

**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.

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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.

Organization of this report. This report is organized by chapter and subject area. There is a paragraph or two discussing each rules chapter, section or part.

REPORT

Prepared by MPCA Staff: Norma Coleman, Jim Chiles, Stuart Arkely, Carol Nankivel, Allen Dotson, Kevin Molloy, Chai Insook and Keith Friesen.

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

“14.3691 RULE REVIEW AND LEGISLATIVE OVERSIGHT.

Subdivision 1. **Reports.** 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 of the year before the legislative session in which the entity’s rules are scheduled for review. The speaker of the house of representatives and the senate committee on rules and administration shall designate the appropriate committees to receive these reports. 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. Any costs of preparing this report must be absorbed within funds otherwise appropriated to the entity.

Subd. 2. **Schedule.** (c) Rules of thepollution control agency will be reviewed before and during the legislative session in 2004. ...”

CHAPTER 4760 – LEAD ABATEMENT IN SOIL

Minnesota Rules, chapter 4760 was originally a rule adopted by the MPCA to regulate lead in soil at residential lead abatement sites. However, the authority for implementing the rule was transferred by legislative mandate to the Minnesota Department of Health. At the time of the transfer (published in the *State Register* on September 13, 1993,) certain parts of Minnesota Rules, chapter 4760 were repealed and the main elements of the chapter were renumbered to Minnesota Rules, chapter 4761. A few provisions were inadvertently left in chapter 4760. Minnesota Statutes, section 14.05, subdivision 5, requires all state agencies to annually review and prepare a report to the Legislature and the Governor listing any rules that are obsolete, unnecessary or duplicative of other state or federal statutes or rules. The MPCA included the remaining provisions of chapter 4760 in its’ annual Obsolete Rules Report for 2001. The MPCA is currently in the final stages of repealing the remaining provisions in chapter 4760 through the expedited rulemaking process for repealing obsolete rules found in Minnesota Statutes, section 14.3895. The MPCA can use the expedited process to repeal rules identified in its’ annual obsolete rules report.

CHAPTER 7000 – MPCA PROCEDURE RULES

Minnesota Rules, chapter 7000 establishes the procedures and standards of conduct the MPCA must follow in making decisions. In 1996, the legislature amended Minnesota Statutes, section 116.02, subdivision 6 to establish a clear division of responsibility between the commissioner and the board. The legislative changes to the statute narrowed the board’s final decision-making authority to seven specific areas. However, the statutes allow the board to exercise authority in certain situations, pursuant to Minnesota Statutes, section 116.02, subdivision 8.

The MPCA is currently in the process of revising these rules to clarify the role of the board and the role of the commissioner in light of the legislative changes, update obsolete rule parts and delete unnecessary rule parts. No amendments outside of the current rule making process are recommended at this time. The MPCA recommends these rules remain in effect to provide a uniform process for conducting MPCA Board business.

CHAPTER 7001 – PERMITS AND CERTIFICATIONS

Parts 7001.0010 to 7001.0210 – General Requirements

Minnesota Rules, parts 7001.0010 to 7001.0210 contains the general requirements for when the MPCA issues a permit to a category of permittees whose operations, emissions, activities, discharges or facilities are the same or substantially similar. This rule includes the procedures used to determine who needs to obtain a permit, application deadlines, preliminary determination, public comment, contested case hearing, terms and conditions of a permit and other pertinent categories for a general permit. The definitions in part 7000.0100 in the MPCA's procedural rules apply to the terms used in parts 7001.0010 to 7001.0210. The MPCA has no suggestions for changes to these rules and recommends that they remain in effect.

Parts 7001.0500 to 7001.0739 – Hazardous Waste Facility Permits

Minnesota Rules, parts 7001.0500 to 7001.0739 specifically address the requirements for hazardous waste permits. The need for these rules is based on both federal and state mandates. Minnesota Statutes, section 116.07, subdivision 4b, requires the MPCA to adopt rules to govern the permitting of hazardous waste facilities. The federal Resource Conservation and Recovery Act (RCRA) established a national hazardous waste management program that encourages states to adopt equivalent hazardous waste rules so that states could be federally authorized to implement the hazardous waste program. Equivalence with RCRA requires that a state must have an equivalent program for the permitting of hazardous waste treatment, storage and disposal facilities.

RCRA requires that the state hazardous waste rules must be at least as stringent as the federal hazardous waste regulation. This equivalency requirement limits the extent of the changes that can be made to the state permit rules. The state hazardous waste permit rules reflect the basic structure of the federal hazardous waste permit rules by providing a two part process for obtaining permits. The requirements for Part A and Part B permit applications are essentially the same in both the state and federal regulations. The permit rule specifies the requirements for specific types of hazardous waste facilities (e.g. tank facilities, surface impoundments, landfills) and provides an administrative mechanism for public notice, resolution of issues and the revocation and reissuance of permits. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7001.1000 to 7001.1100 – NPDES Permits

Minnesota Rules, parts 7001.1000 to 7001.1100 govern the application procedures, the issuance and the conditions of National Pollutant Discharge Elimination System (NPDES) permits issued by the Minnesota Pollution Control Agency (MPCA). The NPDES permit program, established in the Clean Water Act (enacted by Congress in 1972) requires every point source discharger to obtain an NPDES permit from either the federal Environmental Protection Agency (EPA) or an authorized state. In Minnesota, the MPCA is delegated by the EPA to administer the NPDES permit program. The permit, which limits discharges to waters of

the state, is the primary mechanism for implementing effluent limitations and water quality standards, as required under the Clean Water Act.

The provisions of 7001.0100 to 7001.1100 that apply to NPDES permit coverage for storm water discharges will need to be revised to conform with the new federal (Phase II) storm water requirements (enacted by Congress in a 1987 amendment to the Clean Water Act), for which a specific rulemaking effort is currently underway. Storm water provisions will likely be removed from these rules and incorporated into a separate set of rules being developed for the storm water regulatory program (preliminarily determined to be codified in a new Chapter 7090). Aside from this revision, the MPCA has no additional suggestions for changes at this time and recommends these rules remain in effect.

Parts 7001.1400 to 7001.1470 – 401 Certifications

The MPCA was required by Minnesota Statutes, section 14.06, 115.03, and 116.07, to promulgate Minnesota Rules, parts 7001.1400 to 7001.1470. These rule parts contain the requirements and administrative process for the issuance of water quality certifications by the MPCA under section 401 of the Clean Water Act. Section 401 requires that an applicant for a federal permit, or license, for any activity which may result in any discharge into waters must first provide a certification from the state that the proposed action will comply with state water quality standards, primarily contained in Minnesota Rules, chapter 7050, and the applicable requirements of the Clean Water Act.

The MPCA must either waive the 401 certification or certify that the proposed activity conforms to state water quality standards before the federal agency may issue the federal permit. If the MPCA denies the 401 certification, then the federal permit must also be denied and cannot be issued. Due to budget cutbacks the MPCA has eliminated the staff to review and issue water quality 401 determinations and, therefore, the MPCA currently waives the 401 certification on all certification applications. Even if the MPCA continues to waive all 401 certifications, the administrative process of this rule is required to guide the waiver action. The MPCA has no suggestions for changes at this time and recommends these rules remain in effect.

Parts 7001.3000 to 7001.3550 – Solid Waste Management Facility Permits

Minnesota Rules, parts 7001.3000 to 7001.3550, establishes permits for waste management. The level of scrutiny depends on whether waste will remain in place (i.e., a landfill rather than a processing facility) and on the type of waste being handled. Some waste activities, such as hauling of municipal waste, do not require any permit or license from the MPCA. This chapter lays out the types of solid waste management facilities that need a permit from the MPCA, the contents (e.g., proper location, local ground conditions, and emergency plans), and the process to obtain that permit and to have it renewed. One existing permitting requirement covers solid waste transfer facilities and the MPCA proposes to streamline that process by shifting to a letter notification process that does not need extended review and paperwork, because these requirements are standardized in permits issued so far (see the “transfer station” discussion, located on page 18, chapter 7035, part 7035.2865, of this report). Otherwise the MPCA recommends that the solid waste rules in this chapter remain in effect.

Parts 7001.4200 to 7001.4300 – Major Facility Substance Storage Permits

Minnesota Rules, parts 7001.4200 to 7001.4300, establishes major facility permits for aboveground storage of substances to reasonably ensure proper retention of those substances and detection of entry into any waters of the state in a manner that would be likely to pollute any waters of the state. Safeguards established in a substance storage permit include the nature,

toxicity, viscosity, and quantity of a substance stored; the potential for a storage tank system to fail; the potential for the failure of a storage tank system to have an adverse impact on the waters of the state; the hydrogeologic setting of the facility, including the thickness of and permeability of soils present between the tank system and groundwater; factors that influence the quality and mobility of the stored substance and the potential for it to migrate to surface water or groundwater; and any other factors necessary to prevent, control, or abate water pollution. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7002 – PERMIT FEES

Parts 7002.0005 to 7002.0085 – Air Emissions Permit Fees

Minnesota Rules, parts 7002.0005 to 7002.0085 establish a fee structure and payment mechanism for all persons required to obtain an air emissions permit (under chapter 7007) or an indirect source permit (under chapter 7023). The fees associated with air emission permits are computed upon initial permit issuance and annually thereafter based on the facility's annual emission inventory submittal. The fees collected are used to fund MPCA programs related to the issuance and enforcement of air emission permits. The fees are authorized by Minnesota Statutes, Section 116.07, subd. 4d(b), and required to be assessed under the federal Clean Air Act.

