Response to Comments Received During the Public Comment Period on the Notice of Intent to Adopt Rules Governing Air Quality, Minnesota Rules, Chapters 7002, 7005, 7007, 7008, 7009, 7011, 7017, 7019, and 7030

The Minnesota Pollution Control Agency (MPCA) placed the Notice of Intent to Adopt Rules Without a Public Hearing on public notice in the *State Register* on February 29, 2016. The MPCA received eight comment letters on the proposed rule amendments during the public comment period. There were several general comments; however, comments were mainly about specific rule parts and rule language. The MPCA's rationale for changes it will make to the proposed rules as a result of the comments received on specific rule parts is provided in the Order Adopting Rules. The MPCA's response to the general comments and its response to comments on specific rule parts where no change is proposed are provided in this Response to Comments document.

The Response to Comments is organized by general comments in item B and comments on specific rule parts in item C. The comments are summarized and not presented verbatim. General comments submitted were about the proposed rule and were not necessarily directly related to a specific rule part. The comments on specific rule parts are provided sequentially by rule section. Each rule section is followed by a listing of the comments submitted related to the rule section, and the MPCA's response.

A. List of Interested Parties

The following is a list of interested parties who submitted written comments to the MPCA during the public notice comment period from February 29, 2016, through April 4, 2016.

1. Letter from Joy Wiecks, The Fond du Lac Band Environmental Program, dated March 24, 2016;
2. Letter from Karla Dufour, on behalf of Alliance of Automotive Service Providers of Minnesota, dated April 1, 2016;
3. Letter from Mark Thoma, Otter Tail Power Company, dated April 1, 2016;
4. Letter from Kristin Heutmaker, Northern Tier-St. Paul Park Refining Company, dated April 1, 2016;
5. Letter from Michael Sinclair, Flint Hills Resources-Pine Bend Refinery, dated April 4, 2016;
6. Letter from Chrissy Bartovich, U.S. Steel Corporation, dated April 4, 2016;
7. Letter from Tony Kwilas, Minnesota Chamber of Commerce, dated April 4, 2016; and
8. Letter from David C. Semerad, Associated General Contractors of Minnesota, dated April 4, 2016.

B. General Comments

1. General Comment

Comment 1: US Steel Corporation (US Steel) commented that the proposed rule goes beyond the stated purpose. (comment letter page 1)

Response: The comment appears to be made about the proposed rule in general and US Steel does not cite any specific rule part where they believe the rule goes beyond the stated purpose. The MPCA made every effort to ensure that the rule focuses on incorporations of federal rules; and corrections, clarifications, and cleanup of our existing rules.

2. General Insignificant Activities (IA)

Comment 2a: The Associated General Contractors (AGC) commented that the requirement to list all insignificant activities will require stationary sources to undergo significant monitoring and record keeping of heavy duty trucks and

equipment used in maintenance or construction at a stationary facility. An older model vehicle that emits negligible emissions would be part of the monitoring and record keeping now required by the MPCA's general permit. If the older model vehicle does not meet the standards under this rule, the stationary source may not qualify for a general permit or the facility would be required to apply for an individual permit. A facility may require the company performing the work to purchase new heavy duty equipment to reduce these negligible emissions. This would impose a significant economic burden on AGC members since equipment is generally purchased to perform for a certain number of years for depreciation purposes. (comment letter page 1)

Response: Permit applicants have always been required to list insignificant activities described in part 7007.1300, subparts 3 and 4 and conditionally insignificant activities described in *Minn. R*. ch. 7008 in their permit applications. This rule does not change the need to list these activities in a permit application.

In general, trucks and other mobile equipment are not included in determining whether a stationary source needs an air emissions permit. Vehicle exhaust emissions from the operation of mobile sources at a stationary source are an insignificant activity under part 7007.1300, subpart 2, item J, subitem(3). Further, changes that are solely related to trucks and other mobile equipment at a stationary source do not trigger the need to obtain a permit or a different type of permit under Minnesota's air permitting rules.

The proposed rules do not include any changes to insignificant activities under part 7007.1300 or conditionally insignificant activities under *Minn. R.* ch. 7008 that are related to heavy duty trucks or mobile equipment. Although it is unclear which air general permit the commenter is referencing, the MPCA is not aware of any requirements for mobile sources (such as heavy duty vehicles) in any of the air general permits. General permit holders who are in compliance with their current permit are not anticipated to need a new or different permit based on these rule changes.

Comment 2b: The AGC commented that the MPCA recently ended its Clean Diesel Grant program to assist companies with pre-2007 heavy duty trucks and equipment to upgrade their equipment and asked, do these changes to insignificant activities at a stationary source mean these recently renovated trucks and equipment will now be rendered obsolete? And, how will the MPCA determine whether a truck meets its standards as new trucks and equipment pieces enter the market? (comment letter page 2)

Response: The proposed rule revisions related to insignificant activities do not change whether trucks or other equipment renovated under the Clean Diesel Grant Program are subject to Minnesota air permit rules. Emissions from trucks or other mobile equipment are not included in determining whether a stationary source needs an air emissions permit. (See above response to comment 2a.) The commenter might be thinking of United States Environmental Protection Agency's (USEPA) federal emission standards that apply nationwide at the federal level. USEPA has promulgated emissions standards for engine exhaust from trucks and other mobile equipment that apply to the manufacturers of vehicles, rather than the purchasers or users; so purchasers do not have to worry about obsolescence. Federal exhaust standards for mobile sources do not affect whether an air permit is needed or not.

3. National Ambient Air Quality Standards (NAAQS) and Minnesota Ambient Air Quality Standards (MAAQS)

Comment 3a: The Minnesota Chamber of Commerce (Chamber) commented that based on the Statement of Need and Reasonableness (SONAR) description and the proposed rule, the inclusion of NAAQS as MAAQS appears redundant and the rule proposes two different sets of standards for identical pollutants. The MPCA could continue using a revoked or revised NAAQS as a state standard after USEPA found that the standard was unnecessary or too stringent. The primary rationale behind the 1970 Clean Air Act was to provide a common set of air quality standards for the entire country. The inclusion of the NAAQS as a separate standard (part 7009.0090 with the changes suggested by the Chamber) is sufficient to protect air quality in Minnesota and the redundant pollutants included in part 7009.0080 should be eliminated. Further, it is unclear how having NAAQS as state standards enhances and clarifies the administration of the standards.

