



Minnesota Pollution Control Agency

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November 21, 2011

The Honorable Mark Dayton
Governor, State of Minnesota
Room 130 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155-1606

The Honorable Denny McNamara, Chair
House Environment, Energy and Natural
Resources Policy and Finance Committee
1368 Featherstone Court
Hastings, MN 55033

The Honorable Kurt Zellers, Chair
Legislative Coordinating Commission
463 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Ms. Michele Timmons
Office of the Revisor
700 State Office Building
St. Paul, MN 55155

The Honorable Bill Ingebrigtsen, Chair
Senate Environment and Natural Resources Committee
75 Rev. Dr. Martin Luther King Jr. Blvd., Room 303
St. Paul, MN 55155-1606

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

Minn. Stat. § 14.05, subd. 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 The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules.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Pollution Control Agency (MPCA) has reviewed and identified the following rules that are obsolete and should be repealed:

Minn. R. ch. 7002 – Permit Fees

1. Minn. R. 7002.0025, subpart 2a – Newly permitted facilities.

The permit application fee rules in Minn. R. ch. 7002 requires that a permit applicant pay a fee based on the type of permit/services needed at the time of application. The original Statement of Need and Reasonableness for subpart 2a explains that the newly permitted facility fee was collected to pay for the costs of permitting a new facility, an activity that is now more accurately accounted for in the new permit application fee rule language. With the implementation of the new application fee rules, a facility may perceive that they are paying twice to get their permit, once upon application and then again upon issuance. With the enactment of the permit application fee rules, part 7002.0025, subpart 2a is rendered obsolete. The MPCA is planning to repeal Minn. R. 7002.0025, subpart 2a through an agency housekeeping bill for consideration during the 2012 legislative session. This housekeeping bill will also include obsolete rules listed in the MPCA's 2008 and 2009 Obsolete Rules Reports that have not yet been repealed.

Status of obsolete rules identified in the MPCA's 2010 Obsolete Rules Report:

The MPCA reported the agency had no obsolete rules in 2010.

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

Staff cost: \$76.00 (Includes time for one support staff and one technical staff).

If you have any questions regarding this report, please contact me at 651-757-2681.

Sincerely,

Kirk Koudelka
Legislative Director
Commissioners Office

KK/NLC:jab