The indirect source permits rule (parts 7023.9000 to 7023.9050) was repealed by the Legislature in 2002 and therefore the chapter 7002 references to indirect source permits are now obsolete and need to be repealed. Specifically, part 7002.0055 should be repealed and parts 7002.0005, 7002.0065 and 7002.0085 need to be amended to remove references to indirect source permit requirements.

The MPCA has no suggestions for changes to the air emissions permit portion of these rules and recommends they rules remain in effect.

Parts 7002.0210 to 7002.0310 – Water Quality Permit Fees

Minnesota Rules, parts 7002.0210 to 7002.0310 set the scope, payment process and amount of water quality permit fees. Revisions need to be made to these rules to comply with language in the session laws from 2002 and 2003, which specify that the agency shall adopt amended water quality permit fee rules incorporating permit fee increases. We recommend that these rules remain in effect until amended because they form the mechanism for generating revenue which the legislature has appropriated to the MPCA for regulation of facilities that discharge to state waters.

AIR RULES – GENERAL

The air quality related chapters of the MPCA's rules regulates air quality by establishing performance standards for categories of emission units, ambient air quality standards, permitting requirements for the construction, operation and modification of air emission units, and emission inventory reporting requirements. A number of technical and administrative rules support the MPCA's ability to enforce and fund the air quality related standards.

Many of these air standards and most of the air permitting requirements are incorporated into the State Implementation Plan (SIP), which is administered by the US Environmental Protection Agency (EPA) as the mechanism for ensuring compliance with the federal National Ambient Air Quality Standards (NAAQS). Modification of rules that are in the SIP requires that the new rule

be submitted to EPA as a SIP amendment. Generally the new rule cannot be less stringent than the rule currently in the SIP.

A number of federal standards have been incorporated by reference into state rule. These are standards that EPA has delegated to the MPCA, and by incorporating the rule into state rule the MPCA is able to assume primacy in the enforcement of that standard.

Any significant changes that are planned or recommended by the MPCA will be described under the appropriate rule heading. However, it should also be noted that the MPCA has periodically updated its air rules through a series of "Omnibus Rules". The intent of these rules is to make minor rule changes that have been identified by staff or outside parties as needed in order, for example, to clarify the meaning of a rule, delete outdated or erroneous text, or update incorporation by reference rules. The Omnibus rules are by design non-controversial and have limited regulatory impact. The MPCA maintains a list of suggestions and has started to draft an Omnibus rule that makes minor changes to Chapters 7005, 7007, 7011, 7017 and 7019. As none of the changes makes a significant change to the scope or impact of a given rule, these changes are not described within the discussion of the rules.

CHAPTER 7005 – DEFINITIONS AND ABBREVIATIONS

Part 7005.0100 – Definitions

Part 7005.0110 – Abbreviations

Minnesota Rules, parts 7005.0100 and 7005.0010 contain definitions and abbreviations that are used in several chapters of the MPCA's air quality rules, most notably chapters 7007, 7009, 7011 and 7017. Individual chapters may contain separate definitions and abbreviations if they are unique to that chapter. As several definitions and abbreviations are common to various chapters and to rules within those chapters, it is administratively useful to have them all in one place should there be a need to revise a definition. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7007 – PERMITS AND OFFSETS

This chapter contains the requirements for owners or operators of air emission facilities that need to obtain a permit either to construct, operate or modify a facility. Several different kinds of permits are available, depending on the magnitude of the facility's emissions and the specific state and federal standards of performance that apply to the facility.

The MPCA does plan to conduct a review of its permitting rules as a result of the promulgation of significant changes to the federal New Source Review (NSR) rules, which became effective in Minnesota on March 3, 2003. The scope of this rulemaking is as yet unknown as the impact of the new federal rule is not yet fully known. However, it is envisioned that rule changes will at least include those necessary to ensure that there are no inconsistencies between the current state permitting rule and the new federal rule.

For discussion purposes, Chapter 7007 can be broken down into the following segments:

Parts 7007.0050 to 7007.0450

Minnesota Rules, parts 7007.0050 to 7007.0450 contains general requirements of the permitting program. This includes the scope and definitions for Chapter 7007, the procedures used to determine who needs to obtain an air permit, criteria to qualify for various categories of air permits and application deadlines. Other than the changes referenced above in regard to the

new NSR rules the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7007.0500 to 7007.0750

Minnesota Rules, parts 7007.0500 to 7007.0750 contains requirements for submitting a complete permit application to the MPCA, including special requirements for waste combustors. The MPCA's completeness review and prioritization procedures are also codified here. Other than the changes referenced above in regard to the new NSR rules the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7007.0800 to 7007.1075

Minnesota Rules, parts 7007.0800 to 7007.1075 contain requirements for permit content, public noticing of permits, review of draft permits by affected states and EPA, conditions for issuance or denial of permits, duration of permits and an incorporation by reference of the federal acid rain program. Some of these requirements are generic for all or most types of permits and some, as indicated within the rule, are specific to certain types of permits. Other than the changes referenced above in regard to the new NSR rules the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Part 7007.1100 - General Permits

This part contains the conditions under which the MPCA may issue general permits and content requirements that are specific to this category of permit. A general permit is a permit that uses a template of operational requirements that apply to an industry category such that an essentially identical permit can be issued to all eligible companies within that category. Other than the changes referenced above in regard to the new NSR rules the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7007.1110 to 7007.1130 - Registration Permits

Minnesota Rules, parts 7007.1110 to 7007.1130 contain requirements specific to obtaining registration permits. These are permits that sources with relatively low actual emissions that can be conservatively assumed to remain below the applicability thresholds for site-specific permits provided they comply with the requirements of the registration permit rules. Four options (A, B, C and D) of registration permit are available depending on the source category. The MPCA has considered the possibility of adding an "Option E" registration permit for qualifying facilities that have a documented Environmental Management System (EMS) in place. Other than the EMS idea and the changes referenced above in regard to the new NSR rules the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7007.1150 to 7007.1850

Minnesota Rules, parts 7007.1150 to 7007.1850 describes when a permit amendment application is required and the procedures for such amendments. Additional provisions for reopening of the permit by the EPA or MPCA, and provisions governing enforceability of permits and emergency provisions are included in this section of the rules. Other than the changes referenced above in regard to the new NSR rules the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7007.3000 and 7007.3010 – Federal NSR Rules and Hazardous Air Pollutants Program

These parts incorporate by reference the federal NSR rules and certain provisions of the federal hazardous air pollutants program. Other than the changes referenced above in regard to the new NSR rules the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7007.4000 to 7007.4030 – Emission Facility Offsets

These parts, the Offset Rule, places additional permitting restrictions on air emissions sources located in nonattainment areas (geographic areas that have been classified by EPA as not in attainment with the NAAQS) that plan to construct or modify a facility, or to sources elsewhere if the construction or modification by itself would contribute to a violation of the NAAQS. The intent of the rule is to help ensure progress towards attainment for nonattainment areas and to prevent other areas from becoming nonattainment areas as a result of construction or modification. In general the rule follows federal rules in Code of Federal Regulations, Title 40, Part 51, Appendix S. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7008 - REQUIREMENTS FOR CONDITIONAL EXEMPTION OF STATIONARY SOURCES FROM THE REQUIREMENT TO OBTAIN AN AIR EMISSIONS PERMIT AND REQUIREMENTS FOR DESIGNATING AN ACTIVITY AS A CONDITIONALLY INSIGNIFICANT ACTIVITY.

Parts 7008.0050 to 7008.4100

The rules in chapter 7008 exempt stationary sources in specified categories from the requirement to obtain an air emission permit and establish a category of stationary sources called, “conditionally exempt stationary sources.” Stationary sources that are part of defined categories, gasoline service stations for example, and that comply with the requirements established in the proposed new rules would be exempt from the requirement to obtain an air emissions permit.

The rules also establish a category of emissions unit called, “conditionally insignificant activities.” The emissions units, which are defined in the rules, would be treated in a manner similar to other “insignificant activities” currently in Minnesota Rules, chapter 7007. The owner or operator of an emissions unit that complies with the requirements established in the new rules could treat that emissions unit as an insignificant activity when determining if an air emissions permit is required or what type of air emissions permit is required.

