

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

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

Version 3
August 20, 2018

Our File No. 1230

05.0009.0700

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 12-4-85
DATE FOR REVIEW 12-13
DATE DUE 12-18

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

Approved 12-16-85 mjc Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State _____ Revisor approved 12-16
disapproved _____

_____ Rule as Adopted

___✓___ Rule as Proposed

___✓___ Order Adopting 11.26.85 Date

___✓___ Notice of Intent to Solicit Outside Opinion SR. 3.19.84 + Comments
includes small biz notice

___✓___ Order for rulemaking
N/A date of Hearing

___✓___ Certificate of Board's Authorizing Resolution

___✓___ Notice of rulemaking contains small biz statement and fiscal statement
✓ Sufficiency
minor omission in citation to stat. authority - omits ref. to ch. numbers

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

___✓___ Mailing list Certificate

___✓___ Publication in State Register
8.19.85 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 (labelled "authorizing")

_____ Order Approving Incorporation by Reference

___✓___ Statement of Need and Reasonableness DOF fee approval attached
contains small biz statement,

___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)
N.B. agency is withdrawing Rule which has drawn most of comments

___✓___ Certificate of Compliance w/Rulemaking Procedures

___✓___ Affidavit of ~~Mailing~~ Notice of Submission to Attorney General

___N/A___ Notice of Submission to the Attorney General

___✓___ DOF memo re payment of fees to agencies

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT: ATTORNEY GENERAL

ATTN! TO: DUANE DAHLBERG, Chairperson
Minnesota Pollution Control Agency

JOCELYN F. OLSON
Special Assistant Attorney General

DATE: 12/17/85

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: Proposed Minnesota Rules Parts 7002.0010 - 7002.0110, Air Quality and Water Quality Permit Fee Rules

The above-referenced rule has been approved as to its legality by the Attorney General on December 16, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1230

Minnesota Pollution Control Agency

Adopted Rules Relating to Environment; General Permit Fee Rule

Rules as Adopted

AIR QUALITY PERMIT FEES

7002.0010 SCOPE.

FF 7a

~~Chapter 7002 applies~~ Parts 7002.0010 to 7002.0100 apply to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020 (permanent rules, scope), items ~~C, E, F, H~~ I, and J. FF 7a

7002.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter the terms defined in this part have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Air pollution control equipment.** "Air pollution control equipment" means a device used to prevent, abate, or control air pollution.

Subp. 4. **Director.** "Director" means the executive director and chief executive officer of the Minnesota Pollution Control Agency.

Subp. 5. **Indirect source.** "Indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a state standard.

Subp. 6. **Major emission facility.** "Major emission facility" means a facility having potential emissions of 100 tons per year or more of sulfur dioxide or particulate matter.

Subp. 7. ~~**National Pollutant Discharge Elimination System (NPDES).** "National Pollutant Discharge Elimination System (NPDES)" has the meaning given it in part 7001.1020 (permanent rules, NPDES permits), subpart 19.~~ FF 7a

~~Subp. 8.~~ **Nonattainment area.** "Nonattainment area" means a geographical region that has been designated by the Minnesota

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Pollution Control Agency as violating a state or national ambient air quality standard.

~~Subp. 9. State disposal system permit. "State disposal system permit" means a permit for a disposal system that may be constructed and operated without a NPDES permit.~~ FF 7a

Subp. ~~10.~~ 8. **Total emission facility.** "Total emission facility" means an assemblage of all emission sources on adjacent property that are under common ownership or control and that exist for a common function.

7002.0030 FEE DETERMINATION.

The agency shall calculate processing and annual fees based upon the schedule in part 7002.0100 ~~or 7002.0110~~ and shall notify the permittee of the amount due prior to each payment date.

7002.0040 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the "~~State Treasurer~~ Minnesota Pollution Control Agency" and submit it to the Director, Division of Air Quality~~, or Director, Division of Water Quality~~, as appropriate for the type of permitted activity. FF 7b

7002.0050 APPLICATION FEE.

A person who applies for a permit to construct, install, modify, or operate a facility shall submit with the application the appropriate application fee. Failure to submit the fee renders the application incomplete and the agency shall suspend processing of the application until the fee is received. Application fees are nonrefundable.

7002.0060 PROCESSING FEE.

A permittee shall pay the applicable processing fee within 30 days of issuance of the permit by the agency.

If a facility is a "small business" as defined in Minnesota Statutes, section 14.115, subdivision 1, ~~or a municipal wastewater treatment plant with an average design flow of less than 30,000 gallons per day,~~ the permittee may request to pay FF 7a

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

the processing fee in annual installments. Annual installments are determined by dividing the processing fee into equal annual payments based on the term of the permit. The first payment shall be made within 30 days of issuance of the permit and annually thereafter on the anniversary of issuance. A facility that qualifies as a "small business" must provide proof of that status upon application for a permit.

7002.0070 ANNUAL FEE.

All persons required to obtain a permit shall pay an annual fee for enforcement of applicable statutes and rules except as provided in ~~parts~~ part 7002.0100 ~~and 7002.0110~~. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

FF 7a

7002.0080 NOTIFICATION OF ERROR.

A person who thinks that a basic processing fee, additional processing fee, or annual fee for a specific facility is in error shall provide written notice of the error to the director of the Division of Air Quality ~~or the director of the Division of Water Quality, as appropriate,~~ along with the assessed fee. If the director of the Division of Air Quality ~~or the Division of Water Quality~~ finds, upon reviewing the data, that the assessed fee was in error, the overpayment shall be refunded to the permittee or credited to the permittee's account.

FF 7a

7002.0090 LATE PAYMENT FEE.

The permittee shall pay a late payment fee of 20 percent of the payment due for failure to make payment within 30 days of a payment date. The permittee shall pay an additional ten percent of the original payment due for each 30-day period or portion thereof that the payment is late.

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Scope.** The fees established in this part are applicable to facilities and indirect sources which require an air emission facility permit under part 7001.1210 (permit rules, air emission facility permits) or an indirect source permit

APPROVED IN THE REVISOR OF STATUTES OFFICE BY

under part 7001.1270 (permit rules, indirect source permits). For the purpose of this part, the terms used have the meanings given them in part 7005.0100 (air pollution control rules, definitions).

Subp. 2. **Application fee.** A person making application for an air emission facility permit or an indirect source permit shall submit with the application an application fee of $50.

Subp. 3. **Basic processing fees.** The permittee shall pay the following basic processing fees for the applicable permit activity:

A. $900 for the construction of an indirect source;

B. $900 for the construction or reconstruction of a major emission facility;

C. $300 for the construction or reconstruction of an emission facility other than a major emission facility;

D. $300 for the modification of a major emission facility or installation of air pollution control equipment at a major emission facility;

E. $100 for the modification of an emission facility other than a major emission facility or installation of air pollution control equipment at an emission facility other than a major emission facility;

F. $450 for the reissuance of a major emission facility permit; and

G. $150 for the reissuance of an emission facility permit other than a major emission facility.

For purposes of this subpart, activities as described in items D and E that occur during the last year of the term of a permit will be addressed along with the reissuance of the permit for a new term. The agency shall waive the fee for items D and E and only assess a reissuance fee and applicable additional processing fees.

Subp. 4. **Additional processing fees.** In addition to the basic processing fees required in subpart 3, the permittee shall pay the following additional processing fees, if applicable:

A. $500 for a major stationary source, as defined in

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

Code of Federal Regulations, title 40, section 51.18(j)(1)(iv), as amended through June 25, 1982, located in a nonattainment area;

B. $150 for an emission facility that is subject to the federal prevention of significant deterioration requirements as established in Code of Federal Regulations, title 40, section 51.24;

C. $50 for an emission facility that is subject to the federal new source performance standards established in Code of Federal Regulations, title 40, part 60;

D. $150 for an emission facility that must apply best available control technology as required under Code of Federal Regulations, title 40, section 51.24;

E. $250 for evaluation of air emissions containing pollutants for which no ambient air quality standard has been established under part 7005.0080 (state ambient air quality standards) and which have the potential to be injurious to human health;

F. $150 for dispersion modeling review; and

G. $150 for each performance test review.

Subp. 5. **Annual fees.** All persons required to obtain an air emission facility permit shall pay the following applicable annual fee:

A. $650 for a major emission facility; or

B. $150 for an emission facility other than a major emission facility.

The agency shall not charge an annual fee for an emission facility with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the facility also discharges lead to the ambient air.

Subp. 6. **General permits.** The agency shall not charge processing or annual fees for permits issued as a general permit under part 7001.0210 (permit rules).

~~7002.0110 WATER QUALITY PERMIT FEE SCHEDULE.~~

~~Subpart 1. Major NPDES facility; definition. "Major NPDES~~ FF 7a

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

~~facility" means a wastewater treatment discharger designated by the director and the regional administrator of the United States Environmental Protection Agency as part of the annual work plan that is developed in accordance with and that is subject to the public participation requirements of Code of Federal Regulations, title 40, part 35, and subject to review and approval of the agency. The agency and the United States Environmental Protection Agency shall designate the following types of facilities as major NPDES facilities unless the agency and the United States Environmental Protection Agency find that the facility does not have a potential for significantly impacting water quality:~~

~~A. a publicly owned treatment facility with an average design flow of 1,000,000 gallons per day or more;~~

~~B. an electrical generating facility that is not primarily standby or a peaking facility with a generation capacity of 100 megawatts or greater;~~

~~C. a facility that is a primary industry as defined in Code of Federal Regulations, title 40, section 122.2, or other industry that discharges quantities of process wastewater, which are significant due to the volume, pollutant loading, or other discharge parameters or the character of the receiving water; or~~

~~D. a facility with an actual or potential discharge of toxic pollutants under section 307(a)(1) of the Clean Water Act, United States Code, title 33, section 1317.~~

~~Subp. 2. Application fees. A person making application for a permit covered under part 7001.0020 (permit rules, scope), items C, E, F, and H, shall pay the following applicable application fee:~~

~~A. $50 for a major NPDES facility permit;~~

~~B. $50 for a state disposal system permit or a NPDES facility permit other than a major NPDES facility permit;~~

~~C. $250 for a liquid storage permit; or~~

~~D. $70 for a sewer extension permit.~~

~~Subp. 3. Processing fees. The permittee shall pay the~~

FF 7a

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

~~following-processing-fees-for-the-applicable-permit-activity:~~

~~A.--$6,800-for-a-major-NPDES-facility-permit;~~

~~B.--$900-for-a-NPDES-facility-permit-other-than-a major-NPDES-facility-permit;-or~~

~~C.--$900-for-a-state-disposal-system-permit-except-a sewer-extension-permit.~~

~~The-agency-shall-not-charge-processing-fees-for-liquid storage-or-sewer-extension-permits.~~

~~Subp.-4.--Annual-fees.--All-persons-required-to-obtain-a NPDES-facility-permit-or-a-state-disposal-system-permit-shall pay-the-following-applicable-annual-fees:~~

~~A.--$2,600-for-a-major-NPDES-facility-permit;~~

~~B.--$120-for-a-NPDES-facility-permit-other-than-a major-NPDES-facility-permit;-or~~

~~C.--$120-for-a-state-disposal-system-permit,-except-a sewer-extension-permit.~~

~~Subp.-5.--General-permits.--The-agency-shall-not-charge processing-or-enforcement-fees-for-a-permit-issued-as-a-general permit-under-part-7001.0210-(permit-rules).~~

EFFECTIVE DATE. Parts 7002.0010 to ~~7002.0110~~ 7002.0100 are effective January 1, 1986.

FF 7a

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 17 1985
Joan Anderson Growe
Secretary of State
11:05 AM

APPROVED AS TO FORM AND LEGALITY
December 16 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as Proposed (all new material)

7002.0010 SCOPE.

Chapter 7002 applies to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020 (permanent rules, scope), items C, E, F, H, I, and J.

7002.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter the terms defined in this part have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Air pollution control equipment.** "Air pollution control equipment" means a device used to prevent, abate, or control air pollution.

Subp. 4. **Director.** "Director" means the executive director and chief executive officer of the Minnesota Pollution Control Agency.

