

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 817

6/1 Kowalchyk asked to send Mtg. Cert

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-26-82
DATE FOR REVIEW 6-4-82
DATE DUE 6-9-82

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 6-4-82 Disapproved _____ Returned to Agency 6-4-82

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 6-4-82 Revisor approved 5/20/82 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 5.13.82 Date

_____ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
11.30.81 At least 30 days prior to ~~hearing~~/adoption

_____ Mailing list Certificate

✓ Publication in State Register
12.7.81 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO ROBERT G. DUNN
Chairman, Waste Mgmt. Bd.

DATE: 6/4/82

ATTN : ALAN KOWALCHYK, Spec. Ass't. Atty. Gen.

FROM : LARRY D. STARNS
Special Assistant
Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

LDS:drw
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - WMB

Office Memorandum

TO : Judith Wehrwein

DATE: June 3, 1982

FROM : Alan Kowalchyk
Special Assistant AK
Attorney General

PHONE:

SUBJECT: Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms

As you requested, I have enclosed a copy of the Certificate which indicates that the list of persons requesting notice of the proposed adoption of rules by the Waste Management Board is accurate and complete.

AK:kp

Enclosure

RECEIVED
JUN 08 1982
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms.

* *

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the State Waste Management Board for the purpose of receiving notice of the proposed adoption of rules by this Board is accurate and complete as of 9:00 a.m., this third day of June, 1982.

Shirley Mosman

Subscribed and Sworn to before

me this third day of June, 1982.

Beatrice L. Szymik

Notary Public

BEATRICE L. SZYMIK
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES AUG. 1, 1983

AG copy?

Waste Management Board

Adopted Rules Governing Inspection of Public Records Held by the Waste Management Board and Defining Certain Terms

Rules as Adopted

6 MCAR S 8.002 Definitions.

A.-G. [Unchanged.]

H. Service; serve. "Service" or "serve" means personal service, or, unless otherwise provided by law, service by first class United States mail, postage prepaid, addressed to a person or party at his last known address. An affidavit verifying service shall be signed by the person making service. Service by mail is complete upon placing the item served in the mail. Agencies of the State of Minnesota may also serve other agencies of the State of Minnesota by depositing the item to be served with the Central Mailing Section, Publications and General Services Division, Department of Administration.

6 MCAR S 8.015 ~~Public records and information classified by law as nonpublic or private.~~ FofF 11

~~A.~~ Inspection of public records. All records and data of the board or copies thereof, which are public pursuant to Minn. Stat. SS 15.1611-15.1698 shall be available for inspection and copying by any person, Monday through Friday, excluding legal holidays, between the hours of 9:00 a.m. and 4:00 p.m. at the board offices. No public records shall be removed from the board's offices. Any inspection or copying of records shall be made in the presence of an officer, employee, or agent of the board. The board may charge and collect a reasonable fee, computed in accordance with 2 MCAR S 1.203 A.1.d.(1)-(5), for the reproduction of any public records.

~~B. Classification of private and nonpublic data.~~

~~1. Any data held by the board which consists of trade secret information as defined by Minn. Stat. S 15.1673, subd. 1, clause (b), sales information, or any other information which,~~ FofF 6-10

if public, would tend to adversely affect the competitive position of the subject of the data, shall be classified as private or nonpublic data as defined in Minn. Stat. S 15.162, subds. 5a and 5c if it meets the following requirements.

a. A subject of the data must certify that the data qualifies as nonpublic or private data under Minn. Stat. S 115A.06, subd. 13, by submitting a written statement to the chairperson of the board setting forth these statutory grounds which require the board to keep such data classified as nonpublic or private, and

b. The chairperson must approve the classification in writing.

2. Data meeting the requirements of 1.a. shall not be released unless the chairperson fails to classify the data as private or nonpublic.

3. Whenever the chairperson denies classification of data as private or nonpublic, he shall notify the subject of the data of the denial at least three days before making the records or information available to the public. The subject of the data may withdraw the records or information if that option is available. An adverse determination by the chairperson may be appealed to the Commissioner of Administration. The appeal shall follow the procedures established for contested cases in Minn. Stat. ch. 15, and the rules of the Office of Administrative Hearings relating to contested case proceedings.

FofF 6-10

4. The subject of data classified as private shall be notified by the board that the classification has been made. The notification shall include a list identifying the purposes, uses, and recipients of the particular data.

C. Use of private and nonpublic data. All data classified as private or nonpublic shall be appropriately identified and segregated at the offices of the board. Certified data approved for classification as private or nonpublic by the chairperson may be used by the board to compile and publish analyses or summaries and to carry out its statutory responsibilities in a manner which does not identify the subject of the data.

