

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: THOMAS J. KALITOWSKI, Executive Director
Minnesota Pollution Control Agency

DATE: 9-20-85

ATTN: JOCELYN F. OLSON
Special Assistant Attorney General

FROM: J. MICHAEL MILES JMM
Assistant Attorney General

PHONE: 296-6555

SUBJECT: In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Small Quantity Generators, Waste Accumulation, and Transfer Facilities, Minn. Rules Parts 7045.0219,7045.0292, 7045.0365, 7045.0450, and 7045.0552

The above-referenced rule has been approved as to its legality by the Attorney General on September 20, 1985.

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

JMM:pmf

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
ATTORNEY GENERAL'S OFFICE
POLLUTION CONTROL DIVISION
1935 WEST COUNTY ROAD B-2
ROSEVILLE, MN 55113
TELEPHONE: (612) 296-7342

September 6, 1985

Mr. Mike Miles
Assistant Attorney General
Office of the Attorney General
Administration Building
St. Paul, MN 55155

Re: Proposed Amendment of Hazardous Waste Rules Governing Small Quantity Generators, Waste Accumulation, and Transfer Facilities, Minn. Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552

Dear Mr. Miles:

On August 27, 1985, the Minnesota Pollution Control Agency adopted amendments to the above-captioned hazardous waste rules governing small quantity generators, waste accumulation, and transfer facilities. Enclosed for your review are the following:

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

2. Order Adopting Rule Amendments (two copies).

3. Certificate of Agency's Resolution Adopting Rules Amendments.

4. Notice of intent to solicit outside opinion (9 S.R. 1896, February 18, 1985).

5. Copies of written comments received pursuant to notice of intent to solicit outside opinion.

6. Order for Notice of Intent to Adopt Amendments to Rules Without a Public Hearing.

7. Certificate of Agency's Authorizing Resolution.

8. Notice of Intent to Adopt Amendments to Rules Without A Public Hearing and rule amendments as proposed (9 S.R. 2745, 1985).

9. Copies of written comments received during the comment period.

10. Notice of Intent to Adopt Amendments to Rules Without a Public Hearing, as mailed.

11. Affidavit of Mailing, mailing list, and Certificate concerning mailing list.

12. Rule amendments as proposed.

13. Findings of Fact and Conclusions.

14. Statement of Need and Reasonableness.

15. Statement of Compliance with Rulemaking Procedures.

16. Affidavit Regarding Requests for Notification as to Submission of Rules to the Attorney General.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

Our File No. ~~1404~~

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 9-6 — Adopted w/a hearing _____
DATE FOR REVIEW 9-16 — Adopted w/o hearing _____
DATE DUE 9-20 — Temporary rule _____

Approved 9/20/85 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved 9/10/85 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 9.27.85 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 2.18.85.

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency includes small biz statement.

✓ Affidavit of Mailing Notice or rulemaking
6.20.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
6.24.85 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness contains small biz statement

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of ~~Mailing~~ Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

AG copy.

Pollution Control Agency

Adopted Rules Relating to Hazardous Waste

Rules as Adopted

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Management requirements.** A small quantity generator shall comply with the following requirements:

A. to D. [Unchanged.]

E. part 7045.0292, subpart 1, items D to G and as applicable, subpart 4;

F. [Unchanged.]

G. Either treat or dispose of the hazardous waste in an on-site facility or ensure delivery to an off-site storage, treatment, or disposal facility. The facility used must be:

(1) to (4) [Unchanged.]

(5) another site belonging to the same owner for consolidation of shipments providing the receiving site complies with parts 7045.0205 to 7045.1030 and the waste is ultimately managed according to subitems (1) to (4);

H. Transport hazardous waste in accordance with all applicable requirements of Minnesota Statutes, section 221.033 and Code of Federal Regulations, title 49, parts 171 to 179 (1983);

I. part 7045.0626, subparts 2, 3, and 4; and

J. each container is marked with the words "Hazardous Waste."

Subp. 6. [Unchanged.]

7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

Subpart 1. **When allowed without a permit.** A generator may accumulate hazardous waste on-site or hazardous waste received from off-site pursuant to part 7045.0219, subpart 5, item G, subitem (5) without a permit or without having interim status if:

A. all accumulated hazardous waste is, within 90 days of the accumulation start date, shipped off-site to a designated facility or placed in an on-site facility either of which has interim status under parts 7045.0552 to 7045.0642 or has a hazardous waste facility permit issued by the agency; or has a hazardous waste facility permit issued by a state with a hazardous waste program authorized by the Environmental Protection Agency pursuant to Code of Federal Regulations, title 40, part 271 (1983); or has a hazardous waste facility permit issued by the Environmental Protection Agency;

B. the waste is placed in containers which meet the standards of part 7045.0270, subpart 4 and are managed in accordance with part 7045.0626, subparts 4 to 6; or in tanks provided the generator complies with the requirements of part 7045.0628 except part 7045.0628, subpart 3;

C. the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container or the generator maintains a record of the accumulation starting date for each tank used for storage and the words "Hazardous Waste" are clearly labeled or marked and visible for inspection on each container or tank;

D. to H. [Unchanged.]

Subp. 2. to 3. [Unchanged.]

Subp. 4. **Accumulation of waste by generator.** The following apply to generators of hazardous waste:

A. A generator may, without a permit or interim status and without complying with subpart 1 provided the generator complies with items B and C, accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in part 7045.0135, subpart 4, item E, in containers located at or near any point of generation where wastes initially accumulate that is under the control of the operator of the process generating the waste.

B. The generator must:

(1) comply with part 7045.0626, subparts 2, 3, and 4; and

(2) mark each container with the words "Hazardous Waste."

C. A generator who accumulates either hazardous waste or acutely hazardous waste listed in part 7045.0135, subpart 4, item E in excess of the amounts listed in item A at or near any point of generation must, with respect to the amount of excess waste, comply within three days with subpart 1 or, if applicable, part 7045.0219 or other applicable provisions of this chapter. During the three-day period for compliance the generator must continue to comply with item B. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

7045.0365 TRANSFER FACILITY REQUIREMENTS.

Subpart 1. **Applicability.** A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4 at a transfer facility for a period of ten days or fewer is not subject to regulation under parts 7045.0450 to 7045.0642 and a hazardous waste facility permit with respect to the storage of those wastes. The owner or operator must notify the director in writing of his or her activity.

Subp. 2. **Storage of less than 1,000 kilograms.** A transporter who stores less than 1,000 kilograms of hazardous waste is exempt from further regulation.

