Response to Comments Received During the Public Comment Period on the Notice of Intent to Adopt Rules Governing Air Quality, Minnesota Rules, Chapters 7005, 7007, 7008, 7011, and 7019 (Exempt Source/Conditionally Insignificant Activities Rule)

The Minnesota Pollution Control Agency (MPCA) placed the Notice of Intent to Adopt Rules Without a Hearing on public notice in the State Register on April 23, 2018. The MPCA received four comment letters and one comment on the proposed rule amendments during the public comment period. There were several general comments; however, most comments were about specific rule parts and 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 that did not result in a change to the proposed rules 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 typically presented verbatim. General comments submitted are about the proposed rule and do not necessarily relate to a specific rule part. The comments on specific rule parts are organized sequentially by rule section. Each rule section is followed by a list 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 on the proposed rules during the public notice comment period from April 23, 2018, through May 29, 2018.

1. Letter from Janet L. Keyes, Complete Health Environmental and Safety Services, Inc., dated May 27, 2018;
2. Letter from Tony Kwilas, Minnesota Chamber of Commerce, dated May 29, 2018;
3. Letter from Rhett Cash and Xavier Ferrier, American Coatings Association, dated May 29, 2018;
4. Email from Judell Anderson, Alliance of Automotive Service Providers of Minnesota, dated May 29, 2018, with attached comment letter not dated; and

B. General Comments

1. General Comments

Comment 1a: Complete Health Environmental and Safety Services, Inc. (CHESS) strongly supports this proposal to conditionally exempt small facilities. (Comment letter page 1)

Response: Comment noted.

Comment 1b: CHESS commented while they would prefer to have seen the rules structured to encourage small companies to move away from high volatile organic compound (VOC) and hazardous air pollutant (HAP)-containing products, CHESS still believes this rule change will reduce the regulatory burden without any significant decrease in environmental protection. (Comment letter page 5)

Response: Comment noted. The MPCA agrees with encouraging companies to move away from high VOC and HAP containing products because doing so will provide additional environmental protections of air quality.

Comment 1c: The Minnesota Chamber of Commerce (Chamber) appreciates the shift to more limited mandatory potential to emit (PTE) demonstrations that would result from implementation of the changes as proposed, since all insignificant activities, by their nature, are insignificant and result in a comparatively trivial proportion of actual emissions released by industrial facilities in Minnesota. (Comment letter page 1)

Response: Comment noted.
**Comment 1d:** The Chamber regrets the proposed rules do not address confidential business information, nor any new insignificant source categories related to research and development, and would welcome the opportunity to collaborate with the MPCA in the future to address these concerns. (Comment letter page 1)

**Response:** The MPCA agrees that the Chamber comment has merit; however, the MPCA determined this rulemaking is not the place to address the issue of confidential business information. Confidential business information is a larger issue and involves other programs beyond the air program, and all submittals to the MPCA. Therefore, the MPCA cannot complete an evaluation of the issues within a reasonable timeframe for this rulemaking. The MPCA will evaluate this suggestion in a future rulemaking.

The MPCA thanks the Chamber for the suggestions regarding adding research and development activities as potential insignificant sources and the offer to collaborate with the MPCA in the future. It is possible that some research and development activities may be treated as an insignificant activity in a future rulemaking. The MPCA will look into what the likely emissions are and encourages the Chamber to think about how the activities might fit into the insignificant activities structure.

**Comment 1e:** The American Coatings Association (ACA) supports the MPCA’s proposal to expand the “conditionally exempt” sources categories to include auto-body refinishing facilities (Minn. R. 7008.2300) and coating facilities (Minn. R. 7008.2400). (Comment letter page 1)

**Response:** Comment noted.

### C. Comments on Specific Rule Parts

#### 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.

2. **Part 7007.0400, Subp. 2**

**Comment 2:** The Chamber requested the MPCA add the following language “In no event shall the permittee submit the application for reissuance no sooner than 18 months before the permit expires” to this subpart to best match the federal rule at 40 CFR Part 70.5(a)(1)(iii). (Comment letter page 2)

**Response:** The federal rule at 40 CFR Part 70.5(a)(1)(iii) identifies the earliest date that the United States Environmental Protection Agency (EPA) is allowed to require an owner or operator submit an application for permit renewal, thus ensuring that no owner or operator will be required to submit a permit application sooner than 18 months before the permit expires. Similarly, the MPCA’s proposed rule limits the ability of the MPCA to include a permit condition that requires an owner or operator to submit an application for reissuance sooner than the timeline set forth in the federal rule. The Chamber’s suggested language, on the other hand, limits the ability of the permittee to submit an application for permit reissuance earlier than that timeframe, which is not consistent with the purpose or the language of 40 CFR Part 70.5(a)(1)(iii). Therefore, the MPCA is not making the Chamber’s requested addition.