~~D. Disclosure of private and nonpublic information.~~

~~1. Data may be released when the board is specifically authorized to do so by statute.~~

~~2. Data certified as private or nonpublic by the subject of the data may be released if the chairperson does not approve the requested classification.~~

~~3. Regardless of whether data is classified as private or nonpublic, the board may disclose any data which it is obligated to disclose in order to comply with federal law and regulation, to the extent and for the purposes of the federally required disclosure. Whenever the board is required to release classified data pursuant to federal law, it shall notify the subject of the data of the requirement at least three days before making the records or information available to the public. The subject of the data may withdraw the information if that option is available.~~

~~4. The subject of data classified as private or nonpublic pursuant to Minn. Stat. S 115A.06, subd. 13, may authorize the disclosure of some or all of that data by the board.~~

6 MCAR S 8.016 Computation of time. In computing any period of time prescribed by 6 MCAR SS 8.001-8.015, the day of the last act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included, unless it is a Saturday, Sunday, or a legal holiday.

APPROVED AS TO LEGALITY

June 4, 1982

WARREN SPANNAUS, ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 4 1982
Joan Anderson Growe
Secretary of State

9:19 AM

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

WARREN SPANNAUS
ATTORNEY GENERAL

TELEPHONE
(612) 296-6196

May 26, 1982

Mr. Jerry Anderson
Administration - Finance Division
Room G25, Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Dear Mr. Anderson:

Enclosed for review are four copies of the Rules Governing Inspection of Public Records Held by the Waste Management Board and Defining Certain Terms and associated materials.

Sincerely,

Alan Kowalchyk

ALAN KOWALCHYK
Special Assistant
Attorney General

Room 431
1935 W. County Road B-2
Roseville, Minnesota 55113
(612) 296-7729

AK:mah

AN EQUAL OPPORTUNITY EMPLOYER

Rule as Proposed

6 MCAR S 8.002 Definitions.

A.-G. [Unchanged.]

H. Service; serve. "Service" or "serve" means personal service or, unless otherwise provided by law, service by first class United States mail, postage prepaid, addressed to a person or party at his last known address. An affidavit verifying service shall be signed by the person making service. Service by mail is complete upon placing the item served in the mail. Agencies of the State of Minnesota may also serve other agencies of the State of Minnesota by depositing the item to be served with the Central Mailing Section, Publications and General Services Division, Department of Administration.

Rules as Proposed (all new material)

6 MCAR S 8.015 Public records and information classified by law as nonpublic or private.

A. Inspection of public records. All records and data of the board or copies thereof, which are public pursuant to Minn. Stat. SS 15.1611-15.1698 shall be available for inspection and copying by any person, Monday through Friday, excluding legal holidays, between the hours of 9:00 a.m. and 4:00 p.m. at the board offices. No public records shall be removed from the board's offices. Any inspection or copying of records shall be made in the presence of an officer, employee, or agent of the board. The board may charge and collect a reasonable fee, computed in accordance with 2 MCAR S 1.203 A.1.d.(1)-(5), for the reproduction of any public records.

B. Classification of private and nonpublic data.

1. Any data held by the board which consists of trade secret information as defined by Minn. Stat. S 15.1673, subd. 1, clause (b), sales information, or any other information which, if public, would tend to adversely affect the competitive position of the subject of the data, shall be classified as private or nonpublic data as defined in Minn. Stat. S 15.162,

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

subds. 5a and 5c if it meets the following requirements:

a. A subject of the data must certify that the data qualifies as nonpublic or private data under Minn. Stat. S 115A.06, subd. 13, by submitting a written statement to the chairperson of the board setting forth those statutory grounds which require the board to keep such data classified as nonpublic or private; and

b. The chairperson must approve the classification in writing.

2. Data meeting the requirements of 1.a. shall not be released unless the chairperson fails to classify the data as private or nonpublic.

3. Whenever the chairperson denies classification of data as private or nonpublic, he shall notify the subject of the data of the denial at least three days before making the records or information available to the public. The subject of the data may withdraw the records or information if that option is available. An adverse determination by the chairperson may be appealed to the Commissioner of Administration. The appeal shall follow the procedures established for contested cases in Minn. Stat. ch. 15, and the rules of the Office of Administrative Hearings relating to contested case proceedings.

4. The subject of data classified as private shall be notified by the board that the classification has been made. The notification shall include a list identifying the purposes, uses, and recipients of the particular data.

C. Use of private and nonpublic data. All data classified as private or nonpublic shall be appropriately identified and segregated at the offices of the board. Certified data approved for classification as private or nonpublic by the chairperson may be used by the board to compile and publish analyses or summaries and to carry out its statutory responsibilities in a manner which does not identify the subject of the data.