Subp. 3. **Storage of 1,000 kilograms or more.** A transporter who stores 1,000 kilograms or more of hazardous waste at any time shall comply with the following requirements:

A. part 7045.0275, subparts 2 and 3;

B. part 7045.0292, subpart 1, items E to G;

C. part 7045.0556, subpart 5, items A, C, and D;

D. part 7045.0558;

E. part 7045.0562, subpart 1;

F. part 7045.0566, subparts 2 to 4, and 6;

G. part 7045.0572, subparts 2 to 6;

H. part 7045.0626, subpart 4;

I. the transporter shall keep at the transfer facility a written operating record that contains the following information for each shipment:

(1) the generator name and manifest document number;

(2) the date the waste was received by the transfer facility; and

(3) the date the waste was shipped by the transfer facility; and

J. storage areas must be protected from unauthorized access and inadvertent damage from vehicles or equipment.

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Exemptions.** Parts 7045.0450 to 7045.0544 do not apply to the following:

A. to G. [Unchanged.]

H. a transporter storing manifested shipments of hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4 at a transfer facility for a period of ten days or less in compliance with part 7045.0365;

I. and J. [Unchanged.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Exemptions.** The requirements of parts 7045.0522 to 7045.0642 do not apply to:

A. to G. [Unchanged.]

H. A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4 at a transfer facility for a period of ten days or less in compliance with part 7045.0365.

I. and J. [Unchanged.]

RECEIVED
JUN 28 1985
MINN. POLLUTION CONTROL AGENCY

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 20 1985
Joan Anderson Growe
Secretary of State
2:40 PM

APPROVED AS TO FORM AND LEGALITY
9/20 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
ASSISTANT ATTORNEY GENERAL

Rules as Proposed

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Management requirements.** A small quantity generator shall comply with the following requirements:

A. to D. [Unchanged.]

E. part 7045.0292, subpart 1, items E D to G and as applicable, subpart 4;

F. to H. [Unchanged.]

I. part 7045.0626, subparts 2, 3, and 4; and

J. each container is marked with the words "Hazardous Waste."

Subp. 6. [Unchanged.]

7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

Subpart 1. **When allowed without a permit.** A generator may accumulate hazardous waste on-site or hazardous waste received from off-site pursuant to part 7045.0219, subpart 5, item G, subitem (5) without a permit or without having interim status if:

A. to B. [Unchanged.]

C. the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container or the generator maintains a record of the accumulation starting date for each tank used for storage and the words "Hazardous Waste" are clearly labeled or marked and visible for inspection on each container or tank; and

D. to H. [Unchanged.]

Subp. 2. to 3. [Unchanged.]

Subp. 4. **Accumulation of waste by generator.** The following apply to generators of hazardous waste:

A. A generator may, without a permit or interim status and without complying with subpart 1 provided the generator complies with items B and C, accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in part 7045.0135, subpart 4, item E, in containers

located at or near any point of generation where wastes initially accumulate that is under the control of the operator of the process generating the waste.

B. The generator must:

(1) comply with part 7045.0626, subparts 2, 3, and 4; and

(2) mark each container with the words "Hazardous Waste."

C. A generator who accumulates either hazardous waste or acutely hazardous waste listed in part 7045.0135, subpart 4, item E in excess of the amounts listed in item A at or near any point of generation must, with respect to the amount of excess waste, comply within three days with subpart 1 or, if applicable, part 7045.0219 or other applicable provisions of this chapter. During the three-day period for compliance the generator must continue to comply with item B. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

7045.0365 TRANSFER FACILITY REQUIREMENTS.

Subpart 1. **Applicability.** A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4 at a transfer facility for a period of ten days or fewer is not subject to regulation under parts 7045.0450 to 7045.0642 and a hazardous waste facility permit with respect to the storage of those wastes. The owner or operator must notify the director in writing of his or her activity.

Subp. 2. **Storage of less than 1,000 kilograms.** A transporter who stores less than 1,000 kilograms of hazardous waste is exempt from further regulation.

Subp. 3. **Storage of 1,000 kilograms or more.** A transporter who stores 1,000 kilograms or more of hazardous waste at any time shall comply with the following requirements:

A. part 7045.0275, subparts 2 and 3;

B. part 7045.0292, subpart 1, items E to G;

C. part 7045.0556, subpart 5, items A, C, and D;

D. part 7045.0558;

E. part 7045.0562, subpart 1;

F. part 7045.0566, subparts 2 to 4, and 6;

G. part 7045.0572, subparts 2 to 6;

H. part 7045.0626, subpart 4;

I. the transporter shall keep at the transfer facility a written operating record that contains the following information for each shipment:

(1) the generator name and manifest document number;

(2) the date the waste was received by the transfer facility; and

(3) the date the waste was shipped by the transfer facility; and

J. storage areas must be protected from unauthorized access and inadvertent damage from vehicles or equipment.

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Exemptions.** Parts 7045.0450 to 7045.0544 do not apply to the following:

A. to G. [Unchanged.]

H. a transporter storing manifested shipments of hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4 at a transfer facility for a period of ten days or less in compliance with part 7045.0365;

I. and J. [Unchanged.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Exemptions.** The requirements of parts 7045.0522 to 7045.0642 do not apply to:

A. to G. [Unchanged.]

H. A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4 at a transfer facility for a period of ten

days or less in compliance with part 7045.0365.

I. and J. [Unchanged.]

RECEIVED
MAY 13 1985
MINN. POLLUTION
CONTROL AGENCY

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Small Quantity Generators, Waste Accumulation, and Transfer Facilities, Minn. Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552

ORDER ADOPTING RULE AMENDMENTS

Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on June 24, 1985, (9 S.R. 2745) and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §14.14 (1984) on June 20, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after notice, reviewing and considering the comments, and after determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minnesota Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552 governing small quantity generators, waste accumulation, and transfer facilities, are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. 116.07, subd. 4 (1984).

Duane A. Dahlberg
DUANE DAHLBERG
Chairperson

for THOMAS J. KALITOWSKI
Executive Director

Dated: August 27, 1985

dination by the metropolitan counties of development of a system of large-scale waste processing facilities; 3) participation by residential and business waste generators in programs of waste reduction and recycling.

