

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 440

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 12-22-83
DATE FOR REVIEW 1-3-84
DATE DUE 1-5-84

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 12/22/83 disapproved _____

✓ Rule as Adopted

_____ Rule as Proposed

✓ Order Adopting 12.20.83 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 10.10.83

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
_____ Sufficiency

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

✓ Mailing list Certificate

✓ Publication in State Register
11.7.83 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

_____ LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

✓ 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

✓ Approval of DOFinance

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
ATTORNEY GENERAL'S OFFICE
POLLUTION CONTROL DIVISION
1935 WEST COUNTY ROAD B-2
ROSEVILLE, MN 55113
TELEPHONE: (612) 296-7342

December 21, 1983

RECEIVED
DEC 22 1983
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Mr. Mike Miles
Assistant Attorney General
Office of the Attorney General
Administration Building
St. Paul, MN 55155

Re: Proposed Rules 6 MCAR §§4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules

Dear Mr. Miles:

On December 20, 1983, the Minnesota Pollution Control Agency adopted 6 MCAR §§4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).
2. Order Adopting Rules (two copies).
3. Certificate of Agency's Resolution Adopting Rules.
4. Notice of Intent to Solicit Outside Opinion (8 S.R. 655, October 10, 1983).
5. Affidavit Regarding Comments Received Pursuant to Notice of Intent to Solicit Outside Opinion.
6. Order for Notice of Intent to Adopt Rules Without a Public Hearing.
7. Certificate of Agency's Authorizing Resolution.
8. Notice of Intent to Adopt Rules Without A Public Hearing and rules as proposed (8 S.R. 1071, November 7, 1983).
9. Copies of the written comments received during the comment period.
10. Affidavit of Mailing, Notice of Intent to Adopt Rules Without A Public Hearing, as mailed, and mailing list.

11. Certificate concerning mailing list.

12. Rules as proposed.

13. Documents relating to the approval of the Commissioner of the Commissioner of the Department of Finance of the fee schedule: 1) memorandum entitled "Request for Hazardous Waste Generator and Facility Fee Schedule Approval" dated September 22, 1983, and "Review and Approval" of the Commissioner, dated October 10, 1983.

14. Findings of Fact and Conclusions.

15. Statement of Need and Reasonableness.

16. Statement of Compliance with Rulemaking Procedures.

17. Affidavit Regarding Notification of Submission to Attorney General.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Sandra S. Gardebring, Executive Director DATE: 1/5/84

Attn: JOCELYN OLSON, Special Assistant Attorney General

FROM : MARTHA J. CASSERLY MJC PHONE: 296-4692
Special Assistant
Attorney General

SUBJECT: Proposed Rules 6 MCAR §§ 4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules.

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

Rules as Adopted

6 MCAR S 4.9701 Definitions.

A. Scope. As used in 6 MCAR SS 4.9701-4.9706, the following words have the meanings given them.

B. Agency. "Agency" means the Minnesota Pollution Control Agency.

C. Director. "Director" means the executive director of the agency or his or her designee.

D. Facility. "Facility" means all contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units, such as one or more landfills, surface impoundments, or combinations thereof.

E. Generator. "Generator" means any person, by site, whose act or process produces a hazardous waste or whose act first causes a hazardous waste to become subject to regulation. "By site" means by each location that is not on-site in relation to another location owned or controlled by the same person.

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

G. Indoor tank. "Indoor tank" means a tank completely enclosed within a building or sheltered from the elements within a roofed structure with no fewer than three complete solid walls.

H. Injection well. "Injection well" means a shaft or pit generally of a cylindrical form, dug or bored into the earth and often walled with bricks or tubing to prevent the earth from caving in into which fluids are injected.

I. Land treatment facility. "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface. A land treatment facility is a disposal facility if the waste will remain after closure.

J. Landfill. "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment,

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or an injection well.

K. Nonmetropolitan area generator. "Nonmetropolitan area generator" means a generator whose hazardous waste generation site is located in a Minnesota county other than Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.

L. Operator. "Operator" means the person responsible for the overall operation of a facility.

M. On-site. "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along the right-of-way. Noncontiguous property owned by the same person but connected by a right-of-way which he or she controls and to which the public does not have access is also considered on-site property.

N. Outdoor tank. "Outdoor tank" means a tank not enclosed within another structure or which is sheltered within a structure with fewer than three complete walls and which may or may not have a roof.

O. Owner. "Owner" means the owner of a facility or part of a facility.

P. Pile. "Pile" means a noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

Q. Project estimated cost. "Project estimated cost" means the cost of the entire project to complete a hazardous waste facility including the current market value of all the land interests, owned or to be owned by the facility owner, which are included in the boundaries of the project; costs of engineering and architecture for the project; expenditures necessary to begin physical construction or operation of the project; construction required to implement the project including costs of essential public service facilities; and the cost of permanent fixtures.

R. Sewered liquid wastes. "Sewered liquid wastes" means wastes that are discharged to a sewer system which is tributary

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to a publicly-owned treatment works or to a facility holding a National Pollutant Discharge Elimination System (NPDES) permit or State Disposal System (SDS) permit, and that are hazardous wastes at the point of generation before treatment or commingling with other wastewater which may or may not render them nonhazardous.

S. Storage. "Storage" means the holding or accumulation of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere. FF 7

T. Surface impoundment or impoundments. "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials which is designed to hold an accumulation of liquid hazardous wastes or hazardous wastes containing free liquids and which is not an injection well or seepage facility. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons. Impoundments may be lined with man-made materials.

U. Tank. "Tank" means a stationary device which is designed to contain an accumulation of hazardous wastes and which is constructed primarily of nonearthen materials such as wood, concrete, steel, and plastic, which provide structural support.

V. Thermal treatment. "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. "Thermal treatment" includes the processes of incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

W. Treatment. "Treatment" means any method, technique, or process, including neutralization, that is designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, so as to recover energy or material resources from the waste, or so as to render the waste nonhazardous, or less hazardous, safer to

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transport, store, or dispose of, or amenable for recovery, amenable for storage, or reduced in volume.

X. Unsewered liquid wastes. "Unsewered liquid wastes" means liquid hazardous wastes or hazardous wastes that contain free liquid which are not sewered liquid wastes.

6 MCAR S 4.9702 Hazardous waste facility fees.

A. Fee schedule for five-year permits. A facility owner or operator who seeks a five-year permit shall remit fees as follows:

Table 1: Hazardous Waste Facility Five-Year Permits

	Permit Application Fee	Annual Facility Operator's Fee	Permit Reissuance Fee
a. Storage			
Tanks and containers indoors			
Total capacity greater than 550 gallons	$ 750	$ 225	$ 375
Total capacity 550 gallons or less	500	100	250
Tanks and containers outdoors			
Total capacity greater than 550 gallons	1,500	450	750
Total capacity 550 gallons or less	1,000	180	500
Piles	4,500	1,300	2,250
Surface impoundment	7,500	1,300	3,750
b. Disposal and treatment			
Surface impoundment	9,000	1,800	4,500
Treatment (not otherwise specified)	9,000	900	4,500
Thermal treatment	22,500	3,150	11,250
Land treatment	22,500	3,150	11,250
Land disposal (includes surface impoundments in which waste	22,500	3,150	11,250

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remains after closure)

B. Fee schedule for permits less than five-year term. The following schedule must be used to calculate the application fee for a permit term of less than five years:

Table 2: Application Fees

Permits Less than Five-Year Term

Term of Permit	Permit Application Fee
1 year	35 percent of application fee in table 1 or table 3
2 years	60 percent of application fee in table 1 or table 3
3 years	75 percent of application fee in table 1 or table 3
4 years	90 percent of application fee in table 1 or table 3

The annual facility operator's fee is the applicable fee listed in table 1 in A.

C. Combination facilities. An application fee for a facility consisting of several treatment, storage, or disposal functions must be calculated according to the following schedule for application fees and annual operator's fees:

Table 3: Combination Facilities

Facility Description	Fee Calculation	Permit Reissuance Fee
a. Thermal treatment + treatment + storage	Thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage	All facilities 50 percent of application fee as calculated according to schedule
b. Disposal + storage	Disposal + 0.2 x fee for storage	
c. Thermal treatment + storage	Treatment + 0.2 x fee for storage	
d. Disposal + thermal treatment	Disposal + 0.2 x fee for thermal treatment	
e. Thermal treatment + disposal + treatment + storage	Disposal + 0.8 x fee for thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage	
f. Disposal + land	Disposal + 0.8 x	

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	treatment	fee for land treatment
g.	Land treatment + storage	Land treatment + 0.2 x fee for storage

D. Environmental review costs. The following additional fees are required for a hazardous waste facility project that requires an environmental review under Minnesota Statutes, chapter 116D:

1. For projects that require only an environmental assessment worksheet (EAW), the fee is $200 plus 0.10 percent of the project estimated costs; and

2. For projects with a project estimated cost of less than $1,000,000, the environmental impact statement (EIS) assessed cost is 0.30 percent of the project estimated cost.

Nothing in this rule precludes the applicability of the EIS cost assessment system as described in chapter 17 of the rules of the Environmental Quality Board, 6 MCAR SS 3.049-3.054.

E. Payment schedule. Fees must be made payable to the state treasurer and submitted to the director as follows:

1. For facilities which have submitted the Part B application as described in Code of Federal Regulations, title 40, parts 122 and 264 prior to the effective date of 6 MCAR SS 4.9701-4.9706, the owner or operator shall remit payment of the appropriate fees within 60 days of the effective date of 6 MCAR SS 4.9701-4.9706, provided permits have not been issued as of the effective date of 6 MCAR SS 4.9701-4.9706.

2. For facilities which have not submitted the Part B application, the owner or operator shall remit the fee when he or she submits the application or facility plans and specifications for a new facility.

3. The owner or operator shall submit the annual facility operator's fee not later than June 30 of each year.

4. Permit reissuance fees must be submitted with the application for permit reissuance.

F. Failure to submit fees. Failure to submit fees by the required date results in the following penalties:

1. A facility application submitted without the facility

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application fee is incomplete. The director shall suspend further processing of the permit application until the appropriate fee is received by the director.

2. The facility owner or operator shall pay a late fee of 20 percent of the annual facility fee for failure to submit the appropriate fees within 30 days of the required date. An additional ten percent of the annual fee must be paid for each 30-day period or fraction thereof that the fee remains unpaid.

3. The director may commence proceedings to suspend or revoke a permit if fees are not paid within 180 days after the required date.

G. Refund of facility permit application fee. If an applicant submits an application fee for a permit and the agency issues a permit with an effective term of less than the term in the permit applied for, the agency shall refund to the applicant the application fee minus the appropriate fee in B.

If a facility operator or owner submits an application fee and then withdraws the application within 60 days of receipt by the director, the agency shall refund to the applicant 75 percent of the application fee.

6 MCAR S 4.9703 Nonmetropolitan area generator fees.

A. Basis of fees. The agency shall charge nonmetropolitan area generator fees that are based on the annual reports submitted by generators, disclosures, or other appropriate information available to the agency.

B. Small generator exemption. Nonmetropolitan area generators that generate less than ten gallons or 100 pounds of hazardous waste per year are exempt from the generator fee requirements of this rule.

C. Initial fees. Initial fees must be paid by a nonmetropolitan generator who is a new generator after the effective date of 6 MCAR SS 4.9701-4.9706, or who has failed to submit a disclosure prior to July 1, 1983, or who has added a waste not previously listed on a disclosure.

Initial fees for nonmetropolitan area generators are as follows:

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For unsewered liquid waste, the initial fee is $60 plus $40 for each additional waste stream over one.

For sewered liquid waste, the initial fee is $30.

For unsewered solid waste, the initial fee is $60 plus $40 for each additional waste stream over one.

D. Fee for previously unreported waste. If a generator adds a waste that has not been previously reported to the agency, the generator shall pay a fee of $40 to the agency for each new waste stream.

E. Annual fees. Nonmetropolitan area generators shall submit annual fees as follows:

	Annual Fee			
Waste Category	11-55 gallons per year	56-500 gallons per year	501-1000 gallons per year	1000+ gallons per year
Unsewered liquid waste	$30	$60 + $20 for each additional waste stream over one	$90 + $20 for each additional waste stream over one	$90 + $20 for each additional waste stream over one plus $12 for each additional 1000 gallons
Sewered liquid waste	All volumes - $75 per year all waste streams			

	101-550 pounds per year	551-5000 pounds per year	over 5000 pounds per year
Unsewered solid waste	$30	$60 + $20 for each additional waste stream over one	$90 + $20 for each additional waste stream over one plus $5 for each additional 5000 pounds or fraction thereof

F. Payment schedule. In the fiscal year ending June 30, 1984, a nonmetropolitan area generator shall submit fees within 60 days upon receipt of the notice from the director that the fees are due. Fees submitted later than 30 days after the due date are deemed late.

Following the first annual payment, a nonmetropolitan area generator shall remit fees according to the following schedule based on the "Standard Industrial Classification" (SIC) as

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designated in the Standard Industrial Classification Manual (1972), Executive Office of the President, Office of Management and Budget, United States Government Printing Office. If a generator has more than one SIC number, that number which occurs first in the table determines the date fees are due.

Standard Industrial Classification	Type of Activity	Date Due
29	Petroleum and coal	July 1
31	Tanning	July 1
33	Primary Metal	July 1
36	Electric machinery	July 1
49	Electric power generating	July 1
80	Health services	July 1
82	Education services	July 1
91	Government	July 1
26	Paper	October 1
28	Chemicals	October 1
34	Fabricated metal	October 1
35	Machinery (except electrical)	October 1
20	Food	January 1
22	Textiles	January 1
24	Lumber and wood	January 1
27	Printing	January 1
32	Stone, clay, and glass	January 1
40	Railroads	January 1
45	Airlines	January 1
25	Furniture	April 1
30	Rubber and plastic	April 1
37	Transportation equipment	April 1
38	Measuring instruments	April 1
39	Miscellaneous manufacturing	April 1
51	Wholesale nondurables	April 1
55	Automotive sales	April 1
75	Automotive repair	April 1
	All others not listed above	April 1

A nonmetropolitan area generator shall submit a check for the required amount to the director, made payable to the state treasurer.

G. Failure to submit fees. If a nonmetropolitan area generator fails to submit the required fees within 30 days of the due date, the generator shall pay a late fee of ten percent of the annual fee and the unpaid penalty for each 30-day period or fraction that the fee remains unpaid, up to 90 days. Beyond 90 days, the late fee is 15 percent of the annual fee and the unpaid penalty for each 30-day period or fraction that the fee remains unpaid.

6 MCAR S 4.9704 Generator surcharge.

All generators in Minnesota are subject to an annual

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surcharge equal to 17.5 percent of the annual fee. Payment must be made as follows:

A. Nonmetropolitan area generators shall pay the surcharge to the director at the time of payment of the annual fee. A nonmetropolitan area generator who fails to pay the annual surcharge is considered delinquent and subject to the late fee penalty provided in 6 MCAR S 4.9703 G.

B. Metropolitan area generators shall pay the surcharge with the license fee to the county in which the generating site is located. The metropolitan area counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington) that are responsible for collecting the surcharge shall remit the surcharge to the director not later than the last day of the month following the month of collection.

6 MCAR S 4.9705 Generator fee exemptions.

A. Waste oil exemption. Generators of waste oil are not subject to generator fees for waste oil if the waste oil is beneficially reused and does not contain hazardous wastes listed in Code of Federal Regulations, title 40, part 261, subpart D. If the director has information that the waste oil contains any listed hazardous wastes, the generator shall be subject to the appropriate fees.