#### 7007.0850 PERMIT APPLICATION NOTICE AND COMMENT.

3. **Part 7007.0850, Subp. 2.A**

**Comment 3:** The Chamber supports the rule revision that requires public notice for Part 70 permits be posted electronically for the duration of the comment period on the MPCA web site instead of published in a newspaper. This is a positive change as it provides cost savings to both the regulator and the permittee while maintaining public transparency. (Comment letter page 2)

**Response:** Comment noted.

#### 7007.1300 INSIGNIFICANT ACTIVITIES LIST.

4. **Part 7007.1300 - Other/Miscellaneous Comments**

**Comment 4a:** The Chamber comment on the Statement of Need and Reasonableness (SONAR) for the proposed rule (page 63 of 72) indicates MPCA reviewed exempt sources listed in surrounding states and other EPA Region 5 states.
However, insignificant activity lists for both the Wisconsin Department of Natural Resources (WDNR) and Illinois Environmental Protection Agency (IEPA) are much more extensive than listed in the proposed rules. It was unclear in the SONAR why many of the IEPA and WDNR categories were not included. The rule citations for the IEPA exempt sources is 35 Ill. Adm. Code 201.146 and WNDR is Section NR 406.04. (Comment letter page 9)

Response: 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 not already listed in the existing rule. The MPCA received no comments from the public with suggestions to add additional emissions sources to the insignificant activities list. As a result, the MPCA made revisions to the insignificant activities list based on the MPCA’s experience administering the air permitting program, and how likely those activities were to be conducted at facilities within Minnesota. While this included evaluating similar lists used by other states’ air programs, the MPCA did not intend to duplicate all insignificant activities included in neighboring and other EPA Region 5 states.

If there are activities that the Chamber believes could potentially qualify for treatment as an insignificant activity, the MPCA encourages the Chamber to think about how the activities might fit into the insignificant activities structure. Similar to the Chamber’s other suggestion of including research and development activities, these suggestions could be evaluated in a future rulemaking. (See comment 1d)

Comment 4b: The MPCA asked for suggestions for additional insignificant categories. The Chamber suggested some additional categories include bag filling, research and development operations, cardboard or paper baling, inkjet printing or stamping, stack testing for alternative fuels. (Comment letter page 9)

Response: The MPCA thanks the Chamber for the suggestions. It is possible that some of these suggestions may be incorporated in a future rulemaking; however, the MPCA cannot complete the evaluation within a reasonable timeframe for this rulemaking. The MPCA will review what the likely emissions are, and determine if and how the activities fit into the insignificant activities structure. Remember that just because a particular activity is not specifically listed as an insignificant activity, it does not mean it cannot be considered insignificant for a particular facility. Owners or operators of facilities can calculate potential emissions from the activity and determine if it is insignificant under part 7007.1300, subpart 3, and then include the calculation in their records or permit application as justification.

Comment 4c: The IEPA includes a category for pollution control equipment replacement without requiring a construction permit (35 Ill. Adm. Code 201.146(hhh)). The Chamber requested the MPCA consider the addition of a similar IA source category. (Comment letter page 9 and 10)

Response: As the MPCA reissues or amends permits, the MPCA is adding language to permits that allows replacement of pollution control equipment. Provisions for replacement or installation of pollution control equipment also exist at Minn. R. 7007.1150, item C.

Comment 4d: The MPCA does not allow for any research and testing of sources prior to permit issuance. If the source is new to the facility or new technology, potential hourly emissions may be unknown. There is no current avenue for a facility to test the source to determine the emissions, which then would allow the permittee to apply for the appropriate permit. The WDNR rules allow for this exemption (Section NR 406.04(i)). The Chamber requested the MPCA consider the addition of a similar insignificant activity source category. (Comment letter page 10)

Response: The MPCA cannot complete the evaluation within a reasonable timeframe for this rulemaking. However, the MPCA will evaluate this category for possible inclusion in a future rulemaking.

Comment 4e: Paul Pagel commented that based on conversations with several painting and coating companies along with their chemical suppliers, they feel that the insignificant activities section should include alkaline/phosphate cleaners.

Response: Alkaline and phosphate cleaners were removed from the insignificant activities list as a result of this rulemaking because the level of potential emissions that are associated with these activities are high enough to affect permit applicability as identified in the SONAR (page 25 of 72). While this specific activity is being removed from the insignificant activity list, it does not mean it cannot be considered insignificant for a particular facility. Owners or operators of facilities can calculate potential emissions from the activity and determine if it is insignificant under part
5. **Part 7007.1300, Subpart 1**

**Comment 5a:** The MPCA proposes to add item B, currently repeated in 7007.1300, subparts 2, 3, and 4. This item requires calculations to be provided for insignificant activities if required by Minn. R. 7007.0500, subpart 2, item C, subitem (2), which allows the MPCA to request emission calculations of insignificant activities described in Minn. R. 7007.1300, subparts 2, 3, and 4 or conditionally insignificant activities in Minn. R. 7008.4100 and 7008.4110. With the proposed changes to the insignificant activities listed in subpart 2, the Chamber requested that Minn. R. 7007.0500, subpart 2, item C, subitem (2) be edited to remove the subpart 2 insignificant activities from the list of units for which the MPCA can request emission calculations. (Comment letter page 2 and 3)

**Response:** Regardless of the changes proposed to part 7007.1300, subpart 2, the MPCA retains the authority to request information necessary to make regulatory determinations, including requesting emission calculations from insignificant activities. Therefore, the MPCA is not making the Chamber’s requested revision.

**Comment 5b:** The Chamber commented while MPCA is not proposing any changes to the requirements in subpart 1, item D, the requirement to calculate emissions for all insignificant activities that are subject to section 112 or are part of a Title I modification will lead to misunderstandings and compliance issues. Specifically, section 112 standards no longer apply only to large emissions units. For Title I modifications, plants that build a new process will calculate emissions from operating equipment and generally exclude plant upkeep activities that are listed as subpart 2 insignificant activities. However, if the new process requires a synthetic minor New Source Review limit or is subject to Prevention of Significant Deterioration or otherwise is a Title I modification, then MPCA could interpret emissions from all these trivial activities associated with the new process/equipment be included in the permit application.

