionally insignificant activity.

This subpart is revised to identify that the requirements of this part apply to the owner or operator of the stationary source, rather than the source itself. It is reasonable to clarify that the owner or operator is responsible for complying with the rule.

This subpart is further revised to remove the reference to “PM-10 venting equipment” and replace it with “finishing operations.” This change is reasonable because the types of activities and materials, as they relate to finishing operations, are now identified in the revised subpart 1 and defined in Minn. R. 7008.0100.

Item A is revised to delete the reference to “air cleaning system” and replace it with “control equipment”. Air cleaning system is a term that is not defined in chapter 7008 nor is it defined in chapter 7005 (definitions and abbreviations). The proposed revision clarifies the requirement as it uses already defined terms to clearly identify that what is required of owners or operators. It is reasonable to provide clarity in rules so that the requirements are consistently interpreted and applied.

Item B is revised to delete the reference to “air cleaning system” and replace it with “control equipment.” Air cleaning system is a term that is not defined in chapter 7008 nor is it defined in chapter 7005 (definitions and abbreviations). The proposed revision clarifies the requirement as it uses already defined terms to clearly identify that what is required of owners or operators. It is reasonable to provide clarity in rules so that the requirements are consistently interpreted and applied.

Item B is also revised to specify the frequency at which the owner or operator should inspect the control equipment. This item establishes the minimum inspection schedule for control equipment used on finishing operations. This inspection schedule is intended to ensure that the control equipment is always in good operating condition and capable of achieving the emissions reductions credited for its use. In addition, the manufacturer’s specification may indicate that more frequent inspections are appropriate and the requirement is revised to establish a minimum frequency of inspections. It is reasonable to

establish a minimum inspection frequency because the owner or operator is credited with emission reductions for installing and using the control equipment.

Item C is revised to delete the reference to “air cleaning system” and replace it with “control equipment.” Air cleaning system is a term that is not defined in chapter 7008 nor is it defined in chapter 7005 (definitions and abbreviations). The proposed revision clarifies the requirement as it uses already defined terms to clearly identify that what is required of owners or operators. It is reasonable to provide clarity in rules so that the requirements are consistently interpreted and applied.

Item D is revised to require records of the manufacturer’s inspection, maintenance, and repair specifications in addition to records of performing inspections, maintenance, or repairs. It is reasonable to require an owner or operator to keep a record of the manufacturer’s intended inspection, maintenance, and repair specifications as the owner or operator is already required to inspect and maintain the control equipment in accordance with the manufacturer’s specifications as identified in items B and C.

Item D is further revised to delete the reference to “air cleaning system” and replace it with “control equipment.” Air cleaning system is a term that is not defined in chapter 7008 nor is it defined in chapter 7005 (definitions and abbreviations). The proposed revision clarifies the requirement as it uses already defined terms to clearly identify that what is required of owners or operators. It is reasonable to provide clarity in rules so that the requirements are consistently interpreted and applied.

A new item E requires the owner or operator to keep records of the operating hours of each control equipment associated with each finishing operation. In new subpart 4, the method for calculating PM emissions is defined. Operating hours is a key variable in determining PM emissions. It is reasonable to include record keeping requirements that ensure an owner or operator can demonstrate that the stationary source qualifies as a conditionally insignificant finishing operation.

A new item F establishes record keeping of information needed by the owner or operator to calculate PM emissions. The required information identified is the design airflow rate from each control equipment associated with each finishing operation. The method for calculating PM emissions is defined in new subpart 4. Airflow rate is a key variable in determining total PM emissions. It is reasonable to include record keeping requirements that ensure an owner or operator can show the stationary source qualifies as a conditionally insignificant finishing operation.

A new item G establishes record keeping of information needed by the owner or operator to calculate PM emissions. The required information identified is the manufacturer’s design PM concentration from each associated control equipment installed if a default value, as identified in subpart 4, is not used in the calculation of PM emissions. It is reasonable to include record keeping requirements that ensure an owner or operator can show they qualify for conditionally insignificant finishing operations.

**Subp. 4. Calculating PM emissions.** A new subpart 4 establishes how the owner or operator claiming finishing operations as a conditionally insignificant activity must calculate PM emissions from their control equipment.

This subpart provides an equation for the owner or operator to use in the calculation of PM emissions from finishing operations. The equation uses the information identified in the record keeping requirements in subpart 3 (control equipment hours of operation, control equipment design airflow rate, and control equipment design PM concentration). These parameters were selected because they are generally available to owners and operators who use this kind of equipment.

The MPCA provided default values for cyclones and fabric filters because in MPCA’s experience, these types of control equipment are the type typically installed on finishing operations. The default PM

concentration for cyclones was selected based on an article by Pen-Bo Fu et al. published in the Environmental Science & Technology Journal ([Inlet Particle-Sorting Cyclone for the Enhancement of PM<sub>2.5</sub> Separation](#)) on January 11, 2017. The authors examined the performance of a variety of cyclone configurations compared to the common cyclone and found the overall outlet concentration to be 160.6 mg/m<sup>3</sup> (0.07 gr/scf). The default PM concentration was selected based on an [EPA Air Pollution Control Technology Fact Sheet](#) where fabric filters were identified as constant outlet device, meaning that the outlet concentration of PM is nearly constant. The fact sheet also identifies the typical control efficiencies (between 99% and 99.9%) and a range of outlet concentrations (between 0.010 gr/ft<sup>3</sup> and 0.001 gr/ft<sup>3</sup>). The MPCA chose a conservative default value above this range to accommodate potentially older, existing equipment that may have reduced effectiveness and other unknown considerations. It is reasonable to provide a conservative value as the default to avoid underestimating PM emissions. It is also reasonable because if greater levels of control exist, the owner or operator has the option to use the manufacturer's information instead to demonstrate that a greater level of control is achieved.

In addition, this requirement ensures these activities are properly restricted and able to be exempt from permitting under part 7008.2600 while still providing flexibility to owners and operators of larger, permitted stationary sources under chapter 7007. It is reasonable to provide the calculation methodology for owners and operators to show an activity qualifies as conditionally insignificant.

## **D. CHAPTER 7011 STANDARDS FOR STATIONARY SOURCES**

Chapter 7011 contains the technical performance standards for air emission sources. In general, each standard of performance identifies the pollutant to be regulated, an emissions limit or work practice standards for controlling the release of pollutants, methods for measuring emissions of the pollutant to determine compliance with emission standards, and reporting and record keeping requirements.

### **ELECTRIC UTILITY STEAM GENERATING UNITS**

#### **PART 7011.0561 CONTROL OF MERCURY FROM ELECTRIC GENERATING UNITS.**

Subp. 4. **Performance standards for mercury emissions.** Subpart 4 cites the state statute, which governs mercury emissions reduction implementation. The reference to Minnesota Statutes, section 216B.687, subdivision 3 found in subpart 4 is revised to delete the reference to subdivision 3. Referencing only subdivision 3 may cause confusion as subdivision 2 also directs the MPCA to establish site-specific mercury emissions limit based on the reduction plan approved by the Public Utilities Commission. It is reasonable to cite only section 216B.687 of the statute, rather than cite multiple subdivisions, as the entire Minnesota Statutes, section 216B.687, subdivisions 1 through 3 apply to mercury emissions reduction plans.

### **WASTE COMBUSTORS**

#### **PART 7011.1201 DEFINITIONS.**

Subp. 43. **Refuse-derived fuel or RDF.** Because the Minnesota Legislature repealed Minn. Stat. 116.90, the definition of refuse-derived fuel is revised to reference the definition re-codified in Minn. Stat. 115A.03, subdivision 25d. It is reasonable to update references to underlying statutes in order to continue the proper interpretation of rules governing refuse-derived fuel.

### **STATIONARY INTERNAL COMBUSTION ENGINES**

#### **PART 7011.2300 STANDARDS OF PERFORMANCE FOR STATIONARY INTERNAL COMBUSTION ENGINES.**



Subp. 2. **Sulfur dioxide.** Subpart 2 establishes a SO<sub>2</sub> emissions limit for stationary internal combustion engines (typically used as emergency generators). The MPCA amended the SO<sub>2</sub> emissions limit in the recent Omnibus rulemaking (41 SR 763) to add item B.

