


# Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Leppink

RULE REVIEW CHECKLIST

File No. 1614

Docket No. 05.0009.F216 0700

DATE RECEIVED 7-17-89

ADOPTED W/O HEARING ✓

REVIEW DATE 7-26-89

EMERGENCY RULE _____

DUE DATE 7-31-89 RMD

REVISOR APPROVED _____

APPROVED [signature] 7/26/89

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. OF STATE _____

WITHDRAWN _____

RETURNED TO AGENCY _____

---

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
- 4/24/89 Date published in State Register
- _____ ~~Comments~~

_____ Petition for Adoption of a Rule (if applicable)

✓ Board's Authorizing Resolution
- 4/26/89 Date adopted

✓ Proposed Rule
- _____ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 116C.834 Statutory Authority
- yes Small Business Statement
- no Expenditure of public money statement
- yes Signature

✓ Statement of Need and Reasonableness (if applicable)
- yes Small Business Statement
- yes Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- 5/11/89 Date 30/25 days before adoption
- ok Notice attached
- _____ ~~Copy of rule or summary attached~~

✓ Publication in State Register
- 5/15/89 Date 30/25 days before adoption

_____ 180-day deadline from:
- n/A Effective date of law requiring rule (14.12) (both rules)
- 6/15/89 end of comment period (§ 14.26) (rules without hearing)
- _____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting
- 7/10/89 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- 6/27/89 Date

_____ ~~Written requests, submissions or comments~~

✓ Declaration of attorney
- Joseph Matecnowski Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

# Office Memorandum

DATE : July 28, 1989

TO : JOSEPH G. MATERNOWSKI
Special Assistant
Attorney General

FROM : JULIE A. LEPPINK
Special Assistant
Attorney General

PHONE : 6-9422

SUBJECT : In the Matter of the Adopted Rule Relating to Low-Level Radioactive Waste Generator Fees

The above-referenced rule has been approved as to its legality by the Attorney General on July 26, 1989.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth 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 accoradance 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.

JAL:klk
Enclosures

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

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

Pollution Control Agency

Adopted Permanent Rules Relating to Low-Level Radioactive Waste Generator Fees

Rules as Adopted

7042.0030 LOW-LEVEL RADIOACTIVE WASTE GENERATOR FEES.

Subpart 1. [Unchanged.]

Subp. 2. **Amount of fees.** A generator of low level radioactive waste is subject to the following fees:

A. A generator who ships 1,000 cubic feet or more of low level radioactive waste per year to a facility for disposal is subject to a fee of $2.75 per cubic foot of low level radioactive waste shipped per year.

B. A generator who ships at least 100 cubic feet but less than 1,000 cubic feet of low level radioactive waste per year to a facility for disposal is subject to a fee of $100 per year.

APPROVED AS TO FORM AND LEGALITY

July 26, 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Julie A. Zippenz
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUL 28 1989

Joan Anderson Growe 3:11 P.M.
Secretary of State

# Department of Natural Resources

## Notice of Intent to Hold State Metallic Minerals Lease Sale

## State Lands to be Offered for Metallic Minerals Exploration

The Minnesota Department of Natural Resources announces that plans are being developed to hold the state's twelfth sale of metallic minerals exploration and mining leases. The sale is tentatively scheduled for October 12, 1989. The lease sale plans are being announced at this time in order to give mining companies, public interest groups and all other interested parties additional time to review the areas under consideration.

The purpose of Minnesota's metallic minerals rules (*Minnesota Rules* parts 6125.0100-.0700) is to promote and regulate the prospecting for, mining and removal of metallic minerals on state-owned and state-administered lands. These rules, and the leases issued under these rules, authorize exploration and development of these minerals and impose certain requirements on the lessee. The requirements include: the payment of minimum rentals that increase with the passage of time, the payment of royalty for all ore mined and removed, the submission of data and other reports, and the addressing of environmental considerations. In addition, the state lessee must comply with all applicable regulatory laws.

The areas under consideration for the lease sale cover portions of Aitkin, Beltrami, Itasca, Koochiching, Lake of the Woods, Marshall, Roseau and St. Louis Counties. Some of the lands being considered have been offered in previous metallic minerals lease sales, but in light of present interest shown and geologic data and exploration techniques developed during the past few years, it is felt that within these lands there is significant potential for the discovery of mineral resources. Certain new lands of interest are also being considered for the lease sale.