B. On-site recovery, reuse, or recycle of waste. A generator who recycles, reuses, or recovers a hazardous waste stream for his own use is exempt from the generator fee for the waste stream that is recycled, reused, or recovered. Any sludges or residues from a recovery process that are hazardous are subject to the generator fee.

C. Wastes generated as a result of response action. A waste that is generated as a result of a response action is exempt from the generator fee.

6 MCAR S 4.9706 Appeal procedure.

A generator who believes that the fee requested by the director is in error may appeal the fee levy. Within ten days of receipt of the fee statement from the director, the generator

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shall provide written notice of the error in fee calculation, the fee the generator has calculated, and the method used by the generator in calculating the fee. If the director finds, upon reviewing the data, that the new data presented by the generator is correct, no penalty fee will be assessed. However, if the director finds that the original calculated fee was correct, the generator shall be assessed any applicable penalty as provided in 6 MCAR S 4.9703 G. from the date of the director's decision regarding the fee adjustment appeal.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD440

Agency: Pollution Control Agency

Division: Hazardous Waste Division

Agency Contact: Melba Hensel

Rule Numbers: 6 MCAR SS 4.9701-4.9706

Title: Proposed Rules Governing Hazardous Waste Facility and Generator Fees

Type of Rules: Permanent

Incorporations by Reference:

Rule Number:	Material Incorporated:
6 MCAR S 4.9702	Standard Industrial Classification Manual (1972)

Duplication of Statutory Language: None

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Maryanne V. Hruby
Assistant Revisor
Phone: 297-2948
Date: October 19, 1983

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 6 1984
Joan Anderson
Secretary of State
4:10 PM

APPROVED AS TO FORM AND LEGALITY
January 5 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Rules 6 MCAR §§4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules

ORDER ADOPTING RULES

Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on November 7, 1983, and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §14.14 (1982) on November 4, 1983. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, reviewing and considering the comments, and after determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED, that the rules 6 MCAR §§4.9701 through 4.9706, entitled "Hazardous Waste Facility and Generator Fee Rules" are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Laws 1983, ch. 121, §25. Dated this 20th day of December, 1983.

Cynthia C Jepsen
CYNTHIA JEPSEN
Chairperson

Sandra Gardebring
SANDRA S. GARDEBRING
Executive Director

Minnesota Pollution Control Agency
Solid and Hazardous Waste Division

Notice of Intent to Solicit Outside Opinion Regarding Rules Establishing Fee Systems for Hazardous Waste Generators and Hazardous Waste Facilities

Notice is hereby given that the Minnesota Pollution Control Agency (agency) is seeking information or opinions from sources outside the agency in preparing rules pursuant to Minnesota Laws 1983, chapter 121, section 25 which requires establishment of hazardous waste fee schedules by rule. The 1983 State Departments Appropriations Bill directs the agency to raise $794,400 in the biennium ending June 30, 1985 through the collection of fees.

The law requires establishment of fee schedules for hazardous waste facility permit application fees, annual facility operator's fees, permit reissuance fees, hazardous waste generator fees, and a generator surcharge. The facility fees should be representative of the work years of effort required by the agency to complete review of permit applications and to assure compliance of facility operations with permits and rules. The generator fees can be no higher than the fees imposed by the metropolitan counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington).

The Minnesota Pollution Control Agency requests information and comment concerning the subject of these rules.

Written technical statements and comments concerning these matters will be accepted for consideration until October 21, 1983, and should be addressed to the following.

Steven A. Reed
Solid and Hazardous Waste Division
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

Oral statements of technical information and comments will be accepted during regular business hours over the telephone at 612/296-7786 or in person at the above address.

Any written material received by the Minnesota Pollution Control Agency shall become part of the background record regarding these rules.

Department of Public Welfare
Mental Health Bureau

Notice of Intent to Solicit Outside Opinion Concerning Proposed Temporary Rules on Medical Assistance Funding for Very Dependent Mentally Retarded Persons with Special Needs

Notice is hereby given that the Minnesota Department of Public Welfare is considering draft Temporary Rules 12 MCAR §§ 2.18601-2.18607, Medical Assistance Funding for Very Dependent Mentally Retarded Persons with Special Needs. These rules will apply to Developmental Achievement Centers and Other Training and Habilitation Services, Waivered Services, and Intermediate Care Facilities for the Mentally Retarded.

Authority for these rules is contained in Laws of 1983, chapter 312, article 9.

All interested or affected persons or groups are requested to participate.

Statements of information and comment may be made orally or in writing.

Written statements of information and comment may be addressed to:

Cindy Becker
Mental Health Bureau/Division of Mental Retardation
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-6916.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Rules 6 MCAR §§4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Steven A. Reed, being duly sworn on oath deposes and says:

1. That he is the person named in the Notice of Intent to Solicit Outside Opinion (8 S.R. 655, October 10, 1983) as the person to receive comments on the Agency's intent to adopt rules concerning the above-entitled subject.

2. That no person submitted comments in response to the above-described notice.

Steven A. Reed

Subscribed and sworn to before me
this 19th day of December, 1983.

Notary Public



STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Rules 6 MCAR §§4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

It is hereby ordered this 3rd day of October, 1983, that 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 Minnesota Pollution Control Agency for that purpose and be published in the State Register.

Sandra Gardebring

SANDRA S. GARDEBRING
Executive Director

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Cynthia Jepsen, do hereby certify that I am a member and the Chairperson of the Minnesota Pollution Control Agency, an agency 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 Minnesota Pollution Control Agency duly and properly called and held on the 27th day of September, 1983, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

> BE IT RESOLVED, that Sandra S. Gardebring, the Executive Director of the Minnesota Pollution Control Agency is hereby granted the authority and directed to sign an order of the Agency directing that notice be given of the Agency's intent to adopt without a public hearing the attached rules relating to hazardous waste facility and generator fee rules, to sign the notice therof, and to perform any acts incidental thereto.
>
> Prior to publishing the proposed rules in the State Register, the Executive Director is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's certification as required in Minn. Stat. §14.07, subd. 2 (1982).

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27th day of September, 1983.

Cynthia C Jepsen
CYNTHIA JEPSEN
Chairperson

Duane A Dahlberg
Attest by one other Agency member

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Rules 6 MCAR §§4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Peggy Nickles, being duly sworn, deposes and says:

That on the 4 day of Nov, 1983, at the City of Roseville, County of Ramsey, State of Minnesota, s/he served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the United States mail for first class mailing at said City of Roseville, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Pollution Control Agency for the purpose of receiving notice of the proposed adoption of rules by the Pollution Control Agency.

Peggy Nickles

Subscribed and sworn to before me this 7th day of Nov, 1983.

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26 1985

RECEIVED
NOV 4 1983
MINN. POLLUTION CONTROL AGENCY

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Rules 6 MCAR §§4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency intends to adopt the above-entitled rules without a public hearing in accordance with the provisions of Minn. Stat. §16A.128, as amended by Minn. Laws 1983, ch. 301, §91. In accordance with that statute, the procedure for noncontroversial rules set out in Minn. Stat. §§14.21 to 14.28 (1982) will be followed, with the exception that no public hearing will be held in the event that seven or more requests for hearing are received.

Persons interested in these rules shall have 30 days, until December 7, 1983, 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.

Persons who wish to submit comments on the proposed rules should submit such comments to:

Melba Hensel
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: (612) 296-7774

Authority for the adoption of these rules is contained in Minn. Laws 1983, ch. 121, §25. 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 upon request from Ms. Melba Hensel at the address and telephone number set forth above.

A copy of the proposed rules is enclosed. Copies of this Notice and the proposed rules may be obtained from Ms. Melba Hensel at the address and telephone number set forth above.

Any person may request notification of the date on which the rule has been submitted by the Agency to the Attorney General for review. If you desire to be so notified, please make your request to Ms. Melba Hensel at the address and telephone number set forth above.

You are hereby advised, pursuant to Minn. Laws 1983, ch. 188, "Small business considerations in rulemaking," that the proposed rule amendments may have an impact on some small businesses in Minnesota which generate hazardous waste or are hazardous waste

facilities. These small businesses will be subject to the fees established in the rules.

Owners and operators of small businesses subject to facility fees should review the fee schedules to determine the impact on them. Small storage facilities which store 550 gallons (10 drums) or less of hazardous waste can expect to pay permit application fees of $500 or $1,000 and annual fees of $100 or $180, depending on whether the storage containers are located indoors or outdoors.

Initial estimates indicate that average generator fees for all non-metropolitan area generators will average $265 for the annual fee and surcharge. Because small businesses usually are small volume generators, the fees may be somewhat less. Generators outside the metropolitan area which generate less than 10 gallons or 100 pounds of hazardous waste per year are exempted from the generator fees.

More detailed information concerning the nature of the impact of the rules upon small businesses is set forth in the Agency's Statement of Need and Reasonableness.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. §10A.01, subd. 11 (1982) as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
>
> (b) Who spends more than $250 not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Dated: November 1, 1983

for Sandra S. Gardebring

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Executive Director

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STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Rules 6 MCAR §§4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules

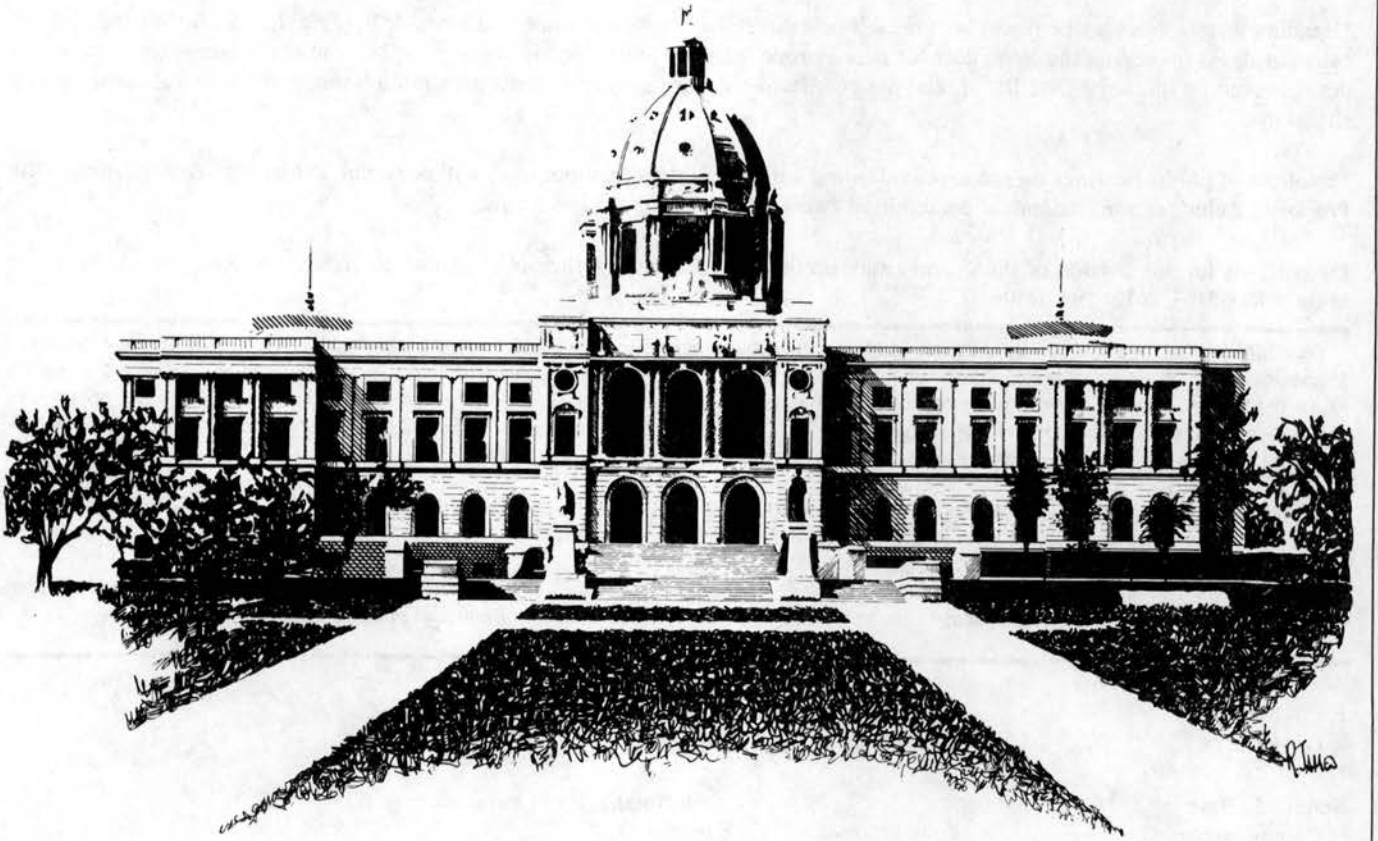
CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minn. Stat. §14.14 (1982), that their names be placed on file with the Minnesota Pollution Control Agency (Agency) for the purpose of receiving notice of the proposed adoption of rules by the Agency is accurate and complete as of 8:00 a.m., this 4th day of November, 1983.

LaRaine Bengtson

STATE REGISTER

STATE OF MINNESOTA



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November 7, 1983

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STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 8		
20	Monday Oct 31	Monday Nov 7	Monday Nov 14
21	Monday Nov 7	Monday Nov 14	Monday Nov 21
22	Monday Nov 14	Monday Nov 21	Monday Nov 28
23	Monday Nov 21	Monday Nov 28	Monday Dec 5

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION.** Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in spring of 1984. In the MCAR AMENDMENT AND ADDITIONS listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive
Issues 14-25, inclusive
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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.

Department of Administration Cable Communications Board

Proposed Rules Governing the Provision by Cable Companies Granted Access to Multiple Dwelling Complexes of Equipment with Sufficient Channel Capacity so as to Allow for Service by Alternative Providers

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Cable Communications Board proposes to adopt the above-entitled rules without a public hearing. The Cable Communications Board has determined that the adoption of these rules will not be controversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21 to 14.26 (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 substantial change in the proposed language.

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

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes sections 14.13 to 14.20 (1982).

It is requested, but not required, that if a person wishes to object to a rule, they state in their objection the rule and the number which corresponds to the rule.

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

W. D. Donaldson, Executive Director
Cable Communications Board
500 Rice Street
Saint Paul, Minnesota
(612) 296-2545

Authority for the adoption of these rules is contained in Minnesota Statutes sections 238.05 and 238.06 (1982) and in subdivision 10, section 5, chapter 329, Laws 1983. 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 W. D. Donaldson, Executive Director, Cable Communications Board, 500 Rice Street, Saint Paul, Minnesota 55103, 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 W. D. Donaldson, Executive Director, Cable Communications Board, 500 Rice Street, Saint Paul, Minnesota 55103.

A copy of the proposed rules is attached to this notice.

Comments are due not later than 4:30 p.m. December 7, 1983.

Copies of this notice and the proposed rules are available and may be obtained by contacting W. D. Donaldson, Executive Director, Cable Communications Board, 500 Rice Street, Saint Paul, Minnesota 55103.

W. D. Donaldson
Executive Director
Cable Communications Board

Rules as Proposed (all new material)

4 MCAR § 4.240 Definitions.

A. Scope. The terms used in 4 MCAR §§ 4.240-4.243 have the meanings given them in this rule.

B. Alternative providers. "Alternative providers" means other providers of television programming or cable communications services.

