

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1244 05.0009.0700

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 1-8-86
DATE FOR REVIEW 1-17-86
DATE DUE 1-22-86

Adopted w/a hearing ____
Adopted w/o hearing ✓
Temporary rule ____

Approved 1-17-86 mjc Disapproved ____ Returned to Agency ____

Resubmitted ____ Due ____
Approved ____ Disapproved ____ Returned to Agency ____

Date filed w/Secretary of State 1-21-86 Revisor approved 1.8.85 disapproved ____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 12.17.85 Date

✓ Notice of Intent to Solicit Outside Opinion SR 1.28.85.

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency contains small biz statement

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

✓ Mailing list Certificate

✓ Publication in State Register
10.7.85 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

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness includes 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
PRIOR to publication date in SR.

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

N/A Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

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

DATE: 1/17/86

ATTN: JOCELYN F. OLSON
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Availability of References, Facilities Governed by Interim Status, Interim Status Landfills and Rule Appendices

The above-referenced rule has been approved as to its legality by the Attorney General on January 17, 1986.

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.

MJC:pmf

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1244

AG copy

Pollution Control Agency

Adopted Rules Relating to Hazardous Waste; Interim Status

Rules as Adopted

7045.0065 AVAILABILITY OF REFERENCES.

The documents referred to in this chapter may be obtained by contacting the appropriate offices as listed in this part.

A. to F. [Unchanged.]

G. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, publication number SW 846, as amended, of the Office of Solid Waste, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, available at the state of Minnesota Law Library and by subscription from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, (202) 783-3238; and

H. [Unchanged.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. **General requirements.** Parts 7045.0552 to 7045.0642 establish minimum standards for the management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. These standards apply to owners and operators of existing facilities who have fully complied with the requirements for state or federal interim status until a permit is issued or until applicable interim status closure and post-closure responsibilities are fulfilled, and those who have failed to achieve state or federal interim status. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after July 16, 1984, except as specifically provided otherwise.

For existing facilities which were not required to obtain federal interim status under the Resource Conservation and

Recovery Act, United States Code, title 42, sections 6901 to 6986, as amended through June 30, 1983, but are required to obtain state interim status, the requirements of parts 7045.0590; 7045.0592; 7045.0632, subpart 4, items A and B; 7045.0634, subpart 2; 7045.0638, subparts 2, 7, and 8, become effective 12 months after July 16, 1984, and the requirements of parts 7045.0608 to 7045.0624 become effective 90 days after July 16, 1984.

Subp. 2. and 3. [Unchanged.]

7045.0638 LANDFILLS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Closure and post-closure.** Closure and post-closure requirements are as follows:

A. At final closure of the landfill or upon closure of any landfill cell, the owner or operator shall cover the landfill or landfill cell with a final cover designed and constructed to:

(1) provide long-term minimization of migration of liquids through the closed landfill;

(2) function with minimum maintenance;

(3) promote drainage and minimize erosion or abrasion of the cover;

(4) accommodate settling and subsidence so that the cover's integrity is maintained; and

(5) have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

B. After final closure, the owner or operator shall comply with all post-closure requirements contained in parts ~~7045.0600 to 7045.0606 including maintenance and monitoring~~ throughout the post-closure care period. The owner or operator must:

(1) maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effect of settling, subsidence, erosion, or other events;

(2) maintain and monitor the ground water monitoring system and comply with all other applicable requirements of parts 7045.0590 and 7045.0592;

(3) prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(4) protect and maintain surveyed bench marks used in complying with part 7045.0638, subpart 3.

Subp. 5. to 7. [Unchanged.]

Subp. 8. **Special requirements for containers.** Unless they are very small, such as an ampule, containers must be either:

A. at least 90 percent full when placed in the landfill; or

B. crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

Subp. 9. [Unchanged.]

REPEALER. Minnesota Rules, parts 7045.1240, 7045.1250, and 7045.1260 are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 21 1986
Joan Anderson Growe
Secretary of State
8:50 AM

APPROVED AS TO FORM AND LEGALITY
January 17 1986
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Pollution Control Agency

Proposed Rules Relating to Hazardous Waste; Interim Status

Rules as Proposed

7045.0065 AVAILABILITY OF REFERENCES.

The documents referred to in this chapter may be obtained by contacting the appropriate offices as listed in this part.