Subp. 5. **Indirect source.** "Indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a state standard.

Subp. 6. **Major emission facility.** "Major emission facility" means a facility having potential emissions of 100 tons per year or more of sulfur dioxide or particulate matter.

Subp. 7. **National Pollutant Discharge Elimination System (NPDES).** "National Pollutant Discharge Elimination System (NPDES)" has the meaning given it in part 7001.1020 (permanent rules, NPDES permits), subpart 19.

Subp. 8. **Nonattainment area.** "Nonattainment area" means a geographical region that has been designated by the Minnesota Pollution Control Agency as violating a state or national ambient air quality standard.

Subp. 9. **State disposal system permit.** "State disposal system permit" means a permit for a disposal system that may be constructed and operated without a NPDES permit.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Subp. 10. **Total emission facility.** "Total emission facility" means an assemblage of all emission sources on adjacent property that are under common ownership or control and that exist for a common function.

7002.0030 FEE DETERMINATION.

The agency shall calculate processing and annual fees based upon the schedule in part 7002.0100 or 7002.0110 and shall notify the permittee of the amount due prior to each payment date.

7002.0040 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the "State Treasurer" and submit it to the Director, Division of Air Quality; or Director, Division of Water Quality, as appropriate for the type of permitted activity.

7002.0050 APPLICATION FEE.

A person who applies for a permit to construct, install, modify, or operate a facility shall submit with the application the appropriate application fee. Failure to submit the fee renders the application incomplete and the agency shall suspend processing of the application until the fee is received. Application fees are nonrefundable.

7002.0060 PROCESSING FEE.

A permittee shall pay the applicable processing fee within 30 days of issuance of the permit by the agency.

If a facility is a "small business" as defined in Minnesota Statutes, section 14.115, subdivision 1, or a municipal wastewater treatment plant with an average design flow of less than 30,000 gallons per day, the permittee may request to pay the processing fee in annual installments. Annual installments are determined by dividing the processing fee into equal annual payments based on the term of the permit. The first payment shall be made within 30 days of issuance of the permit and annually thereafter on the anniversary of issuance. A facility that qualifies as a "small business" must provide proof of that

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

status upon application for a permit.

7002.0070 ANNUAL FEE.

All persons required to obtain a permit shall pay an annual fee for enforcement of applicable statutes and rules except as provided in parts 7002.0100 and 7002.0110. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

7002.0080 NOTIFICATION OF ERROR.

A person who thinks that a basic processing fee, additional processing fee, or annual fee for a specific facility is in error shall provide written notice of the error to the director of the Division of Air Quality or the director of the Division of Water Quality, as appropriate, along with the assessed fee. If the director of the Division of Air Quality or the Division of Water Quality finds, upon reviewing the data, that the assessed fee was in error, the overpayment shall be refunded to the permittee or credited to the permittee's account.

7002.0090 LATE PAYMENT FEE.

The permittee shall pay a late payment fee of 20 percent of the payment due for failure to make payment within 30 days of a payment date. The permittee shall pay an additional ten percent of the original payment due for each 30-day period or portion thereof that the payment is late.

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Scope.** The fees established in this part are applicable to facilities and indirect sources which require an air emission facility permit under part 7001.1210 (permit rules, air emission facility permits) or an indirect source permit under part 7001.1270 (permit rules, indirect source permits). For the purpose of this part, the terms used have the meanings given them in part 7005.0100 (air pollution control rules, definitions).

Subp. 2. **Application fee.** A person making application for an air emission facility permit or an indirect source permit shall submit with the application an application fee of $50.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

Subp. 3. **Basic processing fees.** The permittee shall pay the following basic processing fees for the applicable permit activity:

A. $900 for the construction of an indirect source;

B. $900 for the construction or reconstruction of a major emission facility;

C. $300 for the construction or reconstruction of an emission facility other than a major emission facility;

D. $300 for the modification of a major emission facility or installation of air pollution control equipment at a major emission facility;

E. $100 for the modification of an emission facility other than a major emission facility or installation of air pollution control equipment at an emission facility other than a major emission facility;

F. $450 for the reissuance of a major emission facility permit; and

G. $150 for the reissuance of an emission facility permit other than a major emission facility.

For purposes of this subpart, activities as described in items D and E that occur during the last year of the term of a permit will be addressed along with the reissuance of the permit for a new term. The agency shall waive the fee for items D and E and only assess a reissuance fee and applicable additional processing fees.

Subp. 4. **Additional processing fees.** In addition to the basic processing fees required in subpart 3, the permittee shall pay the following additional processing fees, if applicable:

A. $500 for a major stationary source, as defined in Code of Federal Regulations, title 40, section 51.18(j)(1)(iv), as amended through June 25, 1982, located in a nonattainment area;

B. $150 for an emission facility that is subject to the federal prevention of significant deterioration requirements as established in Code of Federal Regulations, title 40, section 51.24;

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

C. $50 for an emission facility that is subject to the federal new source performance standards established in Code of Federal Regulations, title 40, part 60;

D. $150 for an emission facility that must apply best available control technology as required under Code of Federal Regulations, title 40, section 51.24;

E. $250 for evaluation of air emissions containing pollutants for which no ambient air quality standard has been established under part 7005.0080 (state ambient air quality standards) and which have the potential to be injurious to human health;

F. $150 for dispersion modeling review; and

G. $150 for each performance test review.

Subp. 5. **Annual fees.** All persons required to obtain an air emission facility permit shall pay the following applicable annual fee:

A. $650 for a major emission facility; or

B. $150 for an emission facility other than a major emission facility.

The agency shall not charge an annual fee for an emission facility with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the facility also discharges lead to the ambient air.

Subp. 6. **General permits.** The agency shall not charge processing or annual fees for permits issued as a general permit under part 7001.0210 (permit rules).

7002.0110 WATER QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Major NPDES facility; definition.** "Major NPDES facility" means a wastewater treatment discharger designated by the director and the regional administrator of the United States Environmental Protection Agency as part of the annual work plan that is developed in accordance with and that is subject to the public participation requirements of Code of Federal Regulations, title 40, part 35, and subject to review and approval of the agency. The agency and the United States Environmental Protection Agency shall designate the following

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

types of facilities as major NPDES facilities unless the agency and the United States Environmental Protection Agency find that the facility does not have a potential for significantly impacting water quality:

A. a publicly owned treatment facility with an average design flow of 1,000,000 gallons per day or more;

B. an electrical generating facility that is not primarily standby or a peaking facility with a generation capacity of 100 megawatts or greater;

C. a facility that is a primary industry as defined in Code of Federal Regulations, title 40, section 122.2, or other industry that discharges quantities of process wastewater, which are significant due to the volume, pollutant loading, or other discharge parameters or the character of the receiving water; or

D. a facility with an actual or potential discharge of toxic pollutants under section 307(a)(1) of the Clean Water Act, United States Code, title 33, section 1317.

Subp. 2. **Application fees.** A person making application for a permit covered under part 7001.0020 (permit rules, scope), items C, E, F, and H, shall pay the following applicable application fee:

A. $50 for a major NPDES facility permit;

B. $50 for a state disposal system permit or a NPDES facility permit other than a major NPDES facility permit;

C. $250 for a liquid storage permit; or

D. $70 for a sewer extension permit.

Subp. 3. **Processing fees.** The permittee shall pay the following processing fees for the applicable permit activity:

A. $6,800 for a major NPDES facility permit;

B. $900 for a NPDES facility permit other than a major NPDES facility permit; or

C. $900 for a state disposal system permit except a sewer extension permit.

The agency shall not charge processing fees for liquid storage or sewer extension permits.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

Subp. 4. **Annual fees.** All persons required to obtain a NPDES facility permit or a state disposal system permit shall pay the following applicable annual fees:

A. $2,600 for a major NPDES facility permit;

B. $120 for a NPDES facility permit other than a major NPDES facility permit; or

C. $120 for a state disposal system permit, except a sewer extension permit.

Subp. 5. **General permits.** The agency shall not charge processing or enforcement fees for a permit issued as a general permit under part 7001.0210 (permit rules).

EFFECTIVE DATE. Parts 7002.0010 to 7002.0110 are effective January 1, 1986.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD527

Agency: Minnesota Pollution Control Agency

Division:

Agency Contact: Doug Hall

Minnesota Rules: Parts 7002.0010 to 7002.0110

Title: Proposed Rules Relating to Environment; General Permit Fee Rule

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

David S. Niss
Assistant Revisor
Phone: 296-2948

Date: July 31, 1985

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts 7002.0010 - 7002.0110, Air Quality and Water Quality Permit Fee Rules

ORDER ADOPTING AIR QUALITY PERMIT FEES RULES AND WITHDRAWING WATER QUALITY PERMIT FEE RULES

Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on August 19, 1985, (10 S.R. 456) and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §14.14 (Supp. 1985) and to interested persons, including holders of water quality and air quality permits, on August 15, 1985. 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 rule amendments,

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules Parts 7002.0010 to 7002.0100 establishing air quality permit fees are, pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §116.07, subd. 4d (Supp. 1985), adopted with the following amendments:

7002.0010 SCOPE

~~Chapter 7002 applies~~ Parts 7002.0010 to 7002.0100 apply to all person required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020 (permanent rules, scope), items ~~C, E, F, H,~~ I~~,~~ and J.

. . .

7002.0040 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the ~~"State Treasurer"~~ "Minnesota Pollution Control Agency" and submit it to the Director, Division of Air Quality~~; or Director, Divison of Water Quality, as appropriate for the type of permitted activity~~.

The proposed rules establishing water quality permit fees are withdrawn.

Duane Dahlberg
Chairman

THOMAS J. KALITOWSKI
Executive Director

Dated: November 26, 1985

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts 7002.0010 - 7002.0110, Air Quality and Water Quality Permit Fee Rules

ORDER ADOPTING AIR QUALITY PERMIT FEES RULES AND WITHDRAWING WATER QUALITY PERMIT FEE RULES

Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on August 19, 1985, (10 S.R. 456) and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §14.14 (Supp. 1985) and to interested persons, including holders of water quality and air quality permits, on August 15, 1985. 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 rule amendments,

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules Parts 7002.0010 to 7002.0100 establishing air quality permit fees are, pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §116.07, subd. 4d (Supp. 1985), adopted with the following amendments:

7002.0010 SCOPE

~~Chapter 7002 applies~~ Parts 7002.0010 to 7002.0100 apply to all person required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020 (permanent rules, scope), items ~~C, E, F, H,~~ I~~,~~ and J.

. . .

7002.0040 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the ~~"State Treasurer"~~ "Minnesota Pollution Control Agency" and submit it to the Director, Division of Air Quality~~; or Director, Divison of Water Quality, as appropriate for the type of permitted activity~~.

The proposed rules establishing water quality permit fees are withdrawn.

Duane Dahlberg
Chairman

THOMAS J. KALITOWSKI
Executive Director

Dated: November 26, 1985

Department of Labor and Industry Apprenticeship Advisory Task Force

Notice of Intent to Appoint Apprenticeship Advisory Task Force

The Commissioner of Labor and Industry intends to appoint an Apprenticeship Advisory Task Force to look into the issue of women and minorities in the skilled trades and apprenticeship programs and to recommend whether there are additional steps the Department or other interested parties could take to encourage greater involvement on the part of these groups.

Candidates with an interest in these issues should contact Elaine Failor, Department of Labor and Industry, at (612) 297-4794 before April 2, 1984.

Minnesota Teachers Retirement Association

Meeting Notice

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Friday, April 6, 1984, at 9 a.m. in Room 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota to consider matters which may properly come before the Board.

Pollution Control Agency

Outside Opinion Sought Regarding Implementation of a Permit Fee Rule for Air Quality and Water Quality Permits, Including the Impact of the Rules on Small Businesses

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (agency) in response to Legislative authorization is seeking information and opinions from sources outside the agency on the development of a permit fee rule. The rule would address the collection of a fee to cover the reasonable costs of reviewing and acting upon applications for air quality and water quality permits and implementing and enforcing the conditions of the permits.

