

Minnesota Pollution Control Agency
Resource Management and Assistance Division

REQUEST FOR COMMENTS on Planned Amendments to Minnesota Rules Chapters 7000, 7001, 7035, 7045, 9210 and 9215; Revisor's ID Number 04155

Subject of Rules. The Minnesota Pollution Control Agency (MPCA) is requesting comments on its plans to amend *Minnesota Rules* chapters 7000 (Procedural Rules), 7001 (Permits and Certifications), 7035 (Solid Waste), 7045 (Hazardous Waste), 9210 (Solid Waste Grants and Loans Program) and 9215 (Solid Waste Planning; Certificate of Need). The MPCA is considering amendments that can generally be classified as “housekeeping” in this rulemaking.

In its 2012 Legislative Report on Obsolete Rules, the MPCA identified several obsolete rules that should be repealed. In addition to those identified obsolete rules, the MPCA has identified a number of additional errors, omissions, inconsistencies, and updates that must be corrected or updated through rulemaking. The MPCA believes that it is appropriate to conduct a “housekeeping” rulemaking to make the necessary corrections or changes. In this Request, the MPCA is seeking comments on housekeeping amendments to rules that generally relate to the MPCA’s procedural rules and the MPCA’s land programs. Although this Request specifically identifies the following procedural and land-related amendments being considered at this time, the MPCA will consider comments and suggestions for additional changes and corrections for any of the rules administered by the MPCA.

Areas of Proposed Amendment:

- MPCA Procedural Rules in ch. 7000 (considering changes to correct errors and clarifications to more accurately reflect the handling of contested cases)
- Permits and Certification in ch. 7001 (considering the addition of relevant cross-references)
- Solid Waste in ch. 7035 (considering a number of updates, corrections and clarifications relating to the requirements regarding (1) infectious waste transportation, (2) ground water intervention limits) and (3) incorporating existing approved variances for mixed-municipal solid waste (MMSW) ash testing into rule)
- Hazardous Waste in ch. 7045 (considering a number of corrections to cross references, the removal/replacement of obsolete requirements, and adding conforming language for consistency with federal rules related to Hazardous Air Pollutant Standards for Hazardous Waste Combustors 64 FR 52828-53077, September 30, 1999, as amended November 19, 1999, at 64 FR 63209-63213 for permitting efficiency and to allow the Agency and regulated parties to more easily determine compliance)
- Solid Waste Grant and Loan Programs in ch. 9210 (considering expanding the options for providing notice of grant opportunities)
- Solid Waste Planning; Certificate of Need in 9215 (considering the correction of a cross reference)

The housekeeping amendments being considered will make a number of minor, unrelated changes to rules governing the MPCA’s administrative procedures, permits, solid

waste management, hazardous waste management and the administration of solid waste capital assistance grants. The changes being considered in the housekeeping segment of this rulemaking are all in the nature of corrections, streamlining, updates to reflect federal law or approved variances, and clarifications and the MPCA believes that the only effect of the changes will be to eliminate obsolete or somewhat duplicate requirements and improve the understanding and accuracy of the existing requirements.

The Agency has also identified two areas where amendments are necessary to incorporate existing practices into law:

- The Resources Conservation and Recovery Act (RCRA) program contains requirements for air emissions from hazardous waste incinerators. The amendments would enable regulated parties to demonstrate compliance with RCRA air permit standards by demonstrating compliance with Clean Air Act Maximum Achievable Control Technology (MACT) requirements. This option is allowed under federal law and requires adoption of specific language at the state level for implementation.
- The solid waste program has approved variances to MMSW ash testing requirements for regulated parties. Because every facility has a variance, it makes sense to modify the rule to reflect current practice and requirements.

These amendments are not expected to add costs to existing requirements and are still considered housekeeping amendments.

In this Request, the MPCA is providing notice of its intent to clarify, update, amend and correct the rules it is charged with implementing and is seeking input from the public regarding these changes and the identification of additional changes that would correct or clarify existing rules. If rules in additional chapters relating to other MPCA programs are identified as being obsolete or requiring minor correction or clarification, those amendments may also be conducted with this rulemaking.

The state rulemaking process requires agencies to consider the economic effect and also the cumulative impact of proposed amendments. The MPCA does not expect that the minor rule changes that will be proposed will result in any economic effect. However, with this Request the MPCA is also providing notice that it will be addressing economic and cumulative impact as part of this rulemaking and encouraging parties who may be interested or have information pertaining to the expected economic effect and the cumulative effect of this rule to provide that information to the MPCA and to register with the MPCA to receive notice when rules are proposed. (Cumulative effect means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.)

Persons Affected. The MPCA is aware of six categories of persons who might be affected by the changes being considered.

- The first category are persons who are interested in receiving notice of Clean Water Partnership grants and who would have an objection to being provided notice by a means other than publication in the *State Register*.

- The second category are those transporters of used oil that would, under the proposed changes, be required to provide a notification of their activities to the MPCA instead of to the U.S. Environmental Protection Agency.
- The third category are persons who generate MMSW ash.
- The fourth category are owners and operators of hazardous waste treatment, storage, and disposal facilities wishing to comply with 40 CFR Part 264, Subpart O.
- The fifth category are persons who are regulated under chs. 7001 and 7035 who may be interested in clarifications, cross-references, etc.
- The sixth category are persons who have or may request contested case hearings under ch. 7000.

The MPCA does not expect that any of the other changes being considered will have any effect on any other persons other than to clarify requirements and improve their understanding of the rules. Persons who might potentially be interested in, although not affected by the changes, are the transporters of infectious waste, hazardous waste generators and transporters, persons involved in the MPCA's contested case hearing process and those who prepare and implement solid waste management plans and plan amendments (i.e., counties, solid waste management districts and multicounty areas outside of the seven-county metropolitan areas).

Statutory Authority The statutory authority for making these corrections and changes is based on the authority granted for each of the rule chapters being amended. The MPCA has general authority to promulgate and/or revise the rules governing:

- ch. 7000 (Procedural Rules) *Minnesota Statutes* §§ 116.07, subd. 3 and 14.06
- ch. 7001 (Permits and Certifications) *Minnesota Statutes* § 116.07, subd. 4 and 115.03, subd. 1
- ch. 7035 (Solid Waste) *Minnesota Statutes* § 116.07, subd. 4 (b)
- ch. 7045 (Hazardous Waste) *Minnesota Statutes* § 116.07, subd. 4(g)
- ch. 9210 (Solid Waste Grant Programs) *Minnesota Statutes* § 115A.06, subd. 2
- ch. 9212 (Certificate of Need) *Minnesota Statutes* § 115A.06, subd. 2

Public Comment. The MPCA is interested in hearing comments from any interested or potentially affected persons or groups. Written comments or information may be submitted to the contact person identified below until 4:30 p.m. on Friday, November 22, 2013. The MPCA will consider all comments in the development of the rule amendments.

Rule Drafts. No draft of the rule is available at this time. Persons interested in being notified when a draft is available and other activities relating to this (or other MPCA rulemakings) are encouraged to register at <https://public.govdelivery.com/accounts/MNPCA/subscriber/new>. Information relevant to this rulemaking is located at the following Webpage: <http://www.pca.state.mn.us/qxc9y89>.

MPCA Contact. Comments, information and requests for more information on these planned rule amendments should be directed to:

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Alternative Format. Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the MPCA contact person at the number or address above.

Note. Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The MPCA is required to submit to the judge only those written comments received in response to the rules after they are proposed. If you submit comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

Date signed: 1/4/2019

John Linc Stine, Commissioner
Minnesota Pollution Control Agency

