

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

Our File No. 458

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-15-83
DATE FOR REVIEW 8-24
DATE DUE 8-29

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

Approved _____ Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State _____ Revisor approved 8/16/83 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed see SR 1

✓ Order Adopting 7.28.83 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

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

✓ Mailing list Certificate

✓ Publication in State Register
5.23.83 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

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

N/A 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-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL/WMB

Office Memorandum

TO : ATTORNEY GENERAL'S OFFICE
Administration Division

RECEIVED
AUG 15 1983
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

DATE: 8/11/83

FROM : ALAN W. KOWALCHYK
Special Assistant
Attorney General

PHONE: 6-7347

SUBJECT: ADOPTED AMENDMENTS TO RULES OF THE STATE WASTE MANAGEMENT BOARD GOVERNING SUPPLEMENTARY REVIEW

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 the publication of the proposed rules in the State Register. No written comments were received on the rules.

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

AWK:mah

Attachment

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Robert G. Dunn, Chairman

Attn: ALAN W. KOWALCHYK
Special Asst. Attorney General

DATE: 8/26/83

FROM : MARTHA J. CASSERLY MJC
Special Assistant
Attorney General

PHONE: 296-4347

SUBJECT: In the Matter of the Proposed Amendments to the Rules of The State Waste Management Board Governing Supplementary Review.

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.
MJC/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

029

AG copy

Waste Management Board

Adopted Amendments to Rules of the State Waste Management Board Governing Supplementary Review and Governing Operating Procedures

Rules as Adopted

6 MCAR S 8.203 Eligibility for supplementary review.

A. Eligible persons. The following persons are eligible to request supplementary review by the board pursuant to Minnesota Statutes, sections 115A.32 to 115A.39:

1. a generator of sewage sludge within the state who has been issued permits by the agency for a facility to dispose of sewage sludge or solid waste resulting from sewage treatment, except that the Metropolitan Waste Control Commission is not eligible to request review for a sewage sludge disposal facility or for a solid waste facility with a proposed permitted life of longer than four years;

2. a political subdivision which has been issued permits by the agency, or a political subdivision acting on behalf of a person who has been issued permits by the agency, for a solid waste facility which is located outside the metropolitan area and which is no larger than 250 acres, not including a proposed buffer area; provided that if the petitioner is a political subdivision acting on its own behalf, the political subdivision shall have completed a plan conforming to the requirements of Minnesota Statutes, section 115A.46;

3. a generator of hazardous waste within the state who has been issued permits by the agency for a hazardous waste facility to be owned and operated by the generator, on property owned by the generator, and to be used by the generator for managing the hazardous wastes produced by the generator only;

4. a person who has been issued permits by the agency for a commercial hazardous waste processing facility at a site included within one of the areas on the board's inventory of preferred areas for these facilities adopted pursuant to

Minnesota Statutes, section 115A.09; and

5. a person who has been issued permits by the agency for a disposal facility for the nonhazardous sludge, ash, or other solid waste generated by a permitted hazardous waste processing facility operated by the person.

B. Supplementary review petition. Persons eligible to request supplementary review under A. shall submit a petition to the board that demonstrates that the required permits have been issued by the agency and that a political subdivision has refused to approve the establishment or operation of the facility. If the political subdivision fails to give final approval or denial to the establishment or operation of the facility within six months after agency permits are issued, the political subdivision is considered to have refused approval to the facility.

6 MCAR S 8.204 Review of petitions for supplementary review.

A. [Unchanged.]

B. Contents of petition. A petition must include:

1.-10. [Unchanged.]

11. A copy of the resolution, order, or other action of a political subdivision refusing to approve the establishment or operation of the proposed facility, a statement that the required approval has been refused, or a statement that the political subdivision has failed to give final approval or denial to the establishment or operation of the facility within six months after agency permits are issued.

12.-13. [Unchanged.]

APPROVED AS TO FORM AND LEGALITY

August 26 1983

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Martha J Lassard
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 29 1983
Joan Anderson
Secretary of State

3:00 p.m.

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Amendments to the Rules of the State Waste Management Board Governing Supplementary Review

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 May 23, 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 May 3, 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 Proposed Amendments to the Rules of the State Waste Management Board Governing Supplementary Review are adopted this 28th day of July, 1983 pursuant to authority vested in the Board by Minnesota Statutes, Section 115A.32.