Response: The Chamber slightly misstates that the 1970 Clean Air Act was intended, in part, to provide a common set of ambient standards for the entire country. The Clean Air Act was intended to provide a common set of *minimum* standards. The Clean Air Act specifically preserves state authority to adopt or enforce any air standard of its own, provided such standard is not less stringent than the federal standard (42 USC § 7416, Retention of State authority). In other words, all states have authority to adopt state standards that are at least as stringent as federal standards. This is not new and Minnesota has defined "applicable requirement" to include NAAQS and MAAQS for many years. Occasionally, this could and has resulted in two standards for the same pollutant. When that happens, compliance with the more stringent ensures compliance with all applicable requirements.

The MPCA disagrees that the inclusion of NAAQS as MAAQS is redundant. With the proposed incorporation of NAAQS by reference in part 7009.0090, the MPCA is preserving its ability to designate a state and/or a federal basis for the applicability of a given pollutant standard in the implementation of its air management programs. The time difference between the instantaneous applicability of new federal standards and the time it takes to update the state standards through state rulemaking to reflect new federal standards has led to confusion amongst both the regulators and the regulated in distinguishing the basis for the applicability of a particular pollutant standard in regulatory actions such as permitting and enforcement.

The Chamber's suggestion to remove part 7009.0080 is beyond the scope of this rulemaking. It appears the Chamber has identified this concern from the SONAR language for part 7009.0080 which states:

> "It is important to have the NAAQS also as state standards in addition to their incorporation by reference in part 7009.0090. This allows the MPCA to evaluate keeping a federal standard as a state standard, should the federal standard be revised to be made less stringent or vacated. If these rules only had the incorporation by reference of the NAAQS in part 7009.0090, the federal standard would automatically be revoked. It is the MPCA's intent to keep state standards to be protective of Minnesota's health and welfare – and through rulemaking change the state standards to match the federal standards. The expectation is that in the majority of instances, the state standard for a pollutant will match the federal standards, as the MPCA has done in this rulemaking. Having the NAAQS as state standards also enhances and clarifies the administration of the standards."

This rulemaking is primarily intended to cleanup existing rules rather than to propose major policy shifts. Existing *Minn. R.* 7009.0080 includes NAAQS as MAAQS. The intent of the quoted SONAR language was to justify the continued inclusion of part 7009.0080 in light of the proposed addition of part 7009.0090, and not to justify the inclusion of part 7009.0090. Minnesota has always had both federal and state ambient standards in its rules. The manner of including both is proposed for change in this rule. For clarity and, as explained above, to ensure that Minnesota rules continue to include federal NAAQS without going through rulemaking each time the federal standards change, MPCA is proposing to add part 7009.0090, which incorporates the NAAQS *and* NAAQS amendments into state rule by reference. This does not change the applicability or interpretation of standards currently contained in part 7009.0080. As federal standards are revised in the future, the MPCA will update part 7009.0080 through the rulemaking process to ensure that state standards are at least as stringent as the federal standards. In these future rulemaking updates by the MPCA, the public will have the opportunity to comment, including on the infrequent circumstance that the MPCA should choose to retain any federally revoked standards.

Comment 3b: The Chamber commented that the inclusion of the NAAQS as a separate rule does not appear to be a simple addition to the regulations. This decision to continue to use revised or revoked NAAQS as MAAQS is extremely important and should warrant a separate rulemaking process. If MPCA decides to move forward with this portion of the rulemaking against the Chamber's provided recommendations, the Chamber's three specific technical comments for *Minn. R.* ch. 7009 that follow should be addressed.

Response: The Chamber correctly notes that the proposed rule "continues" MPCA's existing practice. If the Chamber is suggesting the elimination of each state standard for which a NAAQS exists, the Chamber suggests a significant policy change that goes beyond what MPCA proposes and the scope of this housekeeping rulemaking. (See above response to comment 3a.)

The addition of part 7009.0090 does not change the need for, applicability, or interpretation of part 7009.0080 (MAAQS). The rationale in the SONAR (page 39) for incorporating the NAAQS by reference in part 7009.0090 in addition to the existing Minnesota standards in part 7009.0080 states:

> "A new part 7009.0090 is added to distinguish the NAAQS from the MAAQS, as well as to clarify the applicability and enforceability of the NAAQS for related state air management programs (e.g., air quality permitting, compliance and enforcement, state-level environmental review, and the SIP). Minnesota requires USEPA approval of its SIP.
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> Having the NAAQS written in the rule rather than incorporated by reference requires the state to update state rules and the SIP each time USEPA modifies, amends, or vacates one of the NAAQS. The NAAQS are applicable requirements as soon as they are promulgated by USEPA; however, the lag-time between federal promulgation and incorporation into state rule by the state can cause confusion. Incorporating the NAAQS by reference also reduces administrative burden on the state by removing the need to update state rules and revise the SIP any time USEPA modifies, amends, or vacates one of the NAAQS."

The MPCA appreciates the Chamber's three specific technical and implementation comments for its proposed changes to *Minn. R.* ch. 7009 and is recommending rule changes to address the comments in its Order Adopting Rules.

Comment 3c: The Chamber also provided its views on Minnesota's definition of "applicable requirement" to include NAAQS as an applicable requirement for stationary source permitting. The definition of "applicable requirement" was not proposed for change in this rulemaking and the Chamber appropriately indicated that it will discuss its views with the MPCA outside of this rulemaking.

Response: The MPCA notes the views expressed by the Chamber.

C. Comments on Specific Rule Parts

7005.0100 DEFINITIONS.

4. Part 7005.0100, Subp. 30.

Comment 4: The Chamber requested the MPCA remove the proposed language "to any degree" in part 7005.0100, subpart 30, "Owner" or "operator" means a person who owns, leases, operates, controls, or supervises, to any degree, an emissions unit, emission facility, or stationary source." The Chamber believes this language adds to existing confusion about who is responsible for compliance because it makes it more likely that there will be more than one owner or operator for a given emission unit, emission facility or stationary source. (comment letter page 8)

Response: Existing rules recognize that any stationary source may have more than one owner or operator. The MPCA intentionally crafted its rules to require "owners and operators" plural to apply for and obtain permits, but crafted compliance requirements to apply to either an owner or operator. For example, the requirement to obtain a permit is imposed on "owners and operators." *Minn. R.* 7007.0200, subpart 1; *Minn. R.* 7007.0250. "Owners and operators" must certify the truth, accuracy, and completeness of any application, report, or compliance certification submitted to the MPCA under *Minn. R.* 7007.0100 to 7007.1850. *Minn. R.* 7007.0500, subpart 3.

