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January 15, 2026

The Honorable Foung Hawj  
Chair, Environment, Climate and Legacy  
Committee  
3231 Minnesota Senate Building  
95 University Avenue W.  
St. Paul, MN 55155

The Honorable Steve Green  
Ranking Minority Member, Environment, Climate  
and Legacy Committee  
2319 Minnesota Senate Building  
95 University Avenue W.  
St. Paul, MN 55155

The Honorable Josh Heintzman  
Co-Chair, Environment and Natural Resources  
Finance and Policy Committee  
2<sup>nd</sup> Floor Centennial Office Building  
658 Cedar Street  
St. Paul, MN 55155

The Honorable Peter Fischer  
Co-Chair, Environment and Natural Resources  
Finance and Policy Committee  
5<sup>th</sup> Floor Centennial Office Building  
658 Cedar Street  
St. Paul, MN 55155

RE: 2025 Compliance Protocol Report in accordance with Minnesota Statute § 116.07, subd. 4n(f)

Dear Chair, Co-Chairs and Ranking Minority Member:

In accordance with Minnesota Statute § 116.07, subd. 4n(f), the Minnesota Pollution Control Agency (MPCA) is required to submit an annual report on the use of compliance protocols over the preceding year.

During 2025, the MPCA did not require a compliance protocol at any air emissions facility.

In 2024, the MPCA developed a compliance protocol guideline document (Attachment A) and a letter that will be issued to an air emissions facility to obtain additional compliance protocol information (Attachment B).

Sincerely,

*Frank Kohlasch*

*This document has been electronically signed*

Frank Kohlasch  
Assistant Commissioner for Air and Climate Policy  
Minnesota Pollution Control Agency

FK/CB:ab

Attachments A & B

## Attachment A

### MPCA Compliance Protocol Guidelines

Minn. Stat. § 116.07, subd. 4n requires the development of a compliance protocol for physical measurement of actual emissions of each air toxic emitted by the facility as defined by Minn. Stat. § 116.062.

The requirement applies to all emission sources and air toxics emitted for the facility. Based on circumstance, this may need to be done for each individual emission source or stack or possibly broadly applied to the facility as a whole (assumption would be similar emission units/processes). Facilities will need to physically measure based on the following hierarchy.

The statute applies to all Individual state and Title V permit holders statewide.

1. The facility installs CEMS to measure air toxics (AT) continuously.

Note: Except for possibly correlating VOC monitoring to AT, CEMS are not readily available for AT

2. The facility complete stack testing for all AT emitted. An annual frequency will be considered the standard but this is subject to discretion.

Notes: Stack test methods do not exist for all AT and the ability to monitor certain pollutants is facility specific based on components of the emission stream. Physical, technical, and economic feasibility will be taken into consideration. Screening of pollutants present or expected to be present to limit quantitative testing will aid in determining effectiveness. A possibility exists to consider surrogate pollutants with evidence and justification of effectiveness. Feasibility and surrogates likely require evidence from 3<sup>rd</sup> party experts.

3. The facility measures AT using portable monitors which provide actual emission rates or can be correlated to actual emissions typically based on paired stack test.
4. The facility use ambient monitors to determine emissions leaving the property.

Notes: Monitoring does not exist for all AT. Ambient monitoring also may not provide actual emissions from a specific site based on circumstance. Certain compounds and emissions sources (typically common emission sources like combustion) may not be easy to attribute to a specific facility due to prevalence of compounds in the ambient environment.

5. The facility physically measures emissions by another method approved by the commissioner.

The MPCA will base application of compliance protocols on failure of a HAP emission limit either in rule or permit or a surrogate pollutant limit in a federal NESHAP (like PM or CO).

In most instances, the MPCA will rely on the facility and third parties to provide details on the AT emitted and feasibility of the measurement methods based on factors stated above to determine the appropriate compliance protocol to incorporate into the air permit. The MPCA will evaluate these decisions through the enforcement process of the test failure and typically apply compliance protocols as part of enforcement follow-up.

As an additional consideration, the MPCA will complete a screening of risk based on potential and actual emissions if this seems applicable.

The current legislation does provide for indirect measurement of emissions such as emission factors, operating or combustion rates, SDS sheets, material balance, etc.

## Attachment B

Date

[Regulated Party Contact Person-Official/Executive Officer/President/Individual, Title]

Facility Name

Address

RE: (Date) Air Toxics Reduction Compliance Protocols Submittal to measure emissions for acceptable risk levels based on alleged hazardous air pollutant violations

Dear Regulated Party Contact Person:

The Minnesota Pollution Control Agency (MPCA) performance test staff issued a Notice of Non-compliance dated (DATE) for the performance test conducted at (FACILITY) located in (PLACE).

Minn. Stat. § 116.07, subd. 4n requires the development of a compliance protocol for physical measurement of actual emissions of each air toxic emitted by the facility as defined by Minn. Stat. § 116.062. A list of known pollutants currently considered to be air toxics is attached. A statement on the air toxics the facility does not believe to be a source of may be supplied as part of the requested submittal.

Provide explanation of the measurement options and feasibility by completing the applicable parts of this form for each air toxic pollutant emitted from your facility. A spreadsheet or similar format may be supplied as long as all information and statements below is included. The information can be supplied for the entire facility or for individual units as appropriate. Note: The process may be similar to providing the Facility Emissions Summary on the Air Permit Application GI-07 Form.

Duplicate as necessary

Pollutant:

CAS Registry Number:

Potential to emit (if known):

Actual emissions (if known):

Annual hours of operation (if known):

1. Can you install and operate a Continuous Emissions Monitoring System (CEMS) and operate it whenever the emission unit(s)operate? If not, provide why it is not feasible at your facility. If CEMS are installed proceed to Question 6.

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2. Can you stack test for the air toxic stated above? If so, at what frequency do you intend to test. If not, provide why it is not feasible at your facility, this may require a statement from a 3<sup>rd</sup> party stack test company. If Stack tests can be used proceed to Question 6.

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3. Can you use portable monitoring units that have been calibrated with performance tests or continuous emission monitors? If not, provide why it is not feasible at your facility. If portable monitors are possible at your facility proceed to Question 6.

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4. Can you ambient monitor near the facility? If not, provide why it is not feasible at your facility. If you can ambient monitor proceed to Question 6.

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5. Can you do any other physical method of measuring actual emissions that the commissioner determines is accurate and technically and physically feasible. If not, provide why it is not feasible at your facility.

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6. Can you do any physically method of measuring actual emissions that could be considered a surrogate for the air toxic stated above. If so, provide evidence and rationalization. If not, provide why it is not feasible at your facility.

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7. A description of the records that are kept onsite to verify continuous compliance.

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8. A list of remedial measures to come back into compliance, including the sequence of actions or operations with timelines for each action.

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9. A description of actions to be taken if timelines are not met (i.e. Limit operations, shutdown, provide direct measurement, etc.)

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10. Date the Permit amendment to incorporate ATRP into the Air permit will be submitted.

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If you have questions or comments regarding the content of this letter, please contact me at 651-757-2700.

Sincerely,

*[Type e-Signature]*

*This document has been electronically signed.*