C. Association member. "Association member" means an individual owner of a cooperatively owned multiple dwelling complex.

D. Other providers of television programming or cable communications services. "Other providers of television programming or cable communications services" means operators of master antenna television systems (MATV), satellite master antenna television systems (SMATV), multipoint distributions systems (MDS), and direct broadcast satellite systems (DBS).

4 MCAR § 4.241 Conditions for access by alternative providers.

A. Channel capacity. Cable companies granted access to a multiple dwelling complex shall provide equipment with sufficient channel capacity to be used by alternative providers of television programming or cable communications services.

B. Technical plan approval. The cable communications company shall determine the technical plan best suited for providing the necessary channel capacity sufficient to allow access to other providers. The plan must be submitted to the property owner for approval. The owner's approval may not be unreasonably withheld. No additional compensation for evaluation of the plan may be paid or given to the property owner over and above that permitted under Laws of Minnesota 1983, chapter 329, section 5, subdivision 8.

C. Duplicate connections. The cable communications company is not required to provide equipment for connecting more than one television receiver in one dwelling unit within the multiple dwelling complex. However, the company may provide duplicate connections at its discretion.

4 MCAR § 4.242 Reimbursement.

A. Providing for alternative service. Other providers of television programming or cable communications services shall notify the cable communications company when a resident or association member occupying a dwelling unit in a multiple dwelling complex requests the services provided for by 4 MCAR §§ 4.240-4.243. After reaching agreement with the alternative service provider for reimbursement to be paid for use of the equipment, the cable communications company shall make available the equipment necessary to provide the alternative service without unreasonable delay.

B. Reimbursement determination. The amount to be reimbursed must be determined under Laws of Minnesota 1983, chapter 329, section 5, subdivision 10. The reimbursed amount must be paid in one installment for each instance of requested use. The payment may not be refunded upon subscriber cancellation of the alternative service.

C. Financial records made available. The cable communications company, upon written request, shall make available to the alternative provider financial records supporting the reimbursement cost requested.

4 MCAR § 4.243 Appeals to the board.

An interested or affected person may appeal an action taken by another person under 4 MCAR §§ 4.241-4.242 to the board using the procedure in 4 MCAR §§ 4.003-4.016.

Pollution Control Agency

Proposed Rules 6 MCAR §§ 4.9701-4.9706, Hazardous Waste Facility and Generator Fee Rules

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency intends to adopt the above-entitled rules without a public hearing in accordance with the provisions of Minn. Stat. § 16A.128, as amended by Laws 1983, ch. 301, § 91. In accordance with that statute, the procedure for noncontroversial rules set out in Minn. Stat. §§ 14.21 to 14.28 (1982) will be followed, with the exception that no public hearing will be held in the event that seven or more requests for hearing are received.

Persons interested in these rules shall have 30 days, until December 7, 1983, 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.

Persons who wish to submit comments on the proposed rules should submit such comments to:

Melba Hensel
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: (612) 296-7774

Authority for the adoption of these rules is contained in Laws 1983, ch. 121, § 25. 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 upon request from Ms. Melba Hensel at the address and telephone number set forth above.

The proposed rules are published below. Copies of this notice and the proposed rules may be obtained from Ms. Melba Hensel at the address and telephone number set forth above.

Any person may request notification of the date on which the rule has been submitted by the agency to the Attorney General for review. If you desire to be so notified, please make your request to Ms. Melba Hensel at the address and telephone number set forth above.

You are hereby advised, pursuant to Laws 1983, ch. 188, "Small business considerations in rulemaking," that the proposed

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rule amendments may have an impact on some small businesses in Minnesota which generate hazardous waste or are hazardous waste facilities. These small businesses will be subject to the fees established in the rules.

Owners and operators of small businesses subject to facility fees should review the fee schedules to determine the impact on them. Small storage facilities which store 550 gallons (10 drums) or less of hazardous waste can expect to pay permit application fees of $500 or $1,000 and annual fees of $100 or $180, depending on whether the storage containers are located indoors or outdoors.

Initial estimates indicate that average generator fees for all non-metropolitan area generators will average $265 for the annual fee and surcharge. Because small businesses usually are small volume generators, the fees may be somewhat less. Generators outside the metropolitan area which generate less than 10 gallons or 100 pounds of hazardous waste per year are exempted from the generator fees.

More detailed information concerning the nature of the impact of the rules upon small businesses is set forth in the Agency's Statement of Need and Reasonableness.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1982) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250 not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Sandra S. Gardebring
Executive Director

Rules as Proposed (all new material)

6 MCAR § 4.9701 Definitions.

A. Scope. As used in 6 MCAR §§ 4.9701-4.9706, the following words have the meanings given them.

B. Agency. "Agency" means the Minnesota Pollution Control Agency.

C. Director. "Director" means the executive director of the agency or his or her designee.

D. Facility. "Facility" means all contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units, such as one or more landfills, surface impoundments, or combinations thereof.

E. Generator. "Generator" means any person, by site, whose act or process produces a hazardous waste or whose act first causes a hazardous waste to become subject to regulation. "By site" means by each location that is not on-site in relation to another location owned or controlled by the same person.

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

G. Indoor tank. "Indoor tank" means a tank completely enclosed within a building or sheltered from the elements within a roofed structure with no fewer than three complete solid walls.

H. Injection well. "Injection well" means a shaft or pit generally of a cylindrical form, dug or bored into the earth and often walled with bricks or tubing to prevent the earth from caving in into which fluids are injected.

I. Land treatment facility. "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface. A land treatment facility is a disposal facility if the waste will remain after closure.

J. Landfill. "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

K. Nonmetropolitan area generator. "Nonmetropolitan area generator" means a generator whose hazardous waste generation site is located in a Minnesota county other than Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.

L. Operator. "Operator" means the person responsible for the overall operation of a facility.

M. On-site. "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as

opposed to going along the right-of-way. Noncontiguous property owned by the same person but connected by a right-of-way which he or she controls and to which the public does not have access is also considered on-site property.

N. Outdoor tank. "Outdoor tank" means a tank not enclosed within another structure or which is sheltered within a structure with fewer than three complete walls and which may or may not have a roof.

O. Owner. "Owner" means the owner of a facility or part of a facility.

P. Pile. "Pile" means a noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

Q. Project estimated cost. "Project estimated cost" means the cost of the entire project to complete a hazardous waste facility including the current market value of all the land interests, owned or to be owned by the facility owner, which are included in the boundaries of the project; costs of engineering and architecture for the project; expenditures necessary to begin physical construction or operation of the project; construction required to implement the project including costs of essential public service facilities; and the cost of permanent fixtures.

R. Sewered liquid wastes. "Sewered liquid wastes" means wastes that are discharged to a sewer system which is tributary to a publicly-owned treatment works or to a facility holding a National Pollutant Discharge Elimination System (NPDES) permit or State Disposal System (SDS) permit, and that are hazardous wastes at the point of generation before treatment or commingling with other wastewater which may or may not render them nonhazardous.

S. Storage. "Storage" means the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

T. Surface impoundment or impoundments. "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials which is designed to hold an accumulation of liquid hazardous wastes or hazardous wastes containing free liquids and which is not an injection well or seepage facility. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons. Impoundments may be lined with man-made materials.

U. Tank. "Tank" means a stationary device which is designed to contain an accumulation of hazardous wastes and which is constructed primarily of nonearthen materials such as wood, concrete, steel, and plastic, which provide structural support.

V. Thermal treatment. "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. "Thermal treatment" includes the processes of incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

W. Treatment. "Treatment" means any method, technique, or process, including neutralization, that is designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, so as to recover energy or material resources from the waste, or so as to render the waste nonhazardous, or less hazardous, safer to transport, store, or dispose of, or amenable for recovery, amenable for storage, or reduced in volume.

X. Unsewered liquid wastes. "Unsewered liquid wastes" means liquid hazardous wastes or hazardous wastes that contain free liquid which are not sewered liquid wastes.

6 MCAR § 4.9702 Hazardous waste facility fees.

A. Fee schedule for five-year permits. A facility owner or operator who seeks a five-year permit shall remit fees as follows:

Table 1: Hazardous Waste Facility Five-Year Permits

	Permit Application Fee	Annual Facility Operator's Fee	Permit Reissuance Fee
a. Storage			
Tanks and containers indoors			
Total capacity greater than 550 gallons	$ 750	$ 225	$ 375
Total capacity 550 gallons or less	500	100	250

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Tanks and containers outdoors			
Total capacity greater than 550 gallons	1,500	450	750
Total capacity 550 gallons or less	1,000	180	500
Piles	4,500	1,300	2,250
Surface impoundment	7,500	1,300	3,750
b. Disposal and treatment			
Surface impoundment	9,000	1,800	4,500
Treatment (not otherwise specified)	9,000	900	4,500
Thermal treatment	22,500	3,150	11,250
Land treatment	22,500	3,150	11,250
Land disposal (includes surface impoundments in which waste remains after closure)	22,500	3,150	11,250

B. Fee schedule for permits less than five-year term. The following schedule must be used to calculate the application fee for a permit term of less than five years:

Table 2: Application Fees
Permits Less than Five-Year Term

Term of Permit	Permit Application Fee
1 year	35 percent of application fee in table 1 or table 3
2 years	60 percent of application fee in table 1 or table 3
3 years	75 percent of application fee in table 1 or table 3
4 years	90 percent of application fee in table 1 or table 3

The annual facility operator's fee is the applicable fee listed in table 1 in A.

C. Combination facilities. An application fee for a facility consisting of several treatment, storage, or disposal functions must be calculated according to the following schedule for application fees and annual operator's fees:

Table 3: Combination Facilities

Facility Description	Fee Calculation	Permit Reissuance Fee
a. Thermal treatment + treatment + storage	Thermal treatment + 0.2 × fee for treatment + 0.2 × fee for storage	All facilities 50 percent of application fee as calculated according to schedule
b. Disposal + storage	Disposal + 0.2 × fee for storage	
c. Thermal treatment + storage	Treatment + 0.2 × fee for storage	
d. Disposal + thermal treatment	Disposal + 0.2 × fee for thermal treatment	
e. Thermal treatment + disposal + treatment + storage	Disposal + 0.8 × fee for thermal treatment + 0.2 × fee for treatment + 0.2 × fee for storage	
f. Disposal + land treatment	Disposal + 0.8 × fee for land treatment	
g. Land treatment + storage	Land treatment + 0.2 × fee for storage	

D. Environmental review costs. The following additional fees are required for a hazardous waste facility project that requires an environmental review under Minnesota Statutes, chapter 116D:

1. For projects that require only an environmental assessment worksheet (EAW), the fee is $200 plus 0.10 percent of the project estimated costs; and

2. For projects with a project estimated cost of less than $1,000,000, the environmental impact statement (EIS) assessed cost is 0.30 percent of the project estimated cost.

Nothing in this rule precludes the applicability of the EIS cost assessment system as described in chapter 17 of the rules of the Environmental Quality Board, 6 MCAR §§ 3.049-3.054.

E. Payment schedule. Fees must be made payable to the state treasurer and submitted to the director as follows:

1. For facilities which have submitted the Part B application as described in Code of Federal Regulations, title 40, parts 122 and 264 prior to the effective date of 6 MCAR §§ 4.9701-4.9706, the owner or operator shall remit payment of the appropriate fees within 60 days of the effective date of 6 MCAR §§ 4.9701-4.9706, provided permits have not been issued as of the effective date of 6 MCAR §§ 4.9701-4.9706.

2. For facilities which have not submitted the Part B application, the owner or operator shall remit the fee when he or she submits the application or facility plans and specifications for a new facility.

3. The owner or operator shall submit the annual facility operator's fee not later than June 30 of each year.

4. Permit reissuance fees must be submitted with the application for permit reissuance.

F. Failure to submit fees. Failure to submit fees by the required date results in the following penalties:

1. A facility application submitted without the facility application fee is incomplete. The director shall suspend further processing of the permit application until the appropriate fee is received by the director.

2. The facility owner or operator shall pay a late fee of 20 percent of the annual facility fee for failure to submit the appropriate fees within 30 days of the required date. An additional ten percent of the annual fee must be paid for each 30-day period or fraction thereof that the fee remains unpaid.

3. The director may commence proceedings to suspend or revoke a permit if fees are not paid within 180 days after the required date.

G. Refund of facility permit application fee. If an applicant submits an application fee for a permit and the agency issues a permit with an effective term of less than the term in the permit applied for, the agency shall refund to the applicant the application fee minus the appropriate fee in B.

If a facility operator or owner submits an application fee and then withdraws the application within 60 days of receipt by the director, the agency shall refund to the applicant 75 percent of the application fee.

6 MCAR § 4.9703 Nonmetropolitan area generator fees.

A. Basis of fees. The agency shall charge nonmetropolitan area generator fees that are based on the annual reports submitted by generators, disclosures, or other appropriate information available to the agency.

B. Small generator exemption. Nonmetropolitan area generators that generate less than ten gallons or 100 pounds of hazardous waste per year are exempt from the generator fee requirements of this rule.

C. Initial fees. Initial fees must be paid by a nonmetropolitan generator who is a new generator after the effective date of 6 MCAR §§ 4.9701-4.9706, or who has failed to submit a disclosure prior to July 1, 1983, or who has added a waste not previously listed on a disclosure.

Initial fees for nonmetropolitan area generators are as follows:

For unsewered liquid waste, the initial fee is $60 plus $40 for each additional waste stream over one.

For sewered liquid waste, the initial fee is $30.

For unsewered solid waste, the initial fee is $60 plus $40 for each additional waste stream over one.

D. Fee for previously unreported waste. If a generator adds a waste that has not been previously reported to the agency, the generator shall pay a fee of $40 to the agency for each new waste stream.

E. Annual fees. Nonmetropolitan area generators shall submit annual fees as follows:

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Waste Category	Annual Fee			
	11-55 gallons per year	56-500 gallons per year	501-1000 gallons per year	1000+ gallons per year
Unsewered liquid waste	$30	$60 + $20 for each additional waste stream over one	$90 + $20 for each additional waste stream over one	$90 + $20 for each additional waste stream over one plus $12 for each additional 1000 gallons
Sewered liquid waste	All volumes—$75 per year all waste streams			
	101-550 pounds per year	551-5000 pounds per year	over 5000 pounds per year	
Unsewered solid waste	$30	$60 + $20 for each additional waste stream over one	$90 + $20 for each additional waste stream over one plus $5 for each additional 5000 pounds or fraction thereof	

F. Payment schedule. In the fiscal year ending June 30, 1984, a nonmetropolitan area generator shall submit fees within 60 days upon receipt of the notice from the director that the fees are due. Fees submitted later than 30 days after the due date are deemed late.

Following the first annual payment, a nonmetropolitan area generator shall remit fees according to the following schedule based on the "Standard Industrial Classification" (SIC) as designated in the Standard Industrial Classification Manual (1972), Executive Office of the President, Office of Management and Budget, United States Government Printing Office. If a generator has more than one SIC number, that number which occurs first in the table determines the date fees are due.