The Chamber therefore requested that subpart 2 insignificant activities be excluded from the requirements in Minn. R. 7007.1300, subpart 1, item D. For consistency, the Chamber also requested that the proposed additional phrase “except as required under Subpart 1, item D” be removed from Minn. R. 7007.1300, subpart 2. (Comment letter page 3)

**Response:** The MPCA believes it is clear in both the existing rule (Minn. R. 7007.1300, subparts 2 and 3) and the proposed rule (part 7007.1300, subpart 1, item D), that activities or emission units that are subject to section 114(a)(3) or section 112 of the Clean Air Act (CAA), or are part of a Title I modification, or, if accounted for, make a stationary source subject to Part 70, must be included in a permit application. There is no provision for exclusion of such activities in any of these sections of the CAA, which is why Minnesota Rules do not exclude those activities. The MPCA does not believe this leads to misunderstandings or compliance issues. Therefore, the MPCA is not making the Chamber’s requested revision.

6. **Part 7007.1300, Subp. 3**

**Comment 6a:** The Chamber commented Minn. R. 7007.1300, subpart 2, item D, subitem (5) is limited to handheld equipment, while revised Minn. R. 7008.4110 requires control equipment to be in place. Neither option accommodates non-handheld equipment that does not first pass through an air filtering system. The Chamber believes emissions from such equipment that vent indoors result in little to no emissions to the outside atmosphere. Industrial Hygiene standards (29 CFR 1910.1000) for indoor air quality standards are often more stringent than what would be required if such operations are vented externally.

The Chamber further commented that limiting this category to only handheld equipment or finishing operations require that certain activities that were historically considered insignificant activities will no longer qualify, resulting in the need for facilities to review operations and potentially re-permit historical insignificant activities. The SONAR for the proposed rule is therefore misleading in stating that this rulemaking imposes no additional costs for facilities (SONAR page 55). That is not correct. The SONAR fails to discuss the additional burden for permittees if these items are no longer insignificant and the permittee must amend their permit to incorporate them as emission units under the minor amendment provisions in Minn. R. 7007.1450, subpart 2. The SONAR fails to address the costs to Registration permit holders to incorporate these emission units into their monthly emission calculations if the unit no longer qualifies as insignificant.
For these reasons, the Chamber requested Minn. R. 7007.1300, subpart 3, item D, subitem (2) be retained as an insignificant activity. (Comment letter page 4 and 5)

Response: As stated in the SONAR (page 17 of 72), the changes to part 7007.1300 primarily add additional emissions units that can qualify as an insignificant activity, or relocate insignificant activities from part 7007.1300, subpart 3 (those required to be listed in a permit application) to part 7007.1300, subpart 2 (those not required to be listed in a permit application). While facilities would have to determine whether or not an activity still qualifies as insignificant, the MPCA believes that it accounted for the majority of activities when addressing the probable costs associated with the rule change. The MPCA stated in the SONAR (page 24 of 72) that we believe the majority of activities previously covered by the existing rule would qualify for treatment as an insignificant activity under the proposed rules in part 7007.1300, subpart 2, item D, subitem (5) or treatment as a conditionally insignificant activity in part 7008.4100.

Based in part on this comment and further analysis, the MPCA is adding additional qualifiers to the proposed rule in part 7007.1300, subpart 2, item D, subitem (5) to identify additional activities, which are not handheld, that can qualify for treatment as an insignificant activity. The rationale for the change is addressed in the Order Adopting Rules.

Comment 6b: The Chamber requested the CO2e threshold of 1,000 tons per year in subpart 3, item F, subitem (3) be removed. This arbitrary threshold was added to the rule on 1/24/2011 to accommodate the federal “Tailoring Rule” which has since been rescinded. Many emission units (such as small space heaters and make-up air units) which would otherwise qualify as subpart 3 insignificant activities are required to be included in air permits solely because their CO2e emissions exceed this threshold. The Chamber also commented that the current heat input capacity thresholds in Minn. R. 7007.1300, subpart 2, items A and G, and Minn. R. 7007.1300 subpart 3, item A were also defined based on the rescinded Tailoring Rule. The Chamber requested that these rules revert to the rule language that was in place prior to 1/24/2011. (Comment letter page 5)

Response: The MPCA agrees that an opportunity exists to address the greenhouse gas (GHG) tailoring rule and the associated requirements within Minnesota Rules. The MPCA intends to address all GHG-related rules in a future rulemaking. Within that rulemaking, the MPCA will look into the Chamber’s request to remove the CO2e threshold identified in part 7007.1300, subpart 3, item F, subitem (3), and to adjust the heat input capacity thresholds identified in part 7007.1300.

Comment 6c: The Chamber recommended retaining the order of subpart 3 items and NOT re-ordering to accommodate removal of subpart 3, items C, D, F, and H; and proposed these items are left in place with a “repealed” or language as appropriate for the change. These insignificant activities are required to be listed in permits; the current citations are often included. If re-ordered, then a significant effort would be involved updating those references. It could also cause confusion related to reassessing any currently listed insignificant activities that were claimed under the existing subpart 3, items C, D, F, or H. Leaving the old citations in place would make it easier to identify previously covered subpart 3, items C, D, F, and H insignificant activities that will need to be evaluated. (Comment letter page 5)

Response: The MPCA consulted with the Office of the Revisor regarding the Chamber’s request. The Chamber’s request does not conform with Minnesota Rules style, and the Revisor does not repeal anything below the subpart level; items must be shown as stricken. The Revisor did note however that occasionally, the legislature has repealed a rule item and the Revisor must then include a repealer note with an item. However, that repealer note is permanent and cannot be removed which makes subsequent amendments to add or delete items in the subpart difficult. Therefore, the MPCA is not making the Chamber’s requested revision.