Opinion is also being solicited as to how these rules will affect small business as defined by Minnesota Law 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

To facilitate expression of opinions on the subject of a permit fee rule, a public meeting is scheduled to be held on April 5, 1984, at 9:00 a.m. in the Agency Board Room, at 1935 West County Road B-2, Roseville, Minnesota. Subject matter to be discussed at the meeting will include the breakdown of fees into various parts such as application fees, reviewal fees and implementation fees, payment schedules, and implementation of a permit fee program.

Interested persons or groups may submit statements of information or opinion orally or in writing. Written comments will be accepted until April 20, 1984 and should be sent to:

Mary Kimlinger
Minnesota Pollution Control Agency
Division of Air Quality
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone (612) 296-7232

Any written material received by the agency shall be a part of the hearing record in the event a rule is proposed and a public hearing is held.

March 12, 1984

Sandra S. Gardebring
Executive Director

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0010 - 7002.0110, Air Quality
and Water Quality Permit Fee Rules

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

It is hereby ordered this 23rd day of July, 1985, 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.

Thomas Kalitowski

THOMAS J. KALITOWSKI
Executive Director

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Thomas J. Kalitowski, do hereby certify that I am the Executive Director 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 23rd day of July, 1984, 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 Executive Director of the Minnesota Pollution Control Agency (Agency) is 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 governing permit fees for air quality and water quality permits, to sign the Notice thereof, and to perform any acts incidental thereto, including making 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 (1984).
>
> BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Executive Director is granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any acts incidental thereto, including but not limited to signing an Order and Notice for Hearing and as acting as the Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 23rd day of July, 1984.

Thomas Kalitowski

THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts 7002.0010 - 7002.0110, Air Quality and Water Quality Permit Fee Rules

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt, without a public hearing, rules establishing fees for air quality and water quality permits. The rules will be adopted in accordance with the provisions of Minn. Stat. §16A.128 (1984), as amended by Minn. Laws 1985, First Special Session, ch. 13, §101, subd. 2a., and in accordance with Minn. Stat. §14.22 - 14.28 (1984), as amended by Minn. Laws 1985, First Special Session, ch. §82. 13

The proposed rules are authorized by Minn. Stat. §116.07, subd. 4d (1984), as amended by Minn. Laws 1985, First Special Session, ch. 13, §233. A copy of the proposed rules is enclosed.

The Agency has prepared 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 by the Agency to support the proposed rules. Copies of the Statement of Need and Reasonableness and of the proposed rules are available and may be obtained by contacting the Agency at (612) 296-7221.

Interested persons have until 4:30 p.m. on September 20, 1985, to submit comments on the proposed rules. Comments should be submitted to:

Douglas Hall
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7221

The proposed rules may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed rules.

Unless the Agency receives, within the comment period, written requests for a hearing on the proposed rules from twenty percent of the persons who will be required to pay a fee, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. §§14.131 - 14.20 (1984), as amended by

Minn. Laws 1985, First Special Session, ch. 10, §38. If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the rules by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule amendments as adopted will be sent 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 amendments as adopted, should submit a written statement of such request to the Agency at the address previously stated.

The Agency estimates that the cost of these rules, for the two years immediately following their adoption, to all local public bodies in the state, collectively, will be approximately $800,000. For the purposes of this estimate, "local public bodies" is defined by Minn. Stat. §14.11 (1984) as "officers and governing bodies of the political subdivisions of the state and other officers and bodies of less than state wide jurisdiction which have the authority to levy taxes."

You are hereby advised, pursuant to Minn. Stat. §14.115 1984), "Small business considerations in rulemaking," that the proposed rules will affect small businesses because they will impose permit fees upon those small businesses which are required to obtain air quality and water quality permits. However, the rules do provide some consideration to small businesses by allowing small businesses and small municipal waste water treatment plants to pay the processing fee in annual installments over the life of the permit. (See Minn. Rule pt. 7002.0060)

for THOMAS J. KALITOWSKI
Executive Director

Dated: August 15, 1985

Rules as Proposed (all new material)

7002.0010 SCOPE.

Chapter 7002 applies to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020 (permanent rules, scope), items C, E, F, H, I, and J.

7002.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter the terms defined in this part have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Air pollution control equipment.** "Air pollution control equipment" means a device used to prevent, abate, or control air pollution.

Subp. 4. **Director.** "Director" means the executive director and chief executive officer of the Minnesota Pollution Control Agency.

Subp. 5. **Indirect source.** "Indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a state standard.

Subp. 6. **Major emission facility.** "Major emission facility" means a facility having potential emissions of 100 tons per year or more of sulfur dioxide or particulate matter.

Subp. 7. **National Pollutant Discharge Elimination System (NPDES).** "National Pollutant Discharge Elimination System (NPDES)" has the meaning given it in part 7001.1020 (permanent rules, NPDES permits), subpart 19.

Subp. 8. **Nonattainment area.** "Nonattainment area" means a geographical region that has been designated by the Minnesota Pollution Control Agency as violating a state or national ambient air quality standard.

Subp. 9. **State disposal system permit.** "State disposal system permit" means a permit for a disposal system that may be constructed and operated without a NPDES permit.

Subp. 10. **Total emission facility.** "Total emission facility" means an assemblage of all emission sources on adjacent property that are under common ownership or control and that exist for a common function.

7002.0030 FEE DETERMINATION.

The agency shall calculate processing and annual fees based upon the schedule in part 7002.0100 or 7002.0110 and shall notify the permittee of the amount due prior to each payment date.

7002.0040 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the "State Treasurer" and submit it to the Director, Division of Air Quality; or Director, Division of Water Quality, as appropriate for the type of permitted activity.

7002.0050 APPLICATION FEE.

A person who applies for a permit to construct, install, modify, or operate a facility shall submit with the application the appropriate application fee. Failure to submit the fee renders the application incomplete and the agency shall suspend processing of the application until the fee is received. Application fees are nonrefundable.

7002.0060 PROCESSING FEE.

A permittee shall pay the applicable processing fee within 30 days of issuance of the permit by the agency.

If a facility is a "small business" as defined in Minnesota Statutes, section 14.115, subdivision 1, or a municipal wastewater treatment plant with an average design flow of less than 30,000 gallons per day, the permittee may request to pay the processing fee in annual installments. Annual installments are determined by dividing the processing fee into equal annual payments based on the term of the permit. The first payment shall be made within 30 days of issuance of the permit and annually thereafter on the anniversary of issuance. A facility that qualifies as a "small business" must provide proof of that status upon application for a permit.

7002.0070 ANNUAL FEE.

All persons required to obtain a permit shall pay an annual fee for enforcement of applicable statutes and rules except as provided in parts 7002.0100 and 7002.0110. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

7002.0080 NOTIFICATION OF ERROR.

A person who thinks that a basic processing fee, additional processing fee, or annual fee for a specific facility is in error shall provide written notice of the error to the director of the Division of Air Quality or the director of the Division of Water Quality, as appropriate, along with the assessed fee. If the director of the Division of Air Quality or the Division of Water Quality finds, upon reviewing the data, that the assessed fee was in error, the overpayment shall be refunded to the permittee or credited to the permittee's account.

7002.0090 LATE PAYMENT FEE.

The permittee shall pay a late payment fee of 20 percent of the payment due for failure to make payment within 30 days of a payment date. The permittee shall pay an additional ten percent of the original payment due for each 30-day period or portion thereof that the payment is late.

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Scope.** The fees established in this part are applicable to facilities and indirect sources which require an air emission facility permit under part 7001.1210 (permit rules, air emission facility permits) or an indirect source permit under part 7001.1270 (permit rules, indirect source permits). For the purpose of this part, the terms used have the meanings given them in part 7005.0100 (air pollution control rules, definitions).

Subp. 2. **Application fee.** A person making application for an air emission facility permit or an indirect source permit shall submit with the application an application fee of $50.

Subp. 3. **Basic processing fees.** The permittee shall pay the following basic processing fees for the applicable permit activity:

A. $900 for the construction of an indirect source;

B. $900 for the construction or reconstruction of a major emission facility;

C. $300 for the construction or reconstruction of an emission facility other than a major emission facility;

D. $300 for the modification of a major emission facility or installation of air pollution control equipment at a major emission facility;

E. $100 for the modification of an emission facility other than a major emission facility or installation of air pollution control equipment at an emission facility other than a

major emission facility;

F. $450 for the reissuance of a major emission facility permit; and

G. $150 for the reissuance of an emission facility permit other than a major emission facility.

For purposes of this subpart, activities as described in items D and E that occur during the last year of the term of a permit will be addressed along with the reissuance of the permit for a new term. The agency shall waive the fee for items D and E and only assess a reissuance fee and applicable additional processing fees.

Subp. 4. **Additional processing fees.** In addition to the basic processing fees required in subpart 3, the permittee shall pay the following additional processing fees, if applicable:

A. $500 for a major stationary source, as defined in Code of Federal Regulations, title 40, section 51.18(j)(1)(iv), as amended through June 25, 1982, located in a nonattainment area;

B. $150 for an emission facility that is subject to the federal prevention of significant deterioration requirements as established in Code of Federal Regulations, title 40, section 51.24;

C. $50 for an emission facility that is subject to the federal new source performance standards established in Code of Federal Regulations, title 40, part 60;

D. $150 for an emission facility that must apply best available control technology as required under Code of Federal Regulations, title 40, section 51.24;

E. $250 for evaluation of air emissions containing pollutants for which no ambient air quality standard has been established under part 7005.0080 (state ambient air quality standards) and which have the potential to be injurious to human health;

F. $150 for dispersion modeling review; and

G. $150 for each performance test review.

Subp. 5. **Annual fees.** All persons required to obtain an air emission facility permit shall pay the following applicable annual fee:

A. $650 for a major emission facility; or

B. $150 for an emission facility other than a major

emission facility.

The agency shall not charge an annual fee for an emission facility with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the facility also discharges lead to the ambient air.

Subp. 6. **General permits.** The agency shall not charge processing or annual fees for permits issued as a general permit under part 7001.0210 (permit rules).

7002.0110 WATER QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Major NPDES facility; definition.** "Major NPDES facility" means a wastewater treatment discharger designated by the director and the regional administrator of the United States Environmental Protection Agency as part of the annual work plan that is developed in accordance with and that is subject to the public participation requirements of Code of Federal Regulations, title 40, part 35, and subject to review and approval of the agency. The agency and the United States Environmental Protection Agency shall designate the following types of facilities as major NPDES facilities unless the agency and the United States Environmental Protection Agency find that the facility does not have a potential for significantly impacting water quality:

A. a publicly owned treatment facility with an average design flow of 1,000,000 gallons per day or more;

B. an electrical generating facility that is not primarily standby or a peaking facility with a generation capacity of 100 megawatts or greater;

C. a facility that is a primary industry as defined in Code of Federal Regulations, title 40, section 122.2, or other industry that discharges quantities of process wastewater, which are significant due to the volume, pollutant loading, or other discharge parameters or the character of the receiving water; or

D. a facility with an actual or potential discharge of toxic pollutants under section 307(a)(1) of the Clean Water Act, United States Code, title 33, section 1317.

Subp. 2. **Application fees.** A person making application for a permit covered under part 7001.0020 (permit rules, scope), items C, E, F, and H, shall pay the following applicable application fee:

A. $50 for a major NPDES facility permit;

B. $50 for a state disposal system permit or a NPDES

facility permit other than a major NPDES facility permit;

C. $250 for a liquid storage permit; or

D. $70 for a sewer extension permit.

Subp. 3. **Processing fees.** The permittee shall pay the following processing fees for the applicable permit activity:

A. $6,800 for a major NPDES facility permit;

B. $900 for a NPDES facility permit other than a major NPDES facility permit; or

C. $900 for a state disposal system permit except a sewer extension permit.

The agency shall not charge processing fees for liquid storage or sewer extension permits.

