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Field Citation Pilot Project

A Report to the  
Legislative Commission on Waste Management  
November 1992

Minnesota Pollution Control Agency  
and  
Minnesota Department Natural Resources



**MINNESOTA  
POLLUTION CONTROL  
AGENCY**

520 Lafayette Road  
St. Paul, Minnesota 55155

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5754  
.A35  
A2  
1992a

Pursuant to 1991 Laws, Chapter 347  
Article 1, Section 15, subd 6

Field Citation Pilot Project

A Report to the  
Legislative Commission on Waste Management  
November 1992

Minnesota Pollution Control Agency  
and  
Minnesota Department Natural Resources





## Introduction

As part of the environmental enforcement act of 1991, the Minnesota Legislature created a pilot project for issuing field citations for the illegal disposal of solid waste. A copy of the legislation is included in Attachment 1 of this report.

This report summarizes the current status of the pilot project, discusses the effectiveness and limitations identified to date, and provides recommendations for future considerations for field citations. The Minnesota Pollution Control Agency (MPCA), in consultation with Minnesota Department of Natural Resources (DNR) and the Minnesota Attorney General (AG), provides this study to the Legislative Commission on Waste Management (LCWM) as required by Minn. Statutes Chapter 347, Sec. 15, subd. 6.

## Status Summary

The pilot project was initiated with a joint training session and development of the citation form in October 1991. A copy of the citation can be found in Attachment 2. DNR Conservation Officers (COs) and MPCA Solid Waste Specialists (SWS) attended the training session conducted by staff from the AG office and DNR and MPCA staff.

Attachment 3 provides a summary status of the citations issued as of September 30, 1992, and Attachment 4 contains a current listing as of October 27, 1992. As of September 30, 1992, 77 citations have been issued with an average penalty amount of \$230.56. Of these 8 (10.4%) citations have been appealed and 12 (15.6%) citations have not been paid with corresponding penalty amounts of \$5,878 and \$3,540, respectively.

DNR COs are issuing citations statewide, typically where waste has been disposed of on public land. The MPCA Commissioner initially authorized one SWS to issue citations and the remaining SWS have served as liaisons with the COs. With the experience gained this last year, the MPCA Commissioner will shortly authorize all SWS to issue citations. AG staff has served as the point person in responding to appeals and coordinating administrative hearings.

## Effectiveness and Limitations

Two of the main objectives of this pilot project are to deter indiscriminate dumping and to penalize people who dispose of waste illegally. Based upon the low percentage of appeals and nonpayment of penalties in comparison with the experience of DNR with other ticketing programs, this first year has been successful.

We believe that it is too soon to accurately assess the effectiveness of the pilot project. However, based on anecdotal evidence the citation is an effective tool for the encouragement of proper waste

handling. We propose to survey county solid waste officers, sheriff departments, county transportation staff and MPCA and DNR field staff on their perceptions of the field citation in the coming year. The results of this survey will provide an objective assessment on the effectiveness of this tool.

Another objective is removal of the illegally disposed waste to an authorized area. Staff involved in this program have been effective in ensuring that waste is removed from the unpermitted area. Two primary methods generally have been used. If the waste disposer is present at the time of the citation issuance, he is encouraged to remove the waste. If the waste owner is not present, field staff will make a follow-up visit to ensure removal of the waste from the area.

Major limitations identified to date are: no ordered cleanup, lack of an alternate procedure for collection of unpaid penalties, and high costs of administrative hearings.

As discussed above, removal of the waste is a prime objective of this program, although the current statutory language does not specifically address it. The citation form includes a requirement to remove the waste to a permitted facility. However, if the person refuses to remove the waste, additional statutes must be invoked to order the person to remove the waste, and the efficiencies of this civil enforcement tool are lost. We believe the program would be more effective if the statute included language that required cleanup of the area.

The statute does authorize the attorney general to bring civil actions in district court for payment of penalties, which may include recovery of costs. However, these actions do require a fair amount of staff time that may be used more effectively in other critical cases or issues. Currently certified letters are sent to citation recipients notifying them that the penalty is delinquent and requiring payment. These have been fairly effective, but there are still penalties outstanding. Presently, MPCA staff is investigating the use of a collection agency for payment of outstanding penalties.