7. Part 7007.1300, Subp. 4

Comment 7a: This subpart identifies the emission thresholds below which emissions units may simply be listed in an initial Part 70 permit application. The Chamber requested that this subpart also be used for a Part 70 permit renewal application. The original SONAR (dated 4/21/1994) does not state subpart 4 was only intended for the initial Part 70 permit application. The purpose of subpart 4 was to preclude permittees from calculating the emissions from numerous small emission sources. The 1994 SONAR further stated that MPCA did not need the details of all insignificant activities in the permit application. It is unclear why the information is necessary now if it was not in 1994. Restricting applicability of subpart 4 to initial Part 70 applications contradicts Minn. R. 7007.0450, subpart 1, which states reissued permits are
subject to the same procedural requirements that apply to initial permit application and issuance. (Comment letter page 5 and 6)

Response: Part 7007.1300, subpart 4 was revised in the Omnibus Rule promulgated December 19, 2016 (41 SR 763). Therefore, the 1994 SONAR is no longer the relevant SONAR. As stated in the SONAR of the Omnibus Rule:

Subpart 4 is revised to clarify that this subpart applies to owners and operators applying for "the initial" Part 70 permit “for a stationary source.” This subpart is intended to apply only to initial Part 70 applications, not permit amendment applications or permit reissuance applications. The only time activities may qualify as insignificant under this subpart is at the time of the initial Part 70 permit application. The reason for this particular insignificant activity category was to offer streamlining opportunities for first time Part 70 permit applicants and the MPCA. Applicants for permit amendments or permit reissuances have, at times, proposed emissions units as insignificant activities under subpart 4, but these units do not qualify since it is not the initial Part 70 permit application. In addition, some permittees have attempted to use this subpart to try to qualify for an insignificant modification under Minn. R. 7007.1250, subpart 1, item A. It is reasonable to clarify that subpart 4 can be used only in an initial Part 70 permit application to reduce confusion for permit applicants and reduce MPCA staff time in processing permit applications.

Comment 7b: Similar to the comments provided relating to the CO2e thresholds (see comment 6b), the Chamber requested that Minn. R. 7007.1300, subpart 4, item D (which sets CO2e thresholds of up to 10,000 tons per year of potential emissions or up to 1,000 tons per year of actual emissions) be removed. (Comment letter page 6)

Response: The MPCA agrees that an opportunity exists to address the greenhouse gas (GHG) tailoring rule and the associated requirements within Minnesota Rules. The MPCA intends to address all GHG-related rules in a future rulemaking. Within that rulemaking, the MPCA will look into the Chamber's request to remove the CO2e threshold identified in part 7007.1300, subpart 3, item F, subitem (3).

7008.0100 DEFINITIONS.

8. Part 7008.0100, Subp. 7 and 8

Comment 8: CHESS commented that subpart 7 "Cleaning material" and subpart 8 "Coating" are defined as materials that contain either a VOC or a HAP, but there is no threshold percentage or quantity. The safety data sheet for another product commonly used in collision repair facilities (Niteo’s CarBrite Cherry Bomb Car Soap) does not state it contains any VOCs or HAPs, but contains between 0.1% and 1% benzaldehyde (a HAP and VOC). This is equivalent to the booth coating, but CHESS has not seen it listed in any VOC report the vendors have provided to its clients. CHESS recommended that facilities be allowed to use the same cutoff for listing VOCs and HAPs that is used for listing hazardous materials on a safety data sheet. CHESS indicated that it is not an equivalent calculation, and would be simpler for many facilities to include all products, but it would give any facility approaching the 2,000-gallon limit a way to stay below that limit. (Comment letter page 1 and 2)

Response: While the definition of coating and cleaning materials does not contain a threshold percentage or quantity, the definition for both coating and cleaning material states that if the material contains either a VOC or HAP it meets the definition of a coating or cleaning material. This means that if a percentage of VOC or HAP is listed on the safety data sheet, technical data sheet, or similar documentation from the manufacturer, the volume of the entire product must be counted toward the 2,000-gallon limit.

Based in part on this comment and further analysis, an alternative limit for VOC and HAP emissions (20,000 pounds of VOC emissions each year and 10,000 pounds of HAP emissions each year) is being added to the rule to encourage the use of low-VOC and low-HAP products, such as waterborne paints. This will have the additional benefit of creating flexibility for those facilities that are approaching the 2,000-gallon limit of VOC and HAP-containing coating and cleaning materials.
Comment 9: The MPCA proposes to define “Finishing operations” as a list of specific activities. Minn. R. 7008.4110, subpart 2 currently applies to “Emissions from equipment venting PM or PM10 inside a building, for example: buffing, polishing, carving...” These example activities are now being fixed as the only activities that qualify as a conditionally insignificant activity under this rule. The Chamber requested finishing operations be defined using the same language as currently (but including MPCA proposed language related to abrasive blasting). This would also be consistent with how the MPCA is proposing to define “Material usage,” as “an activity at a stationary source such as...” (Comment letter page 6)

Response: As the Chamber stated, the MPCA proposed to define finishing activities as the list of activities identified in the existing rule. Originally, 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. As stated in the SONAR (beginning on page 49 of 72), the MPCA made the proposed revisions based on its experience administering this conditionally insignificant activity rule. The MPCA found that the existing rule was applied in different ways by permit applicants to activities that are not similar to the type of activities listed or intended, so the proposed rule makes it clear what qualifies and what does not.

