



# MPCA Policy Bill 2013

The Minnesota Pollution Control Agency Policy Bill proposes modifications to numerous legislative reports, the repeal of obsolete rules and small policy changes/corrections.

## Policy changes and corrections

### Clean Water Fund project partnership agreement language (sec. 1)

MPCA has successfully leveraged resources for completion of water quality related priority work in the St. Louis River Area of Concern. A modification in the Clean Water Fund statutes that provides for the MPCA and State of Minnesota to enter into federal project partnership agreements is needed. MPCA can save time and money by using federal project partnership agreements during the administrative portion of the project.

### Petroleum environmental covenants (sec. 5-8 & 10)

In 2007, the Minnesota Legislature and Governor enacted Chapter 114E, the Uniform Environmental Covenants Act. The Act requires that an environmental agency must have authority under other law in order to become a “holder” of an interest in real property under an environmental covenant. Being a holder can be necessary to an environmental agency to ensure that a mitigation action taken to prevent harm to human health and the environment remains intact. This may be done through limiting development or other activities on portions of a property. The Minnesota Superfund Program has such authority under Minnesota Statutes, Section 115B.17, subd. 15.

The Petroleum Remediation Program (PRP) requests amendment of Minnesota Statutes, Section 115C.08, subd. 4 to provide essentially the same authority, in case the PRP should need to enter into a covenant to ensure protectiveness of a response action under its authorities. When the Agency does not have such holder status, a responsible party or property owner may remove a deed notification, environmental covenant or other form of institutional control from property records without notifying or seeking permission from the Agency. This lack of notification to the Agency can place the continuation of a protective action at risk, limiting some of the possible corrective action solutions at contaminated properties.

## Legislative reports

### E-Waste and Toxics in Packaging Report corrections (sec. 2 & 9)

During the 2012 legislative session, a number of prevention and solid waste reports were consolidated into two reports. However, references to when the *E-Waste* and *Toxics in Packaging Reports* are due and consolidated into the *Pollution Prevention Report* are incorrect. This proposal is to fix those technical errors.

### Superfund Report frequency change from annual to biennial (sec. 3 & 4)

MPCA and MDA Superfund investigation and cleanup spending plans are developed to coincide with the

state biennial budget cycle. Although the agency commissioners approve the project lists annually, any dollars unspent in the first year of the biennium are available for use in the second. Therefore, a biennial report, more closely aligned with the state's budgeting process, would be more reflective of the overall status of the Remediation Fund.

### **Metropolitan Landfill Contingency Action Trust Account (MLCAT) repeal (sec. 11)**

Under Minn. Stat. 473.846, the MPCA is required to provide a routine annual report on the status of, and spending from, the Metropolitan Landfill Contingency Action Trust Account (MLCAT), an account that receives a portion of the Metro Landfill Fee. At this time, little money is spent from the account annually since it is set up to support "post-closure" expenses incurred at the two mixed-municipal solid waste landfills in the Metro area. These landfills are currently active and expected to remain in operation for at least another decade. Significant spending from the account is not expected until at least 2040 when the landfills have been closed for 20 years. The financial information contained in the report is available in another format. Therefore, the agency proposes repealing the report.

### **Obsolete rules repeal (sec. 12)**

All agencies are required to file an annual report to the Legislature on obsolete rules. The MPCA recommends three items for repeal.

### **Minn. R. chapter 7021**

This chapter establishes an acid deposition standard for geographic regions that the MPCA had determined to be sensitive areas. 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. Portions of this Chapter were repealed in 2012.

### **Minn. R. parts 9210.0300 to 9210.0380**

These rules relate to the Solid Waste Processing Facility Demonstration Program, a forerunner to the current Solid Waste Processing Facility Capital Assistance Program. The requirements relating to this program are now obsolete.

### **Minn. R. part 9220.0530, subp. 6**

This subpart requires that waste tire transporters submit their operating records to the MPCA four times per year. Since this rule was adopted, a number of changes have been made to the waste tire program. In 2002, the MPCA informed the Legislature that the program was being eliminated and tire processing and storage facilities would be regulated through solid waste permitting. In 2007, the MPCA developed a memorandum further clarifying regulation of the waste tire program. The memorandum stated that waste tire transporters must prepare monthly operating records and make them available to the MPCA by request. Since that time, MPCA has not required transporters to submit quarterly reports. Therefore, the requirements of this subpart are obsolete.