

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
ALCOHOL, TOBACCO, AND SPECIAL TAXES DIVISION

IN THE MATTER OF THE PROPOSED
ADOPTION OF RULES RELATING TO
THE METROPOLITAN SOLID WASTE
LANDFILL FEE
(8121.0100 TO 8121.0500)

STATEMENT OF NEED
AND REASONABLENESS

This document has been prepared as a verbatim presentation of the facts necessary to establish the statutory authority, need for and reasonableness of the proposed new rule. It is submitted pursuant to 1400.0500 requiring a Statement of Need and Reasonableness. A Notice of Intent to Solicit Outside Opinion regarding the proposed rule was published in the State Register on July 2, 1984. The proposed rule was submitted for comment to those people and organizations that requested it and was also reviewed by key legislators. A meeting was held with interested persons on November 21, 1984, prior to preparation of the final draft of the proposed rule. Suggestions and comments that were received have been duly considered.

Authority to Adopt the Rule

Minn. Stat. Section 473.843 grants the Commissioner statutory authority to establish rules concerning the administration of the solid waste landfill fee.

Statement of Need

The 1984 legislature passed Laws of Minnesota 1984, Chapter 644 which established a fee on solid waste accepted and disposed of at a mixed municipal solid waste facility in the metropolitan area. The fee must be collected beginning January 1 1985.

The proposed rules have been developed in consultation with interested persons. Every effort has been made to minimize the administrative burden on all involved parties.

Definitions

In addition to the definitions set forth in the statute, four definitions are included in the rule for purposes of clarification regarding the parties involved, the application of the fee, and the reporting time period of the landfill operators.

Solid Waste

The landfill fee is imposed on solid waste as defined at M.S. 116.06, subd. 10 which reads:

Subd. 10. "Solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludge, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the federal water pollution control act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended."

The definition is repeated in the rules in an attempt to minimize any confusion as to the items which are subject to the fee.

Previous Month

The statute provides that the fee is to be paid by the operator by the 20th of each month. The amount of the fee due is based on solid waste accepted during the "previous month." Since a "month" may vary for different businesses based upon each businesses' accounting practices, an allowance has been included for those businesses with a month that is other than a calendar month.

Commissioner

For purposes of the administration of this fee, it is the Commissioner of Revenue who has the responsibility for forms and related administrative matters.

Rolloffs

Meetings and conversations with interested persons raised an issue regarding vehicles that carry loads which vary greatly in weight and/or volume due to the varieties of the material hauled. A special provision is, therefore, included in these rules to recognize the variety in the loads hauled. If the landfill operator varies the tipping fee based on the type of load, then the state fee may be calculated on the same basis.

Determination of Fee

The law establishes a basic fee of 50 cents per cubic yard of waste accepted for disposal. Because some facilities weigh the waste as opposed to using truck capacity (measuring), the statute required establishment of a conversion factor.

Subpart 1. The conversion factor for the weight of an equivalent cubic yard of waste was established by the following process..

Since the weight of a cubic yard of solid waste varies by material, the following sources of information were used to make a reasonable estimate of the weight per cubic yard of solid waste:

- (1) "The Overweight Refuse Compactor or Vehicles Study" conducted by the Harry S. Johnson Company of Lakeville, on the collection and transportation of solid waste in the State of Minnesota, for the Commissioner of Highways and the Director of the Minnesota Pollution Control Agency. In this study 550 refuse compactor vehicles were field weighed on a random sample basis on two different time intervals, in the late spring (May 28 through June 13) and mid-summer (July 15 through July 26). These two weight monitoring periods afforded an opportunity to evaluate the findings under two completely different seasonal conditions. In the first period of weighing, there was a total of 4.79 inches of precipitation recorded in the Metropolitan Twin City area immediately prior to as well as during the weight monitoring period. This allowed for an opportunity to evaluate the weights recorded under conditions in which the refuse contained within the loaded vehicles had a significant moisture content. In addition, the first weighing allowed for the opportunity to evaluate recorded weights resulting from spring clean up efforts by residents who would normally be discarding a higher volume of materials as a part of cleaning up after the

winter season. In the second weighing it was possible to conduct a weighing of refuse vehicles during a dry period, having had only .31 inches of precipitation immediately preceding and during the weighing interval time. This allowed for an opportunity to evaluate those resultant weights as related to loaded characteristics that would be relatively free of the high moisture content that was contained in the first weighing. Additionally, the second weighing afforded an opportunity to evaluate a different type of load characteristic in terms of material composition which assisted in providing a better overall picture of seasonal variation. In evaluating the truck-weight data, it was determined that in the first weighing, a cubic yard of refuse weighed on the average of 500 pounds. In the second weighing a cubic yard of refuse weighed 433 pounds. It must be noted that these are average amounts, encompassing the random weighings of full as well as partially full trucks.