D. Disclosure of private and nonpublic information.

1. Data may be released when the board is specifically authorized to do so by statute.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

2. Data certified as private or nonpublic by the subject of the data may be released if the chairperson does not approve the requested classification.

3. Regardless of whether data is classified as private or nonpublic, the board may disclose any data which it is obligated to disclose in order to comply with federal law and regulation, to the extent and for the purposes of the federally required disclosure. Whenever the board is required to release classified data pursuant to federal law, it shall notify the subject of the data of the requirement at least three days before making the records or information available to the public. The subject of the data may withdraw the information if that option is available.

4. The subject of data classified as private or nonpublic pursuant to Minn. Stat. S 115A.06, subd. 13, may authorize the disclosure of some or all of that data by the board.

6 MCAR S 8.016 Computation of time. In computing any period of time prescribed by 6 MCAR SS 8.001-8.015, the day of the last act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included, unless it is a Saturday, Sunday, or a legal holiday.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

_____

OFFICE OF THE REVISOR OF STATUTES
PROPOSED RULES

Agency Waste Management Board

Division

Agency Contact Alan Kowalchyk Phone Number 296-7729

Title: Proposed Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms

Type of Rules: Permanent X Temporary_____

Incorporations by References: None

Rule Number	Material Incorporated Author Title Place Publisher Date Cost Places Available

See Additional references on back Yes____ No X

Duplication of Statutory Language.

Rule Number	Statutory Section Duplicated
6 MCAR S 8.015 B.1.	Minn. Stat. S 115A.06, subd. 13

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Theresa M. Lauterbach

Title: Assistant Revisor

Phone: 296-0956

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of the Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms	ORDER ADOPTING RULES

Notice of the Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on December 7, 1981 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on November 30, 1981. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms are adopted this 13th day of May, 1982 pursuant to authority vested in the Board by Minnesota Statutes section 115A.06, subd. 2.

STATE OF MINNESOTA

Chairman of Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed) Adoption of the Amendments to) the Rules of the State Waste) Management Board Governing) Operating Procedures)	Docket No. WMB-018-81 ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 5th day of November, 1981, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Waste Management Board for that purpose and be published in the State Register.

STATE OF MINNESOTA

ROBERT G. DUNN
Chairman
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

Docket No. WMB-018-81

In the Matter of the Proposed Adoption of the Amendments to the Rules of the State Waste Waste Management Board Governing Operating Procedures	)))))	CERTIFICATE OF BOARD'S RESOLUTION PROPOSING RULES

I, Robert G. Dunn, do hereby certify that I am a member and the Chairman of the Waste Management Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Waste Management Board, duly and properly called and held on the 5th day of November, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that Robert G. Dunn, Chairman of the Waste Management Board, be and he hereby is granted the authority and directed to sign an Order of the Board directing that Notice be given of the Board's intent to adopt without a public hearing amendments to the rules governing operating procedures, to sign the Notice thereof, to make any form changes in the proposed rule that the Revisor of Statutes requires the Board to make in order to obtain the Revisor's Certification as required by Minn. Laws of 1981, Ch. 253, § 7, and to perform any and all acts incidental thereto. In the event a public hearing becomes necessary, he hereby is granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Board's representative at all hearings."

IN WITNESS WHEREOF, I have hereunto subscribed my name, this 13th day of May, 1982.

Robert G. Dunn
Chairman, Waste Management Board

David Hartley
Attest by one other Board member

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

Resolution No. WMB-017-81

RESOLVED, that Robert G. Dunn, Chairman of the Waste Management Board, be and he hereby is granted authority and directed to sign an Order of the Board directing that Notice be given of the Board's intent to adopt without a public hearing amendments to the rules governing operating procedures, to sign the Notice thereof, to make any form changes in the proposed rule that the Revisor of Statutes requires the Board to make in order to obtain the Revisor's certification as required by Minn. Laws of 1981, ch. 253, § 7, and to perform any and all acts incidental thereto. In the event a public hearing becomes necessary, he hereby is granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Board's representative at all hearings.

Dated: November 6, 1981

STATE OF MINNESOTA

WASTE MANAGEMANT BOARD

PROPOSED RULES GOVERNING CLASSIFICATION OF DATA HELD BY THE WASTE MANAGEMENT BOARD AND DEFINING CERTAIN TERMS

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes Section 15.0412, subd. 4(h) (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes Section 15.0412, subds. 4-4(f).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

6

Waste Management Board
Attention: Sharon Decker
123 Thorson Building
7323 - 58th Avenue North
Crystal, Minnesota 55428
(612) 536-0816

Authority for the adoption of these rules is contained in Minnesota Statutes Section 115A.06, subd. 2. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Waste Management Board, Attention: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, Minnesota 55428, upon request.

9

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive

8

a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Waste Management Board, Attention: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, Minnesota 55428.