Additionally, while the definition of material usage uses the words “such as,” the same application will not work for the definition of finishing operations. For material usage, the emissions are associated with the material used and not the process itself. Unlike finishing operations, emissions from material usage activities can be determined by the amount of material used and the associated VOC and HAP contents, which is an objective measurement. Calculating emissions from finishing operations, on the other hand, inherently depends on how the activity is performed (e.g., there is a qualitative difference between dust produced through sanding and sawing). The MPCA believes the list of specific activities is appropriate. Therefore, the MPCA is not making the Chamber’s suggested change.

If there are additional activities that the Chamber believes could be defined as finishing operations and qualify for treatment as a conditionally insignificant activity in part 7008.4110, the MPCA encourages the Chamber to make specific recommendations, and those could be evaluated in a future rulemaking.

7008.0200 GENERAL REQUIREMENTS.

10. Part 7008.0200, Item F

Comment 10: CHESS commented their primary concern is whether a facility that is no longer eligible for the exemption under these rules (e.g. a painting facility that exceeds 2,000 gallons in a calendar year) would be eligible for a registration permit. Any painting or collision repair facility that has more than one gun hookup in a booth or with one booth and one prep station is likely to exceed potential emissions of 10 tons of HAPs per year, even if the shop primarily sprays low VOC coatings. That leaves any facility that could grow beyond 2,000 gallons per year in the awkward situation of either limiting growth, operating in violation of this exemption, or spending thousands of dollars and hundreds of hours of staff and MPCA time on the very complex LEF permit. If facilities that exceed 2,000 gallons a year are only eligible for an LEF permit, we will need to advise all but our smallest facilities that they should maintain their current permits. CHESS will also need to advise any new facilities they need to apply for registration permits, if there is any possibility of exceeding use of 2,000 gallons per year of any paint or coating product as they grow. (Comment letter page 2 and 3)

Response: A facility operating in compliance with an exempt source category (including all recordkeeping and having submitted the appropriate notification to the MPCA) has effectively accepted a federally enforceable limit on its emissions such that it is not a major source. If the facility is subsequently in a position to expand operations and will no longer qualify for the exemption, it may eligible to apply for a registration permit. It is not required by default to consider itself an existing major source for purposes of determining the appropriate permit. There may be situations where an expansion is so extensive that a registration permit is not appropriate, but pre-exemption potential emissions would not be a determining factor. Note also that the “once in always in” policy for single and total HAP potential emissions over 10 or 25 tons per year, respectively, ended on February 8, 2018. The MPCA reserves the right to examine
the specifics of a situation and may (or may not) have additional questions for a facility moving from exemption status to permitted status.

7008.2300 AUTO-BODY REFINISHING; TECHNICAL STANDARDS.

11. Part 7008.2300

Comment 11a: ACA commented that according to the proposed amendments, in order to be considered a smaller emitter and exempt from the current system of registration permits in Minnesota, auto-body refinishing facilities and coating facilities must meet certain technical standards, including eligibility, operational, recordkeeping, and notification requirements. ACA believes that these standards and requirements are reasonable, including the threshold eligibility requirement. (Comment letter page 1)

Response: Comment noted.

Comment 11b: ACA commented they support MPCA’s proposed amendments to add auto-body refinishing facilities and coating facilities to the list of stationary sources that may be conditionally exempt from the requirement to obtain an air emissions permit because it would lessen the burden on auto-body refinishing facilities and coating facilities, as well as MPCA’s permitting and enforcement divisions. ACA is aware of various small auto-body refinishing facilities and coating facilities in Minnesota that do not emit large amounts of pollutants per year, and who would greatly benefit from an exemption from the current system of registration permits in Minnesota. The proposed technical standards that auto-body refinishing facilities and coating facilities would have to follow in order to be exempt from the current permitting requirements would be far less costly in time, money, and resources. (Comment letter page 1 and 2)

Response: Comment noted.

12. Part 7008.2300, Subpart 1.C

Comment 12: Facilities may comply with the 2,000-gallon limit of either products purchased or products used. CHESS commented because the standard does not state otherwise, it assumes that facilities could use the products-purchased limit one year, and then use the products-used limit the following year. If that is not the intent, that requirement needs to be clarified. (Comment letter page 3)

Response: The MPCA intends for owners or operators to be able to use either counting method. The initial choice between purchased or used is offered so owners or operators can select a way to comply with the rule that is more likely to match the records they already keep. If the owners or operators anticipate needing to switch counting methods during a calendar year, a good practice would be for the owners or operators to retain both purchase and usage records to ensure that they are able to demonstrate compliance with the applicable requirements.