Subp. 4. **Annual fees.** All persons required to obtain a NPDES facility permit or a state disposal system permit shall pay the following applicable annual fees:

A. $2,600 for a major NPDES facility permit;

B. $120 for a NPDES facility permit other than a major NPDES facility permit; or

C. $120 for a state disposal system permit, except a sewer extension permit.

Subp. 5. **General permits.** The agency shall not charge processing or enforcement fees for a permit issued as a general permit under part 7001.0210 (permit rules).

EFFECTIVE DATE. Parts 7002.0010 to 7002.0110 are effective January 1, 1986.

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0010 - 7002.0110, Air Quality
and Water Quality Permit Fee Rules

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Penny Nichols, being duly sworn, deposes and says:

That on the 15th day of August, 1985, at the City of Roseville, County of Ramsey, State of Minnesota, s/he served the attached Notice of Intent to Adopt Amendments to Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System or 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.

Penny Nichols

Subscribed and sworn to before me this
3rd day of Sept, 1985.

Margaret Frank
Notary Public

MARGARET FRANK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26, 1985

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0010 - 7002.0110, Air Quality
and Water Quality Permit 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 (1984), 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 2:00 p.m., this 15 day of August, 1985.

Jeanine Wilkenberg

Minnesota Pollution Control Agency

Proposed Rules Relating to Environment; General Permit Fee Rule

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that theMinnesota Pollution Control Agency (Agency) intends to adopt, without a public hearing, rules establishing fees for air quality and water quality permits. The rules will be adopted in accordance with the provisions of Minn. Stat. § 16A.128 (1984), as amended by Minn. Laws 1985, First Special Session, ch. 13, § 101, subd. 2a., and in accordance with Minn. Stat. § 14.22-14.28 (1984), as amended by Minn. Laws 1985, First Special Session, ch. § 82.

The proposed rules are authorized by Minn. Stat. § 116.07, subd. 4d (1984), as amended by Minn. Laws 1985, First Special Session, ch. 13, § 233. The proposed rules are published below.

The Agency has prepared 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 by the Agency to support the proposed rules. Copies of the Statement of Need and Reasonableness and of the proposed rules are available and may be obtained by contacting the Agency at (612) 296-7221.

Interested persons have until 4:30 p.m. on September 20, 1985, to submit comments on the proposed rules. Comments should be submitted to:

Douglas Hall
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7221

The proposed rules may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed rules.

Unless the Agency receives, within the comment period, written requests for a hearing on the proposed rules from twenty percent of the persons who will be required to pay a fee, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. §§ 14.131-14.20 (1984), as amended by Minn. Laws 1985, First Special Session, ch. 10, § 38. If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the rules by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule amendments as adopted will be sent 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 amendments as adopted, should submit a written statement of such request to the Agency at the address previously stated.

The Agency estimates that the cost of these rules, for the two years immediately following their adoption, to all local public bodies in the state, collectively, will be approximately $800,000. For the purposes of this estimate, "local public bodies" is defined by Minn. Stat. § 14.11 (1984) as "officers and governing bodies of the political subdivisions of the state and other officers and bodies of less than state wide jurisdiction which have the authority to levy taxes."

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1984), "Small business considerations in rulemaking," that the proposed rules will affect small businesses because they will impose permit fees upon those small businesses which are required to obtain air quality and water quality permits. However, the rules do provide some consideration to small businesses by allowing small businesses and small municipal waste water treatment plants to pay the processing fee in annual installments over the life of the permit. (See Minn. Rule pt. 7002.0060).

Thomas J. Kalitowski
Executive Director

Rules as Proposed (all new material)

7002.0010 SCOPE.

Chapter 7002 applies to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020 (permanent rules, scope), items C, E, F, H, I, and J.

7002.0020 DEFINITIONS.

Subpart 1. Scope. For the purposes of this chapter the terms defined in this part have the meanings given them.

Subp. 2. Agency. "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. Air pollution control equipment. "Air pollution control equipment" means a device used to prevent, abate, or control air pollution.

Subp. 4. Director. "Director" means the executive director and chief executive officer of the Minnesota Pollution Control Agency.

Subp. 5. Indirect source. "Indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a state standard.

Subp. 6. Major emission facility. "Major emission facility" means a facility having potential emissions of 100 tons per year or more of sulfur dioxide or particulate matter.

Subp. 7. National Pollutant Discharge Elimination System (NPDES). "National Pollutant Discharge Elimination System (NPDES)" has the meaning given it in part 7001.1020 (permanent rules, NPDES permits), subpart 19.

Subp. 8. Nonattainment area. "Nonattainment area" means a geographical region that has been designated by the Minnesota Pollution Control Agency as violating a state or national ambient air quality standard.

Subp. 9. State disposal system permit. "State disposal system permit" means a permit for a disposal system that may be constructed and operated without a NPDES permit.

Subp. 10. Total emission facility. "Total emission facility" means an assemblage of all emission sources on adjacent property that are under common ownership or control and that exist for a common function.

7002.0030 FEE DETERMINATION.

The agency shall calculate processing and annual fees based upon the schedule in part 7002.0100 or 7002.0110 and shall notify the permittee of the amount due prior to each payment date.

7002.0040 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the "State Treasurer" and submit it to the Director, Division of Air Quality; or Director, Division of Water Quality, as appropriate for the type of permitted activity.

7002.0050 APPLICATION FEE.

A person who applies for a permit to construct, install, modify, or operate a facility shall submit with the application the appropriate application fee. Failure to submit the fee renders the application incomplete and the agency shall suspend processing of the application until the fee is received. Application fees are nonrefundable.

7002.0060 PROCESSING FEE.

A permittee shall pay the applicable processing fee within 30 days of issuance of the permit by the agency.

If a facility is a "small business" as defined in Minnesota Statutes, section 14.115, subdivision 1, or a municipal wastewater treatment plant with an average design flow of less than 30,000 gallons per day, the permittee may request to pay the processing fee in annual installments. Annual installments are determined by dividing the processing fee into equal annual payments based on the term of the permit. The first payment shall be made within 30 days of issuance of the permit and annually thereafter on the anniversary of issuance. A facility that qualifies as a "small business" must provide proof of that status upon application for a permit.

7002.0070 ANNUAL FEE.

All persons required to obtain a permit shall pay an annual fee for enforcement of applicable statutes and rules except as provided in parts 7002.0100 and 7002.0110. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

7002.0080 NOTIFICATION OF ERROR.

A person who thinks that a basic processing fee, additional processing fee, or annual fee for a specific facility is in error shall provide written notice of the error to the director of the Division of Air Quality or the director of the Division of Water Quality, as

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.

appropriate, along with the assessed fee. If the director of the Division of Air Quality or the Division of Water Quality finds, upon reviewing the data, that the assessed fee was in error, the overpayment shall be refunded to the permittee or credited to the permittee's account.

7002.0090 LATE PAYMENT FEE.

The permittee shall pay a late payment fee of 20 percent of the payment due for failure to make payment within 30 days of a payment date. The permittee shall pay an additional ten percent of the original payment due for each 30-day period or portion thereof that the payment is late.

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. Scope. The fees established in this part are applicable to facilities and indirect sources which require an air emission facility permit under part 7001.1210 (permit rules, air emission facility permits) or an indirect source permit under part 7001.1270 (permit rules, indirect source permits). For the purpose of this part, the terms used have the meanings given them in part 7005.0100 (air pollution control rules, definitions).

Subp. 2. Application fee. A person making application for an air emission facility permit or an indirect source permit shall submit with the application an application fee of $50.

Subp. 3. Basic processing fees. The permittee shall pay the following basic processing fees for the applicable permit activity:

A. $900 for the construction of an indirect source;

B. $900 for the construction or reconstruction of a major emission facility;

C. $300 for the construction or reconstruction of an emission facility other than a major emission facility;

D. $300 for the modification of a major emission facility or installation of air pollution control equipment at a major emission facility;

E. $100 for the modification of an emission facility other than a major emission facility or installation of air pollution control equipment at an emission facility other than a major emission facility;

F. $450 for the reissuance of a major emission facility permit; and

G. $150 for the reissuance of an emission facility permit other than a major emission facility.

For purposes of this subpart, activities as described in items D and E that occur during the last year of the term of a permit will be addressed along with the reissuance of the permit for a new term. The agency shall waive the fee for items D and E and only assess a reissuance fee and applicable additional processing fees.

Subp. 4. Additional processing fees. In addition to the basic processing fees required in subpart 3, the permittee shall pay the following additional processing fees, if applicable:

A. $500 for a major stationary source, as defined in Code of Federal Regulations, title 40, section 51.18(j)(1)(iv), as amended through June 25, 1982, located in a nonattainment area;

B. $150 for an emission facility that is subject to the federal prevention of significant deterioration requirements as established in Code of Federal Regulations, title 40, section 51.24;

C. $50 for an emission facility that is subject to the federal new source performance standards established in Code of Federal Regulations, title 40, part 60;

D. $150 for an emission facility that must apply best available control technology as required under Code of Federal Regulations, title 40, section 51.24;

E. $250 for evaluation of air emissions containing pollutants for which no ambient air quality standard has been established under part 7005.0080 (state ambient air quality standards) and which have the potential to be injurious to human health;

F. $150 for dispersion modeling review; and

G. $150 for each performance test review.

Subp. 5. Annual fees. All persons required to obtain an air emission facility permit shall pay the following applicable annual fee:

A. $650 for a major emission facility; or

B. $150 for an emission facility other than a major emission facility.

The agency shall not charge an annual fee for an emission facility with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the facility also discharges lead to the ambient air.

Subp. 6. General permits. The agency shall not charge processing or annual fees for permits issued as a general permit under part 7001.0210 (permit rules).

7002.0110 WATER QUALITY PERMIT FEE SCHEDULE.

Subpart 1. Major NPDES facility; definition. "Major NPDES facility" means a wastewater treatment discharger designated by the director and the regional administrator of the United States Environmental Protection Agency as part of the annual work plan that is developed in accordance with and that is subject to the public participation requirements of Code of Federal Regulations, title 40, part 35, and subject to review and approval of the agency. The agency and the United States Environmental Protection Agency shall designate the following types of facilities as major NPDES facilities unless the agency and the United States Environmental Protection Agency find that the facility does not have a potential for significantly impacting water quality:

A. a publicly owned treatment facility with an average design flow of 1,000,000 gallons per day or more;

B. an electrical generating facility that is not primarily standby or a peaking facility with a generation capacity of 100 megawatts or greater;

C. a facility that is a primary industry as defined in Code of Federal Regulations, title 40, section 122.2, or other industry that discharges quantities of process wastewater, which are significant due to the volume, pollutant loading, or other discharge parameters or the character of the receiving water; or

D. a facility with an actual or potential discharge of toxic pollutants under section 307(a)(1) of the Clean Water Act, United States Code, title 33, section 1317.

Subp. 2. Application fees. A person making application for a permit covered under part 7001.0020 (permit rules, scope), items C, E, F, and H, shall pay the following applicable application fee:

A. $50 for a major NPDES facility permit;

B. $50 for a state disposal system permit or a NPDES facility permit other than a major NPDES facility permit;

C. $250 for a liquid storage permit; or

D. $70 for a sewer extension permit.

Subp. 3. Processing fees. The permittee shall pay the following processing fees for the applicable permit activity:

A. $6,800 for a major NPDES facility permit;

B. $900 for a NPDES facility permit other than a major NPDES facility permit; or

C. $900 for a state disposal system permit except a sewer extension permit.

The agency shall not charge processing fees for liquid storage or sewer extension permits.

Subp. 4. Annual fees. All persons required to obtain a NPDES facility permit or a state disposal system permit shall pay the following applicable annual fees:

A. $2,600 for a major NPDES facility permit;

B. $120 for a NPDES facility permit other than a major NPDES facility permit; or

C. $120 for a state disposal system permit, except a sewer extension permit.

Subp. 5. General permits. The agency shall not charge processing or enforcement fees for a permit issued as a general permit under part 7001.0210 (permit rules).

EFFECTIVE DATE. Parts 7002.0010 to 7002.0110 are effective January 1, 1986.

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

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0010 - 7002.0110, Air Quality
and Water Quality Permit Fee Rules

FINDINGS OF FACT
AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 26th day of November, 1985. 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 Findings 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 August 19, 1985 (10 S.R. 456).