The rules proposed for adoption relate to the following matters: (1) Definition of the term Service; Serve; (2) Public records and information classified by law as non-public or private; and (3) Computation of time.

Copies of this Notice and the proposed rules are available and may be obtained by contacting the Waste Management Board, Attention: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, Minnesota 55428.

Date: November 5, 1981

ROBERT G. DUNN
Chairman
Waste Management Board

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

AFFIDAVIT OF MAILING

Shirley Mosman, being first duly sworn deposes

That on the 30th day of November, 1981, at the City of Crystal, County of Hennepin, State of Minnesota, he mailed the attached material to those persons on the attached mailing list by deposition in the United States mail at said City of Crystal, a copy, thereof, properly eveloped, with postage prepaid:

Shirley Mosman

Subscribed and sworn to before
me this 30th day of November 19 81.

Madeline Harris

MADELINE HARRIS
NOTARY PUBLIC - MINNESOTA
CHISAGO COUNTY
My Commission Expires Sep. 17, 1985

DISTRIBUTION LIST FOR

NOTICATION OF RULEMAKING ~~3/2 81~~ 4/30/81

Joseph D. Bizzano, Jr.
JoAnn McGuire
North. States Power Law Dept.
414 Nicollet Mall
Minneapolis, MN 55401

Dr. Roger V. Blomquist
Environ. Research Group, Inc.
4663 W. Chatsworth Street
St. Paul, MN 55112

Bernard L. Brommer
Executive Vice President
Minnesota AFL-CIO
175 Aurora Avenue
St. Paul, MN 55103

Charles A. Schaffer
MN Dept of Economic Dev.
480 Cedar Street
St. Paul, MN 55101

R. A. Garvey
North Star Steel Co.
P.O. Box 43189,
1678 Red Rock Road
St. Paul, MN 55164

Dr. Robert A. Reid, Manager
Corporate Environ. Health
Honeywell Plaza (MN12-3175)
Minneapolis, MN 55408

W. C. Viitala
Director of Public Affairs
Honeywell, Inc.
Honeywell Plaza (MN12-5215)
Minneapolis, MN 55408

Broeker, Hartfeldt, Hedges & Grant
2850 Metro Dr.-Suite 800
Bloomington, MN 55420

Charles R. Jacoby
Senior Chemical Engineer
The Gillette Company
St. Paul Manufacturing Center
Fifth at Broadway
St. Paul, MN 55101

Minnesota Petroleum Council
300 Northern Federal Bldg.
St. Paul, MN 55102

Dr. Daryl A. Thingvold
Serco Laboratories
1931 West County Road C2
Roseville, MN 55113

Vern Tate
Legislative Research 3-M
3-M Center
St. Paul, MN 55101

Scott Schuler, Env. Tech.
Cooperative Power Association
3316 West 66th Street
Minneapolis, MN 55435

Carol Propotnik
MPIRG
2412 University Avenue S.E.
Minneapolis, MN 55414

Forrest D. Nowlin
Larkin, Hoffman,Daly & Lindgren
1500 Northwestern Financial Cntr
7900 Xerxes Avenue So.
Minneapolis, MN 55431

Susan P. Robertson
Director of LCWM
B-46 State Capitol
St. Paul, MN 55155

R. G. Kirkham, Exec. Dir.
Minnesota Municipal Utilities
P. O. Box B
10 Central Avenue
Buffalo, MN 55313

Richard P. Cox
Metro Inter-County Association
2305 Ford Parkway, Suite 103
St. Paul, MN 55116

Robert R. Distad
Assistant County Attorney
Dakota County Attorney's Office
Dakota County Government Center
1560 West Highway 55
Hastings, MN 55033

Dave Gurney
Environmental Engineer
Dakota County Highway Department
Dakota County Government Center
1560 West Highway 55
Hastings, MN 55033

Floyd J. Forsberg
City of St. Paul,
Department of Public Works
600 City Hall Annex
St. Paul, MN 55102

Edward L. Kuhlney
Region 10, Southern MN RDC
301 Marquette Bank Bldg.
Rochester, MN 55901

Arlene Farver
Donohue & Associates, Inc.
7400 Metro Blvd. Suite 310
Minneapolis, MN 55435

Susan J. Strand
Legal Dept., Land O'Lakes
P. O. Box 116
Minneapolis, MN 55440

I. V. Fordyce
Manager Environmental Control
Am. Crystal Sugar Company
101 North Third Street
Moorhead, MN 56560

Kevin C. Jones
George A. Hormel & Co.
P. O. Box 800
Austin, MN 55912

Norma Schumacher, Leg. Consul
O'Connor & Hannan
38th Floor - IDS Tower
Minneapolis, MN 55402

