

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1255 ● ● 25.0009.0700

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-26-86
DATE FOR REVIEW 3-7-86
DATE DUE 3-12-86

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

Approved 3-10-86 mjc Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State _____ Revisor approved 2.27.86 disapproved _____

C Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 2.25.86 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 3.19.84 - solicit small biz comment + comments 5

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency contains small biz statement

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

✓ Mailing list Certificate

✓ Publication in State Register
12.16.85 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

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness - DOF approval of fees is attached includes 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)

✓ Certificate of Compliance w/Rulemaking Procedures

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

N/A Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: THOMAS J. KALITOWSKI, Executive Director
Minnesota Pollution Control Agency

DATE: 3/10/86

ATTN: JOCELYN F. OLSON
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: Proposed Minnesota Rules Parts 7002.0210 - 7002.0310, Water Quality Permit Fee Rules

The above-referenced rule has been approved as to its legality by the Attorney General on March 10, 1986.

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

RR1255

AG copy

Pollution Control Agency

Adopted Rules Relating to Water Quality Permit Fees

Rules as Adopted

7002.0210 SCOPE.

Parts 7002.0210 to 7002.0310 apply to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020, items C, E, F, and H.

7002.0220 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 7002.0210 to 7002.0310, the terms defined in this part have the meanings given them.

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

Subp. 3. **Director.** "Director" means the executive director and chief executive officer of the Minnesota Pollution Control Agency.

Subp. 4. **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:

may a MN. rule direct a federal agency?

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 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. 5. **Municipal permit; definition.** "Municipal permit" means a permit issued to a municipality as defined in part 7001.1020, subpart 18, for the discharge or disposal of wastewater which is a five percent or more sewage. Permits issued to municipalities for facilities treating or disposing of waste that is less than five percent sewage shall be considered nonmunicipal permits.

Subp. 6. **National Pollutant Discharge Elimination System (NPDES).** "National Pollutant Discharge Elimination System (NPDES)" has the meaning given it in part 7001.1020, subpart 19.

Subp. 7. **Sewage.** "Sewage" has the meaning given it in part 7080.0020, subpart 33.

Subp. 8. **Sewage sludge landspreading facility.** "Sewage sludge landspreading facility" means a landspreading facility as defined in part 7040.0100, subpart 20 for the landspreading of sewage sludge.

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.

7002.0230 FEE DETERMINATION.

The agency shall calculate processing and annual fees based upon the schedule in part 7002.0310 and shall notify the permittee of the amount due prior to each payment date.

7002.0240 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the "Minnesota Pollution Control Agency" and submit it to the

director of the Division of Water Quality.

7002.0250 APPLICATION FEE.

A person who applied 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.

7002.0260 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.

? what will constitute "proof"

7002.0270 ANNUAL FEE.

All persons required to obtain a permit listed in part 7002.0310, subparts 1 and 2, shall pay an annual fee for enforcement of applicable statutes and rules. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

7002.0280 NOTIFICATION OF ERROR.

A person who thinks that a basic 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 Water Quality, along with the assessed fee. If the director of the Division of Water Quality finds, upon reviewing the data, that

pg b/4 error

the assessed fee was in error, the overpayment shall be refunded to the permittee or credited to the permittee's account.

7002.0290 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.

7002.0300 WATER QUALITY PERMIT FEE SCHEDULE.

Permit fees for water quality permits are established in part 7002.0310.

7002.0310 TABLE, WATER QUALITY PERMIT FEES.

Subpart 1. **Major NPDES permit fees.** The following fees shall be paid for major NPDES facilities:

A. Municipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
50 and over	$50	$30,000	$40,000
20 to 49.99	50	13,000	8,000
5 to 19.99	50	6,000	2,500
Up to 4.99	50	2,800	950

B. Nonmunicipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
20 to 49.99	$50	$13,000	$9,000
5 to 19.99	50	7,200	3,000
Up to 4.99	50	3,700	1,500

Cooling or Mine Pit Dewatering (any flow)	50	7,200	3,000

Subp. 2. **Nonmajor NPDES and state disposal permit fees.** The following fees shall be paid by a permittee not designated as a major NPDES facility and by a permittee that has applied for or received a state disposal system permit.

A. Municipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
Greater than .100	$50	$1,250	$140
0 to .099	50	600	50
Sewage sludge landspreading facilities	50	600	50

B. Nonmunicipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
Sewage 0 to .099	$50	$ 600	$ 50
Other nonmunicipal (any flow)	50	1,250	175

Subp. 3. **Other water quality permit fees.** The following application fees shall be paid by a permittee that has applied for or received a general, sewer extension, or liquid storage permit.

A. General, $50;

B. Sewer extension, $80; and

C. Liquid storage, $250.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 1 1 1986
Joan Anderson Growe
Secretary of State
9:27 AM

APPROVED AS TO FORM AND LEGALITY
March 10 19 86
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassidy
SPECIAL ASSISTANT ATTORNEY GENERAL

Pollution Control Agency

Proposed Rules Relating to Water Quality Permit Fees

Rules as Proposed (all new material)

7002.0210 SCOPE.

Parts 7002.0210 to 7002.0310 apply to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020, items C, E, F, and H.