The MPCA proposes to revise items A and B to add the condition that in addition to a permit, other documents can be used to establish an enforceable SO<sub>2</sub> emissions limit. To avoid adding to the existing air emissions permit backlog, the MPCA will use other enforcement tools, like an administrative order, to establish alternative emission limits. If a source has a site-specific permit, the alternative emission limit can be incorporated into a permit when it is renewed or modified in the future. If a source has a registration or general permit, an alternative SO<sub>2</sub> emissions limit can be established in the enforcement document. This would save resources of both the stationary source and the MPCA by avoiding the need for a permit.

Since subpart 2 was revised to include the lower SO<sub>2</sub> emission limits of item B, confusion has developed about whether air emission sources with alternative SO<sub>2</sub> limits already included in a permit under item A must then reapply for a permit under the conditions of item B. The MPCA therefore proposes to revise items A and B to clarify that provided modeling shows compliance with state and federal ambient air standards, no permit amendment is necessary.

Lastly, items A and B are revised to add the reference to the federal ambient air standard for SO<sub>2</sub> in Minn. R. 7009.0090. Because both state ambient air standards (Minn. R. 7009.0080) and federal ambient air standards (Minn. R. 7009.0090) apply to stationary sources with engines, it is reasonable to include a correct reference to the applicable ambient air standard.

## **E. CHAPTER 7019 EMISSIONS INVENTORY REQUIREMENTS**

Chapter 7019 provides the conditions regarding the emission inventory and calculation of actual emissions for air emission sources.

### **PART 7019.3020 CALCULATION OF ACTUAL EMISSIONS FOR EMISSION INVENTORY.**

Item A establishes the requirement for emissions from all emissions units to be reported in the annual emission inventory report, and the emissions that must not be reported. Item A is revised to correct the rule citation for fugitive emissions from roads and parking lots, defined as an insignificant activity under part 7007.1300. With the proposed changes to part 7007.1300, subpart 3, this activity is longer no listed at item J and is now listed at item G. It is reasonable to correct rule references to prevent confusion.

## **6. Statutorily required regulatory analysis and additional analysis**

Several Minnesota statutes require agencies to address certain topics in the SONAR. The discussion in this part addresses each of the requirements of Minnesota statutes and law as they specifically relate to the proposed revisions.

### **A. Statutory mandates of Minn. Stat. § 14.131**

Minn. Stat. § 14.131 sets out eight factors for the regulatory analysis that must be included in the SONAR of the proposed rule. Items (1) through (8) below quote these factors and then provide the MPCA's response. Items (9) and (10) address additional requirements listed in Minn. Stat. §§ 14.002 and 14.14.

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

#### **Who is affected?**

The purpose of this rulemaking is to streamline and clarify the air emission permit exemptions for small businesses that emit air pollutants. Affected parties are owners and operators of stationary sources where the PTE of air pollutants is in amounts that would require these businesses to obtain an air emissions permits, but where the scope of operations at these businesses results in actual emissions that are often far below the permit thresholds. These rules clarify conditions for these operations so that permit applicability is limited.

#### **Who bears the cost of complying with these rules?**

These rules will help some facilities avoid the cost of obtaining an air emissions permit. The MPCA expects some of the changes will actually reduce costs for permittees while some may increase costs slightly.

The proposed rules affect existing air emission permit holders in two ways: first, the MPCA is creating technical conditions by rule that are enforceable at facilities without issuing site-specific permits. The MPCA believes that with this rulemaking, no additional cost is incurred at a facility with this rule. As described in the SONAR for these technical standards (see Section 5, chapter 7008, the categories in parts 7008.2100 to 7008.2600), some rules require record keeping and reporting, but few require owners or operators to make capital investment in air pollution controls. Thus, the facilities will bear the expense of ongoing record keeping at their facilities, but many of these (or similar) record keeping requirements were already required under existing state permitting rules or federal performance standards.

The second way this rulemaking affects existing air emission permit holders is if the source is large enough that it has a site-specific permit where there are a number of small emission units that can be aggregated and treated as insignificant sources. The existing Minn. R. 7007.1300 contains lists of emissions units that can be treated as insignificant activities. The proposed rules revise the list of emissions units that qualify as insignificant activities and other revisions to provide clarity in the permit application process.

The MPCA believes that with this rulemaking, no additional cost will be incurred at a facility that has emissions units that qualify as insignificant activities. One proposed change requires the facility to include calculation of emissions from activities in Minn. R. 7007.1300, subpart 3, item F in a permit application. However, this proposed requirement does not create any new costs for the facility because the facility must calculate the emissions in order to have determined that a particular emissions unit qualifies as an insignificant activity in the first place. Furthermore, the proposed changes, as described in the SONAR for Minn. R. 7007.1300, primarily add additional emissions units that can qualify as an insignificant activity, or relocate insignificant activities from Minn. R. 7007.1300, subpart 3 (those required to be listed in a permit application) to Minn. R. 7007.1300, subpart 2 (those not required to be listed in a permit application). Thus, the facilities will bear the expense of determining if an emissions unit qualifies as an insignificant activity, but this was already required under existing state permit rules.

#### **Who benefits?**

Owners and operators of permitted sources and stationary sources, and permit applicants are expected to benefit from the proposed rule amendments. The proposed amendments will make the rules clearer,

resulting in fewer errors on the part of permit applicants. Processing of air permits is more efficient for both the MPCA and permit applicants when there are fewer errors in the applications.

The citizens of Minnesota and the environment could be affected by, and will benefit from, the adoption of the proposed rules. The proposed amendments provide technical standards for certain categories of facilities that emit air pollution, which if followed, restrict the emissions of air pollutants from these facilities. The benefit for the facility is that an air emissions permit is not required. This potentially benefits the citizens of Minnesota and the environment by creating additional regulatory options for businesses to limit the amount of pollution generated. As described in the SONAR for the categories in parts 7008.2300 to 7008.2500, there are approximately 1,600 existing, unpermitted facilities that could benefit from the compliance path offered by the proposed rules. These facilities would then be able to continue to operate without a permit but would operate according to the proposed technical standards that provide environmental benefits.

2. *The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rules and any anticipated effect on state revenues.*

**What are the costs to the MPCA of implementation and enforcement?**

The proposed rule amendments clarify practices already in place for permit applications and compliance with performance standards, and therefore are unlikely to result in a significant increase in costs to the state. Costs associated with the implementation and enforcement of the existing rules includes MPCA staff time and staff resources to review permit amendments and compliance reporting. One goal of the proposed rules is to reduce staff time needed to process permit applications and permit amendments by aligning state and federal requirements, and ensuring permit applications and notices include the necessary information for processing the permit appropriate action.

**What are the costs to the other agencies of implementation and enforcement?**

Some other agencies hold MPCA permits. Those agencies already incurred costs to apply for the initial permit and they incur some additional costs for renewals and amendments. Most of the permitting changes proposed in this rulemaking are intended to make permitting and compliance clearer and easier, so any increase in costs as a result of this rule should be nominal. In addition, other agencies that are subject to any of the revised standards in this rulemaking could receive an enforcement action from the MPCA if they were to violate the standards. The same would be true if they were to violate the existing standard.

**What is the anticipated effect on State revenue?**

The State will not need to request additional funds to implement and enforce this rulemaking. Any additional staff resources needed on a temporary basis for rule outreach and implementation will be achieved through reassignment of existing staff resources.

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

One of the goals of this rulemaking is to ensure that the MPCA identifies opportunities to streamline the rules or reduce the burden of compliance. For example, in this rulemaking the MPCA is proposing new technical standards that exempt a source from the requirement to obtain a permit. This is potentially a less costly method for achieving the purpose of regulating air emissions from businesses that would otherwise be required to obtain a permit. To the extent this rule makes it easier to understand and comply with air quality regulations, and to more speedily obtain necessary permits (or permitting exemptions), this rule may reduce costs.