By contrast, other parts of *Minn. R.* ch. 7007, impose requirements on either an owner or operator. *Minn. R.* 7007.1105, subpart 1, item A (an "owner or operator" must implement an EMS); *Minn. R.* 7007.1120, subpart 1, item A (owners and operators may apply for a registration permit, but under subpart 3 an owner or operator must make certain calculations); *Minn. R.* 7007.1140, subpart 1 (owners and operators may apply for a capped permit, but under *Minn. R.* 7007.1143, subpart 4, either an owner or operator must maintain certain records).

Despite the fact that the existing rules require owners and operators plural to apply for and obtain permits, some applicants continue to selectively identify only certain owners or operators in their permit applications. Some entities actually apply for permits in the name of a legal entity that has no employees and no assets.

The failure of applicants to identify all owners and operators on permit applications has led to the issuance of permits to entities that are nothing more than a name, to wholly-owned subsidiaries with limited resources and decision-making power, or to an operator but not the owner that has actual decision-making power. As a result, the MPCA has too often found that it has been working with the representatives of a permitted entity who, in fact, have little decision-making power but are taking direction from others. The MPCA has been forced to sort out the ownership and control of a stationary source during an enforcement action or when it is seeking additional information from a permittee. This has hampered both the effectiveness and efficiency of the MPCA's regulatory work.

The proposed rule change is intended to clarify the existing rules to ensure that where the rules impose obligations on owners *and* operators, all owners and operators must comply. The clarification will also ensure transparency in the permitting process so that the public as well as the MPCA knows from the time of permitting all persons or entities that are responsible for the permitted source. Therefore, the MPCA is not making the Chamber's requested revision.

7007.0325. BIOGENIC CARBON DIOXIDE EXCLUSION FROM APPLICABILITY THRESHOLDS.

5. Part 7007.0325.

Comment 5: The Chamber commented that the SONAR discusses the proposed repeal of part 7007.0325, but the removal of this part is not reflected in the rule markup. The Chamber requests clarification of MPCA's intent on this rule. (comment letter page 7)

Response: The Office of the Revisor does not include in the Revisor draft rule, the text of those rules that are proposed for repeal. Rather, a listing of rules proposed for repeal is found in the "REPEALER" section at the end of the Revisor draft rule. That is where the repeal of part 7007.0325 is found.

7007.0500 CONTENT OF PERMIT APPLICATION.

6. Part 7007.0500, Subp. 2.A(3).

Comment 6: The Chamber commented that facilities that cover large geographic areas (e.g. mines) may have owners of leases or mineral rights but do not own the land. In these instances, the proposed rule could result in an extensive list of owners adding confusion to the air permit application.

Response: Proposed new subitem (3) clarifies the intent of the subpart 2, item A requirements for information identifying the stationary source and its owners and operators. As discussed in the SONAR (pages 12 and 15), all owners and operators need to be identified in a permit application. Although the Chamber is correct in stating that there may be owners of leases or mineral rights that do not own the land, land ownership is not the determining factor for applicability of Minnesota's air rules. It is possible that certain owners or operators will not have a regulatory obligation

under Minnesota's air rules; however, all owners and operators need to be listed in the permit application so the MPCA can understand who is responsible for the stationary source. Even though all owners and operators need to be listed in the permit application, it is possible that they do not all need to be included in the permit. One example might be where the owner of underlying mineral rights for a property does not have any owner or operator obligations under the air permitting rules for the stationary source.

7. Part 7007.0500, Subp. 2.C(2).

Comment 7: The Fond du Lac Band commented that a definition of "conditionally insignificant" would be helpful. (comment letter page 1)

Response: The term "conditionally insignificant activity" is used in part 7007.0500, subpart 2, item C, subitem (2) and elsewhere in the proposed rule amendments. This term is defined in part 7005.0100, subpart 4h.

8. Part 7007.0500, Subp. 2.C(11).

Comment 8: The Chamber requested the MPCA add the phrase "unless specified otherwise in the source's current air permit" to this subpart. Non-major sources that have pre-cap permits are not required to calculate emission changes under part 7007.1200, subpart 2.

Response: The MPCA believes the rules already address the Chamber's point. The proposed rule does not require that the calculation be done; it requires that the calculation be included in the permit amendment application when it is required under part 7007.1200. If the permit states that the emission calculations under part 7007.1200, subpart 2 are not needed for a particular pollutant under certain circumstances, then the permittee is not required to do the calculation for that pollutant or to include a calculation of emissions changes for that pollutant in the permit amendment application. The permittee does not need to include those calculations because the permit states the permittee does not need to perform the calculations for emissions changes of that pollutant. In the permit amendment application, the permittee will still need to include the calculations under part 7007.1200, subpart 2 for other pollutants, and include the calculations required under part 7007.1200, subpart 3. Therefore, the MPCA is not making the Chamber's requested revision.

For some facilities, the MPCA is able to issue a flexible type of permit called a pre-cap permit. A pre-cap permit sets a permanent limit on a group of emissions units at a source such that certain changes to the group can be made without re-setting the limit to accommodate the change. A simple example might be a source that has a group of similar engines. A pre-cap limit on the number of gallons of fuel oil used by the group of engines can be written into the permit to reduce nitrogen oxides emissions to 200 tons per year with additional language allowing the permittee to replace, modify or add new engines as long as the emission limit and all of the other requirements for the group, such as the monitoring and record keeping of fuel used, can continue to be met. The pre-cap permit would explicitly state that the permittee does not need to complete nitrogen oxides calculations described in *Minn. R.* 7007.1200, subpart 2. However, the permittee may still need to do calculations to determine if an amendment is needed for other reasons under *Minn. R.* 7007.1200, subpart 3.

9. Part 7007.0500, Subp. 2.K(5).

Comment 9: The Fond du Lac Band commented that the following sentence in subpart 2.K(5) is incomplete: "For applicable requirements for which the stationary source is not in compliance at the time of application submittal, including applicable requirements associated with a proposed alternative operating scenario, a proposed schedule of compliance." (comment letter page 1)

Response: Subitems (1) through (5) are rule provisions under part 7007.0500, subpart 2, item K which states "For part 70 permit applications only, a compliance plan that contains the following:" When subitem (5) is read in context with subpart 2, item K, the MPCA disagrees that the sentence is incomplete.

