



# Minnesota Pollution Control Agency

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May 1, 1996

Mr. Don Eisenhuth  
City of Fergus Falls  
112 West Washington Avenue  
Fergus Falls, Minnesota 56537

To all MSW Combustor Ash Facilities.

RE: VARIANCE FROM ASH TESTING RULES

SITE: Fergus Falls Sanitary Landfill, SW-184

During November 1995, MPCA's Hazardous Waste Division (HWD) sent letters out to MSW combustor ash facilities informing them that they no longer needed to test the ash to determine whether or not it is hazardous. HWD was satisfied that they had received enough data, and that it consistently indicated the ash to be non-hazardous, therefore, continued testing for this purpose was not warranted.

This decision has led to numerous inquiries by the MSW combustor ash facilities as to the need for any ash testing. However, to date, the MPCA has formally received a request for variance to reduce ash testing only at Olmsted County. Considering that most, if not all of the remaining facilities will follow Olmsted's lead, MPCA staff met to determine what, if any, changes would be acceptable.

MSW combustor ash is tested for three reasons:

1. To determine if it is hazardous (EPA Method 1311);
2. To define the liner system requirements (EPA Method 1312); and,
3. To comply with the toxicity reduction requirements of Minn. Stat. § 115A.97 (total composition).

Because of the HWD decision, item 1 drops off the plate for the time being. For facilities that have been designed to meet the type P liner system (the most restrictive liner system), item 2 also drops off the plate -- this holds true for three or four of the facilities, the rest would need to continue some testing to determine whether their liner requirements have changed. All facilities need to continue ash testing to meet the requirements of item 3.

Based upon review of the request and justification submitted by Olmsted County, MPCA staff has determined that the following is the minimum ash testing requirements for Olmsted County.

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- Omit EPA Method 1311.
- Omit EPA Method 1312.
- Continue quarterly ash collection ash outlined in Minn. R. 7035.2910, however, composite the four quarterly samples into one annual sample for total composition analysis.

MPCA staff has also reviewed operations at the other incinerators and believe that they may also be able to justify a similar change in ash testing. For facilities that do not have the most restrictive liner system (type P), EPA Method 1312 must also be performed on the annual composite sample for the year prior to anticipated liner construction.

The above is a short term ash testing plan. Due to the upcoming, and more restrictive, Federal air quality standards and requirements, additional scrubbers and emission control equipment will be installed at some waste combustors over the next three years which may have an impact on the characteristics of the ash, particularly the fly ash. Therefore, MPCA staff has also developed a guidance for the minimum ash testing requirements for Olmsted County that would need to be implemented after changes in the incineration process. These are listed below:

- Conduct quarterly EPA Method 1311 testing for a minimum of eight quarters.
- Continue quarterly ash collection ash outlined in Minn. R. 7035.2910, however, composite the four quarterly samples into one annual sample for total composition analysis. **DO NOT MIX QUARTERLY SAMPLES TAKEN BEFORE THE PROCESS CHANGE WITH THOSE TAKEN AFTER THE PROCESS CHANGE.**

Other qualified incinerators that do not have the most restrictive liner system (type P), must perform EPA Method 1312 on the annual composite sample for the year prior to anticipated liner construction or on a composite sample collected since the process change, if the change occurred less than one year earlier.

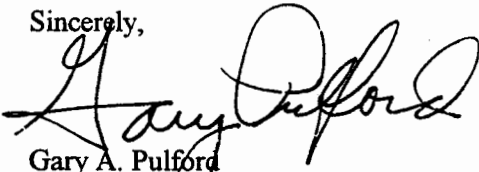
As indicated earlier, the MPCA has received a formal request for a variance pertaining to the ash testing rules only from Olmsted County. MPCA staff has received numerous inquiries regarding variance requests from several other facilities. Minn. R. 7000.7000 makes it clear that variances must be applied for and given to individual entities. Therefore, if you would like to take advantage of the reduced testing outlined above, you must prepare and submit a variance request as outlined in Minn. R. 7000.7000. However, since approval of variance requests requires MPCA Citizens' Board approval, the MPCA staff would like to cover all such variance requests in one board action. If you would like to pursue this course of action, please submit your request for a variance from the ash testing requirements with justification based on your facility's testing results to date within 45 days from the date of this letter. Address all ash testing variance requests to:

Kathleen Holland-Hanson  
Solid Waste Section  
Minnesota Pollution Control Agency  
520 Lafayette Road  
St. Paul, Minnesota 55155-4194

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All qualified variance requests will be included in a single board action to be presented at the July 1996 MPCA Citizens' Board meeting. Facilities that do not qualify at this time, or facilities that submit a late or incomplete variance request may be considered at a later date in a separate board action. If you have any question on the information in this letter or the variance request procedure, please contact Kathy Hanson of my staff at (612) 296-8443.

