

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL/WMB

Office Memorandum

TO : ATTORNEY GENERAL'S OFFICE/
ADMINISTRATION DIVISION

DATE: 4/1/83

FROM : ALAN W. KOWALCHYK
Special Assistant AK
Attorney General

PHONE: 7729

SUBJECT: Adopted Rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities

Attached for your review are the original and three copies of the above-mentioned rules as adopted. Also attached is the documentation related to the adoption of these rules. No changes were made in the rules subsequent to publication of the proposed rules in the State Register.

If you have any questions feel free to call me.

AK:ha
attach.

RULES TO EVALUATE APPLICANTS FOR PERMITS
TO OPERATE HAZARDOUS WASTE PROCESSING FACILITIES

1. Rules as adopted
2. Order adopting rules
3. Certificate of Board Resolution adopting rules
4. Notice of intent to solicit outside opinions and comments received
5. Order for notice of intent to adopt rules without public hearing
6. Certificate of board's authorizing resolution for (5)
7. Notice of intent to adopt rule without public hearing
8. Affidavit of Mailing Notice of intent to adopt rule without public hearing
9. Mailing list certificate
10. Rules as proposed in State Register
11. Findings of Fact
12. Statement of Need and Reasonableness
13. Written Comments received on proposed rules
14. Certificate of compliance with rulemaking procedures
15. Affidavit of Mailing notice of submission to the Attorney General

STATE OF MINNESOTA

DEPARTMENT

Office Memorandum

TO : Alan Kowalchyk
Pollution Control Agency

DATE: 1-31-83

FROM : Corrine Staeheli CRS
Rules Supervisor

PHONE: 296-7145

SUBJECT Proposed Rules, stripped copy

Enclosed is a stripped copy of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

Please use this copy to indicate any modifications you wish to make. Our office would be happy to input the changes on our computer, and turn out copies for you to submit for final approval to our office and the Attorney General.

If your proposed rules are adopted without modification, please submit this copy to the Revisors Office on the same day you submit your rules as adopted to the Attorney General.

Your rules were published on January 31, 1983 at 7 S.R. 1116, pages 1116 through 1120.

CRS/kh
Enclosure
AR0 293

Our File No. 902

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 4-1-83
DATE FOR REVIEW 4-11-83
DATE DUE 4-15-83

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

Approved April 5, 1983 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due April 15, 1983
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State April 15, 1983 Revisor approved 4/5/83 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 3.24.83 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 6.21.82 + comments

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

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

✓ Mailing list Certificate

✓ Publication in State Register
1.31.83 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 BUT no changes

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

N/A Notice of Submission to the Attorney General

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA
Office Memorandum

TO : Robert G. Dunn, Chairman, Waste Management Board

DATE: April 15, 1983

Attn: ALAN W. KOWALCHYK
Special Assistant Attorney General

FROM : TED A. MARTINEZ TAM
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Ruels of the State Waste Management Board to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities

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.

Encs.
TAM/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Waste Management Board

Adopted Rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities

Rules as Adopted

6 MCAR S 8.501 Purpose.

The purpose of 6 MCAR SS 8.501-8.507 is to establish a procedure to assure that hazardous waste facility operators have the necessary technical and business competence. Rules 6 MCAR SS 8.501-8.507 are not intended to duplicate the review required under pollution control agency permitting authority.

6 MCAR S 8.502 Definitions.

A. Scope. For the purposes of 6 MCAR SS 8.501-8.507 the terms defined in this rule have the meanings given them.

B. Applicant. "Applicant" means a person filing an application.

C. Application. "Application" means the information submitted to the board pursuant to 6 MCAR S 8.504.

D. Board. "Board" means the Waste Management Board.

E. Chairperson. "Chairperson" means the chairperson of the board.

F. Clearance. "Clearance" means the board's approval of an application.

G. Commercial waste processing facility. "Commercial waste processing facility" means a facility established and permitted to sell hazardous waste processing services to generators other than the owner and operator of the facility and located within an area in the board's inventory of preferred areas for hazardous waste processing facilities. For purposes of this definition processing means the treatment of waste after collection and before disposal and includes, but is not limited to, incineration, reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modification, and transfer from one waste facility to another.

H. Hazardous waste. "Hazardous waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 13.

I. Person. "Person" means a natural person or a corporation, association, operation, firm, partnership, trust, or other form of organization.

6 MCAR S 8.503 Requirements and limitations.

A. Clearance required. A person who is required to obtain a pollution control agency permit for a commercial waste processing facility to be located within an area of the board's inventory of preferred areas for hazardous waste processing facilities established under Minnesota Statutes, section 115A.09, and which will begin operation after the effective date of 6 MCAR SS 8.501-8.507 must obtain clearance prior to applying for a permit.

B. No property right or exclusive privilege. Clearance does not convey property rights of any kind or an exclusive privilege.

C. Changed plans. Clearance entitles an applicant to request a pollution control agency permit only for a commercial waste processing facility substantially similar to the facility described in the application. The applicant must supply the most recent plans for facility development available with the understanding that details of the plan may change as development progresses. If plans for the facility or for facility development change substantially prior to application for a pollution control agency permit, the applicant must submit a new application for clearance.

D. Acquisition or location of property. Property to be used as the site for the proposed facility need not be acquired or identified by the applicant prior to clearance.

6 MCAR S 8.504 Application.

A. Applicants. To obtain clearance, a person must complete, sign, and submit an application to the board. The application for clearance for a facility which will be owned by one person and operated by another must be signed by both the owner and the operator.

B. General contents. An application must be in the form specified by the board and must contain the following information:

1. the complete name of the applicant, all other names under which the applicant has done business during the ten years prior to the application, and the approximate times during which those names were used;

2. the principal business address of the applicant, all other addresses from which the applicant has done business during the ten years prior to the application, and the approximate times during which those addresses were used;

3. the form of the applicant's business indicating the type of business association;

4. a general description of the types and amounts of hazardous waste the facility would be capable of handling and a general description of the proposed operation including methods of accepting, storing, and processing hazardous waste;

5. the names and addresses of all officers, partners, or directors of the applicant; and

6. the following information concerning any notices, stipulation agreements, administrative orders, license revocations, or permit revocations issued by any state or federal authority citing a violation of any administrative rule, regulation, or statute relating to hazardous waste management against the applicant or against any officer, director, or partner of the applicant within the last ten years, and any judgment or conviction under any state or federal rule, regulation, or statute or local ordinance concerning hazardous waste management entered against the applicant or against any officer, director, or partner of the applicant which has been issued within the last ten years:

a. the name and address of the individual or company involved;

b. the date and nature of the incident;

c. the agency or individual taking the action; and

d. the response made by the individual or company to

confusing? who's individual what action

correct or contest the violation.

