Comprehensive Report on MPCA Rules

Made to the Governor and the Legislature

Minnesota Pollution Control Agency

January 2013

Legislative Charge

2012 Minnesota Session Laws, Chapter 238

Sec. 3. Reports. By January 15, 2013, the Pollution Control Agency, Department of Natural Resources, Board of Water and Soil Resources, Environmental Quality Board, and Department of Agriculture must each report to the governor, the Legislative Coordinating Commission, and the policy and funding committees and divisions with jurisdiction over the agency. Each report must update information that was reported as required by Laws 2000, chapter 469, section 4, subdivision 1.

2000 Minnesota Session Laws, Chapter 469

Sec. 4, 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.

Coordinator

Jim Chiles

Contributors

Gordon Andersson, Mary Baker, Nathan Blasing, Jim Brist, Kim Brynildson, Josh Burman, Paula Connell, John Curry, Elise Doucette, Jorja DuFresne, Bill Dunn, Peter Fastner, MaryJean Fenske, Henry Fisher, John Gilkeson, John Ikeda, Anne Jackson, Amy Jendro, Katrina Kessler, Sarah Kilgriff, Gary Krueger, Yolanda Letnes, Deb Lindlief, Aaron Luckstein, Lisa Mojsiej, Carol Nankivel, Catherine Neuschler, Kari Palmer, Andrew Place, Angela Preimesberger, Dave Richfield, Gretchen Sabel, Sig Scheurle, Sarah Sevcik, and Mark Tomasek

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Minnesota Pollution Control Agency

520 Lafayette Road North | Saint Paul, MN 55155-4194 | www.pca.state.mn.us | 651-296-6300
Toll free 800-657-3864 | TTY 651-282-5332

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Contents

Introduction and Background 1

Summary of Recommendations 2

MPCA Rule Chapters 4

Introduction and Background

The 2013 *Comprehensive Report on All MPCA Rules* originates with an earlier cycle of legislative directives for agencies to report to the Legislature about rule streamlining. The MPCA also delivers an annual *Report on Obsolete Rules* to the Legislature each December, referenced herein.

In 2000 the Legislature passed Session Law 469, sec. 4, subdivision 1 (codified in Minn. Stat. § 14.3691), which provided:

> **Minn. Stat. § 14.3691 RULE REVIEW AND LEGISLATIVE OVERSIGHT.**
> **Subd. 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.

The MPCA delivered its recommendations in 2003, as specified under Subdivision 2, the schedule for agencies' rule review.

During the 2012 regular legislative session, Session Law Chapter 238 directed a specific list of state agencies including the MPCA to prepare updated reports on this subject, for delivery in January 2013.

> **2012 Minnesota Session Law, Chapter 238**
> **Sec. 3. Reports.** By January 15, 2013, the Pollution Control Agency, Department of Natural Resources, Board of Water and Soil Resources, Environmental Quality Board, and Department of Agriculture must each report to the governor, the Legislative Coordinating Commission, and the policy and funding committees and divisions with jurisdiction over the agency. Each report must update information that was reported as required by Laws 2000, chapter 469, section 4, subdivision 1. The reports from the Board of Water and Soil Resources and the Environmental Quality Board must include the information required by Laws 2000, chapter 469, section 4, subdivision 1.

Summary of Recommendations

After passage of the law requiring preparation of the *Comprehensive Report*, MPCA staff reviewed the 46 chapters of Minnesota Rules currently administered by the agency, and invited suggestions from stakeholders during meetings about MPCA rulemaking procedures in Fall 2012. Following are MPCA's recommendations.

Rules recommended for repeal as obsolete. The MPCA has identified the following rules or rule subparts as obsolete and that should be repealed or amended:

- Minn. R 7011.0725, subp. 2. This subpart identifies tests applicable to operators of Industrial Process Equipment. The U.S. Environmental Protection Agency has promulgated performance test methods that are now considered the industry standard, which makes the tests identified in 7011.0725, subp. 2 obsolete.

- Minn. R. Chapter 7021. This chapter establishes an acid deposition standard for geographic regions that the MPCA has determined to be sensitive areas. This chapter can be repealed because other state and federal emission control requirements now adequately address sulfur dioxide emissions and the deposition standard is no longer needed for enforcement or environmental protection purposes.

- Minn. R. part 7053.0405, subps. 3, 4, and 5. These subparts relate to aquaculture facilities and contain language regarding the methods a permittee can follow to request a variance. All of the variance provisions are applicable through other state rules and are obsolete.

- Minn. R. parts 9210.0120, subpart 5 (Grant Application Procedures), 9210.0810, subp. 1 (Request for Proposals) and Minn. R. part 7076.0140, subp. 1 and 2 (Notice of Financial Assistance Availability). These rules relate to the administration of various grants and contracts. In 2012, the traditional process for providing notification of these types of activities was affected by the implementation of the statewide SWIFT accounting system. SWIFT provides an acceptable method of public notice for those solicitations conducted within the SWIFT system. The parts of these rules that refer to providing notice specifically through publication in the *State Register* were rendered obsolete by the implementation of the new SWIFT system and should be amended to reflect the current requirements. Minn. R. part 7076.0140, subp. 2 also includes obsolete conditions that specify the MPCA's process for maintaining mailing lists and providing notification that must be revised to reflect current practices.

- Minn. R. parts 9210.0300 to 9210.0380. These rules relate to the Solid Waste Processing Facility Demonstration Program, which was a forerunner to the current Solid Waste Processing Facility Capital Assistance Program. The requirements relating to this program are now obsolete and the rules can be repealed.

- Minn. R. part 9220.0530, subp. 6. This subpart requires that waste tire transporters submit their operating records to the MPCA four times yearly. Since this rule was adopted, the development of a well-established infrastructure for managing waste tires led to a reduced need for MPCA oversight of waste tire regulatory activities. In 2002, the MPCA informed the Legislature that the waste tire program was being eliminated and tire processing and storage facilities would be regulated through the solid waste permit. A January 2007 MPCA memorandum clarified program interests and roles for regulating the waste tire program and stated that waste tire transporters must prepare monthly operating records and make them available to the MPCA staff upon request but will not be required to submit the reports

on a quarterly basis as required under Minn. R. 9220.0530, subp. 6. The MPCA has not required transporters to submit quarterly reporting since 2007. The MPCA intends to follow current practices outlined in a program management decision and therefore, the requirements of Minn. R. 9220.0530, subp. 6 are obsolete.

Process for repeal of obsolete rules. The MPCA will prepare a policy bill for consideration during the 2013 Legislative Session which will include the repeal of the obsolete chapter addressing acid deposition control (Minn. R. Chap. 7021), the obsolete rule parts relating to Solid Waste Processing Facility Demonstration Program (Minn. R. parts 9210.0300 to 9210.0380) and the requirement for the submittal of operating records from waste tire transporters (Minn. R. parts 9220.0530, subp. 6). The remaining obsolete provisions will be addressed through administrative rulemaking conducted by the MPCA. These changes require the development of alternative language or more extensive revisions and are not amenable to a legislative repeal of the obsolete subparts. The MPCA will address these obsolete provisions by either incorporating them into other rulemaking activities related to those rule chapters or may undertake omnibus rulemaking that will address a number of such non-technical, "housekeeping" amendments at one time.