- (2) A survey of several refuse compactor equipment manufacturers marketing representatives, conducted by the Solid and Hazardous Waste Division of the Minnesota Pollution Control Agency, indicated that an undifferentiated compaction ratio of 600 pounds per cubic yard of mixed municipal solid waste, was a very good average.
- (3) A random sample study conducted by the city of Minneapolis over a one-year period, on 24 city-owned refuse compactor trucks, and 61 privately owned, city contracted refuse compactor trucks, resulted in findings of a 600 pounds per cubic yard compactor ratio on all fully loaded trucks. The resultant density of all loads, both full and partial for the weight monitoring period was 551 pounds per cubic yard.
- (4) Observation of a transfer station (refuse collection facility) operated by BFI in Northeast Minneapolis where persons may bring their refuse and dispose of it for a set fee. The fee as set forth by BFI is \$27.50 for 2,000 pounds or \$7.50 a cubic yard. This fee translates to a compaction ratio of 560 pounds per cubic yard.

We are aware of, and have examined, the table of conversion factors used by the state of Wisconsin in administering their solid waste tax. Based upon the sources of information utilized in developing the conversion factor and after consulting with operators and haulers, the administrative burden of a complex system similar to Wisconsin's does not seem to be necessary or desirable for Minnesota.

Subpart 2. Operators of landfills which measure solid waste do not have scales that allow them to weight waste. The landfills that have scales and weigh waste are able to accept waste and determine the tipping fee on a volume or measured basis at their or the haulers election. Although the fee is imposed upon landfill operators, the assumption can be made that the fee will in most cases be passed on to haulers of solid waste accepted for disposal. The proposed rules reflect an intent to allow operators flexibility in determining the state fee to be collected from the hauler, similar to the process for collection of tipping fees. At the meeting held in December, it was agreed by all persons present that an operator of a facility that weighs waste may allow haulers to determine the method, weight or volume, to be used for the calculation of the fee on their vehicles. The annual election provision is for purposes of minimizing the administrative burdens if designation were allowed on a load by load basis. The types of loads carried by haulers in compactor vehicles is generally consistent; therefore, it is possible for haulers to make a designation of this type. The January 1 date was selected to coincide with the effective date of the fee as set forth in statute. Each vehicle will carry an insignia to allow the operator to know at a glance how the fee will be paid. This allows haulers to designate the method on a vehicle by vehicle or fleet basis. Since these landfills weigh waste, that is the method to be used if no designation is made.

Subpart 3. Since there is no consistency in the type of loads carried on rollooffs, landfill operators may allow the haulers to determine the basis for the calculation of the fee on a load by load basis.

Reporting Requirements

The basic reporting requirements are specified in the legislation.

The proposed rule includes recordkeeping requirements which are consistent with the established auditing practices of the department.

Subpart 2. This section identifies for the operators the information necessary to be included on the invoice. The tax is assessed against the landfill operator, and the information requested is necessary to provide as a basis for verifying the fee paid to the state by an operator.

Exceptions for customers with multiple vehicles hauling, nonrepetitive single vehicle customers, loads less than 3 cubic yards, and flat fee loads are allowed as a means of easing the operators recordkeeping burdens.

Exemptions

Subpart 1 and 2. The statute provides a partial exemption from the fee for energy and resource recovery facilities and a complete exemption for metal casting facilities. The process to be followed in order to be granted that exemption is included in the rule. The statement of exemption is necessary to document the correct fee due the operator.

Subpart 3. A third exemption has been provided for "operating waste." The materials included are ones suitable for purposes related to the operation of the landfill. If material so-used were subject to the fee, its use would thereby be discouraged.