



## Minnesota Pollution Control Agency

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December 1, 2015

The Honorable Mark Dayton  
Governor, State of Minnesota  
116 Veterans Service Building  
120 W 12<sup>th</sup> Street  
St. Paul, MN 55155

The Honorable Denny McNamara  
Chair, Environment and Natural Resources  
Policy and Finance Committee  
359 State Office Building  
100 Rev. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

The Honorable Rick Hansen  
DFL Lead, Environment and Natural Resources  
Policy and Finance Committee  
247 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

The Honorable David J. Tomassoni  
Chair, Environment, Economic Development  
and Agriculture Budget Division  
MN State Senate  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

The Honorable Bill Ingebrigtsen  
Ranking Minority Member, Environment,  
Economic Development and Agriculture Budget  
Division – State Office Building, Room 143  
100 Rev. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

The Honorable John Marty  
Chair, Environment and Energy Committee  
MN State Senate  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

The Honorable David J. Osmek  
Ranking Minority Member, Environment and  
Energy Committee  
19 State Office Building  
100 Rev. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

Ms. Michele Timmons  
Office of the Revisor  
700 State Office Building  
100 Rev. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

Greg Hubinger, Director  
Legislative Coordinating Commission  
72 State Office Building  
100 Rev. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

RE: Annual Report on Obsolete, Unnecessary, or Duplicative Rules, as required by  
*Minnesota Statutes § 14.05, subd. 5<sup>1</sup>*

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<sup>1</sup> **Cost of preparing this report.** In compliance with *Minnesota Statutes § 3.197*, the cost of preparing this report is \$1,060. This includes time for review of rules, customer research, and drafting the report.

Minnesota Statute § 14.05, Subdivision 5, states:

*"By December 1 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 1, 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 1 report must state that conclusion."*

The Minnesota Pollution Control Agency (MPCA) has conducted an internal review of its rules and also requested help from external customers (e.g. Minnesota Chamber of Commerce, tribal representatives and environmental advocacy groups) to identify rules that are obsolete, unnecessary or duplicative.

## **Rules identified as obsolete, unnecessary or duplicative.**

### **1. MPCA Board Rules**

The 2015 Legislative session eliminated the MPCA Citizens Board. (*Minn. Stat.* § 116.02, subd. 6 and 8 (1Sp2015 c 4 art 4 s [150 https://www.revisor.mn.gov/laws/?id=4&year=2015&type=1](https://www.revisor.mn.gov/laws/?id=4&year=2015&type=1)). *Minn. R* ch. 7000 (MPCA Procedural Rules), and a number of other MPCA rules include obsolete references to the MPCA Citizens' Board and MPCA Citizens' Board activities.

### **2. Air Quality Rules**

The following rules relating to aspects of the MPCA's air quality program have been identified as being obsolete, unnecessary or duplicative:

- ***Minn. R. pt. 7007.0325 Biogenic carbon dioxide exclusion from applicability thresholds.*** This part is obsolete because the federal deferral of these emissions expired July 21, 2014 and is no longer applicable.
- ***Minn. R. pt. 7009.0070 Time of compliance.*** This part is obsolete because the compliance date for the ozone and sulfur dioxide standards ended December 31, 1984.
- ***Minn. R. pt. 7011.1280, subpart 8 List of courses.*** This subpart is obsolete because it is no longer necessary to maintain a list of training courses that qualify for earned credit under the provisions of the operators' certification program. Sufficient training capacity directly related to waste combustor operations has developed in the waste combustor industry so the Commissioner is not required to prepare a list of approved courses.
- ***Minn. R. pt. 7011.1400, subpart 12 Process upset gas.*** This definition is obsolete because the term "process upset gas" is no longer referenced in rule.

- **Minn. R. pt. 7011.1415 Exemptions.** A portion of this part providing an exemption for certain emissions is obsolete because those exemptions are no longer provided in current federal Clean Air Act requirements.
- **Minn. R. pt. 7017.1080, subpart 3 Microfiche submittal deadline.** This subpart is obsolete because it requires test information to be submitted in a form (microfiche) that is obsolete.
- **Minn. R. pt. 7017.1120, subpart 2 Alternate format.** This subpart is unnecessary because a different rule allows the submittal of information in an alternate format.
- **Minn. R. pt. 7017.1170, subparts 1, 4, and 5 Quality assurance and control requirements for CEMS.** These subparts are obsolete because the MPCA is adopting a new rule that incorporates updated federal requirements.
- **Minn. R. pt. 7017.1210 Quality assurance and control requirements for COMS.** This part is obsolete because the MPCA is adopting a new rule incorporating federal standards of performance for new stationary sources.
- **Minn. R. pt. 7017.2001, subpart 2 Transition to new rule.** This subpart is obsolete because the November 1, 1993 deadline for rule transition has passed.
- **Minn. R. pt. 7017.2018 Submittals.** This part is obsolete because the mailing address for submittals and the format for these submittals are outdated.