10. Part 7007.0500, Subp. 2.K(5) and Subp. 3.

Comment 10: The Fond du Lac Band commented on existing subpart 2.K(5) which states "The proposed schedule of compliance shall begin at the time of permit application, but the applicant may project its compliance status at the time the permit is expected to be issued." The facility should be in compliance before the permit is issued. Allowing compliance measures to drag out after permit issuance does not provide any incentive for the facility to move forward, regardless of the existence of a compliance schedule. The commenter also stated that the requirements in subpart 2.K(5) and existing subpart 3 do not provide enough stringency as Administrative Orders requiring compliance can be rescinded with no public process and without adequate follow-up. (comment letter page 1)

Response: Although this comment is on an aspect of the rule that is not being amended, the MPCA provides the following response: part 7007.0500, subpart 2, item K, subitem (5) requires that a permit applicant who is not in compliance at the time of permit application provide a schedule for when the source will be in compliance. The proposed schedule needs to have specific milestones, beginning at the time of permit application. If, at the time of permit issuance, the permittee is still not in compliance with all applicable requirements, a schedule of compliance is included in the permit as required under part 7007.0800, subpart 9, item B. The permit cannot be issued without addressing all noncompliance. The permit is issued with requirements that directly address any noncompliance and to provide specific terms and deadlines for the permittee to attain compliance.

An Administrative Order or other enforcement tool may or may not be used in conjunction with a schedule of compliance that is included in a permit. If used, the Administrative Order would precede permit issuance to govern conditions and activities until permanent permit conditions are put in place. Requirements in an Administrative Order that have not been completed (e.g., installation of control equipment) or that will be permanent ongoing requirements for continuous compliance (e.g., an emission limit) are incorporated into the air emissions permit. The permit is the document that contains all applicable requirements for a stationary source, including those requirements that originate through an enforcement document, such as an Administrative Order. Once the requirements of an Administrative Order are incorporated into a permit, the Administrative Order is terminated. This approach is provided for under the Clean Air Act. As a policy matter, the MPCA believes it is appropriate to ensure that permits are not issued to entities that are not in compliance and have not entered into an agreement to achieve compliance. The approach also ensures that there is a seamless connection between enforcement actions and subsequent permits.

7007.0950 EPA REVIEW AND OBJECTION.

11. Part 7007.0950, Subpart 1.B.

Comment 11: The Chamber commented that 40 CFR Part 70.8 does not appear to mandate the approach proposed by MPCA, and it goes against the stated goals of the MPCA in issuing permits in a timely manner. Minnesota has been operating under the current arrangement for many years, and it works well. The SONAR (page 20) states that the proposed change is needed for the state to continue operating an approved Part 70 program. This is a potentially significant rule change because it will adversely affect the time required for a permit issuance. It should be deferred to a separate rulemaking.

Response: "Draft permit" is defined in federal rule at 40 CFR Part 70.2 as the version of the permit for which the permitting authority offers public participation under 40 CFR Part 70.7(h) or affected State review under 40 CFR Part

70.8. "Proposed permit" is defined at 40 CFR Part 70. 2 as the version of a permit that the permitting authority proposes to issue and forwards to the USEPA Administrator for review in compliance with 40 CFR Part 70.8.

Under 40 CFR Part 70.8(c)(3)(iii), the permitting authority's failure to process the permit under the procedures approved to meet the requirements of 40 CFR Part 70.7(h) constitutes grounds for USEPA objection of the permit. The USEPA informed the MPCA that the only way to determine if the permitting authority has processed the permit under the procedures approved to meet the requirements of 40 CFR Part 70.7(h) is to ensure that those procedures have been completed prior to USEPA review of the proposed permit. When MPCA proposed alternatives to try to maintain efficient and streamlined permitting procedures in rule, USEPA cited the decision in *Sierra Club v. Whitman*, Civil Action No. 01-01991 (ESH) (D.D.C. Jan. 30, 2002) to reinforce its stance that the proposed permit can only be transmitted to USEPA for review after the completion of the 40 CFR Part 70.7(h) procedures. The decision states "… permitting EPA review prior to the close of the public comment period would undermine the ability of the public to participate in the permitting process and thereby frustrate the purposes of the act."

The USEPA has stated that their review must include all information related to any public review; therefore, their review cannot start until after the public comment ends. As a result, USEPA has not approved existing *Minn. R.* 7007.0950, subpart 1, item B into Minnesota's Title V program because it does not meet the procedures required in 40 CFR Part 70.8. As discussed in the SONAR (page 20), the MPCA proposes to revert to an earlier rule version that USEPA has already approved into Minnesota's Title V program.

The MPCA recognizes that this change may affect permitting schedules. The MPCA worked with USEPA Region 5 to revise our Title V Implementation Agreement to allow for a shortened USEPA review period for proposed permits under certain circumstances, such as when there are no comments during the public comment period. The new process for USEPA review under the amended Title V Implementation Agreement has already been implemented by the MPCA, and the new Implementation Agreement essentially allows for the same permit issuance timelines in most cases.

7007.1100 GENERAL PERMITS.

12. Part 7007.1100.

Comment 12: The AGC commented on the SONAR for the proposed rule which states "if a change were to make the sources ineligible for the general permit, the owner and operator would need to apply for the right type of permit prior to making a change." Example, if a facility needed to have a road repaved and the contractor equipment did not meet the standard then the contractor would have to purchase new equipment or potentially lose the contract. This will be a significant burden on AGC members who purchase equipment with the expectation that it will last a certain number of years. (comment letter page 2)

Response: As discussed in the SONAR (page 21), the purpose of the rule changes at part 7007.1100, subparts 9 and 10 is to clarify the steps that holders of an air general permit need to take if they make a change or if there is a regulatory change that results in ineligibility of the general permit holder. AGC's comment on the proposed change is not entirely clear, but if the commenter is talking about mobile equipment, these rules for stationary sources do not apply. Construction activities, such as repaving, at a stationary source generally do not trigger the need to change the type of air permit for a stationary source. Part 7007.1100 is only related to general permits for the MPCA air permitting program. These air rules changes do not affect any other MPCA program.

One example of the applicability of part 7007.1100, subpart 9 is a manufacturing air general permit-holder that wants to add a new type of manufacturing process at the stationary source. The permittee would need to determine whether adding the new process would make it ineligible for the general permit before adding the new process. If the permittee

would no longer qualify for the general permit, then the permittee would need to apply for and obtain the appropriate permit as described in part 7007.1100, subpart 9, before construction on the new process could begin.

13. Part 7007.1100, Subp. 10.A(1).

Comment 13: The Chamber commented that it believes the proposed 30 day timeline to submit a notification is too short; many facilities covered by general permits are small entities without full-time environmental staff. The Chamber proposes a 90 or 120 day requirement for notification to MPCA, followed by permit application within 180 days of the effective date of the regulatory change. The proposed timing would allow a company to potentially hire a consultant to determine what type of permit was needed.