Archie D. Chelseth
Manager Public Affairs
Potlatch Corporation
Box 510
Cloquet, MN 55720

Marc Hugunin
The Concept Companies, Inc.
One Paramount Plaza
7801 E. Bush Lake Rd.
Minneapolis, Mn 55435

Bonnie M. Spencer
Federal-State Reports, Inc.
5203 Leesburg Pike,Suite 120
Falls Church, Virginia 22041

...eral Mills, Inc.
...TN: Dr. J.W. Haun-45W
P. O. Box 1113
Minneapolis, MN 55440

MN Department of Transporta.
ATTN: Cheryl Heide
Rm 807, Transportation Bldg.
John Ireland Boulevard
St. Paul, MN 55155

Patricia Jensen
Governor's Office
Room 130 - State Capitol
St. Paul, MN 55155

Mike Robertson,
Assistant Executive Director
MPCA
1935 West County Road B2
Roseville, MN 55113

Craig Waldron
Region Nine Dev.Com.
410 S. 5th St.
P.O. Box 3367
Mankato, MN 56001

John A. Knapp
Hessian, McKasy & Soderberg
1500 Midwest Plaza Building
Minneapolis, MN 55402

G. Robert Johnson
4344 IDS Center
Minneapolis, MN 55402

Robert S. Burk
4344 IDS Center
Minneapolis, MN 55402

Holly Rodin
Minnesota COACT
1216 So. 6th Street
Brainerd, MN 56401

Joseph S. Hensel
Rochester Public Utilities
506 First Ave. NE Box 6057
Rochester, MN 55901

~~(3)~~ 3. The names and ~~address~~ addresses of all persons known to the applicant who will be directly affected by such determination; and

~~(4)~~ 4. The signature of the applicant.

~~(b)~~ B. Initiation by ~~Commission~~ board order.

Where authorized by law, the ~~Commission~~ board may order a contested case commenced to determine the rights, duties and privileges of specific parties.

~~EC 606~~ 9 MCAR § 1.0605 Initiating anonymous proceedings.

~~(a)~~ A. Authority. Any person making application for an exemption from campaign reporting requirements under Minn. Stat. § 10A.20 ~~subd. 8-10 (1974)~~ subds. 8 and 10, may proceed anonymously if the ~~Commission~~ board determines that identification of the person for the purpose of the hearing would result in exposure to economic reprisals, loss of employment, or threat of physical coercion.

~~(b)~~ B. Application. Any person wishing to proceed anonymously under this rule shall make an application under ~~EC 605(a)~~ 9 MCAR § 1.0604 A., which shall contain:

~~(1)~~ 1. A name by which the person wishes to be known for the purposes of the proceeding;

~~(2)~~ 2. The name and address of a person upon whom service can be made~~.~~;

~~(3)~~ 3. A statement of the facts which lead the applicant to believe that identification of the applicant for purposes of the hearing would result in exposure to economic reprisals, loss of employment or threat of physical coercion;

~~(4)~~ 4. The name and address of a person who will appear for the applicant during the proceedings if the applicant wishes to remain anonymous. ~~Such~~ The person may be the same person on whom service is to be made~~.~~;

~~(5)~~ 5. A statement of the facts which lead the applicant to believe that exposure to economic reprisal, loss of employment or threat of physical coercion would result from the applicant's compliance with the reporting and disclosure requirements ~~of~~ Minn. Stat. § 10A.20 ~~et seq. (1974)~~; and

~~(6)~~ 6. The signature of the applicant in the name by which the person wishes to be known during the proceedings or the signature of the person designated to appear for the applicant.

~~(c)~~ C. Determination. Upon receipt of an application for initiation of anonymous proceedings, the ~~Commission~~ board may require the applicant or the person designated to appear for the applicant to appear before a closed meeting of the ~~Commission~~ board with appropriate precautions taken to preserve the anonymity of the applicant from persons other than the ~~Commission~~ board and its employees. The purpose of ~~such~~ the appearance ~~shall be~~ is to enable the ~~Commission~~ board to decide whether an anonymous proceeding is required.

Repealer. Rules 9 MCAR §§ 1.0039; and 1.0110; EC 601; EC 604; EC 607; EC 608; EC 609; EC 610; EC 611; EC 612; EC 613; EC 614; EC 615; EC 616; EC 617; EC 618; EC 619; EC 620; EC 621; EC 622; and EC 623 are repealed.

Waste Management Board

Proposed Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, § 15.0412, subd. 4(h) (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, § 15.0412, subds. 4-4(f).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Waste Management Board
Attention: Sharon Decker
123 Thorson Building
7323-58th Avenue North
Crystal, Minnesota 55428
(612) 536-0816

Authority for the adoption of these rules is contained in Minnesota Statutes, § 115A.06, subd. 2. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Waste Management Board Attention: Sharon Decker, 123 Thorson Building, 7323-58th Avenue North, Crystal, Minnesota 55428, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Waste Management Board, Attention: Sharon Decker, 123 Thorson Building, 7323-58th Avenue North, Crystal, Minnesota 55428.