Administrative hearing costs are high in comparison with the typical penalty amount. An opportunity for review of a citation is necessary. Typically, when an appeal is received by the Commissioner, the attorney general reviews the facts and advises the MPCA and DNR on the merits of the case. If a hearing is scheduled, the state's case is presented before an Administrative Law Judge (ALJ). The citation recipient also has an opportunity to present his point of view. The ALJ makes a determination of the case and presents his recommendations to the MPCA Commissioner who makes the final decision. Five hearings have been scheduled to date; one appeal was settled prior to the hearing, one appeal was upheld by the ALJ and three are pending.

Since this is a pilot project, the program does have a limited focus. However, field staff and local officials have provided comments on the constraints of the pilot. Some of these comments have suggested expanding the program to include such things as burn barrels. Others have identified frustration with the statutory language excluding a citation when the landowner has given permission for the unauthorized disposal of solid waste. The referenced survey should provide more information on how the program is received. Also, MPCA program managers will be evaluating what particular aspects of their specific regulatory programs could benefit from a similar citation program.

#### Summary and Recommendations

In summary, we believe that the pilot project is successful. Eighty citations have been issued as of October 27, 1992. Of these, seven are under appeal or have been withdrawn or denied. There also has been a 75 percent payment rate of the remaining 73. Prior to recommending that the Legislature make this authority permanent, we would like to complete the activities discussed in this report.

Therefore, we recommend that the Legislature extend this pilot project for another year. During this time period, we would gain additional experience with the citation program and evaluate the effectiveness of a collection agency. Reactions of local officials and expansion of the citation authority into other environmental regulatory programs will also be assessed and incorporated with the findings of this pilot project and presented to the LCWM.



## Attachment 1

### Chapter 347

#### Article 1. Civil Enforcement

Sec. 15. Field Citation Pilot Project Subdivision 1. Authority to issue.

Pollution control agency staff designated by the commissioner and department of natural resources conservation officers may issue citations to a person who disposes of solid waste as defined in Minnesota Statutes, section 116.06, subdivision 10, at a location not authorized by law for the disposal of solid waste without permission of the owner of the property.

Subd. 2. Penalty amount. The citation must impose the following penalty amounts: (1) \$100 per major appliance, as defined Minnesota Statutes, section 115A.03, subdivision 17a, up to a maximum of \$2,000; (2) \$25 per waste tire, as defined in Minnesota Statutes, section 115A.90, subdivision 11, unless utilized in an agricultural pursuit, up to a maximum of \$2,000; (3) \$25 per lead acid battery governed by Minnesota Statutes, section 115A.915, up to a maximum of \$2,000; (4) \$1 per pound of other solid waste or \$20 per cubic foot up to a maximum of \$2,000; and (5) up to \$200 for any amount of waste that escapes from a vehicle used for the transportation of solid waste if, after receiving actual notice that waste has escaped the vehicle, the person or company transporting the waste fails to collect the waste.

Subd. 3. Appeals. Citations may be appealed under the procedures in Minnesota Statutes, section 116.072, subdivision 6, if the person requests a hearing by notifying the commissioner within 15 days after receipt of the citation. If a hearing is not requested within the 15-day period, the citation becomes a final order not subject to further review.

Subd. 4. Enforcement of field citations. Field citations may be enforced under Minnesota Statutes, section 116.072, subdivisions 9 and 10.

Subd. 5. Cumulative remedy. The authority of conservation officers to issue field citations is in addition to other remedies available under statutory or common law, except that the state may not seek penalties under any other provision of law for the incident subject to the citation.

Subd. 6. Study of field citation pilot program. The pollution control agency, in consultation with the department of natural resources and the attorney general, shall prepare a study on the effectiveness and limitations of the field citation pilot program.



The study must make recommendations about the continued use of field citations. The study must be submitted to the legislative commission on waste management by November 15, 1992.

Note: This section is repealed on July 1, 1993.