The following is a revised schedule for final review and adoption of the guide chapter revision:

January 28	Public hearing
February 11	Hearing record closes
February 12	Metropolitan Waste Management Advisory Committee (MWMAC) reviews hearing report and approves changes to plan
February 19	MWMAC continues review of hearing report (optional)
February 20	Environmental Resources Committee (ERC) reviews hearing report and approves changes to plan
February 27	ERC continues review of hearing report (optional)
February 28	Metropolitan Council adopts Solid Waste Management Guide/Policy Plan

If you have any questions regarding the schedule or amendment, call Paul Smith of the Council's Environmental Planning staff at 291-6408.

Pollution Control Agency
Solid and Hazardous Waste Division

Outside Opinions Sought Concerning Proposed Amendments to Minnesota Hazardous Waste Rules Governing the Accumulation of Wastes at Various Points of Generation ("Satellite" Accumulation)

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information and opinions from sources outside the MPCA regarding possible amendments to the Minnesota hazardous waste rules governing the accumulation of wastes at various points of generation ("satellite" accumulation). The rule considered for amendment is Minnesota Rules part 7045.0292.

Consideration is being given to incorporation of Code of Federal Regulations, Title 40, part 262.34 (49 FR 49571, December 20, 1984) to allow accumulation of 55 gallons of hazardous waste or 1 quart of acutely hazardous waste at the point of generation prior to consolidation of wastes at a central location. Accumulation in excess of these amounts would be allowed for up to three days providing the requirements of Minnesota Rules part 7045.0526 are met.

The MPCA requests information and comments concerning the subject matter of the proposed amendments. Written or oral information or comments will be accepted until March 11, 1985. Written statements should be addressed to Melba Hensel, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Oral statements will be received during regular business hours at 612/296-7776.

February 4, 1985

Thomas J. Kalitowski
Executive Director

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed Under Minnesota Statute § 169.825, Order No. 69796—Thief River Falls

Whereas, the Commissioner of Transportation has made his Order No. 68884 as amended by Orders Nos. 69226, 69269, 69270, 69344, 69353, 69595 and 69770 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.825, and

Whereas, the Commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under Minnesota Statutes § 169.825.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 68884 is amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Small Quantity Generators, Waste Accumulation, and Transfer Facilities, Minn. Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552

ORDER FOR NOTICE OF INTENT TO ADOPT AMENDMENTS TO RULES WITHOUT A PUBLIC HEARING

It is hereby ordered this 3rd day of June, 1985, that Notice of Intent to Adopt Amendments to Rules Without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and be published in the State Register.

for Barbara Lyndsey Sims

THOMAS J. KALITOWSKI
Executive Director

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Thomas J. Kalitowski, do hereby certify that I am the Executive Director 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 30th day of May, 1985, 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 Thomas J. Kalitowski, Executive Director of the Minnesota Pollution Control Agency (MPCA) is hereby granted the authority to sign an order of the MPCA directing that notice be given of the MPCA's intent to adopt, without a public hearing, the attached amendments to the MPCA's hazardous waste rules governing small quantity generators, waste accumulation, and transfer facilities, Minn. Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552, to sign the Notice thereof, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statues requires the MPCA to make in order to obtain the revisor's certification as required by Minnesota Statutes Section 14.07, subdivision 2 (1984).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Executive Director is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order and Notice for Hearing, as well as acting as the MPCA's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 3rd day of June, 1985.

for Barbara Lindsey Sims

THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Small Quantity Generators, Waste Accumulation, and Transfer Facilities, Minn. Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552

NOTICE OF INTENT TO ADOPT AMENDMENTS TO RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt without a public hearing, in accordance with the provisions of Minn. Stat. §14.22 - 14.28 (1n84), amendments to Minn. Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552, hazardous waste rules governing small quantity generators, waste accumulation, and transfer facilities.

The proposed rule amendments are authorized by Minn. Stat. §116.07, subd. 4 (1984). A copy of the proposed rule amendments is enclosed. One free copy of the rule amendments is available on request from the Agency. Please contact the person whose name and address appears below.

The Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the Statement of Need and Reasonableness and of the proposed amendments are available and may be obtained by contacting:

Carol Rogers
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7776

Interested persons have until 4:30 p.m. on July 26, 1985, to submit comments on the proposed rule amendments. Comments should be submitted to Carol Rogers at the address stated above. The proposed rule amendments may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed amendments.

Unless twenty-five or more persons submit written requests for a public hearing on the proposed amendments within the comment period, a public hearing will not be held. In the event

that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. §14.131-14.20 (1984). If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the amendments by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule amendments as adopted will be sent to the Attorney General for review as to form and legality, including the issue of substantial change. 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 final amendments as adopted, should submit a written statement of such request to Carol Rogers at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. §14.115 1984), "Small business considerations in rulemaking," that the proposed rule amendments will affect small businesses if they are small quantity generators of hazardous waste or if they operate hazardous waste transfer facilities. The amendments will require additional management of hazardous waste for these small businesses. However, the amendments will not require small businesses to incur significant expense through increased material needs or management costs. The amendments relating to the satellite accumulation of hazardous waste represent a relaxation of management requirements and, therefore, waste management expenses will be decreased in many cases.

for Barbara Lindsey Sims
THOMAS J. KALITOWSKI
Executive Director

Dated: June 3, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Amendment of Hazardous Waste Rules
Governing Small Quantity Generators,
Waste Accumulation, and Transfer
Facilities, Minn. Rules Parts
7045.0219, 7045.0292, 7045.0365,
7045.0450, and 7045.0552

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Penny Nicklas, being duly sworn, deposes and says:

That on the 20th day of June, 1985, at the City of Roseville, County of Ramsey, State of Minnesota, s/he served the attached Notice of Intent to Adopt Amendments to Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System or in the United States mail for first class mailing at said City of Roseville, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Pollution Control Agency for the purpose of receiving notice of the proposed adoption of rules by the Pollution Control Agency.

Penny Nicklas

Subscribed and sworn to before me this
20th day of June, 1985.

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 28 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Amendment of Hazardous Waste Rules
Governing Small Quantity Generators,
Waste Accumulation, and Transfer
Facilities, Minn. Rules Parts
7045.0219, 7045.0292, 7045.0365,
7045.0450, and 7045.0552

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minn. Stat. §14.14 (1984), that their names be placed on file with the the Minnesota Pollution Control Agency (Agency) for the purpose of receiving notice of the proposed adoption of rules by the Agency is accurate and complete as of 4:00 p.m., this 20 day of June, 1985.