The rules also establish a framework for regulating other industry sectors in a similar manner. This framework significantly reduces the administrative burden for many more owners and operators and the Agency. Other industry sectors that could be regulated in this manner are those with high potential-to-emit and significantly lower actual emissions. The list of potential source categories that could be regulated in this manner includes: gasoline bulk plants, boilers, coating sources, printing, degreasers using volatile organic solvents, and hot mix asphalt plants.

This is a new chapter. The MPCA adopted the new rules on April 21, 2003 and recommends that they remain in effect.

CHAPTER 7009 – AMBIENT AIR QUALITY STANDARDS

Parts 7009.0010 to 7009.0080 - Ambient Air Quality Standards

The state ambient air quality standards are defined and listed in Minnesota Rules, parts 7009.0010 to 7009.0080. Ambient air is defined as the air in places to which the general public has access. This rule does not regulate employee exposure at a place of work and does not regulate indoor air quality. The standards themselves are periodically updated and appended, for example to reflect changes in the standards at the federal level. Compliance with the standards can be shown through direct monitoring of the air in specific locations or through air dispersion modeling of emissions from facilities. Site specific emission limits can be established for a facility in order to maintain compliance with the ambient standard in cases where modeling or monitoring has indicated an actual or potential ambient air quality problem.

Other than probable future periodic updates as described above, the MPCA has no suggestions for changes to these rules and recommends that they remain in effect.

Parts 7009.1000 to 7009.1110 - Air Pollution Episodes

Minnesota Rules, parts 7009.1000 to 7009.1110 applies to sources over a defined allowable emissions threshold for which an air episode alert has been declared. The process for declaring such an episode and the actions to be followed in the case of an episode are described in the rule. The MPCA has no suggestions for changes to these rules and recommends that they remain in effect.

Part 7009.9000 - Adoption of Federal Regulations

This part incorporates by reference a section of federal rule that deals with conformity between state and federal regulation regarding attainment of ambient air quality standards. The MPCA has no suggestions for changes to this rule and recommends that it remain in effect.

CHAPTER 7011 – STANDARDS FOR STATIONARY SOURCES

This chapter contains emission standards and related requirements for several source categories and some general requirements that apply to all sources. The state performance standards are usually superseded when a federal New Source Performance Standard (NSPS) applies to a particular facility. The NSPS standards are incorporated by reference into this chapter. The MPCA has made it a practice to incorporate all the NSPS standards into state rule even if there is no corresponding state standard for that industry category. EPA has delegated the NSPS program to the MPCA, and by incorporating the standards into state rule the MPCA can assume primary enforcement responsibility for the standard within the state. The same reasoning has been used in incorporating the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) standards into state rule. However, the NESHAP standards do not supersede the state rules in cases where both apply to an emission unit since the standards regulate different groups of pollutants.

Parts 7011.0010 to 7011.0050 – Generally

These parts contain an applicability statement for the state performance standards and NSPS standards. Specific applicability provisions are included for opacity standards and a general circumvention restriction is included. Part 7011.0050 incorporates by reference the general requirements of the NSPS program, which apply to the NSPS standards incorporated by reference through the rest of the chapter. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7011.0060 to 7011.0080 - Control Equipment

These parts, collectively known as the Control Equipment Rule, set out default control efficiency values and monitoring requirements for the listed types of air pollution control equipment. As the rule is included in Minnesota's SIP, the requirements are considered federally enforceable and can therefore be used as the calculation basis for many facilities. For example, a registration permit holder can use the default values to calculate emissions and verify that the facility is below the upper limit for qualifying for that kind of permit. The default values are designed to be conservative so that it is likely that most actual control equipment performs better than the listed values. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7011.0100 to 7011.0120 - Emission Standard for Visible Air Contaminants

Part 7011.0150 - Control of Fugitive Particulate Matter

Together, these parts of chapter 7011 set default standards for point and fugitive emissions of particulate matter. For the purpose of the SIP, a visible emissions standard is used here as an indirect measure of particulate matter emissions. The visible emissions standards only apply to facilities for which a specific standard has not been promulgated in a different rule. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7011.0500 to 7011.0553 - Indirect Heating Fossil-Fuel-Burning Equipment

Part 7011.0555 - Fossil-Fuel-Fired Steam Generators

Part 7011.0560 - Electricity Utility Steam Generating Units

Part 7011.0565 - Industrial-Commercial-Institutional Steam Generating Units

Part 7011.0570 - Small Industrial-Commercial-Institutional Steam Generating Units

Parts 7011.0600 to 7011.0625 - Direct Heating Fossil-Fuel-Burning Equipment

Parts 7011.0700 to 7011.0735 - Industrial Process Equipment

Part 7011.0830 - Portland Cement Plants

Parts 7011.0850 to 7011.0860 - Concrete Manufacturing Plant Standards of Performance

Parts 7011.0900 to 7011.0922 - Hot Mix Asphalt Plants

Part 7011.0950 - Asphalt Processing and Asphalt Roofing Manufacture

Parts 7011.1000 to 7011.1015 - Bulk Agricultural Commodity Facilities

Parts 7011.1100 to 7011.1140 - Coal Handling Facilities

Part 7011.1150 - Coal Preparation Plants

Parts 7011.1201 to 7011.1290 - Waste Combustors

Parts 7011.1300 to 7011.1350 - Sewage Sludge Incinerators

Parts 7011.1400 to 7011.1435 - Petroleum Refineries

Parts 7011.1500 to 7011.1520 - Liquid Petroleum and Volatile Organic Liquid Storage Vessels

Part 7011.1550 - Bulk Gasoline Terminals

Parts 7011.1600 to 7011.1634 - Sulfuric Acid Plants

Parts 7011.1700 to 7011.1730 - Nitric Acid Plants

Part 7011.1820 - Lead Smelters

Part 7011.1840 - Copper Smelters

Part 7011.1880 - Zinc Smelters

Parts 7011.1900 to 7011.1920 - Secondary Brass and Bronze Ingot Production Plants

Parts 7011.2000 to 7011.2020 - Iron and Steel Plants

Part 7011.2050 - Primary Aluminum Reduction Plants

Part 7011.2080 - Ferroalloy Production Facilities

Parts 7011.2100 to 7011.2105 - Emission Standards for Inorganic Fibrous Materials

Part 7011.2300 - Stationary Internal Combustion Engines

Part 7011.2350 - Stationary Gas Turbines
Part 7011.2400 - Phosphate Fertilizer Industry
Part 7011.2450 - Kraft Pulp Mills
Part 7011.2500 - Glass Manufacturing Plants
Parts 7011.2550 to 7011.2580 - Surface Coating
Part 7011.2600 - Lime Manufacturing Plants
Part 7011.2650 - Lead Acid Battery Manufacturing Plants
Part 7011.2700 - Metallic Mineral Processing Plants
Part 7011.2750 - Phosphate Rock Plants
Part 7011.2800 - Ammonium Sulfate Manufacture
Part 7011.2850 - Graphic Arts Industry
Part 7011.2900 - Synthetic Organic Chemicals Manufacturing Industry
Part 7011.2950 - New Residential Wood Heaters
Part 7011.3000 - Rubber Tire Manufacturing Industry
Part 7011.3050 - Polymer Manufacturing Industry
Part 7011.3100 - Polymeric Coating of Supporting Substrates Facilities
Part 7011.3150 - Flexible Vinyl and Urethane Coating and Printing
Part 7011.3200 - Synthetic Fiber Production Facilities
Part 7011.3250 - Petroleum Dry Cleaners
Part 7011.3300 - Onshore Natural Gas Processing Plants
Part 7011.3350 - Nonmetallic Mineral Processing Plants
Part 7011.3400 - Wool Fiberglass Insulation Manufacturing Plants
Part 7011.3450 - Magnetic Tape Coating Facilities
Parts 7011.3500 to 7011.3510 – Gas Emissions from Municipal Solid Waste Landfills

The above rule parts establish emissions standards and related operational requirements for the listed industry categories, in the form of either a state rule or a federal standard incorporated by reference. The interaction between state rules and federal NSPS standards is explained above. Some of the rules distinguish between “new” and “existing” emission units, with more stringent requirements placed on the new units. The Omnibus rules have been used to, and will likely continue to, make minor corrections and clarifications to these rules and the MPCA will incorporate new NSPS standards when promulgated. Certain rules, such as the industrial process equipment and indirect heating rules, have come under consideration for rulemaking as the emission standards are very lenient when compared to modern equipment. However, at this point the MPCA does not have a schedule for proposing such a rulemaking. In general, the MPCA has no suggestions for changes to the performance standards listed above and recommends that they remain in effect.

7011.7000 – 7011.9990 – Emission Standards for Hazardous Air Pollutants

This section of chapter 7011 is reserved for incorporating the federal NESHAP standards into state rule. NESHAP standards have been promulgated by EPA in Code of Federal Regulations, Title 40, Parts 61 and 63. The Part 61 standards were part of an older federal rulemaking program and no new standards are expected to be promulgated under this program. These older standards are incorporated into state rule from Minnesota Rules, parts 7011.9900 to 7011.9990.