13. Part 7008.2300, Subp. 3

Comment 13: CHESS commented they have some concern about how expansive the requirement to keep records for an auto-body refinishing facility could be. The proposed rule states that records must be kept of inspection, maintenance and repair activities for the spray painting equipment, exhaust filtration systems and spray booths. That is non-specific. It does not state how long the records must be kept or what records are required. CHESS further commented they would like clarification. "For instance, do facilities need to record each time paint booth filters are changed? That would be feasible. In contrast, documenting that the floor of a booth is swept daily (a maintenance task recommended by one booth manufacturer) would result in a lot of record keeping with little payback. If the MPCA requires recordkeeping to document that the equipment is maintained according to the manufacturer’s instructions, we would like an interpretation that only documentation of annual maintenance is required." (Comment letter page 3)

Response: The eligibility criteria described in part 7008.2300, subpart 1, item A includes that the owner or operator must comply with part 7008.2300 and part 7008.2000. Part 7008.2000 requires that for any stationary source to be eligible to operate without a permit under chapter 7008, that stationary source must comply with all general and technical standards established in chapter 7008. The general requirements identified in part 7008.0200 include general record keeping requirements and timelines.
Specifically, part 7008.0200, item B identifies that records required by chapter 7008 must be retained for five years from the date the record was made. Records for the current calendar year must be maintained at the stationary source and records for years prior to the current calendar year can be maintained either at the stationary source or at an office of the owner or operator.

Furthermore, part 7008.0200, item F identifies that the owner or operator must maintain sufficient records to demonstrate the proper operation and maintenance of control equipment (such as the filtration systems and spray booths used at auto-body refinishing facilities). In general, the MPCA intends that the owner or operator keep records of the inspection, maintenance, and repair activities recommended by the manufacturer as discussed in the SONAR (page 33 of 72). There may be other inspection, maintenance, and repair activities performed; however, the MPCA did not intend to create an exhaustive list of record keeping requirements. A good practice would be for the owner or operator to keep records of these other activities if they are necessary to demonstrate that sufficient records have been maintained.

14. Part 7008.2300, Subp. 4

Comment 14a: Under subpart 4, shops would have 90 days after the rule becomes effective or after they start up to notify the Commissioner that they will operate under this exemption. CHESS commented that is reasonable, as long as a concerted effort is made, through multiple channels, to alert facilities to this requirement. CHESS recommended reaching out to building inspectors, fire inspectors and hazardous waste inspectors, as they often work with these facilities. (Comment letter page 3)

Response: The MPCA has changed the notification period in the proposed rule from 90 days to 120 day as requested by another commenter and addressed the rationale for the change in the Order Adopting Rules. The MPCA agrees that outreach and education about the new rule is important and necessary. As part of the rule implementation plan, the MPCA's air policy program and business assistance program will develop fact sheets and webpages with information about the rule, and will contact as many affected businesses as possible both directly and through trade and agency connections.

Comment 14b: CHESS commented that if facilities miss the initial notification period, the MPCA should clarify that facilities will be able to submit a tardy notification, although they may be subject to a penalty. CHESS does not want facilities that miss the notification period to have their only options be to operate illegally or to apply for the burdensome LEF permit. (Comment letter page 2)

Response: The MPCA intends that facilities submit a timely notification. The MPCA is extending the notification period to 120 days as explained above (see response to comment 14a) to reduce the number of notifications that miss the rule deadline. Facilities who miss the rule deadline may still qualify for the exemption but may be subject to a penalty, evaluated based on the specific circumstances.

7008.2400 COATING FACILITY; TECHNICAL STANDARDS.

15. Part 7008.2400

Comment 15a: ACA commented that according to the proposed amendments, in order to be considered a smaller emitter and exempt from the current system of registration permits in Minnesota, auto-body refinishing facilities and coating facilities must meet certain technical standards, including eligibility, operational, recordkeeping, and notification requirements. ACA believes that these standards and requirements are reasonable, including the threshold eligibility requirement. (Comment letter page 1)

Response: Comment noted.

Comment 15b: ACA commented they support MPCA’s proposed amendments to add auto-body refinishing facilities and coating facilities to the list of stationary sources that may be conditionally exempt from the requirement to obtain an air emissions permit because it would lessen the burden on auto-body refinishing facilities and coating facilities, as well as MPCA’s permitting and enforcement divisions. ACA is aware of various small auto-body refinishing facilities and coating facilities in Minnesota that do not emit large amounts of pollutants per year, and who would greatly benefit from an exemption from the current system of registration permits in Minnesota. The proposed technical standards that auto-
body refinishing facilities and coating facilities would have to follow in order to be exempt from the current permitting requirements would be far less costly in time, money, and resources. (Comment letter page 1 and 2)

Response: Comment noted.

16. Part 7008.2400, Subpart 1.C

Comment 16: Facilities may comply with the 2,000-gallon limit of either products purchased or products used. CHESS commented because the standard does not state otherwise, it assumes that facilities could use the products purchased one year, and then use the products used limit the following year. If that is not the intent, that requirement needs to be clarified. (Comment letter page 3)

Response: See response to comment 12.

17. Part 7008.2400, Subp. 2.B

Comment 17: The Chamber requested the MPCA allow for compliance with 40 CFR Part 63, subpart HHHHHH as an optional compliance demonstration method as an alternative to the requirements of this rule. (Comment letter page 7)

Response: The standards in 40 CFR Part 63 are meant to supplement air permitting programs. Federal rule at 40 CFR Part 63, subpart HHHHHH, uses best practices to reduce the actual emissions of six HAPs: five metals and methylene chloride. However, air permitting programs are required by the EPA to limit the potential emissions of HAPs and EPA criteria pollutants. The EPA criteria pollutants include five pollutants that are not regulated by 40 CFR Part 63, subpart HHHHHH. For this reason, the MPCA rule includes additional requirements beyond those in 40 CFR Part 63, such as the 2,000-gallon annual coating limit. A rule that requires only compliance with 40 CFR Part 63, subpart HHHHHH would not limit criteria pollutants. Therefore, the MPCA is not making the Chamber’s requested change.