The proposed rules are the least costly and intrusive method of fulfilling the requirement to limit the PTE of businesses that are covered by the proposed permitting exemptions. Other methods of achieving this include:

- Issuing individual permits to each of the estimated 1,600 businesses in Minnesota that are covered by the proposed permitting exemptions. This requires each facility to determine if they require a permit, submit an application, and the MPCA to review and act on each application.
- Limiting the PTE by physically limiting the processes that exist at each facility. This would be dependent on each facility and the operations performed at each facility and could potentially be more costly and intrusive for the business.
- The MPCA could create categories of general permits versus a “permit-by-rule.” There would likely be similar amounts of time and resources spent by the MPCA in developing the general permits versus a “permit-by-rule,” but creating a general permit for each source category has similar drawbacks to issuing individual permits. The business would still have to apply for the permit and the MPCA would have to issue permits to each business after reviewing each application.

The MPCA's alternatives are limited. The above alternatives would be significantly more costly and intrusive into the business of operating a source covered by the proposed permitting exemptions. There is no reasonable alternative to this rulemaking; the proposed changes could not be addressed through Agency policy or internal rule interpretation. In particular, Minnesota must present a SIP to EPA that shows how Minnesota will comply with the Clean Air Act. Some of the changes in the rulemaking are to conform to federal requirements. EPA requires all components of the SIP to be enforceable at the state level, thereby requiring their incorporation into rule. Consequently, there are no less costly methods for achieving the purpose of the proposed rule changes.

4. *A 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 proposed rules will allow the MPCA to better manage resources spent by the MPCA and regulated parties. The proposed rules revise requirements related to insignificant activities and conditionally insignificant activities, and establish four categories of technical standards for certain sources to be eligible for an exemption from permitting.

Regarding insignificant activities and conditionally insignificant activities, the MPCA's alternatives for achieving the purpose of the proposed rule are limited. The existing list of activities could not be addressed through Agency policy or internal rule interpretation. For regulated parties to take advantage of streamlined permitting options, they must be available in a rule.

Specifically regarding conditionally insignificant activities and making the requirements federally enforceable, the MPCA previously attempted to make similar proposed revisions in the recent Omnibus rulemaking (41 SR 763). In the Omnibus rulemaking, the MPCA attempted to modify the rule to ensure that all conditionally insignificant activities and pollutants had federally enforceable limits; however, the MPCA determined that change was not possible for part 7008.4110 at that time. The MPCA indicated in its response to comments that the MPCA would conduct future rulemaking to create practically enforceable conditions for the conditionally insignificant activities described in part 7008.4110. Additionally, rulemaking is the most open, consistent process that also assures that the requirements are legally enforceable, as required by EPA.

Regarding the creation of four categories of technical standards for certain sources, the MPCA could have created a general permit as previously done for other types of sources (e.g., the Non-Metallic Mineral Processing, Part 70 Manufacturing, and Low-emitting Facility General Permits). The MPCA has created general permits in the past to cover businesses that began operating without an air permit. In particular, when the Low-emitting Facility General Permit was created, the MPCA gave examples of facilities that might apply (auto-body shops, metal fabrication facilities, cabinet shops, other businesses that coat or paint, and facilities that have engines, boilers or tanks on site). However, the Low-emitting Facility General Permit contains requirements that satisfy the conditions that a facility must meet if it operated unpermitted and had potential emissions that exceed major source thresholds under the New Source Review or NESHAP programs.

The proposed rules create similar categories that save resources that the regulated party would have to spend, such as time and money spent preparing an application to obtain a general permit, and resources the MPCA would have to spend, such as time spent reviewing the application and issuing the permit. For these reasons, the MPCA decided the proposed rules provide an additional regulatory option that is an efficient method to regulate a large number of facilities, in a source category with low actual emissions, by creating rule-based performance standards rather than a permit.

5. *The 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, businesses, or individuals.*

The MPCA believes that the proposed rules may reduce costs, but it is difficult to quantify by how much. Most of the amendments regarding insignificant activities and conditionally insignificant activities clarify or update existing rules, so regulated entities are already incurring the cost of compliance.

Regarding the proposed revisions that affect insignificant activities and conditionally insignificant activities, the MPCA believes that no additional cost is incurred at a facility that has emissions units that qualify as insignificant activities. One proposed change requires the facility to include calculation of emissions from activities in Minn. R. 7007.1300, subpart 3, item F in a permit application. However, this proposed requirement does not create any new costs for the facility because the facility must calculate the emissions in order to have determined that a particular emissions unit qualifies as an insignificant activity under Minn. R. 7007.1300, subpart 3, item F. Furthermore, the proposed changes, as described in the SONAR for Minn. R. 7007.1300, primarily add additional emissions units that can qualify as an insignificant activity, or move insignificant activities from Minn. R. 7007.1300, subpart 3 (those required to be listed in a permit application) to Minn. R. 7007.1300, subpart 2 (those not required to be listed in a permit application). Thus, the facilities will bear the expense of determining if an emissions unit qualifies as an insignificant activity, but this was already required under existing state permit rules.

Regarding the proposed technical standards as permitting exemptions in chapter 7008, the proposed rules are not expected to increase costs. As described in the SONAR for these technical standards, some rules require record keeping and reporting, but few require capital investment in air pollution controls. Thus, the facilities will bear the expense of ongoing record keeping at their facilities, but this was already required under existing state permitting rules.

6. *The probable costs 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 government units, businesses, or individuals.*

The alternative of not conducting this rulemaking was considered. However, this would not achieve the purpose(s) of the proposed rules, including simplifying the rules to eliminate the existing requirement

for small air emission sources to apply for and maintain a permit. Not amending the existing rules was rejected by the MPCA in favor of the proposed rule amendments.

Again, the MPCA's alternatives are limited. The proposed changes could not be addressed through Agency policy or internal rule interpretation. For regulated parties to take advantage of streamlined permitting options, they must be available in a rule.

The MPCA finds it necessary to proceed through the rulemaking process because many of the proposed changes were made with the intent to help clarify the existing rules. Additionally, rulemaking is the most open, consistent process that also assures that the requirements are legally enforceable, as required by EPA. The MPCA is unaware of any viable alternatives that would achieve the stated purpose and scope of this rulemaking. Therefore, there were no other alternative methods for achieving the purpose of the proposed rules seriously considered by the MPCA.

7. *An 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.*

There are no federal regulations that govern rulemaking procedures for Minnesota state agencies that are adopting, amending, or repealing its rules through Minn. Stat. ch. 14. The purpose of this rulemaking is to complete minor clarifications, revisions and updates to existing air quality rules. The MPCA believes that the proposed rule amendments do not differ greatly from federal rules. Many of the revisions are to align state rule with federal rules and requirements.

8. *An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.*

The MPCA is proposing these rule amendments to provide clarity and consistency, to keep the air quality rules up to date, reduce uncertainty in the rules and, where possible, increase efficiency by streamlining the regulatory process. The proposed rule amendments are intended to align state air rules with the most current federal rules and do not establish overlapping or cumulative requirements or standards that would apply in addition to federal regulations. The proposed rule amendments will not result in any cumulative effect in association with any other state or federal regulations. The MPCA believes that the rules will benefit permittees in their understanding of the air quality rules by providing clear and consistent direction and regulatory requirements.

9. *The SONAR must also describe how the agency, in developing the rules, considered and implemented the legislative policy supporting performance-based regulatory systems set forth in Minn. Stat. § 14.002, which requires state agencies, whenever feasible, to develop rules and regulatory programs 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.*

Updating the rules for these reasons achieves the policy outlined in Minn. Stat. § 14.002 because it attempts to clarify the purpose of the rules and any applicable procedure outlined in the rules. Updating the rules should help remove confusing language and discrepancies in the existing rules, thereby increasing the effectiveness of the regulatory program and the ease of following its requirements.

In developing the proposed rule amendments, the MPCA tried to be very conscientious about including in the revised rules only that information needed to enable the MPCA to carry out its responsibilities in an effective and efficient manner. In general, however, the MPCA is constrained by the need to retain delegation of the air emissions permit program from EPA, and thus is compelled to follow federal rules and guidance in establishing rule requirements of this program.