The rules proposed for adoption relate to the following matters: (1) Definition of the term Service; Serve; (2) Public records and information classified by law as non-public or private; and (3) Computation of time.

Copies of this notice and the proposed rules are available and may be obtained by contacting the Waste Management Baord, Attention: Sharon Decker, 123 Thorson Building, 7323-58th Avenue North, Crystal, Minnesota 55428.

November 5, 1981

Robert G. Dunn, Chairman
Waste Management Board

Rule as Proposed

6 MCAR § 8.002 Definitions.

A.-G. [Unchanged.]

H. Service; serve. "Service" or "serve" means personal service, or, unless otherwise provided by law, service by first class United States mail, postage prepaid, addressed to a person or party at his last known address. An affidavit verifying service shall be signed by the person making service. Service by mail is complete upon placing the item served in the mail. Agencies of the State of Minnesota may also serve other agencies of the State of Minnesota by depositing the item to be served with the Central Mailing Section, Publications and General Services Division, Department of Administration.

Rules as Proposed (all new material)

6 MCAR § 8.015 Public records and information classified by law as nonpublic or private.

A. Inspection of public records. All records and data of the board or copies thereof, which are public pursuant to Minn. Stat. §§ 15.1611-15.1698 shall be available for inspection and copying by any person, Monday through Friday, excluding legal holidays, between the hours of 9:00 a.m. and 4:00 p.m. at the board offices. No public records shall be removed from the board's offices. Any inspection or copying of records shall be made in the presence of an officer, employee, or agent of the board. The board may charge and collect a reasonable fee, computed in accordance with 2 MCAR § 1.203 A.1.d.(1)-(5), for the reproduction of any public records.

B. Classification of private and nonpublic data.

1. Any data held by the board which consists of trade secret information as defined by Minn. Stat. § 15.1673, subd. 1, clause (b), sales information, or any other information which, if public, would tend to adversely affect the competitive position of the subject of the data, shall be classified as private or nonpublic data as defined in Minn. Stat. § 15.162, subds. 5a and 5c if it meets the following requirements:

a. A subject of the data must certify that the data qualifies as nonpublic or private data under Minn. Stat. § 115A.06,

subd. 13, by submitting a written statement to the chairperson of the board setting forth those statutory grounds which require the board to keep such data classified as nonpublic or private; and

b. The chairperson must approve the classification in writing.

2. Data meeting the requirements of 1.a. shall not be released unless the chairperson fails to classify the data as private or nonpublic.

3. Whenever the chairperson denies classification of data as private or nonpublic, he shall notify the subject of the data of the denial at least three days before making the records or information available to the public. The subject of the data may withdraw the records or information if that option is available. An adverse determination by the chairperson may be appealed to the Commissioner of Administration. The appeal shall follow the procedures established for contested cases in Minn. Stat. ch. 15, and the rules of the Office of Administrative Hearings relating to contested case proceedings.

4. The subject of data classified as private shall be notified by the board that the classification has been made. The notification shall include a list identifying the purposes, uses, and recipients of the particular data.

C. Use of private and nonpublic data. All data classified as private or nonpublic shall be appropriately identified and segregated at the offices of the board. Certified data approved for classification as private or nonpublic by the chairperson may be used by the board to compile and publish analyses or summaries and to carry out its statutory responsibilities in a manner which does not identify the subject of the data.

D. Disclosure of private and nonpublic information.

1. Data may be released when the board is specifically authorized to do so by statute.

2. Data certified as private or nonpublic by the subject of the data may be released if the chairperson does not approve the requested classification.

3. Regardless of whether data is classified as private or nonpublic, the board may disclose any data which it is obligated to disclose in order to comply with federal law and regulation, to the extent and for the purposes of the federally required disclosure. Whenever the board is required to release classified data pursuant to federal law, it shall notify the subject of the data of the requirement at least three days before making the records or information available to the public. The subject of the data may withdraw the information if that option is available.

4. The subject of data classified as private or nonpublic pursuant to Minn. Stat. § 115A.06, subd. 13, may authorize the disclosure of some or all of that data by the board.

6 MCAR § 8.016 Computation of time. In computing any period of time prescribed by 6 MCAR §§ 8.001-8.015, the day of the last act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included, unless it is a Saturday, Sunday, or a legal holiday.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms	)	FINDINGS OF FACT AND CONCLUSIONS Docket No. WMB 018-81

Notice of the proposed adoption of the above-referenced rules was published in the State Register on December 7, 1981. Notice of the proposed adoption of rules was also served upon all persons, associations, and other interested groups registered with the State Waste Management Board for that purpose.