A-01290-01

# NOTICE OF SOLID WASTE DISPOSAL VIOLATION, CIVIL CITATION, AND IMPOSITION OF PENALTY No. 0858

ISSUE DATE			TIME		ICR	
NAME (LAST)		(FIRST)		(MIDDLE)		D.O.B.
D/O.L. NO.		PHONE (RESIDENCE/BUSINESS)				
ADDRESS:	STREET	CITY	STATE	ZIP		
LOCATION (1)	PROJECT CODE	COUNTY (2)	VIOLATION DATE/TIME	DAY OF WEEK	ACT (3) CODE	SPECIES (4) CODE
LOCATION DESCRIPTION						
VEHICLE	YEAR	MAKE	MODEL	STYLE	COLOR	LICENSE
						STATE
						VIN/SER/BHN

This civil citation is being issued to you in lieu of criminal charges for unlawful disposal of solid waste on public property or on private property without the permission of the owner. You are hereby directed to remit within 30 days the following amount for this unlawful disposal of solid waste:

1.	<input type="checkbox"/> Major Appliances	<input type="text"/>	(Number) x \$100.00 each = \$	<input type="text"/>	(Maximum \$2,000.00)
2.	<input type="checkbox"/> Waste Tires	<input type="text"/>	(Number) x \$ 25.00 each = \$	<input type="text"/>	(Maximum \$2,000.00)
3.	<input type="checkbox"/> Lead Acid Battery	<input type="text"/>	(Number) x \$ 25.00 each = \$	<input type="text"/>	(Maximum \$2,000.00)
4.	<input type="checkbox"/> Other Solid Waste (either pounds or cubic feet, or combination): -				
		<input type="text"/>	(Pounds) x \$ 1.00 per pound = \$	<input type="text"/>	(Maximum \$2,000.00)
		<input type="text"/>	(Cubic Feet) x \$20.00 per cubic ft = \$	<input type="text"/>	(Maximum \$2,000.00)
5.	<input type="checkbox"/> Solid materials (waste) that has escaped from a vehicle.	<input type="text"/>	NOTICE DATE/TIME = \$	<input type="text"/>	(Maximum \$ 200.00)
TOTAL OF THIS CITATION = \$				<input type="text"/>	

I hereby acknowledge receipt of this notice and order of Civil Citation and Penalty.

VIOLATOR'S SIGNATURE	OFFICER'S SIGNATURE	AGENCY	BADGE #	STATION #
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Payment of the amount specified must be sent within 30 days to: Commissioner MN PCA  
Solid Waste Section  
520 Lafayette Road  
St. Paul, MN 55155-3898

Appeals to this citation must be made in writing within 15 days after issue in accordance with provisions outlined on the back of this notice. This citation becomes final and is not subject to further review after 15 days from the date of issue. SEE BACK OF THIS FORM FOR SPECIFIC APPEAL PROCEDURES.

INFORMATION REGARDING THE REMOVAL NOTICE AND APPEAL PROVISIONS IS ALSO PRINTED ON THE BACK OF NOTICE.

**APPEALS OF CIVIL CITATIONS:**

Citations may be appealed under the procedures in Minnesota Statutes, Section 116.072, Subdivision 6, if the person requests a hearing by notifying the Commissioner of the Pollution Control Agency within 15 days after receipt of the citation. If a hearing is not requested within the 15 day period, the citation becomes a final order not subject to further review. Appeals may be filed at the address provided for payment of the penalty.

**NOTICE TO REMOVE:**

You are required under Minnesota law to remove any solid waste that has been disposed of in an unpermitted location. Failure to remove unlawfully placed solid waste within 30 days as cited on the Notice of Solid Waste Disposal Violation, Civil Citation, and Imposition of Penalty may result in additional legal actions, including penalties, under Minnesota law.