The EPA delegated authority of the Part 63 NESHAP program to the MPCA in 2002. One of the conditions of this delegation was that the MPCA must incorporate by reference the standards into its rules in order to be able to fully enforce them. As several NESHAP standards have been promulgated since the previous incorporation by reference was done, the MPCA plans to incorporate these newer standards, probably in conjunction with either an Omnibus rulemaking

or with the NSR related rulemaking. Apart from incorporating new standards into state rules the MPCA has no suggestions for changes to the performance standards listed above and recommends that they remain in effect.

CHAPTER 7017 – MONITORING AND TESTING REQUIREMENTS

7017.0100 – Establishing Violations

This part describes the role of credible evidence in establishing violations. Any credible evidence may be used, in addition to the monitoring methods required to be used, to establish a violation. The MPCA has no suggestions for changes to this rule and recommends that it remain in effect.

7017.1002 – 7017.1220 – Continuous Monitoring Systems

The Continuous Monitoring Systems rule provides detailed requirements for installing, operating, certifying, testing and reporting the results of a continuous emissions monitor (CEM) or continuous opacity monitor (COM). The requirements vary in detail depending on the pollutant being monitored and which state or federal rule mandates the operation. These requirements are included in air permits for affected facilities. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

7017.2001 – 2060 – Performance Tests

The performance test rule provides detailed requirements for the notifying, conducting and reporting of performance tests (stack tests) and for conducting retests in the event of a failure to demonstrate compliance. The requirements vary in detail depending on the pollutant being tested and which state or federal rule mandates the test. These requirements are included in air permits for all facilities that are required to conduct tests. This rule also contains requirements for restricting operations to the level tested at if the test was not conducted at the worst case operating conditions. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7019 – EMISSION INVENTORY REQUIREMENTS

Part 7019.0100 – Incorporation of Notification and Recordkeeping Requirements by Reference

This part incorporates by reference the general NSPS and NESHAP rules that address notification and recordkeeping requirements. Such requirements are relevant to the content of the rest of the chapter in that they apply in conjunction with those state rules when the underlying notification or recordkeeping requirement is in one of these federal programs. The MPCA has no suggestions for changes to this rule and recommends that it remain in effect.

Part 7019.1000 – Notifications of Deviations Which Endanger Human Health or the Environment; Shutdowns and Breakdowns

This part instructs the owner or operator of an emission facility on reporting and keeping records of deviations which could endanger human health or the environment, notifying the state of breakdowns that result in increased emissions and planned shutdowns that will result in increased emissions. Some threshold criteria are given so notification is not required if the impact is known to be insignificant. These conditions are cited as standard language in all air emission permits. The MPCA has no suggestions for changes to this rule and recommends that it remain in effect.

Parts 7019.3000 – 7019.3100 – Emission Inventory

These parts contain the requirements to submit an air emission inventory, calculation methods for selected pollutants, a hierarchy of acceptability for emission calculation methods (e.g. continuous emission monitoring data is preferred over the use of generic emission factors) and procedures for proposing alternate calculation proposals. The MPCA is considering amending Minnesota Rules, parts 7019.3000, subpart 2, to shorten that length of time allowed for reporting an error in a submitted inventory as the current time frame restricts the use of up to date data in other programs such as permitting and the air toxics inventory. Other than this change the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7020 – ANIMAL FEEDLOTS

Parts 7020.0200 to 7020.2225

Minnesota Rules, chapter 7020.0200 to 7020.2225, last revised in October 2000, apply to owners of all animal feedlots and manure storage areas, and all persons storing, processing, transporting, and utilizing manure in Minnesota. More specifically, the rules established: a) a registration program, under which most existing feedlots were required to register by January 1, 2002 (registrants must update the information every four years); b) a permitting program that defines the types of activity required to obtain either an NPDES permit (MPCA is delegated by the EPA to issue this permit); a State Disposal System permit; a Construction Short Form permit; or an Interim Permit; c) the procedures for a Minnesota county to receive MPCA delegation to process short form and interim feedlot permit applications as authorized by Minnesota Statutes, section 116.07, subdivision 7 (55 counties are currently delegated); and d) the standards for discharge, design, construction, operation, and closure that are required to be followed by an owner of an animal feedlot or a manure storage area, and any person storing, transporting, disposing, or utilizing animal manure, or process wastewaters.

On April 14, 2003, new federal rules regulating Concentrated Animal Feedlot Operations (CAFOs) became effective. This CAFO rule affects which type of feedlots in the United States are required to obtain the federal NPDES permits, and it establishes the technical standards to which these facilities are required to adhere. The EPA provided one year for states to make necessary changes to their regulatory program to comply with the new CAFO rules. We are currently analyzing whether chapter 7020 needs to be revised to comply with the CAFO rule. Other than this possible revision, the MPCA has no further suggestions for changes to chapter 7020 at this time and recommends these rules remain in effect.

CHAPTER 7021 – ACID DEPOSITION CONTROL

Parts 7021.0010 to 7021.0050

These rules establish an acid deposition standard for geographic regions that the MPCA has determined to be “sensitive areas” as defined in the rule. The rule contains the measurement procedure associated with this standard. Additional requirements apply to sulfur dioxide emissions from electric utilities, with specific reduction targets for that pollutant. Part 7021.0050, subparts 4 and 6 should be deleted as they contain deadlines that have passed and have no apparent bearing on future application of this rule. Other than the repeal mentioned above, the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7023 – MOBILE AND INDIRECT SOURCES

Parts 7023.0100 to 7023.0120 – Motor Vehicles

These parts establish visible emission standards for motor vehicles, trains, boats and construction equipment, excluding two-cycle internal combustion engines. This rule also requires that a motor vehicle may not be operated or traded unless all air pollution control systems are in place and in operating condition. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7025 – LEAD PAINT REMOVAL

Parts 7025.0010 to 7025.0080 – Abrasive Blasting of Lead Paint from Residential, Child Care, and School Buildings

Minnesota Rules, parts 7025.0010 to 7025.0080 establish requirements that contractors must follow for testing for the presence of lead based paint before commencing abrasive blasting operations at the listed locations, and requirements and methods for removal of lead based paint. This includes a detailed, written notice to the MPCA prior to commencing lead paint removal. Containment and cleanup methods are prescribed for the period of the removal. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7025.0200 to 7025.0240 - Removal of Lead Paint from Steel Structures

These parts contain requirements for testing for lead paint, notifying the MPCA of removal operations, and removal methods for removal of lead paint from the exterior surfaces of steel structures or exterior metal components of buildings. This applies to fixed or mobile or portable structures. Bridges are included but additional requirements in this chapter also apply. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7025.0250 to 7025.0300 - Conditions for Lead Paint Removal from Bridges

This rule applies to the steel portions of bridges. Bridges are defined as belonging to one of four categories, depending on whether they are above a water body and upon their proximity to any of the locations addressed in parts 7025.0010 to 7025.0080. General pollution control requirements are given and then methods are prescribed for each category. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7025.0310 to 7025.0350 - Conditions for Lead Paint Removal from Storage Structures

These parts define three classes of storage structure and specific removal requirements are specified for each class, in addition to general pollution control requirements. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7025.0360 to 7025.0380 - Conditions for Lead Paint Removal from other Steel Structures

These parts apply to any steel structure not covered in the previous parts. The regulated party is directed to use the most appropriate methods from the earlier parts. For example, a steel structure that traverses a water body would be subject to containment in the same manner as a bridge that traverses a water body. Additional, general restrictions governing the disposal, application and removal of lead paint and identification of contractors are included in these parts. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7027 – STRATOSPHERIC OZONE PROTECTION

Parts 7027.0500 to 7027.1150

Minnesota Rules, chapter 7027 incorporate by reference federal regulations governing the servicing of motor vehicle air conditioners, servicing and recycling of appliances, and emissions reductions. These requirements address sources of stratospheric ozone depleting chemicals (generally, chlorofluorocarbons, or CFCs), for example by mandating proper procedures for refrigerant recovery. Additional state requirements specifically address appliance recycling technician certification and record keeping. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7030 – NOISE POLLUTION CONTROL

Parts 7030.0010 to 7030.0080 - Generally

This chapter defines the outdoor, receiver based noise rules intended to protect speech, sleep, annoyance, and hearing conservation requirements for receivers within areas grouped according to land use. Minnesota statute exempts some noise sources from the noise rules such as gun ranges, racetracks built before July 1, of 1983, and some roadways. Chapter 7030 also defines detailed test procedures for the measurement of environmental noise. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7030.1000 to 7030.1060 - Motor Vehicle Noise Limits

This chapter defines the source based noise level limits for trucks, motorcycles and automobiles. The standard is based on a pass-by test procedure. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7035 – SOLID WASTE

Based on the authority of Minnesota Statutes sections 115.03, 115A.03, 115A.97, and 116.07, this chapter covers the construction, operation, and postclosure requirements for a variety of state-permitted solid waste facilities. The requirements vary by type of facility, with the most stringent at facilities involving permanent disposal of household and commercial waste on the land. In 1988 the MPCA revised this chapter extensively, chiefly to bring state landfill regulations into compliance with federal regulations. Given the mission of protecting human health and the environment from emissions from the land disposal of solid waste, while also recognizing the need to reduce the cost of government and the regulatory burden on permit-holders, the MPCA is considering targeted amendments including the elimination of unneeded reports now required from permittees, and to consider reducing the frequency of site surveys now required annually from closed landfills. Proposed rule modifications concerning demonstration/research projects will allow limited scale projects for the evaluation of new or alternative methods for managing solid waste. The proposed rule changes will provide the MPCA with the authority to approve demonstration/research project proposals through the use of agreements rather than permits. In some cases federal rule requirements override state rules, so permits for these projects will still be required.

