



## **Municipal Division**

### **STATEMENT OF NEED AND REASONABLENESS**

In the Matter of Proposed Revisions of Minnesota Rule Chapter 7048  
Amending the Recertification Training Requirements for Type IV Facility  
Operators and Inspectors.

The *State Register* notice, this Statement of Need and Reasonableness (SONAR) and the proposed rule will be available during the public comment period on the web site:  
<https://www.pca.state.mn.us/water/amendments-operator-training-requirements>

**Agency contact for information, documents, or alternative formats:**

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, braille, or audio.

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# Acronyms or abbreviations

Administrative Procedures Act	APA
Administrative Law Judge	ALJ
Chapter	ch.
<i>Minnesota Rules</i>	<i>Minn. R.</i>
<i>Minnesota Statutes</i>	<i>Minn. Stat.</i>
Minnesota Management and Budget	MMB
Minnesota	MN
Minnesota Pollution Control Agency	MPCA or Agency
Office of Administrative Hearings	OAH
Section	§
Statement of Need and Reasonableness	SONAR or Statement

# 1. Introduction and overview

## A. Summary

The operators and inspectors of facilities where sewage biosolids and industrial or commercial by-products are applied to the land for beneficial reuse (Type IV facilities) must be certified by the MPCA. Certified operators/inspectors must complete initial training and then receive nine hours of additional training every three years to renew their certification. In this rulemaking, the MPCA is proposing to reduce the required number of recertification training hours from nine to six hours every three years. The MPCA's training program has developed to the point that the necessary training can be delivered in single day, which represents a convenience and savings to the regulated community.

## B. Statement of general need

Need for the rule to reflect the amount of training that is appropriate. When the waste disposal operator/inspector training and certification rules (Minn. R. ch. 7048) were first written in 1982, the MPCA was newly regulating the land application of sewage sludge and industrial wastes and developing the program to train and certify operators/inspectors. Because the MPCA and the operator/inspector community were new to the process, more than a day of training was needed to ensure that an operator/inspector applying for recertification was capable of safely managing a Type IV land application facility. Since that time, the MPCA has improved the quality of the training and access to online information and resources. Operators/inspectors also have access to a large mentor network of experienced, certified operators/inspectors. There is no longer a need for nine hours of training to ensure that operators/inspectors applying for recertification have an acceptable level of competency. The rules need to be amended to reflect the actual amount of time necessary to deliver the training.

Need to minimize costs. Reducing the number of required training hours addresses the need to minimize, to the extent possible, the costs associated with operator/inspector training. Reducing the number of training hours from nine to six allows training to be completed in a single day, which for many operators/inspectors and MPCA training staff, eliminates the expense of overnight lodging and reduces time away from work.

## C. Scope of the proposed amendments

*Minn. R. ch. 7048* establishes requirements for certification of operators and inspectors of waste disposal facilities; the proposed amendments only change one aspect of those requirements. The scope of this rule is limited to the change in the number of training hours required to renew a Type IV certification but may also include non-substantive clarifications to the existing language required by the Revisor of Statutes or identified through the comment period.

# 2. Background

*Minn. R. ch. 7048* establishes the requirements for training the operators and inspectors of the disposal facilities that manage wastewater and wastewater treatment residues, Type IV facilities. Sewage sludge (referred to as "biosolids"), and semisolids from industrial and commercial processes (referred to as "by-products") are treatment residues that have been safely treated and can be beneficially used by spreading on land. Facilities that receive these types of products are regulated as a Type IV disposal facility and the operators/inspectors of those facilities must be certified by the MPCA.

*Minn. R. pt. 7048.0600* establishes the certification requirements for disposal facility operators/inspectors. In order to renew their certification, operators/inspectors must complete a certain number of training hours every three years. *Minn. R. pt. 7048.1000* establishes the requirements to renew each type of certification. The MPCA conducts training programs for all types of operators/inspectors, and maintains a website of current information about training courses, many which are provided through the MPCA. (Wastewater operators training and certification)

In 2017, an organization representing wastewater treatment operators recommended the proposed reduction in training hours in a letter to the MPCA commissioner (Exhibit 1). The letter cited the improved efficiency of the MPCA's training program, materials, and support and also the importance of minimizing the time and expense associated with training as the bases for their recommendation.