Other streamlining rule changes. MPCA's recommendations for streamlining changes to rules, other than by use of the obsolete-rule provision, are discussed in the body of this report.

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.

Streamlining work since the 2003 *Comprehensive Report on MPCA Rules* was filed: As recommended in the previous report ten years ago, MPCA repealed the following rules:

- 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

Organization of this report. This report is organized by chapter and subject area. There is a brief description of each rule chapter administered by MPCA, followed by recommendations.

Recommendations on MPCA-Administered Rules

CHAPTER 7000 – MPCA PROCEDURAL RULES

Minn. R. Chapter 7000 establishes the procedures and standards of conduct the MPCA must follow in making decisions. In 1996, the Legislature amended Minn. Stat. § 116.02, subd. 6 to establish a clear division of responsibility between the Commissioner and the MPCA Board by identifying seven subject areas for Board actions.

In 2003 the MPCA brought Chapter 7000 into compliance with the 1996 legislative directives. Several other updates were identified to reflect changes in Minnesota's Government Data Practices Act and Minnesota's Contested Case Hearing rules. In addition, rule parts considered unnecessary or in conflict were repealed. No further amendments are recommended at this time and the MPCA recommends these rules remain in effect to provide a uniform process for conducting Board business.

CHAPTER 7001 – PERMITS AND CERTIFICATIONS

Parts 7001.0010 to 7001.0210 – General Requirements
Minn. R. parts 7001.0010 to 7001.0210 contain the requirements for when the MPCA issues a permit to individual permittees, or to a category of permittees whose operations, emissions, activities, discharges or facilities are the same or substantially similar. These rules include 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. Minn. R. part 7001.0030 and part 7001.0090, were the subject of limited revisions in 2011 to reflect laws enacted by the 2011 Minnesota State Legislature regarding MPCA permit application completeness review. The MPCA has no suggestions for additional changes to these rules and recommends that they remain in effect.

Parts 7001.0500 to 7001.0739 – Hazardous Waste Facility Permits
Minn. R. 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. Minn. Stat. § 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
Minn. R. 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 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
Minn. R. parts 7001.1400 to 7001.1470 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 Minn. R. 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. The MPCA has no suggestions for changes to these rules at this time and recommends these rules remain in effect.

Parts 7001.3000 to 7001.3550 – Solid Waste Management Facility Permits
Minn. R. 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. Based on good-cause rulemaking authorized by the Legislature in 2012, MPCA eased the regulatory burden on permittees by extending the length of landfill permits from five years to 10 years. Regarding permitting requirements for solid waste transfer facilities, the MPCA will look for future opportunities to streamline that process. 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
Minn. R. 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

Overview
The MPCA revised these rules most recently in 2010 following legislative directives in 2007 and 2009. The MPCA was directed to amend its rules on water and air fees so that revenue into the environmental fund would pay for

regulatory services to the ethanol, mining, and other developing economic sectors. The amendments addressed three main areas of change. The first area of change is that these amendments develop a formula for the calculation and collection of fees associated with air and water permit applications. After receiving feedback from a stakeholder process and from hearings held throughout the state, MPCA developed a permit fee formula. The permit fee formula was based on a biennially adjusted fee target and fee points, which were based on the level of work required for air and water permitting activities. (Annual permit fees were not affected by this rulemaking.) The second area addressed was the establishment of application fees for air quality permits, and modifications to the fee amounts and the manner in which fees would be assessed for water quality permit applications. The proposed amendments established an application fee correlated to the level of effort required to develop and issue the permit. Under this approach, a higher fee was assigned for permit actions that require more work, while a simple permit action was assigned a lower fee. Additional points were established for different types of permit-related activities in addition to the basic application fee. The concept was the same for both air and water permit applications, but the activities for which additional points are charged were designed to match the uniqueness of each program. The third area adjusted the existing rules regarding the administrative aspects of the fee system and also updated the existing annual water fees to codify the existing annual water fees as modified by the Minnesota Legislature in 2002 and 2003.

Part 7002.0045 – Computation of dollar figure per ton

MPCA recommends that in part 7002.0045, concerning the computation of the dollar per ton figure, that P be removed from the dollar per ton computation figure. P equals the total amount billed as newly permitted facility fees in the previous calendar year under part 7002.0025, subpart 2a. Given that 7002.0025, subpart 2a has been repealed, P should also be removed from part 7002.0045 unless there is an intent to reinstate the newly permitted facility fee. MPCA might address this in a future rulemaking on MPCA fees.

Parts 7002.0210 to 7002.0310 – Water Quality Permit Fees

Minn. R. parts 7002.0210 to 7002.0310 set the scope, payment process and amount of water quality permit fees. Revisions proposed for 2013 are intended to comply with legislative mandates to include certain fees and to clarify provisions to standardize approaches to all fees, including payment timelines. In addition, MPCA is reviewing assigned points and fees to assess consistency among permit categories. MPCA recommends that these rules remain in effect until amended because they form the mechanism for generating revenue, which the Legislature has required be implemented for MPCA's regulation of facilities.

Parts 7002.0005 to 7002.0085 – Air Emissions Permit Fees

Minn. R. 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 Minn. Stat. § 116.07, subd. 4d (b), and are required to be assessed under the federal Clean Air Act. The MPCA has no suggestions for changes to the air emissions permit portion of these rules and recommends the rules remain in effect.

CHAPTERS 7005 – 7030 AIR RULES – GENERAL OVERVIEW

The air-quality related chapters of the MPCA's rules regulate 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 the mechanism by which the state demonstrates to the US Environmental Protection Agency (EPA) that the state will ensure compliance with the federal National Ambient Air Quality Standards (NAAQS). Modification of rules that are in the SIP must be submitted to EPA for approval 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. The MPCA has periodically updated its air rules through a series of "Omnibus" rules. The intent of Omnibus rules is to make minor rule changes to clarify the meaning of a rule, delete outdated or erroneous text, align Minnesota's rules with recent federal changes, or update rules incorporated by reference. Omnibus rules are by design non-controversial and have limited regulatory impact. The MPCA is currently in the early stages of proposing an Omnibus rule that is likely to make minor changes to all of the Agency's air rules. Although none of the changes will make a significant change to the scope or impact of a given rule, these pending changes are described within the discussion of the relevant rules.

CHAPTER 7005 – DEFINITIONS AND ABBREVIATIONS

Part 7005.0100 to 7005.0110 – Terms Used
Minn. R. 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 most recent changes to this chapter involve modifying the air permit rules to incorporate new federal permit requirements for greenhouse gas emissions. The effective date for the temporary rule for this change was January 24, 2011. The MPCA is conducting rulemaking to make these temporary rules permanent. The proposed rule will adopt additional recent federal air permit rules governing spark ignition engines and provides clarification that both owners and operators must jointly apply for and operate under air permits. The Tailoring Rule amendments will take effect in January 2013.