C. Technical information. An application must contain the following information:

1. the duties and responsibilities of subcontractors and the anticipated operating staff, including job descriptions and qualifications of technical management, supervisory, and operating employees, and an organizational chart of the applicant for operation of the proposed facility; and

2. a disclosure of hazardous waste management related business activities which the applicant, its parent corporation, any subsidiary of the applicant, or any other subsidiary of the parent corporation of the applicant is or has been engaged in during the ten years prior to the date of the application, the approximate times during which the activity has been engaged in, and, if the activity involves operation and maintenance of a waste management facility, the location of each facility and a description of the type of facility, the processes used, the facility capacity and approximate amount of waste handled annually, the date the operation began and the date it closed if the facility is no longer operating, any licenses or permits issued for the facility, and the reasons for discontinuing the activity if it has been discontinued.

D. Development plan and financial information. An application must contain the following information:

1. a statement of the anticipated development plan for the proposed facility including the following:

a. facility design;

b. environmental reports;

c. hearings on permit application;

d. community relations activities;

e. marketing;

f. preparation of permit application;

g. site acquisition and preparation;

h. construction;

i. equipment and materials acquisitions;

j. operator recruitment and training;

k. first year operation;

l. monitoring;

m. insurance; and

n. contingencies;

2. a statement of the total anticipated expenditures for the project and an indication of how those expenditures will be financed;

3. for each of the items in the development plan, when applicable, whether the activity will be carried out by personnel currently employed by the applicant, by personnel who will be employed by the applicant in the future, or by independent contractors;

4. a description of potential or contingent liabilities which could materially alter the applicant's future financial position; and

5. a disclosure of any petition filed by the applicant or its parent corporation within the last five years under the Federal Bankruptcy Act or any state insolvency law.

E. Additional information. The chairperson may require an applicant to submit additional information or may undertake additional investigations if the chairperson determines that the information would be necesary in deciding whether clearance should be granted.

Vague ? boundless discretion.

F. Deficient application. If an application does not conform to this rule, the chairperson shall, within 30 days after receipt of the application, return it to the applicant with a statement identifying the deficiencies in the application.

G. Acceptance of application. The chairperson shall accept a completed application on behalf of the board if it conforms to this rule.

H. Notification of acceptance. Upon acceptance of a complete application, the chairperson shall promptly notify each political subdivision which contains an area on the board's inventory of preferred areas for processing facilities. The chairperson shall also publish notice of the application in a newspaper of statewide distribution. The notice must provide

that comments on the application may be submitted to the board within 30 days of the date the application was accepted.

I. Initial consideration. The board shall initially consider an application not less than 30 nor more than 60 days after its acceptance.

6 MCAR S 8.505 Board decision.

A. Reasons for disapproval. The board shall grant clearance to an applicant unless it determines that:

1. the applicant's development plan is not sufficient to adequately operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state;

2. the applicant or its anticipated operating staff lacks the technical competence necessary to adequately operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state; or

3. the nature of past violations of state or federal environmental statutes or regulations and the applicant's response to these violations indicate an applicant could not be reasonably expected to operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state.

B. Written decision. The board shall set forth in writing the basis for its decision.

C. Appeals. If the board denies clearance, the applicant may request a contested case hearing within 21 calendar days of the board's decision. The board shall order a contested case hearing under Minnesota Statutes, chapter 14 and 9 MCAR SS 2.201-2.299 if it receives a request. Following a review of the record of the hearing, the board shall make a final decision granting or denying clearance.

6 MCAR S 8.506 Notice of final decision.

Notice of the board's final decision granting or denying clearance shall be sent to political subdivisions which contain areas included on the board's inventory of preferred areas for

processing facilities and to the applicant.

6 MCAR S 8.507 Expiration of clearance.

Clearance of an applicant expires 18 months after it is granted by the board if the applicant has not formally requested a pollution control agency permit during that period. An applicant whose clearance has expired may apply for clearance again without penalty or prejudice.

APPROVED AS TO LEGALITY

April 15 19 83

HUBERT H. [illegible]REY, III
ATTORNEY GENERAL

BY Ted A. Mathews
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 15 1983
Joan Anderson Growe
Secretary of State

3:55 P.M.

Rules as Proposed (all new material)

6 MCAR S 8.501 Purpose.

The purpose of 6 MCAR SS 8.501-8.507 is to establish a procedure to assure that hazardous waste facility operators have the necessary technical and business competence. Rules 6 MCAR SS 8.501-8.507 are not intended to duplicate the review required under pollution control agency permitting authority.

6 MCAR S 8.502 Definitions.

A. Scope. For the purposes of 6 MCAR SS 8.501-8.507 the terms defined in this rule have the meanings given them.

B. Applicant. "Applicant" means a person filing an application.

C. Application. "Application" means the information submitted to the board pursuant to 6 MCAR S 8.504.

D. Board. "Board" means the Waste Management Board.

E. Chairperson. "Chairperson" means the chairperson of the board.

F. Clearance. "Clearance" means the board's approval of an application.

G. Commercial waste processing facility. "Commercial waste processing facility" means a facility established and permitted to sell hazardous waste processing services to generators other than the owner and operator of the facility and located within an area in the board's inventory of preferred areas for hazardous waste processing facilities. For purposes of this definition processing means the treatment of waste after collection and before disposal and includes, but is not limited to, incineration, reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modification, and transfer from one waste facility to another.

H. Hazardous waste. "Hazardous waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 13.

I. Person. "Person" means a natural person or a corporation, association, operation, firm, partnership, trust, or other form of organization.

APPROVED BY THE REVISOR OF STATUTES OFFICE

6 MCAR S 8.503 Requirements and limitations.

A. Clearance required. A person who is required to obtain a pollution control agency permit for a commercial waste processing facility to be located within an area of the board's inventory of preferred areas for hazardous waste processing facilities established under Minnesota Statutes, section 115A.09, and which will begin operation after the effective date of 6 MCAR SS 8.501-8.507 must obtain clearance prior to applying for a permit.

B. No property right or exclusive privilege. Clearance does not convey property rights of any kind or an exclusive privilege.

C. Changed plans. Clearance entitles an applicant to request a pollution control agency permit only for a commercial waste processing facility substantially similar to the facility described in the application. The applicant must supply the most recent plans for facility development available with the understanding that details of the plan may change as development progresses. If plans for the facility or for facility development change substantially prior to application for a pollution control agency permit, the applicant must submit a new application for clearance.

D. Acquisition or location of property. Property to be used as the site for the proposed facility need not be acquired or identified by the applicant prior to clearance.

6 MCAR S 8.504 Application.

A. Applicants. To obtain clearance, a person must complete, sign, and submit an application to the board. The application for clearance for a facility which will be owned by one person and operated by another must be signed by both the owner and the operator.