STATE OF MINNESOTA

Chairman
Minnesota Waste Management Board

In the Matter of the Proposed
Adoption of Amendments to Rules
of the State Waste Management
Board Governing Supplementary Review

ORDER

IT IS HEREBY ORDERED this 3d day of May, 1983, 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 Amendments to Rules of the State Waste Management Board Governing Supplementary Review	)))))	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 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 10th day of March, 1983, 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 amendments to rules of the State Waste Management Board Governing Supplementary Review, 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 10th day of March, 1983.

ROBERT G. DUNN
Chairman, Waste Management Board

Attest: Laurence E. Hunter

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

AFFIDAVIT OF MAILING

Kim M. Mellum, being first duly sworn deposes

That on the 3rd day of May, 1983, at the City of Crystal, County of Hennepin, State of Minnesota, she mailed the attached material to those persons on the attached mailing list by deposition in the United States mail at said City of Crystal, a copy, thereof, properly enveloped, with postage prepaid:

Kim M. Mellum

Subsribed and sworn to before
me this 3rd day of May, 19 83.

Beatrice L. Szymik

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

WASTE MANAGEMENT BOARD

PROPOSED AMENDMENTS TO RULES OF THE
STATE WASTE MANAGEMENT BOARD
GOVERNING SUPPLEMENTARY REVIEW

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.32. 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 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 amending the following matters: (1) Eligibility for supplementary review; and (2) Review of petitions for supplementary review.

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: May 3, 1983.

STATE OF MINNESOTA

ROBERT G. DUNN, Chairman
Waste Management Board

py Kept in
id Waste file (Dist. Prgrm.)

NOTIFICATION OF RULEMAKING ~~3/28/~~ ~~[illegible]~~

Joseph D. Bizzano, Jr. JoAnn McGuire North. States Power Law Dept. 414 Nicollet Mall Minneapolis, MN 55401	Dr. Daryl A. Thingvold Serco Laboratories 1931 West County Road C2 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	W. J. Langlois 3M 3M Center, 225-2N-6 St. Paul, MN 55144	~~Edward L. Kuhlney~~ ~~Region 10, Southern MN RDC~~ ~~301 Marquette Bank Bldg.~~ ~~Rochester, MN 55901~~ Deleted 1/20/87
Bernard L. Brommer Executive Vice President Minnesota AFL-CIO 175 Aurora Avenue St. Paul, MN 55103	Scott Schuler Environmental Specialist Cooperative Power Assoc. 8020 Mitchell Road Eden Prairie, MN 55344	Arlene Farver Donohue & Associates, Inc. 7400 Metro Blvd. Suite 310 Minneapolis, MN 55435
Charles A. Schaffer MN Dept of Economic Dev. 480 Cedar Street St. Paul, MN 55101	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) Minneapolis, MN 55408	R. G. Kirkham, Exec. Dir. Minnesota Municipal Utilities P. O. Box B 10 Central Avenue Buffalo, MN 55313	Norma Schumacher, Leg. Consult O'Connor & Hannan 38th Floor - IDS Tower Minneapolis, MN 55402
Broeker, Hartfeldt, Hedges & Grant 2850 Metro Dr.-Suite 800 Bloomington, MN 55420	Richard P. Cox Metro Inter-County Association 2305 Ford Parkway, Suite 103 St. Paul, MN 55116	Archie D. Chelseth Manager Public Affairs Potlatch Corporation Box 510 Cloquet, MN 55720
Charles R. Jacoby Senior Chemical Engineer The Gillette Company St. Paul Manufacturing Center Fifth at Broadway 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	M[redacted]s, Inc. [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

ank Altman
vernor's Office
om 130 - State Capitol
. Paul, MN 55155

Becky A. Comstock
2200 1st Bank Place E.
Minneapolis, MN 55402

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

Ms. Mary Stanton
Staff Associate/Finance
State University System
407 Capitol Square Building
550 Cedar St.
St. Paul, MN 55101

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

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

G. Robert Johnson
4344 IDS Center
Minneapolis, MN 55402

Robert S. Burk
4344 IDS Center
Minneapolis, MN 55402

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

Joseph S. Hensel
Rochester Public Utilities

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed)
Amendments to the Rules of the)
State Waste Management Board)
Governing Supplementary Review)

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 14.14, subd. 1, that their names be placed on file with and maintained by the State Waste Management Board for the purpose of receiving notice of the proposed adoption of rules by this board is accurate and complete as of 9:00 A.M., this 3rd day of May, 1983.