Chapter 7007 can be broken down into the following segments:

Parts 7007.0050 to 7007.0450 – General Permit Requirements
Minn. R. 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. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7007.0500 to 7007.0750 – Completeness of Applications
Minn. R. 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. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7007.0800 to 7007.1075 – Permit contents
Minn. R. 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. 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. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Parts 7007.1110 to 7007.1130 – Registration Permits
Minn. R. 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 no suggestions for changes to these rules and recommends they remain in effect.

Parts 7007.1150 to 7007.1850 – Permit Amendments
Minn. R. 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. The MPCA has no suggestions for changes to these rules and recommends they remain in effect.

Part 7007.3000 – Federal PSD Rules
These parts incorporate by reference the federal rules for Prevention of Significant Deterioration (PSD) permitting, part of the New Source Review (NSR) construction permit program. The MPCA has no current suggestions for changes to these rules. The MPCA currently implements the federal PSD permitting program through a delegation of authority from EPA, meaning Minnesota's program directly follows the federal rules. However, states can choose to write their own rules for PSD permitting, as long as those meet minimum federal requirements. The MPCA has been considering these changes, and may undertake a future rulemaking to revise this part. At this time, the MPCA recommends this rule remain in effect.

Part 7007.3010 – Hazardous Air Pollutants Program
This part incorporates by reference certain provisions of the federal hazardous air pollutants programs. The MPCA has no suggestions for changes to these rules and recommends this rule remain in effect.

Parts 7007.4000 to 7007.4030 – Emission Facility Offsets
These parts, the Offset Rule, are part of the NSR permitting program. It 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 source, 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.

Parts 7007.5000 – Best Available Retrofit Technology
This part sets forth requirements for Best Available Retrofit Technology (BART) as part of the federal Regional Haze program. This rule is part of Minnesota's SIP for Regional Haze. The MPCA has no suggestions for changes to this part and recommends it remains 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 7008.4110 – Categories and Exemptions
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 rules would be exempt from the requirement to obtain an air emissions permit.

This chapter also establishes 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 these 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 MPCA has no suggestions for changes to this part and recommends it remains 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 Minn. R. 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 to reflect changes in the standards at the federal level. The MPCA plans such an update in the upcoming Omnibus Rule. 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
Minn. R. 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. An update to the emergency levels in Part 7009.1060 to reflect recent changes to the NAAQS is likely as part of the omnibus rule. The MPCA has no other 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 federal actions and the state implementation plan 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 that 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.

In conjunction with the planned Omnibus rule, the MPCA is considering changes to Parts 7011.0500 to 7011.0553 - Indirect Heating Fossil-Fuel-Burning Equipment, Parts 7011.0600 to 7011.0625 - Direct Heating Fossil-Fuel-Burning Equipment, and Part 7011.2300 - Stationary Internal Combustion Engines. In particular, this is envisioned to include changes to the allowable sulfur emissions from burning fuel oil. The changes are anticipated to reflect the general availability of low sulfur fuel oil. Other changes to these standards of performance may also be considered in order to simplify compliance with new federal NAAQS for sulfur dioxide and nitrogen dioxide.

Minn. R. 7011.0725, subp. 2 can be repealed as obsolete. The EPA has promulgated performance test methods that are now considered the industry standard making 7011.0725, subp. 2 unnecessary at this time. Beyond the changes mentioned above, the MPCA has no suggestions for changes to the performance standards listed above and recommends that they remain in effect.

7011.7000 to 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 Minn. R. 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 as part of the Omnibus rulemaking. Otherwise, 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 results from 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 to 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 intends to update these rules through the Omnibus rule as previously described to more closely align with federal standards and current practices.

Parts 7017.2001 to 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 intends to update these rules through the Omnibus rulemaking as previously described to more closely align with federal standards and current practices.

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 specific requirements are incorporated and quoted in facility air emission permits and the requirements are reviewed with facilities during inspections. The MPCA has no suggestions for changes to this rule and recommends that it remain in effect.

Parts 7019.3000 to 3100 – Air Emission Inventories
This section provides that facilities required to have MPCA air permits must submit an annual air emission inventory report to the MPCA. Emissions related to ammonia, carbon monoxide, particulate matter, lead, nitrogen oxides, sulfur oxides and volatile organic compounds from all emission units are to be reported in a format specified by the MPCA depending on the air emission permit type. The MPCA has no suggestions for changes to this rule and recommends that it remain in effect.

CHAPTER 7020 – ANIMAL FEEDLOTS

Parts 7020.0200 to 7020.2225 – Registrations and Permits
Minn. R. 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 Minn. Stat. § 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.

Since the adoption of the current Chapter 7020 on October 23, 2000, the federal regulations for Concentrated Animal Feedlot Operations (CAFOs) were modified in 2003, 2008 and 2012. 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. There have also been several changes to Minn. Stat. § 116.07 pertaining to the regulation of animal feedlots and manure storage systems. The MPCA is currently in the process of updating Chapter 7020 to include the applicable changes to the federal CAFO regulations and Minn. Stat. § 116.07. 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

This chapter establishes an acid deposition standard for geographic regions that the MPCA has determined to be sensitive areas. This chapter can be repealed because other state and federal emission control requirements now adequately address sulfur dioxide emissions and the deposition standard is no longer needed for enforcement or environmental protection purposes. Environmental monitoring for acid deposition will continue, as resources allow, to understand Minnesota's environmental conditions and continue the long-term monitoring trend at a national and regional level.

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
Minn. R. 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 classes, depending on whether they are near or above a water body and upon their proximity to types of land uses listed in 7025.0250, subp. 2 through subp. 5. In subsequent parts, general pollution control requirements are set out

and suitable methods are prescribed for each class. 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. In addition to general pollution control requirements, specific removal requirements are specified for each class. 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 appropriate to a bridge that traverses a water body. Additionally, 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 – Control of Ozone-Depleting Chemicals
Minn. R. 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. Following the MPCA's Legislative Rules Report of 2003, self-certification requirements for appliance recyclers (Minn. R. 7027.1150, subp. 2) were repealed to streamline rule requirements. The MPCA has no suggestions for further 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 rules applying to outdoor settings. The noise rules are "receiver based" and intended to preserve public welfare, to prevent annoyance, and to protect speech, sleep, and hearing. Receivers are grouped by noise-area classifications according to land use (but note that Minn. Stat. § 116.07, subd. 2a exempts certain sources from the noise rules such as gun ranges, racetracks that began operation before July 1, 1996, and certain highways, streets, and roadways.) Chapter 7030 also defines detailed procedures to measure 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 Minn. Stat. §§ 115.03, 115A.03, 115A.97, and 116.07, this chapter covers the construction, operation, and post closure 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.