7002.0220 DEFINITIONS.

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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

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capacity of 100 megawatts or greater;

C. a facility that is 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.

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APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

director of the Division of Water Quality.

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7002.0270 ANNUAL FEE.

All persons required to obtain a permit listed in part 7002.0310, subparts 1 and 2, shall pay an annual fee for enforcement of applicable statutes and rules. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

7002.0280 NOTIFICATION OF ERROR.

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APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

the assessed fee was in error, the overpayment shall be refunded to the permittee or credited to the permittee's account.

7002.0290 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.

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7002.0310 TABLE, WATER QUALITY PERMIT FEES.

Subpart 1. **Major NPDES permit fees.** The following fees shall be paid for major NPDES facilities:

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Up to 4.99	50	2,800	950

B. Nonmunicipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
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Cooling or			

Mine Pit Dewatering (any flow)	50	7,200	3,000

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Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
Greater than .100	$50	$1,250	$140
0 to .099	50	600	50
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A. General, $50;

B. Sewer extension, $80; and

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

C. Liquid storage, $250.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD878

Agency: Pollution Control Agency

Division:

Agency Contact: Doug Hall 297-1832

Minnesota Rules: Parts 7002.0210 to 7002.0310

Title: Proposed Rules Relating to Water Quality Permit Fees

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

David S. Niss
Assistant Revisor
Phone: 297-2948

Date: November 26, 1985

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0210 - 7002.0310, Water Quality
Permit Fee Rules

ORDER ADOPTING RULES

Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on December 16, 1985, (10 S.R. 1360) 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 permits, on December 12, 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 rules,

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules Parts 7002.0210 to 7002.0310 establishing water quality permit fees are adopted, pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §116.07, subd. 4d (Supp. 1985).

DUANE DAHLBERG
Chairperson

THOMAS J. KALITOWSKI
Executive Director

Dated: February 25, 1986

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 7002.0210 - 7002.0310, Water Quality Permit Fee Rules

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

It is hereby ordered this 27th day of November, 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 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 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 Executive Director of the Minnesota Pollution Control Agency (Agency) is granted the authority 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 of the Agency governing water quality permit fees, Minn. Rules parts 7002.0210 to 7002.0310, 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 certificate as required by in Minn. Stat. §14.07, subd. 2 (Supp. 1985).
>
> 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 and all acts incidental thereto, including but not limited to signing an Order and Notice for Hearing, as well as acting as the Agency's representative at all hearings.

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



THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts 7002.0210 - 7002.0310, 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 water quality permits. The rules will be adopted in accordance with the provisions of Minn. Stat. §16A.128 (Supp. 1985) and in accordance with Minn. Stat. §14.22 - 14.28 (Supp. 1985).

The Agency previously published proposed rules for both air quality and water quality permits, codified as Minn. Rules Parts 7002.0010 - 7002.0110 (10 S.R. 456, August 19, 1985.) However, following receipt by the Agency of a substantial amount of adverse comments on the proposed water quality permit fees, the portions of the proposed rules relating to water quality permit fees have been withdrawn. The rules which are attached to this notice reflect a revised fee schedule which is, in part, based on facility flow.

The proposed rules are authorized by Minn. Stat. §116.07, subd. 4d (Supp. 1985). A copy of the proposed rules is enclosed.

In order to facilitate public comment on these proposed rules, the Agency will hold two public informational meetings on the following dates at the following locations:

Date	Time	Location
December 18, 1985	2:00 p.m. and 6:30	Dept. of Transportation Building 2505 Transportation Road Willmar, MN 56201
December 19, 1985	2:00 p.m. and 6:30 p.m.	City Council Chambers 420 N. Pokegama Grand Rapids, MN 55744

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 January 17, 1986,

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 (Supp. 1985). 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, 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 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. 7002.0260)

for Barbara Lindsay Sims

THOMAS J. KALITOWSKI
Executive Director

Dated: December 12, 1985

Proposed Rules Relating to Water Quality Permit Fees

Rules as Proposed (all new material)

7002.0210 SCOPE

Parts 7002.0210 to 7002.0310 apply to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020, items C, E, F, and H.

7002.0220 DEFINITIONS

Subpart 1. Scope. For the purpose of Parts 7002.0210 to 7002.0310 the terms defined in this part have the meanings given them.

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

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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 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. 5. Municipal Permit; Definition. "Municipal permit" means a permit issued to a municipality as defined in part 7001.1020, subpart 18, for the discharge or disposal of wastewater which is a five percent or more sewage. Permits issued to municipalities for facilities treating or disposing of waste that is less than five percent sewage shall be considered nonmunicipal permits.

Subp. 6. National Pollutant Discharge Elimination System (NPDES). "National Pollutant Discharge Elimination System (NPDES)" has the meaning given it in part 7001.1020, subpart 19.

Subp. 7. Sewage. "Sewage" has the meaning given it in part 7080.0020 subpart 33.