Kim M. Mellum

PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Minnesota Public Utilities Commission

Notice of Termination of Rulemaking Concerning Proposed Rules of the Minnesota Public Utilities Commission Governing Intrastate Telephone Access Charges for Intrastate Toll Telecommunications

On February 28, 1983, the Minnesota Public Utilities Commission (the Commission) published a Notice of Intent to Solicit Outside Opinion in the above-captioned matter in the *State Register* at 7 S.R. 1242. That Notice alerted interested parties that the Commission was seeking information and comments from sources outside the Commission in preparing to promulgate rules governing the appropriate methods to determine the rates interexchange carriers and end users will pay for access to local telephone company facilities used to complete intrastate service offerings within the State of Minnesota.

On May 5, 1983, the Commission issued its Order Terminating Rulemaking in this proceeding.

The Commission hereby provides notice that it has terminated this proposed rulemaking.

Randall D. Young
Executive Secretary

Waste Management Board

Proposed Amendments to Rules of the State Waste Management Board Governing Supplementary Review and Governing Operating Procedures

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.32. 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 amending the following matters: (1) Eligibility for supplementary review; and (2) Review of petitions for supplementary review.

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

May 3, 1983

Robert G. Dunn, Chairman
Waste Management Board

Rules as Proposed

6 MCAR § 8.003 Board meetings and officers.

A. Board meetings.

1.-5. [Unchanged.]

6. Vice chairperson. ~~At its first meeting in July of each year the board shall by a majority vote elect a member to serve as~~ The chairperson shall appoint the vice chairperson. It ~~shall be~~ is the duty of the vice chairperson, in the absence or disability of the chairperson, to preside at regular and special meetings, call special meetings, execute documents approved by the board, and perform ~~such~~ other duties as are assigned to the vice chairperson by a majority vote of the entire board.

7. Conduct of meetings.

a.-d. [Unchanged.]

e. Voting. The affirmative vote of a majority of all the members of the board ~~shall be~~ is necessary to make ~~any~~ a substantive decision, including the adoption, amendment, or repeal of rules and orders. Procedural questions are decided by a majority vote of the board members present. All members present, including the chairperson, shall vote or abstain on every matter presented for decision. ~~Any board matter which does not receive a majority vote shall be placed on the agenda of the next regular monthly meeting or considered at a special meeting~~ A substantive decision that fails to receive a majority vote of the entire board must be laid on the table or postponed to a time or a date certain.

f.-i. [Unchanged.]

6 MCAR § 8.006 Temporary board members.

A.-B. [Unchanged.]

C. Voting. The affirmative vote of a majority of all permanent and temporary board members eligible to vote on ~~an~~ a substantive issue ~~shall be~~ is necessary to make ~~any~~ a decision on the issue. Procedural questions are decided by a majority vote of permanent and temporary board members present and eligible to vote on the question. All eligible members present, including the chairperson, shall vote or abstain on very matter presented for decision. A substantive decision that fails to receive a majority vote of all permanent and temporary board members eligible to vote on an issue must be laid on the table or postponed to a time or a date certain.

6 MCAR § 8.014 Reimbursement for ~~out-of-state~~ travel.

Reimbursement from board funds to ~~any~~ a board member or staff member ~~other than~~ for ~~expenses associated with authorized out of state~~ travel ~~shall~~ expenses must be at the discretion and with the prior approval of the chairperson.

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.

Rules as Proposed

6 MCAR § 8.203 Eligibility for supplementary review.

A. Eligible persons. The following persons ~~shall be~~ are eligible to request supplementary review by the board pursuant to Minnesota Statutes, sections 115A.32 to 115A.39:

~~A.~~ 1. a generator of sewage sludge within the state who has been issued permits by the agency for a facility to dispose of sewage sludge or solid waste resulting from sewage treatment, except that the Metropolitan Waste Control Commission ~~shall~~ is not ~~be~~ eligible to request review for a sewage sludge disposal facility or for a solid waste facility with a proposed permitted life of longer than four years;

~~B.~~ 2. a political subdivision which has been issued permits by the agency, or a political subdivision acting on behalf of a person who has been issued permits by the agency, for a solid waste facility which is located outside the metropolitan area and which is no larger than 250 acres, not including ~~any~~ a proposed buffer area~~.~~; provided that if the petitioner is a political subdivision acting on its own behalf, the political subdivision shall have completed a plan conforming to the requirements of Minnesota Statutes, section 115A.46;

~~C.~~ 3. a generator of hazardous waste within the state who has been issued permits by the agency for a hazardous waste facility to be owned and operated by the generator, on property owned by the generator, and to be used by the generator for managing the hazardous wastes produced by the generator only;

~~D.~~ 4. a person who has been issued permits by the agency for a commercial hazardous waste processing facility at a site included within one of the areas on the board's inventory of preferred areas for ~~such~~ these facilities adopted pursuant to Minnesota Statutes, section 115A.09; and

~~E.~~ 5. a person who has been issued permits by the agency for a disposal facility for the nonhazardous sludge, ash, or other solid waste generated by a permitted hazardous waste processing facility operated by the person.