Parts 7035.0300 to 7035.0605 – Solid Waste Management Facilities; Generally
Minn. R. 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
Minn. R. 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
These rules set out technical requirements for landfills permitted to receive waste from industrial facilities. While certain parts of siting and financial assurance requirements for new industrial landfills were revised in 2012 at the Legislature's direction, most of the provisions date to 1988. The MPCA has no streamlining-related suggestions for changes to these rules at this time.

Parts 7035.2525 to 7035.2655 – Solid Waste Management Facility General Technical Requirements
Minn. R. parts 7035.2525 to 7035.2655, set out siting, training, environmental protection, emergency management, annual reports, 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
Minn. R. 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. At the direction of the Legislature, the rules were recently revised to update financial assurance requirements for landfills going into operation after January 1, 2011. Financial assurance rules for existing landfills were not changed. The MPCA has no suggestions for further 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
Minn. R. part 7035.2815, sets out prescriptive requirements as well as performance-based criteria for the minimum design, operation, monitoring, and long-term care of mixed municipal solid waste (MMSW) land disposal facilities. This rule, most of which was adopted in 1989, have been accepted and used by the industry to ensure proper disposal of MMSW. The MPCA has no streamlining-related suggestions for changes to these rules at this time.

Part 7035.2825 – Demolition Debris Land Disposal Facilities
Minn. R. 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. MPCA intends to undertake a solid waste rulemaking in the future and will consider streamlining and other changes at that time.

Part 7035.2836 – Compost Facilities
Minn. R. 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. MPCA is amending these rules to create a category for source separated organic material composting, which poses lower risks relative to mixed-waste composting. This will result in lower facility costs and improvements to the economics of composting a mix of yard waste and leftover food. The amendment should take effect in 2013. Otherwise, the MPCA recommends that this rule remain in effect.

Part 7035.2845 – Recycling Facilities
Minn. R. 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, but recommends discussions with stakeholders on whether rule revisions are necessary in the future to reflect the changing system of waste management and emerging waste conversion technologies.

Part 7035.2855 – Solid Waste Storage Standards
Minn. R. 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 7035.2860 – Beneficial Use of Solid Waste
Minn. R. part 7035.2860 governs beneficial use of a material that would be otherwise classified as a solid waste and seeks to protect human health and the environment with specifications on proper classifications, operations and controls. While this list is likely to be expanded by rule as knowledge improves, the MPCA has no streamlining suggestions for changes to the rule at this time.

Part 7035.2865 – Solid Waste Transfer Facilities
These rules were amended in 2005 to streamline the permitting process in several respects. The amendments allowed transfer stations with existing MPCA permits to continue operation under those permits without the need for a re-permitting process, unless a major modification is planned or other circumstances exist such as non-compliance that make re-permitting necessary. The MPCA amended the requirements for “permit-by-rule” transfer facilities to create two categories of unpermitted operation to allow more facilities with limited waste handling activities to operate without the MPCA’s formal permitting process. The MPCA also updated technical and operation standards applicable to all transfer facilities, removed obsolete portions, and required local governmental approval of solid waste transfer facilities prior to MPCA permitting. Going forward, transfer station rules should be amended to create an intermediate category for demolition-only transfer stations/processing facilities, based on the premise that such facilities pose a lower risk than MMSW transfer stations and should be subject to a lowered set of regulatory requirements. Otherwise, the MPCA recommends that this rule remain in its current form.

Part 7035.2875 – Refuse Derived Fuel Processing Facilities
Minn. R. part 7035.2875 sets operational requirements for refuse derived fuel processing plants to protect human health and the environment. The MPCA recommends that this rule remain in effect.

Part 7035.2885 – Municipal Solid Waste Combustor Ash Land Disposal Facilities
Minn. R. 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
Minn. R. 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. In 1996, the MPCA issued variances to all municipal solid waste combustor ash landfill reducing the ash testing requirements. The decision was based on years of ash data collected indicating the ash was not hazardous. The MPCA recommends that given improved scientific knowledge based on ash data collected, the variance now in effect be converted to rule, and that in other respects the existing rule remain in effect.

Part 7035.2915 – Requirements for Temporary Program Type I and II Storage Facilities
Minn. R. 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
Minn. R. 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
Minn. R. 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
Minn. R. 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 Minn. R. 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. secs. 115.42 - 115A.54. The MPCA recommends that this rule remain in effect.

Parts 7035.9100 to 7035.9150 – Infectious Waste Management
Minn. R. 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

Minnesota Administrative Rules, Chapter 7037, Petroleum Contaminated Soil Management (Rules) were adopted on July 1, 1993, to provide administration and oversight to the land application of petroleum contaminated soils. The current rules are outdated in regards to sampling protocols and methodologies, terminologies and references, are not in line with other State's land application program requirements and are not consistent with other Agency's program standards.

MPCA is revising the Rules to include updating standards for sampling protocols, update the standard from 10 mg/kg GRO/DRO to 100 mg/kg GRO/DRO to be consistent with the March 7, 2012 Petroleum Remediation Program update, revise out of date references and clarify existing rule language. These rule changes will result in consistent practices with other states, will save money and time, and create a more efficient and effective land treatment program.

CHAPTER 7039 – LISTED METALS IN SPECIFIED PRODUCTS

Part 7039.0130 – Use of Listed Metals in Certain Products

The original purpose of Chapter 7039 was to implement the program created by Minnesota Stat. sec. 115A.9651 establishing the Listed Metals Advisory Council; and to set out product sales and distribution bans as recommended by the council regarding products that contain listed metals (lead, cadmium, mercury, or hexavalent chromium). After the council completed its work in reviewing products, MPCA repealed the rule portions relating to council activities (Minn. R. parts 7039.0010 to 7039.0120). The MPCA recommends retaining 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 – Storage and Application of Biosolids

Minn. R. 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 recommends that the definition of “Treatment Works” be modified to exclude centralized storage of septage under 50,000 gallons when it is licensed under the Subsurface Septic Treatment System regulations and is locally permitted because it establishes continuity between Minn. R. 7080 and Minn. R. 7041 by allowing MPCA-licensed Subsurface Septic Treatment System (SSTS) maintenance businesses to store up to 50,000 gallons of septage in registered underground sewage tanks without a state disposal system permit (SDS permit) as long as a local SSTS permit is issued for the practice. With the exception of this single change, the MPCA has no suggestions for revisions to this chapter and recommends that the rules remain in effect.

CHAPTER 7042 – LOW LEVEL RADIOACTIVE WASTE

Parts 7042.0010 to 7042.0060 – Participation in Interstate Low Level Radioactive Waste Compact

Minn. Stat. § 116C.834 requires the generators of Low Level Radioactive Waste (LLRW) to pay for all costs incurred by the state in carrying out its responsibilities for its participation in the Midwest Interstate Low Level Radioactive Waste Compact for the management of LLRW. Minn. R. Chapter 7042 establishes the system to levy 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, a threshold amount, and a penalty provision. The fees are collected from entities that generate LLRW based on wastes shipped for disposal during a calendar year.