10. *The SONAR must also describe the agency's efforts to provide additional notification under Minn. Stat. § 14.14, subd. 1a, to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.*

A description of the MPCA's efforts to provide this additional notification is provided below in Section 8, Notice plan.

11. *The agency must consult with the commissioner of management and budget to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government.*

As required by Minn. Stat. § 14.131, the MPCA will consult with Minnesota Management and Budget. The MPCA will do this by sending Minnesota Management and Budget copies of the documents sent to the Office of the Governor for review and approval on the same day the MPCA sends them to the Office of the Governor. The MPCA will do this before publishing the Notice of Intent to Adopt Rules. The documents will include the Governor's Office Proposed Rule and SONAR Form, the proposed rule amendments, and the SONAR. The MPCA will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to the Office of Administrative Hearings at the hearing or with the documents it submits for review by the Administrative Law Judge.

12. *The agency must send a copy of the SONAR to the Legislative Reference Library when the notice of proposed rules is mailed under Minn. Stat. § 14.14, subd. 1a.*

As identified below in Section 8, Notice plan, the MPCA will satisfy this requirement and provide appropriate documentation in its submittal of the rulemaking record to the Office of Administrative Hearings.

## **B. Minn. Stat. § 116.07, subd. 2(f), comparison to federal and other state standards**

Minn. Stat. § 116.07 subd. 2 requires, in part, that for proposed rules adopting air quality standards, the SONAR must include:

1. an assessment of any differences between the proposed rule and:
  - (i) existing federal standards adopted under the Clean Air Act, 42 U.S.C. § 7412(b)(2); Clean Water Act, 33 U.S.C. §§ 1312(a) and 1313(c)(4); and the Resource Conservation and Recovery Act, 42 U.S.C. § 6921(b)(1);
  - (ii) similar standards in states bordering Minnesota;
  - (iii) similar standards within the EPA Region 5 ("Region V"); and
2. a specific analysis of the need and reasonableness of each difference.

This proposed rule was designed to meet all requirements for "federal enforceability" required by EPA rules. The proposed rule amendments are consistent with federal rules, policy and guidance, and meets EPA requirements for approval of a federally enforceable state operating permits program.

Table 6-1 provides a listing of general exemptions from permitting and insignificant activities within the identified EPA Region V states' rules compiled by the MPCA in October 2017.

**Table 6-1: Comparison of EPA Region V States' Treatment of Small Source Thresholds**

State	Rule	Limit/Threshold
Illinois	Section 201.211 Insignificant activities	PTE less than 1.0 lb/hr (~4.4 tpy) of any criteria pollutant and PTE less than 0.1 lb/hr (~0.44 tpy) of any HAP
	Section 201.146 State permit exemptions	A list of approximately 70 sources or categories of equipment that is not required to obtain a construction or operating permit. One example is coating operations using less than 5,000 gallons of coating per year
Indiana	326 IAC 2-1.1-3 Exemptions Sec. 3(e)(1)(A)	PTE of less than 5 tpy of either PM, PM <sub>10</sub> , or direct PM <sub>2.5</sub>
	326 IAC 2-1.1-3 Exemptions Sec. 3(e)(26)	Grinding equipment with air controls meeting 0.03 gr/dscf; 4,000 cfm*
	326 IAC 2-7-1 Sec. 1(21)(J)(xxiii) "insignificant" (not required to be listed in a Part 70 permit unless requested)	Grinding equipment with air controls meeting 0.03 gr/dscf PM; 4,000 cfm*
Michigan	336.1290 Rule 290(a)(i) and (ii) Sum of all uncontrolled pollutants	1000 lbs/month (equivalent to 6 tpy)
	336.1290 Rule 290(a)(i) and (ii) Sum of all control pollutants	500 lbs/month (equivalent to 3 tpy)
	336.1290 Rule 290(a)(iii) Sources emitting only PM	0.01 lb/1000 lbs flue gas, 30,000 cfm**
Ohio	3745-15-05 "de minimis exemption"	The source actual emissions are less than 10 lbs/day (equivalent to 1.825 tpy)
	3745-31-03(B)(z) Permanent exemption from permitting	Grinding equipment with air controls meeting 0.03 gr/dscf PM and PM <sub>10</sub> ; 4,000 cfm*
	3745-31-03(C)(2)(f) Permit by rule (exempt if following all provisions)	Auto finishing operation emissions are limited to VOC (11.5 tpy) and HAP (4.5 tpy)



State	Rule	Limit/Threshold
Wisconsin	407.03(1m) Operating permit exemption (Options based on PTE or actual emissions)	PTE less than 9 lb/hr (~39 tpy) SO <sub>2</sub> and CO; less than 5.7 lb/hr (~25 tpy) PM, NO <sub>x</sub> , and VOC; less than 3.4 lb/hr (~15 tpy) PM <sub>10</sub> ; 2.2 lb/hr (~9.6 tpy) PM <sub>2.5</sub> ; 0.13 lb/hr (~0.5 tpy) lead; and pollutant-specific limits for HAPs  Actual emissions are less than 10 tpy of criteria pollutants, 0.5 tpy lead, and pollutant-specific thresholds for HAPs
	NR 407 (Table 2) Insignificant units	PTE less than 1 tpy for any criteria pollutant and pollutant-specific thresholds for HAPs

\* This PM (PM) emission limit is equivalent to annual PTE of 4.5 tpy  
 $(0.03 \text{ gr/dscf}) / (7000 \text{ gr/lb}) * (\text{ton}/2000 \text{ lb}) * (4000 \text{ cfm}) * (60 \text{ min/hr}) * (8760 \text{ hr/yr})$

\*\* This PM (PM) emission limit is equivalent to an annual PTE of approximately 6 tpy (assumes flue gas is air at standard conditions)  
 $(0.01 \text{ lb}/1000 \text{ lb flue gas}) * (0.075 \text{ lb/cf flue gas density}) * 30,000 \text{ ft}^3/\text{min} * (60 \text{ min/hr}) * (8760 \text{ hr/yr}) * (\text{ton}/2000 \text{ lb})$

Table 6-2 provides a listing of general exemptions from permitting and insignificant activities within the identified neighboring states' rules compiled by the MPCA in October 2017.

**Table 6-2: Comparison of Neighboring States' Treatment of Small Source Thresholds**

State	Rule	Limit/Threshold
Iowa	I22.1(2)w(1) "small unit exemption"	5 tpy PM, 2.5 tpy PM <sub>10</sub> , 0.52 tpy PM <sub>2.5</sub>
	I22.1(2)w(6)	Notification to IDNR required if exempted emissions source is a "substantial small unit" meaning actual emissions are 3.75 tpy PM, 1.875 tpy PM <sub>10</sub> , 0.4 tpy PM <sub>2.5</sub>
North Dakota	33-15-14-06.4 "insignificant activities not required to be included in permit application"	PTE of less than 2 tpy of PM, PM <sub>10</sub> , PM <sub>2.5</sub> , SO <sub>2</sub> , H <sub>2</sub> S, CO, NO <sub>x</sub> , Ozone, Reduced Sulfur Compounds, VOCs and PTE of less than 0.5 tpy of all other regulated contaminants
	33-15-14-07 Source exclusions from Title V operating permit requirements	A Title V operating permit is not required if the requirements of the section are met for certain sources (gasoline service stations; gasoline bulk plants; coating sources; printing, publishing, and packaging operations; degreasers using volatile organic solvents; and hot mix asphalt plants)*
South Dakota	74:36:04:02.01 Minor source operating permit exemption	A source is exempt from the requirement to obtain a minor source operating permit when the source has PTE less than 25 tpy of any criteria pollutant, except lead, before the application of control equipment

State	Rule	Limit/Threshold
	74:36:05:04.01 Insignificant activities	PTE of less than 2 tpy for any criteria pollutant and HAPs
Wisconsin	407.03(1m) Operating permit exemption (Options based on PTE or actual emissions)	PTE less than 9 lb/hr (~39 tpy) SO <sub>2</sub> and CO; less than 5.7 lb/hr (~25 tpy) PM, NO <sub>x</sub> , and VOC; less than 3.4 lb/hr (~15 tpy) PM <sub>10</sub> ; 2.2 lb/hr (~9.6 tpy) PM <sub>2.5</sub> ; 0.13 lb/hr (~0.5 tpy) lead; and pollutant-specific thresholds for HAPs  Actual emissions are less than 10 tpy of criteria pollutants, 0.5 tpy lead, and pollutant-specific thresholds for HAPs
	NR 407 (Table 2) Insignificant units	PTE less than 1 tpy for any criteria pollutant and pollutant-specific thresholds for HAPs

\* In general follows the requirements as described in the 1998 EPA PTE Guidance<sup>2</sup> for specific source categories for each of the identified sources.

