

# Minnesota Pollution Control Agency

## Resource Management and Assistance Division

### Notice of Intent to Adopt Rules using Good Cause Exemption under Minnesota Statutes Section 14.388, Subdivision 1, Clause (3)

#### Amendment to Rule Governing Solid Waste Facility Annual Reports, Minnesota Rules, Part 7035.2585; Revisor's ID 04721

TO: ALL INTERESTED PERSONS

In accordance with Minnesota Statutes, section 14.388, subdivision 2, this Notice is being sent to all persons who have registered their name with the agency under Minnesota Statutes, section 14.14, subdivision 1a. This notice is also posted on the website of the Minnesota Pollution Control Agency (MPCA) at <https://www.pca.state.mn.us/public-notices> and at the agency rule website at <https://www.pca.state.mn.us/waste/solid-waste-annual-report-rule>.

PLEASE TAKE NOTICE that the rule amendment proposed for adoption will be submitted to the Office of Administrative Hearings on the date of this notice, November 30, 2021.

**(1) The amendment.** A copy of the rule amendment is attached to this notice.

**(2) The rule amendment meets the requirements of the good cause exemption under Minn. Stat. 14.388, subdivision 1.** The good cause exempt rulemaking process authorizes an agency to complete a rulemaking using an abbreviated process, relative to using the general rulemaking provisions of Minnesota Statutes Chapter 14. As identified in the statute, an agency may adopt or amend a rule using the good cause exempt process for one of four reasons (see <https://www.revisor.mn.gov/statutes/?id=14.388>).

For this rulemaking, the MPCA is using the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), because the proposed rule amendment incorporates a specific statutory change set forth in Laws 2021, 1st Special Session, Chapter 6, Article 2, Section 131 (Session Law), enacted on June 29, 2021, and effective on July 1, 2021, that needs no interpretation of law. The MPCA is also using this process because the Session Law expressly directed its use for this rulemaking. The Session Law, states, in relevant part, the following:

**WASTE FACILITY REPORTING; RULEMAKING.**

The commissioner of the Pollution Control Agency must, under the good cause exemption in Minnesota Statutes, section 14.388, subdivision 1, clause (3), amend rules to require reports to the agency from a solid waste facility to be submitted by March 1 for the previous calendar year.

The process is appropriate because the MPCA is solely amending rules as directed by the legislature in the Session Law quoted above, for which no interpretation of law is required. It is unnecessary, impracticable and contrary to the public interest to amend these rules using the general rulemaking provisions of Minnesota Statutes Chapter 14.

Specifically, the MPCA proposes to change the term "February" to "March" at Minnesota Rules, Part 7035.2585. By amending the existing rule provisions, the MPCA is complying with the Session Law. This rule amendment will allow a solid waste facility, regulated as a solid waste management facility, to submit annual reports on March 1, instead of on February 1 as currently required.

**(3) Public comment period.** All interested persons have five business days after the date of this notice to submit comments to the Office of Administrative Hearings, or until 4:30 p.m. on December 7, 2021, via its eComments website at <https://minnesotaoah.granicusideas.com/discussions> or via its mailing address at 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620. To be considered, comments must be received by OAH no later than 4:30 p.m. on December 7, 2021.

The agency contact person is: Yolanda Letnes at MPCA, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194, telephone (651) 757-2527, [yolanda.letnes@state.mn.us](mailto:yolanda.letnes@state.mn.us). Please contact this agency contact person with questions about this proposed rulemaking or for a special accommodation.

**Review and Adoption of Exempt Rules.** The proposed rule amendment and supporting documents will be submitted to the Office of Administrative Hearings for a review of their legality after this notice is issued. The Administrative Law Judge will have 14 days to approve or disapprove the rule amendment. If it is approved, the MPCA will adopt the rule amendment and publish notice of the adoption in the State Register. The rule amendment would take effect on the date the notice of adoption is published in the State Register.

If you want to receive a copy of the rule amendment after it is adopted, or want to register to receive notice of future rule proceedings, please contact the MPCA contact person listed above.



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Katrina Kessler, Commissioner  
Minnesota Pollution Control Agency

November 18, 2021

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Date