The amount of fees collect each year varies depending on the amount of LLRW generated. The MPCA is an active compact state and incurs expenses related to the LLRW program. The MPCA has no suggestions for changes at this time and recommends these rules remain in effect.

CHAPTER 7044 – PRIORITY ASSESSMENT CRITERIA

Parts 7044.0100 to 7044.1100 – Permanent List of Priorities
Minn. Stat. § 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 Minn. R. Chapter 7044 establishes the process which the MPCA must follow to maintain the PLP.

Minn. R. 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. The scoring system used is the Hazard Ranking System (HRS) utilized by US EPA for listing sites on the National Priorities List (NPL). 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, primarily to reflect the change in the US EPA HRS scoring system utilized for site evaluation. The revised rules cited the specific date of the HRS revision as published in the Federal Register. However, US EPA has indicated the potential for another revision to the HRS system to reflect concerns relative to soil vapor risks associated with hazardous substance releases. US EPA has no time table for this revision, however the MPCA and MDA Superfund Programs believe this would be a positive revision and would prefer to include this potential pathway of concern into scoring sites for listing on the PLP. To avoid a delay in use of the new scoring system when revised, as a full rule revision would be necessary, it is recommended to amend Rule 7044.0350 so that it refers to the EPA's most current adopted version of the Hazard Ranking System as published in the *Federal Register*, rather than be tied to a specific volume and page of the *Federal Register* (currently, Vol. 55, pages 51583 to 51667, December 14, 1990). The MPCA has no other suggestions for changes to Chapter 7044 at this time and recommends these rules remain in effect.

CHAPTER 7045 – HAZARDOUS WASTE

Parts 7045.0020 to 7045.1380 – Identification and Management of Hazardous Wastes
Minn. R. 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. Minn. Stat. § 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 in order to meet unique needs of Minnesota and to address known shortfalls in the federal program. To assist and support Minnesota commerce and government, the MPCA has temporarily piloted some and permanently promulgated other significant amendments to these requirements to both reduce the regulatory burden while simultaneously increasing compliance and environmental protection.

Aligning Minnesota with all other states, the MPCA has adopted the Federal Universal Waste Rules. This adoption allows hazardous wastes generated by almost every business and government agency in Minnesota, including fluorescent lamps, rechargeable batteries, and mercury switches, gauges, and thermostats, to be managed more cheaply and quickly while still ensuring that they do not harm Minnesota's citizens or resources.

Uniquely, Minnesota has piloted relaxed requirements parallel to the Universal Waste allowances for another hazardous waste category generated by every Minnesota company and unit of government: heavy-metal containing waste electronics. This is a dramatically growing waste stream with the potential to release toxic heavy metals into Minnesota's air and water unless properly managed, and the successful rollout of this program is currently supporting the collection and recycling of these wastes instead of disposal or illicit dumping.

Minnesota is also among the first states in the country to implement a program to allow healthcare facilities to ship toxic and other harmful pharmaceutical hazardous wastes for proper safe management outside the state under carefully reduced regulatory requirements instead of direct disposal to the waters of Minnesota.

Finally, Minnesota's Hazardous Waste Rules and innovative hazardous waste regulatory programs have been closely studied by the U.S. Environmental Protection Agency (EPA) as the EPA drafts major amendments to the federal RCRA regulations to address the known shortfalls of those regulations and reduce duplicative or unnecessary regulation. The EPA has indicated that several of the Minnesota-specific hazardous waste Rules and MPCA hazardous waste programs may serve as models as those amendments are written. The MPCA has no suggestions for changes to Chapter 7045 at this time and recommends these rules remain in effect.

CHAPTER 7046 – HAZARDOUS WASTE FACILITY AND GENERATOR FEES

Parts 7046.0010 to 7046.0070 – Fee Formulas and Assessments Minn. R. Chapter 7046 establishes the mechanism for administering the state hazardous waste fees. Minn. Stat. § 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 seven-county Minneapolis/St. Paul metropolitan area of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties. Hazardous waste generators within the metropolitan area are assessed fees through the county hazardous waste programs in lieu of the state. The state rules also provide the mechanism for the collection of the statewide program fee (part 7046.0040) and for assessment of retroactive generator fees (part 7046.0045) to ensure equity and consistency in economic burdens across all businesses. Parts 7046.0050 and 7046.0070 provide for exemptions and an appeal process.

Hazardous waste fees are assessed to hazardous waste generators and facilities based on annual reports submitted by each generator and facility to the MPCA, including the type, volume, and method of management for each hazardous waste generated or managed at the site. In 2006, the MPCA significantly simplified the fee calculation rules, resulting in a reduced annual reporting burden for businesses and government agencies statewide. In 2011, the MPCA extended the annual reporting delay, increasing the amount of time hazardous waste generators and facilities may take to collect and submit their annual reporting information from only one month to six months. The purposes were to lower deadline-related costs to Minnesota businesses and

government agencies, and to make more efficient and cost-effective use of state staff and resources. The MPCA has no suggestions for changes to Chapter 7046 at this time and recommends these rules remain in effect.

CHAPTER 7048 – WASTE DISPOSAL: OPERATORS, INSPECTORS

Parts 7048.0100 to 7048.1300 – Personnel Competency Requirements
Chapter 7048 implements the requirement of Minn. Stat. § 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 7049 - WASTEWATER PRETREATMENT

The purpose of this chapter is to implement the requirements of the federal general pretreatment regulations in Code of Federal Regulations, title 40, part 403, and the pretreatment provisions of national categorical pretreatment regulations in Code of Federal Regulations, title 40, chapter I, subchapter N, and implements the authorities of Minn. Stat. § 115.03, subdivision 1, paragraph (e), clause (2). The Environmental Protection Agency in Title 40 Code of Federal Regulations (CFR) 403, established pretreatment requirements for Industrial Users, Publicly Owned Treatment Works, and states. Authority to administer the pretreatment program as a control authority and approval authority is further delegated to states. Minnesota received approval from EPA in 1979 for delegation of the pretreatment program in Minnesota with the directive that the State of Minnesota would adopt its own pretreatment rules that allowed the MPCA to effectively administer the pretreatment program. Minn. R. Chapter 7049 was adopted on November 6, 2008, to accomplish this directive. To date, the MPCA has not determined any recommended changes. The MPCA has no suggestions for changes at this time and recommends that this chapter remain in effect as written.

CHAPTER 7050 – WATERS OF THE STATE

Parts 7050.0110 to 7050.0470 – Protection of Public Waters
Minn. R. Chapter 7050 establish the primary foundation for the protection of Minnesota's water resources, both surface and ground, from point and nonpoint sources of pollution. The authority for these rules are established by Minn. Stat. 115 and also the Federal Clean Water Act (CWA). The water quality standards in Chapter 7050 are the centerpiece for this protection by:

a) designating beneficial use classifications for all waters of the state, including drinking water, aquatic life, fish consumption, aquatic recreation, industrial, and agricultural uses;
b) establishing numeric and narrative water quality standards to protect the designated uses; and
c) establishing nondegradation (also called "antidegradation") provisions that protect existing uses, waters whose quality is better than standards and water bodies which possess outstanding characteristics.