B. General contents. An application must be in the form specified by the board and must contain the following information:

1. the complete name of the applicant, all other names under which the applicant has done business during the ten years

prior to the application, and the approximate times during which those names were used;

2. the principal business address of the applicant, all other addresses from which the applicant has done business during the ten years prior to the application, and the approximate times during which those addresses were used;

3. the form of the applicant's business indicating the type of business association;

4. a general description of the types and amounts of hazardous waste the facility would be capable of handling and a general description of the proposed operation including methods of accepting, storing, and processing hazardous waste;

5. the names and addresses of all officers, partners, or directors of the applicant; and

6. the following information concerning any notices, stipulation agreements, administrative orders, license revocations, or permit revocations issued by any state or federal authority citing a violation of any administrative rule, regulation, or statute relating to hazardous waste management against the applicant or against any officer, director, or partner of the applicant within the last ten years, and any judgment or conviction under any state or federal rule, regulation, or statute or local ordinance concerning hazardous waste management entered against the applicant or against any officer, director, or partner of the applicant which has been issued within the last ten years:

a. the name and address of the individual or company involved;

b. the date and nature of the incident;

c. the agency or individual taking the action; and

d. the response made by the individual or company to correct or contest the violation.

C. Technical information. An application must contain the following information:

1. the duties and responsibilities of subcontractors and the anticipated operating staff, including job descriptions and

APPROVED BY THE REVISOR OF STATUTES OFFICE

qualifications of technical management, supervisory, and operating employees, and an organizational chart of the applicant for operation of the proposed facility; and

2. a disclosure of hazardous waste management related business activities which the applicant, its parent corporation, any subsidiary of the applicant, or any other subsidiary of the parent corporation of the applicant is or has been engaged in during the ten years prior to the date of the application, the approximate times during which the activity has been engaged in, and, if the activity involves operation and maintenance of a waste management facility, the location of each facility and a description of the type of facility, the processes used, the facility capacity and approximate amount of waste handled annually, the date the operation began and the date it closed if the facility is no longer operating, any licenses or permits issued for the facility, and the reasons for discontinuing the activity if it has been discontinued.

D. Development plan and financial information. An application must contain the following information:

1. a statement of the anticipated development plan for the proposed facility including the following:

a. facility design;

b. environmental reports;

c. hearings on permit application;

d. community relations activities;

e. marketing;

f. preparation of permit application;

g. site acquisition and preparation;

h. construction;

i. equipment and materials acquisitions;

j. operator recruitment and training;

k. first year operation;

l. monitoring;

m. insurance; and

n. contingencies;

2. a statement of the total anticipated expenditures for

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

the project and an indication of how those expenditures will be financed;

3. for each of the items in the development plan, when applicable, whether the activity will be carried out by personnel currently employed by the applicant, by personnel who will be employed by the applicant in the future, or by independent contractors;

4. a description of potential or contingent liabilities which could materially alter the applicant's future financial position; and

5. a disclosure of any petition filed by the applicant or its parent corporation within the last five years under the Federal Bankruptcy Act or any state insolvency law.

E. Additional information. The chairperson may require an applicant to submit additional information or may undertake additional investigations if the chairperson determines that the information would be necesary in deciding whether clearance should be granted.

F. Deficient application. If an application does not conform to this rule, the chairperson shall, within 30 days after receipt of the application, return it to the applicant with a statement identifying the deficiencies in the application.

G. Acceptance of application. The chairperson shall accept a completed application on behalf of the board if it conforms to this rule.

H. Notification of acceptance. Upon acceptance of a complete application, the chairperson shall promptly notify each political subdivision which contains an area on the board's inventory of preferred areas for processing facilities. The chairperson shall also publish notice of the application in a newspaper of statewide distribution. The notice must provide that comments on the application may be submitted to the board within 30 days of the date the application was accepted.

I. Initial consideration. The board shall initially consider an application not less than 30 nor more than 60 days after its acceptance.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

6 MCAR S 8.505 Board decision.

A. Reasons for disapproval. The board shall grant clearance to an applicant unless it determines that:

1. the applicant's development plan is not sufficient to adequately operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state;

2. the applicant or its anticipated operating staff lacks the technical competence necessary to adequately operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state; or

3. the nature of past violations of state or federal environmental statutes or regulations and the applicant's response to these violations indicate an applicant could not be reasonably expected to operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state.

B. Written decision. The board shall set forth in writing the basis for its decision.

C. Appeals. If the board denies clearance, the applicant may request a contested case hearing within 21 calendar days of the board's decision. The board shall order a contested case hearing under Minnesota Statutes, chapter 14 and 9 MCAR SS 2.201-2.299 if it receives a request. Following a review of the record of the hearing, the board shall make a final decision granting or denying clearance.

6 MCAR S 8.506 Notice of final decision.

Notice of the board's final decision granting or denying clearance shall be sent to political subdivisions which contain areas included on the board's inventory of preferred areas for processing facilities and to the applicant.

6 MCAR S 8.507 Expiration of clearance.

Clearance of an applicant expires 18 months after it is granted by the board if the applicant has not formally requested a pollution control agency permit during that period. AR

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

applicant whose clearance has expired may apply for clearance again without penalty or prejudice.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD293

Agency: Waste Management Board

Division:

Agency Contact: Gordon Hester

Rule Numbers: 6 MCAR SS 8.501-8.507

Title: Proposed Rules Governing Evaluation of Applicants for Hazardous Waste Processing Facility Operation Permits

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Craig E. Lindeke
Assistant Revisor
Phone: 296-0946
Date: January 11, 1982

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities	)))))	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 January 31, 1983 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes Section 14.14, subdivision 1 on January 17, 1983. 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 to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities are adopted this 24th day of March, 1983 pursuant to authority vested in the Board by Minnesota Statutes Section 115A.10.

STATE OF MINNESOTA

Chairman
Minnesota Waste Management Board

10:45	County of Lac Qui Parle
11:00	County of Todd
11:15	County of St. Louis
1:00	County of Itasca
1:15	City of So. St. Paul
1:30	City of Fairmont
1:45	City of Duluth
2:00	City of Minneapolis
2:30	City of St. Louis Park

Dated this 10th day of June, 1982.

Richard P. Braun
Commissioner of Transportation

Waste Management Board

Notice of Intent to Solicit Outside Opinions and Information Concerning Rules on Accepting, Evaluating, and Selecting Applications for Permits for Certain Hazardous Waste Processing Facilities

Notice is hereby given that the Waste Management Board is seeking opinions and information from sources outside the agency for the purpose of preparing rules on accepting, evaluating, and selecting applications for permits for certain hazardous waste processing facilities. Such rules are authorized by 1980 Minn. Stat. § 115A.10.

Under 1980 Minn. Laws, ch. 564, arts. II and III, the Waste Management Board is required to prepare an inventory of sites for the chemical processing, incineration and transfer and storage of hazardous waste. The rules referred to in this notice will establish a basis for accepting, evaluating, and selecting applications for permits for facilities to be located at these sites. The rules must address standards and procedures for making determinations on minimum qualifications, including technical competence and financial capability, of permit applicants.