#### **Amend the lists of insignificant activities contained in Minn. R. 7007.1300**

Regarding the proposed revisions to insignificant activities in part 7007.1300, subparts 2 and 3, the MPCA reviewed which emissions units were treated as insignificant in neighboring states (Iowa, North Dakota, South Dakota, and Wisconsin) and EPA Region V states (Illinois, Indiana, Michigan, Ohio, and Wisconsin). The proposed revisions in general were based on the MPCA's air permitting experience and evaluation of similar lists used by other states' air programs. The proposed revisions are not significantly different from other lists used by other states' air programs.

#### **Create new categories of conditionally exempt sources**

Regarding the proposed exemptions for specific source categories in chapter 7008, the MPCA reviewed air permitting and related requirements for neighboring states (Iowa, North Dakota, South Dakota, and Wisconsin) and EPA Region V states (Illinois, Indiana, Michigan, Ohio, and Wisconsin). The proposed permitting exemptions in general were based on the MPCA's air permitting experience and evaluation of similar lists used by other states' air programs. The proposed exemptions are not significantly different from other lists used by other states' air programs.

#### **Amend conditionally insignificant activities: materials usage and PM-only emitting**

Regarding the proposed revisions to conditionally insignificant activities in parts 7008.4000 to 7008.4110, the proposed revisions are intended to satisfy the enforceability criteria as described earlier in this SONAR. The existing Minn. R. 7008.4100 to 7008.4110 do not contain technically accurate limitations that appropriately limit PTE by the rule itself, and do not contain sufficient monitoring nor record keeping to determine whether there has been ongoing compliance with the existing rule. The proposed amendments to these parts were compared to other states' rules to show how other states' permitting rules addressed small sources, and in particular, what permitting thresholds the states established.

Permit exemptions are available based on a pollutant threshold, or a specific source category is exempted. Permitting exemptions based on pollutant emissions range from 1.825 tpy to 10 tpy. Michigan has thresholds of 500 pounds per month and 1,000 pounds per month (3 and 6 tpy) depending

on the nature of pollution controls in place and exempts sources based on the sum of all pollutants, not just PM or PM-10. Specific source categories in Ohio and Indiana have been exempted: the auto-body finishing exemption is based on VOC emissions (but has no PM exemption threshold specific to the source), “grinding, machining and blasting” sources where the limit is described in the form of a standard of performance, results in an annual PTE of 4.5 tpy (9,000 pounds per year). These serve as indications that other states’ have evaluated a specific source category, and have set permit exemption PM thresholds in a similar fashion.

Iowa rules establish a small emissions unit limit of 5 tpy, but requires that the owner or operator submit notification if emissions from the unit exceed 3.75 tpy (7,400 pounds per year), 75% of the permit exemption threshold. This “substantial small unit” notification:

...addresses concern that the operation of many of these small [exempted] units may together lead to negative environmental impacts. A subcategory, “substantial small unit” is defined as those units that emit seventy-five percent of the small unit thresholds. The owner or operator of the facility must notify the department within 90 days of the end of the first calendar year that the aggregate emissions from substantial small units at the facility exceed any of the “cumulative notice thresholds” defined in the exemption. Once a cumulative notice threshold is exceeded, the owner or operator must apply for air construction permits for all substantial small units for which the cumulative notice threshold for the pollutant(s) in question has been exceeded<sup>3</sup>.

A state air emissions permit is required if an air emissions facility’s PTE exceeds 25 tpy of PM-10. In determining the PTE, all individual emission units are aggregated and compared to the threshold. At small facilities that have “finishing operation” emissions, it is likely there are other air emissions sources present, like fuel combustion for heating or curing, or processes like material usage for painting. All the activities must be accounted for in the determination of whether the stationary source requires a permit. The MPCA chose a PM emissions threshold as an enforceable limit of 10,000 pounds per year because the finishing operation limit applies only to processes like grinding, machining, or sanding, while accounting for likely PM emissions at a facility from other activities.

The finishing operation PM threshold is similar to those set in other states for similar types of activities and sources. The MPCA has established a PM threshold to limit ambient air impacts from the release of PM from finishing operation activities, while allowing stationary sources to remain exempt from permitting if the source remains a low emitter.

#### **Make small housekeeping changes to air emission permit rules**

The housekeeping amendments the MPCA is proposing to Minnesota Rules chapters 7005, 7007, 7008, 7011, and 7019 do not establish new standards for air quality, solid waste, or hazardous waste under Minn. Stat. ch. 115. As described in Section 1, Introduction and statement of general need, the proposed housekeeping amendments to existing air quality rules are needed to keep the air quality rules current, ensure consistency with applicable federal and state regulations, remove redundant language and clarifying ambiguous rule language, and correct gaps or errors identified while administering the rules. The MPCA is also taking this opportunity to provide clarification to certain existing rules, without changing the intent of the existing rules.

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*3 Iowa Department of Natural Resources Environmental Protection Division, November 17, 1993 “Final Rule—Chapter 22, Controlling Pollution (Air Construction Permitting Exemption for Small Units)”*

## **C. Minn. Stat. § 14.127, subds. 1 and 2, cost of complying for small business or city**

Minn. Stat. § 14.127, subds. 1 and 2, require an agency to:

*“determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for (1) any one business that has less than 50 full-time employees, or (2) any one statutory or home rule charter city that has less than ten full-time employees.”*

The MPCA has considered the cost of complying with the proposed rules and has determined that the cost of complying with the rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city. The MPCA has made this determination based on the probable costs of complying with the proposed rules, as described in Section 6, Statutorily required regulatory analysis and additional analysis, Minn. Stat. § 14.131, SONAR requirements. The MPCA has determined that either the proposed rules do not impose a significant cost burden on the regulated community or where a cost is imposed, it is a cost that is required to comply with a federal regulation that would apply regardless of these rules.

## **D. Minn. Stat. § 14.128, subd. 1, impact on local government ordinances and rules**

Minn. Stat. § 14.128, subd. 1, requires an agency to:

*“determine if a local government will be required to adopt or amend an ordinance or other regulation to comply with a proposed agency rule.”*

The MPCA has determined that the proposed rules will not have any effect on local ordinances or regulations. The implementation of the proposed rules will be managed by the MPCA and are not intended to require resources from local government partners. A local government may be a partner in the regulation of businesses, but the MPCA does not expect that additional local ordinances or regulations will be associated with that partnership.

# **7. Environmental justice framework**

The MPCAs [Environmental Justice Framework 2015 – 2018 \(EJ Framework\)](#), on page 3, describes the MPCAs history with environmental justice (EJ):

*“Following action on the national level, the MPCA began formally working on environmental justice in the mid-1990s. Presidential Executive Order 12898, issued in 1994, directed each federal agency to make “achieving environmental justice part of its mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority and low-income populations.”*

The Presidential Executive Order built on Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination based on race, color, or national origin. As a recipient of federal funding, the MPCA is required to comply with Title VI of the Civil Rights Act.

The MPCA developed a policy for environmental justice that closely mirrors the EPA policy. The MPCA's policy, last revised in 2012, states:

*“The Minnesota Pollution Control Agency will, within its authority, strive for the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with*

*respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.*

*Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies.*

*Meaningful involvement means that:*

- People have an opportunity to participate in decisions about activities that may affect their environment and/or health.*
- The public's contribution can influence the regulatory agency's decision.*
- Their concerns will be considered in the decision making process.*
- The decision-makers seek out and facilitate the involvement of those potentially affected.*

*The above concept is embraced as the understanding of environmental justice by the MPCA."*

As explained in the EJ Framework, when undertaking rulemaking the MPCA considers how the impacts of a proposed rule are distributed across Minnesota and works to actively engage all Minnesotans in rule development. This review of the impacts and meaningful involvement are provided in this section of the SONAR for ease of review with the rest of the Regulatory Analysis, though these analyses are not required under the Administrative Procedures Act (Minn. Stat. ch. 14).

