

STATE OF MINNESOTA  
POLLUTION CONTROL AGENCY

In the Matter of the Proposed  
Amendments to Rules Governing  
Hazardous Waste Generator Fees,  
Minn. Rules pts. 7046.0030,  
7046.0031, 7046.0040, 7046.0050, and  
7046.0070

STATEMENT OF NEED  
AND REASONABLENESS

I. INTRODUCTION

The subject of this proceeding is the amendment of the rules of the Minnesota Pollution Control Agency (Agency) governing the payment of fees by generators of hazardous waste and the owners and operators of hazardous waste treatment, storage, and disposal facilities, Minn. Rules pts. 7046.0010 - 7046.0070. These rules, which became effective on February 6, 1984, were amended effective April 22, 1985.

The statutory authority for the rules is set forth in Minn. Stat. §116.12 (Supp. 1985). The statute, together with the Agency's appropriations bill, requires the Agency to establish fees to collect funds to cover a portion of the cost of the hazardous waste regulatory program. The Agency is also required by Minn. Stat. §16A.128, subd. 1 (Supp. 1985) to review the fees each fiscal year. As a result of its most recent review of the fees, the Agency is proposing amendments to the rules.

The proposed rule amendments, if adopted, will simplify the existing fee structure, will better reflect the costs of regulating various activities, will promote recycling, discourage land disposal, and make the fees more equitable. The proposed amendments establish annual fees which consist of a review and maintenance fee (a flat fee which must be paid by non-

metropolitan area generators), a waste stream fee (a flat fee for each hazardous waste stream generated by each nonmetropolitan area generator), and a volume fee (a fee based on the total volume of waste generated and the method used for management of a waste). The proposed rules also establish fees for follow-up actions if a generator's refusal to submit required information causes the Agency to send additional registered letters or to make an inspection for the purpose of obtaining the required information. The proposed amendments reduce slightly the surcharge applied to all hazardous waste generators. The proposed amendments establish a new flat fee for certain generators whose sole hazardous wastes are degreasing or drycleaning solvents recycled off-site, batteries, gasoline tank bottoms, and scrap metal. Finally, the proposed rule amendments adjust the fee schedule in a manner that reduces the overall revenues collected by the Agency through hazardous waste fees.

The Agency is amending the rules according to the procedure for noncontroversial rulemaking provided in Minn. Stat. §§14.21 to 12.28, except that no public hearing need be held unless 20 percent of the persons who will be required to pay the fees under the amended fee schedule request a public hearing. The legislature has specifically imposed this limitation by providing in Minn. Stat. §116.12, subd. 1 (Supp. 1985) that the fees are to be established "in the manner provided in section 16A.128." Minn. Stat. §16A.128, subd. 2a (Supp. 1985) 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.

A Notice of Intent to Solicit Outside Opinion was published on August 4, 1986. The proposed rule amendments were considered by the Agency's Rules Committee at a meeting held on October 27, 1986. This meeting was open to the public and was attended by approximately 25 interested persons.

A part of the administrative requirement for the rulemaking process is review and approval of the fee schedule in the rules by the Minnesota Commissioner of Finance. The approval is attached as Exhibit A.

This Statement of Need and Reasonableness is divided into several parts. Part II contains the Agency's statement of its statutory authority to adopt the rule amendments. Part III contains the Agency's explanation of the need for the proposed amendments. Part IV contains an explanation of the reasonableness of the proposed amendments. Part V documents how the Agency has considered methods of reducing the impact of the proposed amendments on small businesses. Part VI contains a list

of the exhibits relied on by the Agency to support the proposed Amendments. The exhibits are available for review at the Agency's offices at 520 Lafayette Road, St. Paul, Minnesota 55155.

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

The Agency's statutory authority for the rule amendments is set forth in Minn. Stat. §116.12 (Supp. 1985), which provides:

Subdivision 1. Fee schedules. The agency shall establish the fees provided in subdivisions 2 and 3 in the manner provided in section 16A.128 to cover the amount appropriated from the special revenue fund to the agency for permitting, monitoring, inspection and enforcement expenses of the hazardous waste activities of the agency.

