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# MPCA REVENUE OPTIONS

## APPENDIX C

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### MODIFICATION OF WATER QUALITY FEES

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#### Pro

- State law requires that fees be “set at a level that neither significantly over recovers nor under recovers costs” (*Minn. Stat.* (2000), §16A.1285). MPCA’s water quality fees do not cover the full cost of permit issuance, compliance monitoring, and enforcement. Water quality fees have not been increased since 1992, even for inflation. At the end of fiscal year 2001, the Water Quality Fee Account faced a deficit of nearly \$600,000, and the Legislature used solid waste management tax revenues to make up this shortfall.
- In general, it is reasonable to expect that facilities that produce or process polluted water will help pay for their own regulation—even if they pass along fee costs to consumers.
- The cost of administering MPCA’s water quality fees is relatively modest (0.7 percent of all revenues collected).
- The 1995 Blue Ribbon Task Force on Water Quality said that fee increases *may be* necessary to adequately fund Minnesota’s point source permit program—even with the adoption of efficiency measures by MPCA.

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#### Con

- The general public benefits from pollution control, so there may be a role for broader-based revenue sources rather than increased reliance on “user charges.”
- Without proper staff training and agency management, there is some risk that greater reliance on fees to fund MPCA would make the agency less aggressive in its enforcement of regulations affecting permittees.
- Presently, Minnesota’s annual water quality fees are based largely on the “design flow” of facilities—that is, how much wastewater they are designed to handle. Fees are not directly related to the amount or type of pollutants in the wastewater. Thus, fees are not based on a pure “polluter pays” approach, and higher fees would not necessarily create an incentive for pollution reduction.
- Legislators have often been reluctant to impose higher fees on units of government, and 57 of Minnesota’s 84 major water quality facilities are operated by municipalities.

## MODIFICATION OF HAZARDOUS WASTE FEES/TAXES

*Note: There are three types of hazardous waste fees/taxes: (1) Hazardous waste generators pay a tax on the waste they generate, and the proceeds of this tax are used for Superfund cleanups. (2) Hazardous waste generators pay fees on the waste they generate, and these fees help to offset MPCA's costs of administering its hazardous waste program activities. (3) Facilities that treat and store hazardous waste must obtain permits and pay fees that are used to offset MPCA's costs of administering its hazardous waste program activities.*

### Pro

- State law requires that fees be “set at a level that neither significantly over recovers nor under recovers costs” (*Minn. Stat.* (2000), §16A.1285). Likewise, state law requires MPCA to adjust its hazardous waste fees so that fee revenues “cover” the legislative appropriation” (*Minn. Stat.* (2000), §116.12, subd. 1). In recent years, MPCA has not raised hazardous waste fees to a level that fully recovers its legislative appropriation for these activities. Also, although hazardous waste fees have generated enough revenue to cover the staffing costs for hazardous waste permitting, compliance monitoring, and enforcement, they have not been sufficient to cover these costs *plus* the cost of MPCA technical assistance to hazardous waste generators.
- If cleanup activities in MPCA’s Superfund program decline in future years, as expected, it may be reasonable to devote a portion of Minnesota’s hazardous waste tax—which is now used exclusively for the Superfund program—to pay for MPCA’s hazardous waste program costs. (Note: The hazardous waste tax sunsets in 2004 and would have to be reauthorized.)
- In general, it is reasonable to expect that facilities that generate, treat, or store hazardous wastes will help pay for the cost of their regulation or the cost of hazardous waste cleanups—even if they pass along fee costs to consumers.

### Con

- If hazardous waste fees were set at levels that fully recovered legislative appropriations, some companies that generate these wastes would face large fee increases. In part, this is because there has been a reduction in the number of companies that generate, treat, and store hazardous waste—leaving more of the fee burden on the companies that still handle these wastes. MPCA staff said they have not adjusted hazardous waste fees to fully cover legislative appropriations because legislators have questioned whether it is fair for companies that are reducing their wastes to pay increased fees.
- Hazardous waste fees and taxes have higher administrative costs (4.5 percent of revenues collected) than MPCA’s air and water fees. This likely reflects the fact that there are a large number of generators in Minnesota (about 9,000), and the average amount that each pays in hazardous waste fees/taxes is relatively small.
- Because the general public benefits from pollution control, there may be a role for broader-based revenue sources rather than increased reliance on “user charges.”
- Without proper staff training and agency management, there is some risk that greater reliance on fees to fund MPCA would make the agency less aggressive in its enforcement of regulations affecting permittees.