The exact time and place of the lease sale will be announced by legal notice at least thirty days prior to the sale. Mining unit books, listing the state lands to be offered at the lease sale, will be available for inspection or purchase at that time.

A map showing the general areas under consideration may be obtained from the Division of Minerals, Box 45, 500 Lafayette Road, St. Paul, MN 55155-4045, telephone (612) 296-4807.

Dated: 31 March 1989

Joseph N. Alexander
Commissioner of Natural Resources

# Minnesota Pollution Control Agency

## Notice of Intent to Solicit Outside Opinions Concerning a Proposed Amendment to Rules for Establishing Fee Systems for Generators of Low-Level Radioactive Waste (LLRW)

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking information and opinions from sources outside the Agency in preparing an amendment to rules adopted pursuant to *Minnesota Statutes* § 116C.834 (1986) which require establishment of a fee system for generators of low-level radioactive waste (LLRW), to provide funds for carrying out Minnesota's responsibilities in the Midwest Interstate Low-Level Radioactive Waste Compact.

The proposed amendment lowers the LLRW generator fees to reflect the termination of the assessment by the Midwest Interstate Low-Level Radioactive Waste Commission. The Agency requests information and comments concerning the subject matter of the proposed amendment. Written or oral statements and comments concerning these matters will be accepted for consideration until May 19, 1989, and should be addressed to:

Ms. Dagmar M. Romano
Commissioner's Office
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone Number: 612/296-7319

Oral statements will be accepted during regular business hours, 8:30 a.m. to 4:30 p.m., Monday through Friday, at 612/296-7319 or in person at the above address.

Any written material received by the Agency shall become part of the record regarding the amendment to these rules.

Gerald L. Willet
Commissioner

CERTIFICATION OF AGENCY'S AUTHORIZING RESOLUTION

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 25th day of April, 1989, 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 Commissioner of the Minnesota Pollution Control Agency is hereby granted the authority to sign and to give notice of the Minnesota Pollution Control Agency's intent to adopt, without a public hearing, the attached amendment to Minn. Rules pt. 7042.0030, Low-Level Radioactive Waste Generator Fee rules, to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1988).
>
> BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Commissioner is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rule amendment as well as acting as the Minnesota Pollution Control Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of April 1989.

Gerald L. Willet

GERALD L. WILLET
Commissioner

Proposed Rule Amendment Relating to Low-Level Radioactive Waste Generator Fees

7042.0030 LOW-LEVEL RADIOACTIVE WASTE GENERATOR FEES.

Subpart 1. [Unchanged.}

Subp. 2. **Amount of fees.** A generator of low-level radioactive waste is subject to the following fees:

A. A generator who ships 1,000 cubic feet or more of low-level radioactive waste per year to a facility for disposal is subject to a fee of ~~$6.65~~ $2.75 per cubic foot of low-level radioactive waste shipped per year.

B. A generator who ships at least 100 cubic feet but less than 1,000 cubic feet of low-level radioactive waste per year to a facility for disposal is subject to a fee of $100 per year.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendment Governing Low-Level Radioactive Waste Generator Fees, Minn. Rules Part 7042.0030

NOTICE OF INTENT TO ADOPT RULE AMENDMENT WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule amendment without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. § 14.22 to 14.28 (1988). The Agency's authority to adopt the rule amendment is set forth in Minn. Stat. § 116C.834 (1988).

All persons have until 4:30 p.m. on June 15, 1989, to submit comments in support of or in opposition to the proposed rule amendment or any part or subpart of the rule amendment. Comment is encouraged. Each comment should identify the portion of the proposed rule amendment addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendment within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendment addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1988).

Comments or written requests for a public hearing must be submitted to:

Dagmar Romano
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612)296-7319

The proposed rule amendment may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule amendment as noticed.

The proposed rule amendment, if adopted, will decrease fees for generators who ship 1000 cubic feet or more of low-level radioactive waste per year to a facility for disposal from $6.65 per cubic foot to $2.75 per cubic foot of waste shipped for disposal. One free copy of the rule amendment is available upon request from Dagmar Romano at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule amendment and identifies the data and information relied upon to support the proposed rule amendment has been prepared and is available from Dagmar Romano upon request.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rule amendment will have no adverse effect on small businesses.