B. Supplementary review petition. Persons eligible to request supplementary review under A. shall submit a petition to the board that demonstrates that the required permits have been issued by the agency and that a political subdivision has refused to approve the establishment or operation of the facility. If the political subdivision fails to give final approval or denial to the establishment or operation of the facility within six months after agency permits are issued, the political subdivision is considered to have refused approval to the facility.

6 MCAR § 8.204 Review of petitions for supplementary review.

A. [Unchanged.]

B. Contents of petition. A petition ~~shall~~ must include:

1.-10. [Unchanged.]

11. A copy of the resolution, order, or other action of a political subdivision refusing to approve the establishment or operation of the proposed facility ~~or~~, a statement that the required approval has been refused, or a statement that the political subdivision has failed to give final approval or denial to the establishment or operation of the facility within six months after agency permits are issued.

12.-13. [Unchanged.]

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Amendments to the Rules of the State Waste Management Board Governing Supplementary Review

FINDINGS OF FACT AND CONCLUSIONS

Notice of the proposed adoption of the above-referenced rules was published in the State Register on May 23, 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 May 3, 1983, 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 May 23, 1983, 7 S.R. 1678-1680.

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. No comments on the rules were 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 May 23, 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: July 28, 1983

ROBERT G. DUNN
Chairman
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Amendments to the Rules of the State Waste Management Board Governing Supplementary Review

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 28th day of July, 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 Amendments to the Rules of the State Waste Management Board Governing Supplementary Review be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes, Section 115A.32, 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 28th day of July, 1983.

Robert G. Dunn
(Officer of the Board)

Louise Kuderling
Attest by one other Board Member

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

In the Matter of the Proposed
Amendments of Rules Relating to
Supplementary Review
6MCAR §8.203 - 8.204

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking proceeding is proposed amendments to the rules governing supplementary review of certain solid and hazardous waste facilities. Pursuant to Minn. Stat. §115A.32 to 115A.39, the Waste Management Board may, upon request, review the decision of a political subdivision which has refused to approve the establishment or operation of a facility if the required permits for the facility have been issued by the Pollution Control Agency.

II. NEED FOR THE PROPOSED AMENDMENTS

Rules governing Supplementary Review were adopted July 8, 1982. Following adoption it was recognized that portions of the rules required clarification to allow the smooth operation of the Supplementary Review procedures. In order to add this clarification, amendments to the rules were proposed.

II. REASONABLENESS OF THE PROPOSED RULES

6MCAR §8.203 Eligibility for supplementary review

A. Eligible Persons

Minor word and numbering changes have been made to improve the readability and order of this subsection.

B. Supplementary review peteition

This amendment clarifies the petitioning process to request Supplementary Review.

In some cases, a political subdivision may refuse to act on the proposal to establish or operate a facility, rather than making a clear decision to approve or disapprove. If, after a reasonable period of time, the political subdivision has refused to act, the petitioner should be allowed to request Supplementary Review.

It is anticipated that a prospective developer would supply the political subdivision with a development proposal during the time the agency is reviewing the permit application. Thus the political subdivision would have time to review this proposal while it is under review by the agency. The proposed amendments then provide an additional six months following issuance of agency permits for the political subdivision to act on the proposal. If, following this time, the political subdivision still refuses to act, it is reasonable to consider that

approval has been refused.

6MCAR §8.204 Review of petition for Supplementary Review.

Amendments to subsection B.11 have been made to be consistent with changes made to 6MCAR § 8.203.B.

Based on the foregoing, the proposed amendments to 6MCAR §8.203-.204 are both needed and reasonable.

Dated: May 25, 1983

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

Robert G. Dunn, Chairman

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed)
Amendments to the Rules of the)
State Waste Management Board)
Governing Supplementary Review)

STATEMENT OF COMPLIANCE
WITH RULEMAKING PROCEDURES

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: August 10, 1983

In the Matter of the Proposed Amendments to the Rules of the State Waste Management Board Governing Supplementary Review

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 8th day of August 1983.

Beatrice L. Szymik
Notary Public

BEATRICE L. SZYMIK
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires August 1, 1990