



Minnesota Pollution Control Agency

Office of the Commissioner

December 16, 2004

The Honorable Tim Pawlenty
Governor, State of Minnesota

The Honorable Tom Hackbarth, Chair
House Environment and Natural Resources
Policy Committee

The Honorable James Metzen, Chair
Legislative Coordinating Commission

The Honorable Dennis Ozment, Chair
House Environment and Natural Resources
Finance Committee

The Honorable John Marty, Chair
Senate Environment and Natural Resources
Committee

Ms. Michele Timmons
Revisor of Statutes

The Honorable Dallas Sams, Chair
Senate Environment and Agriculture
Budget Division

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REVISOR OF STATUTES

RE: Annual Report on Obsolete, Unnecessary, or Duplicative Rules, as Required by
Minn. Stat. § 14.05, subd. 5

Dear Committee Chairs:

Minn. Stat. § 14.05, subd. 5, states:

“By December 1st of each year, an agency must submit to the governor, the legislative coordinating commission, the policy and funding committees and divisions with jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. By December 1st the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year’s report as obsolete, unnecessary, or duplicative: If none of an agency’s rules are obsolete, unnecessary, or duplicative, an agency’s December 1st report must state that conclusion.”

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The Minnesota Pollution Control Agency (MPCA) has reviewed and identified the following rules that are obsolete and should be repealed:

1. Minn. R. 7001.0020, item G – Scope (General Permit Requirements)

Minn. R. ch. 7001 establishes permits and certifications issued by the MPCA to regulate the following: general permits, hazardous waste facility permits; NPDES permits; solid waste management facility permits; major facility substance storage permits and 401 certifications. Minn. R. 7001.0020, item G contains rule language governing mobile sources and indirect source permits for parking facilities. This rule part is obsolete. The rules governing indirect source permits were repealed by the Legislature, Special Session, Minn. Laws ch. 2, sec. 162, (2001). The MPCA's timetable for repeal of this rule part is winter of 2005. The MPCA will retain part 7001.0020, items A, B, C, D, E, F, H and I.

2. Minn. R. 7027.1150, subp. 2 – Standards for Appliance Recyclers (Self-certification)

Minn. R. 7027.1150, subp. 2 requires persons engaged in the business of recycling appliances as described in Minn. Stat. § 115A.9561, subd. 2 to self certify, in a prescribed manner, to the MPCA Commissioner by January 15th of each calendar year. This rule part is obsolete. The federal requirements require technician certification for individuals that service appliances and autos. The federal requirements do not require technician certification for appliance and auto recyclers. The MPCA's timetable for repeal of this rule part is winter of 2005. The MPCA will retain part 7027.1150, subparts 1 and 3.

Status of obsolete rules listed in last year's report:

1. The MPCA was required by Minnesota Statutes, section 14.3691 to report to the governor and the appropriate legislative committees by August 1, 2003, on all MPCA rules. For purposes of this letter, the MPCA will refer to the August 1, 2003, report as the "Rules Report." The MPCA has attached a copy of the Executive Summary from the Rules Report which contains a complete list of rules the MPCA recommended for repeal. The MPCA plans to use the process for repealing obsolete rules as prescribed in Minn. Stat. § 14.3895. The MPCA is currently drafting a Notice Plan and will be seeking approval of the Notice Plan from the Chief Administrative Law Judge by December 2004.

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2. Minn. R. 7002.0305 – Water Quality Permit Fee Table – The MPCA was mandated by the Legislature to amend existing rules governing water quality permit fees (Minn. R. 7002.0210 to 7002.0310). The Legislature established increases to the existing water quality permit fees under Minn. Laws, ch. 220, article 8, sec. 15 (2002). The MPCA plans to repeal this rule part when the agency amends the water quality permit fee rules.

Costs of preparing this report. In compliance with Minn. Stat. § 3.197, the cost of preparing this report is as follows:

Staff cost: \$590.00 (20 hours of staff time)

Printing cost in-house: \$37.50 (50 copies)

If you have any questions regarding this report, please contact Nelson French, of my staff at (651) 296-7002.

Sincerely,



Sheryl A. Corrigan
Commissioner

SAC:jae:mk

Enclosures

**Report on All Minnesota Pollution Control Agency Rules
Made to the Governor and the Legislature
As required by Minnesota Statutes, section 14.3691
August 1, 2003**

Cost of preparing this report. In compliance with Minnesota Statutes, section 3.197, this report was prepared at a cost of \$9,686 (330 hours of staff time) and \$67.94 for photostatic duplication.

Upon request, this publication can be made available in alternative formats for people with disabilities (TTY: 651/282-5332 or 800/657-3864).

Executive Summary

Requirement to report on all MPCA rules. Minnesota Statutes, section 14.3691, states in pertinent part:

"An entity whose rules are scheduled for review under this section must report to the governor and the appropriate committees of the legislature by August 1....

The report must:

- (1) list any rules that the entity recommends for repeal;
- (2) list and briefly describe the rationale for rules that the entity believes should remain in effect; and
- (3) suggest any changes in rules that would improve the agency's ability to meet the regulatory objectives prescribed by the legislature, while reducing any unnecessary burdens on regulated parties..."

Rules recommended for repeal. This is a list of rules we recommend for repeal. The basis for our recommendations is discussed in the body of this report. We recommend repeal of:

- Chapter 4760 – Lead Abatement in Soil
- Part 7002.0055 – Indirect Source Permit Fees
- Part 7021.0050, subparts 4 & 6 – Acid Deposition Control Requirements
Subparts 4 & 6 Compliance dates
- Parts 7039.0010 to 7039.0120 – Listed Metals in Specified Products
- Chapter 7075.0100 to 7075.5000 – State Fund and Federal Grants
- Parts 7077.0300 to 7077.0330 – Combined Sewer Overflow Abatement Program
- Part 7105.0060, subpart 5a. – Certification Renewal Schedule for Supervisors
- Part 7150.0300, subparts 3 & 4 – Release Detection General Requirements
Subparts 3 & 4 Compliance dates
- Part 7150.0310, item A, subitem (2) – Requirements for Petroleum Underground Storage Tank Systems – Subitem (2) Compliance date

Rules that should remain in effect. The MPCA recommends that the large majority of its rules remain in effect. The rules along with the rationale for our recommendations are listed in the body of this report.

Suggested rule changes. Our recommendations for changes to MPCA rules are discussed in the body of this report.