If no hearing is required, upon adoption of the rule amendment, the rule amendment and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule amendment as adopted, must submit a written request to Dagmar Romano.

Gerald L. Willet

Dated: May 10, 1989

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment to Minn. Rules Pt. 7042.0030, Low-Level Radioactive Waste Generator Fee Rules

STATEMENT OF NEED AND REASONABLENESS

## I. INTRODUCTION

The subject of the proceeding is the proposed amendment of the rules of the Minnesota Pollution Control Agency (hereinafter "MPCA" or "Agency") governing the low-level radioactive waste generator fees. Under Minn. Rules pts. 7042.0010 to 7042.0060, Low-Level Radioactive Waste Generator Fee Rules, all generators of low-level radioactive waste shipping 100 cubic feet or more per calendar year of low-level radioactive waste for disposal are subject to fees. These fees cover the costs incurred by the MPCA in carrying out its responsiblities under the Midwest Interstate Low-Level Radioactive Waste Compact (hereinafter "Compact"). The Compact was established pursuant to Minn. Stat. § 116C.843 (1988). The proposed amendment to the rules governs the amount of the fee.

A part of the statutory requirement for the rulemaking process is review and approval of the fee schedules of the rules by the Minnesota Commissioner of Finance. The approval of the Minnesota Commissioner of Finance is attached and incorporated by reference.

## II. STATEMENT OF THE AGENCY'S STATUTORY AUTHORITY

These rules are proposed for amendment pursuant to the Agency's authority under Minn. Stat. § 116C.834 (1988).

Minn. Stat. § 116C.834 (1988) directs the MPCA to assess fees to be paid by generators of low-level radioactive waste in the manner provided in Minn. Stat. § 16A.128 to cover the costs of:

1. Minnesota's contribution to the Midwest Interstate Low-Level Radioactive Waste Commission.

2. Costs incurred by the MPCA to attend Compact Commission meetings and participate in Compact activities. Pursuant to Minn. Stat. § 116C.833 (1988), the Commissioner of the MPCA is Minnesota's voting member on the Commission. The Commissioner's authority has been delegated to the Agency's Assistant Commissioner.

Based on the provision of Minn. Stat. § 116C.834, the Agency has the statutory authority to adopt fees which would result in the collection of $42,000.

## III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1988) requires the Agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms this means that the Agency must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a probleme exists which requires administrative attention, and reasonableness means that the solution proposed by the Agency is appropriate. The need for the rules is discussed below.

In 1983, the Minnesota Legislature enacted Minn. Stat. § 116.831 by which Minnesota joined the Compact. The terms of the Compact require each party state to contribute a sum of money in order to fund the Commission's activities. However, since surcharge rebates to the Commission are sufficient to cover the Commission's operating expenses, the Commission in June 1988 determined that state assessments are no longer required. Funding is, however, still required for costs incurred by the State to carry out its activities under the Compact. The Agency's costs of Compact membership will be approximately $42,000 for each fiscal year through Fiscal Year 1991. Attachment 1 contains a breakdown of these costs. This is a decrease from the previous expenditures. The Agency must collect $42,000 in order to reimburse the special revenue fund for the appropriation. Because the existing fee would collect more money than is needed to cover the Agency's costs, there is a need to amend Minn. Rules pt. 7042.0030 to decrease the generator fees.

## IV. STATEMENT OF REASONABLENESS

The Agency is required by Minn. Stat. ch. 14 (1988) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Agency's proposed action. The proposed rule is reasonable. Since the State assessment by the Compact Comission has been discontinued, the Agency's expenses associated with its participation in Compact activities will

decrease. Therefore, it is reasonable that the amount of the generator fee established to cover these expenses will decrease correspondingly.

It is also reasonable to set the fee at a level that will generate sufficient revenue for Fiscal Years 1989-1991 to require a rule amendment only once during the biennium. Amending the rule is a costly and time consuming process that should preferably be done only when significant changes in expenditures or generator volumes warrant it.

The four major generators were contacted regarding the proposed rule amendment and they support the fee decrease.

The level of the fee is reasonable because it is set to generate enough revenue so that the needed $42,000 per year will be collected.