Response: The 30 day timeframe was chosen to mirror the procedures for other types of air permits. Thirty days is the same timeframe for registration and capped permit-holders to submit a notification when a regulatory change makes them ineligible for their current permit. The MPCA has no information that the 30-day timeframe for registration and capped permit holders has been too short. It is anticipated that the types and sizes of facilities covered by air general permits are similar to those covered by registration and capped permits. The goal is to provide a procedure to be followed if there is a change and it is reasonable to have a similar timeframe for the various types of air permits. Therefore, the MPCA is not revising subpart 10, item A, subitem (1).

7007.1150 WHEN A PERMIT AMENDMENT IS REQUIRED.

14. Part 7007.1150, Item C(3).

Comment 14: The Chamber commented that the proposed rule is not an incentive to facilities to upgrade and improve control equipment. The Chamber proposes a streamlined approach for facilities to improve efficiencies and decrease emissions through upgrades to control equipment, based on the manufacturer's documentation.

Response: The proposed rule clarifies existing rule language and does not change the intent of the rule. Therefore, the proposed rule does not introduce any disincentive to a permittee's ability to upgrade and improve control equipment. The proposed rule applies in the same way it does now; that is, the control equipment rule at parts 7011.0060 through 7011.0080 may be used to replace an existing control, as long as the efficiency of the new control, based on the control equipment rule in *Minn. R.* ch. 7011, is equivalent or better than the permitted control. The proposed rule is strictly clarifying in nature and does not restrict or change a permittee's use of the control equipment rule.

The Chamber's proposal significantly changes the content of the rule and is outside the scope of this rulemaking. The proposal would expand control efficiencies to beyond those allowed by the control equipment rule. Because the control equipment rule is federally enforceable, it can be used as allowed in part 7007.1150, item C. If the permittee wanted to obtain site specific control efficiency, higher than what is allowed in the control equipment rule, a major permit amendment would be required. Therefore, the MPCA is not making the Chamber's suggested revision.

7007.1250 INSIGNIFICANT MODIFICATIONS.

15. Part 7007.1250, Subpart 1.A

Comment 15: The Chamber commented that the SONAR states the change to this rule part is necessary to align with federal permitting rules but does not identify the specific federal permitting rule, or explain why the rule is applicable to conditionally insignificant activities and not to other insignificant activities. It is unclear why the conditionally insignificant activities should be removed from the rule.

Response: *Minn. R.* 7007.1250 governs how permittees are to evaluate proposed changes at their facility to determine if the change qualifies as an insignificant modification. The MPCA is eliminating conditionally insignificant activities from the items qualifying as insignificant modifications under part 7007.1250, subpart 1, item A.

There are two types of conditionally insignificant activities under parts 7008.4000 through 7008.4110: conditionally insignificant material usage and conditionally insignificant particulate matter (PM) and PM-10 emitting operations.

Conditionally insignificant material usage applies to all material usage activities at a source. In MPCA's experience, conditionally insignificant material usage is most often used to qualify for an exemption from permitting under part 7007.0300, subpart 1, item D. For sources requiring a permit, the most common use of *Minn. R.* ch. 7008 conditionally insignificant activities is for the purposes of qualifying for a specific type of permit, such as a registration permit, or for streamlining individual permit applications. Part 7007.1250 applies to individual permit holders.

The MPCA staff has observed two scenarios related to conditionally insignificant material usage for sources holding a permit. Under the first scenario, permittees with existing material usage activities that qualify under part 7008.4100 can add or modify their conditionally insignificant material usage activities as long as they continue to qualify under the rule. Permittees can continue this practice with the elimination of conditionally insignificant activities from part 7007.1250, subpart 1, item A. Under the second scenario, many permitted sources have material usage activities that do not qualify under part 7008.4100. Because these sources already have material usage activities that do not qualify, changes or additions to those activities cannot qualify under part 7008.4100. Therefore, the MPCA has not observed and does not anticipate permittees needing to use part 7007.1250, subpart 1, item A for modifications at a source related to material usage.

As explained elsewhere in this response to comments and in the MPCA's explanation of revisions being made based on comments, the MPCA is proposing changes to parts 7008.4000 through 7008.4110 that impose federally enforceable limits for some conditionally insignificant activities and pollutants, but not all. Based on comments, the MPCA attempted to modify the rule to ensure that all conditionally insignificant activities and pollutants had federally enforceable limits, but, the MPCA determined that change was not possible for part 7008.4110 (PM and PM-10 emitting operations) under this rulemaking. The MPCA will conduct future rulemaking to create practically enforceable conditions for the conditionally insignificant PM and PM-10 emitting operations in part 7008.4110 and in that rulemaking will consider whether to include conditionally insignificant activities in part 7007.1250, subpart 1, item A. Until the conditionally insignificant activities rules under part 7008.4110 include federally or practically enforceable requirements; however, the construction or operation of these activities cannot qualify as an insignificant modification under part 7007.1250, subpart 1, item A. Because the schedule for such rulemaking is unknown at this time, the rule as proposed will be adopted.

The federal rule the MPCA refers to in the SONAR (page 24) includes the Part 70 federal air operating and construction permitting rules (40 CFR Part 70) and Prevention of Significant Deterioration/New Source Review (40 CFR Part 52.21).

7007.1300 INSIGNIFICANT ACTIVITIES LIST.

16. Part 7007.1300, Subp. 2.D(3).

Comment 16: The Chamber commented on the proposed change to move subpart 2.D(3) which covers internally venting equipment without control, to subpart 3, which covers insignificant activities that must be listed. The change is likely to be burdensome for many permittees, in part because emissions from internally vented equipment tend to be small and difficult to quantify. It is unclear what the environmental benefit is from the proposed change.

Response: As discussed in the SONAR (page 24), the change to move subpart 2, item D, subitem (3) to subpart 3 does not change the existing need for permittees to quantify emissions, regardless of whether they are activities that must be listed or not. If permit applicants are currently under the impression that they do not need to quantify emissions from sources that qualify as insignificant activities, the MPCA hopes the Chamber will assist in correcting that misimpression.

Permit applications for insignificant activities described in part 7007.1300, subpart 3, item D, subitem (3) will not need to include the emissions calculations unless requested under part 7007.0500, subpart 2, item C, subitem (2). The change from subpart 2, item D, subitem (3) to subpart 3 insignificant activities only means that the applicant will need to list these activities in the permit application. As discussed in the SONAR, there have been instances where the potential to emit from these activities can be high with the potential to trigger new or different applicable requirements for the source. By requiring these activities to be listed, the MPCA will be aware of them and better able to determine whether emissions information is needed for determining applicability of various rules. The proposed rule requires the applicant to list these activities in the permit application to reduce the possibility that the source could be permitted incorrectly.