**Narrative Report:**


A Separate Report Exists Regarding This Case

ATTACHMENT 3

FIELD CITATION PILOT PROJECT

PRELIMINARY DATA  
(as of September 30, 1992)

	FY 1992	FY 1993	Total
<b>General</b>			
Citations Issued	53	24	77
Penalty Assessed	\$7978	\$9775	\$17753
Average Penalty Assessed	\$150.53	\$407.29	\$230.56
<b>Disposition</b>			
Numbers Paid	42	11	53
Amount Paid	\$5665	\$740	\$6405
Average Paid	\$134.88	\$67.67	\$120.85
Numbers Appealed	1	7	8
Dollars Appealed	\$83	\$5795	\$5878
Numbers Settled	1	3	4
Dollars Settled	(\$83)	(\$540)	(\$623)
Numbers - Nonpayment	10	2	12
Dollars Not Paid	#2230	\$1220	\$3450
Average	\$223	\$610	\$287.50
Number Not Yet Due	0	5	5
Amount	--	\$4495	\$4495



Minnesota Department of Natural Resources  
 CIVIL CITATIONS ISSUED BY CONSERVATION OFFICERS  
 (Listing by Issue Date)

CITA- TION NO.	LAST NAME	FIRST NAME/ MIDDLE INITIAL		AMT OF CITA- TION	VIOLATION DATE	ISSUE DATE	LAST ACTION DATE	PLEA/ APPEAL FILED	APPEAL DECI- SION	CITA- TION PAID	AMT OF PAYMENT	BADGE/ STATION NO.	COUN- TY CODE
3001	FUSSY	JOHN	T	50.00	11/17/91	11/26/91	4/17/92			Y	50.00	185 3107	18
3002	JASMER	CARY	W	300.00	11/08/91	12/08/91	8/10/92				.00	322 3110	80
3003	THOMSEN	MICHAEL	R	40.00	1/09/92	1/10/92	2/20/92			Y	40.00	260 3208	73
111	HARSEN	JEFFERY	G	200.00	1/14/92	1/15/92	2/24/92			Y	200.00	338 3205	49
1121	BRINKMAN	JEFFREY	T	50.00	1/27/92	2/04/92	2/13/92			Y	50.00	248 5103	85
1191	PETERSON	JOSEPH	D	300.00	2/05/92	2/10/92	2/13/92			Y	300.00	273 5107	23
321	HESTER	JAMES	M	250.00	1/00/92	2/11/92	3/13/92			Y	250.00	133 2205	09
52	PHILIPPI	JOHN	L	20.00	11/20/91	2/16/92	2/20/92			Y	20.00	288 3210	73
56	BRANNAN	JAMES	A	20.00	11/20/91	2/18/92	4/16/92			Y	20.00	288 3210	73
54	FUNK	PAUL	D	20.00	2/16/92	2/18/92	4/10/92			Y	20.00	288 3210	73
53	JUVENILE	JUVENILE	J	20.00	2/16/92	2/18/92	3/19/92			Y	20.00	288 3210	73
1951	SNOW	MICHAEL	K	240.00	2/13/92	2/19/92	3/18/92			Y	240.00	322 3110	80
55	JUVENILE	JUVENILE	J	20.00	2/16/92	2/19/92	4/01/92			Y	20.00	288 3210	73
1991	PHILLIPSON	JEROLD	S	80.00	2/20/92	2/20/92	3/05/92			Y	80.00	229 6112	82
1701	DEBAUCHE	JOHN	V	20.00	2/23/92	2/23/92	4/13/92			Y	20.00	40 1310	56
901	DANIELOWSKI	JON	M	100.00	2/08/92	2/25/92	8/10/92				.00	289 6103	19
682	PRUDEN	LEO	H	10.00	1/00/92	2/26/92	3/16/92			Y	10.00	135 3105	01
671	WHITTED	SCOTT	J	20.00	2/14/92	2/27/92	4/13/92			Y	20.00	185 3107	11
351	CARON	MICHAEL	D	40.00	2/29/92	2/29/92	3/12/92			Y	40.00	269 2104	31
673	FIELD	ROBERT	W	40.00	3/02/92	3/02/92	4/23/92			Y	40.00	185 3107	18
672	ROHRBECK	RAYMOND	R	40.00	2/00/92	3/02/92	3/23/92			Y	40.00	185 3107	11
711	REED	RAYMOND	W	100.00	1/00/92	3/07/92	8/10/92				.00	182 3305	33
341	HALL	DEBORAH	C	20.00	3/04/92	3/08/92	4/02/92			Y	20.00	336 2204	09