Parts 7035.0300 to 7035.0605 – Solid Waste Management Facilities; Generally

Minnesota Rules, parts 7035.0300 to 7035.0605 establish definitions for Chapter 7035 and provide that all solid waste must be collected, transported, processed and disposed of in accordance with this chapter. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7035.0700 to 7035.0800 – Individual Properties

Minnesota Rules, parts 7035.0700 to 7035.0800 provide that solid waste must be stored, collected and transported to avoid releases to the environment (e.g., litter, spills, or dust) and that practices must be consistent with local ordinances. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7035.1590 to 7035.2500 – Industrial Solid Waste Land Disposal Facilities

The current solid waste rules were developed to regulate the burning, burial and recycling of solid wastes. At the time of rule drafting no one anticipated the use of solid wastes on the land in a means other than disposal. The MPCA has a proposed rule covering utilization on the land that would clarify when such use of a solid waste is no longer regulated by the MPCA, would require adequate storage design and management prior to beneficial use, would provide a list of uses that the MPCA has stipulated do not need regulatory oversight, and would lay out a method for evaluating future, innovative uses of solid wastes. There is broad support by the regulated community for these streamlining efforts.

Parts 7035.2525 to 7035.2655 – Solid Waste Management Facility General Technical Requirements

Minnesota Rules, parts 7035.2525 to 7035.2655, set out siting, training, environmental protection, emergency management, reporting, closure, and operational guidelines at solid waste management facilities. The rules state that certain parts do not apply to backyard composting; to recycling storage buildings; to manufacturers using recycled materials; and to facilities that process mineral ores. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7035.2665 to 7035.2805 – Solid Waste Management Facilities Financial Requirements

Minnesota Rules, parts 7035.2665 to 7035.2805 require that the operators of certain disposal facilities provide financial guarantees that their facilities will be taken care of following closure and the cessation of income. The MPCA has no current suggestions for changes to these rules and recommends they remain in effect.

SOLID WASTE MANAGEMENT FACILITY SPECIFIC TECHNICAL REQUIREMENTS

Part 7035.2815 - Mixed Municipal Waste Disposal Facility Requirements

Minnesota Rules, part 7035.2815, provides prescriptive requirements as well as performance-based criteria for the minimum design, operation, monitoring, and long-term care of municipal solid waste (MSW) land disposal facilities. For the most part, these rules have been accepted and used by the industry to ensure proper disposal of MSW. However, new technologies continue to be developed for these landfills' design and monitoring. Variances are required to bypass the prescriptive portions of the rule in order to take advantage of these new technologies. In 1993 and 1994, the federal government put new regulations into effect, but these have not yet been incorporated into our state rules, causing some confusion as to which requirements take precedence. In addition, with the creation of the Closed Landfill Program in 1994, it has been found that certain aspects of post-closure care should be amended. The MPCA is considering revision of this chapter to remove certain prescriptive requirements, establish performance-based criteria, and incorporate federal regulations, while providing the clarity needed to speed up permit reviews.

Part 7035.2825 – Demolition Debris Land Disposal Facilities

Minnesota Rules, part 7035.2825 governs demolition debris land disposal facilities and seeks to protect human health and the environment with specifications on proper siting, facility design, operation, and long term care. The MPCA recommends that this rule remain in effect.

Part 7035.2836 – Compost Facilities

Minnesota Rules, part 7035.2836 governs solid waste composting facilities and seeks to protect human health and the environment with specifications on proper siting, facility design, and operation. The MPCA recommends that this rule remain in effect.

Part 7035.2845 – Recycling Facilities

Minnesota Rules, part 7035.2845 governs recycling facilities and seeks to protect human health and the environment with specifications on proper siting, facility design, and operation. The MPCA recommends that this rule remain in effect.

Part 7035.2855 – Solid Waste Storage Standards

Minnesota Rules, part 7035.2845 governs temporary storage of solid waste and seeks to protect human health and the environment with specifications on proper operations and controls to prevent runoff and litter. The MPCA recommends that this rule remain in effect.

Part 7035.2865 - Solid Waste Transfer Facilities

Minnesota Rules, part 7035.2865 governs transfer stations and seeks to protect human health and the environment with specifications on proper operation. Currently, the MPCA issues permits for all transfer stations handling more than 30 cubic yards of waste per day (approximately two medium garbage-truckloads). The permitting process is intensive for MPCA staff, local governments and permittees but even so the final permits generally resemble each other, regardless of size. MPCA believes that the process can be streamlined to make better use of staff resources and still maintain protection of the environment. The MPCA is currently pursuing the creation of a notification process as an alternative to the long-standing permitting process. The MPCA is considering establishing a threshold to determine whether a facility is regulated through a notification or the more traditional permit. The revisions being considered also include revising vague language, removing obsolete requirements, and updating requirements so that these reflect current industry practices. The revisions will include applicable sections of chapter 7001 as well as chapter 7035. Therefore the MPCA recommends these rules be streamlined to reduce the regulatory burden and expenditure of staff time.

Part 7035.2875 – Refuse Derived Fuel Processing Facilities

Minnesota Rules, part 7035.2875 governs refuse derived fuel processing plants and seeks to transfer facilities seek to protect human health and the environment with specifications on proper operation. The MPCA recommends that this rule remain in effect.

Part 7035.2885 – Municipal Solid Waste Combustor Ash Land Disposal Facilities

Minnesota Rules, part 7035.2885 governs combustor ash landfills and seeks to protect human health and the environment with specifications on proper waste acceptance, testing, operation, closure, and long-term care. The MPCA recommends that this rule remain in effect.

Part 7035.2910 – Municipal Waste Combustor Ash Testing Requirements

Minnesota Rules, part 7035.2910 specifies how waste combustors are to gather samples of their ash and test for toxicity. This information is relevant to detecting problems in the types of waste accepted at the combustor, as well as to the proper disposal of ash. The MPCA recommends that this rule remain in effect.

Part 7035.2915 – Requirements for Temporary Program Type I and II Storage Facilities

Minnesota Rules, parts 7035.2915 governs the temporary storage of combustor ash and seeks to protect human health and the environment with specifications on proper operation and prevention of ground water contamination. The MPCA recommends that this rule remain in effect.

Parts 7035.3000 to 7035.3600 – Abandoned Motor Vehicle and Scrap Metal

Minnesota Rules, parts 7035.3000 to 7035.3600 govern the collection and handling of cars and metal for salvage, and seek to protect human health and the environment with specifications on operation of scrap-recovery operations to prevent contamination of ground water and surface water. The MPCA recommends that these rules remain in effect.

Parts 7035.4000 to 7035.4600 – Solid Waste Grant Programs and Projects

Minnesota Rules, parts 7035.4000 to 7035.4600 govern the administration of financial grants-in-aid from the MPCA for projects that would reduce the amount of waste generated, or reduce the environmental effects thereof. The MPCA recommends that these rules remain in effect.

Parts 7035.5000 to 7035.6000 – Solid Waste Management Planning Assistance Program

Minnesota Rules, parts 7035.5000 to 7035.6000 sets out the authority of the MPCA to offer financial support to the solid waste planning process. The MPCA recommends that these rules remain in effect.

Part 7035.7700 – Minnesota Solid Waste Management Demonstration Program

Minnesota Rules, parts 7035.7700 sets out a prioritization method for the MPCA to apportion grant money that it can offer for solid waste planning efforts under Minnesota Stat. sec. 115.42-115A.54. The MPCA recommends that this rule remain in effect.

Parts 7035.9100 to 7035.9150 - Infectious Waste Management

Minnesota Rules, parts 7035.9100 to 7035.9150 reduce public exposure to this hazard by regulating the transportation, storage, decontamination and disposal of infectious wastes from medical facilities and laboratories. Regulatory methods used include licensing, permitting, inspections, and enforcement, as well as customer outreach. While regulations from the federal government and other state agencies overlap with parts of the MPCA rules, they are not specifically dedicated to the management of infectious wastes. The MPCA recommends that these rules remain in effect.