Standard Industrial Classification	Type of Activity	Date Due
29	Petroleum and coal	July 1
31	Tanning	July 1
33	Primary Metal	July 1
36	Electric machinery	July 1
49	Electric power generating	July 1
80	Health services	July 1
82	Education services	July 1
91	Government	July 1
26	Paper	October 1
28	Chemicals	October 1
34	Fabricated metal	October 1
35	Machinery (except electrical)	October 1
20	Food	January 1
22	Textiles	January 1
24	Lumber and wood	January 1
27	Printing	January 1
32	Stone, clay, and glass	January 1
40	Railroads	January 1
45	Airlines	January 1
25	Furniture	April 1
30	Rubber and plastic	April 1
37	Transportation equipment	April 1
38	Measuring instruments	April 1
39	Miscellaneous manufacturing	April 1
51	Wholesale nondurables	April 1

55	Automotive sales	April 1
75	Automotive repair	April 1
	All others not listed above	April 1

A nonmetropolitan area generator shall submit a check for the required amount to the director, made payable to the state treasurer.

G. Failure to submit fees. If a nonmetropolitan area generator fails to submit the required fees within 30 days of the due date, the generator shall pay a late fee of ten percent of the annual fee and the unpaid penalty for each 30-day period or fraction that the fee remains unpaid, up to 90 days. Beyond 90 days, the late fee is 15 percent of the annual fee and the unpaid penalty for each 30-day period or fraction that the fee remains unpaid.

6 MCAR § 4.9704 Generator surcharge.

All generators in Minnesota are subject to an annual surcharge equal to 17.5 percent of the annual fee. Payment must be made as follows:

A. Nonmetropolitan area generators shall pay the surcharge to the director at the time of payment of the annual fee. A nonmetropolitan area generator who fails to pay the annual surcharge is considered delinquent and subject to the late fee penalty provided in 6 MCAR § 4.9703 G.

B. Metropolitan area generators shall pay the surcharge with the license fee to the county in which the generating site is located. The metropolitan area counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington) that are responsible for collecting the surcharge shall remit the surcharge to the director not later than the last day of the month following the month of collection.

6 MCAR § 4.9705 Generator fee exemptions.

A. Waste oil exemption. Generators of waste oil are not subject to generator fees for waste oil if the waste oil is beneficially reused and does not contain hazardous wastes listed in Code of Federal Regulations, title 40, part 261, subpart D. If the director has information that the waste oil contains any listed hazardous wastes, the generator shall be subject to the appropriate fees.

B. On-site recovery, reuse, or recycle of waste. A generator who recycles, reuses, or recovers a hazardous waste stream for his own use is exempt from the generator fee for the waste stream that is recycled, reused, or recovered. Any sludges or residues from a recovery process that are hazardous are subject to the generator fee.

C. Wastes generated as a result of response action. A waste that is generated as a result of a response action is exempt from the generator fee.

6 MCAR § 4.9706 Appeal procedure.

A generator who believes that the fee requested by the director is in error may appeal the fee levy. Within ten days of receipt of the fee statement from the director, the generator shall provide written notice of the error in fee calculation, the fee the generator has calculated, and the method used by the generator in calculating the fee. If the director finds, upon reviewing the data, that the new data presented by the generator is correct, no penalty fee will be assessed. However, if the director finds that the original calculated fee was correct, the generator shall be assessed any applicable penalty as provided in 6 MCAR § 4.9703 G. from the date of the director's decision regarding the fee adjustment appeal.

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ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 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. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

Department of Agriculture
Agronomy Services Division

Adopted Temporary Rule Governing Fees for Agricultural Seed Registration and Testing

The rule proposed and published at *State Register*, Volume 8, Number 8, pages 257-260, August 22, 1983 (8 S.R. 257) is adopted with the following modifications:

Temporary Rule as Adopted

3 MCAR § 1.0172 [Temporary] Charges for testing and identifying seed.

C. Seed fee permits. An initial labeler who wishes to sell seed in Minnesota must comply with the provisions of Laws of Minnesota 1983, chapter 293, section 48, subdivisions 1 and 2, and the procedures set in 1.-4.

3. The holder of a seed fee permit must pay fees on all seed covered by Laws of Minnesota 1983, chapter 293, sections 39 to 51 and sold during the reporting period.

a. For agricultural seed sold in containers up to 160 pounds net weight, the fees per container are as follows except for those seeds specified in b.:

(1) Less than 15-pound container, 5 cents each;

(2) 15- to 30-pound container, 7 cents each;

(3) 30- to 60-pound container, 8 cents each;

(4) 60- to 100-pound container, 9 cents each; and

(5) 100- to 160-pound container, 10 cents each.

b. For the following agricultural seed sold either in bulk or in containers ~~larger than 160 pounds net weight,~~ the fees are as follows:

(1) Oats, ~~field peas, 5~~ 3 cents per cwt.;

(2) Wheat, ~~barley, field beans, 6~~ 3 cents per cwt.;

(3) Barley, 3 cents per cwt.;

(4) Rye, ~~soybeans, buckwheat, 7~~ 3 cents per cwt.;

~~(4) Flax, vegetables grown for processing, 8 cents per cwt.;~~

(5) ~~Corn, forage grasses, millets~~ Buckwheat, ~~9~~ 3 cents per cwt.;

(6) ~~Sorghum, sunflowers, legumes~~ Field beans, ~~10~~ 7 cents per cwt.;

(7) ~~All other agricultural seeds~~ Field peas, ~~10~~ 7 cents per cwt.; ~~and~~

(8) ~~Lawn and turf grass seeds~~ Soybeans, ~~1 cent~~ 7 cents per ~~lb.~~ cwt.;

(9) Flax, 7 cents per cwt.; and

(10) Vegetables grown for processing, 7 cents per cwt.

Department of Public Welfare
Social Services Division

Adopted Rules Governing the Administration and Provision of Protective Services to Children through Local Social Service Agencies

The rule proposed and published at *State Register*, Volume 7, Number 25, pages 944-946, December 20, 1983 (7 S.R. 944) is adopted with the following modifications:

Rule as Adopted

12 MCAR § 2.207 Protective services to children—adopted.

C. Administration and organization of protective service program.

1. Local social service agency responsibility in the delivery of child protective services.

k. Records relating to reports made pursuant to Minnesota Statutes, section 626.556.

(3) If upon initial assessment, a report is determined to be unsubstantiated, the subject of the report shall be notified in writing of the report's classification, the agency's intent to destroy the records relating to the report, and the subject's right to ~~review~~ have the records maintained as private data, except that the name of the reporting party shall remain confidential and shall be disclosed only upon court order. If no request ~~for access~~ to maintain the records is made by the subject within 30 days of the mailing of the notification, the records shall be destroyed.

(4) If upon assessment a report is classified as unable to substantiate by the local social service agency, the records relating to the report may be kept for one year. If, after one year, neither the local social service agency nor the law enforcement agency is able to substantiate the report, the subject shall be notified in writing of the report's classification, the agency's intent to destroy the records, and the subject's right to ~~review~~ have the records maintained as private data, except that the name of the reporting party shall be disclosed only upon court order. If no request ~~for access~~ to maintain the records is made by the subject within 30 days of the mailing of the notification, the records shall be destroyed.

Department of Revenue
Income Tax Division

Adopted Repeal of an Income Tax Rule Relating to Individual Housing Accounts

The rule proposed for repeal and published at *State Register*, Volume 8, Number 8, pages 292-293, August 22, 1983 (8 S.R. 292) is repealed as proposed.

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OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Minnesota Job Skills Partnership

Notice of Board of Directors Meeting

Notice is hereby given of a Board of Directors meeting of the Minnesota Job Skills Partnership. The meeting will be held on Monday November 14, 1983 beginning at 1:00 P.M. in Room 130 of the State Capitol, Aurora Avenue, St. Paul, MN.

For further information contact:

Monica Manning
Minnesota Job Skills Partnership
Room 101
Capitol Square Bldg.
550 Cedar St.
St. Paul, MN 55101
612 / 296-1755

Minnesota State Advisory Council for Vocational Education

Notice of Public Hearing on Vocational Education and Notice of Council Meeting

Notice of Public Hearing. The Minnesota State Advisory Council for Vocational Education (MN/SACVE) will conduct a public hearing on Wednesday, November 16, 1983 at 7:00 p.m. at the Central Administration Building Auditorium, 611 West Fifth Street, Willmar, Minnesota. The purpose of the hearing is to obtain testimony from the public on issues related to vocational education in Minnesota. The public is welcomed and encouraged to participate. Inquiries may be directed to the Council Offices at 612/377-6100.

Notice of Council Meeting. The Minnesota State Advisory Council for Vocational Education (MN/SACVE) will meet at 10:00 a.m. on Thursday, November 17, 1983 at the Willmar Area Vocational Technical Institute, Willmar, Minnesota. The public is welcomed. Inquiries regarding the meeting may be directed to the Council Offices at 612/377-6100.

Office of the Secretary of State

Annual Compilation of State Agencies: Notices of Vacancies (Application and Appointment Procedure)

The Secretary of State publishes herewith information about state agencies pursuant to Minn. Stat. 15.0597, subd. 3.

Furthermore, pursuant to Minn. Stat. 15.0597, subd. 4, notice is hereby given to the public that vacancies in this agency now through January, 1984, are indicated by an asterisk (*). Application forms may be obtained at the Office of the Secretary of State, Open Appointments Section, 180 State Office Building, St. Paul, MN 55155-1299; (612) 296-2805. Application deadline is November 29, 1983.

ARCHITECTURE, ENGINEERING, LAND SURVEYING AND LANDSCAPE ARCHITECTURE BOARD: 162 Metro Square Bldg., St. Paul 55101; (612) 296-2388; (M.S.326.04).

Licenses and regulates architects, engineers, land surveyors and landscape architects. Seventeen members, appointed by the Governor, include: 3 licensed architects, 5 licensed engineers, 1 licensed landscape architect, 2 licensed land surveyors and 6 public members. Members must file with EPB; not more than 1 member may be from the same branch of the engineering profession. Each professional member must have 10 years experience in their profession and have been in responsible charge of work for at least 5 years. Meetings four times a year; members receive $35 per diem plus authorized expenses.

Current members:

G. Leigh Morrow, chr., 5 Saratoga Lane, Plymouth 55441; (612) 544-5587; electrical engineer; (6/83-1/87); Hennepin; CD3; LD45; M; IR; W.

Frederick J. Bentz, 25 Greenway Gables, Mpls. 55403; (612) 332-6811; architect; (7/81-1/85); Hennepin; CD5; LD56A; M; IR; W.
*Elaine M. Fink, 8701 Westmoreland Lane, St. Louis Park 55426; (612) 545-1161; (4/80-1/84); public member; Hennepin; CD3; LD41A; F; W.
Preston C. Haglin, 4383 Wooddale Ave., Mpls. 55424; (612) 922-0436; civil engineer; (3/82-1/86); Hennepin; CD3; LD41D; M; IR; W.
William V. Jokela, 10554 Sheridan Ave. S., Bloomington 55431; (612) 881-1318; metallurgical engineer; (7/81-1/85); Hennepin; CD3; LD38B; M; IR; W.
David A. Kirscht, 224 Oakwood Road, Hopkins 55343; (612) 935-0663; (3/82-1/86); Hennepin; CD3; LD40B; M; IR; W.
*Bernard H. Larson, 1306 W. 20th St., Hastings 55033; (612) 437-2769; (4/80-1/84); land surveyor; Dakota; CD1; LD52; M; W.
John D. Mohn, R.R. 1, Red Wing 55066; (612) 388-6383; public member; (7/81-1/85); Goodhue; CD1; LD25B; M; IR; W.
*John W. Pearson, 201 Crestway Lane, W. St. Paul 55118; (612) 451-0063; chemical engineer; (12/78-1/84); Dakota; CD1; LD67A; M; IR; W.
George Rozsnafszky, 2300 Humboldt Ave. S., Mpls. 55405; (612) 377-2302; public member; (7/81-1/85); Hennepin; CD5; LD56; M; IR; W.
*Donald E. Stanius, 168 W. Austin St., Duluth 55803; (218) 724-0137; (4/80-1/84); architect; St. Louis; CD8; LD8B; M; IR; W.
John F. Sweet, 315 Highland Drive, Hibbing 55746; (218) 262-5955; mechanical engineer; (3/82-1/86); St. Louis; CD8; LD6; M; IR; W.
Anthony Martinez, 11109 Zebulon Pike, Burnsville 55337; (612) 890-0419; public member; (6/83-1/87); Dakota; CD3; LD38A; M; DFL; H.
Maureen A. Keating, 2871 Humboldt Ave. S., #6, Mpls. 55408; (612) 824-6902; public member; (6/83-1/87); Hennepin; CD5; LD59; F; DFL; W.
George Mitchell, 3343 Portland Ave. S., Mpls. 55407; (612) 348-8858; public member; (6/83-1/87); Hennepin; CD5; LD60B; M; AI.
Rudolph W. Monson, 2704 Exhibition Dr., Duluth 55811; (218) 722-9470; land surveyor; (6/83-1/87); St. Louis; CD8; LD7A; M; DFL; W.
Robert Lee Morgan, 4740 12th Ave. S., Mpls. 55407; (612) 224-1358; architect; (6/83-1/87); Hennepin; CD5; LD61B; M; DFL; B.

Minnesota Pollution Control Agency

Notice of Change of Public Meeting Regarding a Revision to Minnesota's State Implementation Plan

Notice is hereby given that the public meeting announced in the *State Register* of October 24, 1983, is changed to December 20, 1983, starting at 9:00 a.m. in the board room of the Minnesota Pollution Control Agency, located at 1935 West County Road B-2, Roseville, Minnesota, 55113. An agenda for the meeting will be available by December 9, 1983, and may be obtained from Jeanine Willenbring at the address noted above or at 612/296-7351.

October 27, 1983

Sandra S. Gardebring, Executive Director

Transportation Regulation Board

Notice of Intent to Solicit Outside Opinion Regarding New Rules to Implement Collective Ratemaking Procedures for Motor Carriers

Notice is hereby given that the Minnesota Transportation Regulation Board (Board) is seeking information or opinion from sources outside the agency in preparing to promulgate new rules to implement the collective ratemaking procedures ordered by Minn. Laws 1983, Ch. 256. Comments are sought on whether and how the rules should address collective ratemaking agreements, jointly-filed tariffs and independent action, and the filing requirements, notice procedures, and standards for approval of such matters.

Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statement should be addressed to:

Jerome Pedersen
Transportation Rate Director
Minnesota Transportation Regulation Board
795 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Oral comments, suggestions or questions will be received during regular business hours over the telephone by Mr. Pedersen at (612) 296-2349 and in person at the above address.

Pursuant to Minn. Laws 1983, Ch. 188, the concerns and opinions of small businesses are particularly solicited since many rate regulated motor carriers as well as shippers and receivers of freight are small businesses.

All statements of information, comment and suggestion will be received until December 15, 1983. Any written material received by the Board will become part of the record in the event that any rules are proposed for adoption.

Roger Laufenburger, Chairman

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Public Safety
State Patrol Division

Notice of Request for Proposals for Police Supervision Training

The Minnesota State Patrol is seeking a training institution to conduct a one-week (35-hour) "Development and Supervision of Field Training Officer Program" course for first line supervisory and middle management level officers from state and local police agencies.

This course will address those topics necessary to develop F.T.O. Programs and to improve the effectiveness of existing field training programs conducted by police agencies for new recruits through more effective supervision.

Course content will include, but not be limited to, elements of field training concepts, legal aspects, performance evaluation, adult learning, and the coaching process.