### **Equity Analysis**

The MPCA strives to evaluate how proposed rule amendments may affect low-income populations and communities that have a high proportion of people of color. In particular, the MPCA's goal is to look at whether implementing proposed rules will create any disproportionate impacts or worsen any existing areas of disproportionate impact (where environmental burdens and the resulting human health effects are unequally distributed among the population). Where applicable, the MPCA also looks at the distribution of the economic costs or consequences of the proposed rule, and whether those costs are disproportionately borne by low-income populations and communities of color.

The proposed rules establish technical standards to limit the release of pollutants, which the MPCA expects will ease permitting for some small emission sources. The MPCA does not expect the proposed rules to have any negative environmental consequences. The proposed rules will apply statewide, with no particular effect on any community more than another will.

Regarding the proposed changes to insignificant activities and conditionally insignificant activity rules, the proposed changes are not expected to have any negative environmental consequences. The proposed changes to the insignificant activities list in Minn. R. 7007.1300 intend to provide greater clarity and utility in the permit application process. The proposed changes to the conditionally insignificant activities in chapter 7008 intend to develop a federally enforceable numeric emissions limit for conditionally insignificant activities covered by Minn. R. 7008.4110. The proposed changes to the conditionally insignificant activity requirements are to ensure the requirements are enforceable and achieve the intended environmental benefits. The rules apply statewide, with no particular effect on any community more than another will.

Regarding the proposed permitting exemptions in chapter 7008, the proposed changes are not expected to have any environmental consequences, and may have a positive environmental benefit. As stated previously in Section 5, Rule-by-rule analysis: proposed changes and specific reasonableness, the proposed permitting exemptions have the potential to affect roughly 1,600 unpermitted sources. These sources may or may not need a permit from the MPCA, as it is dependent on the activities at and

operations performed at the specific business. If a business were not required to obtain a permit, the business would not need to use a proposed permitting exemption. As a result, there would be no environmental benefits or consequences of the proposed rules for these businesses. However, for any business that would use a proposed permitting exemption, the proposed rules provide environmental benefit by establishing a set of requirements that restrict the amount of pollution a business is allowed to emit. The rules apply statewide, with no particular effect on any community more than another will.

Therefore, the MPCA believes that this rulemaking has no effect on disproportionate environmental impacts, to a slightly positive effect in reducing disproportionate impact.

### **Meaningful Involvement**

In order to meet the directive to strive for “meaningful involvement,” the MPCA works to seek out and facilitate the involvement of those potentially affected by the proposed rule, particularly those populations that have historically not been as engaged in the public process.

As described in Section 2, Public participation and stakeholder involvement, there has been stakeholder involvement during the development of the proposed rules. While there was no specific plan developed to reach out to low-income populations and communities of color, we believe our stakeholder outreach has ensured that most affected communities are aware of the rule.

The MPCA does specific outreach to Minnesota’s tribal communities for rulemaking as described below in Section 8, Notice plan. In this case, the MPCA contacted Minnesota’s tribal communities to notify them of opportunities to provide comment. In addition to providing notice to the tribal contacts who have registered to receive GovDelivery rulemaking notices, the MPCA has provided specific notice throughout the rulemaking process to contacts identified by the tribes as liaisons for air quality issues.

## **8. Notice plan**

The Administrative Procedures Act (Minn. Stat. ch. 14) and the Office of Administrative Hearing rules (Minn. R. ch. 1400) govern how state agencies must adopt administrative rules. This includes providing required notifications to the general public and affected stakeholders, various state agencies and departments, the legislature, and Office of the Governor. Minn. Stat. § 14.131 requires that the SONAR describe how the MPCA provided additional notification of the rulemaking to potentially affected parties, if applicable.

Specifically, Minn. Stat. § 14.131 states that the SONAR:

*“describe the agency’s efforts to provide additional notification under section 14.14, subd. 1a, to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.”*

This section addresses how the MPCA will provide the required notifications and additional notification.

### **A. Required notice**

#### **Request for Comments**

For this rulemaking, the first notice required by Minn. Stat. § 14.101, is the Request for Comments. The MPCA published the Request for Comments on Possible Amendments to Rules Governing Air Quality, Minnesota Rules Chapters 7002, 7005, 7007, 7008, 7009, 7011, 7017, and 7019, in the *State Register* on January 9, 2017. The Requests for Comments also announced the January 19, 2017, public informational meeting on the “proposed concepts to amend the rules.” To inform the public, the MPCA notified interested parties who subscribed to the Exempt Source/Conditionally Insignificant Activities

Rulemaking GovDelivery list of the Request for Comments the same day it was published. The GovDelivery notice was delivered to 2,130 recipients. Also on the same date, the MPCA provided specific notice of the new rulemaking to the designated air tribal contact persons. This electronic notice contained the information in the January 9, 2017, GovDelivery notice about the Request for Comments. The MPCA maintains a list of the 11 federally recognized tribes in Minnesota and edits the list quarterly. As explained above in Section 2, Public participation and stakeholder involvement, GovDelivery is a self-subscription service for interested and affected persons to register to receive rule-related notices via email.

In addition, the MPCA also:

- Posted the Request for Comments, the same day it was published in the *State Register*, on the MPCA's Public Notice webpage at <https://www.pca.state.mn.us/public-notices>.
- Posted the MPCAs explanatory "proposed concepts to amend the rules," the same day the Request for Comments was published in the *State Register*, on the MPCA's Exempt Source/Conditionally Insignificant Activities Rule webpage at <https://www.pca.state.mn.us/air/amendments-air-quality-rules-exempt-sourceconditionally-insignificant-activities>.

### **Remaining Required Notifications**

The remaining required notifications are listed below with a description of how the MPCA will comply with each.

1. Minn. Stat. § 14.14, subd. 1a. On the date the proposed amendments are published in the *State Register*, the MPCA will send an electronic notice, using GovDelivery, with a hyperlink to the webpage where electronic copies of the Notice of Intent to Adopt Rules (Notice), proposed rule amendments, and SONAR can be viewed. The GovDelivery notice will be sent to all parties who have registered with the MPCA to receive notices of the Exempt Source/Conditionally Insignificant Activities rulemaking (1,311 subscribers as of November 2, 2017). Persons registered to receive non-electronic notices will receive copies of the Notice and the proposed amendments via U.S. Mail. Both the electronic and U.S. Mail notice will be sent at least 33 days before the end of the comment period.
2. Minn. Stat. § 14.116. The MPCA will send a cover letter to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed amendments, and to the Legislative Coordinating Commission, as required by Minn. Stat. § 14.116. The letter will include a link to electronic copies of the Notice, proposed rule amendments, and SONAR. This Notice will be sent at least 33 days before the end of the comment period.
3. Minn. Stat. § 14.131. The MPCA will send a copy of the SONAR to the Legislative Reference Library in accordance with Minn. Stat. § 14.131 when the Notice is mailed under Minn. Stat. § 14.14, subd. 1a. This Notice will be sent at least 33 days before the end of the comment period.
4. Minn. Stat. § 14.111. If the rule affects farming operations, Minn. Stat. § 14.111 requires an agency to provide a copy of the proposed rule changes to the Commissioner of Agriculture no later than 30 days before publication of the proposed rule in the *State Register*. The proposed amendments are not expected to directly impact agricultural land or farming operations. However, the Commissioner of Agriculture in a letter dated July 30, 2014, to the Commissioner of the MPCA requested that the MPCA submit potential rule changes to the Minnesota Department of Agriculture. Therefore, the

MPCA will send a copy of the proposed rule amendments to the Commissioner of Agriculture at least 30 days before publication in the *State Register*.