ATTACHMENT 4

APPEAL CODE DEFINITIONS: N = Sustained/Not Guilty D = Withdrawn by DNR/PCA



10/27/92 11:50:13

Minnesota Department of Natural Resources  
 CIVIL CITATIONS ISSUED BY CONSERVATION OFFICERS  
 (Listing by Issue Date)

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CITA- TION NO.	LAST NAME	FIRST NAME/ MIDDLE INITIAL		AMT OF CITA- TION	VIOLATION DATE	ISSUE DATE	LAST ACTION DATE	PLEA/ APREAL FILED	APPEAL DECI- SION	CITA- TION PAID	AMT OF PAYMENT	BADGE/ STATION NO.	COUN- TY CODE
112	LATTIMER	GEORGE J		20.00	2/18/92	3/12/92	3/26/92			Y	20.00	338 3205	49
1441	BROWNLEE	DUANE D		20.00	3/13/92	3/13/92	3/24/92			Y	20.00	87 1103	03
2771	SULLIVAN	RICHARD D		160.00	2/29/92	3/17/92	8/10/92				.00	325 3109	77
2772	MIELKE	WILLIAM O		20.00	3/12/92	3/23/92	4/10/92			Y	20.00	325 3109	80
712	HOLTZCLAW	ERNEST S		60.00	3/26/92	3/26/92	4/27/92			Y	60.00	182 3305	58
31	PFAFF	NORMAN R		200.00	3/26/92	3/29/92	4/10/92			Y	200.00	340 3206	77
713	JUVENILE	JUVENILE J		400.00	10/12/91	3/30/92	8/06/92				.00	182 3305	58
1192	THOMPSON	LARRY M		30.00	12/00/91	3/30/92	4/03/92			Y	30.00	273 5107	23
2731	HUGHLEY	DAVID E		83.00	3/31/92	4/01/92	5/11/92	N			.00	342 3106	18
891	ROYSTON	THOMAS T		80.00	4/03/92	4/03/92	5/01/92			Y	80.00	370 6104	19
883	BOLSTER	LARRY C		350.00	4/04/92	4/06/92	8/06/92				.00	235 6114	62
631	ERPELDING	CRAIG W		20.00	3/25/92	4/06/92	5/04/92			Y	20.00	327 1206	04
884	HANSON	JEFFREY G		225.00	4/07/92	4/08/92	8/10/92				.00	235 6114	62
1003	ALSLEBEN	MICHAEL A		20.00	4/06/92	4/08/92	4/14/92			Y	20.00	323 4112	72
1234	MAZNIO	BRIAN T		175.00	4/06/92	4/10/92	8/10/92				.00	367 4105	52
1091	SCHMITZ	LLOYD R		60.00	4/22/92	4/22/92	9/11/92				.00	37 5110	79
885	MALAVE	JESUS		40.00	4/26/92	4/26/92	7/14/92			Y	40.00	235 6114	62
701	BOCKOVEN	RAYMOND		40.00	4/27/92	4/27/92	5/11/92			Y	40.00	293 3308	48
742	HUNT	TIMOTHY S		300.00	4/27/92	5/03/92	6/01/92			Y	300.00	194 3302	30
211	MARTINSON	RICHARD C		160.00	4/27/92	5/10/92	6/12/92			Y	160.00	255 2114	01
1092	SANFORD	WAYNE		120.00	0/00/90	5/14/92	7/07/92			Y	120.00	248 5103	79
744	BURRIS	PATRICK J		360.00	4/03/92	5/16/92	9/11/92				.00	211 3304	13
57	MEYER	DONALD A		320.00	5/01/92	5/17/92	6/10/92			Y	320.00	288 3210	05