The legislature may appropriate additional amounts from the general fund that need not be covered by fees, in order to assure adequate funding for the regulatory and enforcement functions of the agency related to hazardous waste. All fees collected by the agency under this section shall be deposited in the special revenue fund.

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

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



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

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

The rationale behind the legislature's enactment of the statute was that persons generating and handling hazardous waste should pay a portion of the administrative costs of regulating hazardous waste activities.

The hazardous waste fees are intended to cover the amount of \$613,280 for the State Fiscal Year 1986 and \$630,000 for the State Fiscal Year 1987.

The Agency's obligation to review and, if necessary, to adjust the amount of the fees is set forth in Minn. Stat. §16A.128, subd. 1 (Supp. 1985), which provides:

Approval. Fees for accounts for which appropriations are made may not be established or adjusted without the approval of the commissioner. If the fee or fee

adjustment is required by law to be fixed by rule, the commissioner's approval must be in the statement of need and reasonableness. These fees must be reviewed each fiscal year. Unless the commissioner determines that the fee must be lower, fees must be set or fee adjustments must be made so the total fees nearly equal the sum of the appropriation for the accounts plus the agency's general support costs, statewide indirect costs, and attorney general costs attributable to the fee function.

Based on the foregoing statutes, the Agency has statutory authority to adopt the proposed rule amendments.

### III STATEMENT OF NEED

Minn. Stat. ch. 14 (1984) requires the Agency to make an affirmative presentation of facts establishing the need for and reasonableness of the amendments 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 problem exists which requires administrative attention and reasonableness means that the solution proposed by the Agency is appropriate.

The need for the proposed amendments to the hazardous waste fee rules has three bases: A) the need to comply with the legislative mandate to annually review the fee revenue and adjust the fees as needed; A) the need to simplify the current fee system for both the Agency and the regulated community; and C) the need to provide a more equitable distribution of the fees. These three bases are discussed below.

A. Need for Annual Review of Fee Targets

The Agency's obligation to review and, if necessary, to adjust the amount of the fees is set forth in Minn. Stat. §16A.128, subd. 1, quoted above on page 6.

The revenue target for Fiscal Year (FY) 1986 was \$613,280. Actual revenues collected for FY 1986 as a result of the fees was \$668,000. The revenue target for FY 1987 is \$630,000. Based on the current fee schedule and assuming growth in the number of hazardous waste generators in Minnesota the Agency projects hazardous waste fee revenues for FY 1987 to be between \$700,000 and \$800,000. Therefore it is necessary to revise the fee schedules so that the Agency will not collect more than the target amount.

B. Fee System Simplification

Under the current rules, the calculation of fees involves about a dozen major factors with a very large number of variations. The calculation of a fee has to take each factor into account for each of the three years' fees which were calculated for FY 1986 billings. Because of this extreme complexity it is very difficult to maintain consistency and accuracy in applying the present fee schedule. Much effort has gone into correcting past years' mistakes. Many generators call or write to complain about the complexity of the fee system and to request a detailed explanation of their fee calculation, thereby reducing the amount of staff time available for other

regulatory activities. It is the Agency's estimate that more than two year's worth of staff effort is involved in calculation and collection of fees each year. Therefore it is necessary to revise the fee rules to simplify the fee calculation.

C. Fee Incentives and Fairness

The current hazardous waste generator fee schedule exempts on-site recycling from fees. This exemption provides some incentive for generators to handle their hazardous waste in a preferred manner. Such handling also results in a lowering of the Agency's costs of regulating, as opposed to the cost of regulating many off-site management options. In general, the current hazardous waste generator fee system does not, however, effectively provide incentives for generators to choose other management methods such as off-site recycling or incineration or neutralization instead of off-site land disposal. When waste is recycled off-site, incinerated, burned for fuel, or neutralized, the Agency's costs of regulating the waste are somewhat reduced. These methods also more effectively safeguard the public's health and the environment more so than less preferred management options such as landfilling. Therefore, the Agency would realize a benefit if generators would be encouraged by the fee system to use the preferred options.

The current fee rules act as a disincentive for generators to disclose, to submit an accurate annual reports, and to update information provided to the Agency. Filing a disclosure or



updates usually results in fees being billed or fees being increased. In effect, generators feel they are being punished for complying with the disclosure rules. There is a need to discourage noncompliance with these disclosure rules.