Sincerely,



Gary A. Pulford  
Manager, Solid Waste Section  
Ground Water and Solid Waste Division

GAP/gs

**ATTN: LIBRARIANS AND POSTMASTERS**  
**PLEASE POST**  
**THIS IS AN OFFICIAL REQUEST FROM THE MINNESOTA POLLUTION CONTROL AGENCY**  
**THAT YOU POST THIS NOTICE IN YOUR BUILDING IN A LOCATION CONSPICUOUS TO**  
**MEMBERS OF THE PUBLIC.**

PUBLIC NOTICE

of

VARIANCE REQUESTS and  
MODIFICATION of PERMITS

FOR CONSTRUCTION AND OPERATION OF SOLID WASTE DISPOSAL FACILITIES

Minn. R. chs. 7000 and 7001 require that public notice be prepared and issued by:

Minnesota Pollution Control Agency  
Ground Water and Solid Waste Division  
Solid Waste Section  
520 Lafayette Road  
St. Paul, Minnesota 55155

Public Notice No: 97-SW-630  
Public Notice Issued On: September 11, 1997  
Last Day to Submit Comments: October 13, 1997

Name and Address of Applicant:

Olmsted County Public Works Department  
2122 Campus Drive Southeast  
Rochester, Minnesota 55904

Northern States Power Company  
414 Nicollet Mall  
Minneapolis, Minnesota 55401

Northern States Power Company  
414 Nicollet Mall  
Minneapolis, Minnesota 55401

Polk County Solid Waste  
P.O. Box 605  
Fosston, Minnesota 56542

Name and Location of Facilities:

Olmsted County Kalmar Landfill  
7401 - 19th Street Northwest  
Rochester, Minnesota 55904

NSP Red Wing RDF Ash Landfill  
c/o Red Wing Landfill  
1521 Bench Street  
Red Wing, Minnesota 55006

NSP Wilmarth RDF Ash Landfill  
c/o Ponderosa Landfill  
P.O. Box 3202  
Mankato, Minnesota 56002-3202

Polk County Sanitary Landfill  
Section 26, T150N, R45W, Polk County  
Gentilly Township, Minnesota

**NOTICE:**

Each of the above applicants currently operates a municipal solid waste combustor ash disposal facility permitted by the Minnesota Pollution Control Agency (MPCA). The applicants listed above have requested a variance from requirements outlined in Minn. R. ch. 7035.2545, subp. 2 and 7035.2885, subp. 15. These rules specify that "A certified operator must be present at a land disposal facility during operating hours." Subpart 15, item (A) of Chapter 7035.2885 further specifies that "A certified operator must be present during the time the facility is open to accept ash."

The above facilities have requested a variance from these rules because they contend that the rules pose an unnecessary burden on the landfills. The unnecessary burden results from trying to accommodate the ash generated from the incinerators which normally operate 24 hours a day 7 days a week. This continuous operation necessitates the delivery of ash to these landfills outside of normal operating hours, thereby requiring a landfill operator to be on duty in evenings and on weekends during these deliveries. The intent of the Minnesota rules is to provide protection of human health and the environment. The applicants contend that this can still be achieved without having a certified operator present at the time of disposal as described below.

MPCA staff has reviewed the applicants' reasons for the variance request, the corresponding Solid Waste Management Rules and the accompanying Statement of Need and Reasonableness (SONAR) written during the promulgation of these rules, as well as legal interpretation from the Minnesota Office of the Attorney General. From this review MPCA staff has determined that the intent of these rules is to ensure that the ash is compacted in lifts of one foot thickness thereby maximizing compaction and reducing environmental impacts. Also, the Minnesota Office of the Attorney General determined that MPCA staff could grant a variance to promote "reasonable and effective application of the law". The applicants have provided descriptions that detail how their specific landfill will meet this requirement without having a certified operator on site outside of normal operating hours at the land disposal facility. These descriptions demonstrate that the facilities will still be able to meet the intent of the rules. Therefore, the MPCA proposes to grant a variance to Minn. R. 7035.2545, subp. 2 and 7035.2885, subp. 15.

The Commissioner has made a preliminary determination to grant the variance requests as indicated above. Interested persons are invited to submit written comments on the proposed variance and permit action. The comments submitted must include the following information:

1. A statement of the person's interest in a specific facility's variance request or modified permit;
2. A statement of the action the person wishes the MPCA to take, including specific references to sections of the proposed modification that the person believes should be changed; and
3. The reasons supporting the person's position, stated with sufficient specificity as to allow the Commissioner to investigate the merits of the person's positions.

Any submissions should display the public notice number, 97-SW-630, next to the address on the envelope and on each page of any submitted comments, and include a return mailing address and telephone number. The submission must identify the specific facility that the person wishes to provide comment on.