### **3. Public participation and stakeholder involvement**

The MPCA has or will provide the statutorily required notifications discussed in Section 7 of this Statement. In addition to the notifications required by statute, the MPCA has sought public participation in this rulemaking process, beginning before a Request for Comments was published in the November 13, 2018 *State Register*.

The MPCA conducted the following activities to notify potentially interested parties of the rule project and encourage them to register to receive future notifications through GovDelivery:

- Prior to publishing the Request for Comments the MPCA:
  - Posted information regarding the proposed amendments on its rulemaking docket. The docket is updated monthly and available online.
  - Established a rule-specific webpage at <https://www.pca.state.mn.us/water/amendments-operator-training-requirements>
  - Established a self-subscribing rule-specific GovDelivery mailing list which will be used to disseminate rule-related information to interested and affected parties.
- When the Request for Comments was published on November 13, 2018, the MPCA:
  - Sent a GovDelivery notice to:
    - All persons who had registered to be notified of “new rulemaking”; and
    - All persons who had already registered to receive notices about this specific rulemaking and persons who had registered to receive notice of all MPCA water rulemakings.
  - Provided information about the proposed changes, and encouraged registering to receive future information via GovDelivery:
    - In the MPCA's monthly publication for wastewater treatment professionals (OnPoint). (November 15, 2018 edition.)
    - On the webpage of the Minnesota Wastewater Operators Association website (<http://www.mwoa.net/>)
    - In an e-mailed notice of the rulemaking to all current Type IV operators/inspectors.

- On the MPCA's rule-specific webpage at <https://www.pca.state.mn.us/water/amendments-operator-training-requirements>.

## 4. Statutory authority

The MPCA's statutory authority to make the proposed change is established in Minn. Stat. § 116.41, subd. 2.

*The agency shall develop standards of competence for persons operating and inspecting various classes of disposal facilities. The agency shall conduct training programs for persons operating facilities for the disposal of waste and for inspectors of such facilities, and shall charge such fees as are necessary to cover the actual costs of the training programs. All fees received shall be paid into the state treasury and credited to the Pollution Control Agency training account and are appropriated to the agency to pay expenses relating to the training of disposal facility personnel.*

*The agency shall require operators and inspectors of such facilities to obtain from the agency a certificate of competence. The agency shall conduct examinations to test the competence of applicants for certification, and shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates. Certificates shall not be required for a private individual for land-spreading and associated interim and temporary storage of sewage sludge on property owned or farmed by that individual.*

## 5. Reasonableness of the amendment

The proposed amendment to *Minn. R. pt. 7048.1000*, subp. 4, which reduces the hours of renewal training from nine to six, is reasonable to reflect the changes that have occurred since this training requirement was first adopted.

In 1982, when *Minn. R. pt. 7048.1000* was originally adopted, the use of land application as a waste management option was limited and the MPCA was in the early stages of developing a training program to ensure that it was safely conducted and environmentally protective. At that time, a requirement to obtain nine hours of renewal training every three years was reasonable to ensure that Type IV operators/inspectors maintained a level of competence to manage biosolids and by-products. The amount of contact hours of training needed to provide that same level of competence has changed in the past 36 years. Several factors justify a reduction in the number of renewal training hours.

### **More focused and consistent training**

All Type IV operators/inspectors must attend at least nine hours of initial training that lays the foundation for understanding land application of biosolids and industrial byproducts prior to completing an exam to become a certified Type IV operator/inspector. In order to keep their certification, Type IV operators/inspectors must have nine contact hours of training every three years. Based on its training experience, and the fact that the applicable regulations have not been significantly changed in two decades, the MPCA has developed training that allows the necessary information for renewing the certification to be covered in six hours.

### **Online resources**

When the MPCA first developed the certification training program, attendance at the training program and the manual received at that training were almost the only sources of information about how to

properly operate a Type IV facility. Since that time, online materials, including training material from organizations other than the MPCA, have been developed and are readily available. Access to these materials has decreased the need to address the same information as part of the MPCA's training courses. Online resources that supplement the contact hours of training reduce the time needed to produce the same level of competency.