Subp. 8. Sewage Sludge Landspreading Facility. "Sewage sludge landspreading facility" means a landspreading facility as defined in part 7040.0100 subpart 20 for the landspreading of sewage sludge.

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.

7002.0230 FEE DETERMINATION.

The agency shall calculate processing and annual fees based upon the schedule in part 7002.0310 and shall notify the permittee of the amount due prior to each payment date.

7002.0240 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the "Minnesota Pollution Control Agency" and submit it to the Director, Division of Water Quality.

7002.0250 APPLICATION FEE.

A person who applied 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.

7002.0260 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.

7002.0270 ANNUAL FEE.

All persons required to obtain a permit listed in part 7002.0310, subparts 1 and 2 shall pay an annual fee for enforcement of applicable statutes and rules. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

7002.0280 NOTIFICATION OF ERROR.

A person who thinks that a basic 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 Water Quality, along with the assessed fee. If the director of 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.

7002.0290 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.

7002.0300 WATER QUALITY PERMIT FEE SCHEDULE.

Permit fees for water quality permits are established in Part 7002.0310

7002.0310 Table, Water Quality Permit Fees

Subpart 1. Major NPDES Permit Fees. The following fees shall be paid for Major NPDES Facilities.

A. Municipal Permits

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
50 and over	$50	$30,000	$40,000
20 to 49.99	$50	$13,000	$8,000
5 to 19.99	$50	$6,000	$2,500
Up to 4.99	$50	$2,800	$950

B. Nonmunicipal Permits

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
20 to 49.99	$50	$13,000	$9,000
5 to 19.99	$50	$7,200	$3,000
up to 4.99	$50	$3,700	$1,500
Cooling or Mine Pit Dewatering (any flow)	$50	$7,200	$3,000

Subp. 2. Non Major NPDES and State Disposal System Permit Fees. The following fees shall be paid by a permittee not designated as a Major NPDES Facility and by a permittee that has applied for or received a State Disposal System Permit.

A. Municipal Permits

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
Greater than .100	$50	$1,250	$140
0 to .099	$50	$600	$50
Sewage sludge landspreading facilities	$50	$600	$50

B. Nonmunicipal Permits

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
Sewage 0 to .099	$50	$600	$50
Other nonmunicipal (any flow)	$50	$1,250	$175

Subp. 3. Other Water Quality Permit Fees. The following application fees shall be paid by a permittee that has applied for or received a general, sewer extension, or liquid storage permit.

A. General, $50;
B. Sewer Extension, $80; and
C. Liquid Storage, $250

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0210 - 7002.0310, Water Quality
Permit Fee Rules

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Penny Nickles, being duly sworn, deposes and says:

That on the 12 day of December, 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 Nickles

Subscribed and sworn to before me this
12th day of December, 1985.

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 9-24-91

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0210 - 7002.0310, 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 (Supp. 1985), 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 3:00 p.m., this 12 day of December, 1985.

Elaine A. Zoch

concerning a section 401 certification in accordance with the public notice requirements applicable to the federal agency or department under federal statutes or regulations, so long as the notice is actually prepared and distributed.

7001.1450 FINAL DETERMINATION.

Subpart 1. **Action required.** The agency shall make final determinations with respect to section 401 certifications by taking one of the following actions:

A. Issue, reissue, revoke and reissue, or modify a section 401 certification in accordance with part 7001.0140, subpart 1 and upon making a finding that the discharge which is the subject of the section 401 certification will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, United States Code, title 33, sections 1311, 1312, 1313, 1316, and 1317.

B. Deny or revoke a section 401 certification upon making the findings set forth in part 7001.0140, subpart 2 or the findings set forth in subpart 2.

C. Waive the agency's authority to issue a section 401 certification in accordance with part 7001.1460.

Subp. 2. **Denial of certification required.** The agency shall deny a section 401 certification if the agency finds that the issuance will result in a discharge of a radiological, chemical, or biological warfare agent.

7001.1460 WAIVER.

With respect to the discharge that is the subject of the application, the agency is considered to have waived its authority to issue a section 401 certification under the following circumstances:

A. If the agency notifies the applicant in writing that it is waiving the agency's authority to certify the project. If issuance of the waiver is conditional, the notification shall specify the conditions that must be met.

B. If the agency fails or refuses to make a final determination on an application for a section 401 certification within one year after receipt of the application and the agency's failure or refusal to act is not a result of the applicant's failure or refusal to cure a deficiency in the application as required by the director pursuant to part 7001.0090.

7001.1470 TERMS AND CONDITIONS OF SECTION 401 CERTIFICATIONS.

Subpart 1. **General terms required.** A section 401 certification issued by the agency shall include the following:

A. The name and address of the certificate holder.

B. A statement that the agency has examined the section 401 certification application and any other information furnished by the applicant and bases its certification upon an evaluation of this information that is relevant to water quality considerations.

C. A statement that there is reasonable assurance that the activity will be conducted in a manner that will not violate applicable water quality standards.

