

# Minnesota Pollution Control Agency

## Environmental Analysis and Outcomes Division

### REQUEST FOR COMMENTS

**Planned New Rules Governing Air Quality, *Minnesota Rules*, chapters 7002, 7005, 7007, 7008, 7011, 7017, and 7019, Revisor’s ID Number R-4808**

**NOTICE IS HEREBY GIVEN** that the Minnesota Pollution Control Agency (MPCA) is requesting comments on planned new rules governing air quality. This rulemaking is referred to as the **Odor Management Rule**. The main purpose of this rulemaking is to establish new rules for odor management plan requirements as directed by Minnesota Session Law – 2023. The MPCA may make rule changes in some or all of these rule chapters. Comments are requested from affected or interested parties and should be submitted in writing as described in the [Comments](#) section below.

This Request for Comments is the MPCA’s legal notice of its intent to begin rulemaking. This is an opportunity to provide comments on the MPCA’s planned new rules for odor management, and an opportunity to provide information or comment on any relevant issues related to this rulemaking that we need to consider. For example, we recognize that costs to regulated parties can be a concern with rulemaking, and so can costs to non-regulated parties and the public of not conducting this rulemaking. If you have cost information or data related to this rulemaking that you wish to share with us to inform our decisions, please submit that information. Draft rule language is not available at this time. We want your written comments on the planned new rules, which are summarized in the [Subject of Rules](#) section below.

Submitting your ideas and information at this early stage in rulemaking allows us more time to address issues that may come up and helps to ensure informed decision-making on our part. If the proposed rules affect you in any way, the MPCA encourages you to comment.

**Alternative Format/Accommodation.** Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the [MPCA Contact Person](#).

**Statutory Authority.** *Minnesota Statutes*, section 116.07, subdivision 4 authorizes the MPCA to adopt rules for prevention, abatement, or control of air pollution; and *Minnesota Statutes*, section 116.064 Odor Management ([Minnesota Session Law – 2023, Chapter 60, H.F. No. 2310](#)).

**Subject of Rules.** The MPCA is planning new rules to require the development and submittal of an odor management plan by facilities located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington counties when determined by the MPCA commissioner that the facility emitted an objectionable odor. Minnesota does not currently have odor management rules for ambient air. There are state standards that apply to hydrogen sulfide emissions, a common cause of odors complaints, and there are air permit limits and health benchmarks for many pollutants that have odors. But some sources of odors are not regulated by air permits, some odors do not have direct human health impacts, and none of the existing regulations are based on the presence of the odor itself.

This is an initial Request for Comments, and the elements of this rulemaking may change based on comments received or other information. This rulemaking is needed to enact the odor management requirements as directed by Minnesota Session Law – 2023, which include rules that will:

- 1) Establish that “no person may cause or allow emission into the ambient air of any substance or combination of substances in quantities that produce an objectionable odor beyond the property line of the facility that is the source of the odor.”
- 2) Identify the types of facilities that are exempt from the odor management requirements.
- 3) Establish an odor standard or standards for air pollution that may qualify as an objectionable odor under *Minnesota Statutes*, section 116.064.
- 4) Define the process for determining if an odor is objectionable.
- 5) Define the process for investigating and addressing odor complaints.
- 6) Provide guidance for what must be included when developing odor management plans.
- 7) Determine procedures and criteria for determining the success or failure of an odor management plan.

**Where to Get More Information.** The webpage for this rulemaking is at <https://www.pca.state.mn.us/get-engaged/odor-management>. The MPCA will post rulemaking documents on this webpage as they become available. As stated above, we do not yet have a draft of new rule language.

**Persons Affected.** The new rules would likely affect non-exempted facilities located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington counties.

Facilities exempted from the requirements, as described in Minnesota Session Law – 2023:

- On-farm animal and agricultural operations
- Motor vehicles and transportation facilities
- Municipal wastewater treatment plants
- Single-family dwellings not used for commercial purposes
- Materials odorized for safety purposes
- Painting and coating operations that are not required to be licensed
- Restaurants
- Temporary activities and operations
- Refineries
- Metropolitan Council wastewater systems

**Comments.** Interested persons or groups may submit written comments or information on these possible rules in writing until **4:30 p.m. on Friday, September 8, 2023**. Submit written comments or information to the Office of Administrative Hearings Rulemaking e-Comments website at <https://minnesotaoah.granicusideas.com/discussions>. Any questions about submitting comments via the Rulemaking e-Comments website should be directed to William Moore, Office of Administrative Hearings, telephone 651-361-7893, [William.T.Moore@state.mn.us](mailto:William.T.Moore@state.mn.us). You may view frequently asked questions about the OAH Rulemaking eComments website at [https://mn.gov/oah/assets/ecomments-faq\\_tcm19-82012.pdf](https://mn.gov/oah/assets/ecomments-faq_tcm19-82012.pdf). Comments received are public and will be available for review at the OAH Rulemaking eComments website at <https://minnesotaoah.granicusideas.com/discussions> and at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620.

The MPCA will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments. The MPCA does not plan to appoint an advisory committee to comment on the planned rule amendments.

The MPCA does not anticipate that the rule amendments will require a local government to adopt or amend an ordinance or other regulation under *Minnesota Statutes*, section 14.128. Local governments may submit written information to the contrary.

The MPCA requests any information pertaining to the cumulative effect of the rule amendments with other federal and state regulations related to the specific purpose of the rule. Cumulative effect means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.

**NOTE:** Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the Administrative Law Judge (ALJ) if and when a proceeding to adopt rules is started. The MPCA is required to submit to the ALJ only those written comments received in response to the draft rules after they are proposed. If you submit comments during the development of the rules and want to ensure that the ALJ reviews your comments, you should resubmit the comments after the rules are formally proposed.

**Rules Drafts.** As stated above, draft rule language is not available at this time. If you are interested in being notified when a draft of the rules is available and of other activities relating to this rulemaking, please register for GovDelivery email updates at

[https://public.govdelivery.com/accounts/MNPCA/subscriber/new?qsp=MNPCA\\_1](https://public.govdelivery.com/accounts/MNPCA/subscriber/new?qsp=MNPCA_1)

**MPCA Contact Person.** The MPCA contact person is Mary H. Lynn at the MPCA, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; telephone: 651-757-2439, email: [mary.lynn@state.mn.us](mailto:mary.lynn@state.mn.us). Technical questions on the new rules should be directed to Aneka Swanson, 651-757-2175, and [aneka.swanson@state.mn.us](mailto:aneka.swanson@state.mn.us). You may also call the MPCA at 651-296-6300 or 1-800-657-3864; use your preferred relay service.



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Katrina Kessler, Commissioner  
Minnesota Pollution Control Agency

June 30, 2023

Date