The breakdown of the revenue estimated to be collected from the four major generators is as follows:

Table 1: Revenues From Major LLRW Generators
Based on Actual Volumes of Waste Shipped for Disposal
During Calendar Year 1988

| Major Generators | Reported Volume Shipped (in $ft^3$)* | Fee |
|---|---|---|
| Northern States Power Company | 7,228 | $19,877.00 |
| Honeywell | 4,361.7 | $11,995.00 |
| University of Minnesota | 2,197.5 | $ 6,043.00 |
| 3M | 1,389 | $ 3,820.00 |
| TOTAL | 15,176.2 | $41,735.00 |

* Volume of waste shipped in calendar year 1988 as reported in a telephone survey conducted by Agency staff.

An additional amount is expected to be collected from the second category of generators who pay the $100 per year flat fee. The number of generators in this category has averaged two generators per year.

## V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 14.115, subd. 2 (1988) requires the Agency, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact of small businesses:

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

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

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

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

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

The proposed amendment to Minn. Rules pt. 7042.0030, subp. 2, item A, affects only the four major generators; namely, Honeywell, Northern States Power Company, 3M and the University of Minnesota. None of these entities is a small business, and therefore the rule amendment has no impact on small business.

## VI. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the Agency is required by Minn. Stat. § 116.07, subd. 6 (1988) to give due consideration to economic factors. The statute provides:

> In exercising all its powers the pollution control agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

In proposing the rule amendment governing low-level radioactive waste generator fees, the Agency has given due consideration to available information as to any economic impacts the proposed rules would have. Because the proposed rule amendment lowers the generator fees, it will have a positive impact on the generators who pay the fee.

## VII. CONCLUSION

Based on the foregoing, the proposed amendment to Minn. Rules pt. 7042.0030 is both needed and reasonable.

Dated: 4/20/89

for Barbara Lindsey Sims
GERALD L. WILLET
Commissioner

# Calculations Underlying Proposed Amendments to Minn. Rules Pt. 7042.0030 Low-Level Radioactive Waste Generator Fee Rules

F.Y. 89 Costs $42,000

1988 Volume of waste shipped by four major generators shipping over 1000 $ft^3$/yr = 15,176.2 $ft^3$

Proposed fee of $2.75 will generate

2.75 x 15,176.2 = $41,735

| | |
|---|---|
| Amount to be collected from four major generators | $41,735 |
| Amount projected to be collected from generators shipping 100 - 1000 $ft^3$/yr (flat fee of $100) - approximate | $ 200 |
| Total amount projected to be collected by September 30, 1989 under proposed rule amendment | $41,935 |

* Breakdown of Disbursements

| | |
|---|---|
| Salaries | 15,300 |
| Purchased services | 9,000 |
| Travel | 12,000 |
| Indirect Costs | 5,700 |
| Total | $42,000 |

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendment Governing Low Level Radioactive Waste Generator Fees, Minn. Rules Part 7042.0030

AFFIDAVIT OF SENDING NOTICE AND PROPOSED RULE AMENDMENT TO CHAIRS OF HOUSE APPROPRIATIONS AND SENATE FINANCE COMMITTEES

STATE OF MINNESOTA )
) ss.
COUNTY OF RAMSEY )

I, Barbara Lindsey Sims, being duly sworn says:

That on the 28th day of April, 1989, prior to submitting the Notice of Intent to Adopt Rule Amendment Without a Public Hearing to the State Register, I mailed a copy of the the Notice of Intent to Adopt Rule Amendment Without a Public Hearing and the proposed rule amendment, along with the attached cover letters, to the chairs of the House Appropriations Committee and the Senate Finance Committee by depositing them in the United States Mail, properly enveloped and with first class postage prepaid.

Barbara Lindsey Sims

Subscribed and sworn to before me this 13 day of July, 1989.