A. to F. [Unchanged.]

G. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, publication number SW 846, ~~First Edition, 1980 as updated by Revisions A (August 1980), B (July 1981), and C (February 1982) or Second Edition, 1982~~ as amended, of the Office of Solid Waste, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, available at the state of Minnesota Law Library and by subscription from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, (202) 783-3238; and

H. [Unchanged.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. **General requirements.** Parts 7045.0552 to 7045.0642 establish minimum standards for the management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. These standards apply to owners and operators of existing facilities who have fully complied with the requirements for state or federal interim status ~~and those who have failed to achieve state or federal interim status,~~ until ~~final disposition of the owner's or operator's permit application is made~~ a permit is issued or until applicable interim status closure and post-closure responsibilities are fulfilled, and those who have failed to achieve state or federal interim status. These standards apply to all treatment,

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

storage, or disposal of hazardous waste at these facilities after July 16, 1984, except as specifically provided otherwise.

For existing facilities which were not required to obtain federal interim status under the Resource Conservation and Recovery Act, United States Code, title 42, sections 6901 to 6986, as amended through June 30, 1983, but are required to obtain state interim status, the requirements of parts 7045.0590; 7045.0592; 7045.0632, subpart 4, items A and B; 7045.0634, subpart 2; 7045.0638, subparts 2, 7, and 8, become effective 12 months after July 16, 1984, and the requirements of parts 7045.0608 to 7045.0624 become effective 90 days after July 16, 1984.

Subp. 2. and 3. [Unchanged.]

7045.0638 LANDFILLS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Closure and post-closure.** Closure and post-closure requirements are as follows:

~~A. The owner or operator shall place a final cover over the landfill, and the closure plan under part 7045.0594 must specify the function and design of the cover. In the post-closure plan under part 7045.0600, the owner or operator shall include the post-closure care requirements of item B~~ At final closure of the landfill or upon closure of any landfill cell, the owner or operator shall cover the landfill or landfill cell with a final cover designed and constructed to:

(1) provide long-term minimization of migration of liquids through the closed landfill;

(2) function with minimum maintenance;

(3) promote drainage and minimize erosion or abrasion of the cover;

(4) accommodate settling and subsidence so that the cover's integrity is maintained; and

(5) have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

~~B. In the closure and post-closure plans, the owner~~

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

~~or-operator-shall-address-the-following-objectives-and-indicate how-they-will-be-achieved~~ After final closure, the owner or operator shall comply with all post-closure requirements contained in parts 7045.0600 to 7045.0606 including maintenance and monitoring throughout the post-closure care period. The owner or operator must:

(1) ~~control-of-pollutant-migration-from-the facility-via-ground-water,-surface-water,-and-air~~ maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effect of settling, subsidence, erosion, or other events;

(2) ~~control-of-surface-water-infiltration, including-prevention-of-pooling;-and~~ maintain and monitor the ground water monitoring system and comply with all other applicable requirements of parts 7045.0590 and 7045.0592;

(3) ~~prevention-of-erosion~~ prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(4) protect and maintain surveyed bench marks used in complying with part 7045.0638, subpart 3.

~~C.--The-owner-or-operator-shall-consider-at-least-the following-factors-in-addressing-the-closure-and-post-closure care-objectives-of-item-B:~~

~~(1)-type-and-amount-of-hazardous-waste-and hazardous-waste-constituents-in-the-landfill;~~

~~(2)-the-mobility-and-the-expected-rate-of migration-of-the-hazardous-waste-and-hazardous-waste constituents;~~

~~(3)-site-location,-topography,-and-surrounding land-use,-with-respect-to-the-potential-effects-of-pollutant migration-including-at-a-minimum-the-proximity-to-ground-water, surface-water,-and-drinking-water-sources;~~

~~(4)-climate,-including-amount,-frequency,-and-pH of-precipitation;~~

~~(5)-characteristics-of-the-cover-including material,-final-surface-contours,-thickness,-porosity-and permeability,-slope,-length-of-run-of-slope,-and-type-of~~

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

~~vegetation on the cover; and~~

~~(6) geological and soil profiles and surface and subsurface hydrology of the site.~~