17. Part 7007.1300, Subp. 4.

Comment 17: The MPCA proposed to modify the rule provision to apply to only the "initial" Part 70 application. The Chamber agrees that the provision was not intended to be used for a permit modification. However, the Chamber believes the provision can be used for a Part 70 reissuance application and that a source should be able to identify a subpart 4 insignificant activity in a reissuance application. The original SONAR from April 22, 1994, does not state that subpart 4 was only intended for the initial Part 70 permit application. The purpose for subpart 4 insignificant activities was to preclude permittees from describing the emissions from hundreds of very small emission sources. The 1994 SONAR also stated that the MPCA did not need the details of all insignificant activities in the permit application. It is unclear why the information is necessary in 2016 if it was not necessary in 1994. The proposed change contradicts part 7007.0450 which states that reissued permits are subject to the same procedural requirements that apply to initial permit application and issuance.

Response: As discussed in the SONAR (page 25), the proposed rule at part 7007.1300, subpart 4 is strictly to clarify the intent of the rule. The addition of the word "initial" is to reduce any confusion about the type of permit application in which permittees are allowed to list new part 7007.1300, subpart 4 insignificant activities.

The changes proposed by the MPCA to this rule will not result in a change to its current implementation practices for initial permit application processing or permit reissuance. Permittees may list insignificant activities qualifying under part 7007.1300, subpart 4 in initial Part 70 permit actions. Insignificant activities qualifying under part 7007.1300, subpart 4 that are listed in an existing permit, based on the initial Part 70 permit application, will continue to qualify under this subpart through subsequent permit actions, including reissuance. Thus, the MPCA does not anticipate additional administrative burden to permittees applying for reissuance with this proposed change.

Once a facility has a permit and is proposing to make a change, the procedures in parts 7007.1150 through 7007.1500 apply. Minnesota rules do not have a mechanism by which part 7007.1300, subpart 4 insignificant activities can be added at a facility, such as through an insignificant modification under part 7007.1250. During the reissuance process, the MPCA includes the changes at a source that are allowed outside of a permit amendment, such as notifications under part 7007.1150, item C or insignificant modifications under part 7007.1250, and may also roll in amendment applications that have been received. In the absence of a mechanism for adding part 7007.1300, subpart 4 insignificant activities, we are making a clarifying change to part 7007.1300, subpart 4.

The procedural requirements in part 7007.0450 are related to the procedural steps involved in the permit process, such as public notice, public comment period, USEPA review, etc. The procedural requirements are not related to the

technical review requirements in determining whether an emissions unit qualifies as an insignificant activity. Thus, the MPCA does not agree that this proposed change contradicts part 7007.0450.

18. Part 7007.1600, Subpart 1.A

Comment 18: The Chamber proposed that the phrase "upon request" be added to the proposed rule amendments, so that it reads "Upon request, an affected source must submit…"

Response: In part 7007.1600, subpart 1, item A, the MPCA proposed adding "An affected permittee must submit a permit application as required under part 7007.0400, subpart 3, to provide the information needed to issue the amendment." This sentence is added to clarify the rule in response to regulated parties' past input suggesting that part 7007.1600 requires the MPCA to reopen and amend a permit, but that no permit application should need to be submitted to process the reopening. As discussed in the SONAR (page 28), the rule is not inconsistent; however, the clarifying sentence is added to reduce confusion. Whether or not subpart 1, item A is clarified, part 7007.0400, subpart 3 provides the timeframe for submitting the application, as follows "the Permittee shall file an application for an amendment within nine months of promulgation of the applicable requirement." The MPCA would have no way of knowing whether or when a federal requirement becomes applicable to a particular permittee, which is why the rule at part 7007.0400, subpart 3 establishes the timeframe for application. Because the MPCA cannot know whether or when to make a request, the phrase "upon request" should not be added as the Chamber proposed.

7008.4100 CONDITIONALLY INSIGNIFICANT MATERIAL USAGE

19. Part 7008.4100.

Comment 19: The Chamber commented that they disagree with the MPCA's position that current rules do not adequately limit potential to emit from these activities. The Chamber points first to the volatile organic compound (VOC) usage in existing rules of 200 gallons or 2000 pounds (presumably this rule part 7008.4100). The Chamber then points to particulate matter limits (part 7008.4110) that restrict particulate matter emissions by not allowing a source equipped with control equipment to exhaust outside of a building.

Response: Part 7008.4100 is one of two rules the MPCA is proposing to revise in order to create federally enforceable emission limits for conditionally insignificant activities so that they are properly restricted and capable of being exempt from permitting under part 7007.0300, subpart 1, item D.

Previously, those activities emitting only VOCs, such as roller coating, solvent wipe-down, or cleaning activities, could qualify under part 7008.4100. Because no limits on particulate matter, PM-10 or PM-2.5 emissions were provided in the part 7008.4100, an activity like spray application of coatings could not qualify as a conditionally insignificant activity. In crafting the original rule language in 2002, the MPCA intended that the rule allow for spray application of coatings; however, the resultant rule did not cover all potential emissions that spray coating activities released. The MPCA did not revise VOC emission or usage limits already in rule, and those VOC-emitting activities which previously qualified, such as roller coating, solvent wipe down, or cleaning activities, will still qualify as conditionally insignificant activities under this part.

The MPCA proposes revising this part to also include the particulate matter emissions. By including particulate matter limits, along with record keeping, reporting and a method for demonstrating compliance with the emission limit, the particulate matter limits are federally enforceable and can be relied on in Title V permitting to limit potential to emit for conditionally insignificant activities. Existing *Minn. R.* 7008.4110 does not include any of the elements necessary for federal enforceability.

7008.4110 CONDITIONALLY INSIGNIFICANT PM AND PM10 EMITTING OPERATIONS.

20. Part 7008.4110, Subp. 3.

Comment 20: The Chamber commented that the proposed monitoring and record keeping provisions of subpart 3 will be burdensome for some facilities.

Response: The proposed modifications to this rule are the second of the two changes the MPCA is proposing to ensure federally enforceable limits for conditionally insignificant activities. Without monitoring and record keeping, these activities are not federally exempt from permitting. As a result, some level of monitoring and record keeping is mandatory. The MPCA disagrees that the proposed level is burdensome. The general requirements in existing *Minn. R.* 7008.0200, Item D requires proper operation and maintenance of facilities and systems of treatment and control, and maintenance of sufficient records to demonstrate proper operation and maintenance. By establishing monitoring in part 7008.4110, the MPCA is establishing the equipment manufacturer's specifications as minimum level of monitoring and record keeping such that the owner or operator will be able to demonstrate that they are meeting the conditions of the conditionally insignificant activity. Environmental benefit is seen through ensuring that an air cleaning system is operated, inspected, and maintained according to the manufacturer's specifications. Manufacturers generally provide basic instructions for ensuring their products work properly over their lifetime. The operation, inspection, and maintenance activities provide a minimum demonstration that the air cleaning system is working as intended.