### **Mentoring**

When the certification rules were first adopted, many Type IV operators/inspectors were inexperienced and the MPCA's training program provided the only opportunity for operators/inspectors to share experiences and information among peers. Approximately 650 Type IV operators/inspectors are currently certified, which allows for mentoring and a helpful exchange of information and insights outside of the formal training programs.

As the MPCA's land application training program has been improved, so has the availability of supplemental information and the level of expertise in the regulated community. These improvements have reduced the time needed to ensure that certified Type IV operators/inspectors are adequately trained to continue to operate facilities in safe and environmentally protective manner and in compliance with applicable requirements.

It is important to note that the MPCA is not proposing to reduce the level of stringency in the training program or diminish the protectiveness of how Type IV facilities can be operated. The proposed changes only reflect the improved efficiency for delivering the necessary training. Because attending training entails costs for operators/inspectors in time and travel expenses, as well as cost to the MPCA to conduct training, it is reasonable to amend the rules to ensure the most efficient use of time and resources.

## **6. Regulatory analysis**

### **A. Regulatory analysis**

This part addresses the requirements of *Minn. Stat. § 14.131 (a)*, which compel state agencies to address a number of questions in the Statement.

1. Description of the classes of person who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The persons who will benefit by the proposed amendment will be the Type IV operators/inspectors and the cities and companies that employ them. Reducing the time of training from a day and a half (nine hours) to a single day (six hours), will reduce the time operators/inspectors must spend away from work and in many cases, save operators/inspectors the cost of a night's lodging and additional meals. In their letter requesting the amendment (Exhibit 1), MOWA specifically cites the economic burden associated with training.

Because the MPCA does not intend to reduce the quality or content of the training, there will be no loss of environmental protectiveness; and because the only proposed change is a reduction in training hours, there is no associated increased cost that any class will have to bear. Six hours are adequate to provide the necessary training and there is no consequence to human health or the environment from that reduction.

2. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.



The MPCA does not anticipate any costs to the MPCA or to any other agency as a result of the proposed amendment. The proposed amendment will actually reduce costs to the MPCA by reducing the number of hours that MPCA staff must spend delivering training and the expense of overnight lodging and meals for MPCA staff.

3. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The purpose of the proposed amendment is to make the existing rule align with the actual number of hours needed to deliver training. The MPCA does not believe there is any less costly or less intrusive method for achieving that purpose other than amending the rule as proposed.

4. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the Agency and the reasons why they were rejected in favor of the proposed rule.

In the 2018 legislative session the MPCA proposed but was unsuccessful in having the number of hours changed by legislative action and in obtaining authorization to conduct expedited rulemaking. Having failed to resolve the issue legislatively, the only alternative is to conduct rulemaking.

5. The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

There will be no increased cost to any party to comply with the proposed amendment.

6. The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.

The proposed amendment will result in a cost saving to Type IV operators/inspectors and the cities and companies that employ them by reducing the need for an additional half-day of training. The savings in time, lodging, and meal expenses will vary depending on the circumstances, but the consequences of not adopting the proposed amendment will be the loss of those savings.

7. An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

There is no federal counterpart to the Type IV operator certification training requirements and therefore, no differences.

8. An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

*Minn. Stat. § 14.131 defines "cumulative effect" as "the impact that results from incremental impact of the proposed rule in addition to the other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time."*

The proposed amendment represents a reduction in a training time requirement and as such, does not result in any cumulative effect with any state or federal requirements.

## B. Minnesota Statute § 116.07, subdivision 2

Minn. Stat. § 116.07, subd. 2 requires that for proposed rules adopting air quality, solid waste, hazardous waste, or water quality standards, the SONAR must include an assessment of any differences between the proposed rule and existing federal standards adopted under the Clean Air Act, title 42, section 7412(b)(2); Clean Water Act, United States Code, title 33, sections 1312(a) and 1313(c)(4); and the Resource Conservation and Recovery Act, United States Code, title 42, section 6921(b)(1); similar standards in states bordering Minnesota; and similar standards in states within the US Environmental Protection Agency (EPA) Region 5; and a specific analysis of the need and reasonableness of each difference.

The rule that is the subject of this rulemaking is not “air quality, solid waste, hazardous waste, or water quality standards” and therefore, the requirements of this statute do not apply. Also, there is no federal counterpart to the rule that is the subject of this rulemaking.