CHAPTER 7037 – PETROLEUM CONTAMINATED SOIL MANAGEMENT

Parts 7037.0100 to 7037.3700

Minnesota Rules, parts 7037.0100 to 7037.3700 provide for the protection of the public health and the environment by establishing minimum standards for the management and treatment of petroleum contaminated soil that is removed from the location of a petroleum spill or release. These rules support certain requirements of the MPCA's remediation programs. The MPCA plans to update these rules, such as amending the definition of 'petroleum' so it reflects the statutory definition found in Minnesota Statutes, section 115C. 02, subdivision 10 as well as other much needed housekeeping amendments. Other than the probable future update described above the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7039 – LISTED METALS IN SPECIFIED PRODUCTS

Parts 7039.0010 to 7039.0130

The purpose of these rules is to implement the program created by Minnesota Statutes, section 115A.9651 by establishing the Listed Metals Advisory Council; and to set out product bans as recommended by the council. The Listed Metals Advisory Council is required by statute to identify products that contain listed metals (lead, cadmium, mercury, or hexavalent chromium) so that these metals upon entering the waste stream do not contribute to bioaccumulation and burden taxpayers with unnecessary disposal costs. Parts 7039.0010 to 7039.0120 establish the procedures that the Listed Metals Advisory Council must follow in convening and reviewing specified products as defined in Minnesota Statutes, section 115A.9651, subdivision 2, paragraph (i). Part 7039.0130 contains the list of the specified products that, as a result of the Listed Metals Advisory Council's activities, have been banned by rule for distribution for sale or use in Minnesota. Because the council has finished its work in reviewing products and is not expected to meet again before the expiration date of June 30, 2006, the MPCA intends to repeal Minnesota Rules, parts 7039.0010 to 7039.0120. The MPCA will retain part 7039.0130 which contains the list of prohibited products that may not be sold or used in Minnesota after August 26, 2002, or the date indicated on the list, whichever is later.

CHAPTER 7041 – SEWAGE SLUDGE MANAGEMENT

Parts 7041.0100 to 7041.3400

Minnesota Rules, parts 7041.0100 to 7041.3400, govern the storage and land application of sewage sludge, also known as biosolids. Necessary to protect the public health and environment, these rules established permit requirements and technical standards for this activity. In general, the rules address land suitability, volume and rate of land application (where biosolids are used as a fertilizer and soil amendment), various degrees of intrinsic hazard, and the design and operation of facilities and sites. These rule provisions were last revised in 1997 to incorporate federal conditions and to create a more effective and efficient program. The MPCA has no further suggestions for changes at this time and recommends these rules remain in effect.

CHAPTER 7042 – LOW LEVEL RADIOACTIVE WASTE

Parts 7042.0010 to 7042.0060

Minnesota Statutes, section 116C.834 requires the generators of Low Level Radioactive (LLR) waste to pay for all costs incurred by the state in carrying out its responsibilities for its participation in an interstate compact for the management of LLR waste. Minnesota Rules, chapter 7042 establishes the system to level fees to support this mandate. These rules provide the definitions needed to identify the regulated community and specific details regarding the assessment and payment of fees. The rules also provide limited exemptions and a penalty provision. The fees are collected from approximately 20 entities that generate LLR waste and are deposited in the state Environmental Fund until the MPCA requests funding for its LLR waste activities.

The amount of fees collect each year varies depending on the amount of LLR waste generated. The MPCA is an active compact state and incurs expenses related to the low level waste program. The MPCA has no suggestions for changes at this time and believes there will be a need for funding in the future and recommends these rules remain in effect.

CHAPTER 7044 – PRIORITY ASSESSMENT CRITERIA

Parts 7044.0100 to 7044.1100

Minnesota Statutes, section 115B.17, subdivision 13 (Minnesota Environmental Response and Liability Act or MERLA) requires the MPCA to establish a list of sites where there has been a release of hazardous substances, pollutants or contaminants for which the state may take remedial actions. This list is known as the Permanent List of Priorities (PLP) and Minnesota Rules, chapter 7044 establishes the process which the MPCA must follow to maintain the PLP.

Minnesota Rules, chapter 7044 provides the scoring system used to evaluate sites, the frequency of PLP updates, a system for providing public notice and the funding sources/mechanism/amounts for sites that are listed. These rules also affect the Minnesota Department of Agriculture as the lead agency for agriculture chemical cleanups.

As long as the Legislature determines that MERLA should remain in effect to address contaminated sites, the need for Chapter 7044 will also continue to exist. The rules are necessary to ensure that site funding decisions are made in a systematic and consistent manner, and that provisions are made for public comment on Minnesota's proposals to list sites on, or to de-list sites from, its permanent list of priorities. The MPCA last revised these rules in 1993 and have no suggestions for changes at this time and recommends they remain in effect.

CHAPTER 7045 – HAZARDOUS WASTE

Parts 7045.0020 to 7045.1380

Minnesota Rules, chapter 7045 establishes the rules that govern the identification and management of hazardous waste. These rules address waste identification, requirements for generators, transportation requirements, the management of hazardous waste treatment, storage and disposal facilities, used oil standards, land disposal restrictions, and the operation of county level hazardous waste programs. The need for state hazardous waste rules is based on both federal and state mandates. Minnesota Statutes, section 116.07 requires the MPCA to adopt rules to govern the management of hazardous waste. The federal Resource Conservation and Recovery Act (RCRA) established a national hazardous waste management program that encourages states to adopt equivalent hazardous waste rules so that states could be federally authorized to implement the hazardous waste program.

The federal requirement that the state hazardous waste rules must be at least as stringent as the federal hazardous waste regulations limits the extent of the changes that can be made to the rules. However, there are some areas where the state rules are more stringent than the federal regulations and in these areas the MPCA can make amendments that will reduce the regulatory burden. The MPCA is planning on making two significant changes to the hazardous waste rules that will reduce the current level of regulation. One of these amendments is known as the universal waste rule. The universal waste rule will streamline the regulations for those generators and facilities that handle hazardous wastes that are "universally" generated. These wastes are lamps, batteries, thermostats that contain mercury and pesticides.

The second amendment the MPCA is considering is a change to the regulatory status of treated wood waste. Wood that is treated with Chromium Copper Arsenate (CCA) will be exempted from the hazardous waste rules if it is ultimately disposed in a lined solid waste facility. This amendment will clarify the regulatory status of this type of waste and significantly reduce the cost of proper waste management.

CHAPTER 7046 - FACILITY AND GENERATOR FEES

Parts 7046.0010 to 7046.0070

Minnesota Rules, chapter 7046 establishes the mechanism for administering the state hazardous waste fees. Minnesota Statutes, section 116.12 requires the MPCA to collect fees to cover expenditures of appropriated amounts for permitting, monitoring, inspection and enforcement of the hazardous waste activities of the agency. The fees are collected from generators of hazardous waste and from the operators of hazardous waste treatment, storage and disposal facilities. Part 7046.0020 establishes the facility fees and specifies the application and annual fee amounts for all types of permitted hazardous waste facilities in the state, as well as conditions for additional special fees, payment schedules, penalties, refunds and exemptions.

Parts 7046.0031 and 7046.0060 establish the fee assessment formula and conditions for the annual fees charged to hazardous waste generators outside of the metropolitan area. (Hazardous waste generators within the metropolitan area are assessed fees through the county hazardous waste programs). The state rules also provide the mechanism for the collection of the statewide program fee (part 7046.0040) and retroactive generator fees (part 7046.0045). Parts 7046.0050 and 7046.0070 provide for exemptions and an appeal process.

In 2003, the Legislature restructured the Environmental Fund, providing the MPCA greater flexibility in allocating funding among programs according to priority, and creating a Remediation Account, among others. The Legislature also directed the MPCA to collect hazardous waste fees reflecting the fee formula in part 7046.0060, but increased by \$2,000,000, in order to replace funding which otherwise would have been lost to the Environmental Fund following statutory sunset of the Hazardous Waste Generator Tax on January 1, 2004 (Minnesota Statutes, section 115B.22, subdivision 1a.). The fee increases become effective on January 1, 2004. The Legislature granted the MPCA expedited rulemaking authority to amend the fee formula, as well as authority to begin collecting the increased fees pending completion of the rules.

