

Minnesota Pollution Control Agency

Notice of Intent to Amend Existing Permanent *Minnesota Rules* Part 7001.3500, to Extend the Maximum Term of Solid Waste Disposal Facility Permits; Using the Good Cause Rulemaking Exemption Process in *Minnesota Statute* § 14.388, Subdivision 1, Clause (3).

Introduction. The Minnesota Pollution Control Agency (Agency) permanently amends these existing rules using the good cause exemption rulemaking process allowed under *Minnesota Statute* § 14.388, subdivision 1, clause (3), and *Minnesota Rules*, part 1400.2400. The amended rules are attached to this notice.

Subject of the Exempt Rules and Statutory Authority. The Agency is amending existing *Minnesota Rules*, part 7001.3500 Terms and Conditions of Solid Waste Management Facility Permits. In its 2011 Regular Session Laws, the Minnesota Legislature directed the Agency to amend the subject rules as specified, and to use the good cause exemption rulemaking process (see extract of the law below). The Agency is amending specified rules to extend the maximum term of solid waste land disposal facility permits from five years (under existing rules) to 10 years or to the estimated year of closure based on the capacity of the facility.

“Minnesota Session Laws: 2011, Regular Session

[...]

CHAPTER 107--S.F. No. 1115

An act

[...]

*Sec. 102. **RULEMAKING; SOLID WASTE LAND DISPOSAL FACILITY PERMITS.***

(a) The commissioner of the Pollution Control Agency shall amend Minnesota Rules, part 7001.3500, subpart 1, to extend permit terms to ten years and take into account site capacity for a solid waste land disposal facility.

(b) In amending the rules under this section, the commissioner of the Pollution Control Agency may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), and Minnesota Statutes, section 14.386, does not apply, except as provided in Minnesota Statutes, section 14.388.”

Good Cause Exemption Rulemaking Process. As required by the above law, the Agency is amending these permanent rules using the good cause exemption rulemaking process provided under *Minnesota Statute* § 14.388, subdivision 1, clause (3) (partial extract below):

“14.388 GOOD CAUSE EXEMPTION.

Subdivision 1. Requirements. If an agency for good cause finds that the rulemaking provisions of this chapter are unnecessary, impracticable, or contrary to the public interest when adopting, amending, or repealing a rule to: [...]

(3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required; [...]

After considering the agency's statement and any comments received, the Office of Administrative Hearings shall determine whether the agency has provided adequate justification for its use of this section. [...] Rules adopted, amended, or repealed under clause (3) [...] are effective upon publication in the State Register.”

As provided under the good cause exemption, the Agency finds that following the general rulemaking provisions of *Minnesota Statute* chapter 14, is unnecessary, impracticable or contrary to the public interest in amending rules to incorporate the specific changes set forth in applicable statutes when no interpretation of law is required. The Agency limited amendments of these existing rules to those required by the enabling law. Given these conditions, it is an effective use of resources to implement the changes in as expedient and cost-effective manner as possible.

A copy of the subject rules certified by the Revisor of Statutes and showing ~~stricken~~ and added text for the amended rules is attached to this notice. In accordance with *Minnesota Statute* § 16E.07, the amended rules may also be viewed at the following web link: <http://www.pca.state.mn.us> (please click on the "Public Notices | All notices" tab in the center of the page). You may also obtain information on these rules from the Agency contact person provided below.

Comments. Persons have five business days after the date of the notice (until 4:30 p.m. on June 29, 2012) to submit comments to the Office of Administrative Hearings (OAH) by United States mail or electronic mail to the OAH contact person provided. Comments are welcome. To be valid, comments must be written, must be timely received, must describe the nature of any concern, and must include the commenter's name and mailing address. The Agency requests that any person submitting comments to the OAH also submit a copy of those comments to the Agency's contact person.

Contact Persons. Persons must submit any comments or questions on these rules timely and in writing to the Denise Collins, Office of Administrative Hearings, by United States mail at the Office of Administrative Hearings, PO Box 64620, St. Paul, MN 55164-0620, or by electronic mail to rulecomments@state.mn.us. Telephone: 651-361-7875 or Fax: 651-361-7936.

The Agency requests the commenter to also send a copy of any comments or questions to Nathan Cooley, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, MN 55155-4194, or by electronic mail to nathan.cooley@state.mn.us. Telephone: 651-757-2290 or Fax: 651-296-8676. TTY users may call the Agency at 651-292-7553 or 1-800-657-3867.

Alternative Format. Upon request, the Agency can make this notice available in an alternative format such as large print, Braille, or cassette tape. To make such a request, please contact the Agency's contact person listed above.

Lobbyist Registration. *Minnesota Statute* chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You may direct questions regarding this requirement to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-296-5148 or 1-800-657-3889.

Adoption and Review of Exempt Rules. The Agency has submitted the amended rules and supporting documents to the OAH for review as to legality. The Administrative Law Judge has 14 days to approve or disapprove these rules. If the Judge approves, the Agency will adopt and publish these rules in the *State Register* at which time the rules would take immediate effect.

Date

John Linc Stine, Commissioner
Minnesota Pollution Control Agency