Elaine A. Zoch

Mr. Robert Hutchison
Anoka County Health Department
County Courthouse
Anoka, Minnesota 55303

Mr. Brian Hauge
Carver County Courthouse
600 East 4th Street
Chaska, Minnesota 55318

Mr. Ronald Spong/George Kinney
Dakota County Community
Health Services
1600 West Highway 55
Hastings, Minnesota 55033

Mr. Greg Lie
Hennepin County Department
of Public Works
320 Washington Avenue South
Hopkins, Minnesota 55343

Mr. Lee Holden
Ramsey County Division of
Environmental Health
1910 West County Road B, #209
Roseville, Minnesota 55113

Mr. Al Frechette
Scott County Environmental
Health Specialist
428 South Holmes
Shakopee, Minnesota 55379

Mr. Tom Dellenbach
Washington County Community
Health Services
2000 Industrial Boulevard
Stillwater, Minnesota 55082

MICA Environmental Committee
Metropolitan Inter-County Assoc.
114 Metro Square, 7th and Robert
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3M
Post Office Box 33331
Building 21-2W
St. Paul, MN 55133
Attn: Gene Johnson

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Small Quantity Generators, Waste Accumulation, and Transfer Facilities, Minn. Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 27th day of August, 1985. 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 comments received and 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 and Conclusions.

FINDINGS OF FACT

1. The Agency published its notice of intent to adopt the above-captioned rule amendments, together with the proposed rule amendments, in the State Register on June 24, 1985 (9 S.R. 2745).

2. On June 20, 1985, the Agency gave the same notice by United States mail to all persons who have registered their names with the Agency pursuant to Minn. Stat. §14.14 (1984).

3. The notice of the Agency's intent to amend the rules afforded all interested persons 30 days to submit data and views on the proposed rules. The notice was in all respects in

compliance with the requirements of Minn. Stat. §14.22 (1984).

4. The Agency prepared a Statement of Need and Reasonableness and made it available to the public upon the date of mailing of the notice of intent to adopt the rules.

5. The 30 day comment period, as set out in the notice, expired on July 26, 1985.

6. During the comment period, the Agency received two written comments. One of the comments related to the nature of the notice which the commenter personally received, and this comment was resolved by subsequent correspondence between Agency staff and the commenter. The second commenter indicated that the proposed rules relating to transfer facilities were unnecessarily burdensome. However, for the reasons stated in the Agency's Statement of Need and Reasonableness, the transfer facility requirements are needed and not unnecessarily burdensome.

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

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 amendments to the rules without a

public hearing.

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

MINNESOTA POLLUTION CONTROL AGENCY

Duane Dahlberg
Chairperson

for Thomas J. Kalitowski
Executive Director

Dated: August 27, 1985

CERTIFICATE OF AGENCY'S RESOLUTION ADOPTING RULE AMENDMENTS

I, Thomas J. Kalitowski, do hereby certify that I am the Executive Director 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 August, 1985, 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 (MPCA) hereby approves and adopts the amendments to the MPCA's hazardous waste rules governing small quantity generators, waste accumulation, and transfer facilities, Minn. Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552, pursuant to the authority vested in the MPCA by Minn. Stat., Section 116.07, subd. 4 (1984).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Executive Director is authorized to make any form changes in the rules that the Revisor of Statues requires the MPCA to make in order to obtain the Revisor's Certificate as required by Minn. Stat., Section 14.28 (1984).

BE IT FURTHER RESOLVED, that the MPCA adopts the attached Findings of Fact and Conclusions and attached Order Adopting Rule Amendments and that the Chairperson and Executive Director are hereby authorized to execute the above-mentioned documents on behalf of the MPCA.

IN WITNESS WHEREOF, I have hereunto subscribed my name this August 27, 1985.

Thomas Kalitowski

THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Amendment of Hazardous Waste
Rules Governing Small Quantity
Generators, Waste Accumulation, and
Transfer Facilities, Minn. Rules
Parts 7045.0219, 7045.0292, 7045.0365,
7045.0450, and 7045.0552

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this proceeding is the revision of rules of the Minnesota Pollution Control Agency (hereinafter "Agency") governing small quantity generators, Minn. Rules part 7045.0219, the accumulation of hazardous waste, Minn. Rules part 7045.0292, and the management of hazardous waste at transfer facilities, Minn. Rules parts 7045.0365, 7045.0450, and 7045.0552. These rules are proposed for amendment pursuant to the Agency's authority under Minn. Stat. § 116.07, subd. 4 (1984).

The proposed amendments to the Agency's rules add provisions for satellite accumulation of hazardous waste and add additional management requirements for the waste accumulated by small quantity generators. The amendments also provide additional requirements for hazardous waste transfer facilities and amend the supporting facility standards and interim status standards to reflect these additional requirements.

This Statement of Need and Reasonableness is divided into several parts. Part II contains the Agency's explanation of the need for the proposed amendments. Part III contains the Agency's explanation of the reasonableness of the proposed amendments. Pursuant to the requirements of Minn. Stat. § 14.115 (1984), Part IV documents how the Agency has considered the methods of

reducing the impact of the proposed amendments on small businesses. Part VI contains a reference to the exhibit relied on by the Agency to support the proposed amendments. The exhibit is available for review at the Agency's office at 1935 West County Road B-2, Roseville, Minnesota 55113.

II. NEED FOR THE PROPOSED AMENDMENTS TO THE HAZARDOUS WASTE RULES

Minn. Stat. ch. 14 requires an agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rules or amendments proposed. In general terms this means that an 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.

Need is a broad test that does not easily lend itself to an evaluation of each proposed revision. In this broad sense the need for amendments to the Agency's rules has two bases: the need for consistency with the federal hazardous waste regulations concerning satellite accumulation of hazardous waste and the need for rules which provide an acceptable level of regulation to ensure the protection of human health and the environment. These two bases are discussed below.

A. Need for Consistency with Federal Regulations

In 1976, Congress adopted the Resource Conservation and Recovery Act (hereinafter "RCRA") to regulate the management of hazardous waste. 42 U.S.C.

§§ 6901 et seq. In adopting RCRA, Congress provided for eventual state control of the hazardous waste program and set up the mechanism for the United States Environmental Protection Agency (hereinafter "EPA") to grant authority to states to operate the program. In states that receive authorization, the state program operates in lieu of the federal program. To receive and maintain authorization, the state must have a program which is "equivalent" to the federal program and consistent with federal or state programs applicable in other states. EPA has defined "equivalent" to mean that the state requirements are at least as stringent as federal requirements. In terms of consistency, EPA's goal is to achieve an integrated national program which requires that final state programs do not conflict with each other or with the federal program.

