

Compliance and Enforcement Receipts

January 30, 2012

Penalties received by the Minnesota Pollution Control Agency (MPCA) are deposited in the Environmental Fund and the Remediation Fund. Deposits to the Remediation Fund are from penalties associated with hazardous waste. Penalties deposited in the Environmental Fund are from Air and Water, or all media. In both the Remediation and Environmental Funds, penalties received are not made immediately available for agency spending, but rather must be appropriated by the Legislature to the MPCA and other agencies for use. Expenditures from the Environmental Fund range from permitting to cleanup activities. There is no correlation associated with those inspecting and determining compliance approaches to the funding received.

A. Statute Modification

1. 2009 Session Laws, Chapter 37, Article 1, Section 38: eliminated the formula to divide penalties between the General Fund and the Environmental Fund. This modification did not impact deposits to the Remediation Fund.
2. Until this law, the maximum penalty receipts deposited in the Environmental Fund was capped at appropriation in Laws 1991, chapter 347. Based on the language in this chapter, the amount deposited in the Environmental Fund was about \$650,000 per year.
3. Deposits to the Environmental Fund come from a number of sources, the penalty deposits being one of the smallest deposits in any given year. The Environmental Fund is appropriated for use by the MPCA for regulatory and non-regulatory functions.

B. Revenue History

1. The following table reflects the history of penalty collections and deposits to the General and Environmental Funds from FY2007 to through mid-Fiscal Year 2012 (December 31, 2011). The average total amount of penalties from FY2007 – FY2011 is \$1,689,436. The receipts are highly variable and completely dependent on when enforcement cases are completed and penalties are received. Enforcement cases may be initiated in one fiscal year and completed in another, or completed in one year and penalties received in another.

FUND	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012*
General	\$950,587	\$869,460	\$917,509	\$0	\$0	\$0
Environmental	\$646,000	\$646,000	\$647,000	\$2,147,732	\$1,622,893	\$1,261,257
	\$1,596,587	\$1,515,460	\$1,564,509	\$2,147,732	\$1,622,893	\$1,261,257

* FY2012 Receipts are as of December 29, 2011

2. Projections used for the November 2011 forecast were based off the last 5 year average (\$1,689,436). Because the MPCA does not set fund targets for its penalty collection, and since enforcement penalties are not a predictable revenue source as permit annual fees, the MPCA is conservative in its estimation of penalties and must adjust spending based on all revenue sources and the fund balance. Penalties are not viewed in the budget process as reliable revenue stream for purposes of maintaining the Environmental Fund balance, but rather are viewed as an unplanned receipt.

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