Any person desiring to submit information or comment on the subject of the proposed rules may do so either orally or in writing. All statements of information or comment must be received by July 16, 1982. Any written material received by this date will become part of the record of any rules hearing on this subject. Written or oral information or comment should be addressed to:

Waste Management Board
Attn: Sharon Decker and Gordon Hester
123 Thorson Building
7323 58th Avenue North
Crystal, Minnesota 55428
612/536-0816

June 11, 1982

Robert G. Dunn, Chairman
Waste Management Board

Waste Management Board
Pollution Control Agency

Notice of Hearing for Proposed Candidate Sites for Hazardous Waste Disposal Facilities in Carver, Scott, Sibley, Renville, and Clay Counties

It is hereby ordered and notice is given that information gathering hearings concerning the above-entitled matter will be held by the Waste Management Board ("board") and the Minnesota Pollution Control Agency ("agency") pursuant to Minn. Stat. § 115A.21, subd. 2 (Supp. 1981) at the times and places listed below.

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules of the State Waste Management Board to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities	))))))	ORDER

IT IS HEREBY ORDERED, this 29th day of October, 1982, that a Notice of Intent to Adopt Rules Without a 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

In the Matter of the Proposed Adoption of Rules of the State Waste Management Board to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities	))))))	CERTIFICATE OF BOARD'S RESOLUTION

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 Minneosta, 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 27th day of October, 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 Robert G. Dunn, Chairman of the Waste Management Board, be and 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 rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities, to sign the Notice thereof, to make such changes in form required by the Revisor of Statutes, 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 27th day of October, 1982.

ROBERT G. DUNN
Chairman, Waste Management Board

Attest: Lawrence E. [illegible]

WASTE MANAGEMENT BOARD
PROPOSED RULES TO EVALUATE APPLICANTS FOR PERMITS TO OPERATE
HAZARDOUS WASTE PROCESSING FACILITIES

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 sections 14.21 to 14.28 (1982).

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 sections 14.13 to 14.20 (1982).

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

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

Authority for the adoption of these rules is contained in Minnesota Statutes section 115A.10. Additionally, a Statement of Need and Reasonableness that describes the need for and resonableness 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, Attn: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, MN, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statment 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, Attn: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, MN 55428.

The rules proposed for adoption relate to the following matters: (1) purpose of the rules; (2) definitions; (3) requirements and limitations of clearance; (4) general and specific information which must be submitted in clearance applications; (5) Board decision; (6) notice of final decision; and (7) expiration of clearance.

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

Dated: January 14, 1982.

STATE OF MINNESOTA

ROBERT G. DUNN, Chairman
Waste Management Board

8

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules of the State Waste Management Board to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities	)	AFFIDAVIT OF MAILING

State of Minnesota)
) ss.
County of Hennepin)

Kim M. Mellum, being first duly sworn deposes and says:

That on the 17th day of January, 1983, at the City of Crystal, County of Hennepin, State of Minnesota, he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the United States mail at said City of Crystal, a copy thereof properly enveloped, with postage prepaid, on all persons, associations and other interested groups who have requested that their names be placed on file with the State Waste Management Board for the purpose of receiving notice of the proposed adoption of rules by this Board.

Kim M. Mellum

Subscribed and sworn to before me
this 17th day of January, 1983. Sls

Beatrice L. Szymik
Notary Public

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

WASTE MANAGEMENT BOARD
PROPOSED RULES TO EVALUATE APPLICANTS FOR PERMITS TO OPERATE HAZARDOUS WASTE PROCESSING FACILITIES

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 sections 14.21 to 14.28 (1982).

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 sections 14.13 to 14.20 (1982).

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

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

Authority for the adoption of these rules is contained in Minnesota Statutes section 115A.10. Additionally, a Statement of Need and Reasonableness that describes the need for and resonableness 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, Attn: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, MN, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statment 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, Attn: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, MN 55428.

The rules proposed for adoption relate to the following matters: (1) purpose of the rules; (2) definitions; (3) requirements and limitations of clearance; (4) general and specific information which must be submitted in clearance applications; (5) Board decision; (6) notice of final decision; and (7) expiration of clearance.

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

Dated: January 14, 1982.

STATE OF MINNESOTA

ROBERT G. DUNN, Chairman
Waste Management Board

copy kept in Solid Waste file (Dist. Prgms.)

DISTRIBUTION LIST FOR

NOTIFICATION OF RULEMAKING ~~3/20/~~ [redacted] update 11/30/81

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

Dr. Daryl A. Thingvold
Serco Laboratories
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Roseville, MN 55113

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

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

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

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301 Marquette Bank Bldg.
Rochester, MN 55901

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175 Aurora Avenue
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Environmental Specialist
Cooperative Power Assoc.
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Arlene Farver
Donohue & Associates, Inc.
7400 Metro Blvd. Suite 310
Minneapolis, MN 55435

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

[redacted]

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

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

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

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

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

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

W. C. Viitala
Director of Public Affairs
Honeywell, Inc.
Honeywell Plaza (MN12-5215)
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Minnesota Municipal Utilities
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O'Connor & Hannan
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Minneapolis, MN 55402

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Bloomington, MN 55420

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Metro Inter-County Association
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Manager Public Affairs
Potlatch Corporation
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Charles R. Jacoby
Senior Chemical Engineer
The Gillette Company
St. Paul Manufacturing Center
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St. Paul, MN 55101

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

[redacted]

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

Dave Gurney
Environmental Engineer
Dakota County Highway Department
Dakota County Government Center
1560 West Highway 55

Bonnie M. Spencer
Federal-State Reports, Inc.
5203 Leesburg Pike, Suite 1201
Falls Church, Virginia 22041

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

Barb Kelly
Minnesota Waste Association
Suite 600
6 West 5th Street
St. Paul, MN 55102

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

Metro Inter-County Assoc.
114 Metro Square Bldg.
7th & Robert Street
St. Paul, MN 55101

Frank Altman
Governor's Office
Room 130 - State Capitol
St. Paul, MN 55155

Mike Robertson,
Assistant Executive Director
MPCA
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Roseville, MN 55113

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Holly Rodin
Minnesota COACT
1216 So. 6th Street
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Joseph S. Hensel
Rochester Public Utilities
506 First Ave. NE Box 6957

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules of the State Waste Management Board to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities	)	CERTIFICATE

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 10:00 A.M., this 17 day of January, 1982.

Sharon L Decker

short-barrelled shotguns not likely to be used as weapons. "Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and approved machine guns and short-barrelled shotguns not likely to be used as weapons" means firearms which have been determined by the superintendent of the bureau or his delegate pursuant to Minnesota Statutes, section 609.67, subdivision 3, clause (3) to be firearms which appear on the National Firearms Act Curios and Relics List, as provided by United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

D. Report form. "Report form" means the official form created by the Bureau of Criminal Apprehension which contains data required by Minnesota Statutes, section 609.67, subdivision 4.