Minnesota received final authorization for its hazardous waste program from EPA effective February 11, 1985. See 50 F.R. 3756 (January 28, 1985). A state with final authorization administers its hazardous waste program entirely in lieu of the EPA. When new more stringent federal requirements are promulgated by EPA, the state is required, within specified time frames, to enact equivalent requirements. However, until they are adopted as state requirements, the federal requirements do not take effect in an authorized state.[1] When new regulations are promulgated by EPA which are less stringent than state requirements, states are not required to amend their statutes or

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[1]The Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984) make some changes in the federal-state relationship in authorized states with respect to EPA regulatory changes adopted pursuant to that act. None of the proposed amendments fall into that category. Therefore, the requirements outlined are applicable in this case.

rules to incorporate the new, less stringent requirements; however, they are urged to consider adopting those amendments to maintain consistency among state and federal programs.

Although a state program may be more stringent than the federal program and authorized states are not required to adopt federal standards which are less stringent than their own, the Agency believes that it is important to maintain as much consistency as possible. Much of the hazardous waste generated in Minnesota must be sent to other states for treatment or disposal because Minnesota has no commercial disposal facilities and only very limited commercial treatment facilities. This means that even though Minnesota has received authorization for its hazardous waste program, many Minnesota generators must be knowledgeable about the requirements of both the state and federal hazardous waste programs. The need to comply with two or more different sets of standards makes compliance with any set of standards more difficult. Therefore, to the extent it can be accomplished without harming human health or welfare or the environment, it is preferable to incorporate amendments to EPA's hazardous waste regulation into the Agency's hazardous waste rules.

EPA has adopted amendments to 40 C.F.R. Part 262 allowing generators of hazardous waste to accumulate up to 55 gallons of hazardous waste, or one quart of acutely hazardous waste listed in 40 C.F.R. § 261.33(e) in satellite areas at the generator's facility, provided that certain conditions are met. 49 F.R. 49568 (December 20, 1984) (Exhibit 1). The need for those amendments is discussed in Exhibit 1, and that discussion is hereby incorporated by

reference into this document. These amendments make EPA's rules applicable to satellite accumulation less stringent than the Agency's existing rules. The proposed amendments to the Agency's rules incorporate the provisions of the federal regulations as amended. The amendments are needed in order to promote consistency between federal and Agency rules on the subject of satellite accumulation of hazardous waste.

B. Need to Ensure an Adequate Level of Protection

The need to amend the Agency's hazardous waste rules governing small quantity generators, transfer facilities, and waste accumulation came to the Agency's attention during the Agency's review, pursuant to Minn. Stat. § 473.811, subd. 5b (1984), of the hazardous waste ordinances developed by the seven counties of the Twin Cities Metropolitan Area. Several counties expressed the opinion that the Agency's requirements relating to small quantity generators, transfer facilities, and waste accumulation were not sufficiently stringent. For example, the counties were concerned about the fact that under the Agency's rules certain quantities of hazardous waste did not need to be labeled, and this presented a problem to county inspectors, emergency response personnel, and Minnesota Department of Transportation staff, who could not identify by sight whether or not a material was a hazardous waste. In addition, the counties were concerned about the fact that under the Agency's rules large amounts of hazardous waste could be accumulated in an area without being subject to specific regulation so long as the operator rotated the wastes every 10 days. They felt that these accumulations should be subject to certain requirements. During the ordinance review process the Agency committed itself

to address the counties' concerns by reviewing its rules and by amending them to make them more stringent if justified. The proposed amendments are needed to address the counties' concerns and to ensure that an adequate level of protection for human health and safety is provided by the rules.

III. REASONABLENESS OF THE PROPOSED AMENDMENTS TO THE HAZARDOUS WASTE RULES

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

The reasonableness of each of the proposed amendments is discussed below.

A. Minn. Rules part 7045.0219, subpart 5

The Agency is proposing to amend Minn. Rules part 7045.0219, subpart 5 to impose additional requirements on small quantity generators. Small quantity generators are defined by Minn. Rules part 7045.0219, subpart 1 as those generators who generate less than 1 kilogram of acutely hazardous waste or 1,000 kilograms of other hazardous waste in any calendar month. The Agency's hazardous waste rules allow small quantity generators to accumulate hazardous waste on-site without obtaining a facility permit until the accumulation limits are reached. However, certain management requirements apply. These management requirements include waste evaluations, disclosures, contingency planning, use of manifests, proper management, record keeping and reporting, and certain outdoor storage requirements.

The proposed amendments will impose additional management requirements. Part 7045.0219, subpart 5, item E will be amended to require small generators to comply with Minn. Rules part 7045.0292, subpart 1, item D. Minn. Rules part 7045.0292, subpart 1, item D requires that each container and tank be properly marked and labeled according to Minn. Rules part 7045.0270, subparts 1 and 5, which references the United States Department of Transportation (USDOT) shipping requirements and establishes basic criteria for uniform identification of hazardous waste. Also, a new item J has been added which will require small quantity generators to label or mark all waste containers with the words "Hazardous Waste" at the time waste is initially placed in the container. These requirements are reasonable because they will address the problem previously discussed in the Statement of Need concerning the need for wastes to be readily identifiable by sight by facility inspectors, fire and emergency response personnel, law enforcement officers, and transportation department staff. This rule is also reasonable in that it does not impose a significant burden on small quantity generators, either through additional expense or extensive management practices. It imposes no additional burden on generators who intend to transport the waste, because under the rules all hazardous waste must be labeled and marked when transported.

The proposed amendment also requires small quantity generators to comply with Minn. Rules part 7045.0292, subpart 4, as applicable. Minn. Rules part 7045.0292, subpart 4 applies to satellite accumulation and will be discussed in more detail in Section B. This provision imposes upon small quantity generators the same level of regulation as that imposed upon full scale

generators. This rule represents a relaxation of existing requirements applicable to satellite accumulation by small quantity generators and is therefore reasonable.

The proposed amendments add a new item I under Minn. Rules part 7045.0219, subpart 5. New item I will require that small quantity generators comply with the container provisions of Minn. Rules part 7045.0626, subparts 2, 3, and 4. Minn. Rules part 7045.0626, subparts 2, 3, and 4 contain criteria for the condition of containers, compatibility of wastes with containers, and the management of containers regarding such aspects as leaks, reuse, covers, and exposure to moisture and sunlight. These provisions are applicable to all storage of wastes in containers under interim status. Because small quantity generators are not subject to the 90 day accumulation limit imposed upon other generators by Minn. Rules part 7045.0292 and are thus able to accumulate wastes for indefinite periods, it is reasonable to require that hazardous waste being accumulated by small quantity generators be stored in appropriate containers and managed to avoid spills and leaks. The provisions which are appropriate for interim storage of containers are sufficient to provide adequate protection of human health and the environment from the danger of hazardous waste spills and releases.