2. On August 15, 1985, 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 (Supp. 1985) and to interested persons, including holders of air quality and water quality permits.

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 (Supp. 1985).

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 September 25, 1985.

6. During the comment period, the Agency received 121 written comments. Only seven of them directly related to the Air Quality permit fee rules.

7. The Agency finds that the written comments received on the water quality rules justify revisions to those rules which would constitute a substantial change. The portions of the proposed rules relating to water quality permit fees should be withdrawn, revised, and reproposed at a later date.

7. The Agency finds that two modifications to the proposed rules relating to the air quality permit fees are needed and reasonable. These modifications are discussed below.

a. Scope

Proposed Minn. Rules Part 7002.0010, "Scope," establishes the applicability of Chapter 7002. However, in light of the withdrawal of the water quality permit rules for revision, the reference to "Chapter 7002" needs to be corrected to cover only those parts of Chapter 7002 which apply to air quality permit fees. Therefore the words "Chapter 7002 applies" should be

replaced with: "Parts 7002.0010 to 7002.0100 apply." This change is reasonable and does not constitute a substantial change from the rules as proposed because it is for the purpose of clarification only. p. 1 et seq.

b. Payment of fees

Minn. Rules Part 7002.0040, "Payment of fees," needs to be amended to substitute "Minnesota Pollution Control Agency" in place of the "State Treasurer" as the entity to which fees should be made payable. This change is necessary because the Agency was notified by the Department of Finance that a recent statutory change has altered the duties of the State Treasurer and that fee payments should now be made directly to the appropriate agency. This notification was contained in a memorandum dated September 24, 1985, from Peter Sausen, Assistant Commissioner of Finance. This modification is reasonable because it imposes no additional burden on permittees; it merely requires that a different payee be indicated on a check. This modification is not substantially different from the rules as proposed. p. 2

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 proposed rules relating to water quality permit fees are to be withdrawn at this time.

4. The modifications to the proposed air quality permit fee rules are supported by the data and views submitted to the Agency within the comment period and do not result in a substantial change in the proposed rules.

MINNESOTA POLLUTION CONTROL AGENCY

Duane Dahlberg
Chairperson

Thomas J. Kalitowski
Executive Director

Dated: November 26, 1985

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Thomas J. Kalitowski, do hereby certify that I am the Executive Director 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 26th day of November, 1985, 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 (Agency) hereby withdraws the proposed rules governing water quality permit fees, as set forth in the proposed Minn. Rules Parts 7002.0010 to 7002.0110, as published in the State Register on August 19, 1985 (10 S.R. 456).

BE IT RESOLVED, that the Agency hereby approves and adopts the attached rules governing air quality permit fees, Minn. Rules Parts 7002.0010 to 7002.0110 pursuant to the authority vested in the Agency by Minn. Stat. §116.07, subd. 4d (Supp. 1985).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Execitive 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. §14.28 (Supp. 1985).

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27th day of November, 1985.

Thom Kalitowski

THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Rules Parts 7002.0010 - 7002.0100 Water Quality and Air Quality Permit Fee Rules

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Minnesota Pollution Control Agency (Agency) was required by the 1985 Minnesota Legislature to adopt rules for the establishment and collection of permit fees to cover the reasonable costs of reviewing and acting upon permit applications and for implementing and enforcing the conditions of the permits. Minn. Stat. §116.07, subd. 4d (1984), as amended by Minn. Laws 1985, First Special Session, ch. 13.

The above-captioned rules are proposed for the purpose of establishing permit application, processing, and annual fees for water quality permits and air quality permits, which permits are issued by the Agency pursuant to Minn. Rules ch. 7001 (Supp. 1984). In 1985 the legislature established a target amount of $270,000 annually for the Air Quality Division and $750,000 annually for the Water Quality Division, which the Agency must collect through the fees. Minn. Laws 1985, First Special Session, ch. 13.

The proposed rules establish the amount of the fees and manner of payment of the fees. Penalty provisions are included for late payment of the required fee.

A part of the administrative requirement involved in adopting these rules is the review and approval of the fee schedule by the Minnesota Commissioner of Finance. This approval, dated

August 2, 1985, is Exhibit 1.

II. STATEMENT OF AGENCY'S STATUTORY AUTHORITY

The Agency is authorized by Minn. Stat. §116.07, subd. 4d (1984), as amended by Minn. Laws 1985, First Special Session, ch. 13, §233, to adopt rules for the collection of permit fees. The statute provides:

> The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of reviewing and acting upon applications for agency permits and implementing and enforcing the conditions of permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The agency shall adopt rules under section 16A.128 establishing the amounts and methods of collection of any permit fees collected under this subdivision. Any money collected under this subdivision shall be deposited in the special revenue fund.

The target amounts of $270,000 for the Air Quality Division and $750,000 for the Water Quality Division are established by Minn. Laws 1985, First Special Session, ch. 13, §26.

The Agency is authorized to issue permits by Minn. Stat. §§115.03, subd. 1(e) and Minn. Stat. §116.07, subd. 4a (1984) and has implemented this authority in several different permit programs. The Agency is proposing in this rulemaking proceeding to exercise its authority to collect permit fees for its air quality and water quality permit programs.

The Agency is required by Minn. Stat. §116.07, subd. 4d, as amended, to adopt the rules under Minn. Stat. §16A.128, as amended by Minn. Laws 1985, First Special Session, ch. 13, §101. Subdivision 2a of that statute provides:

> Other fees not fixed by law must be fixed by rule. The procedure for noncontroversial rules in sections 14.21 to 14.28 may be used except that no public hearing need be held unless 20 percent of the persons who will be required to pay the fee submit to the agency during the 30-day period allowed for comment a written request for a public hearing on the proposed rule. The notice of intention to adopt the rules must state whether a hearing will be held if not required. This procedure may be used only when the total fees estimated for the biennium do not exceed the sum of direct appropriations, indirect costs, transfers in, and salary supplements for that purpose. A public hearing is required to fix fees spent under open appropriations of dedicated receipts.

As authorized by this statute, the Agency is electing to use the noncontroversial rulemaking procedures of Minn. Stat. §14.21 to 14.28 (1984) and will not hold a hearing unless the required number of written requests are received.

III. STATEMENT OF NEED

The need to adopt the proposed rules arises from the fact that the State Legislature and the Governor are interested in implementing new ways of covering the financial burden on the State to cover the operating cost of administrative agencies. The Governor has indicated his desire to have administrative services and regulatory activities paid for, in whole or in part, by those persons benefiting from the service or requiring the regulatory activity. When it enacted Minn. Stat. §116.07, subd. 4d (1984), the Legislature agreed that it was appropriate that the regulated community bear a portion of the reasonable costs of reviewing and acting upon permit applications and implementing and enforcing the conditions of permits.

In 1985 the Legislature directed the Agency to collect $1,020,000 through a permit fee program. In order to comply with the Legislature's directive, it is necessary to adopt the proposed rules.

With respect to air quality permits, the adoption of the permit fee rule is also needed for the purposes of the Clean Air Act. Section 110 of the Act (42 U.S.C. §7410) requires the State to adopt a plan, known as a State Implementation Plan (SIP) which provides for implementation, maintenance, and enforcement of national ambient air quality standards. Section 110(a)(2)(K) (42 U.S.C. §7410(a)(2)(K)) requires that a SIP include a requirement that the owner or operator of each major stationary source pay to the permitting authority as a condition of any permit a fee to cover the costs of reviewing and acting upon permit applications and the costs of implementing and enforcing the terms and conditions of any such permit.

IV. STATEMENT OF REASONABLENESS

A. Introduction

In addressing the issue of the reasonableness of these permit fee rules, the Agency believes that the following criteria should be met:

1. The revenue generated under the permit fee rules should be sufficient to meet the target amount established by Minn. Laws 1985, First Special Session, ch. 13, §26.

2. The permit fee rules should be equitable in that the fees charged for different types of permits are generally representative of the program effort required in the issuance, enforcement, and related activities for a particular category of permit.
3. The administrative requirements of the permit fee program should be minimal and should not interfere with permitting activities.
4. The permit fee rules should provide a level of certainty to the permittee of the amount of the fee which is due.

The proposed fee rules meet these criteria for the following reasons:

1. The permit fee rules will generate revenues sufficient to meet the target amount of $1,020,000.
2. The fee schedule provided in the rules varies according to various permit categories. Higher fees are charged for permits which involve, on the average, a greater amount of Agency staff effort.
3. In selecting an approach to recover the administrative costs of permitting activities, the Agency had to choose between two alternatives. One alternative is to charge a permittee on a per-hour basis for the actual hours the Agency staff spends dealing with that permittee's permit. This approach would require Agency staff to record the hours they worked on a given matter and pass that

information on to personnel who are involved in collecting fees, who would have to translate those hours into the amount of fees due. The second alternative is the approach which is embodied in the proposed rules. Fixed fees are established for identifiable permit categories. This approach is reasonable because it eliminates the need to spend the additional Agency administrative time which would be necessary for detailed time accounting. Billing activities can be done by financial personnel without the need to take up the time of permitting personnel. Therefore the administrative requirements of the permit fee program will be minimal and will not interfere with permitting activities.

4. The use of readily identifiable permit categories in fee assignment provides certainty to permittees as to the amount of fee which is due.

The following discussion addresses the reasonableness of the specific provisions of Minn. Rule Parts 7002.0010 - 7002.0100.

B. Scope (Minn. Rules part 7002.0010)

This part establishes that the rules apply to all persons required to obtain a permit described under Minn. Rules part 7001.0020, items E., F., H,. I., and J. from the Agency. Minn. Rules part 7001.0020 is a part of the Agency's Permit Rules, Minn. Rules ch. 7001 (Supp. 1984), which establish a

standard permitting procedure for many types of permits issued by the Agency. 1/ The types of Agency permits to which the standard permitting procedure applies are listed in Minn. Rules part 7001.0020. It is reasonable to cross-reference the appropriate portions of Minn. Rules Part 7001.0020 because Minn. Rule part 7001.0020 provides a convenient "laundry list" of the types of permits the Agency issues.

The Agency determined whether it was appropriate to charge permit fees under this rule to all of the permits listed in Minn. Rules part 7001.0020 and decided that in certain cases it is not.

1/ The permits described by Minn. Rules part 7001.0020, items C., E., F., H., I., and J. are as follows:

1. An Agency permit required for sewage sludge landspreading activities (item C.);

2. An Agency permit required for the construction, installation, or operation of a disposal system (item E.) ;

3. An Agency permit required for the discharge of a pollutant into the waters of the state from a point source (item F.);

4. An Agency permit required for the construction or operation of a liquid storage facility (item H.);

5. An Agency permit for the construction, modification, reconstruction, or operation of an air emission facility, except those activities permitted under APC 8 (Minn. Rule Parts 7005.0700 - 7005.0820) (item I.); and

6. An Agency permit required for the construction of a facility, building, structure, or installation that attracts or may attract mobile source activity that results in emissions of an air pollutant for which there is a state standard (item J.).

The exemptions created under this part are the permits described under Minn. Rules part 7001.0020, items A., B., D., and G. The reasonableness of each of these exemptions is discussed below.

Item A. describes permits "for the storage, treatment, utilization, processing, transfer, intermediate disposal, or final disposal of solid waste." It is reasonable to exempt these permits for the time being because the Agency is in the process of reviewing its rules relating to solid waste and believes that it is likely that substantial revisions will be made. It is more appropriate to begin to charge permit fees for these permits after the revised rules are put into place.

Item B. describes permits "for the treatment, storage, or disposal of hazardous waste." It is reasonable to exempt these permits because hazardous waste facilities and generators already are charged fees under the Agency's rules Minn. Rules Parts 7046.0010 - 7046.0070, Hazardous Waste Facility and Generator Fees.

Item D. describes letters of approval "for sewage sludge landspreading sites." The program for issuance of letters of approval for sewage sludge landspreading sites is fairly new. As a result, the Agency does not have a long history on which to determine average work loads on which fees would be based. Because the Agency does not have enough information on which to base equitable fees, it is reasonable to exempt these letters of approval from fees at this time.