After affording interested persons an opportunity to comment, having considered all of the evidence adduced upon the records, files, and proceedings, herein, the Waste Management Board makes the following findings of fact:

1. By an Order, dated November 5, 1981, the Chairman of the Waste Management Board directed that a Notice of Intent to Adopt Rules Without Public Hearing in the above-captioned matter be given to all persons who had registered their names with the Board and be published in the State Register.

2. The Notice of Intent to Adopt Rules Without Public Hearing was published in the State Register on December 7, 1981. See 6 S.R. 1091.

3. The Notice of Intent to Adopt Rules Without Public Hearing was sent to all persons who had registered their names with the Board.

4. Four comments were received on the rules. Three of these comments requested that a public hearing be held.

5. All four comments regarded the classification of private and non-public data in 6 MCAR § 8.015(B-D).

6. Comment indicated that potential conflict existed between the Minnesota Government Data Practices Act. Minn. Stat. Sections 15.1611 through 15.1699 and Section 8.015(B-D) of the proposed rules.

7. Minn. Stat. § 115A.06, subd. 13, Private and non-public data has been amended to clarify the Waste Management Board procedure for classifying private and non-public data.

8. Amendment of Minn. Stat. § 115A.06, subd. 13 has made the procedure for Waste Management Board classification of private or non-public data consistent with the Minnesota Government Data Practices Act.

9. Amendment of Minn. Stat. § 115A.06, subd. 13 has made adoption of the classification procedures of 6 MCAR § 8.015(B-D) unnecessary.

10. Section 8.015(B-D) are deleted in their entirety.

11. The heading of Section 8.015 is renamed "Inspection of public records" in order to reflect the deletion of Section 8.015(B-D).

12. No comments were received regarding the amendments to Section 8.002 or the addition of Section 8.015A or Section 8.016.

CONCLUSIONS

1. The modifications in the rules from the version published in the State Register on December 7, 1981, do not result in a substantial change in the proposed language.

2. The rules as adopted, including the deletions in the proposed language, are needed and reasonable.

3. The Waste Management Board has complied with the rulemaking procedures for non-controversial rulemaking set out in Minn. Stat. §§ 15.0412, subd. 4h.

Date: May 13, 1982

ROBERT G. DUNN
Chairman
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

Docket No. WMB 0-18-81

In the Matter of the Proposed Adoption of Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms	CERTIFICATE OF BOARD'S RESOLUTION ADOPTING RULES

I, Robert G. Dunn, do hereby certify that I am a member and the Chairman of the Waste Management Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Waste Management Board, duly and properly called and held on May 13, 1982, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that the rules governing classification of data held by the Waste Management Board and Defining Certain Terms be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes 115A.06, subd. 2, and that Robert G. Dunn, the Chairman of the Waste Management Board, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this 13th day of May, 1982.

Robert G. Dunn
(Officer of the Board)

David Hartley
Attest by one other Board member

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

Resolution WMB-010-82

RESOLVED, that the rules governing classification of data held by the Waste Management Board and defining certain terms be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes 115A.06, subd. 2, and that Robert G. Dunn, the Chairman of the Waste Management Board, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law.

Dated: May 13, 1982

Robert G. Dunn, Chairman

STATE OF MINNESOTA
MINNESOTA WASTE MANAGEMENT BOARD

In the Matter of the Proposed
Adoption of Amendments of Operating
Procedures for Waste Management
Board 6 MCAR §§ 8.002H, 8.015
and 8.016

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION

The subject of this rulemaking proceeding is proposed amendments to the existing rules of the Waste Management Board governing its operating procedures, 6 MCAR §§ 8.001 - 8.014. Specifically, the Board proposes to amend the operating rules for the purpose of clarification and compliance with recent additional statutory requirements.

II. NEED FOR THE PROPOSED AMENDMENTS

The procedural rules for the Waste Management Board 6 MCAR § 8.001 - 8.014 were adopted to provide an orderly and predictable method to conduct the business of the Board. It was particularly important that the Board have procedural rules because the Board will be making a number of difficult decisions on several controversial subjects and these decisions will be made in a forum which encourages participation by the public.

The present operating rules were drafted to extend the procedures in Robert's Rules of Order to accomodate the particular situations that the Board may face. However, since the adoption of the Board's operating rules it has become evident that several additional rules are necessary. Minn. Laws, 1981, added a section

to the Waste Management Act which requires classification of certain trade secret information and sales information submitted to the Board. (Minn. Stat. § 115A.06, subd. 13.)