B. Minn. Rules part 7045.0292

The Agency is proposing to amend Minn. Rules part 7045.0292 to require that all tanks and containers be marked with the words "Hazardous Waste" and also to make provisions for the satellite accumulation of hazardous waste. The provisions in Minn. Rules part 7045.0292 apply to all generators

accumulating hazardous wastes on-site without a permit. In general these provisions address proper management of the waste as it is accumulated and establish criteria regarding the accumulation period.

The proposed amendment will add a requirement to Minn. Rules part 7045.0292, subpart 1, item C to require that each container or tank be marked with the words "Hazardous Waste" in addition to recording or marking the date of each accumulation period. As previously discussed in Section A, it is reasonable to require that containers or tanks be identified to facilitate inspections and emergency management. This amendment clarifies that the container is to be labeled or marked immediately upon initiation of waste accumulation. This provision is equivalent to a requirement under 40 C.F.R. § 262.34 (a)(3) of the federal regulations.

The proposed amendments will add a subpart 4 to Minn. Rules part 7045.0292 which incorporates revisions to EPA hazardous waste rules on satellite accumulation. Satellite accumulation is the accumulation of hazardous waste from the same generator at various points of generation which is later consolidated at a central storage area at the same site. Under existing Agency rules, generators who are not small quantity generators can only accumulate waste for a 90 day period before it has to be removed or the facility must be permitted for storage. This requirement was based only on the time period from the start of waste accumulation but did not consider the volume of waste generated during this 90 day period. EPA received numerous comments and requests to consider the accumulation provisions to address satellite generation points. It was argued that there may be several places within an industrial

complex where hazardous wastes are initially generated. They stated that imposing a ninety day accumulation limit on these wastes does not reflect the fact that very small amounts may be generated at each point, and it would be more reasonable and efficient to collect and consolidate these wastes at a central area. For example, a generator may regularly dispose of a large hazardous waste stream within the 90 day limit. However, that generator may have a lab facility at the site and this lab may generate a very small hazardous waste stream which cannot be managed with the bulk of the hazardous waste generated. It is reasonable to provide for separate management of this waste through satellite accumulation provisions.

The EPA amended 42 C.F.R. Part 262 to provide for satellite accumulation. These amendments allow for the accumulation of up to 55 gallons of hazardous waste and 1 quart of acutely hazardous waste at any satellite point before removing the waste to a central storage area. After reaching these limits, the waste must be moved to the central storage area within 72 hours. The federal regulations require that the date that the accumulation limits are exceeded be marked on the containers to ensure compliance with this 72 hour removal requirement. It is also required that all containers used to accumulate wastes be clearly marked "Hazardous Waste" in order to provide a general identification of the contents. Additionally, the federal regulations provide certain conditions for the management of containers. These include requirements that the containers be in good condition and covered when waste is not being added or removed, compatible with the waste, and that leaks be corrected.

The Agency is proposing to amend its rules to incorporate provisions similar to the federal amendments into Minn. Rules part 7045.0292, subpart 4.[2] Subpart 4.A. adopts the federal limits of 55 gallons of hazardous waste and 1 gallon of acutely hazardous waste. This is reasonable because by using the same limits as the federal regulations, the Agency maintains consistency with the federal program and avoids confusion for the regulated community. Also, the 55 gallon limit was supported by persons who commented on the proposed federal amendments, stating that they typically use a 55 gallon drum for accumulating waste. Allowing the accumulation of one drum of nonacutely hazardous waste before imposing permit requirements provides a reasonable balance between safety and the desire of generators to reduce the amount of required waste handling.

It is reasonable to require that containers be marked with the words "Hazardous Waste" and to require that they be managed in an acceptable manner because this will reduce the risk of injury or environmental damage as a result of inadvertent mismanagement.

The requirement to mark the date that excess accumulation begins and to remove the wastes within three days is reasonable because it promotes consistency with federal regulations. Persons who commented on the proposed federal amendments supported the 72 hour limit as providing adequate time to manage the waste while still maintaining acceptable environmental safeguards.

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[2]The reasonableness of the amendments to the federal rules is discussed at 49 F.R. 49568 (December 20, 1984) (Exhibit 1). To the extent that this discussion supports the reasonableness of the Agency's proposed amendments, the discussion in Exhibit 1 is hereby incorporated by reference.

C. Minn. Rules part 7045.0365

The Agency is proposing to amend Minn. Rules part 7045.0365 to require that the owners and operators of transfer facilities comply with certain additional requirements. Transfer facilities are defined by Minn. Rules part 7045.0020, subpart 93 as any transportation related facility where shipments of hazardous waste are held during the normal course of transportation. Storage of hazardous waste is an activity which is subject to regulation. However, under existing Agency rules, these facilities are exempted from specific regulations if manifested hazardous waste is not held at the facility for more than 10 days. The amendments will establish two classes of facilities to be regulated: facilities which handle less than 1,000 kilograms of hazardous waste, and facilities which handle 1,000 kilograms or more of hazardous waste at any time.

Under the proposed amendments, facilities which handle less than 1,000 kilograms of hazardous waste will still be exempt from permit requirements and facility standards, but the owner or operator must notify the Director of the Agency in writing of any hazardous waste handling activities. A notification to the Director is needed because, although small amounts of hazardous waste being transported according to all rule requirements do not present a serious health and environmental risk, there is a potential for mismanagement. It is reasonable to require that the Agency be notified in writing of the existence of these facilities in case of future emergencies and also to allow inspections to be conducted to ensure that owners and operators are complying with the requirement to remove wastes within 10 days.

Under the proposed amendments, owners or operators of facilities which

store 1,000 kilograms or more of hazardous waste will also be required to notify the Director of the Agency in writing of the facility's activities and, in addition, must comply with several management requirements. The owner or operator of a transfer facility which stores 1,000 kilograms or more of hazardous waste is responsible for requirements based on those applied to generators who hold hazardous waste for short periods prior to shipment. This is reasonable because similar concerns exist for the two types of situations. In both cases there is a need to provide for emergency situations, proper management of the waste and the maintenance of records regarding the waste. However, certain of a generator's responsibilities are clearly not applicable to the owner or operator of a transfer facility, and these requirements have not been imposed on transfer facilities. Owners or operators of transfer facilities are not required under the amendments to file disclosures, evaluate the waste, obtain identification numbers or provide annual reports. Those requirements that are imposed by the amendments upon owners and operators of transfer facilities are appropriate and reasonable and will not impose an undue burden on the owner or operator.