This project will be presented at a location provided by the State Patrol and under contract. It is outlined in the request for proposal (RFP) "Development and Supervision of the Field Training Officer Program". The formal RFP may be obtained by calling or writing:

Captain Roger W. Lenz
Director of Training
Minnesota State Patrol
1900 West County Road I
New Brighton, Minnesota 55112
Telephone: (612) 636-4990

The ceiling price for this course is $8,000. The deadline for submission of proposals is 4:30 p.m., December 1, 1983.

Revenue Department

Notice of Request for Proposal for Consulting Service for a Management Development Project

The Minnesota Department of Revenue is seeking proposals from qualified management consultants to assist in the development of a Comprehensive Management Improvement Plan to encompass all departmental operations. The Management Plan should include analysis of the present condition, should be supported by research data, and should include recommendations for improvement in the areas of management practices, organizational structure, and staffing.

Work by the consultant will include: 1) a comprehensive Management Improvement Plan which includes recommendations which will lead to improved efficiencies in the activities required to be carried out by the Department of Revenue, dates for accomplishing the changes and designation of the Revenue staff accountable for implementing the recommendations; 2) conducting team building exercises for managers in the Department of Revenue; and 3) coaching managers in the department throughout the process of implementing the recommendations.

It is in the Revenue Department's interest that the entire project be completed in the shortest practical time.

The Management Improvement Plan should be completed within 60 days of the project start date. This period should be referred to as the "Planning Phase".

An "Implementation Phase" will follow and should be in accord with the portion of the plan that specifies "dates for accomplishing". This phase should also include the team building and coaching portions of the work.

Proposal Content

Vendor proposals should be in the following format:

Section I—Statement of understanding of the project scope and objectives.

Section II—Description of the workplan to accomplish the project objectives.

Section III—Description of the work product to be provided from each phase of the work.

Section IV—Description of qualifications and relevant experience of the firm and those specific consultants that will be assigned to the project. Resumes should also be furnished.

Section V—Staffing plan for the completion of each phase of work, including the roles and time commitment of each participant. If a subcontractor is to be used to perform any portion of the work, a complete statement as to the role and qualifications of the subcontractor firm or individual must be included. There should be a statement as to the necessary resource commitment of the Revenue Department in the development each phase of the project.

Section VI—A schedule of fees and reimbursement for expenses by key individuals assigned to each phase of the project (support staff may be grouped into classes) with a maximum total cost for each phase.

Evaluation Criteria

Proposals will be evaluated by the department based on:

1) The degree of understanding of the department's situation and needs as shown in the proposal Section I.

2) The experience and success that the consultant has demonstrated in developing similar organizational development interventions.

3) Information that has been provided as to the consultant's understanding of, and experience in, the Minnesota State Government environment.

4) The responsiveness of the consultant to the department's timing needs, including the estimated completion dates for each phase of the project.

5) The consultant's stated requirement for Department of Revenue resource commitment including requirements for Revenue Staff involvement.

6) The total estimated cost for each phase of the project.

7) Consideration will be given to the consultant firm's strength of resources and experience and to the consultant's strong local base for continued support to the project.

In the event that there are numerous applicants for consideration for this project, there may be an initial reduction of contenders to approximately three who may then be invited for an interview at which time one will be selected. The initial reduction will be based on the collective judgement of a selection committee after reviewing data submitted by the responding consultants.

The department reserves the right to reject any or all bids.

Date of Required Submission

Proposals must be received by the Department of Revenue prior to 4:30 p.m. Friday, November 25, 1983.

Inquiries and proposals should be directed to:

George W. Winter
Deputy Commissioner
Department of Revenue
202 Centennial Building
St. Paul, Minnesota 55145
PHONE—(612) 296-3403

SUPREME COURT

Decisions Filed Wednesday, October 19, 1983

Compiled by Wayne O. Tschimperle, Clerk

C1-83-1284 Michael Escobedo, Petitioner, v. The Honorable Allen Oliesky, Judge of District Court, Respondent.

Juvenile who is certified for prosecution as an adult and then convicted is entitled to credit against his sentence for time spent in the juvenile detention center awaiting certification for prosecution as an adult.

Remanded. Amdahl, C.J.

Decisions Filed Friday, October 28, 1983

C7-83-429, C7-83-432 Patricia Ann (Kelly) Leahy, Respondent, v. St. Mary's Hospital and Fidelity and Casualty Company of New York.

Minn. Stat. § 176.101, subd. 3(45) (1957), in effect when the employee sustained a work-related back injury, governs her entitlement to retraining benefits. Minn. Stat. § 176.102, subd. 11 (1982), governs the duration and amount of the benefits.

Affirmed in part, reversed in part, and remanded. Simonett, J.

C4-83-209 In Re the Marriage of: Sandra R. Gordon, Petitioner, v. Stephen D. Gordon, Respondent.

1. The presumption in favor of the custodial parent's removal decision extends to cases of joint legal custody.

2. The county court properly granted the motion of the custodial parent to remove the parties' minor children from this jurisdiction.

Reversed and remanded. Wahl, J.

Dissenting, Peterson, J., Yetka, J., and Scott, J.

C4-81-1100 In the Matter of the Petition for Disciplinary Action against Walter D. Weyhrich, a Minnesota lawyer.

1. A lawyer's gross neglect of client affairs, failure to communicate with clients and essentially abandoning the handling of client affairs, failure to make scheduled court appearances without excuse, conducting bad faith litigation, and failure to cooperate with the Lawyers Professional Responsibility Board warrant disbarment.

2. A claim of mitigation warranting a lesser sanction than disbarment because of psychological disability must be established by clear and convincing evidence.

Disbarred. Per Curiam.

Errata

At S.R. 813 (October 24, 1983) the Minnesota Pollution Control Agency published proposed amendments to the rules governing hazardous waste treatment, storage and disposal facilities. Please make the following corrections.

S.R. 813, line 49 of 4.9322: "Behrens" not "Behrns"

S.R. 814, line 1: "Chapter" not "Chatper"

S.R. 814, line 2 of 4.9280 B.: "lieu" not "leu"

S.R. 814, line 1 of 4.9280 C.7.: "combustion" not "combusiton"

S.R. 815, line 1 of 4.9281 D.: "possibility" not "possiblity"

S.R. 815, line 8 of 4.9281 D.2.: "Unauthorized" not "unauthorized"

S.R. 821, line 2 of 4.9289 D.: "explosion" not "exploision"

S.R. 821, line 1 of 4.9289 E.: "facility has had" not "facility had had"

S.R. 827, line 12 of Exhibit 4.9297 F.2.-1: "octahydro-1, 4-endo," not "octahydro-a, 4-endro,"

S.R. 827, line 18 of Exhibit 4.9297 F.2.-1.: "2,4,5-Trichlorophenoxypropionic acid" not "2,4,5-Trichlorophenoxy-propinoic acid"

S.R. 833, line 2 of 4.9297 L.8.: "point of compliance" not "point or compliance"

S.R. 833, line 2 of 4.9297 L.9.: "other" not "~~other~~"

S.R. 837, line 1 of 4.9301 A.3.: "period" not "priod"

S.R. 839, line 2 of 4.9304 B.3.: "which, consistent" not "which consistent"

S.R. 839, line 3 of 4.9305 A.: "4.9317 G." not "4.9317 F."

S.R. 851, line 4 of 4.9308 D.7.: "post-closure cost" not "post-closure"

S.R. 854, line 2 of 4.9308 F.13.: "owner" not "owners"

S.R. 857, line 4 of 4.9310 B.3.: "bond;" not "bonds;"

S.R. 859, line 3 of 4.9310 D.9.: "date, the" not "date. The"

S.R. 863, line 1 of 4.9312 B.4.a.: "$10,000,000 or more" not "$10,000,000 ro more"

S.R. 866, line 2 of Exhibit 6 MCAR § 4.9314 A.1.-1. Section 6.: "between principal and income" not "between policies and income"

S.R. 866, line 3 of Exhibit 6 MCAR § 4.9314 A.1.-1. Section 7.b.: "by the Trustee" not "by the Trustees"

S.R. 869, line 1: "that it was so affixed by order of the Board of Directors of said" not "that it was so affixed to the instrument is the corporate seal; that it was so affixed by order of the Board of Directors of said"

S.R. 870, line 39: "Bond premium: $_____" not "Bond premium: _____"

S.R. 875, Exhibit 6 MCAR § 4.9314 F.-7., Alternative II 2., 3., and 4: delete $.

S.R. 875, Exhibit 6 MCAR § 4.9314 F.-7., Alternative II 5.: "*5." not "5."

S.R. 878, line 2 of Exhibit 6 MCAR § 4.9314 G.8. Part B., Alternative II 1.: "above)" not "above"

S.R. 878, Exhibit 6 MCAR § 4.9314 G.8. Part B., Alternative II 4., 5., and 6.: delete $.

S.R. 879, line 3 of Exhibit 6 MCAR § 4.9314 H.-9.: "the state of" not "the state or"

S.R. 881, line 2 of 4.9314 J.: "worded" not "worked"

S.R. 902, line 4 of 4.4321 D.1.: "Win-Wout" not "Win=Wout"

S.R. 904, line 1 of 4.9321 F.6.: "waste feed" not "waste fee"

S.R. 905, line 7 of Exhibit 4.9322-1.:

$$\text{“}\bar{x} = \frac{X_1 + X_2 \ldots X_n}{n}\text{”} \quad \text{not} \quad \text{“}\bar{x} = \frac{X_1 + X_2 \ldots Xn}{\quad}\text{”}$$

S.R. 905, line 10 of Exhibit 4.9322-1.: "S^2" not S_2"

S.R. 905, line 17 of Exhibit 4.9322-1.:

$$\text{“}t^* = \frac{Xm - X_B}{\sqrt{\frac{S_m^2}{n_m} + \frac{S_B^2}{n_B}}}\text{”} \quad \text{not} \quad \text{“}t^* = X_m - \bar{X}_B \Big/ \sqrt{\frac{S_m^2}{n_m} + \frac{S_B^2}{n_B}}\text{”}$$

S.R. 905, line 39 of Exhibit 4.9322-1.: "If t* is less than t_c" not "If t* is equal to or larger than t_c"

S.R. 909, line 2 of 4.9382 E.: "for malfunctions" not "or malfunctions"

S.R. 909, line 2 of 4.9382 E.3.: "deterioration or" not "deterioration of"

S.R. 912, line 2 of 4.9386 B.: "release to" not "release of"

S.R. 917, line 1 of 4.9394 D.: "4.9382 E." not "4.9381 E."

S.R. 919, line 2 of 4.9397 E.1.: "4.9398 D.3." not "4.9398 D.2."

S.R. 919, line 4 of 4.9397 F.1.: "chain of custody" not "chain on custody"

S.R. 946, line 1 of 4.9415 D.: "where possible" not "where present"

At 8 S.R. 734, (October 24, 1983) The Minnesota Pollution Control Agency published proposed amendments to the rules governing generators of, and the identification, transportation and management of hazardous waste. Please make the following corrections.

S.R. 748, line 2 of 4.9128 B.6.b.: "o-dichlorobenzene" not "o-dichloro-benzene"

S.R. 764, line 25, P033: "Chlorine cyanide" not "Chlorine Cyanide"

S.R. 764, line 39, P040: "O,O-Diethyl O-pyrazinyl phosphorothioate" not "O,O-Diethyl 0-pyrazinyl phosphorothioate"

S.R. 765, line 31, P060: "endo-dimethanonaphthalene" not "endo-dimethano-naphthalene"

S.R. 766, line 9, P059: "4,7-Methano-1H-indene, 1,4,5,6,7,8,8-hep-tachloro-3a,4,7,7a-tetrahydro-" not "4,7-Methano-1H-indene, 1,4,5,6,7,8,8-hep-tachloro-3a,4,7,7a-tetrahydro-"

S.R. 766, line 38, P047: "Phenol" not Pheonl"

S.R. 766, line 39, P020: "Phenol" not "Pheonl"

S.R. 767, line 9, P089: "Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl) ester" not "Phosphorothioic acid, O,O-diethyl O-(p-ni-trophenyl) ester"

S.R. 768, line 36, U187: "Acetamide, N-(4-ethoxyphenyl)" not "Acetamide, N-(r-ethoxyphenyl)"

S.R. 777, line 15, U111: "N-Nitrosodi-N-propylamine" not "N-Nitrosodi-n-propylamine"

S.R. 780, line 7, U235: "Tris (2,3-dibromopropyl) phosphate" not "Tris (2,3-dibromopropy) phosphate"

S.R. 781, line 23, K001: "benz(a)-anthracene" not "benz (a) anthracene"

S.R. 781, line 25, K002: "Hexavalent chromium" not "Hexavelant chromium"

S.R. 783, line 10, K073: "Tetrachloroethylene" not "tetrachloro-ethylene"

S.R. 789, line 36: "Selenious acid" not "Seleious acid"

S.R. 789, line 37: "Selenium" not "Seleium"

S.R. 794, line 1 of 4.9210 E.7.a: "accept" not "accpt"

S.R. 796, line 1 of 4.9211 C.8.b.: "identification" not "identificatoin"

S.R. 810, line 3 of 4.9560 B.3.: "revision to 6 MCAR . . ." not "revision ty 6 MCAR . . ."

STATE OF MINNESOTA

State Register and Public Documents Division
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This Week—weekly interim bulletin of the House. Contact House Information Office.

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Rules 6 MCAR §§4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 20th day of December, 1983. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness and the written comments submitted to the Agency, after considering all of the evidence adduced upon the records, files and proceedings hereing, the Agency, being fully advised in the premises, hereby adopts the following Finidngs of Fact and Conclusions.

FINDINGS OF FACT

1. The Agency published its notice of intent to adopt the above-captioned rules, together with the proposed rules, in the State Register on November 7, 1983 (8 S.R. 1071).

2. On November 4, 1983, the Agency gave the same notice by United States mail to all persons who have registered their names with the Agency pursuant to Minn. Stat. §14.14 (1982).

3. The notice of the Agency's intent to amend the rules afforded all interested persons 30 days to submit data and views on the proposed rules. The notice was in all respects in compliance with the requirements of Minn. Stat. §14.22 (1982) and

Minn. Stat. §16A.128 as amended by Minn. Laws 1982, ch. 301, §91.

4. The Agency prepared a Statement of Need and Reasonableness and made it available to the public upon the date of mailing of the notice of intent to adopt the rules.

5. The 30 day comment period, as set out in the notice, expired on December 7, 1983.

6. During the comment period, the Agency received 9 written comments.

7. The Agency finds that one modifications to the proposed rules is supported by the data and views submitted to the Agency within the comment period. Specifically, the Agency received a comment concerning the language of 6 MCAR §4.9701 S., which contains the definition of "storage." As proposed the definition was as follows:

> "Storage" means the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere."

The comment was made that the use of the term "temporary period" was unclear. This problem can be addressed by amending the definition as follows:

> "Storage" means the holding or accumulation of hazardous waste for a temporary period at the end of which the waste is treated, disposed of, or stored elsewhere.

✓p.3

This amendment clarifies the Agency's intent because the proposed Agency rules governing hazardous waste (6 MCAR §4.9216 A.1.) requires a permit for the accumulation of hazardous waste for more a period

more a period of more than 90 days. Therefore this amendment is needed and reasonable.

8. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the amendments to the rules. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely and adequate notice of the intent to adopt amendments to the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modification to the proposed rules is supported by the data and views submitted to the Agency within the comment period and does not result in a substantial change in the proposed rules.