Ardith M. Vos
Notary Public

ARDITH M. VOS
NOTARY PUBLIC — MINNESOTA
ANOKA COUNTY
My commission expires 1-12-94

**Minnesota Pollution Control Agency**
520 Lafayette Road, Saint Paul, Minnesota 55155
Telephone (612) 296-6300

Celebrate MINNESOTA 1990

April 28, 1989

The Honorable Glen Anderson,
Chair, House Appropriations Committee
365 State Office Building
St. Paul, Minnesota 55155

Dear Representative Anderson:

Enclosed, pursuant to Minn. Stat. § 16A.128, subd. 2a (1988), are copies of 1) the proposed rule amendment, and 2) the Notice of Intent to Adopt Rules for the proposed amendment to the Minnesota Pollution Control Agency's (Agency) low-level radioactive waste generator fee rules. This amendment is being proposed pursuant to the Agency's authority under Minn. Stat § 116C.834 (1988).

If you need any further information, please do not hesitate to call me at 296-7305.

Sincerely,

Barbara Lindsey Sims

Barbara Lindsey Sims
Assistant Commissioner

BLS:vmm

Enclosures

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendment Governing Low-Level Radioactive Waste Generator Fees, Minn. Rules Part 7042.0030

NOTICE OF INTENT TO ADOPT RULE AMENDMENT WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule amendment without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. § 14.22 to 14.28 (1988). The Agency's authority to adopt the rule amendment is set forth in Minn. Stat. § 116C.834 (1988).

All persons have until 4:30 p.m. on June 15, 1989, to submit comments in support of or in opposition to the proposed rule amendment or any part or subpart of the rule amendment. Comment is encouraged. Each comment should identify the portion of the proposed rule amendment addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendment within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendment addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1988).

Comments or written requests for a public hearing must be submitted to:

Dagmar Romano
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612)296-7319

The proposed rule amendment may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule amendment as noticed.

The proposed rule amendment, if adopted, will decrease fees for generators who ship 1000 cubic feet or more of low-level radioactive waste per year to a facility for disposal from $6.65 per cubic foot to $2.75 per cubic foot of waste shipped for disposal. One free copy of the rule amendment is available upon request from Dagmar Romano at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule amendment and identifies the data and information relied upon to support the proposed rule amendment has been prepared and is available from Dagmar Romano upon request.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rule amendment will have no adverse effect on small businesses.

If no hearing is required, upon adoption of the rule amendment, the rule amendment and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule amendment as adopted, must submit a written request to Dagmar Romano.

Gerald L. Willet

Dated: May 10, 1989

GERALD L. WILLET
Commissioner

Pollution Control Agency

Proposed Permanent Rules Relating to Low-Level Radioactive Waste Generator Fees

Rules as Proposed

7042.0030 LOW-LEVEL RADIOACTIVE WASTE GENERATOR FEES.

Subpart 1. [Unchanged.]

Subp. 2. **Amount of fees.** A generator of low level radioactive waste is subject to the following fees:

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B. A generator who ships at least 100 cubic feet but less than 1,000 cubic feet of low level radioactive waste per year to a facility for disposal is subject to a fee of $100 per year.



Approved by Revisor

**Minnesota Pollution Control Agency**
520 Lafayette Road, Saint Paul, Minnesota 55155
Telephone (612) 296-6300

Celebrate MINNESOTA 1990

April 28, 1989

The Honorable Gene Merriam
Chair, Senate Finance Committee
122 Capitol
St. Paul, Minnesota 55155

Dear Senator Merriam:

Enclosed, pursuant to Minn. Stat. § 16A.128, subd. 2a (1988), are copies of 1) the proposed rule amendment, and 2) the Notice of Intent to Adopt Rules for the proposed amendment to the Minnesota Pollution Control Agency's (Agency) low-level radioactive waste generator fee rules. This amendment is being proposed pursuant to the Agency's authority under Minn. Stat § 116C.834 (1988).

If you need any further information, please do not hesitate to call me at 296-7305.

Sincerely,

Barbara Lindsey Sims

Barbara Lindsey Sims
Assistant Commissioner

BLS:vmm

Enclosures

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendment Governing Low-Level Radioactive Waste Generator Fees, Minn. Rules Part 7042.0030

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Gerald L. Willet

Dated: May 10, 1989

GERALD L. WILLET
Commissioner

Pollution Control Agency

Proposed Permanent Rules Relating to Low-Level Radioactive Waste Generator Fees

Rules as Proposed

7042.0030 LOW-LEVEL RADIOACTIVE WASTE GENERATOR FEES.

Subpart 1. [Unchanged.]