## C. Environmental justice policy

The discussion of how the MPCA considered environmental justice is an important element of the MPCA’s rulemaking process, although it is not a requirement of Minnesota’s Administrative Procedures Act (APA). The MPCA has developed a policy and strategy for environmental justice similar to that of the U.S. EPA. The MPCA’s environmental justice policy states that:

*“The MPCA will, within its authority, strive for the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.*

**Fair treatment** means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

**Meaningful involvement** means that:

- People have an opportunity to participate in decisions about activities that may affect their environment and/or health;
- The public’s contribution can influence the regulatory agency’s decision;
- Their concerns will be considered in the decision making process; and
- The decision-makers seek out and facilitate the involvement of those potentially affected.

*The above concept is embraced as the understanding of environmental justice by the MPCA.”*

Considering environmental justice means that the MPCA strives to:

- Consider how proposed rules may affect low-income populations and communities that have a high proportion of people of color; and
- Involve members of those communities in the rulemaking process.

In 2013, the MPCA renewed its commitment to environmental justice and added an environmental justice goal and objectives in the MPCA’s strategic plan. In the 2018-2022 strategic plan, (<https://www.pca.state.mn.us/about-mpca/mpca-strategic-plan>) the MPCA has identified 16 strategic goals, one being: Incorporate strategies to address environmental justice concerns in all programs.

As it has developed the proposed amendment and conducted the rulemaking process, the MPCA has considered the appropriate way to address both aspects of the environmental justice policy: fair

treatment and meaningful involvement. The MPCA has determined that the proposed amendment does not have any effect on the fair treatment or meaningful involvement of any group of people. The reduction in training hours will be equally beneficial to anyone seeking to renew their Type IV certification. The MPCA has determined that the persons who will be most affected by the proposed amendment will be the community of Type IV operators/inspectors and the need for meaningful involvement is limited to the involvement of that community. There is no need related to environmental justice to provide additional opportunities for involvement in the rulemaking process other than those identified in Part 7 of this Statement.

## 7. Notice plan

*Minn. Stat. § 14.131* requires that an agency include in its SONAR a description of its efforts to provide notice to persons or classes of persons who may be affected by the proposed rule, or explain why these efforts were not made.

The MPCA uses a self-subscription service (GovDelivery) as its primary mechanism for providing rule-related notice to interested and affected persons. Although U.S. Mail service is available upon request, for this rulemaking no one has requested to be notified via U.S. Mail.

In addition to information provided through notices, information about this rulemaking is provided on an MPCA webpage <https://www.pca.state.mn.us/air/rulemaking-incorporation-reference> and through the MPCA's public rulemaking docket (<https://www.pca.state.mn.us/regulations/minnesota-rulemaking>).

### A. Required notice

The following notifications are required by Minnesota statutes.

- *Minn. Stat. § 14.101. Request for Comments.* *Minn. Stat. § 14.101* requires an agency to publish a Request for Comments at least 60 days before publishing a Notice of Intent to Adopt a rule.

The MPCA published a Request for Comments in the *State Register* on November 13, 2018 and will not be publishing the Notice of Intent to Adopt Rules Without a Hearing (Notice) before January 14, 2019.

- *Minn. Stat. § 14.14, subd. 1a. Publication of Notice.* *Minn. Stat. § 14.14, subd. 1a* requires each agency to provide at least a 30-day notice of its intention to adopt rules by publishing the Notice in the *State Register*.

The MPCA intends to publish Notice in the *State Register* at least 30 days in advance of adopting the amendment.

- *Minn. Stat. § 14.14, subd. 1a. Notice to interested parties.* *Minn. Stat. § 14.14, subd. 1a* requires each agency to maintain a list of all persons who have registered to receive notice of rulemaking and to provide them with at least a 30-day notice of its intent to adopt rules.

On the date the Notice is published in the *State Register*, the MPCA will send a GovDelivery message to everyone who has registered with the MPCA for the purpose of receiving notice of this specific rule and also to everyone who has requested to be notified of all MPCA rule proceedings. The GovDelivery message will include a description of the rule amendment and a hyperlink to the rulemaking webpage where the Notice, SONAR, and proposed rule amendments can be viewed. Anyone who has requested non-electronic notice will receive copies of the Notice and the proposed

rule amendments via U.S. Mail. At the time this Statement is prepared 1,421 persons have registered to receive notice about this rulemaking.