MINNESOTA POLLUTION CONTROL AGENCY

Cynthia C Jepsen

Cynthia Jepsen
Chairperson

Sandra Gardebring

Sandra S. Gardebring
Executive Director

Dated: December 20, 1983

CERTIFICATE OF AGENCY'S RESOLUTION ADOPTING RULES

I, Cynthia Jepsen, do hereby certify that I am a member and the Chairperson of the Minnesota Pollution Control Agency, an agency 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 Minnesota Pollution Control Agency duly and properly called and held on the 20th day of December, 1983, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

BE IT RESOLVED, that the Minnesota Pollution Control Agency hereby approves and adopts 6 MCAR §§4.9701 - 4.9706, Hazardous Waste Facility and Generator Fee Rules, as attached, pursuant to the authority vested in the Agency by Minn. Laws 1983, ch. 121, §25.

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Executive Director is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's Certificate as required by Minn. Stat. §14.08 (1982).

BE IT FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact and Conclusions and Order Adopting Rules.

BE IT FURTHER RESOLVED, that the Chairperson and the Executive Director are hereby authorized to execute the above-named documents.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 20th day of December, 1983.

Cynthia C. Jepsen
CYNTHIA JEPSEN
Chairperson

Janet C. Green
Attest by one other Agency member

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Adoption of 6 MCAR §§4.9701-4.9706, Hazardous Waste Facility and Generator Fee Rules

STATEMENT OF NEED AND REASONABLENESS

I. Introduction

The Minnesota Pollution Control Agency (Agency) was directed by the 1983 Minnesota Legislature to establish fees "to cover the amount appropriated by the general fund to the Agency for permitting, monitoring, inspection, and enforcement expenses of the hazardous waste activities of the Agency. (Minnesota Laws 1983, Chapter 121, Section 25 to be codified as Minnesota Statute 116.12.) The relevant portion of the law is set forth in Exhibit 1.

Under the proposed rules, hazardous waste treatment, storage, and disposal facilities will be subject to an original permit application fee, a permit renewal fee, and an annual facility operator's fee. Non-metropolitan area hazardous waste generators will pay an initial fee and an annual fee based upon the volume of waste generated. All generators in Minnesota are subject to a 17.5 percent surcharge.

The rules set the amount for the fees and provide a mechanism for their collection. Also included are provisions for recovering a portion of costs incurred for environmental review of proposed new hazardous waste facilities. Penalty provisions are included for late payment or failure to pay the required fee.

The Agency proposes to adopt these rules according to the

procedure for noncontroversial rulemaking provided in Minnesota Statute, Sections 14.21 through 14.28, except that no public hearing will be held in the event that seven or more requests for a public hearing are received as is the usual case. The legislature has specifically provided that no public hearing is required to be held on these rules. Minnesota Laws 1983, Chapter 121, Section 25 provides, in relevant part:

> The Agency shall establish the fees provided in subdivisions 2 and 3 in the manner provided in Section 16A.128 to cover the amount appropriated from the general fund to the Agency for that year for permitting, monitoring, inspection, and enforcement expenses of the hazardous waste activities of the Agency.

(Emphasis supplied.)

Minnesota Statute, Section 16A.128, recently amended by Minnesota Laws 1983, Chapter 301, Section 91, requires these fees to be set by rule. The manner in which they are to be set by rule is found in subdivision 2 of the statute, which provides in relevant part:

> Fee adjustments authorized under this section may be made pursuant to the procedure for noncontroversial rules in Sections 14.21 to 14.28, but without a public hearing, which the notice of intention to adopt the rules must state when the total fees estimated to be received during the fiscal biennium will not exceed the sum of all direct appropriations, indirect costs, transfers in, and salary supplements for that purpose for the biennium.

(Emphasis supplied.)

Seven drafts of the rules were prepared in July, August and September 1983. An effort was made by the Agency staff to solicit

outside comments on the draft rules. Copies were sent to the seven metropolitan counties, the Metropolitan Inter-County Association, the Minnesota Association of Commerce and Industry, the Outdoors Committee, and the Minnesota Waste Management Board. Several interested persons attended the meetings of the Rules Committee of the Agency on August 22 and September 8, 1983. In addition, interested persons appeared before the Agency Board at its September 27, 1983 meeting. During the entire process, the Agency staff has attempted to address the comments from the Agency Committee as well as those from outside persons.

A part of the administrative requirement for the rulemaking process is review and approval of the fee schedules in the rules by the Minnesota Commissioner of Finance. The approval dated October 10, 1983, is Exhibit 2.

II. Statement of Need

The need to adopt the proposed rules arises from the fact that the Agency is going through a period of rapid growth in the hazardous waste regulatory program. In its 1983 biennial budget request the Agency asked for an appropriation to fund additional staff for the hazardous waste program. The governor supported the request provided that the additional expenditures be offset by imposing fees on regulated hazardous waste activities. The 1983 legislature agreed that the regulated community should bear a portion of the financial burden involved with routine

activities of the hazardous waste regulatory program, including permitting, inspection, and enforcement, and enacted Minnesota Laws 1983, Chapter 121, Section 25.

III. Statement of Reasonableness

The proposed rules are reasonable because they are aimed at the legislature's objective that the Agency collect from persons generating and handling hazardous waste a portion of the administrative costs of regulating hazardous waste activities. The fee amounts established by the rules are reasonably related to the objective of collecting the $794,400 which the legislature required the Agency to collect. This is shown by the revenue estimates that the Agency has done based on the proposed rules.

The Agency has made estimates of the revenues which it is likely to collect from the two different types of fees established by the rules: 1) hazardous waste facility fees, and 2) hazardous waste generator fees. The two revenue estimates are discussed below.

The Agency has apportioned its fees according to the relative amount of administrative effort involved in various aspects of the regulation of hazardous waste. Based on past experience, the Agency estimates that of the work years involved in the hazardous waste program effort, over half are devoted to hazardous waste facility permitting and permit enforcement. Therefore, the Agency's objective in setting its fees was to collect over half

of the $794,400 from hazardous waste facility fees and to collect the remainder from hazardous waste generator fees.

Establishing appropriate fee schedules for hazardous waste facility fees involved estimating the number and type of hazardous waste facilities from which fees could be collected. Estimates of the number of hazardous waste facilities in Minnesota that will need hazardous waste permits necessarily involves uncertainty because the number is subject to change. Originally, the U. S. Environmental Protection Agency (EPA) identified 193 facilities in Minnesota. However, numerous facilities have been or will be removed from the list due to facility closure, change in company waste management practices in response to more stringent hazardous waste regulations, and exemptions from permitting requirements pursuant to the Agency's proposed amendments to its hazardous waste rules. The Agency's best estimate is that 125 facilities in Minnesota will be subject to permitting requirements during the 1984-1985 biennium.

The Agency estimates that it will recover $455,560 in the next biennium from original permit application fees and annual facility operator's fees, which amounts to over half of the $794,400 total to be collected. The breakdown of these estimates is shown below:

ESTIMATED REVENUES, ORIGINAL PERMIT APPLICATION AND ANNUAL FACILITY OPERATOR FEES

Permit Fees	FY 84	Number of Facilities	FY 85	Number of Facilities	Biennium
Storage	$13,500	9	$22,500	15	$36,000
Treatment & storage	$18,600	2	$65,100	7	$83,700
Thermal treatment & storage	$45,600	2	$45,600	2	$91,200
Disposal & storage	--	-	$22,800	1	$22,800
SUBTOTAL	$77,700	13	$156,000	25	$233,700
Annual Fees	$110,930	125	$110,930	125	$221,860
TOTAL	$188,630		$266,930		$455,560

The Agency also estimated the amount of revenue that would be generated by the hazardous waste generator fees. Pursuant to the proposed 6 MCAR §4.9704, this involved estimating revenues from non-metropolitan area generator fees, the surcharge on non-metropolitan area generators, and the surcharge on metropolitan area generators. The Agency estimates that these fees will generate $339,889. The breakdown of these estimates is shown below:

ESTIMATED REVENUES, HAZARDOUS WASTE GENERATOR FEES

	FY 84	Number of Facilities	FY 85	Number of Facilities	Biennium
Non-metro area fees	$113,000	549	$120,000	586	$233,000
Non-metro surcharge	$19,775	549	$21,000	586	$40,775
Metro surcharge (17.5 percent of 1983 est.)	$33,057		$33,057		$66,114
TOTAL	$165,832		$174,057		$339,889

The sum of the estimate of revenues from hazardous waste facility fees and the estimate of revenues from hazardous waste generator fees is $795,449, which is slightly over the total sought to be collected. However, given the fact that there are several uncertainties involved in the estimates, and given the possibility that not all fees will successfully be collected, it reasonable to set the fees at the levels proposed in the rule.

The fees proposed to be established in the rules reflect the fact that the amount of time necessary to review documents relating to hazardous waste facilities and generators varies according to the complexity of the facilities or wastes involved. This fact makes it reasonable to establish different fee levels for different types of facilities and generators. Therefore the Agency has not simply taken the amount of money to be collected and divided it by the number of expected

administrative actions, but rather has apportioned the fees according to the estimated amount of administrative attention each action must be given. This approach is reflected in the fee schedules established in the rule.

The following discussion addresses the reasonableness of the specific provisions of 6 MCAR §§4.9701 through 4.9706.

6 MCAR §4.9701 Definitions

This rule sets forth 23 definitions of terms found elsewhere in the rules. Of these, twelve are substantially identical to those set forth in the proposed amendments to the Agency's hazardous waste rule 6 MCAR §4.9100. That rule defines "agency," "facility," "land treatment facility," "landfill," "operator," "on-site," "owner," "pile," "surface impoundment or impoundments," "tank," "thermal treatment," and "treatment." It is reasonable to adopt the definitions used in the hazardous waste rule because it promotes consistency among Agency programs. The definitions of the other eleven terms in the rule are discussed below.

"Director" is defined as the Director of the Agency. It is reasonable to define this term in order to clarify the person to whom this term refers.

The definition of "generator" is identical to the definition of that term set forth in the Agency's hazardous waste rule 6 MCAR §4.9100 except that there is an additional definition of the term "by site." During public meetings held

to discuss the draft rules, members of the public commented that they did not understand the term "by site." The Agency proposes to define that term to clarify that if a company has several sites which involve the generation of hazardous waste, that company is a "generator" as to each of those individual sites. It is reasonable to define the term "by site" so that the public understands the Agency's intent in using that term.

"Hazardous waste" is defined to mean a waste which is identified as hazardous in Minn. Stat. §116.01, subd. 13 (1982). This definition is reasonable because it promotes consistency within the Agency's hazardous waste regulatory program.

"Indoor tank" is defined to mean a tank completely enclosed within a building or sheltered from the elements within a roofed structure with no less than three complete solid walls. "Outdoor tank" is defined as a tank not enclosed or sheltered in that manner. Different fees apply to indoor tanks versus outdoor tanks. Therefore it is reasonable to define these terms to make it clear as to which fees apply to a given tank.

"Injection well" is defined as a shaft or pit dug or bored into the earth into which fluids are injected, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in. This definition expands the definition set forth in 6 MCAR §4.9100 by adding a description of a well. It is reasonable to define this term in order to

make it clear to the public what facilities are subject to fees.

"Non-metropolitan area generator" is defined to clarify what counties are included in the metropolitan area. This is reasonable to make it clear to the public which generators are included in this term.

"Projected estimated cost" is defined to clarify exactly what costs of a hazardous waste facility are to be included in estimating the total cost of a facility. This definition is needed because some fees in the rule are based on the projected estimated cost of the facility. The definition is reasonable because it includes those items needed to bring the project to completion.

"Sewered liquid waste" and "unsewered liquid waste" are defined because different fees apply to these wastes. Therefore it is reasonable to make it clear as to which fees apply to a given waste.

"Storage" is defined as the holding of hazardous waste as provided in 6 MCAR §4.9100, of the Agency's proposed amendments to its hazardous waste rules. This definition is reasonable because it promotes consistency among the Agency's rules relating to hazardous waste.

6 MCAR §4.9702 Hazardous Waste Facility Fees

This rule establishes the hazardous waste facility fees for permits having a term of five years (Section A.), including a

permit application fee, an annual facility operator fee, and a permit reissuance fee. It establishes fees for permits having a term of less than five years (Section B.), fees for combination facilities (Section C.), and fees for environmental review (Section D.). It also contains a payment schedule (Section E.), establishes penalties for failure to submit fees (Section F.), and provides for a facility permit application refund (Section G.). The discussion below addresses the reasonableness of Sections A. through G. of the rule.

Section A. of the rule establishes the permit application fee, annual operator's fee, and permit reissuance fee for hazardous waste facilities where the term of the permit to be issued is five years. This section establishes the maximum permit application fee and permit reissuance fee, because the Agency's proposed Hazardous Waste Facility Permit rule 6 MCAR §4.4223 limits the term of such a permit to not more than five years. It is reasonable to base the maximum fee on a five-year permit term because under ordinary circumstances hazardous waste facility permits will be issued for term of five years.

Section A., Table 1 lists hazardous waste facility fees, starting with the lowest fees (for indoor tanks and containers) and ending with the highest (land disposal facilities, including surface impoundments in which waste remains after closure). The permit issuance and reissuance fees are reasonable because they

reflect the estimates of work-years needed for Agency staff to issue each type of permit. The annual facility operator fees are reasonable because they are based on the Agency enforcement effort that will be involved in assuring that the facility will be in compliance with rules and permits. The Agency will be inspecting each facility at least annually.

Based on the foregoing, the provisions of Section A. are reasonable.

Section B. establishes modified permit application fees for permits with an effective period of less than five years. This is reasonable because occasionally the Agency finds it necessary to issue a permit for a term of less than five years. It would not be fair to charge some permittees the maximum permit application fee more than once every five years when other permittees need only pay the maximum once every five years. Therefore it is reasonable to establish a schedule to compute a partial fee for permits having terms of less than five years.

Section C. establishes a formula for calculating fees for facilities which consist of several treatment, storage, or disposal functions. The rationale used in developing the formula was that permit application review for some types of facilities, especially landfills and incinerators, involve broader and more complex technical review, while less complex facilities, such as storage facilities, involve less rigorous review. Therefore the formula

is comprised of 100 percent of the fee for the most complex type of facility involved in the combination facility plus a percentage of the less complex of the two types of facilities in a combination facility. It is reasonable to charge a larger fee for a combination facility because these facilities require more administrative efforts for permit application review, permit issuance, and permit enforcement.

Section D. establishes fees designed to recover a portion of the Agency's cost of environmental review of a proposed facility. This is authorized by subdivision 3 of Minnesota Laws 1983, Chapter 121, Section 25, which provides: "The Agency may include reasonable and necessary costs of any environmental review under chapter 116D in the original permit fee for any hazardous waste facility." The State of Minnesota already recovers a portion of the cost of environmental review under Minnesota Statutes Section 116D.045 (1982) and Chapter 17 of the rules of the Environmental Quality Board (EQB), 6 MCAR §3.049-3.054, providing for a "charge-back" system. However, the EQB rules do not provide for assessment and collection of any fees for projects costing less than one million dollars, nor for preparation of environmental assessment worksheets (EAW's). It is reasonable to expect that there will be hazardous waste storage or treatment facilities with a cost of less than one million dollars. Therefore it is reasonable for the Agency to establish a procedure to assess the cost of

environmental review with an estimated project cost of less than one million dollars. The fees established by the rule are reasonable because they are reasonably related to the Agency's administrative costs in performing environmental reviews of hazardous waste facilities.