Subp. 2. **Amount of fees.** A generator of low level radioactive waste is subject to the following fees:

A. A generator who ships 1,000 cubic feet or more of low level radioactive waste per year to a facility for disposal is subject to a fee of ~~$6.65~~ $2.75 per cubic foot of low level radioactive waste shipped per year.

B. A generator who ships at least 100 cubic feet but less than 1,000 cubic feet of low level radioactive waste per year to a facility for disposal is subject to a fee of $100 per year.



Approved by Revisor

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendment Governing Low-Level Radioactive Waste Generator Fees, Minn. Rules Part 7042.0030

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULE AMENDMENT WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA )
)ss.
COUNTY OF RAMSEY )

Dagmar Romano, being duly sworn says:

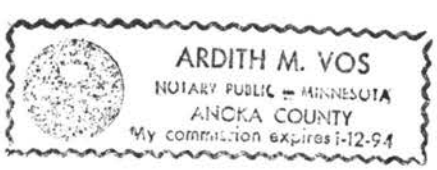
I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 11th day of May, 1989.

That on the 11th day of May, 1989, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rule Amendment Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail or in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Dagmar Romano

Subscribed and sworn to before me
this 11th day of May, 1989.

Ardith M. Vos
Notary Public



### Rules as Proposed

**4900.0010 DEFINITIONS.**

Subpart 1. to 22. [Unchanged.]

Subp. 23. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means:

A. to C. [Unchanged.]

D. With respect to home improvement grants and rehabilitation loans pursuant to parts 4900.0610 to 4900.0700 to be made by the agency, those persons and families whose assets do not exceed $25,000, and

(1) with respect to home improvement grants and rehabilitation loans defined in part 4900.0610 as deferred loans, those persons and families whose adjusted income does not exceed ~~$7,000~~ $8,500; or

(2) with respect to rehabilitation loans defined in part 4900.0610 as revolving loans, those persons and families:

(a) in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington whose adjusted income does not exceed $15,000; and

(b) in all other counties whose adjusted income does not exceed $12,000.

E. [Unchanged.]

# Pollution Control Agency

## Proposed Permanent Rules Relating to Low-Level Radioactive Waste Generator Fees

### Notice of Intent to Adopt Rule Amendment Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule amendment without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* § 14.22 to 14.28 (1988). The Agency's authority to adopt the rule amendment is set forth in *Minnesota Statutes* § 116C.834 (1988).

All persons have until 4:30 p.m. on June 15, 1989, to submit comments in support of or in opposition to the proposed rule amendment or any part or subpart of the rule amendment. Comment is encouraged. Each comment should identify the portion of the proposed rule amendment addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendment within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendment addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes* §§ 14.20 (1988).

Comments or written requests for a public hearing must be submitted to:

Dagmar Romano
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7319

The proposed rule amendment may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule amendment as noticed.

The proposed rule amendment, if adopted, will decrease fees for generators who ship 1,000 cubic feet or more of low-level radioactive waste per year to a facility for disposal. The proposed rule amendment is published below. One free copy of the rule amendment is available upon request from Dagmar Romano at the address and telephone number stated above.

A statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule amendment and identifies the data and information relied upon to support the proposed rule amendment has been prepared and is available from Dagmar Romano upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rule amendment will have no adverse effect on small businesses.

If no hearing is required, upon adoption of the rule amendment, the rule amendment and the required supporting documents will be submitted to the Attorney General for review as legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule, must submit the written request to Dagmar Romano.

Gerald L. Willet
Commissioner

### Rules as Proposed

**7042.0030 LOW-LEVEL RADIOACTIVE WASTE GENERATOR FEES.**

Subpart 1. [Unchanged.]

Subp. 2. **Amount of fees.** A generator of low level radioactive waste is subject to the following fees:

A. A generator who ships 1,000 cubic feet or more of low level radioactive waste per year to a facility for disposal is subject to a fee of ~~$6.65~~ $2.75 per cubic foot of low level radioactive waste shipped per year.

B. A generator who ships at least 100 cubic feet but less than 1,000 cubic feet of low level radioactive waste per year to a facility for disposal is subject to a fee of $100 per year.

# Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

# Board of Assessors

## Adopted Permanent Rules Relating to Assessor's Licensure, Education, and Conduct

The rules proposed and published at *State Register*, Volume 13, Number 34, pages 2032-2039, February 21, 1989 (13 S.R. 2032) are adopted with the following modifications:

### Rules as Adopted

**1950.1030 CERTIFIED MINNESOTA ASSESSOR (CMA).**

A person assisting the assessor of a taxing jurisdiction in making assessment decisions must obtain the designation of certified Minnesota assessor within three years of employment. A local assessor employed by a township or city not requiring a higher level of licensure as shown in the "List of Assessor License Levels for Minnesota Taxing Jurisdictions" must be certified before employment. Requirements for certified Minnesota assessor are given in items A to F.

D. ~~One year's apprenticeship experience under a licensed assessor.~~

~~E. Application to the board, and the appropriate fee.~~

~~F.~~ Or, in lieu of items A, B, and C, successful completion of course A and four self-directed programmed instruction courses, or correspondence courses, offered by the IAAO.

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.

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 27th day of June, 1989, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Minnesota Pollution Control Agency (Agency) hereby approves and adopts the amendment to rules governing low-level radioactive waste generator fees pursuant to the authority vested in the Agency by Minn. Stat. 116C.834 (1988).
>
> BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner 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 (1988).
>
> BE IT FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact, Conclusions, and Order Adopting Rule Amendment and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Agency and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 10th day of July, 1989.

Gerald L. Willet

GERALD L. WILLET
Commissioner

Attachment 1

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment Governing Low-Level Radioactive Waste Generator Fee Rules, Minn. Rules Part 7042.0030

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE AMENDMENT

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 27th day of June, 1989. 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, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rule amendment without a public hearing was published in the State Register on May 15, 1989, and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) on May 11, 1989.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on June 15, 1989.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Agency.

6. During the comment period the Agency received no written comments.

7. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rule amendment. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule amendment is needed and reasonable.

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 the rule amendment without a public hearing.

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

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendment to Minn. Rules Pt. 7042.0030 governing low-level radioactive waste generator fees is adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116C.834 (1988).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: 6/27/89

for Barbara Lyndsey Sims, Deputy
Gerald L. Willet, Commissioner

Pollution Control Agency

Adopted Permanent Rules Relating to Low-Level Radioactive Waste Generator Fees

Rules as Adopted

7042.0030 LOW-LEVEL RADIOACTIVE WASTE GENERATOR FEES.

Subpart 1. [Unchanged.]

Subp. 2. **Amount of fees.** A generator of low level radioactive waste is subject to the following fees:

A. A generator who ships 1,000 cubic feet or more of low level radioactive waste per year to a facility for disposal is subject to a fee of $2.75 per cubic foot of low level radioactive waste shipped per year.

B. A generator who ships at least 100 cubic feet but less than 1,000 cubic feet of low level radioactive waste per year to a facility for disposal is subject to a fee of $100 per year.

Attachment 1

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment Governing Low-Level Radioactive Waste Generator Fee Rules, Minn. Rules Part 7042.0030

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE AMENDMENT

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 27th day of June, 1989. 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, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rule amendment without a public hearing was published in the State Register on May 15, 1989, and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) on May 11, 1989.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on June 15, 1989.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Agency.

6. During the comment period the Agency received no written comments.

7. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rule amendment. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule amendment is needed and reasonable.

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 the rule amendment without a public hearing.

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

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendment to Minn. Rules Pt. 7042.0030 governing low-level radioactive waste generator fees is adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116C.834 (1988).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: 6/27/89

for Barbara Lyndsey Sims, Deputy
Gerald L. Willet, Commissioner

Pollution Control Agency

Adopted Permanent Rules Relating to Low-Level Radioactive Waste Generator Fees

Rules as Adopted

7042.0030 LOW-LEVEL RADIOACTIVE WASTE GENERATOR FEES.

Subpart 1. [Unchanged.]

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STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule
Amendment Governing Low-Level
Radioactive Waste Generator Fees,
Minn. Rules Part 7042.0030

DECLARATION OF COUNSEL

I, Joseph G. Maternowski, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is F216.