7009.0080 MINNESOTA AMBIENT AIR QUALITY STANDARDS.

21. Part 7009.0080.

Comment 21: The Chamber commented that the addition of the column "form of the standard" oversimplifies the complicated calculation methodologies required to interpret air quality standards and requests a footnote be added for each pollutant/averaging time to reference the appropriate federal calculation for compliance with the air quality standards.

Response: The MPCA agrees that the information provided in part 7009.0080 is insufficient to interpret air quality standards. However, the MPCA disagrees that additional footnotes are required. Part 7009.0050 provides sufficient references to methods needed to interpret air quality standards; therefore, the MPCA is not making the Chamber's requested revision.

7011.0070 LISTED CONTROL EQUIPMENT AND CONTROL EQUIPMENT EFFICIENCIES.

22. Part 7011.0070.

Comment 22: The Chamber requested that MPCA state in the SONAR that existing emission units which use the listed control efficiencies for control equipment with codes the MPCA proposes to delete can continue to assume the same control efficiencies without having to go through any formal process to update their control equipment codes. (comment letter page 10)

Response: If a permittee has control equipment with codes 128, 116, 509, and 510 which the MPCA proposes to delete, no formal permit or amendment process is needed to update a stationary source's control equipment code. The codes will need to be updated during a subsequent permit action or notification.

7011.0710 STANDARDS OF PERFORMANCE FOR PRE-1969 INDUSTRIAL PROCESS EQUIPMENT.

23. Part 7011.0710.

Comment 23: The Chamber commented that any proposal to amend the rules to regulate the sum of filterable and organic condensable particulate matter would expand the regulation beyond the original intent and technical basis. The Chamber opposes the proposed rule change for the following reason. Currently, *Minn. R.* 7011.0710 and 7011.0715 both regulate "particulate matter." *Minn. R.* 7005.0100, subpart 31 defines "particulate matter" as "material, except water, which exists at standard conditions in a finely divided form as a liquid or solid as measured by an applicable reference method, or an equivalent or alternative method." Further, *Minn. R.* 7011.0720 currently requires Method 5 to be used when submitting performance tests for any industrial process equipment. Since Method 5 measures filterable but not condensable particulate matter, it seems reasonable to conclude that *Minn. R.* 7011.0710 and 7011.0715 (and other standards referencing these standards, such as 7011.0610 and 7011.0905) currently regulate filterable particulate matter only. (comment letter page 10)

Response: The MPCA currently regulates filterable and organic condensable particulate matter from industrial process equipment. The Chamber correctly points out that Method 5 only measures filterable particulate matter. Existing *Minn. R.* 7011.0725 establishes the testing procedures for particulate matter when organic vapors are present, however. It states that changes shall be made to Method 5 testing when organic vapors are present that condense at standard conditions of temperature and pressure. As explained in the SONAR (pages 10, 44 and 45); *Minn. R.* 7011.0725 is proposed for repeal because it is now obsolete with the promulgation of USEPA Method 202, which addresses testing for condensables. The SONAR explains that the proposed rules do not change the pollutant being regulated but clarify emission limits and corresponding test methods. Although the existing rules require measuring condensable particulate matter, the MPCA agrees that at least two rules had to be read together, which was confusing for some regulated parties. Directly stating the fractions of particulate matter to be considered for each performance standard is proposed throughout *Minn. R.* ch. 7011 in an effort to mitigate past confusion. If a facility is not a source of organic condensable particulate matter, the owner or operator can apply to have organic condensable particulate matter testing excluded as allowed by part 7017.2060, subpart 3, item D.

7011.1265 REQUIRED PERFORMANCE TESTS, METHODS, AND PROCEDURES.
7017.2060 PERFORMANCE TEST PROCEDURES.

24. Part 7011.1265, Subp. 2.A. and Part 7017.2060, Subp. 3.A

Comment 24: The Fond du Lac Band commented that part 7011.1265, subpart 2, item A and part 7017.2060, subpart 3, item A reference the Code of Federal Regulations whereas other sections specifically removed references to the Code of Federal Regulations.

Response: The MPCA has proposed deletion of outdated references to the Code of Federal Regulations in other sections. For example in part 7011.1130 the form of referencing federal test methods is outdated (see SONAR page 46). The references to the Code of Federal Regulations is not outdated in the rules commented on; therefore, no rule change is proposed.

7011.1405 STANDARDS OF PERFORMANCE FOR EXISTING AFFECTED FACILITIES AT PETROLEUM REFINERIES.
7011.1410 STANDARDS OF PERFORMANCE FOR NEW AFFECTED FACILITIES AT PETROLEUM REFINERIES.

25. Part 7011.1405 and 7011.1410

Comment 25: Northern Tier-St. Paul Park Refining Company (SPPRC) commented that Minnesota standards of performance for petroleum refineries appear to have been initially adopted to reflect the federal standard of performance in 40 CFR Part 60, Subpart J, but revisions to the New Source Performance Standards now make these rules obsolete.

Response: The MPCA agrees that the Northern Tier-SPPRC comment has merit, but cannot complete the technical evaluation within a reasonable timeframe for this rulemaking. The MPCA will undertake a technical evaluation of this suggestion in a future rulemaking.

7011.1425 PERFORMANCE TEST METHODS.

26. Part 7011.1425.

Comment 26: Northern Tier-SPPRC requested that in the performance test method parts 7011.1425 and 7017.2060 that other USEPA approved test methods, Methods 5B and 5F, be expressly included as approved methods to utilize as appropriate. (comment letter page 4)

Response: The methods requested by Northern Tier-SPPRC do not apply to all emission sources at the affected facility and therefore will not be specifically listed. It is the MPCA's practice to provide the default methodology for a given pollutant as the standard, in the case of particulate matter, this is Method 5. Other methods may be requested on a source-specific basis either in the facility's air permit or as provided under part 7011.1425, subpart 1, with approval granted by the Commissioner as part of the pretest plan and approval process. This practice ensures appropriate test methodology is considered and agreed to by all parties involved. Therefore, the MPCA is not revising part 7011.1425 as requested.