Small gasoline stations which only conduct incidental repair and maintenance on vehicles, small drycleaners, and others who produce simple and predictable waste streams which are recycled off-site under maintenance agreements are generally not individually burdensome for the Agency to regulate. Experience with the present fee system has shown that fees now assessed to these small generators are excessive compared to the amount of work effort involved in regulating them. Therefore, there is a need to revise the fee schedule for these generators.

The current fee rule requires the Agency to collect retroactive fees from nonmetropolitan area hazardous waste generators who are late in complying with the hazardous waste disclosure requirements. Retroactive fees are assessed for each year in which the generator had generated hazardous waste but had failed to file a disclosure. The fees are calculated based on each year's waste production data and according to each year's fee schedule. In April, 1986, fee statements were sent out for FY 1984, FY 1985, and FY 1986. The retroactive fees for FY 1984 and 1985 were difficult to calculate because waste generation data were generally not available or accurate. Without amending the current fee rules, fee statements for FY 1987 will include

retroactive fees for FY 1984, 1985, and 1986, thereby effectively quadrupling fees for newly disclosed generators. These retroactive fees are likely serving as a great disincentive to disclose, especially for very small quantity generators. Therefore it is necessary to revise the fee rules to reduce those disincentives and provide incentives for proper management and reporting of hazardous waste.

#### IV. REASONABLENESS OF THE PROPOSED AMENDMENTS

The Agency is required by Minn. Stat. ch. 14 (1984) to make an affirmative presentation of facts establishing the reasonableness of the proposed rule amendments. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Agency's action. The reasonableness of the proposed amendments is discussed below.

##### Adjusting the Fees to Reduce Overall Fee Revenues

Because projected revenues from hazardous waste fees for FY 1987 are well in excess of the target amount, the Agency must revise its hazardous waste fees to generate \$630,000 for FY 1987. The Agency believes that the following steps would result in the collection of the target amount of money for the biennium: 1) amending the fee schedules for nonmetropolitan generators; and 2) lowering the statewide generator surcharge.

The Agency has projected revenues based on the fee schedule contained in the proposed amendments. These figures are shown below.

Facility Fees	\$140,000
Nonmetropolitan area generator fees and surcharges	190,000
Nonmetropolitan area generator late and retroactive fees and surcharges	80,000
Metropolitan area generator surcharges	<u>220,000</u>
Total	630,000

It is reasonable to revise the fee schedules as proposed in the rules to collect \$630,000 during FY 1987 because the Agency's proposed action is aimed at the legislature's objective that the Agency collect the target amount and not more than the target amount.

The following discussion addresses the reasonableness of the specific provisions of the proposed amendments to the hazardous waste fee rules.

Repeal of Minn. Rules pt. 7046.0030 and Replacement with pt. 7046.0031

The proposed amendments to part 7046.0030 represents the most major revision to the hazardous waste fee rules and accomplishes most of the needed revenue reductions. Because the amendments represent a major change in the format of the rule, the Agency proposes to repeal existing part 7046.0030 and to replace it with part 7046.0031. The reasonableness of the

provisions of part 7046.0031 is discussed below.

Subparts 1 and 2 of the part 7046.0031 are identical in wording to subparts 1 and 2 of the existing rule, and therefore these subparts are actually only being renumbered. No changes are proposed to the the requirements in these subparts.

Subpart 3, "Retroactive fee collection," replaces the current subpart 2a of the existing part 7046.0030. The proposed amendment establishes a maximum retroactive fee collection period of two calendar years prior to the most current calendar year subject to fees. The proposed rule provides that the calculation of retroactive fees is done by multiplying the current annual fee and surcharge times the number of years the generator had generated the waste. This is reasonable because it accomplishes the objective of retroactive fees (i.e., removing most of the economic advantage nonnotifiers have enjoyed over generators in compliance) without being so overly burdensome that it constitutes a disincentive for disclosure of waste generation. It is also reasonable because it simplifies the calculation of retroactive fees for Agency staff and for generators receiving retroactive fee statements.

Subpart 4 establishes annual fees, which consist of the sum of the review and maintenance fee, waste stream fees, and waste generation volume fees, to be paid by nonmetropolitan area hazardous waste generators. These fees are discussed below.