Item G. describes permits "for the construction or operation of a feedlot." It is reasonable to exempt these permits because another rule, Minn. Rules Part 7020.0300, subp. 19 (1983) specifically exempts this permitting activity from permit fees.

C. Definitions (Minn. Rules part 7002.0020)

This part sets forth ten definitions of terms found elsewhere in the rule. The definitions of these terms are discussed below.

"Agency" is defined as the Minnesota Pollution Control Agency. It is reasonable to define this term in order to clarify the agency to which this term refers.

"Air pollution control equipment" is defined as a device used to prevent, abate, or control air pollution. The amount of the processing fee established in Minn. Rule Part 7002.0100 depends on whether certain equipment is "air pollution control equipment." Therefore it is reasonable to define this term in order to clarify to the public the amount of fees to which certain facilities are subject.

"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.

"Indirect source" is defined using the same language as is used to describe the Agency permit required by Minn. Rules part 7001.0020, item J. Issuance of these permits is governed by the Agency's permit rule Minn. Rules parts 7001.1250 - 7001.1350,

Indirect source permits, in conjunction with the Agency's permit rules Minn. Rules parts 7001.0010 - 7001.0210. It is reasonable to define this term in order to clarfy to the public which types of permits are subject to fees.

"Major emission facility" is defined as an emission facility having potential emissions of 100 tons per year or more of sulfur dioxide or particulate matter. This definition is reasonable because it reflects the type and size of facilities which require additional permitting and enforcement activities as a result of federal regulations and requirements of the work plan specified by the U. S. Environmental Protection Agency (EPA) under the Clean Air Act.

The definition of "National Pollutant Discharge Elimination System (NPDES)" incorporates by reference the definition in the Agency's permit rule Minn. Rules part 7001.1020, subp. 19. It is reasonable to use the same definition for this term as is used in other rules regulating the same activity because it promotes consistency among Agency programs.

The definition of "nonattainment area" is identical to the definition of that term found in the Agency's rule Minn. Rule part 7005.3030, subp. 11 (1983), the Offset Rule. The amount of certain fees established in this rules depends upon whether the permitted facility will be located in a nonattainment area. Therefore it is reasonable to define this term in order to clarify to the public the amount of fees to which certain

facilities are subject. It is reasonable to use the same definition for this term as used in other Agency rules because it promotes consistency among Agency programs.

"State disposal system permit" is defined for the purposes of this chapter as a permit for a disposal system that may be constructed and operated without a NPDES permit. All disposal systems are required by Minn. Stat. §115.07 (1984) to be covered by an Agency permit. Many disposal systems are also required by the Federal Clean Water Act and by Minn. Rules part 7001.1030 to be covered by a NPDES permit. The amount of the fee established for a state disposal system permit alone or both a state disposal system permit and a NPDES permit are the same, with the exception of major NPDES/state disposal system permits and sewer extension permits. It is reasonable to define this term in order to clarify to the public which types of facilities are subject to fees.

"Total emission facility" is defined as an assemblage of all emission sources on adjacent property that are under common ownership or control and that exist for a common function. In the past, it was common for the Agency to issue to a single company a number of air quality permits covering individual components of the emission facility. These rules provide that only one fee will be charged per "total emission facility," regardless of the number of permits held. Therefore it is reasonable to define this term in order to clarify that multiple

fees will not be collected by the Agency.

D. Fee Determination (Minn. Rules part 7002.0030)

This rule provides that the Agency shall calculate the permit fees based upon the schedule provided in part 7002.0100 or 7002.0110 and shall notify the permittee of the amount due prior to the payment date. It is reasonable to require the Agency to give the permittee advance notice of the amount of the fee in order to avoid confusion as to fee payment responsibilities.

E. Payment of Fees (Minn. Rules part 7002.0040)

This rule provides that fees must be made payable to the "State Treasurer" and submitted to the either the Director of the Division of Water Quality or the Director of the Division of Air Quality, as appropriate for the type of permitted activity.

It is reasonable to require that fees be made payable to the State Treasurer because Minn. Stat. §116.07, subd. 4d (1984), as amended by First Special Session Laws 1985, ch. 13, §233, requires that all money collected through permit fees be placed in a special fund administered by the State Finance Department.

It is reasonable to require that fees be submitted to the Director of the appropriate Agency division so that they may be directed properly within the Agency and properly recorded and accounted for.

F. Application Fee (Minn. Rules part 7002.0050)

This part requires that application fees be submitted at the time of submission of the application and that failure to submit the fee renders the application incomplete such that processing will be suspended until the fee is received.

The rationale behind requiring an application fee arises from the fact that from time to time permit applications are withdrawn, denied, or are not issued for some other reason. At the point at which such applications have been withdrawn or denied, the Agency staff would already have invested time and expense in processing the application. At the time permit applications are submitted the Agency cannot make an advance forecast of what specific applications will not result in the issuance of a permit. It is reasonable to require the payment of a fee with the application because otherwise the Agency's administrative costs for reviewing some permit applications will not be reimbursed. It is reasonable to provide that failure to submit the application fee will result in suspension of processing of the application because this provision will encourage prompt payment of the fees and thus promote the accomplishment of the goal of these rules to recover the administrative costs of the Agency for permit activities.

G. Processing Fee (Minn. Rules part 7002.0060)

This part requires the permittee to pay the applicable

processing fee within 30 days of the issuance of the permit by the Agency. It is reasonable to establish a specific time frame for payment of the processing fee to enable the Agency to effectively carry out its responsibility to collect permit fees in a timely manner and to provide certainty for permittees so that they may make their financial plans for payment of the fees.

This part also provides the opportunity to pay the processing fee in annual installments to those permittees with facilities which fall within the definition of a "small business" under Minn. Stat. §14.115, subd. 1 (1984) or municipal waste water treatment plants with an average design flow of less than 30,000 gallons per day. Municipal waste water treatment plants of this size are those which serve small communities and are therefore the municipal equivalent of a "small business." Because of their size, most small businesses and small municipal waste water treatment plants pay comparatively low processing and annual fees. Allowing small businesses to make smaller payments over an extended period was prompted by the provisions of Minn. Stat. §14.115 (1984), which encourages all agencies to make allowances in rules for small businesses in Minnesota. It is reasonable to make this allowance for small businesses because it allows the Agency to collect the fees to cover the cost of permit processing while at the same time enabling these permittees to plan for these additional costs and to spread the payments over several years without incurring interest charges.

H. Annual Fee (Minn. Rules part 7002.0070)

This rule establishes an annual fee to cover routine enforcement activities at a facility or for enforcement of an activity required by a Minnesota statute or rule to be covered by a permit. The rule requires the enforcement fee to be paid within 30 days of receipt of an invoice from the Agency.

The collection of fees to cover the Agency's costs associated with the enforcement of permitted facilities and activities is authorized by Minn. Stat. §116.07, subd. 4d (1984). Enforcement activities include the review of monitoring reports, the conduct of inspections, and the initiation of activities to bring permittees into compliance when necessary. These enforcement activities require the hiring of staff and the expenditure of other Agency funds, and therefore it is reasonable to recover them with fees. The terms of payment established in the rule are reasonable because they are clear and easily understandable and therefore allow permittees to understand their obligations and make advance financial plans.

I. Notification of Error (Minn. Rules part 7002.0080)

This Rule allows for notification to the Agency concerning disputes as to the correct amount of fees due. The person who believes that the Agency has made an error must notify the Director of the appropriate Agency division (Air Quality or Water Quality) along with submittal of the assessed fee. Requiring prompt notice of a dispute is reasonable in the interests of

efficient fee collection and prompt dispute resolution. The rule also provides that if the director of the appropriate division finds that the person appealing the assessed fee is correct, the overpayment shall be reimbursed or credited to the permittee's account. This is reasonable because a person who has a bona fide claim that the Agency made an error in the calculation of the fee should have the error corrected and any overpayment returned.

J. Late Payment Fee (Minn. Rules part 7002.0090)

This rule provides that a penalty of 20 percent of the annual fee will be charged for failure to pay a fee within 30 days of the payment date. An additional penalty of ten percent of the annual fee will be charged for each 30 day period or fraction thereof that the payment is late. Establishing penalties for failure to submit fees in a timely manner is reasonable because the penalties will encourage prompt response to the obligation created by these rules and will thereby help in achieving an efficient fee collection program.

K. Permit Fee Schedules (Minn. Rules Parts 7002.0100 to 7002.0110)

Minn. Rule Parts 7002.0100 to 7002.0110 establish the fee schedules for air quality permits and water permits. In both cases, the fees vary according to permit categories. As previously discussed, larger fees are charged for permits which have, on the average, required a larger amount of Agency staff effort. Collectively, the fees which the Agency expects to

collect will cover 100 percent of the State funds used to cover the costs associated with the permitting efforts.

The fee schedules established in the rules are discussed below.

1. Air Quality Permit Fee Schedule (Minn. Rules Part 7002.0100)

Minn. Rules Part 7002.0100 establishes the fee schedule for various air quality permits. The application, processing, and annual fees are set forth in Subparts 1 - 5.

Subpart 1 specifies the facilities and indirect sources to which this part applies by referencing the specific parts of the Agency's permit rules (Minn. Rules parts 7001.1210 and 7001.1270) which establish the requirement to obtain a permit for air emission facilities and indirect sources. It is reasonable to provide these cross-references for the purpose of clarification.

Subpart 2 establishes a $50 application fee for permits described in Minn. Rule Part 7001.0020, items I. (air emission facilities) and J. (indirect source permits). Fees which will be collected through this charge represent less than 5 percent of the revenues which the Agency expects to collect through the fee system. This fee is reasonable because it is reasonably close to the average of what is charged by those other states which have an application or filing fee. As discussed previously, this fee helps to defray the cost of processing applications for which no permit is issued and for which no processing fees are collected.

Subpart 3 establishes basic processing fees. These fees were calculated based on the average staff time needed to process a particular category of permits by the Division of Air Quality. The fees cover the portion of the direct salary and attendant costs funded by the state. The split between state and federal funding for the Air Quality Division is 50/50. Using this approach and considering the mix of salary rates of staff involved in the permit process, the fees represent a charge of approximately $10.50 per hour of staff time (including fringe benefits, supplies, and expenses) expended. The fees charged are reasonable because they are proportional to the State's direct costs for processing various categories of permits.

Subpart 2 also provides that a modification or addition of air pollution control equipment to a source occurring during the last year of the term of a permit will be addressed along with the reissuance of the permit for a new term, and the Agency shall waive the fee for modification or installation of air pollution control equipment at the source and only assess a reissuance fee and applicable additional processing fees. The act of handling a modification or installation of air pollution control equipment as a reissuance will avoid the necessity for the Agency to process essentially the same permit twice, and it is reasonable to pass these "savings" on to the permittee.

Subpart 4 establishes additional processing fees for the following types of facilities:

1. Major stationary sources located in a nonattainment area;

2. Facilities subject to the Prevention of Significant Deterioration requirements of 40 C.F.R. §51.24;

3. Facilities subject to New Source Performance Standards under 40 C.F.R Part 60;

4. Facilities required to install Best Available Control Technology pursuant to 40 C.F.R. §51.24;

5. Facilities with air emissions containing pollutants for which no ambient air quality standard has been established under Minn. Rules part 7005.0080 and which have the potential to be injurious to human health.

In addition, additional processing fees are assesed when the Agency staff performs dispersion modeling analysis and stack test reviews. The fee rate for these additional processing activities are at the same approximate rate per staff hour as was utilized for the general processing category. It is reasonable to charge additional processing fees for major stationary sources located in a nonattainment area because the Agency's Offset Rule (Minn. Rules Parts 7005.3010 - 7005.3060), Section 129 of the Clean Air Act, and EPA regulations 40 C.F.R. §50.18 require those sources to undergo additional review, which involves additional administrative costs. Additional administrative costs are also involved when the processing of a permit involves facilities subject to the Prevention of Significant Deterioration requirements of 40 C.F.R. §51.24, facilities subject to New Source Performance Standards under 40 C.F.R. Part 60, facilites required to install Best Available Control Technology pursuant to

40 C.F.R. §51.24, facilities with air emissions containing pollutants for which no ambient air quality standard has been established under Minn. Rules part 7005.0080 and which have the potential to be injurious to human health, modeling analysis, or review of stack tests. Because of the unique nature of this additional activity and because a minority of permit applications result in this additional effort, it would not be equitable to spread these costs among all permittees. Since the administrative cost of these activities can be readily estimated, it is reasonable to charge them directly to the permittees who make them necessary.