**INCREASE IN MPCA GENERAL FUND REVENUES**Pro

- State General Fund revenues comprise a relatively small portion of MPCA’s overall budget (and its staffing expenditures) compared with most other state agencies.
- Many MPCA activities are intended to provide benefits to the general public throughout Minnesota, not just to people in certain locations or to people engaged in certain activities.
- All Minnesotans contribute in some way to pollution problems, and the General Fund consists of revenues from broad-based taxes that all wage-earners and consumers pay.
- Funding MPCA with broad-based revenue sources would reduce the likelihood of conflicts of interest that could occur when fee-funded MPCA staff are expected to regulate the feepayers.
- The existence of an MPCA “citizens board” to make final decisions on permits sometimes contributes to delays in the permitting process. This extra layer in the decision process may be justified by the need for public discussion on environmental controversies, but perhaps the cost of such delays should be borne by a broad-based revenue source (like the General Fund) rather than by permittees.

Con

- It may not be equitable to rely too much on general revenue sources to pay for MPCA activities that regulate or assist particular categories of businesses. Rather than asking the general public to shoulder the cost of pollution control activities, it might be better to make permittees responsible for the cost of the regulatory activities that their activities necessitate. In this way, pollution costs would be borne by the facilities that generate pollution (or the consumers of their products/services)—perhaps in some proportion to the pollution generated.
- There is considerable competition for state General Fund dollars among state agencies. Thus, there might be more threats to the stability of this revenue source over the long term than some revenue sources that are more directly tied to pollution activities.

**CONTINUE USING THE SOLID WASTE FUND FOR MPCA ACTIVITIES NOT DIRECTLY RELATED TO SOLID WASTE**

Pro

- The solid waste management tax (the revenue source for the Solid Waste Fund) is a tax paid by most households and businesses throughout Minnesota—so it is “broad-based.” The tax is applied to a commodity—garbage—that contributes to pollution problems, and such a tax could (1) provide funding to address garbage-related or other pollution problems, or (2) create incentives for Minnesotans to reduce their waste generation.
- Fund balances in the Solid Waste Fund were larger than anticipated in recent years, so it has been possible for policy makers to use this fund as a revenue source without raising solid waste taxes beyond present levels or raising other fees/taxes.
- Half of the solid waste tax is already deposited in the General Fund, where it is used for purposes not directly related to solid waste.

Con

- Business and local government representatives that supported the solid waste management tax in 1997 contend that the tax was adopted to address very specific solid waste issues, such as closed landfills. Many business representatives would like to see the tax reduced, particularly if it generates revenues beyond those needed for solid waste purposes.
- The Legislature has used the Solid Waste Fund to pay for some purposes not closely linked to garbage—such as paying for MPCA’s recent Fair Labor Standards Act settlement and additional MPCA feedlot staff.
- There are potential threats to the stability of Solid Waste Fund revenues. Revenues have declined as a result of the current economic slowdown. Revenues could also decline if increases in recycling result in less garbage production. Also, interest groups that have supported the solid waste tax might seek reductions in the tax if MPCA were to use it for a broader array of services.