Subpart 4.A. establishes a review and maintenance fee. This

is a flat fee of \$30.00 per calendar year per identification number issued to the generator pursuant to part 7045.0221. This fee is reasonable because the waste produced by each nonmetropolitan generator creates the need for a base level of regulatory effort in maintaining computer files, preparing annual reports, and other routine regulatory functions.

Subpart 4.B. establishes a flat fee for each waste stream generated over ten gallons or one hundred pounds per year. The generator is assessed \$20 per calendar year per waste stream. It is reasonable to establish a fee for each waste stream because each waste stream must be evaluated by Agency staff upon initial disclosure to determine whether the generator's evaluation was correct and whether management of the waste is in compliance with hazardous waste rules. Each waste stream must then be reevaluated each year upon submittal of the annual report. Generators of many waste streams require more review than do generators of a few waste streams.

Subpart 4.C. establishes a volume fee based on the amount of unsewered waste generated and the method of waste management or disposal used in the calendar year. The base volume for the first 2,000 gallons or pounds of waste produced is .06 cents per gallon for liquid waste streams and .006 cents per pound for nonliquid waste streams. The base volume fee for 2,001 - 6,000 gallons or pounds produced is \$.045 per gallon and \$.0045 per pound. The base volume fee for more than 6,000 gallons or pounds



is \$.03 per gallon and \$.003 per pound. The base volume fee is then multiplied by a factor ranging from 0 to 1, depending on the management method used for disposal or treatment of the waste. Recycle, feedstock or by-product on-site is assigned a factor of 0. The following methods are assigned a factor of 0.67: recycle, feedstock, or by-product off-site; burned for fuel; neutralization; and incineration. Disposal and other methods are assigned a factor of 1.0. Finally, any sludges or residues of recycling, burning for fuel, neutralization, or incineration are subject to the base volume fee.

The volume fee approach is reasonable because large quantity generators typically require more regulatory effort on the part of the Agency staff than do small volume generators. The frequency of inspection, manifest use, and regulatory follow-up is largely dependent on volume of waste production. Large volume waste streams are typically reviewed much more closely than are small volume waste streams.

The proposed amendments charge less per unit volume as the volume increases in order to maintain fees at a level which is less than or equal to the fees charged by the metropolitan counties. This is reasonable because Minn. Stat. §116.12 requires that the Agency's fees not exceed the level of fees charged by the metropolitan counties. This is reasonable for the further reason that, although regulatory costs are related to waste volumes, the relationship of costs to waste volumes is not

a linear one. For example, if the regulatory cost for a given volume is X, the regulatory costs for double that amount is less than 2X.

Varying the fees according to waste management method by using the multiplication factor approach is reasonable because different management methods require different amounts of regulatory effort for review and long-term tracking. Wastes which are recycled on-site or used as feedstock or by-product typically are not as closely tracked by Agency staff. Wastes which are recycled, used as a feedstock or by-product off-site, however, are more closely reviewed and tracked by Agency staff and therefore result in greater costs for regulating these wastes. Similarly, wastes which are burned for fuel, neutralized, or incinerated are destroyed and do not require long term tracking. Therefore, the Agency has normal regulatory costs for initial review and tracking of wastes to their destination, but lesser costs for long term tracking. Wastes which are destined for land disposal or other nondestructive management methods can require more long term effort for review and have more potential for needing subsequent action if disposal is not sufficiently safe. The multiplication factor approach to varying fees for different waste management methods is reasonable for the further reason that it provides incentives for generators to utilize management methods which are considered preferable under Minnesota's waste management policies.

Subpart 5 establishes follow-up action fees to be assessed in the event that a nonmetropolitan generator fails to respond within thirty days of receipt of a registered letter from the Director requesting submission of a disclosure or evaluation report or annual report. If the Director's follow-up action involves sending the generator one or more additional registered letters, the fee for each follow-up registered letter is \$25. If the Director's follow-up action is sending a representative of the Agency to make an inspection for the purpose of obtaining the required information, the fee for each inspection is \$200. It is reasonable to charge follow-up action fees because the generator's failure to comply with the requirement to submit a disclosure, evaluation report, or annual report creates additional work and expense for the Agency. Without follow-up action fees, these extra costs are spread among generators who do comply with hazardous waste rules. Generators are given clear notice of the request to submit information and will be given clear notice of the existence of follow-up action fees for failure to comply with the request. The dollar amounts of the fees are reasonable because they represent general averages of the Agency's estimated cost of carrying out the activities required when a generator fails to comply with requirements to submit information.