E. Superintendent. "Superintendent" means the superintendent of the Minnesota Bureau of Criminal Apprehension.

11 MCAR § 1.3062 Procedures for reporting ownership or possession of machine guns or short-barrelled shotguns.

A. Requirements. If a person owns or possesses an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

B. Report. The person shall send to the superintendent a completed Bureau of Criminal Apprehension report form indicating the ownership or possession of an approved machine gun or short-barrelled shotgun. This form must be sent within ten days after the applicant takes possession or ownership of the approved machine gun or short-barrelled shotgun.

C. Fee. The reporting person shall send a $15 nonrefundable fee with each report form.

D. Taking ownership or possession of firearm. Within ten days of taking ownership or possession, the person who takes ownership or possession shall send the superintendent one fully completed copy of the approved report form indicating the date the firearm was transferred and shall certify that the firearm is now owned or possessed by the person making the report.

11 MCAR § 1.3063 Return of report form.

The superintendent shall return the report form to the reporting person if:

A. the reporting person misrepresents, falsifies, or fails to complete any information on the report form; or

B. the superintendent determines that the firearm is not a firearm which appears on the National Firearms Act Curios and Relics List, as specified under United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

11 MCAR § 1.3064 Right to contest decision.

If the superintendent returns the report form to the reporting person, that person may contest the decision of the superintendent. Proceedings shall be conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, sections 14.57-14.70, and 9 MCAR §§ 2.201-2.222 of the Office of Administrative Hearings.

If the superintendent refuses to accept the report form on the grounds of 9 MCAR § 1.3063, the person attempting to make the report required by Minnesota Statutes, section 609.67 shall be deemed to have not made the required report.

11 MCAR § 1.3065 Data privacy.

Report forms and associated documents shall be filed with the Bureau of Criminal Apprehension and shall be considered private data, available only to law enforcement officials.

11 MCAR § 1.3066 Limited protection of reporting information.

All persons possessing or owning a machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR §§ 1.3060-1.3066 have 90 days after the effective date to report the possession or ownership. The information contained in the report form submitted to the superintendent within 90 days of the effective date of these rules shall not be used against the reporting person in any criminal proceeding.

Waste Management Board

Proposed Rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities

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 sections 14.21 to 14.28 (1982).

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 sections 14.13 to 14.20 (1982).

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

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

Authority for the adoption of these rules is contained in Minnesota Statutes section 115A.10. 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, Attn: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, MN, 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, Attn: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, MN 55428.

The rules proposed for adoption relate to the following matters: (1) purpose of the rules; (2) definitions; (3) requirements and limitations of clearance; (4) general and specific information which must be submitted in clearance applications; (5) board decision; (6) notice of final decision; and (7) expiration of clearance.

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

January 14, 1983.

Robert G. Dunn, Chairman
Waste Management Board

Rules as Proposed (all new material)

6 MCAR § 8.501 Purpose.

The purpose of 6 MCAR §§ 8.501-8.507 is to establish a procedure to assure that hazardous waste facility operators have the necessary technical and business competence. Rules 6 MCAR §§ 8.501-8.507 are not intended to duplicate the review required under pollution control agency permitting authority.

6 MCAR § 8.502 Definitions.

A. Scope. For the purposes of 6 MCAR §§ 8.501-8.507 the terms defined in this rule have the meanings given them.

B. Applicant. "Applicant" means a person filing an application.

C. Application. "Application" means the information submitted to the board pursuant to 6 MCAR § 8.504.

D. Board. "Board" means the Waste Management Board.

E. Chairperson. "Chairperson" means the chairperson of the board.

F. Clearance. "Clearance" means the board's approval of an application.

G. Commercial waste processing facility. "Commercial waste processing facility" means a facility established and permitted to sell hazardous waste processing services to generators other than the owner and operator of the facility and located within an

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.

area in the board's inventory of preferred areas for hazardous waste processing facilities. For purposes of this definition processing means the treatment of waste after collection and before disposal and includes, but is not limited to, incineration, reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modification, and transfer from one waste facility to another.

H. Hazardous waste. "Hazardous waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 13.

I. Person. "Person" means a natural person or a corporation, association, operation, firm, partnership, trust, or other form of organization.

6 MCAR § 8.503 Requirements and limitations.

A. Clearance required. A person who is required to obtain a pollution control agency permit for a commercial waste processing facility to be located within an area of the board's inventory of preferred areas for hazardous waste processing facilities established under Minnesota Statutes, section 115A.09, and which will begin operation after the effective data of 6 MCAR §§ 8.501-8.507 must obtain clearance prior to applying for a permit.

B. No property right or exclusive privilege. Clearance does not convey property rights of any kind or an exclusive privilege.

C. Changed plans. Clearance entitles an applicant to request a pollution control agency permit only for a commercial waste processing facility substantially similar to the facility described in the application. The applicant must supply the most recent plans for facility development available with the understanding that details of the plan may change as development progresses. If plans for the facility or for facility development change substantially prior to application for a pollution control agency permit, the applicant must submit a new application for clearance.

D. Acquisition or location of property. Property to be used as the site for the proposed facility need not be acquired or identified by the applicant prior to clearance.

6 MCAR § 8.504 Application.

A. Applicants. To obtain clearance, a person must complete, sign, and submit an application to the board. The application for clearance for a facility which will be owned by one person and operated by another must be signed by both the owner and the operator.

B. General contents. An application must be in the form specified by the board and must contain the following information:

1. the complete name of the applicant, all other names under which the applicant has done business during the ten years prior to the application, and the approximate times during which those names were used;

2. the principal business address of the applicant, all other addresses from which the applicant has done business during the ten years prior to the application, and the approximate times during which those addresses were used;

3. the form of the applicant's business indicating the type of business association;

4. a general description of the types and amounts of hazardous waste the facility would be capable of handling and a general description of the proposed operation including methods of accepting, storing, and processing hazardous waste;

5. the names and addresses of all officers, partners, or directors of the applicant; and

6. the following information concerning any notices, stipulation agreements, administrative orders, license revocations, or permit revocations issued by any state or federal authority citing a violation of any administrative rule, regulation, or statute relating to hazardous waste management against the applicant or against any officer, director, or partner of the applicant within the last ten years, and any judgment or conviction under any state or federal rule, regulation, or statute or local ordinance concerning hazardous waste management entered against the applicant or against any officer, director, or partner of the applicant which has been issued within the last ten years:

a. the name and address of the individual or company involved;

b. the date and nature of the incident;

c. the agency or individual taking the action; and

d. the response made by the individual or company to correct or contest the violation.

C. Technical information. An application must contain the following information:

1. the duties and responsibilities of subcontractors and the anticipated operating staff, including job descriptions and qualifications of technical management, supervisory, and operating employees, and an organizational chart of the applicant for operation of the proposed facility; and

2. a disclosure of hazardous waste management related business activities which the applicant, its parent corporation, any subsidiary of the applicant, or any other subsidiary of the parent corporation of the applicant is or has been engaged in

during the ten years prior to the date of the application, the approximate times during which the activity has been engaged in, and, if the activity involves operation and maintenance of a waste management facility, the location of each facility and a description of the type of facility, the processes used, the facility capacity and approximate amount of waste handled annually, the date the operation began and the date it closed if the facility is no longer operating, any licenses or permits issued for the facility, and the reasons for discontinuing the activity if it has been discontinued.