The amendments will require that the owner or operator of the transfer facility comply with the following requirements: Minn. Rules parts 7045.0275, subparts 2 and 3 regarding the duty to report and recover spills; part 7045.0292, subpart 1, items E to G regarding the management of outdoor storage areas; part 7045.0556, subpart 5, items A, C, and D regarding inspection; part 7045.0558 regarding personnel training; part 7045.0562, subpart 1 regarding the prevention of accidental ignition of ignitable wastes; part 7045.0566, subparts 2, 3, 4, and 6 regarding preparations for emergencies, the maintenance of equipment and

required aisle space; part 7045.0572, subparts 2 to 6 regarding contingency plans; and part 7045.0626, subpart 4 regarding the management of containers. The amendments also require that the owner or operator of the transfer facility maintain records of the hazardous waste shipments and protect all storage areas from unauthorized access and inadvertent damage from vehicles or equipment. It is reasonable to require compliance with these provisions to ensure that the transfer facility is being properly managed to provide for an acceptable level of protection. The use of 1,000 kilograms as the cut-off limit for the additional requirements is appropriate because this is the limit which distinguishes small quantity generators from full-scale generators. Because the requirements being imposed are based on the generator requirements, it is also reasonable to apply the same volume considerations in their application.

D. Minn. Rules part 7045.0450

The Agency is proposing to amend Minn. Rules part 7045.0450, subpart 3 to add a reference to the need for a transfer facility to be in compliance with Minn. Rules part 7045.0365. This cross reference is needed as a result of the addition of new requirements added by the proposed amendment to Minn. Rules part 7045.0365. It is reasonable to add this cross reference to clarify the requirements applicable to transfer facilities.

E. Minn. Rules part 7045.0552

The Agency is proposing to amend Minn. Rules part 7045.0552, subpart 3 to add a reference to the need for a transfer facility to be in compliance with Minn. Rules part 7045.0365. This cross reference is also needed as a result of the addition of new requirements added by the proposed amendment to Minn. Rules

part 7045.0365. It is reasonable to add this cross reference to clarify the requirements applicable to transfer facilities.

IV. 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 reducing the impact of the rule on small businesses. The objective of Minn. Stat. ch. 116 is to protect the public health and welfare and the environment from the adverse effects which will result when hazardous waste is mismanaged. Considerations which would apply less stringent requirements to the hazardous waste generated by small businesses would be contrary to the MPCA's mandate.

The proposed amendments will affect small businesses if they are small quantity generators of hazardous waste or if they operate hazardous waste transfer facilities. In these cases, the amendments will impose the same requirements on small businesses as on large businesses. It is important to note that small quantity generators are not necessarily small businesses. Depending upon the specific situation, small businesses may generate large amounts of hazardous waste and large businesses may only generate very small amounts. The amendments will require additional management of hazardous waste based on the potential for adverse effects on human health and the environment. This potential is not diminished in relation to the size of the business generating or handling the wastes. The amendment will not require small businesses to incur significant expenses through increased material needs or management costs.

The amendments relating to the satellite accumulation of hazardous waste represents a relaxation of management requirements. The same requirements apply to all generators regardless of the size of the business. The satellite accumulation provisions will allow small businesses to accumulate hazardous wastes at satellite points without having to remove the wastes within 90 days. By allowing satellite accumulation, small businesses will save the expense of disposing of partially filled containers every 90 days. Because containers may remain at the facility until the accumulation limits are reached, management expenses will be decreased in many cases.

V. CONCLUSION

The MPCA has, in this document and its exhibits, made its presentation of facts establishing the need for and reasonableness of the proposed amendments to Minnesota's hazardous waste rules. This document constitutes the MPCA's Statement of Need and Reasonableness for the proposed amendments to the hazardous waste rules.

VI. LIST OF EXHIBITS

The Agency is relying on the following document to support these amendments:

MPCA Ex. No.	Title
1	Federal Register, Volume 49, Number 46, pages 49568-49572, December 20, 1984.

Dated: May 17, 1985

Thomas J. Kalitowski
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Amendment of Hazardous Waste Rules
Governing Small Quantity Generators,
Waste Accumulation, and Transfer
Facilities, Minn. Rules Parts
7045.0219, 7045.0292, 7045.0365,
7045.0450, and 7045.0552

STATEMENT OF COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Special Assistant Attorney General Jocelyn F. Olson, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act and the rules of the Attorney General have been followed.

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

Dated: August 27, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Small Quantity Generators, Waste Accumulation, and Transfer Facilities, Minn. Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552

AFFIDAVIT REGARDING REQUESTS FOR NOTIFICATION AS TO SUBMISSION OF RULE AMENDMENTS TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Rogers Nankivel, being duly sworn on oath deposes and says:

1. That she is the person named in the Notice of Intent to Amend Rules Without a Public Hearing (9 S.R. 2745, June 24, 1985) as the person to receive requests for notification of the date that the Agency submits the above-captioned rules to the Attorney General.

2. That no person has requested notification of the date on which the Agency submits the rule amendments to the Attorney General.

Carol R. Nankivel

Subscribed and sworn to before me
this 5th day of September, 1985.

Mary Ann Hammer
Notary Public

MARY ANN HAMMER
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Dec. 11, 1985

documents within 60 days of their submission by the grantee to the commissioner. The evaluation must assess whether the agreed upon work program was completed.

Subp. 2. Review. Upon completion of an evaluation, the remaining 20 percent of the grant must be disbursed to the grant recipient, if the commissioner determines that the grantee has complied with the grant agreement. If the commissioner determines the grantee has not complied with the terms of the grant agreement, the commissioner shall not disburse the remaining 20 percent of the grant funds and shall inform the applicant in writing of the reason for the commissioner's determination. Within 30 days of receipt of the notice, the grantee may request in writing that the commissioner submit the question of disbursement of grant funds to the authority for review at the next regularly scheduled authority meeting, for which the agenda has not been established.

Pollution Control Agency

Proposed Rules Relating to Hazardous Waste

Notice of Intent to Adopt Amendments to Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt without a public hearing, in accordance with the provisions of Minn. Stat. § 14.22-14.28 (1984), amendments to Minn. Rules Parts 7045.0219, 7045.0292, 7045.0365, 7045.0450, and 7045.0552, hazardous waste rules governing small quantity generators, waste accumulation, and transfer facilities.