The following notices are required under certain circumstances; however, they do not apply to this rulemaking and will not be sent:

1. Minn. Stat. § 14.116. In addition to requiring notice to affected/interested legislators, 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 no bill was authored within the past two years granting special authority for this rulemaking.
2. Minn. Stat. § 116.07, subd.7i. This statute requires notification of specific legislators of the adoption of rules applying to feedlots and fees. The proposed amendments do not relate to feedlots or fees so this requirement does not apply.

## **B. Additional notice plan**

Minn. Stat. § 14.14 requires that in addition to its required notices:

*“each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule being proposed by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication.”*

The MPCA considered these statutory requirements governing additional notification and as detailed in this section, intends to fully comply with them. In addition, as described in Section 2, Public participation and stakeholder involvement, the MPCA has made reasonable efforts, thus far, to notify and involve the public and stakeholders in the rule process, including various meetings and publishing the RFC.

The MPCA intends to request that the Office of Administrative Hearings review and approve the Additional Notice Plan, pursuant to Minn. R. 1400.2060. The MPCA’s plan to notify additional parties includes the following:

1. Publish its Notice of Intent to Adopt Rules on the MPCA’s Public Notice webpage at <https://www.pca.state.mn.us/public-notices>.
2. Provide specific notice to tribal authorities. The MPCA maintains a list of the 11 federally recognized tribes in Minnesota and edits the list quarterly. The MPCA will send specific electronic notice to the designated air tribal contact person of Minnesota’s tribal communities. The notice will be sent on or near the day the proposed rule amendments are published in the *State Register*, and will have a hyperlink to the webpage where electronic copies of the Notice of Intent to Adopt Rules, proposed rule amendments, and SONAR can be viewed.
3. Provide specific notice to associations and environmental groups. The notice will be sent to the following associations and environmental groups on or near the day the proposed rule amendments are published in the *State Register*, and will have a hyperlink to the webpage where electronic copies of the Notice, proposed rule amendments, and SONAR can be viewed.
  - Alliance of Automotive Service Providers of Minnesota
  - American Coating Association
  - Association of Metropolitan Municipalities



- Association of Minnesota Counties
- Association of Woodworking and Furnishing Suppliers
- Clean Water Legacy
- Clean Water Minnesota Isaak Walton League Minnesota Chapter
- Coalition of Greater Minnesota Cities
- Complete Health Environmental and Safety Services
- League of Minnesota Cities
- Metropolitan Council
- Minnesota Association of Small Cities
- Minnesota Chamber of Commerce
- Minnesota City/County Management Association
- Minnesota Environmental Science and Economic Review Board
- Minnesota Center for Environmental Advocacy
- Minnesota Environmental Partnership
- Professional Refinishers Group
- Sierra Club North Star Chapter

Note: some members of these associations may already subscribe to receive GovDelivery notices.

4. Provide specific notice to EPA Region V. The notice will be sent to EPA Region V on or near the day the proposed rule amendments are published in the *State Register*, and will have a hyperlink to the webpage where electronic copies of the Notice of Intent to Adopt Rules, proposed rule amendments, and SONAR can be viewed.
5. Provide notice in electronic newsletters. The MPCA uses electronic newsletters to provide updates and information about rulemakings, as explained above in Section 2, Public participation and stakeholder involvement. The MPCA will provide notice in its Air Mail and Small Business Enterprise newsletters with a hyperlink to the webpage where electronic copies of the Notice of Intent to Adopt Rules, proposed rule amendments, and SONAR can be viewed.
6. Post rulemaking updates and documents including the proposed rule amendments and SONAR on the Exempt Source/Conditionally Insignificant Activities Rule webpage at <https://www.pca.state.mn.us/air/amendments-air-quality-rules-exempt-sourceconditionally-insignificant-activities>.

The MPCA believes that by following the steps of this Additional Notice Plan, and its regular means of public notice, including early development of the GovDelivery mail list for this rulemaking, publication in the *State Register*, and posting on the MPCA's webpages, the MPCA will adequately provide additional notice pursuant to Minn. Stat. § 14.14, subd. 1a.

## 9. Consideration of economic factors

In exercising its powers, the MPCA is required by identical provisions in Minn. Stat. § 116.07, subd. 6 and Minn. Stat. § 115.43, subd. 1 to give due consideration to:

*...the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of*

*any tax which may result there from, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances...*

In determining whether to adopt proposed rules or amendments, the MPCA must consider the impact that economic factors have on the feasibility and practicability of the proposed rules or amendments. The MPCA must take into account different and sometimes competing goals when engaging in rulemaking proceedings. The MPCA must address budget constraints in all economic sectors and choose among programs and projects that compete for scarce budget resources. Thus, the MPCA must balance the economic or financial limits of persons subject to environmental regulation with the application and enforcement of laws devoted to environmental protection. The MPCA, mindful of this balance, seeks to implement the least-cost regulatory solutions if it does not compromise environmental goals or regulatory responsibilities.

In proposing these rules, the MPCA has given due consideration to the economic impacts of implementing the proposed rule amendments. The MPCA has determined that either the proposed rules do not impose a significant cost burden on the regulated community or the costs are those that must be incurred to comply with a federal regulation and would apply regardless of these rules. In addition, the MPCA believes that some of the proposed amendments will actually decrease the economic impact of implementing existing rules. The MPCA is responsible for implementing Minnesota's air permitting rules and therefore local units of government are not anticipated to have regulatory responsibilities related to these rules. However, a few local units of government required to have air permits will be impacted in a similar way to other facilities that hold air permits.

The proposed rules likely do not result in significant cost savings. However, indirect cost savings may be realized by facilities that can benefit from the clarifications and streamlining in the MPCA's programs.

## **10. List of authors and SONAR attachment**

### **A. Authors**

- Hassan Bouchareb
- Anne Jackson
- Mary H. Lynn

### **B. SONAR Attachment**

Attachment 1: The "Insignificant Facility PTE" spreadsheet is located at the end of this document.

## 11. Conclusion

In this SONAR, the MPCA has established the need for and the reasonableness of each of the proposed amendments to Minn. R. chs. 7005, 7007, 7008, 7011, and 7019. The MPCA has provided the necessary notifications and in this SONAR documented its compliance with all applicable administrative rulemaking requirements of Minnesota statute and rules.

Based on the forgoing, the proposed amendments are both needed and reasonable.

1/16/18  
Date

  
\_\_\_\_\_  
John Linc Stine, Commissioner  
Minnesota Pollution Control Agency

# Insignificant Facility PTE

## Facility Potential Emissions Estimate Tool

Emissions Estimate &amp; Results

Version Date: July 3, 2017

### Legend

Required Inputs:	Enter values into all boxes that are yellow
All Other Cells:	Locked & Uneditable

### Facility Information

Estimate Date:	
Facility Name:	
Facility Address:	

### Step 1: Eligibility Information

For each row in the following table, indicate whether or not your facility has emission units that qualify under the identified rule citation. Choose "Yes" from the drop down box if your facility has this type of emission unit. Choose "No" from the drop down box if your facility does not have this type of emission unit. Click on the rule citation link for the full description of the activity.

For each rule citation that you marked "Yes", provide a brief description of the activity taking place at your facility. Provide enough detail in the description so it is clear how the emission unit(s) at your source meet the definition of the insignificant activity. For example, insignificant activity subpart 3(E)(1) corresponds to gasoline storage tanks with a combined total tankage capacity of not more than 10,000 gallons. If you have gasoline storage tanks that meet this definition, list the total capacity of your tanks to show that it is under 10,000 gallons.

Select "Yes" or "No"	Rule Citation (Rule Activity Description)	Description of Activities at the Facility
	<a href="#">7007.1300, subp. 3(A)</a> (Space Heaters)	
	<a href="#">7007.1300, subp. 3(B)(2)</a> (Indirect Heating Equipment)	
	<a href="#">7007.1300, subp. 3(E)(1)</a> (Gasoline Storage Tanks)	
	<a href="#">7007.1300, subp. 3(E)(2)</a> (VOC Storage Tanks)	
	<a href="#">7007.1300, subp. 3(G)</a> (Laboratory Emissions)	
	<a href="#">7007.1300, subp. 3(H)(3)</a> (Brazing, Soldering, Welding)	
	<a href="#">7007.1300, subp. 3(I)</a> (Individual Misc. Equipment)	
	<a href="#">7007.1300, subp. 3(J)</a> (Unpaved Entrance Roads & Parking Lots)	
	<a href="#">7008.4100</a> (Material Usage Activities)	
	<a href="#">7008.4110</a> (Finishing Operations)	

## Step 2: Eligibility Calculations (Additional Information)

Some of the insignificant activities require additional information to estimate potential emissions. In the following tables, provide the additional information for each rule citation if you marked "Yes" in the previous table. Provide the required information in the format (i.e., the number "1,2,3,...") or units (i.e., Btu per hour) specified.