CHAPTER 7048 – WASTE DISPOSAL: OPERATORS, INSPECTORS

Parts 7048.0100 to 7048.1300

Chapter 7048 implements the requirement of Minnesota Statutes, section 116.02, subdivision 2, requiring operators and inspectors of waste disposal facilities to obtain a certificate of competency from the MPCA. A waste disposal facility is defined as: "...a waste facility that is designed or operated for the purpose of disposing waste on or in land and has a permit, stipulation agreement, or other written approval from the MPCA." The required certificate of competency is obtained by attending MPCA training during which time attendees become familiar with pertinent rules and regulations. Competency is critical for the protection of public health and the maintenance of a safe, optimally run, and reliable facility. The program has resulted in certificates of competency being issued to several hundred waste disposal operators and persons involved with land applying biosolids. The training program, for which Minnesota is considered a national leader, is now being emulated in other states. The MPCA has no suggestions for changes at this time and recommends these rules remain in effect.

CHAPTER 7050 – WATERS OF THE STATE

Parts 7050.0110 to 7050.0470

Minnesota Rules, chapter 7050 are the principal rules that protect Minnesota's water resources, both surface and ground, from point and nonpoint sources of pollution. These provisions establish a beneficial use classification system for all waters of the state that includes drinking water, aquatic life, water recreation, industrial, agricultural and aesthetic uses. The rule also includes: a) numeric and narrative water quality standards designed to protect the designated uses; b) provisions for the protection of wetlands and high quality or unique waters; c) effluent limits and minimum wastewater treatment requirements for point source discharges; and d) other provisions related to pollution control and the protection of Minnesota's water resources. The federal Clean Water Act requires the MPCA to review and revise this rule, if necessary, every three years. The MPCA plans to revise and update portions of Chapter 7050, tentatively scheduled for completion in 2005. The MPCA has no further suggestions at this time and recommends these rules remain in effect.

CHAPTER 7052 – LAKE SUPERIOR BASIN WATER STANDARDS

Parts 7052.0005 to 7052.0380

Minnesota Rules, chapter 7052, also called the Great Lakes Water Quality Initiative (GLI), were adopted as a result of 1987 amendments to the federal Clean Water Act, which required all eight Great Lake States to adopt a uniform set of water quality standards and requirements for point source dischargers in the Great Lakes Basin. The purpose was to provide a consistent high level of protection to the Great Lakes and their tributaries across state boundaries. The GLI focuses on limiting the discharge of persistent and bioaccumulative pollutants in to the basin. The rule in Minnesota applies only to waters in the Lake Superior basin. It includes: a) numeric water quality standards for 29 pollutants; b) detailed procedures on how to set effluent limits for the 29 pollutants; c) nondegradation provisions to protect existing high quality waters; and d) other provisions. The GLI is an example of a major joint federal/state/public undertaking that resulted in the successful adoption of the GLI in all Great Lakes States. The MPCA is considering updating some of the water quality standards in this rule at the same time pollutants in Minnesota Rules, chapter 7050 are proposed to be updated (as explained above). Beyond that, no further changes are planned and the MPCA recommends these rules remain in effect.

CHAPTER 7056 – MISSISSIPPI RIVER AND TRIBUTARIES

Parts 7056.0010 to 7056.0040

Minnesota Rules, chapter 7056 prohibit the discharge of treated or untreated sewage, industrial wastes or other wastes to the Mississippi River from the mouth of the Rum River at Anoka to the upper lock and dam at St. Anthony Falls, and to any tributaries to this reach. The intent of this chapter is to protect this reach of the Mississippi River for use as a drinking water source. Both Minneapolis and St. Paul withdraw their drinking water from this reach. The rules apply, by reference, to the U.S. Environmental Protection Agency drinking water standards, and list other numeric and narrative water quality standards applicable to the reach. The major rule provision is the prohibition of any discharge to this reach of the Mississippi River and tributaries. The other provisions are superceded by the standards and provisions in Minnesota Rules, chapter 7050. The MPCA has no plans at this time to amend these rules and recommends they remain in effect.

CHAPTER 7060 – UNDERGROUND WATERS

Parts 7060.0100 to 7060.0900

These rules were adopted to preserve and protect the underground waters of the state by preventing any new, and abating existing, underground water pollution. These rules: a) define uses of underground waters; b) established a nondegradation policy for the MPCA to follow to ensure underground waters of the state are maintained at their natural quality; and c) established standards (e.g., prohibitions) to protect the underground waters of the state. While it may be helpful to clarify certain terms in these rules, the MPCA does not anticipate revising these rules anytime soon and recommends they remain in effect.

CHAPTER 7065 – EFFLUENT STANDARDS FOR DISPOSAL SYSTEMS

Parts 7065.0010 to 7065.0070 – Effluent Standards for Disposal Systems: Intrastate Waters of Lake Superior Drainage Basin and Interstate Waters of Lake St. Croix

Minnesota Rules, parts 7065.0010 to 7065.0070, establishes a one (1) milligram per liter phosphorus effluent limit for all discharges of sewage, industrial or other wastes to any water in the Lake Superior basin, and to Lake St. Croix. This requirement is in addition to other effluent limits or treatment requirements in Minnesota rules. Other provisions in these rule parts are superceded by the provisions in Minnesota Rules, chapter 7050. The MPCA is considering transferring the 1 mg/L phosphorus effluent limit from this rule to Minnesota Rules, chapter 7052 governing the Lake Superior basin and Lake St. Croix, and repealing this rule. The MPCA recommends these rules remain in effect until this change can be made.

Parts 7065.0100 to 7065.0160 – Effluent Standards for Disposal Systems: St. Louis River, Mississippi River, Little Minnesota River, Big Stone Lake, and Albert Lea Lake

Minnesota Rules, parts 7065.0100 to 7065.0150, establishes a one (1) milligram per liter phosphorus effluent limit for all discharges of sewage, industrial or other wastes to: 1) the St. Louis River from its source to and including St. Louis and Superior Bays; 2) the Mississippi River from its source to the Blandin Dam in Grand Rapids, including Lakes Itasca, Bemidji, Andrusia, Cass, Winnibigoshish, and Pokegema; 3) the Little Minnesota River and Big Stone Lake from the South Dakota border to the outlet dam on Big Stone Lake; and 4) Albert Lea Lake. This requirement is in addition to other effluent limits or treatment requirements in Minnesota rules. Other provisions in this rule are superceded by provisions in Minnesota Rules, chapter 7050. The MPCA is considering transferring the 1 mg/L phosphorus effluent limit from this rule to Minnesota Rules chapter 7050 and repealing this rule. The MPCA recommends these rules remain in effect until this change can be made.

Parts 7065.0200 to 7065.0260 – Effluent Standards for Disposal Systems: St. Croix River from Wisconsin Border Crossing to Taylors Falls

Minnesota Rules, parts 7065.0200 to 7065.0260, establishes effluent limits for all discharges of sewage, industrial or other wastes to the St. Croix River from the Wisconsin border crossing to the dam in Taylors Falls. Effluent limits specified for fecal and total coliform bacteria, turbidity and pH are more stringent than, and in addition to, the secondary treatment limits for dischargers specified in other Minnesota rules. Other provisions in this rule are superceded by Minnesota Rules, chapter 7050. The MPCA may evaluate whether there is still a need for these more stringent limits and recommends these rules remain in effect until these decisions are made.

CHAPTER 7075 – STATE FUND AND FEDERAL GRANTS

Parts 7075.0100 to 7075.5000

Minnesota Rules, chapter 7075, provides for the administration of grants awarded under the federal construction grant program and the state matching grant program for wastewater treatment systems. This chapter also provides for the administration of grants awarded before July 1, 1990, under the state independent grants program and the state financial assistance program for combined sewer overflow abatement. Because the programs addressed by these rules are no longer in effect, the MPCA recommends these rules be repealed.

CHAPTER 7076 – CLEAN WATER PARTNERSHIP FINANCIAL ASSISTANCE

Parts 7076.0100 to 7076.0290

Minnesota Rules, chapter 7076, was promulgated in 1989 by direction of the Legislature and governs administration of the Clean Water Partnership Program, including grant and loan funds. The Clean Water Partnership Program provides financial and technical assistance to local units of government to identify and correct non-point sources of pollution that are causing impairments of local water resources. This program is voluntary, thus the rules affect only those who apply for funding. Changes to the program to further integrate it into the impaired waters program are being contemplated but are only at the conceptual stage at this time. The MPCA recommends these rules remain in effect.

CHAPTER 7077 – WASTEWATER AND STORM WATER TREATMENT ASSISTANCE

This chapter provides for the administration of the following financial assistance programs for municipal wastewater treatment systems (each of which is statutorily enacted): a) the wastewater infrastructure (WIF) fund; b) the state revolving fund (SRF); c) the state independent grants program for grants awarded on or after July 1, 1990; the combined sewer overflow program for grants awarded on or after July 1, 1990; and the individual sewage treatment systems grants program for grants awarded on or after July 1, 1990. These financial assistance programs are jointly administered by the Minnesota Pollution Control Agency (MPCA) and the Public Facilities Authority (PFA). As explained below, with the exception of parts 7077.0300 to 7077.0330, the MPCA recommends these rules remain in effect.