- *Minn. Stat. § 14.116, Notice to Legislature.* *Minn. Stat. § 14.116* requires an agency to send a copy of the Notice and the Statement to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules and to the Legislative Coordinating Committee at the same time that the Notice is sent to those who registered for notice.

The MPCA will send an e-mail to the appropriate legislators and Legislative Coordinating Committee, with a hyperlink to the rulemaking webpage where the Notice, SONAR, and the proposed rule amendments are posted. This notice will be provided at least 30 days before the end of the comment period. Those legislators who prefer to not receive electronic notice will receive a paper cover letter with the necessary information.

This statute also states that if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency must make reasonable efforts to send a copy of the notice and SONAR to all sitting House and Senate legislators who were chief authors of the bill granting the rulemaking. This notice is not required for this rulemaking because no bill was authored within the past two years granting rulemaking authority concerning the proposed rule amendment.

- *Minn. Stat. § 14.131, Notice to Legislative Reference Library.* *Minn. Stat. § 14.131* requires an agency to send a copy of the Statement to Legislative Reference Library

The MPCA will send a copy of the Statement to the Legislative Reference Library when the Notice is mailed.

- *Minn. Stat. §14.111 Effect on farming operations.* If the rule affects farming operations, *Minn. Stat. § 14.111* requires an agency to provide a copy of the proposed rule changes to the Commissioner of Agriculture no later than 30 days before publication of the proposed rule in the *State Register*.

Although the MPCA does not expect this amendment to have any effect on farming operations, the MPCA will provide a courtesy notification to the MDA commissioner and designated MDA staff at least 30 days before the proposed amendment is published in the State Register.

- *Minn. Stat. § 115.44, subd. 7 Notice to municipalities of water quality standards.* If the rulemaking will affect a water quality standard, *Minn. Stat. § 115.44, subd. 7* requires the MPCA notify the governing body of each municipality through which the waters for which standards are sought to be adopted flow.

The proposed amendment does not affect any water quality standard and no notice to municipalities is required.

- *Minn. Stat. § 116.07, subd. 7(i) Processing applications for animal lot permits.* *Minn. Stat. § 116.07, subd. 7(i)* requires that any new feedlot rules must be submitted to the members of legislative policy and finance committees with jurisdiction over agriculture and the environment before final adoption.

The proposed amendments do not relate to animal feedlots and no action is necessary to comply with this requirement.

## B. Additional notice

*Minn. Stat.* §§ 14.131 and 14.14 also require that an agency include in its Statement a description of its efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule, or explain why these efforts were not made. The MPCA will request the Office of Administrative Hearings (OAH) to review and approve the following Additional Notice Plan, pursuant to *Minn. R. pt.* 1400.2060.

The MPCA does not expect that this rulemaking will be controversial or require public hearings. However, some additional notice is appropriate and the MPCA intends to conduct the following additional activities to ensure that all interested people have a chance to meaningfully engage in the comment process when the rules are proposed.

For this rulemaking the primary mechanisms for providing additional notice are:

- Establishing a webpage containing specific information about this rulemaking;
- Encouraging people to register with the GovDelivery e-mail notification system; and
- Providing electronic or mailed notice to people and organizations that are expected to have a specific interest in the proposed rules.

### Pre-proposal outreach

When the Request for Comments was published, the MPCA began providing notice through the following mechanisms with the goal of developing an extensive GovDelivery mailing list to reach interested parties at the time rules were proposed for comment.

### Webpage

At the start of the rule development process the MPCA established a webpage (<https://www.pca.state.mn.us/water/amendments-operator-training-requirements>) to provide information about the proposed rulemaking. On this webpage the MPCA provided:

- A description of the amendments being considered;
- Information about the Request for Comments comment period;
- Information about registering to receive GovDelivery notifications;
- A schedule of comment opportunities; and
- MPCA staff contact information.

The webpage will be updated as needed throughout the rulemaking process to add new information and documents, such as this Statement, rulemaking exhibits, and future notices.