Water quality standards are used to assess the quality of waters, identify waters that are polluted or impaired, and set effluent limits for National Pollutant Discharge Elimination System (NPDES) and State Disposal System (SDS) wastewater discharge permits and remediation activities. Any revisions to the State's water quality

standards require approval from the Environmental Protection Agency (EPA). Federal and State regulations require this rule remain in effect and be regularly reviewed and updated.

The MPCA is currently involved in two rulemaking efforts that will propose changes to Minn. Rules Chapter 7050: priority revisions resulting from Triennial Review; and nondegradation.

Arising out of Triennial Review: The CWA requires the MPCA to review water quality standards every three years (Triennial Review) and amend if necessary. The MPCA completed a review and adopted substantial rule amendments in 2008. The 2008 amendments included consolidating the wastewater discharge and other effluent limit provisions from Chapters7050, 7056, and 7065 into a new rule, Minn. R. Chapter 7053. The amendments also streamlined the language in Chapter 7050 by removing provisions not specific to water quality standards. Since the adoption of those changes, the MPCA has completed another Triennial Review to identify and prioritize future amendments. The planned amendments include refinements in use classifications, improvements in human health methods, and new or revised numeric standards based on Federal criteria and guidance (e.g., chloride, river eutrophication). Preliminary rulemaking activities on these priorities have begun and the MPCA expects them to be adopted in 2014.

Nondegradation: Federal regulations require states to adopt antidegradation policies and identify implementation procedures. The last major revisions to the State's nondegradation provisions occurred in 1988. Since that time there have been changes to federal and State water quality regulations, EPA guidance, and our understanding of water quality protection. MPCA's outdated rules have resulted in a rulemaking petition and litigation which, in turn, have caused delays in permit issuance. The MPCA is in the process of developing rule amendments to repeal the current nondegradation rules (Minn. R. 7050.0180 and Minn. R. 7050.0185) and replace them with a single rule to better align with federal requirements, reduce the likelihood of permit delays caused by litigation, and provide a streamlined process for antidegradation review. The changes will also deliver better environmental protection and opportunities for public engagement.

Future Revisions: MPCA also intends to amend the variance provisions in Minn. R. 7050.0190 to correspond to language in Minn. R. 7052.0280. The variance language in Chapter 7053 was adopted more recently (1997-1998) and therefore aligns better with EPA's variance criteria and procedure. This amendment will streamline the variance process by expediting the EPA approval process providing clarity to NPDES Permittees. Completion of this amendment is planned for 2014.

CHAPTER 7052 – LAKE SUPERIOR BASIN WATER STANDARDS

Parts 7052.0005 to 7052.0380 –Water Quality Standards for the Great Lakes

Minnesota's *Lake Superior Basin Water Quality Standards* in Minn. R. Chapter 7052 were adopted in response to 1990 amendments to the Federal CWA, known as the *Great Lakes Critical Programs Act*. This Act required all eight Great Lake States to adopt a uniform set of water quality standards and requirements for point source dischargers to address toxic pollutants of concern in the Great Lakes Basin. Like the standards established in Minn. R. Chapter 7050, the Lake Superior Basin standards include: a) use classifications; b) narrative and numeric water quality standards, and c) nondegradation provisions to protect existing State and international high quality waters. Chapter 7052 also has requirements that apply to point source dischargers in the Lake Superior Basin.

Federal and State law requires regular review of this rule and revisions. The MPCA is in the process of amending the methods in this chapter that address human health-based water quality standards. These amendments will also improve consistency with the methods established in Minn. Rules, Chapter 7050. These amendments are expected to be adopted in 2014 as part of current rulemaking on water quality standards.

CHAPTER 7053 – STATE WATER DISCHARGE RESTRICTIONS

Parts 7053.0115 to 7053.0405 – Treatment of Liquid Wastes
Minn. R. Chapter 7053 was adopted in 2008 to separate from Minn. R. Chapter 7050 the treatment requirements for discharges of sewage, industrial wastes and other wastes, effluent limits, requirements for aquaculture facilities and related provisions. Minn. R. Chapters 7056 and 7065 were also moved to Chapter 7053 to repeal outdated provisions but keep important requirements, such as the prohibitions to discharges to the Mississippi River from the mouth of the Rum River to St. Anthony Falls and the 1 mg/L phosphorus effluent limit if discharging to certain water bodies. The intent was to remove obsolete rules, make Chapter 7050 shorter, and make Chapters 7050 and 7053 easier to use and understand. Federal and State regulations require that this rule remain in effect.

Variances: MPCA intends to amend Minn. R. 7053.0195 to language in Minn. R. 7052.0280. Variance language in Chapter 7052 was adopted recently (1997-1998) and aligns better with EPA's variance criteria and procedure. Because EPA must approve state issued variances, this amendment should streamline the variance process and give clarity to dischargers. Completion of this amendment is planned for 2014.

Aquaculture: Portions of Minn. R. part 7053.0405 have been identified as redundant (subp. 4, subp. 5 and portions of subp. 3). This section contains requirements for aquaculture facilities and repeats language on what numeric standards apply and methods the permittee can follow to request a variance, all of which are referred to and applicable through other state rules. At the time these rules were adopted, these requirements were included for a specific facility. Despite the special consideration given to that facility, these subparts have never been used. MPCA recommends removal of these subparts as obsolete, which will streamline this chapter in future revisions of Minn. R. 7053.

CHAPTER 7060 – UNDERGROUND WATERS

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 form the basis for groundwater protection efforts in several MPCA programs, and include: a) defined uses of underground waters; b) a nondegradation policy for the MPCA to follow to ensure underground waters of the state are maintained at their natural quality; and c) standards (e.g., prohibitions) to protect the underground waters of the state. While it may be helpful to clarify certain terms in these rules in the future to make them more consistent with other groundwater rules and regulations and to update the terminology to comply with present and future protection practices, the MPCA does not anticipate revising these rules in the near term and recommends they remain in effect.

CHAPTER 7076 – CLEAN WATER PARTNERSHIP FINANCIAL ASSISTANCE

Parts 7076.0100 to 7076.0290 – Applications for Funding
Minn. R. 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. Minnesota's 2011 Legislature revised the statute upon which this rule is based, in order to address obsolete requirements and simplify and streamline the statute based on current MPCA water quality objectives. The statutory revision generated a necessary rule revision which will be adopted in 2013. The MPCA recommends that 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 and stormwater projects (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; 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). Given revisions scheduled to be complete in 2013, and as explained below, the MPCA recommends no further revisions to Chapter 7077 at this time.