D. The terms and conditions in part 7001.0150, except that the provisions of part 7001.0150, subpart 1 do not apply to section 401 certifications. In addition to the special conditions in part 7001.0150, subpart 2, a section 401 certification shall contain the special conditions described in subpart 2.

Subp. 2. **NPDES conditions.** A section 401 certification shall contain the special conditions described in part 7001.1080, subparts 2 to 9, which conditions shall be established in the same manner as special conditions are established under part 7001.1080 for national pollutant discharge elimination system permits.

Pollution Control Agency

Proposed Rules Relating to Water Quality Permit Fees

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 water quality permits. The rules will be adopted in accordance with the provisions of Minn. Stat. § 16A.128 (Supp. 1985) and in accordance with Minn. Stat. § 14.22-14.28 (Supp. 1985).

The Agency previously published proposed rules for both air quality and water quality permits, codified as Minn. Rules Parts 7002.0010-7002.0110 (10 S.R. 456, August 19, 1985.) However, following receipt by the Agency of a substantial amount of adverse comments on the proposed water quality permit fees, the portions of the proposed rules relating to water quality permit fees have been withdrawn. The rules which are attached to this notice reflect a revised fee schedule which is, in part, based on facility flow.

The proposed rules are authorized by Minn. Stat. § 116.07, subd. 4d (Supp. 1985). The proposed rules are published below.

In order to facilitate public comment on these proposed rules, the Agency will hold two public informational meetings on the following dates at the following locations:

Date	Time	Location
December 18, 1985	2:00 p.m. and 6:30	Dept. of Transportation Building 2505 Transportation Road Willmar, MN 56201
December 19, 1985	2:00 p.m. and 6:30 p.m.	City Council Chambers 420 N. Pokegama Grand Rapids, MN 55744

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 January 17, 1986, 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 (Supp. 1985). 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, will be approximately $800,000. For the purposes of this estimate, "local public bodies" is defined by Minn. Stat. § 14.11 (Supp. 1985) 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 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. 7002.0260).

Thomas J. Kalitowski
Executive Director

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

Rules as Proposed (all new material)

7002.0210 SCOPE.

Parts 7002.0210 to 7002.0310 apply to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020, items C, E, F, and H.

7002.0220 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 7002.0210 to 7002.0310, the terms defined in this part have the meanings given them.

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

Subp. 3. **Director.** "Director" means the executive director and chief executive officer of the Minnesota Pollution Control Agency.

Subp. 4. **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 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. 5. **Municipal permit; definition.** "Municipal permit" means a permit issued to a municipality as defined in part 7001.1020, subpart 18, for the discharge or disposal of wastewater which is a five percent or more sewage. Permits issued to municipalities for facilities treating or disposing of waste that is less than five percent sewage shall be considered nonmunicipal permits.

Subp. 6. **National Pollutant Discharge Elimination System (NPDES).** "National Pollutant Discharge Elimination System (NPDES)" has the meaning given it in part 7001.1020, subpart 19.

Subp. 7. **Sewage.** "Sewage" has the meaning given it in part 7080.0020, subpart 33.

Subp. 8. **Sewage sludge landspreading facility.** "Sewage sludge landspreading facility" means a landspreading facility as defined in part 7040.0100, subpart 20 for the landspreading of sewage sludge.

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.

7002.0230 FEE DETERMINATION.

The agency shall calculate processing and annual fees based upon the schedule in part 7002.0310 and shall notify the permittee of the amount due prior to each payment date.

7002.0240 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the "Minnesota Pollution Control Agency" and submit it to the director of the Division of Water Quality.

7002.0250 APPLICATION FEE.

A person who applied 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.

7002.0260 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.

7002.0270 ANNUAL FEE.

All persons required to obtain a permit listed in part 7002.0310, subparts 1 and 2, shall pay an annual fee for enforcement of applicable statutes and rules. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

7002.0280 NOTIFICATION OF ERROR.

A person who thinks that a basic 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 Water Quality, along with the assessed fee. If the director of 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.

7002.0290 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.

7002.0300 WATER QUALITY PERMIT FEE SCHEDULE.

Permit fees for water quality permits are established in part 7002.0310.

7002.0310 TABLE, WATER QUALITY PERMIT FEES.

Subpart 1. **Major NPDES permit fees.** The following fees shall be paid for major NPDES facilities:

A. Municipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
50 and over	$50	$30,000	$40,000
20 to 49.99	50	13,000	8,000
5 to 19.99	50	6,000	2,500
Up to 4.99	50	2,800	950

B. Nonmunicipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
20 to 49.99	$50	$13,000	$9,000
5 to 19.99	50	7,200	3,000
Up to 4.99	50	3,700	1,500
Cooling or Mine Pit Dewatering (any flow)	50	7,200	3,000

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.

Subp. 2. **Nonmajor NPDES and state disposal permit fees.** The following fees shall be paid by a permittee not designated as a major NPDES facility and by a permittee that has applied for or received a state disposal system permit.

A. Municipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
Greater than .100	$50	$1,250	$140
0 to .099	50	600	50
Sewage sludge landspreading facilities	50	600	50

B. Nonmunicipal permits:

Design Flow in Million Gallons per Day (MGD)	Application Fee	Processing Fee	Annual Fee
Sewage 0 to .099	$50	$ 600	$ 50
Other nonmunicipal (any flow)	50	1,250	175

Subp. 3. **Other water quality permit fees.** The following application fees shall be paid by a permittee that has applied for or received a general, sewer extension, or liquid storage permit.

A. General, $50;

B. Sewer extension, $80; and

C. Liquid storage, $250.

Department of Public Safety
Bureau of Criminal Apprehension

Proposed Rules Governing the Manufacture, Storage, and Use of Explosives and Blasting Agents

Notice of Intent to Adopt Rules without a Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. Sections 14.21 through 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules. Public comments are encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for comment, and any change proposed. The proposed rules may be modified prior to final adoption of modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the portion of the proposed rule addressed, the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are requested. Any person requesting a public hearing should state his or her name and address. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. Sections 14.13 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a free copy of

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0210 - 7002.0310, 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 25th day of February, 1986. 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 December 16, 1985 (10 S.R. 1360).

2. On December 12, 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 water quality permits.

3. The notice of the Agency's intent to adopt 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's notice of intent to adopt the rules stated that the Agency would not hold a public hearing on the proposed rules unless the Agency received, during the public comment period, requests for hearing from 20 percent of the persons who will be required to pay a water quality permit fee. The number of hearing requests necessary to require a public hearing in this case (20 percent of the persons required to pay a fee) is 340.

5. 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.

6. The 30 day comment period, as set out in the notice, expired on January 17, 1986.

7. During the comment period, the Agency received 14 requests for hearing from persons who will be required to pay a water quality permit fee. The Agency also received 5 hearing requests from persons other than those required to pay a fee. Comments were received from 21 other persons.

8. The Agency finds that the written comments received during the comment period do not justify revisions to the rules.

9. 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.

MINNESOTA POLLUTION CONTROL AGENCY

Duane A. Dahlberg

Duane Dahlberg
Chairperson

Thomas J. Kalitowski

Thomas J. Kalitowski
Executive Director

Dated: February 25, 1986

CERTIFICATE OF RESOLUTION ADOPTING RULES

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 25th day of February, 1986, 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 Agency hereby approves and adopts the attached rules governing water quality permit fees, Minn. Rules Parts 7002.0210 - 7002.0310 pursuant to the authority vested in the Agency by Minnesota Statutes §116.07, subd. 4d (Supp. 1985).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Executive Director is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's Certificate as required by Minn. Stat. §14.28 (Supp. 1985).

BE IT FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact and Conclusions and Order Adopting Rules and the Chairperson and the Executive Director are hereby authorized to execute the above named documents on behalf of the Agency.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of February, 1986.

Thom Kalitowski

THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Rules Parts 7002.0210 -
7002.0310 Water 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 (Supp. 1985).

The above-captioned rules are proposed for the purpose of establishing permit application, processing, and annual fees for water quality permits, which permits are issued by the Agency pursuant to Minn. Rules ch. 7001 (1985). In 1985 the legislature established a target amount of $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 November 25, 1985, is Exhibit 1.

II. STATEMENT OF AGENCY'S STATUTORY AUTHORITY

The Agency is authorized by Minn. Stat. §116.07, subd. 4d

(Supp. 1985), 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 amount of $750,000 for the Water Quality Division was established by Minn. Laws 1985, First Special Session, ch. 13, §26.

The Agency is authorized to issue water quality permits by Minn. Stat. §115.03, subd. 1(e) (Supp. 1985) 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 water quality permit program.

The Agency is required by Minn. Stat. §116.07, subd. 4d, as amended, to adopt the rules under Minn. Stat. §16A.128 (Supp. 1985). 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 (Supp. 1985) 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 (Supp. 1985), 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 $750,000 through a permit fee program for water quality permits. In order to comply with the Legislature's directive, it is necessary to adopt the proposed rules.

IV. STATEMENT OF REASONABLENESS

A. Introduction

In addressing the reasonableness of the proposed water quality permit fee rules, a discussion of the procedural history of the rules is appropriate. The Agency originally authorized, on July 23, 1985, initiation of rulemaking on draft rules which addressed both air quality and water quality permit fee rules. The Agency's "Notice of Intent to Adopt Rules Without a Public Hearing" was mailed to approximately 3,500 persons and was also published in the State Register (10 S.R. 456, August 19, 1985). The notice stated that the Agency would not hold formal rulemaking hearings on the proposed rules unless written requests for hearing were received during the comment period from twenty percent of the persons required to pay a fee. During the public comment period, which expired on September 20, 1985, the Agency received hearing requests from less than twenty percent of the persons required to pay a fee. However, the notice generated a great deal of public comment and concern, particularly with respect to the water quality permit fees that would be charged to operators of municipal wastewater treatment systems.