*Note: Half of the solid waste tax revenues presently go to the General Fund. Another option would be to modify the law to redirect more of the tax to environmental purposes.*

**SALES TAX OR FEE ON FARM PESTICIDES AND FERTILIZERS; USE A PORTION OF REVENUES FOR WATER PROGRAMS**Pro

- Farm chemicals are a significant source of nonpoint source water pollution, so such a tax might be a reasonable source of revenues for MPCA's activities related to nonpoint water pollution. Such a tax would help ensure that the prices of agricultural chemicals more accurately reflect their regulatory and clean-up costs (and perhaps the cost of their impacts on human health and the environment).
- Extension of the sales tax to agricultural chemicals would raise substantial revenue—in fact, far more than would be needed to fund MPCA's present nonpoint water pollution activities. A recent analysis estimated that this tax exemption costs Minnesota \$65 million per year, more than any other state.<sup>1</sup>

Con

- State law exempts from the sales and use tax any materials “stored, used, or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail... whether or not the item so used becomes an ingredient or constituent part of the property produced.” (*Minn. Stat.* (2000) §297A.68, subd. 2.) Chemicals applied to lawns or home gardens are taxable, but chemicals applied to agricultural crops are not.
- Policy makers have had concerns about the adverse impact that higher agricultural chemical costs might have on Minnesota's farm economy.
- Although Minnesota does not charge a sales tax on agricultural chemicals, there are a variety of fees and surcharges on these chemicals that are paid by persons who sell or use them.

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<sup>1</sup> Friends of the Earth, *F.A.C.T.: Fair Agricultural Chemical Taxes: Tax Reform for Sustainable Agriculture* (Washington, D.C., 1999), 10.

### INCREASE DNR'S WATER APPROPRIATION FEE

*Note: A water use permit from the Department of Natural Resources (DNR) is required for all users withdrawing more than 10,000 gallons of water per day or one million gallons per year.*

#### Pro

- This fee is water-related and broad-based, so there is some justification for using a portion of such a fee to fund activities related to point and nonpoint source pollution control. The feepayers include power generators, public water suppliers, industrial processing facilities, and farmers who irrigate.
- Presently, water appropriation fees increase with volume, creating some incentive for water conservation.
- There has not been a significant increase in water appropriation fees since 1989.

#### Con

- Users of water are not necessarily water polluters—or do not necessarily pollute proportionate to the amount of water they use. For instance, most of the water used by power plants is for cooling purposes, so a fee on water use would not necessarily be consistent with a “polluter pays” approach.
- Water appropriation fees presently generate less than \$3 million per year, and the amount of “appropriated” water will likely decline in the near future as alternatives to “once-through” systems are implemented.<sup>2</sup>
- Water appropriation fees presently go to the General Fund; they are *not* dedicated to the Department of Natural Resources, which operates the water appropriation permit program. Thus, it may be difficult to justify dedicating a portion of these fees to an agency (MPCA) that does not operate this program.

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<sup>2</sup> A “once-through” system” is a space heating, ventilating, air conditioning, or refrigeration system that circulates and discharges ground water without reusing it for a higher priority purpose. State law requires that permits for “once-through” systems using in excess of five million gallons annually be terminated by December 31, 2010.

### USE PETROLEUM FEE REVENUES FOR AIR POLLUTION CONTROL

#### Pro

- To address air quality problems caused by internal combustion engines (i.e., “mobile sources” of air pollution), it might be reasonable to use a petroleum-based fee. Such fees would help ensure that petroleum prices more accurately reflect the regulatory costs associated with petroleum use (and perhaps costs associated with emission impacts on the environment or human health).
- Presently, petroleum distributors pay a fee of \$20 per 1,000 gallons of petroleum products. These revenues go to The Petroleum Tank Release Cleanup Fund (or “Petrofund”) to help pay for cleanups at leaking storage tank sites. As Minnesota’s cleanup program winds down, it might be reasonable to use a portion of The Petrofund—or a similar petroleum-based fee—to pay for transportation-related pollution control activities.

#### Con

- If the Legislature wished to use the Petrofund for air pollution activities, it would have to redefine in law the activities for which this fund could be used. The oil and gas industry has supported the Petrofund because it has helped to address a business liability (leaking tanks). It is unclear whether industry and legislators would support use of petroleum fee revenues for pollution problems that (a) are not site-specific, and (b) have not yet occurred (as opposed to cleanup of spills and leaks).