### Minn. R. 7007.1300, subp. 3(A) - Space Heaters

Enter additional information in the following table when your source has emission units qualifying as insignificant activities in Minn. R. 7007.1300, subp. 3(A). This insignificant activity is for space heaters fueled by kerosene, natural gas, or propane when the combined total heat input capacity of all space heaters at the facility is less than or equal to 420,000 Btu per hour. In the table below, enter the combined total heat input capacity of all space heaters in Btu per hour (must be less than or equal to 420,000 Btu per hour).

"Yes" or "No" (Previous Table)	Rule Citation	Additional Information*	Value (Btu per hour)
	<a href="#">7007.1300, subp. 3(A)</a>	Combined total heat input capacity (must be ≤ 420,000 Btu per hour)	

\* If the combined total heat input capacity of all space heaters exceeds 420,000 Btu per hour, then the space heaters at the facility cannot qualify as an insignificant activity under Minn. R. 7007.1300, subp. 3(A). The individual space heaters may still be able to qualify as an insignificant activity under Minn. R. 7007.1300, subp. 3(I), but emission calculations for each space heater must be performed to show that the individual space heater qualifies under that citation.

### Minn. R. 7007.1300, subp. 3(B)(2) - Indirect Heating Equipment

Enter additional information in the following table when your source has emission units qualifying as insignificant activities in Minn. R. 7007.1300, subp. 3(B)(2). This insignificant activity is for indirect heating equipment with a heat input capacity less than 420,000 Btu per hour, but only if the combined total heat input capacity of all indirect heating equipment at the facility is less than or equal to 1,400,000 Btu per hour. In the table below, enter the combined total heat input capacity of all indirect heating equipment in Btu per hour (must be less than or equal to 1,400,000 Btu per hour):

"Yes" or "No" (Previous Table)	Rule Citation	Additional Information*	Value (Btu per hour)
	<a href="#">7007.1300, subp. 3(B)(2)</a>	Combined total heat input capacity (must be ≤ 1,400,000 Btu per hour)	

\* If the combined total heat input capacity of all indirect heating equipment exceeds 1,400,000 Btu per hour, then the indirect heating equipment at the facility cannot qualify as an insignificant activity under Minn. R. 7007.1300, subp. 3(B)(2). The individual indirect heating equipment may still be able to qualify as an insignificant activity under Minn. R. 7007.1300, subp. 3(I), but emission calculations for each indirect heating equipment must be performed to show that the individual unit qualifies under that citation.

# Insignificant Facility PTE

## Facility Potential Emissions Estimate Tool

Emissions Estimate &amp; Results

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### Minn. R. 7007.1300, subp. 3(l) - Individual Emission Units with Low Potential Emissions

Enter additional information in the following table when your facility has emission units qualifying as insignificant activities in Minn. R. 7007.1300, subp. 3(l). This insignificant activity is for individual emission units at a facility, each of which have a potential to emit the following pollutants in amounts less than:

- 4,000 pounds per year of carbon monoxide;
- 2,000 pounds per year each of nitrogen oxide, sulfur dioxide, particulate matter, particulate matter less than ten microns, VOCs (including hazardous air pollutant-containing VOCs), and ozone; and
- 1,000 tons per year of CO<sub>2</sub>e

In the table below, enter the total number of emission units that qualify as an insignificant activity under Minn. R. 7007.1300, subp. 3(l). In the table below, also enter the number of emission units that emit each identified pollutant. For example, if the facility has 30 total emission units that qualify but only 25 of those 30 emission units emit carbon monoxide, enter "30" for the total number of qualifying emission units and "25" for the number of units that emit carbon monoxide. Repeat this action for each pollutant.

"Yes" or "No" (Previous Table)	Rule Citation	Additional Information*	Value (1, 2, 3, etc...)
	<a href="#">7007.1300, subp. 3(l)</a>	Total number of qualifying emission units	
		Qualifying emission units that emit carbon monoxide (CO)	
		Qualifying emission units that emit nitrogen oxide (NO <sub>x</sub> )	
		Qualifying emission units that emit sulfur dioxide (SO <sub>2</sub> )	
		Qualifying emission units that emit particulate matter (PM)	
		Qualifying emission units that emit particulate matter less than ten microns (PM <sub>10</sub> )	
		Qualifying emission units that emit volatile organic compounds (VOCs)	
		Qualifying emission units that emit hazardous air pollutants (HAPs)	
		Qualifying emission units that emit greenhouse gases (CO <sub>2</sub> e)	

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### Step 3: Eligibility Summary

Based on the information entered in the previous tables, the table below provides an estimate of the potential emissions from each insignificant activity at the facility.

Rule Citation	Potential Emissions from Each Activity at the Facility (tons per year)								
	PM	PM <sub>10</sub>	VOC	SO <sub>2</sub>	NO <sub>x</sub>	CO	CO <sub>2e</sub>	HAPs	Lead
<a href="#">7007.1300, subp. 3(A)</a>	0.00	0.00	0.00	0.00	0.00	0.00	0	0.00	0.00E+00
<a href="#">7007.1300, subp. 3(B)(2)</a>	0.00	0.00	0.00	0.00	0.00	0.00	0	0.00	0.00E+00
<a href="#">7007.1300, subp. 3(E)(1)</a>			0.00					0.00	
<a href="#">7007.1300, subp. 3(E)(2)</a>			0.00					0.00	
<a href="#">7007.1300, subp. 3(G)</a>	0.00	0.00	0.00	0.00	0.00	0.00		0.00	
<a href="#">7007.1300, subp. 3(H)(3)</a>	0.00	0.00						0.00	0.00E+00
<a href="#">7007.1300, subp. 3(I)</a>	0.00	0.00	0.00	0.00	0.00	0.00	0	0.00	
<a href="#">7007.1300, subp. 3(J)</a>	0.00	0.00							
<a href="#">7008.4100</a>	0.00	0.00	0.00					0.00	
<a href="#">7008.4110</a>	0.00	0.00							

The table below sums the potential emissions from each insignificant activity at the facility and the applicable permitting emission thresholds. If the potential emissions estimated in this spreadsheet are less than the permitting thresholds, then your facility does not require a permit and the business qualifies as an insignificant facility. Save the spreadsheet or print this worksheet and keep it in your files. If you change or add any air emission sources, update the spreadsheet to confirm whether your facility still qualifies as an insignificant facility.

If the potential emissions estimated through this spreadsheet are greater than or equal to the permitting thresholds, then the facility may need to obtain a permit. Because this spreadsheet provides a conservative estimate of air emissions, the facility can perform more refined potential to emit calculations than those performed by this spreadsheet. More refined calculations may show that the potential emissions are below the permitting thresholds. For example, this spreadsheet assumes the maximum potential to emit from insignificant activities under Minn. R. 7007.1300, subp. 3(I). If the emission unit was identified as emitting PM, the spreadsheet uses the full 2,000 lbs allowed by the rule; if the emission unit was identified as emitting HAP, the spreadsheet uses 2,000 lbs, since the HAP can be either PM or VOC.

Pollutant	Potential Emissions Summary								
	PM	PM <sub>10</sub>	VOC	SO <sub>2</sub>	NO <sub>x</sub>	CO	CO <sub>2e</sub>	HAPs	Lead
<b>Emission Totals</b> (tons per year)	0.0	0.0	0.0	0.0	0.0	0.0	0	0.00	0.0000
<b>Permit Thresholds</b> (tons per year)	100	25	100	50	100	100	100,000	10	0.50