Parts 7077.0115 to 7077.0292 – Project Priority Process Financial Assistance Program
Minn. R. parts 7077.0115 to 7077.0292 establish the Project Priority Process Financial Assistance Program. The MPCA recommends these rules remain in effect. Under these rules, the PCA reviews project proposals and, based upon environmental need, places them on a Project Priority List (PPL) to receive financial assistance for municipal wastewater and stormwater infrastructure construction projects. In addition, the MPCA administers the required environmental and technical review of the proposed projects. The PFA administers the financing of wastewater and stormwater 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 is currently pursuing rule amendments to the PPL scoring criteria for stormwater projects to increase program effectiveness and efficiency while still meeting environmental needs and the financial demand of Minnesota communities. One of the motivators to amend the stormwater criteria is to fund more prevention targeted projects. Currently only municipal stormwater projects that are in an area with an approved TMDL score high enough to reach the fundable range. Ideally, the new system will provide increased opportunities for financial assistance to projects that help prevent impairments. These changes are expected to be implemented in 2013.

Parts 7077.0700 to 7077.0765 – Individual Sewage Treatment Systems Grants Program
Minn. R. 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. This program has not been funded since 2005 but the MPCA recommends retaining this since it may be a mechanism that can be used for providing funds to areas where the septic systems would remain in private ownership (as opposed to current grant programs through PFA that require public ownership for financial assistance and are not resolving all local wastewater needs).

Parts 7077.2000 to 7077.2010 – Procedural Requirements
Minn. R. 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 SUBSURFACE SEWAGE TREATMENT SYSTEMS

Parts 7080.0010 to 7080.0950 – ISTS Requirements and Local Ordinances
Minn. R. 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 cited parts

of this rule were repealed in rulemaking in 2008 with new material added, and three additional new rule chapters developed, see following. MPCA recommends that these rules remain in effect.

Parts 7080.1959 to 7080.2550 – Smaller Subsurface Sewage Treatment Systems
Minn. R. Chapter 7080, were promulgated to provide design standards for subsurface sewage treatment systems with sewage flows designed to be less than 5000 gallons per day. These rules were adopted in 2008 and minor changes were made in 2011; no additional changes are recommended at this time. MPCA recommends that these rules remain in effect.

CHAPTER 7081 – MIDSIZED SUBSURFACE SEWAGE TREATMENT SYSTEMS

Parts 7081.0010 to 7081.0300 – Larger Systems
Minn. R. Chapter 7081, were promulgated to provide design standards for subsurface sewage treatment systems with sewage flows designed to be from 5000 to 9999 gallons per day. (Systems with flow of 10,000 gpd or greater are permitted by MPCA and are not covered by these rules.) These rules were adopted in 2008 and minor changes were made in 2011; no additional changes are recommended at this time. MPCA recommends that these rules remain in effect.

CHAPTER 7082 – LOCAL ISTS PROGRAMS

Parts 7082.0010 to 7082.0700 – Local Roles
Minn. R. Chapter 7082, include the requirements for local SSTS programs. These rules were adopted in 2008 and minor changes were made in 2011 and again in 2012; no additional changes are recommended at this time. MPCA recommends that these rules remain in effect.

CHAPTER 7083 – SSTS CREDENTIALING AND PRODUCT REGISTRATION

Parts 7080.0010 to 7080.0950 – Qualifications of ISTS Personnel
Minn. R. Chapter 7080, 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. Other provisions of this chapter establish a process for listing SSTS treatment and distribution products that meet specific standards as demonstrated by third-party testing, and establish the SSTS Advisory Committee. These rules were adopted in 2008 and minor changes were made in 2011; no additional changes are recommended at this time. MPCA recommends that these rules remain in effect.

CHAPTER 7090 – STORMWATER REGULATORY PROGRAM

The goal of Minnesota Rules Chapter 7090 is to protect water quality in Minnesota's surface waters through the management and treatment of stormwater runoff. Minn. R. parts 7090.0010 to 7090.3080 establish the rules governing Stormwater Permits. These rules were adopted as a result of the 1987 amendments to the Clean Water Act which directed the United States Environmental Protection Agency to develop and implement a two phased comprehensive national program for stormwater discharges under the National Pollutant Discharge Elimination System Program (NPDES). The rules address the requirements of both the Phase I and Phase II federal regulations by integrating the regulations into one state Stormwater Regulatory Program under Chapter 7090. The rules contain NPDES permit requirements for regulating stormwater discharges from three main sources; municipal separate storm sewer systems, construction activity, and industrial activity. In general, the rules establish permit requirements for each of the three sources which include the requirement for a Stormwater Pollution Prevention Plan that contains best management practices to prevent or reduce

stormwater discharges to waters of the state. These rules are necessary to regulate the discharge of stormwater into Minnesota's lakes, rivers, streams, and wetlands. The MPCA recommends that these rules remain in effect.

CHAPTER 7100 – CLEANING AGENTS AND WATER CONDITIONERS

Parts 7100.0150 to 7100.0240 – Limits on Plant Nutrients in Certain Products
Minn. R. 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 amounts of plant nutrients in cleaning agents and water conditioners which can contribute to the excess growth of algae and other aquatic plants in surface waters. 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 – Personnel Competency
Minn. R. Chapter 7105 implements the requirement of Minn. Stat. § 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 revised this chapter in 2007 by updating the industry standards that are incorporated in part 7105.0130 because they were generally outdated. The MPCA repealed 7105.0060, subpart 5a governing the schedule for supervisor certification. 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 – Underground Tanks
Minn. Stat. § 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 Rule, 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 2010 because the MPCA needed to meet requirements listed in the 2005 Federal Energy Policy Act which mandated States to adopt secondary containment and operator training requirements by August 8, 2012. In 2008 the MPCA began rulemaking to adopt the operator training requirements. The rule revision was finalized and published on May 26, 2010. The Federal UST Rule is 40 CFR part 302. States must be at least as stringent as Federal tank requirements.

During the rule revision process, MPCA tank staff met with a stakeholder group that represented small owners, large owners, corporations, associations (Minnesota Petroleum Marketers Association, Minnesota Service Station Association) and others. This worked very well. It allowed the MPCA to hear from industry and also the MPCA could explain why certain requirements were needed. The group not only helped develop the rule

revision that was acceptable for all involved but also had input and helped develop the underground storage tank owner/operator exam and testing criteria. The MPCA has no further suggestions for changes at this time and recommends these rules remain in effect.

CHAPTER 7151 – ABOVEGROUND STORAGE OF LIQUID SUBSTANCES

Parts 7151.1100 to 7151.9600 – Aboveground Tanks
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.

Minn. R. Chapter 7151 was 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 2003 which required regulated ASTs to have secondary containment, corrosion protection, and overfill protection by 11/1/03. There are Federal Regulations (Spill Prevention, Control, and Countermeasure (SPCC) that are similar to Minnesota's for aboveground storage tanks but there are still some key differences between the two. Rule 7151 does have some areas that are open to interpretation but the MPCA factsheets reflect that and do not say anything that is not listed in Minn. R. Ch. 7151. An example of a gray area is that Chapter 7151 states that a substance transfer area must effectively contain a release. It was MPCA's objective to mean a permanent substance transfer area must be used but that is not stated in the Rule. MPCA staff does not require a permanent substance transfer area it as long as there is no visual staining present. The MPCA has no streamlining-related suggestions for changes at this time and recommends the existing rule remain in effect.