The proposed amendments to the operating rules are needed to extend the operating procedures to address additional concerns which have become apparent since adoption of the original operating rules. The proposed amendments are also needed to develop procedures to implement the new statutory requirements for classification of certain data.

These rules will follow the procedure for non-controversial rule making.

III. REASONABLENESS OF THE PROPOSED AMENDMENTS

A. Reasonableness of Proposed Amendment to 6 MCAR § 8.002 Definitions.

The present definitions included in the Board's operating procedures do not define service or serve, therefore, the proposed amendment to this section is reasonable because it provides a clear description of the ways in which the requirements of the needed definition of service may be satisfied.

B. Reasonableness of Proposed Amendment 6 MCAR § 8.015 Public records and information classified by law as nonpublic or private.

The statutory directive that the chairperson classify certain types of data requires that the Board implement appropriate procedures.

6 MCAR § 8.015 (A) Inspection of public records. This proposed amendment is reasonable because it establishes a time and place that public information held by the Board will be available for inspection and copying. Restrictions and costs for reproduction of documents is also provided for under this rule. These restrictions and costs are reasonable because of limited staff and finances.

6 MCAR § 8.015 (B) Classification of private and non-public data. This proposed amendment is reasonable because it:

1. Specifies the types of data that statute defines as nonpublic or private and specifies the procedure which the subject of the data must follow when submitting information to the chairperson for classification as nonpublic or private. The classification procedure is necessary to protect private and nonpublic data and meet statutory requirements.

2. Provides for proper disposition of certified data submitted to the chairperson.

3. Specifies a procedure to be followed for data which is denied classification as private or nonpublic. This rule provides notice and an

explanation for the denial of classification to the subject of data submitted and assures that such data will be properly reviewed.

4. Provides for notice of the classification of data as private or nonpublic. Notification is intended to inform the subject of the data of the uses and recipients of the data. In order to comply with statutory requirements and assure proper use of nonpublic and private data, the subject of data classified as private or nonpublic shall be informed that data may be withdrawn prior to submission to the board and persons or entities authorized by law to receive the data shall be identified.

6 MCAR § 8.015 (C) Use of private and nonpublic data. This proposed amendment is reasonable because it clearly specifies the limited uses of data classified as private or nonpublic and ensures proper use of nonpublic and private data.

6 MCAR § 8.015 (D) Disclosure of private and nonpublic information. This proposed amendment is reasonable because it clearly specifies when private and nonpublic information may be disclosed.

c. Reasonableness of Proposed Amendment to 6 MCAR § 8.016 Computation of Time.

At present the Board's operating rules do not contain a method to measure time periods for its activities, therefore, this proposed amendment is reasonable because it provides a way to measure time periods consistently.

IV. CONCLUSION

Based on the foregoing, the proposed amendments to 6 MCAR §§ 8.002, 8.015, and 8.016 are both needed and reasonable.

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms	STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Alan Kowalchyk do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Alan Kowalchyk

Special Assistant
Attorney General

Dated: May 26, 1982.

In the Matter of the Proposed Adoption of Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

State of Minnesota)
) ss.
County of Ramsey)

Mary Ann Hammer, being first duly sworn, deposes and says:

That on the 26th day of May, 1982, in the City of Roseville, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the United States mail at said City of Roseville, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Mary Ann Hammer

Subscribed and sworn to before me this 26th day of May, 1982.

Patricia Schwarz
(Notary Public)

PATRICIA SCHWARZ
NOTARY PUBLIC—MINNESOTA
ANOKA COUNTY
My Commission Expires Aug. 6, 1987

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 15.0412:

PLEASE TAKE NOTICE that the above-captioned rules have been submmitted to the Office of the Attorney General on this date, Wednesday, May 26, 1982, for review as to form and legality. Pursuant to 1 MCAR § 1.206 B., the Attorney General will not approve the rules for at least eight (8) calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minneosta, 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact me at the below-mentioned address and phone number.

ALAN KOWALCHYK
Special Assistant
Attorney General
Waste Management Board
Room 431
1935 W. County Road B-2
Roseville, Minnesota 55113
(612) 296-7729

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

WARREN SPANNAUS
ATTORNEY GENERAL

TELEPHONE
(612) 296-6196

May 26, 1982

Don Gemberling
Department of Administration/Data
Practices Division
Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Dear Don:

As you requested, attached is a copy of the "Adopted Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms." As mentioned in the attached Notice of Submission, these rules were submitted to the Attorney General's Office for review on Wednesday, May 26, 1982.

If you have any questions, feel free to call me.

Sincerely,

ALAN KOWALCHYK
Special Assistant
Attorney General

Room 431
1935 W. County Road B-2
Roseville, Minnesota 55113

AK:mah

AN EQUAL OPPORTUNITY EMPLOYER