7011.2300 STANDARDS OF PERFORMANCE FOR STATIONARY INTERNAL COMBUSTION ENGINES.

27. Part 7011.2300.

Comment 27: The Chamber's comments on the proposed rule to lower the sulfur dioxide emissions limit effective January 31, 2018, contained two requests: 1) that MPCA undertake a stakeholder awareness campaign to ensure facilities that need to propose a higher limit for burning higher sulfur content fuel have sufficient time to perform modeling and submit an application for air permit amendment before 1/31/2018; and 2) that MPCA amend the SONAR to confirm that this helpful change for some facilities will not cause more stringent record keeping obligations for other facilities. Specifically, MPCA permit engineers no longer require fuel certifications because sulfur emissions with ultra-low sulfur diesel are so far below the current standard. By lowering the standard, there is a risk of increased record keeping that should clearly be addressed in SONAR. (comment letter page 10)

Response: The MPCA will undertake a number of activities in its efforts to implement these rule changes upon their adoption. Because people rely on many different sources for reliable information, we encourage partners like the Chamber to also share this information.

The Chamber requested that the MPCA forego requiring fuel certification in permits to demonstrate compliance with fuel sulfur limits. Because compliance monitoring is an important component of federally enforceable limits, and is required under federal new source performance standards for this source, air emission permits will continue to require demonstrating that ultra-low sulfur diesel was purchased.

CHAPTER 7017 MONITORING AND TESTING REQUIREMENTS

28. Chapter 7017.

Comment 28: Otter Tail Power Company commented that they appreciate and support MPCA's changes to allow for electronic submittal of reports.

Response: The MPCA notes the views expressed by Otter Tail Power Company.

7017.1170 QUALITY ASSURANCE AND CONTROL REQUIREMENTS FOR CEMS.

29. Part 7017.1170, Subp. 1a.

Comment 29: The Chamber proposed that the provision "if multiple CEMS standards apply to a single unit, the requirements of all applicable standards must be met" be deleted, stating this provision causes confusion. The Chamber proposes "either Part 60, Part 75 or Minnesota Rules as applicable." Most sources will comply with either Part 60 or Part 75, which should be referenced but not be duplicated in state rules. USEPA has been working for over a decade to harmonize Part 60 and Part 75 CEMS requirements. The proposed subpart 1(a) is contrary to these efforts.

Response: Under part 7017.1170, subpart 1a the requirements of all applicable standards must be met. Confusion existed in the past about using one set of standards to meet other requirements. *Minn. R.* 7017.1004, subpart 1, item A does allow "If equivalent or more stringent requirements are mandated by a compliance document, applicable requirement, or order of the commissioner, those requirements supersede the corresponding requirements in parts 7017.1020 to 7017.1220." Because the reasons for monitoring are different between standards, requirements cannot always be considered more stringent. The proposed rule requires that all applicable requirements must be met. The MPCA's proposed change harmonizes the rule requirements by proposing changes that more universally incorporate Part 60 and Part 75 procedures. A given standard may specifically state another rule is a suitable substitute; however, the MPCA lacks the authority with this rulemaking to modify the applicability of federal requirements or provide a broad declaration about the hierarchy of rule standards. Therefore, the MPCA is not making the Chamber's proposed revisions.

30. Part 7017.1170, Subp. 4a.B.

Comment 30: US Steel commented that the proposed rule increases the frequency of cylinder gas audit (CGA) requirements from semiannual to quarterly, and given that audits will be performed more frequently and with time required to line up resources, it is reasonable to allow more than 168 hours to complete the CGA. US Steel requested that MPCA revise subpart 4a.B to allow for a grace period of 336 operating hours. (letter comment #2)

Response: The proposed rule requires that if the unit being monitored by the continuous emission monitoring system is not in operation on the CGA due date, the owner or operator has a grace period of 168 operating hours to perform a CGA on that monitor, which is consistent with federal requirements. As discussed in the SONAR (page 61), the intent of the grace period is to allow for a down or infrequently operated unit to begin operation and complete the audit. If a unit has been down or is infrequently operated, it is reasonable to allow the owner or operator a 168-hour grace period to start up the unit and perform the CGA to avoid invalidating continuous emission monitoring system data. The existing rule did not provide a grace period in which to perform a CGA; the grace period provides flexibility for uncertainty of operations. The frequency for regularly operating units is consistent with the current semiannual frequency. Therefore, the MPCA is not revising subpart 4a, item B as US Steel requested.

31. Part 7017.1170, Subp. 5a.C(2).

Comment 31a: Permittees are required to notify the MPCA 30 days prior to a relative accuracy test audit (RATA). US Steel commented that if a facility is not operating and then quickly starts up again, 720 hours is not enough time for scheduling a test with a contractor and meeting the 30 day prior to notice requirement. US Steel requested that MPCA revise subpart 5a.C(2) to allow for a grace period of 1440 operating hours. (letter comment #4)

Response: The proposed rule requires that if the unit is not in operation at the RATA due date, the owner or operator has a grace period of 720 operating hours in which to perform a RATA on that monitor, which is consistent with federal requirements. As discussed in the SONAR (page 63), the intent of the grace period is to allow for a down or infrequently operated unit to begin operation and complete the audit. The existing rule did not provide a grace period in which to perform a RATA; the grace period provides flexibility for uncertainty of operations. Facilities are ultimately responsible for preparing to start up a unit and meet applicable requirements. The RATA notification may be submitted prior to the 30 day deadline under part 7017.1180, subpart 2. Therefore, the MPCA is not revising subpart 5a, item C, subitem (2) as requested.

Comment 31b: The Chamber requested subpart 5a.C(2) be amended to include an extension provision for low emitting sources if there is an absolute difference of 5 ppm between the continuous emission monitoring system and RM, as listed in Performance Specification 4A for example.

Response: The proposed extension provision is meant to apply to any performance specification where feasible, this includes low emitting sources. Therefore, the MPCA is not revising subpart 5a, item C, subitem (2) as requested.

7017.2060 PERFORMANCE TEST PROCEDURES.

32. Part 7017.2060.

Comment 32: In the performance test method sections (7011.1425 and 7017.2060), Northern Tier-SPPRC requested that other USEPA approved test methods, Methods 5B and 5F, be expressly included as approved methods to utilize as appropriate. (comment letter page 4)

Response: The methods requested by Northern Tier-SPPRC do not apply to all emission sources at the affected facility and therefore will not be specifically listed. It is the MPCA's practice to provide the default methodology for a given pollutant as the standard, in the case of particulate matter, this is Method 5. Other methods may be requested on a source-specific basis either in the facility's air permit or as provided under part 7017.2050, subpart 1 with approval granted by the Commissioner as part of the pretest plan and approval process. This practice ensures appropriate test methodology is considered and agreed to by all parties involved. Therefore, the MPCA is not revising this part as requested.