### GovDelivery

GovDelivery is a self-subscription service the MPCA uses to electronically (email) notify interested or affected persons of various updates and public notices issued on a wide range of topics, including rulemakings. Prior to publishing the Request for Comments for this rulemaking, the MPCA established a self-subscribing rule-specific mailing list at

[https://public.govdelivery.com/accounts/MNP/CA/subscriber/new?topic\\_id=MNP/CA\\_354](https://public.govdelivery.com/accounts/MNP/CA/subscriber/new?topic_id=MNP/CA_354).

On November 13, 2018, a GovDelivery message was sent to 2,552 persons who had either requested to be notified of “new MPCA rulemaking” or who had registered their interest in this particular rule.

At the same time the MPCA sent an e-mail to all currently certified Type IV operators/inspectors to notify them of the comment period and to encourage them to register to receive future GovDelivery notices about this rule.

In addition to the notices sent at the time the Request for Comments was published, the MPCA's efforts to encourage registering for GovDelivery notification about this rulemaking included:

- Providing the invitation to register for future notices on the webpage developed specifically for this rulemaking.
- Providing information about this rulemaking and encouraging registering for GovDelivery notices:
  - In the MPCA's monthly publication for wastewater treatment professionals (On Point). (November 15, 2018 edition.) On Point is an MPCA publication focusing on wastewater treatment issues. It is distributed via GovDelivery to over 2,800 registered persons. Subscribers include the general public, regulated facilities, consultants, and persons employed in wastewater treatment.
  - On the webpage of the Minnesota Wastewater Operators Association website (<http://www.mwoa.net/>) beginning on November 8, 2018.

#### **Additional notice of proposed rules**

GovDelivery will be the primary mechanism for providing additional notice when the amendment is proposed. Throughout the rule development process, the MPCA provided the opportunity for interested persons to subscribe to receive GovDelivery notices about this rulemaking so that when the rule is published, the MPCA is confident that interested persons have had ample opportunity to register to receive notice

When the rules are published for public comment, the MPCA will conduct the following activities in addition to the notifications required by statute.

- Posting the following information on the MPCA webpage established for this rule (<https://www.pca.state.mn.us/water/amendments-operator-training-requirements>): the Notice, Statement, Statement attachments, the proposed revisions, summary information, and plain language instructions about what is being proposed and how to comment.
- Publishing the Notice of Hearing on the MPCA's Public Notice webpage for the full term of the comment period. (<https://www.pca.state.mn.us/public-notices>.)
- Sending the Notice to organizations identified as being specifically interested in wastewater issues, such as:
  - Association of Metropolitan Municipalities
  - League of MN Cities
  - MN City/County Management Association
  - MN Wastewater Operators Association
  - MN Municipal Utilities Association
  - Center for Environmental Advocacy
  - Clean Water Minnesota
  - MN Isaak Walton League

## 8. Performance-based rules

*Minn. Stat. § 14.002* requires state agencies, whenever feasible, to develop rules that are not overly prescriptive and inflexible, and rules that emphasize achievement of the MPCA's regulatory objectives while allowing maximum flexibility to regulated parties and to the MPCA in meeting those objectives.

The MPCA is not developing new rules with this rulemaking but is only proposing a minor amendment that does not make significant or substantial changes to the existing rule. The scope of this rulemaking does not extend to performance-based objectives.

## 9. Consideration of economic factors

In exercising its powers, the MPCA is required by identical provisions in *Minn. Stat. § 116.07*, subdivision 6 and *Minn. Stat. § 115.43*, subdivision 1 to give due consideration to:

*...the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result there from, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances...*

The proposed amendments will have no economic impact except to reduce the cost of attending training for some Type IV operators/inspectors who might have been required to incur costs for meals and overnight lodging to meet the existing requirement for nine hours of training.

## 10. Consult with MMB on local government impact

As required by *Minn. Stat. § 14.131*, the MPCA will consult with Minnesota Management and Budget (MMB). The MPCA will do this by sending MMB copies of the documents that are sent to the Governor's office for review and approval. The MPCA will provide MMB with the opportunity to review and comment on the proposed amendment before publishing the Notice of Intent to Adopt Rules Without a Public Hearing in the *State Register*. The MPCA will include any response received from MMB in the information provided to the Office of Administrative Hearing for review of this rulemaking.