CHAPTER 7190 – HARMFUL SUBSTANCE CLAIMS, COMPENSATION

Parts 7190.0001 to 7190.1140 – Compensation Criteria and Procedures
Minn. Stat. §§ 115B.25 – 115B.37 outline the eligible criteria for receiving compensation for personnel injury or property damage due to exposure to hazardous substances. This section of 115B initially pertained to the Harmful Substance Compensation Board (Board). However, during the 1996 Legislative Session, the Minnesota State Legislature abolished the Board and transferred the responsibility for implementing the provisions of the statute to the Minnesota Pollution Control Agency. Furthermore, any claims determined to be eligible for reimbursement would be paid out of the Remediation Fund. Minn. Stat. § 115B.28 specified the development of rules which would outline the procedures and requirements for which the Board would determine eligibility of claims submitted. These rules were kept in place after the Board was abolished and duties transferred to the MPCA.

Chapter 7190 covers claim application requirements, procedures for the determining eligibility of personnel injury or property damage claims, potential death benefits and household labor losses. Very few claims have been submitted to the MPCA since assuming responsibility for implementation of this portion of 115B. The MPCA has not received any claims for death benefits or loss of household labor expenses since the abolishment of the Harmful Substance Compensation Board. MPCA recommends that no revisions to this chapter be done as long as the statutory provisions of 115B.25 to 115B.37 remain in place.

CHAPTER 9210, SOLID WASTE GRANT AND LOAN PROGRAMS

Chapter 9210 establishes programs to implement financial assistance/incentive programs created and described in Minn. Stat. §§ 115A.49 to 115A.54, by establishing the substantive criteria and procedural conditions under which the Commissioner may award funding for costs related to solid waste processing facilities, as such facilities are needed to manage properly the solid waste generated in the state and to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens.

Parts 9210.0100 to 9210.0180 – Solid Waste Processing Facility Capital Assistance Program (CAP)
These rules relate to the administration of various grants and contracts. In 2012, the traditional process for providing notification of these types of activities was affected by the implementation of the statewide SWIFT accounting system. SWIFT provides an acceptable method of public notice for those solicitations conducted within the SWIFT system. The parts of these rules that refer to providing notice specifically through publication in the *State Register* were rendered obsolete by the implementation of the new SWIFT system and should be amended to reflect the current requirements. Suitable for repeal are Minn. R. parts 9210.0120, subpart 5 (Grant Application Procedures), 9210.0810, subp. 1 (Request for Proposals), and Minn. R. part 7076.0140, subp. 1 and 2 (Notice of Financial Assistance Availability). Minn. R. part 7076.0140, subp. 2 also includes obsolete conditions that specify the MPCA's process for maintaining mailing lists and providing notification that must be revised to reflect current practices.

Parts 9210.0190 to 9210.0200 – Environmental Testing Grants
Although the Environmental Testing Grants Program has not been used since 1990, it is still relevant because certain solid waste facilities operate under permits and must comply with revisions to either Federal or State regulations. MPCA recommends these rules remain in place, because there is a need to retain language to conform with new federal/state requirements; failure to conform could put solid waste processing facilities in jeopardy.

Parts 9210.0300 to 9210.0380 – Solid Waste Processing Facility Demonstration Program
The Solid Waste Processing Facility Demonstration Program was a forerunner to the Solid Waste Processing Facility Capital Assistance Program (CAP), which replaced it. The SWPFD Program has not been used since 1991 so these rules are obsolete and no longer needed.

Parts 9210.0800 to 9210.0855 – Environmental Assistance Grant and Loan Program
This Program remains active and is still effective as is. Funding is appropriated by the Legislature for grants each biennium. The loan program is established as a revolving loan program. MPCA recommends that the current rules be left in place.

CHAPTER 9215 – SOLID WASTE PLANNING AND CERTIFICATE OF NEED

Parts 9215.0500 to 9215.0880 – Local Planning for Solid Waste Management
Minn. R. parts 9215.0500 to 9215.0880 set out the purpose of this Chapter and establish requirements for the preparation of solid waste management plans and plan amendments by counties, solid waste management districts, and multicounty areas outside of the seven-county metropolitan area. These rules were amended in 2009 to reflect revisions of Minn. Stat. § 115A.46 by the 2003 Legislature. The revisions included a change in the requirement that counties submit a solid waste management plan from at least every five years to at least every 10 years and a requirement that plan content must reflect demographic, geographic, regional and solid waste system differences that exist among the counties. The rule amendments updated existing definitions, added new definitions, incorporated new language into existing rules, and added new parts. The amendments also eliminated or merged outdated or redundant parts and created new parts that provide the county the ability to explain how their integrated solid waste system evolved to included challenges and opportunities that are

unique to their situation. The MPCA does not anticipate revising these rules in the near future and recommends they remain in effect.

Parts 9215.0890 to 9215.0950 – Certificates of Need for Disposal Capacity
Minn. R. Chapter 9215 establishes requirements for the preparation and implementation of solid waste management plans and plan amendments by counties and solid waste management districts and multicounty areas outside of the seven-county metropolitan area. The plans and plan amendments must be approved by the Pollution Control Agency and applicants for permits for existing or proposed disposal facilities cannot be issued a permit for new capacity for disposal of mixed municipal solid waste without a certificate of need issued by the agency. Solid waste should be managed according to the hierarchy of preferred waste management practices, with an emphasis on reduction and recycling to promote resource conservation and environmental protection. The MPCA has no suggestions for changes at this time and recommends these rules remain in effect.

CHAPTER 9220 – WASTE TIRE MANAGEMENT

Parts 9220.0100 to 9220.0680 –Transportation, Storage, and Processing Requirements
Minn. Stat. § 115A.914 requires the MPCA to have rules in place covering the transportation, storage, and processing of waste tires. Under Minn. 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. Since this rule was adopted, the development of a well-established infrastructure for managing waste tires led to a reduced need for MPCA oversight of waste tire regulatory activities. In 2002, the MPCA informed the Legislature that the waste tire program was being eliminated and tire processing and storage facilities would be regulated through the solid waste permit.

A January 2007 MPCA memorandum clarified program interests and roles for regulating the waste tire program and stated that waste tire transporters must prepare monthly operating records and make them available to the MPCA staff upon request but will not be required to submit the reports on a quarterly basis as required under Minn. R. 9220.0530, subp. 6. The MPCA has not required transporters to submit quarterly reporting since 2007. The MPCA intends to follow current practices outlined in a program management decision and therefore, the requirements of Minn. R. 9220.0530, subp. 6 are obsolete. Otherwise, the MPCA recommends that these rules should remain in effect so staff can address major waste tire problems when they surface.