JOSEPH G. MATERNOWSKI
Special Assistant
Attorney General

RECEIVED
JUL 17 1989
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

SF-00006-05 (4/86)

STATE OF MINNESOTA

# Office Memorandum

DEPARTMENT : ATTORNEY GENERAL/EPD

DATE : July 20, 1989

TO : RITA DESMOND
Office of the Attorney General

FROM : JOSEPH G. MATERNOWSKI JGM
Special Assistant Attoney General

PHONE : 6-7216

SUBJECT : **Low-Level Radioactive Waste Generator Fees**

I asked MPCA staff to locate the Revisor's Certificate and the memorandum indicating the Finance Department's approval of these rules. These materials are enclosed for your review. Please feel free to contact me if you need any additional information.

JGM:jl

Enc.

Pollution Control Agency

Proposed Permanent Rules Relating to Low-Level Radioactive Waste Generator Fees

Rules as Proposed

7042.0030 LOW-LEVEL RADIOACTIVE WASTE GENERATOR FEES.

Subpart 1. [Unchanged.]

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B. A generator who ships at least 100 cubic feet but less than 1,000 cubic feet of low level radioactive waste per year to a facility for disposal is subject to a fee of $100 per year.



Approved by Revisor

# Office of the Revisor of Statutes

## Administrative Rules

**TITLE:** Proposed Permanent Rules Relating to Low-Level Radioactive Waste Generator Fees

**AGENCY:** Pollution Control Agency

**MINNESOTA RULES:** Chapter 7042

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

SF-00006-05 (4/86)

DEPARTMENT : of Finance

STATE OF MINNESOTA

# Office Memorandum

RECEIVED
APR 25 1989
MINN. POLLUTION CONTROL AGENCY

DATE : April 24, 1989

TO : Gerald L. Willet, Commissioner
Pollution Control Agency

FROM : Bruce J. Reddemann, Director BJR
Budget Operation and Support

PHONE : 296-5188

SUBJECT : Fee Schedule for Low-Level Radioactive Waste Generators

The following fee schedule is approved for generators shipping low-level radioactive waste.

A. A generator who ships 1,000 cubic feet or more of low-level radioactive waste per year to a facility for disposal is subject to a fee of $2.75 per cubic foot of low-level radioactive waste shipped per year.

B. A generator who ships at least 100 cubic feet but less than 1,000 cubic feet of low-level radioactive waste per year to a facility for disposal is subject to a fee of $100 per year.

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

**STATE OF MINNESOTA**
**OFFICE OF THE ATTORNEY GENERAL**
**ST. PAUL 55155**

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

July 13, 1989

OK Recd 7/17/89

Ms. Christie Eller
Assistant Attorney General
Office of the Attorney General
515 Transportation Building
John Ireland Blvd.
St. Paul, MN 55155

Re: In the Matter of Proposed Rule Amendment Governing Low-Level Radioactive Waste Generator Fees,
Minn. Rules Part 7042.0030

Dear Ms. Eller:

On June 27, 1989, the Minnesota Pollution Control Agency adopted the above-captioned rules governing low-level radioactive waste generator fees. Enclosed for your review are the following:

1. Rule Amendment as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rule Amendment (two copies).

3. Certificate of Resolution Adopting Rule Amendment.

4. Notice of Intent to Solicit Outside Opinion (13 S.R. 2636, April 24, 1989).

5. Certificate of Authorizing Resolution.

6. Notice of Intent to Adopt Rule Amendment Without a Public Hearing and Rule Amendment as proposed (13 S.R. 2750, 2751, May 15, 1989.)

7. Notice of Intent to Adopt Rule Amendment Without a Public Hearing, as mailed.

8. Affidavit of Sending Notice and Proposed Rule Amendments to Chairs of House Appropriations and Senate Finance Committees.

9. Affidavit of Mailing the Notice of Intent to Adopt Rule Amendment Without a Public Hearing and Certificate of Mailing List.

10. Rule Amendment as proposed.

11. Statement of Need and Reasonableness.

12. Declaration of Counsel.

Please note that no written comments were received pursuant to Notice of Intent to Solicit Outside Opinion nor were comments received during the comment period. Furthermore, no person requested the Notice of Submission of Rule Amendment Adopted Without Public Hearing to the Attorney General. These materials are, therefore, not included in the attached documentation.

Very truly yours,

Joseph G. Maternowski

JOSEPH G. MATERNOWSKI
Special Assistant
Attorney General

Environmental Protection
Division

JGM:jl

Enc.