### INCREASE IN THE STATE GASOLINE TAX, OR ADOPTION OF A SALES TAX ON GASOLINE

#### Pro

- It might be reasonable to use revenues from a gasoline tax to address air quality problems that are a by-product of internal combustion engines. Persons who consume more gasoline would pay more in taxes, and this would roughly reflect a “polluter pays” funding approach.
- Significant public and private health costs are attributable to air pollutants from vehicle emissions. Taxing gasoline might be a way for individuals to more closely bear the social costs of their driving choices—or at least to pay for the costs of regulating these emissions.

#### Con

- The Minnesota Constitution authorizes the Legislature to levy an excise tax on gasoline and place the proceeds into the Highway User Distribution Fund, but this fund is “to be used solely for highway purposes specified” in the Constitution. There is little case law clarifying “highway purposes.” Unless the Constitution were to be amended, it is questionable whether use of excise tax revenues for pollution control would comply with the constitutional requirements. An alternative to the excise tax might be a *sales tax* on gas. (Presently, there is no sales tax on gas.) Legal experts told us that it is unclear whether a sales tax on gas would be subject to the same constitutional restrictions as an excise tax.

### APPROPRIATE MORE ENVIRONMENTAL PENALTY REVENUE TO MPCA

*Note: Recoveries from civil penalties, agreements, stipulations, settlements, and other provisions of Minn. Stat. chapters 115A and 116 are credited to an account in the Environmental Fund—up to the amount appropriated for each biennium. The remainder is deposited in the General Fund. Over the past five fiscal years, MPCA has collected about \$2.7 million in penalties above the amounts that it has been appropriated in its environmental enforcement account. For instance, in fiscal year 2001, MPCA received an appropriation of \$626,000 from this account, out of \$1.6 million collected.)*

#### Pro

- The revenues from environmental penalties should, to some degree, offset the costs that MPCA incurs to enforce environmental regulations.
- The 1995 Blue Ribbon Task Force on Water Quality Funding recommended that the Legislature increase the appropriation for MPCA's environmental enforcement account. However, the appropriated amount has remained about the same.
- The Legislature's environmental finance committees make budget decisions on just a portion of the state's General Fund revenues (including environmental penalty revenues deposited in the General Fund). If all environmental penalty revenues were deposited in the state Environmental Fund, these committees would have more authority to determine how penalty revenues are spent.

#### Con

- When regulatory agencies like MPCA have the potential to benefit financially from penalty revenues they collect, there may be an incentive for the agency to assess larger penalties.
- It is unclear whether the Legislature's environmental finance committees would appropriate more environmental penalty revenues to MPCA if they had authority to appropriate the full amount of penalty revenues collected.
- Placing penalty revenues in the Environmental Fund could result in fewer revenues in the General Fund.

### INCREASE (OR MODIFY PRESENT USES OF) THE MOTOR VEHICLE TITLE TRANSFER FEE

#### Pro

- A title transfer fee could be dedicated to nonpoint source pollution to reflect the pollution impact of runoff from vehicle-related causes (such as the construction of roads, with surfaces impervious to precipitation). Wisconsin uses revenues from a title transfer fee for this purpose.
- It might be reasonable to have a vehicle-related revenue source—such as a title transfer fee—to address pollution from vehicles.
- In Minnesota, the title transfer fee has been used for environmental protection and remediation purposes since 1984.

#### Con

- Although vehicles and road construction contribute to air and water pollution, there is little direct relationship between the transfer of a vehicle title and the amount of pollution produced by that vehicle.
- Presently, state law allocates revenues from the title transfer fee to Superfund cleanups and the General Fund. Unless the fee is increased beyond its present level (\$4 per title transfer), MPCA would be unable to use the fee's revenues for nonpoint water pollution or mobile sources of air pollution without supplanting existing Superfund revenues.

### EXTEND SALES TAX TO SEWER BILLS

#### Pro

- Department of Revenue staff told us they were uncertain why Minnesota's sales tax has never applied to sewer services. If such a tax were implemented and dedicated to a particular area, pollution control would be a fairly logical choice.
- The exemption of sewer services from Minnesota's sales tax represents \$22 million in foregone revenue each year. Various other residential services (electricity, gas, steam, and certain telephone services) *have* been subject to sales taxes.