As a result of this public concern, the Agency Rules Committee held a public informational hearing on October 21, 1985. The meeting was well attended. The great majority of criticism of the rules was directed at the concept of permit fees and at the structure of the water quality permit fees for

municipal dischargers. As originally proposed, fees for these types of facilities were broken down into two categories: 1) major NPDES facility permit fees; and 2) SDS and non-major NPDES facility permit fees. The original fees were calculated solely on the basis of the costs of staff effort. Many people objected to this fee structure with respect to the burden it would place upon municipalities, particularly small cities. These commenters argued that basing the fees for National Pollutant Discharge Elimination System (NPDES) and State Disposal System (SDS) permits on the size of the facility (flow) would result in a more equitable fee structure than that contained in the proposed rules.

After the public informational meeting, the Agency staff reviewed alternate bases for establishing water quality permit fees which would both result in the annual collection of $750,000 as required by statute and also address some of the concerns during the public informational meeting. As a result of its deliberations, the Agency staff developed a new draft of the water quality permit fee rules and brought this new draft to the Board Rules Committee for its consideration on November 19, 1985. Notice of the meeting and a copy of the revised water quality permit fees were sent to all permittees. At the meeting staff recommended that the Agency pursue adoption of the rules incorporating this revised basis and fee schedule instead of the water quality permit fee rules as originally proposed. The staff recommended that the proposed air quality permit fee rules be

adopted, separate from the water quality permit fee rules. In this current proceeding, the Agency is proceeding with adoption of the revised water quality permit fee schedule.

The Agency believes that the reasonableness of the revised water quality permit fee rules should be judged in light of the following criteria:

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. At the same time, the fees should not be unduly burdensome on small dischargers.
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 $750,000. (See Exhibit 2.)

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. In addition, the volume of water or other waste generated on a daily basis is factored into the fee schedule.

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 7002.0210 - 7002.0320.

B. Scope (Minn. Rules part 7002.0210)

This part establishes that the rules apply to all persons required to obtain a permit described under Minn. Rules part 7001.0020, items C., E., F., and H. from the Agency. Minn. Rules part 7001.0020 is a part of the Agency's Permit Rules, Minn. Rules ch. 7001 (1985), 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

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1/ The permits described by Minn. Rules part 7001.0020, items C., E., F., and H. 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.).

is reasonable to cross-reference the appropriate portions of Minn. Rules part 7001.0020 because Minn. Rules part 7001.0020 provides a convenient "laundry list" of the types of permits the Agency issues.

C. Definitions (Minn. Rules part 7002.0020)

This part sets forth nine definitions of terms found elsewhere in the rules. 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.

"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.

"Major NPDES facility" is defined as a wastewater treatment discharger designated by the Director and the Administrator of the Environmental Protection Agency (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 of 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 term "municipal permit" is defined as a permit issued to a municipality (as defined in Minn. Rules part 7001.1020, subp. 18) for the discharge or disposal of wastewater which is five percent or more sewage. The rule provides that permits issued to municipalities for facilities treating or disposing of waste that is less than five percent sewage shall be considered nonmunicipal permits. The five percent cutoff figure is designed to preserve the Agency's current differentiation between facilities that handle mostly industrial, as opposed to municipal, waste. It is reasonable to treat these facilities as nonmunicipal for the purpose of charging fees because the Agency already treats these facilties as nonmunicipal for the purposes of permitting and enforcement activities.

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 "sewage" found in Minn. Rules part 7080.0020 is cross referenced in this rule. This definition is needed because the term is used in proposed part 7002.0310, subps. 2.A. and 2.B. It is reasonable to define this term in order to clarify the amount of fees to which certain facilities are subject. Using the same definition for this term as is used in other rules promotes consistency among Agency programs.

The definition of "sewage sludge landspreading facility" found in Minn. Rules part 7040.0100, subp. 20 is cross referenced in this rule. Sewage sludge landspreading facilities are subject to the fees set forth in proposed part 7002.0310, subp. 2.A. It is reasonable to define this term to clarify what facilities are subject to fees. Using the same definition for this term as is used in other rules regulating the same activity 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.

D. Fee Determination (Minn. Rules part 7002.0230)

This rule provides that the Agency shall calculate the permit fees based upon the schedule provided in part 7002.0310 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 7002.0240)

This rule provides that fees must be made payable to the "Minnesota Pollution Control Agency" and submitted to the Director of the Division of Water Quality.

Minn. Stat. §116.07, subd. 4d (Supp. 1985) requires that all money collected through permit fees be placed in a special revenue fund. It is reasonable to require that the fees be made payable to the Agency because this is now required by Department of Finance procedures. See Exhibit 3, memorandum of Peter Sausen, Assistant Commissioner of Finance, dated September 24, 1985.