Section E. of the rule provides that fees shall be submitted to the Director and made payable to the State Treasurer. This is reasonable because Minnesota Laws 1983, Chapter 121, Section 25 specifically provides that all fees collected by the Agency must go into the general fund. Section E. establishes a payment schedule. Original permit application fees are to be submitted within 60 days of the effective date of the rules if a Part B application has been submitted and if no permit has yet been issued. It is reasonable to allow these applicants 60 days to submit the fee because this will allow time for a facility to process the funds through its corporate structure. The rule provides that if the Part B application has not yet been submitted, original permit application fees are to be submitted along with facilities plans and specifications. This is reasonable because the Agency's expense of reviewing that application will commence upon receipt of the plans and specifications. The rule requires that annual facility operator fees are to be submitted no later than June 30 of each year. This deadline is reasonable because it will allow facility owners and operators several months after the effective

date of this rule to submit the fees. The rule provides that permit reissuance fees are to be submitted along with the application for permit reissuance. This is reasonable because facility owners and operators know well in advance the date upon which their existing permits will expire, and can thus plan for submission of the reissuance fee.

Section F. of the rule establishes penalties for failure to submit fees in a timely manner. For failure to submit a permit application, the director must suspend any further processing of permit application. Failure to pay the annual operator's fee for thirty days subjects the facility owner or operator to a late fee of twenty percent of the annual fee; an additional ten percent of the fee is due for each thirty day period or fraction thereof that the fee remains unpaid. Failure to pay fees within 180 days after the required date constitutes justification for the director to commence proceedings to suspend or revoke the permit. Establishing penalties for failure to submit fees in a timely manner is reasonable because these penalties will encourage prompt payment of the obligations created by these rules and will thus help to effectuate the legislature's intent that some of the costs of administering the hazardous waste program be paid by regulated persons.

Section G. of the rule provides for refund of a facility permit application fee in two instances: 1) if the applicant

submits an application fee for a five-year permit and then receives a permit for a lesser term; and 2) if the permit application is withrawn within 60 days of its submittal to the director. In the first instance, the refund will ensure that the permittee pays only what is owed under Section B. of this rule. This is reasonable because it is in accord with the intent of Section B. In the second instance, the Agency will refund 75 percent of the fee. This is reasonable because after 60 days the Agency will have invested some administrative effort into the review of the permit application and should be compensated for the efforts which resulted from the the submission of the permit application.

6 MCAR §4.9703 Non-metropolitan area generator fees

Minnesota Laws 1983, Chapter 121, Section 25, Subdivision 2, requires the establishment of a hazardous waste generator fee system. The fees are required to be based upon the hazardous waste disclosures submitted to the Agency by hazardous waste generators and upon other information available to the Agency.

The legislature recognized that the seven counties in the metropolitan area have already instituted a fee system to recover fees from generators to cover the counties' costs to administer hazardous waste programs. The legislature did not wish to require metropolitan area generators to pay double (equal amounts to the county and to the Agency), nor did it wish the non-metropolitan area generators to pay less than the

metropolitan area generators. Therefore the legislature provided:

> If any metropolitan counties recover the costs of administering county hazardous waste regulations by charging fees, the fees charged by the agency outside of those counties shall not exceed the fees charged by those counties. The agency shall not charge a fee in any metropolitan county which charges such a fee.

The purpose of 6 MCAR §4.9703 is to establish generator fees for non-metropolitan area generators, which may not be higher than the fees charged by the metropolitan counties.

This rule establishes the basis of fees (Section A.), a small generator exemption (Section B.), a fee for previously unreported waste (Section C.), a fee schedule for initial fees (Section D.), a fee schedule for annual fees (Section E.), a payment schedule (Section F.), and penalties for failure to submit fees (Section G.). The reasonableness of these sections is discussed below.

Section A. of the rule provides that the Agency shall charge non-metropolitan area generators fees based on the annual reports submitted by generators, disclosures, or other applicable information available to the Agency. This is reasonable because Minnesota Laws 1983, Chapter 121, Section 25, Subdivision 2 requires generator fees to be established on this basis.

Section B. of the rule exempts generators who generate less than 10 gallons or 100 pounds of hazardous waste per year. The Agency has identified 572 non-metropolitan area generators. Of these, 23 are listed as generating less than ten gallons per year.

Exempting these generators is authorized by Minnesota Laws, Chapter 121, Section 25, Subdivision 2, which provides in relevant part:

> The agency may exempt generators of small quantities of hazardous waste otherwise subject to the fee if it finds that the cost of administering a fee on those generators is excessive relative to the proceeds of the fee.

Exemption of these generators is reasonable because the small revenue obtained by including these small generators does not warrant the costs that would be incurred to collect the fees.

Section C. of the rule provides that initial fees are to be submitted by any generator who is a new generator after the effective date of these rules or who has failed to submit a disclosure prior to July 1, 1983. It is reasonable to apply initial fees to these generators because the Agency expends manpower to review the disclosures and make a determination that the hazardous waste is correctly managed.

Section C. of the rule also establishes a fee schedule for initial fees for non-metropolitan area generators. The fees assessed depend upon whether the hazardous waste is unsewered liquid waste, sewered liquid waste, unsewered solid waste, or a new waste not previously reported. It is reasonable to vary the fees on this basis because each of these categories of waste requires a different type of review of the management of the waste. For liquid wastes, the fee schedule provides an additional

fee for each additional waste stream over one. This is reasonable because the Agency will be spending additional time and effort to review disclosures and to inspect generators where more than one waste stream is involved.

The lowest fee on the fee schedule for liquid wastes is for sewered liquid waste. This may appear to encourage dumping of hazardous wastes into the sewer. However, this is not the case. Under the pretreatment requirements which apply to discharges to a publicly owned treatment works, only certain wastes can be discharged to the sewer. The publicly owned treatment works is regulated by having a National Pollutant Discharge Elimination System permit and a State Disposal Permit. The owner or operator of the wastewater treatment facility is responsible for the wastes discharged to the sewer system. The agency will enforce appropriate effluent limitations upon the final discharge from the wastewater treatment facility. Therefore the fee schedule will not have the effect of encouraging the dumping of hazardous wastes into the sewers. It is reasonable to charge a lower fee for this type of waste because, as a result of the fact that these wastes are regulated under other programs, there will be less administrative time devoted to them under the hazardous waste regulatory program.

Section D. of the rule provides that if a generator adds a waste that has not been previously reported to the Agency, the

generator shall pay a $40 fee to the Agency for each new waste stream. This is reasonable because the Agency must review the newly reported waste stream to assure its proper management.

Section E. of the rule establishes a fee schedule for annual fees applicable to non-metropolitan area generators. This amount of the fee depends upon the volume of waste generated as well as whether the hazardous waste is unsewered liquid waste, sewered liquid waste, or unsewered solid waste. The categories shown on this fee schedule are based upon the charges which metropolitan area generators currently impose upon metropolitan area generators. This is reasonable because of the provision of subdivision 2 of Minnesota Laws 1983, Chapter 121, Section 25, Subdivision 2, quoted above, requiring that the fees charged to non-metropolitan area generators not exceed the fees charged by the counties to the metropolitan area generators. All seven metropolitan area counties charge fees for administering their county hazardous waste regulations. The Agency examined the county fee schedules and found that they were not uniform. The Agency developed its fee schedule based on a combination of existing metropolitan county fee schedules. The fees established in the fee schedule are reasonable because they are similar to those now charged by the counties in the metropolitan area.

As in the case of intial fees, the fee schedule for annual

fees contains additional fees for additional waste streams. This is reasonable because of the additional Agency effort needed to review disclosures and inspect generators.

Section F. of the rule establishes a payment schedule. It provides that in fiscal year 1984, a non-metropolitan area generator must submit fees within 60 days upon receipt of a notice from the Director that the fee is due. Fees submitted later than 30 days after the due date shall be deemed late. This payment schedule is reasonable because of the fact that these rules will not be effective until the second half of the state's fiscal year 1984, and therefore prompt payment must be required if the Agency is to collect the required revenues for fiscal year 1984. It is reasonable to allow 60 days for submission of the payment because the generator needs enough time to process the funds through the generator's organization. It is reasonable to consider the fees late if not paid 30 days after the due date because this gives the generator of 90 days to review the fee statement and to resolve any disputes with the Agency as to the correct amount of the fee.

The rule also provides that following the first annual payment, a non-metropolitan generator must remit fees according to a quarterly schedule based on the "Standard Industrial Classification" of the generator. The schedule is identical to schedules found in six of the seven metropolitan county hazardous waste ordinances. Establishing a quarterly pay schedule is

reasonable because it will avoid a situation where the Agency staff must process all the fees at the same time, better distributing the Agency staff's workload.

The rule requires that the fee be made payable to the State Treasurer. This is reasonable because Minnesota Laws 1983, Chapter 121, Section 25 requires the fees to be deposited in the general fund.

Section G. of the rule provides penalties for late payment of fees. The generator must pay a late fee of 10 percent of the annual fee and unpaid penalty for each 30 day period or portion thereof the fee remains paid up to 90 days. Beyond 90 days, the late fee is 15 percent of the annual fee and unpaid penalty for each 30 day period or fraction that the fee remains unpaid. It is reasonable to establish penalties for late payment of fees because these penalties will act as an incentive for timely payment, which furthers the legislature's intent that generators compensate the state its administrative costs involved in the hazardous waste regulatory program.

6 MCAR §4.9704 Generator surcharge

This rule provides that all generators in Minnesota are subject to an annual surcharge equal to 17.5 percent of the annual fee. The rule also provides the manner of payment of the surcharge for non-metropolitan area generators and for penalties for failure to pay the surcharge (Section A.), the manner of

collection of the surcharge from metropolitan area generators and the manner of payment of the surcharge collected by the metropolitan counties (Section B.).

For the metropolitan counties, the surcharge is authorized by Subdivision 2 of Minnesota Laws 1983, Chapter 121, Section 25, which states in relevant part:

> The agency shall not charge a [hazardous waste generator] fee in any metropolitan county which charges such a fee. The agency shall impose a fee calculated as a surcharge on the fees charged by the metropolitan counties and by the agency to reflect the agency's expenses in carrying out its statewide hazardous waste regulatory responsibilities. The surcharge imposed on the fees charged by the metropolitan counties shall be collected by the metropolitan counties in the manner in which the counties collect their generator fees. Metropolitan counties shall remit the proceeds of the surcharge to the agency by the last day of the month following the month in which they were collected.

The addition of a surcharge only on metropolitan area generators would result in an inequity for those generators unless the surcharge were applied also to non-metropolitan area generators. The location of the generator does not make a difference to the Agency in terms of administrative costs. Therefore the Agency is proposing to remove this inequity by including a surcharge on the non-metropolitan area generators. As a result, fees for all generators statewide will be the same, regardless of location. It is reasonable to treat all generators equally.

The amount of the surcharge is reasonable because it is no more than the Agency needs to collect the amount of revenue

needed to cover the administrative costs involved in the Agency's hazardous waste program.

The reasonableness of Sections A. through D. is discussed below.

Section A. provides that non-metropolitan area generators must remit payment of the surcharge to the Director at the time of payment of the annual fee. This is reasonable because a once-a-year fee is most convenient both for the generator and for the Agency. This section also provides that failure to pay the surcharge shall subject the generator to the penalties set forth in 6 MCAR §4.9703 E. It is reasonable to treat all late payments of generator fees consistently.

Section B. provides that metropolitan area generators must include the surcharge with the license fee paid to the county in which the generating site is located. This manner of payment is required by statute and is reasonable because it is convenient for the generator.

Section B. also requires the metropolitan counties collecting the surcharge to remit the money to the Director no later than the last day of the month following the month of collection. This is reasonable because it provides sufficient turn-around time for the county.

6 MCAR §4.9705 Generator fee exemptions

This rule exempts three items from generator fees: certain

waste oil (Section A.), waste which is recovered on-site, reused, or recycled (Section B.), and wastes generated as a result of a response action (Section C.)

Section A. of the rule exempts from generator fees those generators of waste oil if the waste oil is beneficially being reused and does not contain hazardous waste listed in 40 Code of Federal Regulations Part 261, Subpart D. This exemption is reasonable because it will encourage the beneficial reuse of waste oil which contains components which are listed as hazardous solely because they are ignitable, such as hexane and acetone. Using mixtures of this sort for fuel may be the best management technique for waste oil. However, should the waste oil contain listed solvents such as trichloroethylene or methyl ethyl ketone, the waste oil will be subject to generator fees. This is reasonable because these wastes will need to be disposed of in a manner that is in accordance with other Agency hazardous waste rules.

Section B. of the rule exempts from generator fees those generators who recycle, reuse, or recover a hazardous waste stream for their own use. However, any sludges or residues from such a recovery process which are hazardous are still subject to the generator fee. This exemption is reasonable because it will encourage recycling, reuse, and recovery of hazardous waste streams, reducing the volume of wastes which require disposal.

Section C. of the rule exempts from generator fees any waste generated as a result of a response action. This exemption is reasonable because it will encourage proper management of the waste generated from spills and clean-up operations. In addition, pursuant to Minn. Stat. §115.061 and Minn. Stat. §115.071, subd. 3 (1982), the Agency can take legal action to recover the administrative costs involved when a responsible party refuses to take appropriate response actions to a spill situation.

6 MCAR §4.9706 Appeal procedure

This rule provides a procedure to appeal a generator fee which is believed to be in error. It is reasonable to provide an appeal procedure because there are circumstances in which the Director could make a mistake in calculating the fee. For example, some fees are based on disclosures relating to past generation of hazardous waste. Where circumstances have changed without the knowledge of the Director, error in calculation is to be expected.

The rule provides that the person has ten days to provide written notice that there has been an error in the fee calculated. The person must state the proper amount of the fee and the method used to calculate the fee. Prompt notice is reasonable in the interest of efficient fee collection and prompt resolution of disputes. The inclusion of a recalculation

of the fee is reasonable because it will aid the Agency staff in determining whether the person is correct.

If the Director finds that the person appealing is correct, no late penalty shall be assessed. However, if the Director finds that the original fee was calculated properly, a late fee will be charged. This is reasonable in the interest of prompt and efficient collection of fees owed to the Agency. It is reasonable for the further reason that it will discourage people from automatically appealing fee assessments for the sole purpose of delaying collection of the fee.

IV. Small Business Considerations in Rulemaking

Minn. Laws 1983, ch. 188 (to be codified as Minn. Stat. §14.115) requires the Agency, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact of the rule on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

In drafting the proposed rules the Agency did consider

whether it could make the rules less stringent and simpler with respect to small businesses. However, the important consideration in regulating hazardous waste is not necessarily the size of the business being regulated, but the volume of hazardous waste being generated, stored, treated, or disposed. Differentiations on the basis of facility size may or not reflect the size of the business being regulated.

An attempt was intially make to categorize treatment, storage, and disposal facilities on the basis of size to reduce the facility fees for smaller facilities. However, because the technical review and enforcement effort are the same regardless of facility size, it became clear to the Agency that such a categorization was unrealistic for most facilities. One such categorization was made, however, by providing lower fees for a small storage facility (less than 550 gallons or 10 drums).

Some of the exemptions in the generator fee rules may coincidentally provide relief for some small businesses. The rules provide an exemption from the generator fees for generators of less than 10 gallons (or 100 pounds) of hazardous waste per year. This is consistent with the programs in the metropolitan counties. Exempting these very small generators relieves them from the financial and administrative burdens of the fee system.