### 3. Hazardous Waste Rules

The following rules relating to the MPCA's hazardous waste manifest tracking system have been identified as being obsolete:

- **Minn. R. pt. 7045.0261 subpart 1a, item B Exemptions**
- **Minn. R. pt. 7045.0294, subpart 1a Alternate manifests**
- **Minn. R. pt. 7045.0381, subpart 5 Use of an alternate manifest**

These subparts are obsolete because they provide the option of using an alternate manifest which is no longer allowed under the federal hazardous waste manifest program.

The following rules relating to the MPCA's hazardous waste management program have been identified as being obsolete or duplicative:

- **Minn. R. pt. 7045.0206, subpart 6, item B.** This part establishes generator size determination requirements. Obsolete requirements in subpart 6, item B, relating to polychlorinated biphenyls are being deleted.
- **Minn. R. pt. 7045.0230, subpart 1a.** This part establishes very small quantity generator license application requirements. The requirements are duplicative because of proposed language revisions.
- **Minn. R. pt. 7045.0243, subpart 3, item G.** This part establishes the terms and conditions of a hazardous waste generator license. Subpart 3, item G is obsolete because this part of the MPCA's process for issuing licenses has changed.
- **Minn. R. pt. 7045.0371.** This part requires that hazardous wastes must be transported in accordance with applicable state statutes and federal requirements. The reference to repealed *Minnesota Statute § 221.0355* is obsolete.
- **Minn. R. pt. 7045.0875, subpart 8, item B.** This part establishes standards for used oil processors and refiners. Item B establishes that a used oil processor/refiner must submit a biennial report. This item is obsolete because the MPCA no longer requires submittal of biennial reports from used oil processors/refiners.



## **The Minnesota Pollution Control Agency's planned process for the repeal of the identified obsolete rules.**

1. The MPCA is working with the Office of the Revisor of Statutes (Revisor) to prepare proposed legislation according to Laws 2015, First Special Session chapter 4, article 4, section 149, which will repeal obsolete rule provisions related to the MPCA Citizens' Board. The proposed legislation will also grant editorial authority to the Revisor, to the extent the editing exceeds the Revisor's general editorial authority granted under *Minnesota Statutes*, chapters 3C and 14, to eliminate those obsolete provisions that cannot be repealed. Any remaining references to the MPCA Citizens' Board or MPCA Citizens' Board activities that are not addressed by legislation will be the subject of a future MPCA administrative rulemaking to correct those references to the appropriate authority or activity.
2. The obsolete rules relating to the MPCA's air quality program are currently being addressed through rulemaking that will make a number of minor revisions to several chapters of Minnesota rules. This rulemaking, referred to as the Air Omnibus rule (Revisor's # 4097), is expected to be completed in 2016.
3. The obsolete rules relating to the MPCA's hazardous waste program are currently being addressed through rulemaking that will make a number of changes to several chapters of Minnesota rules. This rulemaking, referred to as the Land-Related Housekeeping rule (Revisor's #4155) is expected to be completed in 2016.

## **Status of rules identified in previous Obsolete Rules Reports.**

A number of rules were identified in previous Obsolete Rules Reports but the MPCA has not completed the rulemaking process to complete their repeal.

1. 2014 Obsolete Rules Report. The 2014 Obsolete Rules Report identified one set of rules as potentially obsolete: the Green House Gas Emissions rules, portions of which were vacated by Supreme Court decision. The MPCA is waiting to initiate rulemaking to repeal the obsolete rules until the U.S. Environmental Protection Agency provides guidance on how to address the vacated portions of the rule.
2. 2013 Obsolete Rules Report. The following obsolete rules identified in the 2013 Obsolete Rules Report are being addressed through current rulemaking activities.

**Air Omnibus Rule** (Revisor's # 4097) The MPCA is revising ***Minn. R. pt. 7011.0725*** (Performance Test Procedures), as part of the Air Omnibus rule expected to be adopted in 2016.

**Land Housekeeping Rule** (Revisor's # 4155) The MPCA is repealing or amending the following obsolete parts subparts, or portions of rules as part of the Land-Related Housekeeping rule expected to be adopted in 2016.

- ***Minn. R. pt. 9210.0120, subpart 5*** (Grant application procedures), and ***9210.0810, subpart 1*** (Request for proposals). These rules relate to the administration of solid waste grants and contracts.
- ***Minn. R. pt. 7035.9120, subparts 4 and 5***. These subparts regulate the transportation of infectious waste.
- ***Minn. R. pt. 7045.0075, subpart 5***. This subpart provides a mechanism to petition for the use of an alternate manifest for hazardous waste transportation.
- ***Minn. R. pt. 7045.0125, subparts 4, 5 and 6***. These subparts relate to the transportation of hazardous waste being recycled.

- **Minn. R. pt. 7045.0325, subpart 2.** This subpart provides exceptions to the federal uniform hazardous waste manifest.
- **Minn. R. pt. 7045.0365, subpart 3.** Item I in this subpart establishes requirements applicable to hazardous waste transfer facilities.
- **Minn. R. pt. 7045.0395, subpart 5.** Items B and C of this subpart requires specific actions in response to a spill of hazardous waste.
- **Minn. R. pt. 7045.0686.** This part establishes the requirements for the management of spent or waste household batteries.

If you have any questions regarding this report, please feel free to contact me at 651-757-2031.

Sincerely,



Greta Gauthier  
Legislative Director

GG/CN:jl