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

F. Application Fee (Minn. Rules part 7002.0250)

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 7002.0560)

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 (Supp. 1985) or municipal wastewater treatment plants with an average design flow of less than 30,000 gallons per day. Municipal wastewater treatment plants of this size are those which serve small communities, and are therefore the equivalent of a "small business." Allowing small businesses and small municipal dischargers to make smaller payments over an extended period was prompted by the provisions of Minn. Stat. §14.115 (Supp. 1985), which encourages all agencies to make allowances in rules for small businesses in Minnesota. It is reasonable to make this allowance for small businesses and small municipal dischargers 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 7002.0270)

This rule requires the payment of an annual fee by all persons required to obtain a permit listed in proposed part 7002.0310, subps. 1 and 2. This fee covers envorcement of applicable statutes and rules for permitted facilities. 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 (Supp. 1985). 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 7002.0280)

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 Division of 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 Division of Water Quality 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 7002.0290)

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. Water Quality Permit Fee Schedules (Minn. Rules part 7002.0300

Minn. Rule part 7002.0300 states that permit fees for water quality permits are established in part 7002.0310. Part 7002.0310 consists of a table. It is reasonable to clarify in this rule that the fees shown on this table are the fees which are to be charged to permittees by the Agency.

L. Table, Water Quality Permit Fees (Minn. Rules part 7002.0310)

This rule establishes the fee schedule for water quality permits. The fee schedule was developed based on several factors. One of the factors is the relative amount of staff time required to issue permits, monitor compliance, and take appropriate enforcement action to ensure compliance with various

water quality permits. Another factor is the volume of water or other waste generated on a daily basis (flow). These factors are somewhat intertwined. The complexity of the permitted facility affects the amount of staff time necessary to draft permits; however, the complexity of the facility is generally related to the facility's flow. Permitting activities for larger dischargers on low flow streams, which requires load allocation or other specific water quality studies, require more staff effort. The proposed fee schedule averages costs for these activities on a category-by-category basis, rather than charging for them on an individual basis.

Subpart 1 of Minn. Rules part 7002.0310 sets forth permit fees for major NPDES permits. Item A, "Municipal permits," establishes application, processing, and annual fees for municipal permits under four flow categories. The processing and annual fees are graduated by flow; they provide for increasing fees with increasing flows. The categories are based on a review of the permitted flows of the fifty currently designated major municipal dischargers. A review of these flows indicates that one facility is over 50 million gallons per day (MGD), three facilities fall into the 20 to 49.99 MGD category, 10 facilities fall into the 5 to 19.99 MGD category, and 36 facilities fall into the up to 4.99 MGD category. These flow categories provide a distribution of fees which is reasonable because it requires larger facilities to pay larger fees while still considering the relative amounts of staff time necessary for basic permitting

activity. The total amount of fees to be collected under this category reflects the proportional amount of staff effort devoted to major municipal permits. It is reasonable to establish the flow categories and the fees set forth in Item A in order to recover the major municipal permit portion of the $750,000 target amount established by the Legislature, which is proportional to the total staff effort for that class of permits. The fee categories provide a reasonable gradation of costs relative to flow and to the number of persons served by these facilities.

Subpart 1, item B, "Nonmunicipal permits" establishes fees for major nonmunicipal NPDES Permits. The same flow categories are used for nonmunicipal permits as for municipal permits, with one exception. For nonmunicipal permits a cooling or mine pit dewatering category has been added. The permit fees for nonmunicipal permits are somewhat higher than those for municipal permits. This is reasonable because these higher fees reflect the greater levels of staff effort required to issue nonmunicipal permits. Nonmunicipal facilities represent a much greater variety of operations and effluents and thus require more staff time to prepare permits and to evaluate compliance with standards. The cooling or mine pit dewatering classification has been added as a separate category since these facilities have flows which are in some cases over 400 million gallons per day. These discharges are however, relatively clean, and thus it would not be reasonable charge fees for these facilities on the basis of flow. The level of staff effort necessary to issue and enforce

these types of permits is comparable to permits in the 5 to 19.99 MGD flow classification and thus the fees are similar.

Subpart 2 of Minn. Rules part 7001.0310 sets forth permit fees for nonmajor NPDES and State Disposal System Permits. Item A sets forth fees for municipal permits; Item B sets forth fees for nonmunicipal permits. Three classifications of municipal facilities are identified. The classifications are: 1) greater than .100 MGD, 2) 0 to .099 MGD, and 3) sewage sludge landspreading facilities. Approximately one half of the nonmajor municipal permits fall into each of the two flow classifications. The facilities in the greater than .100 MGD category represent approximately 90% of the flow from nonmajor municipal facilities. The fees for the facilities greater than .100 MGD are significantly higher than those with flows of .099 MGD or less. This is reasonable since the gradation of fees by flow reduces the financial burden on smaller cities with lower flows. The fees for sewage sludge landspreading facilities are issued to municipalities for the application of sewage sludge on city-owned sites. All sewage sludge landspreading facility permittees also have NPDES permits for sewage treatment facilities. Therefore, it is reasonable to set somewhat lower fees for the sewage sludge landspreading facilities in order to reduce the financial burden on the cities

Item B, "Nonmunicipal permits," is broken down into two categories. The first category is for sewage, 0 to .099 MGD; the

other category is for other nonmunicipal facilities with any flow. The category for nonmunicipal permits sewage, 0 to .099 MGD, has fees which are identical to the municipal permits in that flow category. This category would include facilities which process wastewater from mobile home parks, state parks, Department of Transportation rest areas, and sewage treatment facilities for remotely located industrial facilities. These facilities are generally identical, except for ownership, to the municipal treatment plants, thus it is reasonable to charge the same fees. The term "other nonmunicipal permits" includes a very wide variety of facilities. Some permits, such as those which allow the disposal of dredge spoils, are not written on the basis of flow. Other facilities may have high or low flow, which may be unrelated to the amount of pollutants contained in the discharge. Thus it is not possible to differentiate these facilities on the basis of flow.

