

Minnesota Pollution Control Agency

Resource Management and Assistance Division

REQUEST FOR COMMENTS

Second Request for Comments on Plans to Amend Rules Governing Construction and Demolition Debris Land Disposal Facilities, *Minnesota Rules*, chs. 7001 (Permits) and 7035 (Solid Waste); OAH Docket No. 21-9003-40952; and Revisor's ID No. R-04556

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA or Agency) is requesting comments on possible amendments to solid waste rules, *Minnesota Rules*, chs. 7001 (Permits) and 7035 (Solid Waste) governing construction and demolition debris land disposal facilities (CDLs). This rulemaking is referred to as the **CDL Rule**. The MPCA is considering amendments to the listed rule chapters and requests comments on the proposed amendments from interested or affected parties. Comments should be submitted in writing as described in the [Comments](#) section below.

This second request for comments (RFC) is the MPCA's legal notice of its intent to continue the rulemaking initially announced on October 1, 2018 ([43 SR 417](#)), which had no preliminary draft rule language to consider and resulted in no formal comments at that time. This second RFC is one of several opportunities for public comment and input on this rulemaking. At this stage, the MPCA has a preliminary draft rule to share. The MPCA is seeking comments on the preliminary draft rule and the ideas described under the [Subject of Rules](#) section before proceeding to the next phase of rulemaking – public noticing a draft rule.

If you have ideas related to this rulemaking that the MPCA needs to consider, please submit them in writing. For example, the MPCA recognizes that costs to regulated parties can be a concern with rulemaking. If you have cost information or data related to this rulemaking that you wish to share with MPCA to inform our decisions, please submit that information. Submitting your ideas and information at this stage in rulemaking allows us more time to address issues and helps to ensure informed decision-making by MPCA. If the proposed rules affect you in any way, the MPCA encourages you to participate in the rulemaking process.

Since 2018, the Agency has at various stages solicited input via a rules advisory committee, known as the Rules Advisory Panel (RAP), and various public meetings. See the rule webpage for more information at: <https://www.pca.state.mn.us/get-engaged/construction-and-demolition-debris-landfills>. The MPCA has completed RAP activities and is now seeking comments on the possible rules from a broader audience.

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. The Minnesota Legislature may provide agencies with either specific or general statutory rulemaking authorities. The MPCA did not seek specific authority for this rulemaking as it intends to use its existing general solid waste rulemaking authority under *Minnesota Statutes* section, section 116.07, subdivisions 2 and 4 (www.revisor.mn.gov/statutes/?id=116.07) to undertake this rulemaking.

Subject of Rules. The MPCA requests comments on its plans to amend rules governing construction and demolition debris land disposal facilities found in chapters 7001 (Permits) and 7035 (Solid Waste). Since the October 1, 2018, RFC, the Agency published a groundwater study that found a major deficiency in the Agency's existing CDL Rules and guidance based on an improper assumption that

CDL waste and leachate were safe (inert) and that CDL leachate would not contaminate groundwater. The study shows that CDL leachate poses risks to human health and the environment and has been contaminating groundwater.

The Agency's goal is to update its Rules and guidance to incorporate lessons it has learned about the potential for groundwater impacts resulting from unlined CDLs that were not required to capture, manage and treat CDL leachate. Since its promulgation of the existing rules in 1988 and its development and implementation of 2005 CDL guidance, the Agency has found pollutants in groundwater monitored around unlined CDLs. These pollutants have exceeded Minnesota Department of Health (MDH) Human Health-Based Water Guidance values. These values include Health Risk Limits (HRLs), Health-Based Values (HBVs), Risk Assessment Advice (RAA), and U.S. Environmental Protection Agency's Maximum Concentration Limits (MCLs).

At this time, the Agency does not foresee any likely disproportionate negative impacts to environmental justice (EJ) communities related to amending these possible Rules (discussed further in the persons affected section). The technology to capture and manage landfill leachate is standard and is employed by municipal solid waste landfills throughout Minnesota and the country. Most of the states in our region also require collection and management of leachate from CDL landfills.

The Agency intends to limit the scope of this rulemaking to issues described for CDLs with the understanding that it may choose to address related issues found in this process. At its discretion, the Agency may address a priority related item, but only as the Agency believes resources would allow and that the action would not hinder its primary goals for addressing CDL issues. The Agency considers all input to be advisory in nature with the Agency deciding how it must focus its resources.

Where to Get More Information. Information about this rulemaking is available on the rulemaking webpage at <https://www.pca.state.mn.us/get-engaged/construction-and-demolition-debris-landfills>. The MPCA is providing a preliminary draft of possible amendments on the rule webpage. Parties interested in being notified when a draft of the rules is available and of other activities relating to this rulemaking are encouraged to register at: http://public.govdelivery.com/accounts/MNPCA/subscriber/new?topic_id=MNPCA_352

Anticipated amendments governing CDLs will address new and growing concerns about protecting groundwater from pollution/contamination. The MPCA intends to revise existing CDL Rules to assure that untreated CDL leachate is contained and managed and not released into groundwater.

Persons Affected. The amendments to the rules would affect owners and operators of construction and demolition waste land disposal facilities, owners and operators of industrial waste and mixed municipal solid waste land disposal facilities, owners of companies or contractors that offer construction and demolition services, businesses or homeowners that self-haul construction and demolition debris to a land disposal facility, and property owners near the landfills.

There are about 90 active unlined CDLs distributed across Minnesota. Because most unlined CDLs are located outside of the Minneapolis/St. Paul metropolitan area, the impacts or changes will be experienced primarily in Greater Minnesota. The MPCA expects that the benefits of mitigated or reduced groundwater contamination and the cost of compliance will also be experienced more in Greater Minnesota.

Approximately 1/3 of the unlined CDLs are within 1 mile of an identified EJ community of concern according to preliminary data. The MPCA believes that more protective rules would benefit these and other nearby communities by protecting area groundwater for drinking water use and

reducing exposure to pollutants. The Agency welcomes any additional information or questions regarding potential issues of concern for EJ communities associated with this potential rulemaking.

Comments. Interested persons or groups may submit written comments or information on these possible rules until **4:30 p.m. on Friday, September 12, 2025**. 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. You may view frequently asked questions about the OAH Rulemaking e-Comments website at https://mn.gov/oah/assets/ecomments-faq_tcm19-82012.pdf. Comments received are public and will be available for review at the OAH Rulemaking e-Comments 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 appointed the RAP as an advisory committee following the October 1, 2018, RFC. However, activities related to the committee ended in 2023.

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 for review by the Office of Administrative Hearings should the MPCA proceed to adopt the subject rules. The Administrative Procedures Act requires the MPCA to include in the record only properly submitted comments received in response to draft rules proposed for public comment. If you submit comments in response to this notice that you want included in the record for OAH review, you must resubmit the comments after the rules are formally proposed.

MPCA Contact Person. The MPCA contact person for rule process questions or accommodation requests is Yolanda Letnes, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; telephone: 651-757-2527; email: yolanda.letnes@state.mn.us. Technical questions on the planned rule amendments should be directed to Jon Buck; telephone: 651-757-2375; email: jon.buck@state.mn.us. You may also call the MPCA at 651-296-6300 or 800-657-3864; use your preferred relay service.



Katrina Kessler, P.E.
Commissioner
Minnesota Pollution Control Agency

__ July 9, 2025 _____
Date