Subpart 6 sets forth the payment schedule for fees. It requires nonmetropolitan generators to submit fees within 60 days after receipt of notice from the director that the fees are due.

This payment schedule differs from the payment schedule in the existing rules, which allowed 60 days for payment of fees followed by an additional 30 day period after which the fee was deemed late. Experience with administering the rules has shown that this additional 30 day period in the existing rules created confusion in the regulated community and is unnecessary. Therefore it is reasonable to eliminate this additional 30 day period.

Subpart 6 also requires fees to be paid by check, made payable to the Minnesota Pollution Control Agency. It is reasonable that fees be made payable to the Agency in order to enable the Agency to comply with the statutory requirement that the fees be deposited in the special revenue fund.

Subpart 7 of the proposed amendments, "Failure to submit fees," consists of clarifying amendments to the existing part 7046.0030, subp. 7. The second and third sentences of the existing rule provide:

"The late fee for each of the three 30 day periods or fraction between the due date and 90 days beyond the due date is ten percent of the total of the annual fee. Beyond 90 days, the late fee for each 30 day period or fraction beyond 90 days is 15 percent of the annual fee.

Generators have found this language confusing. The Agency is proposing to clarify the language as follows:

The late fees are a percentage of the annual fee: 10 percent for each of the first two 30-day periods and 15 percent for each 30-day period or fraction thereafter.

It is reasonable to clarify the rule language because this will help both the regulated community and Agency staff to properly calculate late fees.

The last sentence of subpart 7 is also proposed for amendment as follows:

If a nonmetropolitan area generator fails to submit the requested fees ~~within 90 days of~~ by the due date, the generator becomes liable for reasonable additional expenses the agency incurs in collection of the fee, in addition to the fees and late fees.

In this context "due date" refers to sixty days after receipt of the notice from the days that the fees are due. This amendment is reasonable because it conforms the requirements of this sentence to the changes that were made in the previous portion of the rule.

Minn. Rules pt. 7046.0040, Generator Surcharge

The Agency proposes to amend subpart 1 of this rule to reduce the generator surcharge charged to all generators statewide from 50 percent of the annual fee to 45 percent of the annual fee. This reduction is part of the strategy to lower overall revenues collected from the hazardous waste fees. It is reasonable because it will provide some relief from fees but will keep the surcharge within the general estimate of the Agency's workload attributable to metropolitan area generators (40 to 60 percent).

The Agency is proposing to amend subpart 2 of the rule to change the cross reference from the existing part 7046.0030 to



the new 7046.0031. This is reasonable in order to keep the rules as amended internally consistent.

Minn. Rules pt. 7046.0050, Generator Fee Exemptions

The Agency is proposing to repeal subpart 2 of this rule, which provides:

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

With the proposed new part 7046.0030, subp. 4.C., this language becomes redundant. Therefore it is reasonable to repeal it.

The Agency is proposing to adopt a new subpart 4. This new subpart would exempt from annual fees those small quantity generators and conditionally exempt nonmetropolitan area generators whose sole hazardous wastes are degreasing or drycleaning solvents reclaimed off-site under a maintenance agreement, lead acid batteries, gasoline tank bottoms, and/or scrap metal. Instead, these generators are required to pay a flat annual fee of \$25. This is reasonable because these types of generators generally require less regulatory effort by the Agency staff than do other types of generators.

The exemption in proposed new subpart 4 is limited to those calendar years for which the generators submit accurate disclosures pursuant to part 7045.0240 or annual reports by March 1 in accordance with part 7045.0296. It is reasonable to limit

this exemption in this manner because without having received those documents the Agency staff is required to expend regulatory efforts to collect information to determine whether or not the generators are eligible for the exemption and in compliance with hazardous waste rules.