Subpart 3 of Minn. Rules 7002.0310 sets forth permit fees for other water quality permits. Only application fees are required for these permits. 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 upfront at the time of the application. The $50 fee for general permits is proposed to be collected at the time of the application. If,

as a result of the review of the application, the applicant is found eligible for a general permit no further fees will be charged. 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.

IV. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. §14.115 (Supp. 1985) 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 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 (Supp. 1985) to consider reducing the impact of the rules on small business.

V. CONCLUSION

Based on the foregoing, the proposed Minn. Rules Part 7001.0210 - 7002.0310 are both needed and reasonable.

Dated: 11-26, 1985

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 permit fee rules and fee schedules and provide my approval that the proposed satisfies the direction and intent of pertinent legislation.

Charles Backstrom for Jay Kiedrowski, Commissioner
Department of Finance

11/25/85
Date

ESTIMATED YEARLY WATER QUALITY PERMIT FEE REVENUES

1 Major NPDES Permit Fees

A. Municipal Permits

Design Flow in Million Gallons per Day (MGD)	Application Fee*	Processing Fee*	Annual Fee	Number	Total Revenue
50 and over	$50	$30,000	$40,000	1	
20 to 49.99	$50	$13,000	$ 8,000	3	
5 to 19.99	$50	$ 6,000	$ 2,500	10	
Up to 4.99	$50	$ 2,800	$ 950	36	
					$168,300

B. Nonmunicipal Permits

Design Flow in Million Gallons per Day (MGD)	Application Fee*	Processing Fee*	Annual Fee	Number	Total Revenue
20 to 49.99	$50	$13,000	$9,000	1	
5 to 19.99	$50	$ 7,200	$3,000	4	
up to 4.99	$50	$ 3,700	$1,500	12	
Cooling or Mine Pit Dewatering (any flow)	$50	$7,200	$3,000	11	
					$101,300

2 Non Major NPDES and State Disposal System Permit Fees

A. Municipal Permits

Design Flow in Million Gallons per Day (MGD)	Application Fee*	Processing Fee*	Annual Fee	Number	Total Revenue
Greater than .100	$50	$1,250	$140	382	
0 to .099	$50	$ 600	$ 50	373	
Sewage sludge landspreading facilities	$50	$ 600	$ 50	10	
					$221,870

B. Nonmunicipal Permits

Design Flow in Million Gallons per Day (MGD)	Application Fee*	Processing Fee*	Annual Fee	Number	Total Revenue
Sewage 0 to .099	$50	$ 600	$ 50	50	
Other nonmunicipal (any flow)	$50	$1,250	$175	480	
					$218,300

3 Other Water Quality Permit Fees

	Application Fee		
General Sewer	$50	77	
Extension	$80	400	
Liquid Storage	$250	25	
			$ 42,100
		Grand Total	$751,870

*Application and processing fees are collected once every five years.

Exhibit 3

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

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts
7002.0210 - 7002.0310, 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: February 11, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Minnesota Rules Parts 7002.0210 - 7002.0310, 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. 1360, December 16, 1985) and as mailed to interested persons on December 12, 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 11th day of February, 1986.

Mary Ann Hammer
Notary Public

MARY ANN HAMMER
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES DECEMBER 10, 1991

To: Marty
Date: 2.28.86
Re: PCA - Water Quality Permit Fees

Rules as Adopted

p. 1, line 26 .0220, subpt. 4

In part, this section appears to direct a federal agency to poform a particular function.

Question: may a Minnesota rule direct a federal agency to do something

OK - 40 CFR §122.2 provides that fed govmt + state govmt is to approve..... merely tracks fed govmt.

p. 3, line 20 .0260

A water processing facility which is a small business must provide "proof" it is a small business upon application for a permit. There is no indication of what might constitute such proof. It would be preferable to refer to statutory definition or some other stated criteria

- agree proof is not best word - "evidence" is a better term, but common sense indicates need may show by tax redo - or whatever evidence is avail.

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

February 26, 1986

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

Re: Proposed Minn. Rules Parts 7002.0210 - 7002.0310, Water Quality Permit Fee Rules

Dear Mr. Miles:

On February 25, 1986, the Minnesota Pollution Control Agency took final action on its proposed Minn. Rules Parts 7002.0210 - 7002.0310, Water Quality Permit Fee Rules. The Agency is submitting the 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. 1360, December 16, 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.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General