## 11. Impact on local government ordinances and rules

*Minn. Stat. § 14.128*, subd. 1, requires an agency to determine whether a proposed rule will require a local government to adopt or amend any ordinances or other regulation in order to comply with the rule.

The proposed amendments will not have any effect on local ordinances or regulations.

## 12. Costs of complying for small business or city

*Minn. Stat. § 14.127*, subs. 1 and 2) require an agency to "determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for any one business that has less than 50 full-time employees, or any one statutory or home rule charter city that has less than ten full-time employees."

No small business of city will incur costs as a result of the proposed amendment. The proposed amendment will result in cost saving for any small business or city that disposes of biosolids or industrial by-products through landspreading.

## 13. Authors, witnesses, and SONAR exhibits

### A. Authors

- Carol Nankivel, MPCA
- Sheryl Bock, MPCA

### B. Witnesses

The MPCA expects that the proposed amendments will be noncontroversial. In the event that a hearing is necessary, the MPCA anticipates having the following staff testify as witnesses in support of the need for and reasonableness of the rules.

- Sheryl Bock, MPCA, is the technical staff expert for the Type IV certification program and will testify on any questions relating to landspreading or training requirements.
- Adonis Neblett, MPCA, is General Counsel to the MPCA and will introduce the required jurisdictional documents into the record.
- Carol Nankivel, MPCA, is the project rule coordinator and will testify on any Minnesota Administrative Procedures Act process questions.

### C. SONAR exhibits

Exhibit 1. Letter from Minnesota Wastewater Operators Association, dated November 17, 2017.

## 14. Conclusion

In this SONAR, the MPCA has established the need for and the reasonableness of the proposed amendment to *Minn. R. pts. 7048.1000*. The MPCA has provided the necessary notifications and in this Statement documented its compliance with all applicable administrative rulemaking requirements of Minnesota statute and rules.

Based on the forgoing, the proposed amendments are both needed and reasonable.

11/27/18  
Date

  
John Linc Stine, Commissioner  
Minnesota Pollution Control Agency





**M W O A**  
**MINNESOTA WASTEWATER  
OPERATORS ASSOCIATION**

November 17, 2017

Commissioner John Linc Stine  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul MN 55155

RECEIVED  
MPCA

DEC 07 2017

Commissioners  
Office

Commissioner Stine:

As current President of the Minnesota Wastewater Operators' Association (MWOA), I would like to communicate our support of the reduction of required contact hours for the Type IV (biosolids) operations license from nine (9) to six (6) per certification period.

The Minnesota Pollution Control Agency (MPCA) has developed exceptional training since this certification was first established, along with detained manuals, field guides, and exams. Program rules have not changed in some time, and facility internal training programs and mentorships have fulfilled some of the land application training needs. As a result, extended training may become redundant and unnecessary.

With constricted operational budgets within cities, industries, and the MPCA, we feel that reducing the required contact hours to a number that can be fulfilled within one day of training instead of two or three will be a substantial cost savings. Many facilities have operators that require contact hours for several certifications, and operation staff have been reduced in many areas. The time spent away from the plants creates even more backlog for the work to be completed.

We respectfully request that Minnesota Rule 7048.1000, Subp. 4 be amended to require six (6) contact hours per renewal period instead of the existing nine (9) hours. The cost savings will benefit over 650 currently licensed operators, their employers, and their regulatory agency.

Thank you,

  
Kay Marie Curtin, President

Minnesota Wastewater Operators' Association

cc: Greta Gauthier, MPCA 520 Lafayette Road N, St. Paul, MN 5155  
Sherry Bock, MPCA, 7678 College Road S, Brainerd MN 56425

1.1 **Minnesota Pollution Control Agency**

1.2 **Proposed Permanent Rules Relating to Waste Facility Operator Certification**

1.3 **7048.1000 CERTIFICATES.**

1.4 *[For text of subparts 1 to 3, see Minnesota Rules]*

1.5 Subp. 4. **Required training for facility certificate renewal.** Required training for  
1.6 facility certificate renewal is as follows:

1.7 A. type I, 18 contact hours;

1.8 B. type II, 18 contact hours;

1.9 C. type III, 6 contact hours;

1.10 D. type IV, ~~9~~6 contact hours;

1.11 E. type V, 6 contact hours.

1.12 *[For text of subparts 5 to 8, see Minnesota Rules]*

## Minnesota Pollution Control Agency

### NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

#### Proposed Amendment to Rules Governing the Certification of Type IV Facility Operators and Inspectors, *Minnesota Rules*, 7048.1000; Revisor's ID Number 4566

**Introduction.** The Minnesota Pollution Control Agency (MPCA) intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. Until 4:30 p.m. on February 15, 2019, you may submit written comments on the proposed amendment, and may also submit a written request that a hearing be held on the amendment.

**MPCA Contact Person.** You must submit written comments and written requests for a public hearing to the MPCA contact person: Carol Nankivel at Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, MN, 55155-4194, [carol.nankivel@state.mn.us](mailto:carol.nankivel@state.mn.us), telephone 651-757-2597, toll free 1-800-657-3864

**Subject of Amendment.** The proposed amendment will reduce the number of training hours required to maintain certification to operate or inspect Type IV facilities. Operators of Type IV facilities apply sewage biosolids and industrial or commercial by-products to land for beneficial reuse. To renew Type IV certification, operators and inspectors are currently required to attend nine hours of training every three years. The proposed amendment will reduce the required recertification training to six hours every three years.

**Statutory Authority.** The statutory authority to adopt the amendment is *Minnesota Statutes*, section 116.41.

**Availability.** A copy of the proposed amendment is published in the January 14, 2019 *State Register*. The proposed amendment, and the documents supporting the amendment, can be viewed at the MPCA's public notice webpage at <https://www.pca.state.mn.us/public-notice>. A free copy of the amendment is also available upon request from the MPCA contact person listed above.

**Comments.** You have until 4:30 p.m. on February 15, 2019, to submit written comment in support of or in opposition to the proposed amendment. Your comment must be in writing and the MPCA contact person must receive it by the due date. The MPCA encourages comments. Your comment should identify any change proposed and the reason for the suggested change. You are encouraged to propose any change desired. Any comments that you have about the legality of the proposed amendment must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that the MPCA hold a hearing on the amendment. Your request must be in writing and the MPCA contact person must receive it by 4:30 p.m. on February 15, 2019. Your written request for a public hearing must include your name and address. Any request that does not comply with this requirement is not valid and the MPCA cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed amendment.

**Withdrawal of Requests.** If 25 or more persons submit a valid written request for a hearing, the MPCA may hold a public hearing unless a sufficient number withdraw their requests in writing. If enough

requests for hearing are withdrawn to reduce the number below 25, the MPCA must give written notice of this to all persons who requested a hearing, explain the actions the MPCA took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the MPCA will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format.** 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 at the address or telephone number listed above.

**Modifications.** The MPCA may modify the proposed amendment as a result of public comment. The modifications must be supported by comments and information submitted to the MPCA, and the adopted amendment may not be substantially different from the proposed amendment, unless the MPCA follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed amendment affects you in any way, the MPCA encourages you to participate in the rulemaking process.

**Statement of Need and Reasonableness.** The statement of need and reasonableness contains the justification for the proposed amendment, including a description of who will be affected and an estimate of the probable cost of the proposed amendment. It is now available from the MPCA contact person and can be viewed at <https://www.pca.state.mn.us/water/amendments-operator-training-requirements>.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions about this requirement to the Campaign Finance and Public Disclosure Board at Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-539-1180 or 1-800-657-3889.

**Adoption and Review.** If no hearing is required, the MPCA may adopt the amendment after the end of the comment period. The MPCA will then submit the amendment and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the MPCA submits the amendment to the Office of Administrative Hearings. If you want to be so notified, receive a copy of the adopted amendment, or would like to register with the MPCA to receive notice of future rule proceedings, submit your request to the MPCA contact person listed above.

12/27/18  
Date

Michelle Beeman  
Michelle Beeman  
Deputy Commissioner



# MWOA

## MINNESOTA WASTEWATER OPERATORS ASSOCIATION

November 17, 2017

Commissioner John Linc Stine  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul MN 55155

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Thank you,

  
Ray Marie Curtin, President

Minnesota Wastewater Operators' Association

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