Evaluation of the waste volumes of those non-metropolitan

generators which have submitted disclosures indicated that a reduced fee was reasonable for the small volume non-exempt generator. For that reason, a non-exempt generator of 55 gallons of hazardous waste or less is required to pay an annual fee of $30 per year regardless of the number of waste streams.

V. Conclusion

Based on the foregoing, the proposed rules 6 MCAR §§4.9701 through 4.9706 are both needed and reasonable.

Dated: October 31, 1983

SANDRA S. GARDEBRING
Executive Director

storage, treatment or long term containment. The tax shall be paid to the person who first receives the wastes in this state at the time the waste is received and shall be remitted by that person to the commissioner of revenue quarterly in the form and manner provided by the commissioner.

Subd. 7. [DUTIES OF THE AGENCY AND METROPOLITAN COUNTIES.] The agency shall provide to the commissioner the names and addresses of all persons known to the agency who are subject to tax under section 22, together with any information which the agency possesses concerning the amount of hazardous waste generated and disposed of by those persons. Metropolitan counties required to regulate hazardous wastes under section 473.811, subdivision 5b, shall provide to the agency the data and information necessary to allow the agency to carry out its duties under this subdivision. Upon request by the commissioner, the agency shall examine returns and reports filed with the commissioner and notify the commissioner of any suspected inaccurate or fraudulent declaration or return. The agency may assist in auditing any person subject to tax under section 22 when requested by the commissioner.

Subd. 8. [PENALTIES; ENFORCEMENT.] The audit, penalty and enforcement provisions applicable to taxes imposed under chapter 290 apply to the taxes imposed under section 22 and those provisions shall be administered by the commissioner.

Subd. 9. [RULES.] The commissioner may adopt temporary and permanent rules necessary to implement the provisions of this section and section 22.

Subd. 10. [ADMINISTRATIVE EXPENSES.] Any amount expended by the commissioner from a general fund appropriation to enforce and administer section 22 and this section shall be reimbursed to the general fund and the amount necessary to make the reimbursement is appropriated from the fund to the commissioner of finance for transfer to the general fund.

→ Sec. 25. [116.12] [HAZARDOUS WASTE ADMINISTRATION FEES.]

Subdivision 1. [FEE SCHEDULES.] The agency shall establish the fees provided in subdivisions 2 and 3 in the manner provided

in section 16A.128 to cover the amount appropriated from the general fund to the agency for that year for permitting, monitoring, inspection and enforcement expenses of the hazardous waste activities of the agency.

The legislature may appropriate additional amounts that need not be covered by fees or may provide that the fees shall cover only a portion of the general fund appropriation for the hazardous waste activities of the agency, in order to assure adequate funding for the regulatory and enforcement functions of the agency related to hazardous waste. All fees collected by the agency under this section shall be deposited in the general fund.

Subd. 2. [HAZARDOUS WASTE GENERATOR FEE.] Each generator of hazardous waste shall pay a fee on the hazardous waste which he generates. The agency shall compute the amount of the fee due based on the hazardous waste disclosures submitted by the generators and other information available to the agency. The agency shall annually prepare a statement of the amount of the fee due from each generator. The fee shall be paid annually commencing with the first day of the calendar quarter after the date of the statement.

The agency may exempt generators of small quantities of hazardous wastes otherwise subject to the fee if it finds that the cost of administering a fee on those generators is excessive relative to the proceeds of the fee. The fee shall consist of a minimum fee for each generator not exempted by the agency and an additional fee based on the quantity of wastes generated by the generator.

If any metropolitan counties recover the costs of administering county hazardous waste regulations by charging fees, the fees charged by the agency outside of those counties shall not exceed the fees charged by those counties. The agency shall not charge a fee in any metropolitan county which charges such a fee. The agency shall impose a fee calculated as a surcharge on the fees charged by the metropolitan counties and by the agency to reflect the agency's expenses in carrying out

its statewide hazardous waste regulatory responsibilities. The surcharge imposed on the fees charged by the metropolitan counties shall be collected by the metropolitan counties in the manner in which the counties collect their generator fees. Metropolitan counties shall remit the proceeds of the surcharge to the agency by the last day of the month following the month in which they were collected.

Subd. 3. [FACILITY FEES.] The agency shall charge an original permit fee, a reissuance fee and an annual operator's fee for any hazardous waste facility regulated by the agency. The agency may include reasonable and necessary costs of any environmental review required under chapter 116D in the original permit fee for any hazardous waste facility.

Sec. 26. Minnesota Statutes 1982, section 115A.24, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATE.] Except as provided in subdivision 3, By December 15, 1982, on the basis of and consistent with its hazardous waste management plan adopted under section 115A.11, the board shall issue a certificate or certificates of need for disposal facilities for hazardous wastes in the state. The certificate or certificates shall indicate the types and volumes of waste for which disposal facilities are and will be needed through the year 2000 and the number, types, sizes, general design and operating specifications, and function or use of the disposal facilities needed in the state. The board shall certify need only to the extent that the board has determined that there are no feasible and prudent alternatives including waste reduction, separation, pretreatment, processing, and resource recovery which would minimize adverse impact upon natural resources, provided that the board shall require the establishment of at least one commercial disposal facility in the state. Economic considerations alone shall not justify certification nor the rejection of alternatives. Alternatives that are speculative and conjectural shall not be deemed to be feasible and prudent. The board shall consider all technologies being developed in

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT MN Pollution Control Agency

Office Memorandum

TO: Gordon M. Donhowe, Commissioner
Department of Finance

DATE: September 22, 1983

FROM: Sandra S. Gardebring
Executive Director

PHONE: 6-7301

SUBJECT: REQUEST FOR HAZARDOUS WASTE GENERATOR & FACILITY FEE SCHEDULE APPROVAL

As per M.S. 16A.128, attached for your review and approval are the fee schedules and resulting revenue projections for the Agency's proposed Hazardous Waste Generator & Facility Fee Rule. Action will be taken on this proposed rule by the Agency Board at its September 27, 1983 meeting. It is anticipated that the proposed fees will be approved, yet it would assist me if your approval was provided prior to the meeting so it could be included in the public presentation and discussion. To assist you in your determination, my staff has met with Al Yozamp and Doug Watnemo of your office on the proposed rule and after their review, have concurred with the proposed fees and revenue projections.

I also note that after Board action September 27th, it is the Agency's intent to publish the rule in the State Register October 10, 1983. At that time, the Agency's statement of need & reasonableness, which is required to include your approval of fees, must be available for public review. Therefore, anticipating that there will be no major changes to the proposed rule made by the Board and that you will have no major concerns, I ask that you provide your approval by October 10, 1983 at the latest and preferably by September 27.

SSG:vjp

Attachment

cc: Doug Watnemo

HAZARDOUS WASTE GENERATOR AND FACILITY FEES

Review & Approval

Description

Pursuant to Laws of 1983, Chapter 121, Section 25, the Minnesota Pollution Control Agency is establishing administration fee schedules for hazardous waste generators and facilities. As provided by this Law, these fees will be established by rule without public hearing, however, when the rule is publicly noticed the Commissioner of Finance's approval of the proposed fees will be included in the statement of need and reasonableness. Therefore, the Commissioner's approval of this document with its proposed fee schedules will be used as an exhibit to the Agency's statement of need and reasonableness.

Hazardous waste generators shall pay a fee on the hazardous waste which they generate. Fees are based on waste category, (unsewered liquid, sewered liquid or unsewered solid), number of wastes and volume/year. There will be an initial fee as well as an annual fee which will be based on yearly hazardous waste disclosures submitted by the generators and other information available to the Agency. The Agency shall not charge a fee in any metropolitan county which charges such a fee but will impose a surcharge on the fees charged by the metropolitan county and by the Agency to reflect the Agency's expenses in carrying out its statewide hazardous waste regulatory responsibilities.

Any hazardous waste facility regulated by the Agency will be charged an original permit fee, a reissuance fee and an annual operator's fee. Fees are based on the facility's treatment, storage or disposal functions, with fee adjustment allowances for facilities that have a combination of functions.

All fees collected by the Agency under this rule will be deposited in the state's general fund as non-dedicated receipts. It is the intent of these fees to cover all or a portion of the Agency's appropriation/expenses related to hazardous waste regulatory and enforcement activities.

Purpose

The purpose of these fees is to defray or offset the Agency's general fund appropriation for hazardous waste administration expenses related to permitting, monitoring, inspection, and enforcement activities. The Law also includes a provision that states: "The legislature may appropriate additional amounts that need not be covered by fees or may provide that the fees shall cover only a portion of the general fund appropriation for the hazardous waste activities of the Agency, in order to assure adequate funding for the regulatory and enforcement functions of the Agency related to hazardous waste." This provision was specifically addressed in the FY 1984-85 state departments appropriation bill (Laws of 1983, Chapter 301, Section 25) where a rider was included in the Agency's appropriation section. The basis for this rider was to assure that the additional funding appropriated to the Agency for its increased hazardous waste regulatory program efforts in the 1983-85 biennium ($794,400) would be covered by hazardous waste generator and facility fees. As a result, it is prescribed that projected revenue from the proposed fees for the biennium ending June 30, 1985 will be a minimum of $794,400. It is also noted that pursuant to M.S. 16A.128, these fees shall be reviewed at least once each six months. After actual and estimated receipts from these fees become more stable and reliable, should this review suggest that projected revenue will not approximate the $794,400, adjustments to the fee schedules may be made without a public hearing.

Proposed Fee Schedules & Projected Revenue

Generator Fees

I. Fee Schedule

A. Initial One-time Fees

Waste Category	Fee
1. Unsewered Liquid Wastes	$60 + $40 for each add'l waste over one
2. Sewered Liquid Wastes	$30
3. Unsewered Liquid Wastes	$60 + $40 for each add'l waste over one
4. New waste not previously reported	$40

B. Annual Fees

Waste Category/Volume	
1. Unsewered Liquid Wastes	
a. 11 - 55 gpy	$30
b. 56 - 500 gpy	$60 + $20 for each add'l waste over one
c. 501 - 1000 gpy	$90 + $20 for each add'l waste over one
d. Over 1000 gpy	$90 + $20 for each add'l waste over one + $12 for each add'l 1000 gal.
2. Sewered Liquid Wastes	
All volumes/wastes	$75
3. Unsewered Liquid Wastes	
a. 101 - 550 lbs/yr.	$30
b. 551 - 5,000 lbs./yr.	$60 + $20 for each add'l waste over one
c. Over 5,000 lbs/yr.	$90 + $20 for each add'l waste over one + $5 for each add'l 5,000 lbs. or fraction

4. Non-Metro surcharge 17.5%

5. Metro surcharge 17.5%

II. Projected Revenue

	FY '84	FY '85
A. Non-Metropolitan Fees	$113,000	$120,000

Data on non-metropolitan waste generators is somewhat dubious and incomplete. Therefore, in order to project the most realistic estimate of revenue generated from these fees, the Agency reviewed the 573 hazardous waste generator disclosures it received in 1982. These disclosures identified waste/s and estimated volume that would be generated in 1983. Because this was the first time disclosures were made and because there was no incentive to be complete and accurate, the reliability of the data is somewhat questionable. Therefore, for projection purposes a random sampling of 130 disclosures were reviewed which included generator fee calculations. From these calculations, it was determined that the average annual fee would be $205 with the median being $221. After these calculations were made, the remaining disclosures were reviewed to assure that the sample of 130 was representative for size and number of waste streams. During this review, 24 of the generators were identified as being exempt from the fee because of volume generated. As a result,

		FY '84	FY '85

approximations were used for the number of generators that would pay a fee and $205 was used as the multiplier, with the resulting total being rounded in thousands. It is also noted that because disclosures were used to develop revenue projections, limited initial fees were projected because if disclosure is made prior to the effective date of the rule, the generator is exempt.

B.	Non-Metro surcharge	$19,775	$21,000
C.	Metro surcharge (17.5% of 1982 receipt)	30,057	33,057
	Total Generator Revenue	$165,832	$174,057

Facility Fees

I. Permit Application Fee Schedule & Projected Revenue

A. Storage

	Rate	Facilities	FY 1984 Revenue	Facilities	FY 1985 Revenue
1. Tanks & containers indoors					
a) Greater than 550 gal.	$ 750				
b) Less than 550 gal.	$ 500				
2. Tanks & containers outdoors					
a) Greater than 550 gal.	$1,500	9	$13,500	15	$22,500
b) Less than 550 gal.	$1,000				
3. Piles	$4,500				
4. Surface impoundment	$7,500				

B. Disposal & Treatment

1.	Surface impoundment	$ 9,000			
2.	Treatment not otherwise specified	$ 9,000			
3.	Thermal treatment	$22,500			
4.	Land Treatment	$22,500			
5.	Land disposal	$22,500			

*C. Combination Facilities

1.	Treatment not otherwise specified/ Outdoor tank greater than 550 gal.	$ 9,300	2	18,600	7	65,100
2.	Thermal/Outoor tank greater than 550 gal.	$22,800	2	45,600	2	45,600
3.	Land disposal/ Outdoor tank greater than 550 gal.	$22,800			1	22,800
	Total Permit Application/Fees		13	$77,700	25	$156,000

The estimated number of facilities that would be permitted is based on time studies on review required for type and size of facilities and the Agency's staff capabilities. It is the Agency's intent, which was supported by various legislative committees, that all facilities would be permitted within a five (5) year period.

II. Annual Operator's Fee Schedule & Projected Revenue

		Rate	Operators	Revenue
A.	Storage			
1.	Surface impoundments	$ 1,300	2	$ 2,600
2.	Piles	1,300	3	3,900
3.	Tanks & Containers Outdoors			
	a) Greater than 550 gals.	450	50	22,500
	b) Less than 550 gals	180	5	900
4.	Tanks & Containers Indoors			
	a) Greater than 550 gals.	225	12	2,700
	b) Less than 550 gals.	100	3	300

B. Disposal & Treatment			
1. Surface Impoundments	1,800	2	3,600
2. Treatment not otherwise specified	900	25	22,500
3. Thermal Treatment	3,150		
4. Land Treatment	3,150		
5. Land Disposal	3,150	1	3,150
*C. Combination Facilities			
1. Treatment not otherwise specified/Outdoor tank greater than 550 gals.	990	10	9,900
2. Thermal Treatment/ Outdoor tank greater than 550 gals.	3,240	10	32,400
3. Land Disposal/ Outdoor tank greater than 550 gals.	3,240	2	6,480
Total Annual Operator Fees			$110,930

* Fee rates for combination facilities are based on formulas included in the proposed rule. These formulas allow for reduced rates for each additional function over one that is provided by a facility.

Revenue Recap

Fee	FY 1984	FY 1984
Generator Fees		
Non-Metropolitan Annual Fee	$113,000	$120,000
Non-Metropolitan Surcharge	19,775	21,000
Metropolitan Surcharge	33,057	33,057
Sub-Total	$165,832	$174,057

Facility Fees		
Permit Application Fee	$ 77,700	$156,000
Annual Operator Fee	110,930	110,930
Sub-Total	$188,630	$266,930
Total Fees	$354,462	$440,987
		$795,449

Reviewed & Approved - to be included in the Agency's statement of need and reasonableness for the proposed rule.

for Gordon M. Donhowe, Commissioner
Department of Finance

10/10/83
Date