D. Development plan and financial information. An application must contain the following information:

1. a statement of the anticipated development plan for the proposed facility including the following:

a. facility design;

b. environmental reports;

c. hearings on permit application;

d. community relations activities;

e. marketing;

f. preparation of permit application;

g. site acquisition and preparation;

h. construction;

i. equipment and materials acquisitions;

j. operator recruitment and training;

k. first year operation;

l. monitoring;

m. insurance; and

n. contingencies;

2. a statement of the total anticipated expenditures for the project and an indication of how those expenditures will be financed;

3. for each of the items in the development plan, when applicable, whether the activity will be carried out by personnel currently employed by the applicant, by personnel who will be employed by the applicant in the future, or by independent contractors;

4. a description of potential or contingent liabilities which could materially alter the applicant's future financial position; and

5. a disclosure of any petition filed by the applicant or its parent corporation within the last five years under the Federal Bankruptcy Act or any state insolvency law.

E. Additional information. The chairperson may require an applicant to submit additional information or may undertake additional investigations if the chairperson determines that the information would be necessary in deciding whether clearance should be granted.

F. Deficient application. If an application does not conform to this rule, the chairperson shall, within 30 days after receipt of the application, return it to the applicant with a statement identifying the deficiencies in the application.

G. Acceptance of application. The chairperson shall accept a completed application on behalf of the board if it conforms to this rule.

H. Notification of acceptance. Upon acceptance of a complete application, the chairperson shall promptly notify each political subdivision which contains an area on the board's inventory of preferred areas for processing facilities. The chairperson shall also publish notice of the application in a newspaper of statewide distribution. The notice must provide that comments on the application may be submitted to the board within 30 days of the date the application was accepted.

I. Initial consideration. The board shall initially consider an application not less than 30 nor more than 60 days after its acceptance.

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.

6 MCAR § 8.505 Board decision.

A. Reasons for disapproval. The board shall grant clearance to an applicant unless it determines that:

1. the applicant's development plan is not sufficient to adequately operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state;

2. the applicant or its anticipated operating staff lacks the technical competence necessary to adequately operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state; or

3. the nature of past violations of state or federal environmental statutes or regulations and the applicant's response to these violations indicate an applicant could not be reasonably expected to operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state.

B. Written decision. The board shall set forth in writing the basis for its decision.

C. Appeals. If the board denies clearance, the applicant may request a contested case hearing within 21 calendar days of the board's decision. The board shall order a contested case hearing under Minnesota Statutes, chapter 14 and 9 MCAR §§ 2.201-2.299 if it receives a request. Following a review of the record of the hearing, the board shall make a final decision granting or denying clearance.

6 MCAR § 8.506 Notice of final decision.

Notice of the board's final decision granting or denying clearance shall be sent to political subdivisions which contain areas included on the board's inventory of preferred areas for processing facilities and to the applicant.

6 MCAR § 8.507 Expiration of clearance.

Clearance of an applicant expires 18 months after it is granted by the board if the applicant has not formally requested a pollution control agency permit during that period. An applicant whose clearance has expired may apply for clearance again without penalty or prejudice.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Energy, Planning and Development Energy Division

Notice of Continuation of Temporary Rules Amending the Minnesota Energy Conservation Service Program

Notice is hereby given that the Energy Division of the Department of Energy, Planning and Development is continuing the Adopted Temporary Rule Governing the Minnesota Energy Conservation Service Program. The continuation shall not be effective until this same notice has been mailed to all persons registered with the department to receive notice of any rule makings. These temporary rules shall be effective until April 22, 1983 or until permanent rules are adopted, whichever occurs first.

The adopted Temporary Rule was published at 6 S.R. 1934, on May 24, 1982. The rules in their entirety were published at 6 S.R. 1575-1576 on March 15, 1982.

January 17, 1983

Robert G. Renner, Jr., Commissioner
Department of Energy, Planning and Development

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities

FINDINGS OF FACT AND CONCLUSIONS

Notice of the proposed adoption of the above-referenced rules was published in the State Register on January 31, 1983. 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 October 29, 1982, 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 that the Notice be published in the State Register.

2. The Notice of Intent to Adopt Rules Without Public Hearing was published in the State Register on January 31, 1983, 7 S.R. 1116.

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. Only one comment on the rules was received. There were no requests for a public hearing.

5. No modifications have been made in the rules from the version published in the State Register on January 31, 1983.

CONCLUSIONS

1. The rules as adopted are needed and reasonable.

2. The Waste Management Board has complied with the rulemaking procedures for non-controversial rulemaking set out in Minn. Stat. §§ 14.21 - 14.28 (1982).

Dated: March 24, 1983

ROBERT G. DUNN
Chairman
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities	)))))	CERTIFICATE OF BOARD'S RESOLUTION ADOPTING RULES

I, Robert G. Dunn, do hereby certify that I am a member and the Chairman of the Minnesota 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 24th day of March, 1983, that a quorum of the Board was present at the meeting, that a majority of those present voted for the resolution, and that the resolution is set forth in the minutes of the meeting and has not been rescinded or modified.

> RESOLVED, that the rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities, 6 MCAR §§ 8.501 - 8.507, be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes Section 115A.10, 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 24th day of March, 1983.

Robert G. Dunn
(Officer of the Board)

T. T. Renner
Attest by one other Board Member

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The subject of this rulemaking proceeding is a set of proposed rules to evaluate applicants for permits to operate commercial hazardous waste processing facilities within areas designated by the Waste Management Board (hereinafter Board) under Minn. Stat. § 115A.09 (1982) as preferred areas for hazardous waste processing facilities. To obtain Pollution Control Agency (hereinafter PCA) permits to operate a commercial hazardous waste processing facility within a preferred area, a permit applicant must first be granted clearance by the Board. Pursuant to Minn. Stat. § 115A.10 (1982), the Board's review is required to evaluate the qualifications, including technical competence and financial capability, of permit applicants.

Notices of Intent to Solicit Outside Opinion concerning this rule was published in the State Register on September 28, 1981 and again on June 21, 1982. 6 S. R. 2349. Six written comments were received in response to the June 21, 1982 Notice. (See Attachment A).

Rules 6 MCAR § 8.501-8.507 set out guidelines for collecting information from prospective developers which will enable the Board to make the required evaluation. This information includes general identification and background information on the applicant, education and operating experience of the facility operators, past operating record of the company regarding similar operations, and the development plan and the general financial plan for the proposed facility. The

rules provide guidance for evaluating the required information and determining whether clearance should be granted.