18. Part 7008.2400, Subp. 3

Comment 18: CHESS expressed concern that the requirement to keep records for a coating facility could be too expansive. The proposed rule covers records of inspection, maintenance and repair activities for the spray painting equipment, exhaust filtration systems and spray booths. That is non-specific. It does not state how long the records must be kept or what records are required. CHESS further commented they would like clarification. "For instance, do facilities need to record each time paint booth filters are changed? That would be feasible. In contrast, documenting that the floor of a booth is swept daily (a maintenance task recommended by one booth manufacturer) would result in a lot of record keeping with little payback. If the MPCA requires recordkeeping to document that the equipment is maintained according to the manufacturer's instructions, we would like an interpretation that only documentation of annual maintenance is required." (Comment letter page 3)

Response: See response to comment 13.

19. Part 7008.2400, Subp. 4

Comment 19a: Under subpart 4, shops would have 90 days after the rule becomes effective or after they start up to notify the Commissioner that they will operate under this exemption. CHESS commented that is reasonable, as long as a concerted effort is made, through multiple channels, to alert facilities to this requirement. CHESS recommended reaching out to building inspectors, fire inspectors and hazardous waste inspectors, as they often work with these facilities. (Comment letter page 3)

Response: See response to comment 15a.

Comment 19b: CHESS commented that if facilities miss the initial notification period, the MPCA should clarify that facilities will be able to submit a tardy notification, although they may be subject to a penalty. CHESS does not want facilities that miss the notification period to have their only options be to operate illegally or to apply for the burdensome LEF permit. (Comment letter page 2)

Response: See response to comment 14.

7008.2500 WOODWORKING FACILITY; TECHNICAL STANDARDS.
20. Part 7008.2500, Subp. 4

Comment 20a: CHESS commented, "subpart 4 specifies what records must be kept, but provides no guidance on how long those records must be kept. We have the same concern we voiced for auto-body and coating facilities, about how extensive the record keeping must be." (See comments 13 and 18)

Response: See response to comment 13.

Comment 20b: CHESS commented they also have the same concern about eligibility for a simple registration permit if the woodworking facility grows and exceeds the material usage limits in Minn. R. 7008.4100. (Comment letter page 4)

Response: See response to comment 10.

7008.2600 INSIGNIFICANT FACILITY; TECHNICAL STANDARDS.

21. Part 7008.2600

Comment 21: CHESS commented, "Because eligibility is based on potential emissions, we are concerned that very small facilities that readily meet material usage limitations may not be eligible for this exemption." (Comment letter page 4)

Response: Eligibility is based on the ability of a facility to meet the requirements of the exemption. If a facility meets the material usage limitation and complies with all parts of the conditionally insignificant source exemption, that is a limit on the potential emissions.

Further, the material usage conditionally insignificant activity in part 7008.4100 establishes a federally enforceable limit, which effectively caps the material usage PTE for the facility. As stated in the SONAR (page 44 of 72) discussing the part 7008.2600 Insignificant Facility; Technical Standards, "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."

22. Part 7008.2600, Subp. 4

Comment 22a: Subpart 4 states that facility operators must use the electronic spreadsheet "Insignificant Facility PTE" provided by the Commissioner. CHESS commented the reference given for the spreadsheet is an Adobe Acrobat document, not a spreadsheet, with no ability to enter numbers or to see the formulas. (Comment letter page 4)

Response: After the proposed rules are adopted the "Insignificant Facility PTE" spreadsheet will be posted on the MPCA Rulemaking Incorporation by Reference web site https://www.pca.state.mn.us/regulations/minnesota-rulemaking in Microsoft Word format and will be interactive. Under part 7008.2600, subpart 4, the owner or operator has the option to use either the electronic spreadsheet or the definition in part 7005.0100, subpart 35a to calculate emissions from their stationary source.

Comment 22b: Subpart 4 references a spreadsheet "Insignificant Facility PTE," which is incorporated by reference. The Chamber requested that this spreadsheet be part of the rule and should not be allowed to change without rulemaking. (Comment letter page 7)

Response: The proposed rule to incorporate by reference the "Insignificant Facility PTE" spreadsheet meets the Administrative Procedure Act requirements for incorporation by reference found in Minn. Stat. § 14.07, subp. 4(a). This includes the requirement the rule state whether the material is subject to frequent change. The proposed rule states the "Insignificant Facility PTE" spreadsheet is not subject to frequent change. The MPCA does not anticipate the need to make changes to the spreadsheet after the proposed rules are adopted as the spreadsheet provides the owner or operator a conservative estimate of the potential emissions of the stationary source based on the currently available emissions information for the insignificant and conditionally insignificant activities identified in Minnesota Rules.

7008.4000 CONDITIONALLY INSIGNIFICANT ACTIVITIES.

23. Part 7008.4000, Item C

Comment 23: Item C requires inclusion of calculation of emissions from conditionally insignificant activities in a permit application for a Part 70 permit or amendment. The Chamber commented this is inconsistent with the proposed changes to 7007.1300, subparts 2 and 3, and unnecessary, since the rationale for inclusion of PTE from conditionally insignificant
activities would be instances where emissions from conditionally insignificant activities could push a permittee beyond a relevant permit threshold. In the case described in item C, the permittee has already triggered Title V status. (Comment letter page 7 and 8)

Response: The purpose of including calculation of emissions from conditionally insignificant activities in applications for Part 70 permits and Part 70 permit amendments is to provide the information necessary for the MPCA to confirm the applicant’s determination of whether or not compliance assurance monitoring applies (40 CFR Part 64). Therefore, no change will be made to the rule as proposed.