#### Con

- Minnesota's executive branch has pursued a policy of trying to limit the dedication of revenues to particular purposes, except in cases where the revenues clearly represent a user charge.

**EXTEND SALES TAX TO RESIDENTIAL WATER SERVICES**Pro

- Although various other residential services (electricity, gas, steam, and certain telephone services) *have* been subject to sales taxes, the provision of water services for residential use has not. Department of Revenue staff do not recall reasons why residential water services were exempted by the Legislature in 1979. (They noted that this exemption followed exemptions for residential heating fuels that happened around that time.)
- Extending the sales tax to residential water services would produce revenues of about \$20 million per year.

Con

- The tax would apply to the large majority of Minnesota housing units that use public water supplies. However, housing units that do not use public water supplies might represent a disproportionate source of pollution problems, and they would not be subject to this tax.
- Minnesota's executive branch has pursued a policy of trying to limit the dedication of revenues to particular purposes, except in cases where the revenues clearly represent a user charge.

**USE PORTION OF ENVIRONMENT AND NATURAL RESOURCES TRUST FUND (FROM LOTTERY REVENUES) TO SUPPORT MPCA PROGRAMS**Pro

- The total revenues for the trust fund are relatively stable. (The fund is established in the Minnesota Constitution. Forty percent of the lottery's net proceeds are dedicated to environment and natural resource purposes.)
- The 1995 Blue Ribbon Task Force on Water Quality Funding said that "following the sunset of constitutional provisions for state lottery proceeds in the year 2001, we recommend that the Legislature consider allocating a portion of these proceeds to the point-source [water quality] program."

Con

- State law says that the trust fund may not be used as a substitute for traditional sources of funding environmental and natural resources activities; it must supplement traditional funding sources. Also, the law says that the trust fund is for long-term activities. (*Minn. Stat.* (2000) §116P.03).
- Although overall trust fund revenues are quite stable, the Legislature must appropriate funds to be spent for particular purposes—and priorities may vary from biennium to biennium.

## CARBON TAX

*Note: The 1998 Legislature considered a revenue-neutral proposal that would have placed a \$50/ton tax on the carbon content of energy inputs, to generate \$1.3 billion in revenue annually. The funds would have been used to reduce local property taxes.*

### Pro

- By raising the price of energy relative to other goods, producers and consumers would respond by buying fewer energy-intensive goods—presumably reducing emissions in the process.
- Carbon taxes have been implemented in several European countries.

### Con

- A carbon tax would put certain Minnesota industries at a competitive disadvantage with industries in states without a carbon tax. To address greenhouse gas issues, a national (or international) approach might be preferable to a unilateral state approach.
- The merits of such a tax would depend considerably on how its revenues were used (i.e., which taxes would be reduced with the revenues a carbon tax would generate—and the resulting tax efficiencies).
- If policy makers' intent is merely to find a revenue source for MPCA's existing budget deficits, a carbon tax may be the wrong approach—providing too much revenue, while having implications far beyond those related to MPCA.
- Compared with some other revenue approaches, it may be politically more difficult to enact a tax that would have adverse financial impacts on one category of industry (e.g., power plants).

**USE FEDERAL FUNDING FROM THE CONGESTION MITIGATION  
AND AIR QUALITY IMPROVEMENT (CMAQ) PROGRAM**Pro

- This federal program is intended to fund projects in air quality “non-attainment areas” which reduce transportation-related emissions. Minnesota received about \$19 million in fiscal year 2001. Program funds could be used to address mobile sources of pollution in the areas with the most serious pollution problems.
- MPCA has authority to review and approve CMAQ-funded projects.

Con

- The program can be used to fund “projects,” so it may not be a viable source of funding for ongoing, long-term MPCA services.
- MPCA would have to compete with other projects for funding, so there would be no assurance of stable funding. In fact, funding for the presently-authorized federal program is now committed to various projects, and it is unclear whether the program will be reauthorized by Congress (or at what level) in 2003.
- Funding is available only on a reimbursement basis.
- The program focuses on noncompliance for ozone and carbon monoxide, not air toxics.