II. NEED FOR THE PROPOSED RULES

The Waste Management Board is required by Minn. Stat. § 115A.10 to promulgate rules to govern its activities for accepting, evaluating and selecting applications for permits for the construction and operation of commercial hazardous waste processing facilities at sites identified by the Board pursuant to Section 115A.09. The rules are required to include standards and procedures for making determinations on the minimum qualifications, including technical competence and financial capability, of permit applicants. These rules are thus necessary to fulfill this statutory obligation. In addition, the rules are needed to specify the information to be submitted by applicants and establish procedures to review and evaluate that information.

III. REASONABLENESS OF THE PROPOSED RULES

6 MCAR § 8.501 Purpose

This Section specifies the scope of the clearance review conducted by the Board and clarifies the relationship between Board clearance and PCA permitting responsibilities.

6 MCAR § 8.502 Definitions

Most of the terms defined in Section 8.502 are terms used throughout the rules. Definitions are provided for clarity and consistency. These terms include "applicant," "application," "board", "chairperson," "clearance," "commercial waste processing facility," "hazardous waste," and "person."

6 MCAR § 8.503 Requirements & Limitations

Section 8.503A

This section provides that applicants who intend to locate a commercial hazardous waste processing facility within a preferred area for processing designated by the Board must be granted clearance prior to applying for PCA permits and is a reiteration of the requirements of Minn. Stat. § 115A.10. The second part of this section specifies that the rules apply only to those qualifying facilities that will begin operation after these rules take effect. Until these rules are in effect, clearly they cannot be legitimately applied to proposed facilities.

Section 8.503B

The implication that Board clearance conveys property rights or exclusive privilege to an applicant could discourage other potential facility developers from locating within the preferred areas for hazardous waste processing identified by the Board. Since development of needed hazardous waste processing facilities is a high priority of the Board, it is not intended that these rules would do anything to discourage the development of well-run facilities. Furthermore, the Board has no authority to grant or convey any exclusive rights or privileges.

Section 8.503C

This section limits applicants, upon the granting of clearance, to requesting a PCA permit only for a commercial hazardous waste processing facility substantially similar to the facility described in the application for clearance. Since final plans for a particular project will most likely be unavailable at the time of application, the most recent plan available is the only plan that can reasonably be submitted. However, since the plans used in this review will probably be preliminary plans, the rules contain

some provision for re-examination of the project if it is substantially changed from that described in the preliminary plans. A substantial change in plans may warrant a change in the Board's conclusion concerning clearance.

Section 8.503D

This section allows an applicant to pursue clearance prior to acquiring the property for the facility. Also, identification of the site where a facility will be located is not required in the application. In order to allow an applicant flexibility to locate a processing facility within any of the available preferred areas for hazardous waste processing facilities on the Board's inventory, it is reasonable to allow an applicant to apply for a permit prior to acquiring the property to be used as the site for the proposed facility. Acquiring property within a preferred area for hazardous waste processing facilities may involve complex and confidential negotiations. Competitive aspects of real estate transactions must be considered. Additionally, the factors to be considered in this review are not dependent upon the location of the proposed facility. Thus, information about location is not necessary for the Board's evaluation and may impose an unnecessary burden on prospective developers.

6 MCAR § 8.504 Application

This rule specifies the information that must be provided by the applicant in order to allow the Board to conduct a meaningful review and evaluation of each applicant. The information specified in this section is necessary to make the evaluation required under Minn. Stat. § 115A.10 (1980).

Section 8.504A

This section specifies who must complete, sign, and submit an application. This section provides that both the owner and operator must submit the application to the Board. Since both the owner and operator of a facility affect the day-to-day operation of a facility and the long-range policies and financial status of that facility, it is reasonable to require that both the owner and operator be reviewed by the Board. Review of the owner and operator will provide a more complete picture of how the facility will be managed.

Section 8.504B

Applications must be in the form specified by the Board to ensure that the material is understandable, complete, and addresses the specific issues that the Board needs to make its decision.

Section 8.504B (1)

The complete name of the applicant including all of the names under which the applicant has done business for the last ten years and the approximate time periods during which those names were used is necessary to identify and contact the applicant and to aid in understanding the past activities of the applicant. Some applicants may have operated under various business names in the past, and it would be nearly impossible to trace their operating history without this information.

Section 8.504B (2)

Business addresses of the applicant for the past ten years are required to identify and contact the applicant and aid in understanding the past activities of the applicant. Some applicants may have operated at various locations in the past and it would be more difficult to trace their operating history without this informati

Section 8.504B (3)

Information pertaining to the applicant's form of business association is necessary to understand the ownership of the business and know which persons involved in the business are in a position to exercise control over business activities and policies of the applicant.

Section 8.504B (4)

A general description of the types and amounts of hazardous waste the facility would be capable of handling and a general description of the facility operation including proposed methods to store and process hazardous waste is necessary for the Board to determine whether the development plan for the facility and the minimum qualification of facility personnel are adequate.

Section 8.504B (5)

Specific identification of officers, partners, and directors of the applicant is necessary to understand who controls the business activities and policies of the applicant. It will also enable the Board to more easily confirm information concerning the applicant's past history, especially if the applicant has done business under more than one business name.

Section 8.504B (6)

Information pertaining to hazardous waste management related violations specified in this section is necessary in order to allow the Board to evaluate the applicant's past history in complying with regulations concerning hazardous waste. The purpose of rules 6 MCAR § 8.501 through § 8.507 is to evaluate prospective developers' ability to manage a safe hazardous waste facility. The information specified in this section can provide an important indication of the applicant's ability to manage the facility in compliance with government regulations intended

to ensure safety. Requiring an explanation of the response to any violations is intended to provide the Board with information necessary to determine if the violations specified were major and whether the applicant responded appropriately to correct those violations.

Section 8.504C

The specific justification for each type of information specified in 6 MCAR § 8.504C is stated below.

Section 8.504C (1)

Information relating to the duties and responsibilities of subcontractors and anticipated operating staff is necessary to provide the Board with an understanding of the background of the individuals who will be responsible for managing and operating the facility. Since the Board's review of applicants occurs in the early stages of project development, it may not be possible for the applicant to supply specific information about the subcontractors and operating staff (since they may not have been hired at that point). However, the applicant should have a fairly clear plan of the type of individuals who will be sought to operate the facility and how these individuals fit into the organization of the company.

Requiring the applicant to supply an organizational chart for operation of the proposed facility is necessary to determine if the applicant has supplied adequate information for all of the important personnel who will participate in facility operation. This information will indicate if appropriately qualified people will be employed.

Section 8.504C (2)

A disclosure of the hazardous waste management business activities of the applicant, its parent corporation, or any subsidiary of the applicant or the parent corporation during the last ten years is necessary to evaluate the applicant's

prior experience in building and managing hazardous waste facilities. The detailed explanation of operation and maintenance of hazardous waste management facilities required by this section will provide more specific information relating to the applicant's experience in running hazardous waste facilities. The applicant's past experience in hazardous waste management is an indication of technical competence.

SECTION 8.504D

Evaluation of the development plan and financial information is necessary to evaluate the financial capabilities of the applicant as specified in Minn. Stat. § 115A.10.