7008.4100 CONDITIONALLY INSIGNIFICANT ACTIVITY; MATERIAL USAGE.

24. Part 7008.4100

Comment 24: CHESS recommended defining a VOC-containing material as containing a certain amount of VOCs such as 1% total VOCs by weight (see comment 11). Chemicals present in less than 1% usually do not need to be listed on safety data sheets, but some manufacturers will list those, or will list VOCs even if less than 1%. Whether that is done is inconsistent. VOCs present in less than 1% will not materially contribute to VOC emissions: a facility would have to use 100,000 gallons of a product with a density of 10 pounds per gallon to reach the limit of 10,000 pounds of VOCs. Including this cutoff will simplify calculations. (Comment letter page 4)

Response: While VOC-containing material is not defined in part 7008.4100, material usage as defined in part 7008.0100, means that VOC is present in sufficient quantities to be listed on the safety data sheet, technical data sheet, or similar documentation from the manufacturer. This means that if a percentage of VOC is listed on the safety data sheet, technical data sheet, or similar documentation from the manufacturer, the VOC-containing material must be accounted for in the VOC calculations contained in part 7008.4100.

7008.4110 CONDITIONALLY INSIGNIFICANT ACTIVITY; FINISHING OPERATIONS.

25. Part 7008.4110

Comment 25: The SONAR for the proposed rule (page 49) cites the original 1995 rulemaking indicating intent for this category to only apply to finishing operations. However, the MPCA fails to include the second 1995 rulemaking in the SONAR in which it expanded the list to include non-finishing activities. The July 21, 1995 SONAR indicates that, at one time, the MPCA thought it was reasonable to allow all types of particulate emitting operations to qualify under this insignificant activity. Upon this basis, it is the Chamber’s opinion this category should remain as currently included in the rule. The SONAR to the rule fails to discuss why at one point in time it was reasonable to include operations other than finishing in this category, and why this opinion has since changed. (Comment letter page 8)

Response: The MPCA is not making the Chamber’s suggested change. The MPCA proposed to define finishing activities as the list of activities identified in the existing rule (see response to comment 9). Originally, 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. As discussed in the SONAR (beginning on page 49 of 72), the MPCA made the proposed revisions based on its experience administering this conditionally insignificant activity rule, after finding that the existing rule was applied by permit applicants to activities that the MPCA did not intend to qualify for treatment as a conditionally insignificant activity.

The different applications of the rule resulted in increased work for permit applicants and the MPCA in processing permit applications. The dissimilar activities often had higher PTE and needed additional review to determine the applicability of various air programs. For these reasons, the proposed rules purposefully limited the types of activities that qualify under this part to reduce the confusion surrounding rule applicability. Additionally, while some activities may no longer qualify as a conditionally insignificant activity in this part, it does not mean an activity cannot be considered insignificant under a different rule part.

26. Part 7008.4110, Subpart 1

Comment 26: The Chamber recommended the MPCA define the phrase “lead is a component,” stating “Many materials contain trace amounts of lead. This will eliminate many materials from qualifying if it is not defined in a reasonable
manner. One possible way to define it is if it is listed on a SDS for the material being processed." (Comment letter page 8)

**Response:** While “lead is a component” is not defined in rule, the MPCA has used this same term in part 7008.4100, subpart 1 to limit what material usage qualifies as a conditionally insignificant activity. Part 7008.4100 was revised in the Omnibus Rule promulgated December 19, 2016 (41 SR 763), includes the same term “lead is a component”, and was excluded for the regulatory purposes identified in the SONAR for the proposed rule at page 50 of 72 (i.e., lead emissions have a significantly lower permitting threshold compared to emissions of particulate matter).

The intent of the proposed rule is to exclude, purposefully, any materials that contain lead. This means that lead cannot be present in any activity claimed as a mechanical finishing operation under part 7008.4110.

27. Part 7008.4110, Subp. 3.E

**Comment 27:** CHESS commented, "The presumption for emission control seems to be that an exhaust ventilation system will be used (subpart 3, item F, for instance, references the design airflow rate). But some operations, such as stone finishing, will use wet methods (water) to control particulates.

Subpart 3, item E requires the facility to keep records of the number of hours of operation. That is not difficult if equipment has an hour meter. But it would be very difficult if operation is sporadic and the equipment does not log hours (e.g. acrylic piece manufacturing operation). A piece of acrylic may be put on a CNC to cut it. It may then be moved to a polishing machine. If one dust control system is used for all the pieces of equipment, logging hours will not be difficult. If each piece of equipment has its own dust capture system, turned on when the machine is running, logging hours will be very difficult. An alternative to logging hours may be to allow the operator to use work hours as a de facto measurement. That would be much more conservative than actual hours of operation." (Comment letter page 5)

**Response:** The intent of the proposed rule is that it applies to dry finishing operations controlled by an exhaust ventilation system (cyclone or fabric filter). At this time, the MPCA does not have sufficient information on the control efficiency of water application to be able to include that in this category of conditionally insignificant activity, but will consider the possibility for future rulemakings. Note that a category for “plasma- or laser-cutting operations using a water table” is proposed for part 7007.1300, subpart 2.

It is an acceptable practice to log work hours as a conservative substitute for hours of equipment operation.