Parts 7077.0111 to 7077.0292 – Project Priority Process Financial Assistance Program

Minnesota Rules, parts 7077.0111 to 7077.0292 establish the Project Priority Process Financial Assistance Program. The PCA reviews project proposals and, based upon environmental need, places them on a Project Priority List (PPL) to receive financial assistance. The MPCA also administers the required environmental and technical review of the proposed wastewater projects. The PFA administers the financing of wastewater assistance programs, providing municipalities with below market-rate loans and, as available, grant assistance for the construction and rehabilitation of treatment plants and collection systems. The MPCA, together with PFA, is currently reviewing the PPL process (involving input from several stakeholders) to determine whether improvements could be made to increase efficiency while still meeting environmental and wastewater needs of Minnesota communities (a preliminary report entitled: *Water Pollution Control Revolving Fund Improvement* was issued by the MPCA on February 10, 2003, regarding this review). Ultimately, this review process will culminate with recommendations regarding the PPL process.

Parts 7077.0300 to 7077.0330 – Combined Sewer Overflow Abatement Program

Minnesota Rules, parts 7077.0300 to 7077.0330 establish the Combined Sewer Overflow Abatement Program. They specifically provide for the administration of a financial assistance grants program to the cities of Minneapolis, St. Paul and South St. Paul, for the abatement of combined sewer overflows. The purposes and objectives of this program have been achieved, and the total amount of state grant funds made available through this program have been awarded and utilized for implementation of abatement projects. The authority for this program, Minnesota Statutes 116.162, Subdivision 3, was repealed in 1996 (Minnesota Laws 1996, chapter 463, section 61), therefore, the MPCA recommends that parts 7077.0300 to 7077.0330 be repealed.

Parts 7077.0700 to 7077.0765 – Individual Sewage Treatment Systems Grants Program

Minnesota Rules, parts 7077.0700 to 7077.0765 provide for the administration of the Individual Sewage Treatment Systems Grants Program. This program provides grants to small communities with failing systems where individual and small cluster systems provide feasible environmental solutions. Grants are provided to municipalities according to financial need. The MPCA recommends these rules remain in effect.

Parts 7077.2000 to 7077.2010 – Procedural Requirements

Minnesota Rules, parts 7077.2000 to 7077.2010 establish a dispute process for municipalities that feel they have been adversely affected by an agency action. In addition these rules provide a variance provision for any person wanting a variance from any rule part in this chapter. The MPCA recommends these rules remain in effect.

CHAPTER 7080 – INDIVIDUAL SEWAGE TREATMENT SYSTEMS

Parts 7080.0010 to 7080.0950

Minnesota Rules, chapter 7080, were promulgated to protect the public health by specifying the installation requirements necessary to install and maintain Individual Sewage Treatment Systems (ISTS) in a safe and sanitary condition. These rules also cover the credentialing of both ISTS contractors and regulators, specifying the training, experience, and education necessary to perform their duties in a manner protective of public health. In addition, the rule identifies minimal ISTS requirements local ordinances must contain. The MPCA has no suggestions for changes at this time and recommends these rules remain in effect.

CHAPTER 7100 – CLEANING AGENTS AND WATER CONDITIONERS

Parts 7100.0150 to 7100.0240

Minnesota Rules, chapter 7100, establish maximum amounts of plant nutrients, namely phosphorous, that can be in cleaning agents and water conditioners sold in Minnesota. Maximum content of phosphorus by weight is specified for household and commercial laundry detergents, dishwashing soaps, household cleaning agents and water conditioning agents for laundry use. These rules are necessary to regulate the discharge of plant nutrients to surface waters which can contribute to the excess growth of algae and other aquatic plants. The MPCA has no plans to amend these rules and recommends they remain in effect.

CHAPTER 7105 – UNDERGROUND STORAGE TANKS; TRAINING

Parts 7105.0010 to 7105.0130

Minnesota Rules, chapter 7105 implements the requirement of Minnesota Statutes, section 116.491, that the MPCA require a person who installs, repairs, or takes an underground storage tank permanently out of service to first obtain a certificate of competency from the MPCA. These rules are intended to ensure that underground storage tank systems for petroleum and hazardous substances are installed, repaired and closed in a manner that prevents releases of these substances to the environment. They accomplish this by providing standards for the training and certification of the individuals that work on these systems, and certification for the companies that employ those individuals.

The MPCA is considering revision of this chapter by streamlining the training course requirements for supervisors in part 7105.0080 and updating the industry standards that are incorporated in part 7105.0130 because they are generally outdated. The MPCA also recommends that part 7105.0060, subpart 5a governing the schedule for supervisor certification renewal be repealed. This subpart is no longer applicable because it refers to a timeline that has passed. Other than the changes referenced above, the MPCA has no suggestions for changes to these rules and recommends they remain in effect.

CHAPTER 7150 – UNDERGROUND STORAGE TANKS; PROGRAM

Parts 7150.0010 to 7150.0500

Minnesota Statutes, section 116.49, subdivision 1, requires the MPCA to have rules that are applicable to all owners and operators of underground storage tanks that establish safeguards to protect human health and the environment. Minnesota Rules, chapter 7150 establishes the type of underground storage tank systems that are regulated, the construction and performance standards those systems must meet, operation, maintenance and monitoring requirements for active systems and closure requirements for systems no longer in use. This rule also provides for assessment of the sites where these systems have been installed in order to identify any contamination that may be present in the soils and/or groundwater at the site.

These rules were updated in 2000 because the MPCA needed to amend the hazardous materials list (part 7150.0030, subpart 22, Item A) in the rule so it was consistent with the federal definition established in 40 CFR part 302. The EPA required the amendment prior to granting full State Program Approval for Minnesota's Underground Storage Tank Program.

The MPCA is considering revision of this chapter by updating the rules applicability, adding corrosion testing requirements for heating oil systems, requiring certification of a cathodic protection tester and incorporating standards and/or codes of practice for flexible piping systems that came on the market after the original rule was promulgated in 1990. In addition, the 30 day notification requirement for installing new tank systems should be revised to 10 days. The Tanks program has utilized a 10 day notification for the past 11-12 years because it is both advantageous for the MPCA, owners/operators and certified contractors. Some rules parts need references corrected or updated while other parts need new language added for clarification purposes. The MPCA recommends the repeal of part 7150.0300, subparts 3 and 4, because these subparts establish a schedule that expired in 1993, and part 7150.0310, item A, subitem (2), because the deadline listed has passed. The MPCA has no further suggestions for changes at this time and recommends these rules remain in effect other than the two rule parts listed above for repeal.

CHAPTER 7151 – ABOVEGROUND STORAGE OF LIQUID SUBSTANCES

Parts 7151.1100 to 7151.9600

The purpose of these rules is to provide for the protection of the public health and the environment by establishing uniform performance standards and technical requirements for aboveground storage of liquid substances which may cause pollution of waters of the state.

Minnesota Rules, chapter 7151 were adopted on October 26, 1998 because the agency needed to establish standards for environmentally sound management of aboveground storage tanks; to reflect changing scientific information as well as developing technology and industry practice, and to replace the outdated aboveground liquid storage rules (parts 7100.0010 to 7100.0090) which had not been changed since they were promulgated in 1964. Additionally, the MPCA updated chapter 7151 in 2000 because several regulated parties requested interpretation of various rule parts and clarification of certain terms used in the rules. The MPCA recommends that this rule, as it applies to asphalt, and asphalt related substances, be reviewed with the intention of lessening the requirements for these particular substances. This rule is undergoing a phase-in of requirements which will expire on November 1, 2003. The MPCA has no suggestions for changes at this time and recommends they remain in effect.

CHAPTER 9220 – WASTE TIRE MANAGEMENT

Parts 9220.0100 to 9220.0680

Minnesota Statutes, section 115A.914 requires the MPCA to have rules covering the transportation, storage, and processing of waste tires. Under Minnesota Rules, chapter 9220, the MPCA licenses and permits such operations, makes enforcement visits, and reviews proposals for beneficial use. These rules are necessary in order to conserve resources, save landfill space, eliminate disastrous fires in abandoned piles of discarded tires, and minimize threats from Lacrosse Encephalitis and West Nile virus diseases that are spread by mosquitoes that thrive in stagnant water trapped in old tires. While MPCA staff responds only to major waste tire problems due to recent funding cutbacks, the MPCA recommends that these rules should remain in effect so staff can address major waste tire problems when they surface.

CHAPTER 9400 – WATER TREATMENT CERTIFICATION

Parts 9400.0100 to 9400.1500

Minnesota Rules, chapter 9400, establish requirements for individuals to be certified as water or wastewater treatment operators, and for the classification of drinking water systems and wastewater facilities. These rules are enforced by the MPCA (wastewater) and Minnesota Department of Health (drinking water). The competency of the operator in charge of a drinking water system is critical for the protection of public health and the maintenance of a safe, optimally run, and reliable facility. The MPCA has no suggestions for changes at this time and recommends these rules remain in effect.