Minn. Rules pt. 7046.0070, Appeal Procedure

The Agency proposes to amend part 7045.0070 to change the cross reference from existing 7046.0030 to the new part 7046.0031. This is reasonable in order to maintain internal consistency within the rules.

V. CONSIDERATION OF SMALL BUSINESS

Minn. Stat. §14.115 (1984) requires Minnesota agencies when proposing amendments to existing rules which may affect small businesses to consider the following methods for reducing the impact of the proposed amendments on small businesses:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

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

While drafting the proposed rule amendments the Agency did consider whether it could make the rules less stringent and simpler with respect to small businesses and yet attain the statutory requirement to collect the target amount. However, the important consideration in the regulation of hazardous waste is not the size of the business but the volume of hazardous waste being generated, stored, treated, or disposed. Differentiations on the basis of business size may or may not reflect the volume of hazardous waste being regulated. Therefore, it is not fair or reasonable to assign fees on the basis of business size, as this may have little relation to the efforts the Agency must expend to regulate its activities, and thus justify the fees charged.

However, it is reasonable to provide for some consideration of small quantity generators, and in many cases these small quantity generators will also be small businesses. The exemption provided in the existing rules for generators who generate less than 10 gallons or 100 pounds of hazardous waste in a year has been retained in the proposed amendments. To the extent that these very small generators are also small businesses, this fee exemption will provide a reduction in their overall cost of managing hazardous waste.

The proposed two-year cut-off on the retroactive payment of generator fees will also result in a reduction of fees paid by

many small businesses. Although the retroactive fee cut-off applies to all generators, it will be most widely applicable to small businesses generating small quantities of hazardous waste. The Agency believes that most of the major hazardous waste generators have been in compliance with the hazardous waste rules and are not subject to retroactive fees. However, the Agency is aware of major categories of small businesses generating small quantities of hazardous waste that have not been involved in the hazardous waste program and have not previously paid the required fees. For these generators, the retroactive fees in the existing rules would be significant if applied from the point when they were first required. The proposed amendments, therefore, provide significant relief to the small businesses that are anticipated to be the primary beneficiaries of the retroactive fee cut-off.

Another feature of the proposed amendments which will benefit some generators who are also small businesses is the substitution of a flat fee for the annual fees applicable to generators of solvents and other simple waste streams recycled off-site under a maintenance agreement. Examples of these businesses include service stations doing only light repair work, most dry cleaners, and many small repair and fabrication shops.

#### VI. LIST OF EXHIBITS

One exhibit is attached to this Statement of Need and Reasonableness to support the proposed amendments:

Agency Ex. No.

Title

A

Approval of the Commissioner of  
Finance.

VII. CONCLUSION

The Agency has, in this document and its exhibit, made its presentation of the facts establishing the need for and reasonableness of the proposed amendments to the hazardous waste fee rules.

November 14, 1986

*for Barbara Luday-Sera*  
Thomas J. Kalitowski  
Executive Director



43807

STATE OF MINNESOTA

## Office Memorandum

DEPARTMENT of Finance

TO: Thomas J. Kalitowski  
Executive Director  
Pollution Control Agency

DATE: Dec. 9, 1986

FROM: Bruce Reddemann, Director  
Budget Operations and Support

BJR

RECEIVED

PHONE: 6-5188

DEC 17 1986

SUBJECT: Fee Schedule Approval and  
Request for Waiver

MPCA, SOLID & HAZ  
WASTE DIVISION

Your December 4, 1986 request for changes in hazardous waste generator fees is approved as submitted.

Based on Laws of 1985, First Special Session, Chapter 13, Subdivision 1, the requirement in 16A.128 that fees nearly equal the sum of the appropriation for the accounts plus the agency's general support costs, statewide indirect costs and Attorney General costs attributable to the fee function is waived.

The wording of M.S. 116.12, subd. 1 that fees should be established to cover the amount appropriated from the Special Revenue Fund is in conflict with M.S. 16A.128 which states that fees should also recover agency general support costs, statewide indirect costs and Attorney General costs.

Your department should submit legislation to include these costs for the fees referred to in M.S. 116.12. The legislature will then make the determination as to their intent regarding recovery of these costs for hazardous waste generator fees.

TL/BJR/BN/KB/503T

cc: Bart Nelson  
Brian Roherty  
Doug Watnemo