Subpart 5 establishes annual fees for stationary sources which have been issued an air quality permit. The fees charged are reasonable because they are apportioned according to the costs associated with enforcing permits issued to different sized facilities. Major emission facilities reqire more time for enforcement activities than facilities with potential emissions of a single pollutant between 50 and 100 tons annually. Facilities with potential emissions of a single pollutant between 25 and 50 tons do not require the same enforcement activities as larger emission sources. 2/ The rule waives the annual fee for emission facilities of this latter size. This three-tiered system for annual fees established by the rule is a reasonable

---

2/ Facilities with potential emissions of a single pollutant of less than 25 tons per year do not require a permit.

approach to equitably distributing the enforcement costs for all sizes of emission sources based upon the work effort needed for enforcement activities. The rule also provides that a total emission facility will be charged for one annual fee regardless of the number of air permits held by the facility. This rule is reasonable because the overall amount of enforcement time spent on a given total facility is independent of the number of permits held by the facility.

2. Water Quality Permit Fee Schedule (Minn. Rule Part 7002.0100

Minn. Rules part 7002.0100 establishes the fee schedule for various water quality permits.

Subpart 1 defines a major NPDES facility as a wastewater treatment discharger designated by the Director and the Administrator of the EPA as a part of the annual work plan that is developed in accordance with and that is subject to the public participation requirements of 40 C.F.R. Part 35 and is subject to the review and approval of the Agency. The following facilities, all of which have a potential for significantly impacting water quality, must be included on the list, unless the Director and the EPA find that the facilities do not have the potential for significant impacts on water quality:

A. A publicly owned treatment facility with an average design flow of 1,000,000 gallons per day or more;

B. An electrical generating facility that is not primarily standby or a peaking facility with a generating capacity

of 100 megawatts or greater;

C. A facility that is a primary industry as defined in 40 C.F.R. §122.2 or other industry that discharges quantities of process wastewater which are significant due to volume, pollutant loading, or other discharge parameters, or the characteristics of the receiving water; and

D. A facility with an actual or potential discharge of toxic pollutants under section 307(a) of the Clean Water Act.

Because the size of the application, processing, and enforcement fees for NPDES facilities is dependent on whether or not these facilities are "major," it is reasonable to define the term "major NPDES facility" in order to clarify to the public the amount to fees to which certain facilities are subject.

The definition for "major NPDES facility" is in accordance with the EPA's definition of the term "major facility" as it appears at 40 C.F.R. §122.2:

> Major facility means any NPDES "facility or activity" classified as such by the Regional Administrator, or, in the case of "approved state programs," the Regional Administrator in conjunction with the State Director.

However, the rule fleshes out this definition to inform the public that the designation of major NPDES facilities is done as a part of the annual work plan required by 40 C.F.R. Part 35, is subject to requirements for public participation, and is subject to the final approval of the Agency. In addition, the rule lists

the types of facilities that are subject to being on the list in order to further inform the public of what types of facilities might expect to be designated. This rule is reasonable because it informs the public of the procedures that will be used to designate major facilities and the criteria that will be applied.

The application, processing, and annual fees are set forth in Subparts 2 - 5. In these fee schedules higher processing and annual fees are charged for major NPDES facilities. This is reasonable because, due to the higher potention of these facilities for significantly impacting water quality, the level of Agency staff effort involved in processing and enforcing this type of permit has historically been significantly higher than it is for other NPDES permits.

Subpart 2 establishes the application fee for permits described in Minn. Rules Part 7001.0020, items C. (sewage sludge landspreading activities), E. (disposal systems), F. (discharges from point sources), and H. (liquid storage facilities). These fees represent a charge of 15 percent or less of the total of the enforcement and processing fees. As discussed previously, this fee helps to defray the cost of processing applications for which no permit is issued and for which no processing fees are collected. The application fees for liquid storage facilities and sewer extension permits are one-time fees and are for permits which do not have a fixed term. For both of these permits the primary staff effort is in the issuance of the permit; therefore

it is reasonable to collect this fee up front, at the time of application.

Subpart 3 establishes processing fees. The fees charged are reasonable because they are proportional to the Agency's cost for processing applications, issuing permit, conducting other permit-related activities, such as load allocation surveys or discharge standard effluent limitation determinations.

Subpart 4 establishes annual enforcement fees. The fees charged are reasonable because they represent a proportion of the Agency's cost for ongoing compliance and enforcement activities which follow the issuance of a permit.

Subpart 5 provides that no processing or enforcement fees will be charged for permits issued as a General Permit under Minn. Rules Part 7001.0210. This is reasonable because general permits are designed to cover minor facilities which require minimal staff effort in terms of processing applications and enforcement. The fee for a general permit is therefore limited to the application fee, which is paid at the beginning of the process.

K. Effective Date

The rules provide that Chapter 7002 is effective January 1, 1986. This date is reasonable because it is based upon the 1985 Legislature's directive to collect 50 percent of the target amounts from fees during the first year of the biennium.

IV. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. §14.115 (1984) 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 business;

(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.

These rules make specific accommodation for small businesses. Proposed Minn. Rules part 7002.0060 allows small businesses and small municipal waste water treatment plants to pay the processing fee in annual installments over the life of the permit. The Agency met the requirements of Minn. Stat. §14.115 (1984) to consider reducing the impact of the rules on small business.

V. CONCLUSION

Based on the foregoing, the proposed Minn. Rules Part 7001.0010 - 7002.0110 are both needed and reasonable.

Dated: August 14, 1985

for Barbara Lindsey Sims
THOMAS J. KALITOWSKI
Executive Director

EXHIBIT 1

Statement of Need and Reasonableness
Addendum

As per M.S.16A.128, I have reviewed the Pollution Control Agency's proposed water quality and air quality permit fee rules and fee schedules and provide my approval that the proposed satisfies the direction and intent of pertinent legislation.

Nellie Johnson

Jay Kiedrowski, Commissioner
Department of Finance

8-2-85

Date

EXHIBIT 2

EXPLANATION OF AIR QUALITY AND WATER PERMIT FEE CALCULATIONS

The purpose of this document is to present the approach used by the Agency in calculating the levels of the permit fees contained in proposed Minn. Rules Parts 7002.0010 - 7002.0110, Air Quality and Water Quality Permit Fees.

AIR QUALITY PERMIT FEES

The air quality permit fees were calculated on the basis of the direct staff effort involved in the processing and enforcement of the various types of permits issued by the Division. This required the staff to review the types of permits handled and to assign them to permit categories. The following four permit categories were identified as being processed by the Division:

1. Major emission facilities
2. Minor emission facilities
3. Indirect sources; and
4. Pollution control equipment only

With respect to the Division's enforcement activities, permits were divided into three categories: (1) those with emissions of 100 or more tons per year (major), (2) those with emissions between 50 and 100 tons annually, and (3) those with emissions between 25 and 50 tons annually.

After identifying these permit categories, the staff calculated the number of person hours necessary to complete

individual types of activities for each permit category and the cost of those person hours based on the salaries of the individuals who were to do the work.

A primary source of information utilized in determining the staff effort needed to conduct various permit and enforcement activities was the organizational resource analysis (ORA) prepared in support of the Fiscal Year 1985 Work Plan, which was approved by the Agency Board and was submitted to and approved by the Environmental Protection Agency. The ORA is done each year and identifies the number of person hours needed and the classifications of the persons assigned to complete individual types of activities in the Division of Air Quality. In some cases, the activities in the ORA were expressed as broad categories, and it was necessary to estimate the portion of the activity which related to permits. For permit and enforcement activities, the number of hours spent was calculated. These figures required adjustment to take into account vacation, sick leave, holidays, and time devoted to administrative activities unrelated to the program. It is estimated that 1560 hours per year of an Agency employee's time is available for actual work activities. Therefore, the hours for each classification were adjusted by multiplying 1.3385 to approximate a 2088 hour work year.

The calculations for converting person hours into costs involved multiplying hours for employee classifications by the

mid-range salary for that classification and adding 18 percent fringe benefit factor and a 15 percent supplies and expense factor. Costs thus derived were calculated for each permit category.

Once the average cost figure was derived for a particular permit or enforcement category, this figure was split between the portion covered by state funding and the portion covered by federal funding; for Air Quality this is a 50/50 split. Only the state-funded portion of cost was included in the fee structure.

The numbers representing the state-funded portion of cost were finally reviewed for general appropriateness and, in general, were rounded off to the nearest $50. In some cases individual fees were further adjusted to maintain proper perspective among categories.

The across-the-board $50 application fee was not the result of calculations. It was selected as a reasonable figure because a nominal amount of initial handling is involved with all applications, whether or not they are subsequently processed or cancelled. In addition, this figure is reasonably close to the average of what is charged by those other states which have an application or filing fee. The numbers which were used in the Division of Air Quality's calculations are attached as Appendix A.

WATER QUALITY PERMIT FEES

The first step in calculating the water quality permit fees

involved calculating that portion of the 1984 budget of the Division of Water Quality that is devoted to processing and enforcing the various types of permits handled by the Division. This required the staff to review the types of permits handled and to assign them to permit categories. The following permit categories were identified:

1. Major municipal permits
2. Minor municipal permits (including state disposal system permits for sewage sludge landspreading facilities)
3. Major industrial permits
4. Minor industrial permits
5. Liquid storage permits
6. Sewer extension permits

After identifying these permit categories, the staff calculated the number of person hours necessary to complete individual types of activities for each permit category, the estimated number of each category of permits that the Division expects to handle in 1984, and the cost of those person hours based on the salaries of the civil service classification of the individuals who were to do the work.

The staff determined the number of needed person hours using the ORA which was prepared in support of the Fiscal Year 1984 Work Plan, which was approved by the Agency Board and was submitted to and approved by the Environmental Protection Agency. In some cases, the activities in the ORA were expressed as broad categories, and it was necessary to estimate the portion of the

activity which related to permits. For the Monitoring and Analysis Section, hours were broken out for permit related activities such as determining permit limits, wasteload allocation surveys, and bioassay work. For each employee classification, the total number of hours per year spent on the permit program was calculated. However, these figures required adjustment to take into account vacation, sick leave, holidays, and time devoted to administrative activities unrelated to the program. It is estimated that 1560 hours per year of an Agency employee's time is spent on actual work activities. Therefore, the hours for each classification were adjusted by multiplying 1.3385 to approximate a 2088 hour work year.

The cost of the person hours was calculated by the mid-range salary for that classification according to the salary schedules in effect on July 24, 1984. The salaries for each classification were then added together to give a total salary cost for each category of permits. To the basic salary, a fringe of 18 percent was added to cover insurance and other benefits, and an additional 15 percent was added to cover supplies and expenses.

After calculating the cost of the person hours devoted to each permit category, the total was divided by the approximate number of permits in that category to give an annual cost per permit, including permit issuance activities, enforcement, and monitoring and analysis activities where appropriate. This

number represents the approximate full cost of the permit activities for that category of permit.

After figuring the full cost of permit activities, adjustments were made to calculate the fees, based on the portion covered by state funding and the portion covered by federal funding. For the Division of Water Quality, this is a 70/30 split. Therefore, the per-permit cost was multiplied by .70 to determine 70 percent of the program cost for each permit. These numbers were then reviewed for general appropriateness. After this review it was decided to combine the municipal and industrial categories, because the fees calculated were similar, and because in some cases there was not a clear distinction between industrial and municipal permits. For example, according to the statutory definition, trailer parks are not municipalities; however, they are considered by the Agency to be municipal permits for the purposes of permit issuance, because they treat only domestic waste. However, for the purposes of enforcement, the Division of Water Quality treats them as industrial permits.