Section 8.504D (1)

The statement of the anticipated development plan for the proposed facility specified 14 factors in the development of a facility. This information will give the Board a basis for determining if the applicant's plan for development and operation of a facility are complete and adequate to ensure safe construction and use of the facility. It will also help the Board determine whether the applicant has done sufficient planning and research to enable a reasonable expectation of maintaining a financially and legally viable business.

Section 8.504C (2)

In order to have some indication whether the plan outlined in Section 8.504 (1) can be adequately financed, it is important to know how much is expected to be spent on the project and how that money will be obtained.

Section 8.504C (3)

This information helps to clarify how the plan will be carried out and what emphasis will be given to each element. This is particularly helpful since the rules do not require a breakdown of expenditures by plan element in Section 8.504 (2). It also gives an indication of the amount of planning that has gone into the applicant's development plans.

Section 8.504C (4)

A description of potential or contingent liabilities is necessary to give the Board a basis for determining whether the applicant is likely to encounter financial difficulties in carrying out the development plan specified in Section 8.504C (1).

Section 8.504C (5)

A disclosure of past bankruptcies is necessary to give the Board an indication of whether the applicant has been unable to operate a business profitably in the past. Disclosure of past bankruptcies will provide information indicating whether there are any unresolved claims against the applicant's assets.

Section 8.504E

This section provides the chairperson with flexibility to require additional information as may be needed in each individual case. The procedures provided for under 6 MCAR § 8.501 through § 8.507 apply to a wide variety of prospective developers and developments. The information required under 6 MCAR § 8.501 through § 8.507 cannot be expected to be sufficient in all cases. Therefore, it is necessary to provide some flexibility to conduct an adequate evaluation of all applicants. This section provides authority to the chairperson to undertake any necessary investigation to obtain additional information about the applicant or corroborate information

submitted by the applicant when necessary.

Section 8.504F

This section specifies the procedure for returning a deficient application. Return of a deficient application within thirty days together with a statement identifying the deficiencies in the application allows an applicant to correct and resubmit an application in a reasonable period of time.

Section 8.504G

Designating the chairperson to accept an application for review is necessary to expedite and simplify review of applications.

Section 8.504H

This section specifies the notice requirements following acceptance of an application for clearance. Notice is necessary to allow individuals within a preferred areas for processing facilities to have the opportunity to comment on the proposed development. Individuals within a preferred area for processing facilities may be especially interested in the application because these areas are potential locations for proposed facilities. The thirty-day public comment period specified by this section provides adequate time for public comment.

Section 8.504I

Board consideration of an application not less than thirty days and not more than sixty days after acceptance of a complete application is reasonable because it allows an adequate period for public comment while ensuring that a timely review of the application is made.

6 MCAR § 8.505 Board Decision

This section specifies the standards to be used by the Board in evaluating applicants for clearance.

Section 8.505A

This section provides that the Board shall grant clearance to an applicant unless the standards in this section are not met.

Section 8.505A (1)

Minimum qualifications, including technical competence and financial capabilities, of permit applicants required by Minn. Stat. § 115A.10 are not met when an applicant's development plan is not sufficient to indicate the applicant will be able to operate and maintain a facility in a manner that will ensure protection of the health and welfare of the citizens of the State. Clearly if the applicant's plan is inadequate, the Board cannot assume that the applicant will overcome that major deficiency and develop and operate an adequate facility.

Section 8.505A (2)

Statutory requirements under Minn. Stat. § 115A.10 relating to minimum qualifications are not met when an applicant's operating staff or anticipated operating staff lack the technical competence necessary to adequately operate and maintain a facility in a manner that will ensure protection of the health and welfare of the citizens of the State.

Section 8.505A (3)

Statutory requirements under Minn. Stat. § 115A.10 relating to minimum qualifications are not met when the nature of past violations of state or federal environmental statutes or regulations and applicant's response to these violations

indicate that an applicant does not have a history of responsible operation and could not be reasonably expected to operate and maintain the facility in a manner that will ensure protection of the health and welfare of the citizens of the State.

Section 8.505B

Specifying that the Board set forth its basis for decision in writing provides the applicant, the PCA and the public with an explanation of the Board's decision and the factors considered in that decision. In addition, a written basis for decision will give the applicant a specific basis for considering an appeal of the decision of the Board if clearance is denied.

Section 8.505C

In the event that clearance is denied, it is necessary to provide an applicant with an avenue of appeal. The nature of the rights involved in permit applicant clearance require that contested case procedures under Minnesota Statutes Chapter 14, as amended, and the Rules of the Office of Administrative Hearings relating to contested case proceedings (9 MCAR §§ 2.201-2.299) be applied. Providing 21 calendar days to request a contested case hearing is reasonable since it provides an applicant adequate time to consider and determine a response to the Board's initial action without allowing the entire process to continue on an unreasonable amount of time.

6 MCAR § 8.506 Notice of Final Decision

This section provides that notice of the Board's final decision granting or denying clearance is to be issued to political subdivisions which contain areas included on the Board's inventory of preferred areas for processing facilities and to the applicant. This section is necessary to inform the applicant and persons in areas which are potential locations for proposed facilities of the

Board's final decision relating to clearance. No provision is made for contested case appeal of the Board's decision to grant approval by political subdivisions or individuals since provision has been made for submission of information by these parties during initial consideration of the application. Also, delays in the consideration of applications and Board decisions on those applications must be avoided, since review under these rules is only one step in the facility siting process set up under Minn. Stat. Ch.115A and PCA rules. An applicant receiving clearance must apply for a PCA permit to build and operate the proposed facility, and interested persons may raise issues related to the applicant and the proposed facility during consideration of that application by the PCA. Judicial review of a final clearance decision may also be available.

6 MCAR § 8.507 Expiration of Clearance

The conditions under which the Board grants clearance may change as more information is obtained about the actual operation of facilities in Minnesota. In addition, the finances and personnel of a company may also change dramatically. Therefore, it is necessary that clearance granted by the Board must expire after a reasonable period of time. A period of 18 months is adequate for the applicant to request a PCA permit. If development is delayed and clearance expires, a company that has not substantially changed and still maintains an acceptable level of financial and technical competence will probably encounter few difficulties in receiving a new clearance.

Robert G. Dunn
Chairman

STATE OF MINNESOTA

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I, Special Assistant Attorney General Alan W. 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 W. Kowalchyk
Special Assistant
Attorney General

Dated: March 29, 1983

In the Matter of the Proposed
Adoption of Rules to Evaluate
Applicants for Permits to
Operate Hazardous Waste
Processing Facilities

AFFIDAVIT OF MAILING
NOTICE OF SUBMISSION
TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

SHARON DECKER, being first duly sworn, deposes and says:

That no requests for Notice of Submission to the Attorney General were received in connection with the above-captioned rulemaking proceeding.

Sharon Decker
SHARON DECKER

Subscribed and sworn to before me
this 25th day of March, 1983.

Beatrice L. Szymik
Notary Public

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