The proposed rule amendments are authorized by Minn. Stat. § 116.07, subd. 4 (1984). A copy of the proposed rule amendments is published below. One free copy of the rule amendments is available upon request from the Agency. Please contact the person whose name and address appears below.

The Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the Statement of Need and Reasonableness and of the proposed amendments are available and may be obtained by contacting:

Carol Rogers
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7776

Interested persons have until 4:30 p.m. on July 26, 1985, to submit comments on the proposed rule amendments. Comments should be submitted to Carol Rogers at the address stated above. The proposed rule amendments may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed amendments.

Unless twenty-five or more persons submit written requests for a public hearing on the proposed amendments within the comment period, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. § 14.131-14.20 (1984). If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the amendments by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule amendments as adopted will be sent to the Attorney General for review as to form and legality, including the issue of substantial change. 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 final amendments as adopted, should submit a written statement of such request to Carol Rogers at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1984), "Small Business Considerations in Rulemaking," that the proposed rule amendments will affect small businesses if they are small quantity generators of hazardous waste or if they operate hazardous waste transfer facilities. The amendments will require additional management of hazardous waste for these small

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.

businesses. However, the amendments will not require small businesses to incur significant expense through increased material needs or management costs. The amendments relating to the satellite accumulation of hazardous waste represent a relaxation of management requirements and, therefore, waste management expenses will be decreased in many cases.

Thomas J. Kalitowski
Executive Director

Rules as Proposed

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. to 4. [Unchanged.]

Subp. 5. Management requirements. A small quantity generator shall comply with the following requirements:

A. to D. [Unchanged.]

E. part 7045.0292, subpart 1, items ~~E~~ D to G and as applicable, subpart 4;

F. [Unchanged.]

G. Either treat or dispose of the hazardous waste in an on-site facility or ensure delivery to an off-site storage, treatment, or disposal facility. The facility used must be:

(1) to (4) [Unchanged.]

(5) another site belonging to the same owner for consolidation of shipments providing the receiving site complies with parts 7045.0205 to 7045.1030 and the waste is ultimately managed according to subitems (1) to (4); ~~and~~

H. Transport hazardous waste in accordance with all applicable requirements of Minnesota Statutes, section 221.033 and Code of Federal Regulations, title 49, parts 171 to 179 (1983)~~.~~;

I. part 7045.0626, subparts 2, 3, and 4; and

J. each container is marked with the words "Hazardous Waste."

Subp. 6. [Unchanged.]

7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

Subpart 1. When allowed without a permit. A generator may accumulate hazardous waste on-site or hazardous waste received from off-site pursuant to part 7045.0219, subpart 5, item G, subitem (5) without a permit or without having interim status if:

A. all accumulated hazardous waste is, within 90 days of the accumulation start date, shipped off-site to a designated facility or placed in an on-site facility either of which has interim status under parts 7045.0552 to 7045.0642 or has a hazardous waste facility permit issued by the agency; or has a hazardous waste facility permit issued by a state with a hazardous waste program authorized by the Environmental Protection Agency pursuant to Code of Federal Regulations, title 40, part 271 (1983); or has a hazardous waste facility permit issued by the Environmental Protection Agency; ~~and~~

B. the waste is placed in containers which meet the standards of part 7045.0270, subpart 4 and are managed in accordance with part 7045.0626, subparts 4 to 6; or in tanks provided the generator complies with the requirements of part 7045.0628 except part 7045.0628, subpart 3; ~~and~~

C. the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container or the generator maintains a record of the accumulation starting date for each tank used for storage and the words "Hazardous Waste" are clearly labeled or marked and visible for inspection on each container or tank; ~~and~~

D. to H. [Unchanged.]

Subp. 2. to 3. [Unchanged.]

Subp. 4. Accumulation of waste by generator. The following apply to generators of hazardous waste:

A. A generator may, without a permit or interim status and without complying with subpart 1 provided the generator complies with items B and C, accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in part 7045.0135, subpart 4, item E, in containers located at or near any point of generation where wastes initially accumulate that is under the control of the operator of the process generating the waste.

B. The generator must:

(1) comply with part 7045.0626, subparts 2, 3, and 4; and

(2) mark each container with the words "Hazardous Waste."

C. A generator who accumulates either hazardous waste or acutely hazardous waste listed in part 7045.0135, subpart 4, item E in excess of the amounts listed in item A at or near any point of generation must, with respect to the amount of excess waste, comply within three days with subpart 1 or, if applicable, part 7045.0219 or other applicable provisions of this chapter. During the three-day period for compliance the generator must continue to comply with item B. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

7045.0365 TRANSFER FACILITY REQUIREMENTS.

Subpart 1. Applicability. A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4 at a transfer facility for a period of ten days or fewer is not subject to regulation under parts 7045.0450 to 7045.0642 and a hazardous waste facility permit with respect to the storage of those wastes. The owner or operator must notify the director in writing of his or her activity.

Subp. 2. Storage of less than 1,000 kilograms. A transporter who stores less than 1,000 kilograms of hazardous waste is exempt from further regulation.

Subp. 3. Storage of 1,000 kilograms or more. A transporter who stores 1,000 kilograms or more of hazardous waste at any time shall comply with the following requirements:

A. part 7045.0275, subparts 2 and 3;

B. part 7045.0292, subpart 1, items E to G;

C. part 7045.0556, subpart 5, items A, C, and D;

D. part 7045.0558;

E. part 7045.0562, subpart 1;

F. part 7045.0566, subparts 2 to 4, and 6;

G. part 7045.0572, subparts 2 to 6;

H. part 7045.0626, subpart 4;

I. the transporter shall keep at the transfer facility a written operating record that contains the following information for each shipment:

(1) the generator name and manifest document number;

(2) the date the waste was received by the transfer facility; and

(3) the date the waste was shipped by the transfer facility; and

J. storage areas must be protected from unauthorized access and inadvertent damage from vehicles or equipment.

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Exemptions. Parts 7045.0450 to 7045.0544 do not apply to the following:

A. to G. [Unchanged.]

H. a transporter storing manifested shipments of hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4 at a transfer facility for a period of ten days or less in compliance with part 7045.0365;

I. and J. [Unchanged.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Exemptions. The requirements of parts 7045.0522 to 7045.0642 do not apply to:

A. to G. [Unchanged.]

H. A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4 at a transfer facility for a period of ten days or less in compliance with part 7045.0365.

I. and J. [Unchanged.]

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.