After the total fees were adjusted in this manner, the Division then selected a portion of this fee as processing fee and a portion as an enforcement fee, based on the approximate percentage of staff time devoted to permit processing and enforcement activities. A $50 application fee was selected as a

reasonable figure to cover not only the initial work involved in reviewing a permit application but also for reviewing permit applications which ultimately, for whatever reason, do not result in the issuance of a permit by the Agency.

After the review of the fee schedule up to this point, the Division decided to charge the entire fee for liquid storage permits and sewer extension fees as a one-time application fee. These activities are not significant in terms of staff resources devoted to them and they are issued a one-time permit.

The Division considered the question of what fees to charge for permits issued pursuant to Minn. Rules part 7001.0210, entitled "General permits." The Agency has not yet issued any permits under this rule, but is in the process of developing this type of permit for noncontact cooling water dischargers which discharge less than one million gallons per day that meet certain requirements for temperature and additives. Because the Agency has no experience with this type of permit, permit costs had to be roughly estimated. It appears reasonable to believe that charging a $50.00 application fee for this type of permit will recover approximately 70 percent of this program cost. Because it is anticipated that little staff time will be devoted to processing and enforcing these permits, it is reasonable not to charge processing and enforcement fees for this type of permit. The numbers which were used in the Division of Water Quality calculations are attached as Appendix B.

AIR QUALITY
PERMIT FEE CALCULATIONS

PERMIT TYPE	PERMIT HOURS	ENFORCEMENT HOURS	PROGRAM DEV. HOURS	TOTAL HOURS	TIME ADJ.	ADJUSTED HOURS	AVERAGE SALARY	FRINGE & EXPENSE ADJ.	ADJUSTED SALARY	TOTAL COST
MAJOR FACILITY	4156	3287	1850	9293	1.3385	12438.6805	$16.15	0.33	$21.48	$267,176.64
MINOR FACILITY	3562	1505	616	5683	1.3385	7606.6955	$16.15	0.33	$21.48	$163,388.02
INDIRECT SOURCE	0	0	1186	1186	1.3385	1587.461	$16.15	0.33	$21.48	$34,097.87

SUB TOTAL $464,662.52
$74,980.00 CLERICAL SUPPORT

GRAND TOTAL $539,642.52

Time adjustment, is an increase in hours to account for vacation time and holidays.

Fringe & expense adjustment, is an increase in salary to account for fringe benefits (18%) and supplies and expense (15%).

APPENDIX A

WATER QUALITY
PERMIT FEE CALCULATIONS

MUNICIPAL MAJORS (53)

	PERMITS HRS	ENF HRS	Limits	M&A HRS Wstld	Bioass	TOTAL HRS	Adjustment	Adj. Hrs.	Midrange Salary	Total Salary	
PCS TECH					480	480	x 1.3385	642	$ 8.68/hr	$ 5,573	
PCS INT	676	4680			480	5836	x 1.3385	7811	11.22	87,639	$187,209 (Salary/Year)
PCS PRIN	140	1170			48	1358	x 1.3385	1818	15.10	27,452	+ 33,698 (Fringe 18%)
PCS ADM	35	546	5	116	48	750	x 1.3385	1004	18.40	18,474	$220,907
CT II	140	546	5	116	48	855	x 1.3385	1144	7.24	8,283	+ 33,136 (Supplies & Expense 15%)
CT IV SUP	70	546				616	x 1.3385	824	8.80	7,251	$254,043 (4793/permit/year)
CK 3		702				702	x 1.3385	940	7.57	7,116	
PRIN ENG			53			53	x 1.3385	71	17.25	1,225	
SR ENG				1164		1164	x 1.3385	1558	15.53	24,196	
SUBTOTAL	1061	8190	63	1396	1104	11814		15812 (7.57 yrs)		$187,209	

MUNICIPAL MINORS (1000)

	PERMITS HRS	ENF HRS	Limits	M&A HRS Wstld	Bioass	TOTAL HRS	Adjustment	Adj. Hrs.	Midrange Salary	Total Salary	
PCS TECH				1560		1560	x 1.3385	2088	$ 8.68/hr	$ 18,123	
PCS INT	4526	3198			320	8044	x 1.3385	10767	11.22	120,806	$217,428 (Salary/Year)
PCS PRIN	655	390			32	1077	x 1.3385	1442	15.10	21,774	+ 39,137 (Fringe 18%)
PCS ADM	163	187	10	156	32	548	x 1.3385	733	18.40	3,487	$256,565
CT II	655	187	10	156	32	1040	x 1.3385	1392	7.24	10,078	+ 38,485 (Supplies & Expense 15%)
CT IV SUP	327	187				514	x 1.3385	688	8.80	6,054	$296,050 = 296/yr
CK 3		234				234	x 1.3385	313	7.57	2,369	
PRIN ENG			100			100	x 1.3385	134	17.25	2,311	
SR ENG				1560		1560	x 1.3385	2088	15.53	32,426	
SUBTOTAL	6326	4383	120	3432	416	14677		19645 (9.4 yrs)		217,428	

INDUSTRIAL MAJORS (39)

	PERMITS HRS	ENF HRS	M&A HRS Limits	M&A HRS Wstld	Bioass	TOTAL HRS	Adjustment	Adj. Hrs.	Midrange Salary	Total Salary		
PCS TECH					480	480	x 1.3385	642	$ 8.68	$ 5,573		
PCS INT	720	3326			480	4526	x 1.3385	6058	11.22	67,971	$124,694	(Salary/Year)
PCS PRIN	94	546			48	688	x 1.3385	921	15.10	13,907	+ 22,445	(Fringe 18%)
PCS ADM	23	187	5	87	48	350	x 1.3385	468	18.40	8,611	$147,139	
CT II	94	187	5	87	48	421	x 1.3385	564	7.24	4,083	22,671	(Supplies & Expense 15%)
CT IV SUP	47	187				234	x 1.3385	313	8.80	2,754	$169,270	(4339/yr)
CK 3		238				238	x 1.3385	319	7.57	2,415		
PRIN ENG			53			53	x 1.3385	71	17.25	1,225		
SR ENG	—	—	—	873	—	873	x 1.3385	1169	15.53	18,155		
SUBTOTAL	978	9671	63	1047	1104	7863		10525 (5.04 yrs)		$124,694		

INDUSTRIAL MINORS (630)

	PERMITS HRS	ENF HRS	M&A HRS Limits	M&A HRS Wstld	Bioass	TOTAL HRS	Adjustment	Adj. Hrs.	Midrange Salary	Total Salary		
PCS TECH					40	40	x 1.3385	54	$ 8.68	$ 469		
PCS INT	4543	4680			40	9263	x 1.3385	12399	11.22	139,117	$212,430	(Salary/Year)
PCS PRIN	702	905			4	1611	x 1.3385	2156	15.10	32,556	+ 38,237	(Fringe 18%)
PCS ADM	175	312	10	16	4	517	x 1.3385	692	18.40	12,733	$250,667	
CT II	702	312	10	16	4	1044	x 1.3385	1397	7.24	10,114	+ 37,600	(Supplies & Expense 15%)
CT IV	351	312				663	x 1.3385	887	8.80	7,806	$288,267 = 398/yr	
CK 3		386				386	x 1.3385	517	7.57	3,914		
PRIN ENG			104			104	x 1.3385	139	17.25	2,398		
SR ENG	—	—	—	160	—	160	x 1.3385	214	15.53	3,323		
SUBTOTAL	6473	6907	124	192	92	13788		18455 (8.84 yrs)		$212,430		

LIQUID STORAGE (25/YR)

	PERMITS HRS	ENF HRS	M&A HRS Limits	M&A HRS Wstld	M&A HRS Biosss	TOTAL HRS	Adjustment	Adj. Hrs.	Midrange Salary	Total Salary		
GRAD II	288					288	x 1.3385	385	$12.99	$5,001	$6,627	(Salary/Year)
SR ENG	40					40	x 1.3385	54	15.53	839	+ 1,193	(Fringe 18%)
CT II	30					30	x 1.3385	40	7.24	290	$7,820	
PG ADM	20					20	x 1.3385	27	18.40	497	+ 1,173	(Supplies & Expense 15%)
SUBTOTAL	378					378		506 (.24 yrs)		$6,627	$8,993	

SEWER EXTENSIONS (400/yr)

	PERMITS HRS	ENF HRS	M&A HRS Limits	M&A HRS Wstld	M&A HRS Biosss	TOTAL HRS	Adjustment	Adj. Hrs.	Midrange Salary	Total Salary		
GRAD II	1324					1324	x 1.3385	1772	$12.99	$23,018	$30,149	(Salary/Year)
SR ENG	1211					124	x 1.3385	166	15.53	2,578	+ 5,427	(Fringe 18%)
CT II	312					312	x 1.3385	418	7.24	3,026	$35,576	
PG ADM	62					62	x 1.3385	83	18.40	1,527	+ 5,336	(Supplies & Expense 15%)
SUBTOTAL	1822					1822		2439 (1.17 yrs)		$30,149	$40,912	

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0010 - 7002.0110, Air Quality
and Water Quality Permit Fee Rules

STATEMENT OF COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Special Assistant Attorney General Jocelyn F. Olson, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act and the rules of the Attorney General have been followed.

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

Dated: November 27, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0010 - 7002.0100, Air Quality
and Water Quality Permit Fee Rules

AFFIDAVIT REGARDING
NOTIFICATION OF
SUBMISSION TO
ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Douglas Hall, being duly sworn on oath deposes and says:

1. That he is the person named in the Notice of Intent to Adopt Rules Without a Public Hearing as published in the State Register (10 S.R. 456, August 19, 1985) and as mailed to interested persons on August 15, 1985, as the person to receive requests for notification on the date that the Agency submits the above-entitled rules to the Attorney General for review.

2. That no person requested to be notified of the date that the Agency submits the rules to the Attorney General for review.

Douglas Hall

Subscribed and sworn to before me
this 27th day of November, 1985.

Mary Ann Hammer
Notary Public

MARY ANN HAMMER
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Dec. 11, 1985

SF-00006-04

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : of Finance

PHONE : 6-8372

DATE : September 24, 1985

TO : Accounting Coordinators

TO: Pollution Control

FROM : Peter Sausen
Assistant Commissioner

SUBJECT : Receipts Pertinent to Special Session Laws 1985 Chapter 13

On July 1, 1985 duties relating to receipts were transferred from the State Treasurer to the Department of Finance (Special Session Laws 1985 Chapter 13).

Checks should no longer be made payable to the State Treasurer. Please have all checks made payable to your Department/Division.

Examples: Pay to the Order of Department of Natural Resources
Pay to the Order of Department of Education
Pay to the Order of Human Services

As your forms are reprinted delete the words State Treasurer and replace it with your Department/Division Title.

Replace your endorsement stamps that say State Treasurer with the stamps that read Commissioner of Finance.

If you have any questions please call Mike Hager at 296-8552.

DM/MH/JMS/217T

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

November 27, 1985

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

Re: Proposed Minn. Rules Parts 7002.0010 - 7002.0100, Air Quality and Water Quality Permit Fee Rules

Dear Mr. Miles:

On November 26, 1985, the Minnesota Pollution Control Agency took final action on its proposed Minn. Rules Parts 7002.0010 - 7002.0100, Air Quality and Water Quality Permit Fee Rules. The Agency withdrew the portions of the proposed rules relating to water quality permit fees and adopted the portions of the proposed rules relating to air quality permit fees. The Agency is submitting the air quality permit fee rules for your approval. Enclosed 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. 2123, March 19, 1984).

5. 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 (10 S.R. 456, August 19, 1985).

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. Findings of Fact and Conclusions.

14. Statement of Need and Reasonableness.

15. Statement of Compliance with Rulemaking Procedures.

16. Affidavit Regarding Notification of Submission to Attorney General.

17. Memorandum of Peter Sausen, Assistant Commissioner, Department of Finance, to Accounting Coordinators, dated September 24, 1985.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General