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58	HAGSTROM	RUSSELL J		120.00	3/31/92	5/19/92	6/05/92			Y	120.00	288 3210	49
414	BAKER	LAWRENCE L		20.00	5/22/92	5/23/92	6/19/92			Y	20.00	270 2109	31
1993	PIPPENGER	TIMOTHY C		200.00	5/15/92	5/24/92	6/24/92			Y	200.00	229 6112	82
1122	SCHAFFER	MARVIN W		75.00	5/26/92	5/26/92	6/03/92			Y	75.00	248 5103	85
401	BOVEE	BECKY S		200.00	0/00/91	5/27/92	7/02/92			Y	200.00	290 2302	69
1101	MATEJKA	GERALD J		2,000.00	5/26/92	5/29/92	6/02/92			Y	2,000.00	275 5111	85
2733	CARLSON	CORY R		1,200.00	5/26/92	6/02/92	9/11/92				.00	342 3106	18
1051	GREEN	JASON D		40.00	6/06/92	6/06/92	8/17/92			Y	40.00	85 5104	66
3005	DAHL	STEPHEN R		100.00	5/00/92	6/16/92	6/22/92			Y	100.00	252 2113	36
1521	ADAMS	GILBERTO G		500.00	6/07/92	6/18/92	8/14/92	N	N	N	.00	348 4102	22
3004	JONES	BRIAN P		825.00	5/19/92	6/22/92	8/13/92				.00	235 6114	82
684	BAYLISS	MARK G		40.00	7/13/92	7/13/92	9/03/92		D	N	.00	135 3105	18
691	MOE	JASON L		20.00	7/07/92	7/13/92	10/19/92			Y	20.00	345 1109	45
1431	HASBROUCK	RICHARD L		150.00	5/27/92	7/15/92	8/04/92			Y	150.00	335 1112	68
2981	BOLES	DONNA M		80.00	7/21/92	7/28/92	9/30/92			Y	80.00	368 3307	58
416	OHARA	JAMES T		20.00	5/25/92	7/29/92	8/05/92			Y	20.00	270 2109	01
6	RODERICK	JOEL J		825.00	5/18/92	8/05/92	8/13/92				.00	3 6114	82
5	CHILDREY	CHRIS L		825.00	5/18/92	8/05/92	8/13/92				.00	3 6114	82
231	DURBIN	CHRISTINE A		160.00	6/16/92	8/06/92	9/18/92			Y	160.00	216 2303	38
417	LUND	ROBERT E		50.00	7/01/92	8/11/92	8/25/92			Y	50.00	270 2109	01
233	THOREN	ERIC P		200.00	8/06/92	8/22/92		N			.00	216 2303	69
212	BLAKE	ORRIE L		100.00	8/29/92	8/29/92	9/28/92			Y	100.00	255 2114	01
581	SOPIWNIK	DUKE S		60.00	8/29/92	8/31/92	9/10/92			Y	60.00	265 2311	69

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10/27/92 11:50:13

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685	CORWIN	DENNIS	D	20.00	9/04/92	9/05/92	9/09/92			Y	20.00	135 3105	01
2971	JACOBSON	THOMAS	G	40.00	9/03/92	9/10/92	9/25/92			Y	40.00	338 3205	49
384	LATTERNER	JOHN	G	500.00	6/26/89	9/10/92		N			.00	347 6109	27
893	HEFFRON	KELLY	J	80.00	9/01/92	9/16/92		N			.00	278 6104	87
601	BURFORD	JAMES	W	2,000.00	0/00/92	9/18/92	10/09/92		D	N	.00	82 1205	04
531	CLYMER	RICHARD	L	20.00	9/05/92	9/20/92					.00	156 2308	69
1702	YARD	GARNET	A	20.00	9/24/92	9/24/92	9/28/92			Y	20.00	40 1310	56
2741	HINSON	DIANE	M	80.00	7/00/92	9/29/92	10/20/92			Y	80.00	325 3109	49
1102	SPELTZ	DONALD	F	20.00	10/07/92	10/07/92					.00	275 5111	85
1771	ROSILLO	ALFREDO		2,000.00	9/22/92	10/13/92					.00	149 4204	46
1382	PATTERSON	JORDY	L	100.00	10/10/92	10/14/92					.00	242 1203	15
FINAL TOTALS													
TOTAL											17,953.00		
COUNT											80		
											6,505.00		

\*\*\* END OF REPORT \*\*\*

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