

January 7, 2009

The Honorable Tim Pawlenty
Governor, State of Minnesota

The Honorable Satveer S. Chaudhary, Chair
Senate, Environment and Natural Resources
Committee
Capitol Building, Room 205

The Honorable Ellen R. Anderson, Chair
Senate, Environment, Energy and Natural
Resources Budget Division
Capitol Building, Room 120

The Honorable Margaret Kelliher, Chair,
Legislative Coordinating Commission
463 State Office Building

The Honorable Kent Eken, Chair
House, Environment and Natural Resources
Policy Committee
575 State Office Building

The Honorable Jean Wagenius, Chair
House, Environment and Natural Resources
Finance Division
449 State Office Building

Ms. Michele Timmons
Revisor of Statutes
700 State Office Building

RE: Annual Report on Obsolete, Unnecessary, or Duplicative Rules, as Required by
Minn. Stat. § 14.05, subd. 5

Dear Governor Pawlenty:

Minn. Stat. § 14.05, subd. 5, states:

“By December 1 of each year, an agency must submit to the governor, the legislative coordinating commission, the policy and funding committees and divisions with jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. By December 1, the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year’s report as obsolete, unnecessary, or duplicative. If none of an agency’s rules are obsolete, unnecessary, or duplicative, an agency’s December 1 report must state that conclusion.”

The Minnesota Pollution Control Agency (MPCA) has reviewed and identified the following rules that are obsolete and should be repealed:

Minn. R. ch. 7050 – Waters of the State Rules

1. Minn. R. 7050.0210, subp. 2 - Nuisance conditions prohibited.

When the MPCA amended its Water Quality Rules the intent was to repeal Minn. R. 7050.0210, subp. 2 and replace that part with a new subpart created in Minn. R. 7050.0205, subp. 2. During that rulemaking process part 7050.0210, subp. 2 was never repealed and as a consequence, the identical provision appears twice in the rules.

Minn. R. ch. 7020 – Feedlot Rules

2. Minn. R. 7020.0205, item J – Incorporation by Reference.

This item is an outdated reference that is no longer needed.

3. Minn. R. 7020.0355 – Permits And Certificates Issued Prior To October 23, 2002.

Subpart 1 – SW-A permits are no longer used.

Subpart 2 – Certificates of Compliance are no longer used.

Subpart 3 – Item A. – Interim A permits are no longer used. This section also references actions that have been completed by October 23, 2000.

Subpart 3 – Item B. – Interim B permits are no longer used.

Subpart 4 – This subpart references National Pollution Discharge Elimination System (NPDES) and State Disposal System (SDS) permits that expired after October 23, 2000. Since these permits were issued for a five year period, this item became outdated prior to October 23, 2005.

4. Minn. R. 7020.0505, subp. 4 – Content of permit applications, item A(12).

This form has been incorporated into the MPCA's Feedlot Permit Application for an NPDES/SDS permit and is no longer needed.

5. Minn. R. 7020.0535, subp. 2 – Permit applications submitted prior to October 23, 2000.

This section was placed in the rules to address permit applications that were received by the MPCA but had not been processed yet at the time the new feedlot rules became effective. All

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of these applications have long since been processed which makes this subpart unnecessary and obsolete.

6. Minn. R. 7020.1500 – Scope of Delegated County Feedlot Program; Minn. R. 7020.1700 – Procedural Rules and Appeals; Minn. R. 7020.1800 – Severability; Minn. R. 7020.1900 – Variances.

The MPCA intended to delete these parts in the MPCA's 2000 feedlot rule revisions, however during the rulemaking process were inadvertently left out. These parts are duplicated in other sections of the rule.

Status of obsolete rules identified in the MPCA's 2007 Obsolete Rules Report:

In the MPCA's 2007 Obsolete Rules Report the MPCA stated it had no obsolete rules to report.

Costs of preparing this report: In compliance with Minn. Stat. § 3.197, the cost of preparing this report is as follows:

Staff cost: \$76.00 (Includes time for one support staff and one technical staff).

Printing cost in-house: \$32.50 (approximately 50 copies and includes support staff time to make copies).

If you have any questions regarding this report, please contact me at 651-757-2681.

Sincerely,

Amy Rudolph
Public Affairs Director

AR:cmg