

40430 Minnesota Pollution Control Agency Notice of Submission of Rules Governing Solid Waste

Closed May 16, 2025 · Discussion · 1 Participants · 1 Topics · 1 Answers · 0 Replies · 0 Votes

1

PARTICIPANTS

1

TOPICS

1

ANSWERS

0

REPLIES

0

VOTES

SUMMARY OF TOPICS

SUBMIT A COMMENT

 1 Answers · 0 Replies

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Bryan Murdock · Citizen · (Postal Code: unknown) · May 15, 2025 9:26 am

 0 Votes

Dear MPCA Rulemaking Coordinator,

We, a group of concerned stakeholders representing interests in Minnesota's solid waste disposal facilities, support the Minnesota Pollution Control Agency's (MPCA) efforts to enhance environmental protection through Minnesota Rules 7035.2655, which requires commissioner approval to terminate postclosure care. However, the rule's vague scope, discretionary criteria in subpart 1, item B, and adoption under the good-cause exemption (Minnesota Statutes § 14.388, subd. 1(3)), as mandated by Minnesota Session Laws 2024, Chapter 116, Article 2, Section 30(b), raise concerns about its applicability, transparency, and potential for inconsistent enforcement.

The rule appears to affect a small number of facilities—potentially 20–100 closed landfills and unpermitted dumps not enrolled in the MPCA's Closed Landfill Program, particularly those nearing or past 20 years of postclosure care and outside direct MPCA management. With 112 program sites already overseen and 20–30 operating landfills unaffected until future closure, this narrow scope questions the urgency of exempt rulemaking. Item B's reliance on undefined "pertinent information" and broad commissioner discretion to reevaluate closure documents risks arbitrary application, especially without clear identification of affected landfills.

We request answers to the following questions by May 16, 2025, to ensure transparent and equitable implementation, particularly regarding which landfills are subject to the rule.

Questions for Clarification

Legislative Mandate and Exemption Rationale

What specific environmental risks (e.g., methane, PFAS) or regulatory gaps prompted Section 30(b)'s mandate for commissioner approval, and which types of landfills were

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the legislative focus?

For a rule affecting an estimated 20–100 sites, why was the good-cause exemption deemed necessary, and why was standard rulemaking with broader public input considered “unnecessary”?

Does item B’s discretionary language (e.g., “pertinent information”) align with the exemption’s requirement for non-interpretive changes, or should it have warranted public review?

Scope and Affected Landfills

Which landfills are subject to the rule? Does it apply solely to non-Closed Landfill Program closed landfills and unpermitted dumps (approximately 20–100 sites), or also to program sites or recently closed facilities? Provide a list or categories of affected landfills and an estimated total number.

How will item B’s criteria apply to unpermitted dumps lacking historical monitoring data, and are such sites automatically subject to postclosure care requirements?

Are non-program landfills that completed 20 years of postclosure care under prior agreements subject to reevaluation under item B, and how will they be identified?

Exemptions and Retroactive Application

Which facilities are exempt from commissioner approval? For example, are low-risk landfills (e.g., demolition debris), sites with prior termination certifications, or those in custodial care exempt?

Are unpermitted dumps predating modern permitting (pre-1967) exempt unless under specific MPCA enforcement or cleanup programs?

Will landfills released from postclosure obligations before March 18, 2025, face retroactive reevaluation, and what criteria will determine their inclusion?

Item B Criteria and Enforcement Safeguards

Define “pertinent information” and specify how compliance with parts 7035.2565 and 7035.2815–7035.2915 will be assessed. When will guidance detailing these criteria be published?

What measures (e.g., standardized protocols, appeals process, public reporting of termination decisions) will ensure item B’s criteria are applied consistently across all affected landfills?

How will the MPCA prevent selective enforcement against non-program landfills, particularly those with complex regulatory histories?

Conclusion

We support robust environmental oversight but are concerned that Minnesota Rules 7035.2655’s vague criteria, limited scope, and urgent adoption may lead to inconsistent application across a small number of non-program landfills and unpermitted dumps. Without clear identification of affected landfills and transparent criteria, the rule risks arbitrary enforcement. We urge the MPCA to provide detailed responses, publish Section 30(b) and item B guidance, and engage stakeholders to ensure equitable implementation. Please confirm receipt and consideration of these comments by May 16,

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