~~B. In addition to the requirements of part 7045.0602 during the post-closure care period, the owner or operator of a hazardous waste landfill shall:~~

~~(1) maintain the function and integrity of the final cover as specified in the approved closure plan;~~

~~(2) maintain and monitor the leachate collection, removal, and treatment system to prevent excess accumulation of leachate in the system. If the collected leachate is a hazardous waste under parts 7045.0100 to 7045.0141, it must be managed as a hazardous waste in accordance with all applicable requirements of parts 7045.0205 to 7045.0397 and 7045.0552 to 7045.0642. If the collected leachate is discharged through a point source to waters of the United States, it is subject to the requirements of the Federal Water Pollution Control Act Amendments of 1972, United States Code, title 33, section 1342, as amended through June 30, 1983;~~

~~(3) maintain and monitor the gas collection and control system to control the vertical and horizontal escape of gases;~~

~~(4) protect and maintain surveyed bench marks; and~~

~~(5) restrict access to the landfill as appropriate for its post-closure use.~~

Subp. 5. to 7. [Unchanged.]

Subp. 8. **Special requirements for containers.** ~~An empty container must be crushed flat, shredded, or similarly reduced in volume before it is buried beneath the surface of a landfill~~ Unless they are very small, such as an ampule, containers must be either:

A. at least 90 percent full when placed in the landfill; or

B. crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Subp. 9. [Unchanged.]

REPEALER. Minnesota Rules, parts 7045.1240, 7045.1250, and 7045.1260 are repealed.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD842

Agency: Pollution Control Agency

Division:

Agency Contact: Carol Nankivel 296-7260

Minnesota Rules: Parts 7045.0065; 7045.0552; 7045.0638

Title: Proposed Rules Relating to Hazardous Waste; Interim Status

Type of Rules: Permanent

Incorporations by Reference:

Rule Number:	Material Incorporated:
7045.0065	Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, publication number SW 846, as amended

Steven C. Cross
Revisor of Statutes

David S. Niss
Assistant Revisor
Phone: 297-2948
Date: September 19, 1985

Attachment 2

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing the Availability of References, Applicability of Interim Status Standards, Interim Status Landfills, and Appendices, Minn. Rules, Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

ORDER ADOPTING RULE AMENDMENTS

Notice of the Minnesota Pollution Control Agency's (MPCA's) intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on October 7, 1985, (10 S.R. 824) and was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat § 14.14 (Supp. 1985) on October 3, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, having received no comments during the comment period, and after determining the need for and reasonableness of the above-captioned rule amendments,

NOW THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260, availability of references, applicability of interim status standards, interim status landfills, and appendices, are adopted pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4 (Supp. 1985).

Duane Dahlberg
Chairperson

Thomas J. Kalitowski
Executive Director

Dated: December 17, 1985

Department of Labor and Industry
Workers' Compensation Division

Outside Opinion Sought Concerning Rules Governing Payment for Workers' Compensation Medical Services

Notice is hereby given that the Minnesota Department of Labor and Industry, Workers' Compensation Division, is seeking information or opinions from sources outside the agency in preparing to amend rules governing the maximum fees payable to providers of health care services to injured workers. These amendments are authorized by Minn. Stat. § 176.136 (1984).

The Minnesota Department of Labor and Industry, Workers' Compensation Division, requests information and comments concerning the subject matter of these amendments. Interested or affected persons or groups may submit written or oral information. Written statements should be addressed to:

Steve Keefe, Commissioner
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Any written material received by the Minnesota Department of Labor and Industry, Workers' Compensation Division, will become part of the record in the event that the amendments are promulgated.

Oral statements will be received during regular business hours over the telephone at (612) 296-2342 and in person at the above address.

Information will be accepted until March 1, 1985.

January 18, 1985

Steve Keefe
Commissioner of Labor and Industry

Pollution Control Agency
Solid and Hazardous Waste Division

Outside Opinions Sought Concerning Amendments to Minnesota Rules Chapter 7045 Governing Hazardous Waste

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 rules governing hazardous waste.

Consideration is being given to amending the rules governing hazardous wastes in the following areas:

1. Rules governing hazardous wastes which are recycled or reused, small quantity generator requirements, and transporter storage requirements. Such amendments could include additional storage and waste management requirements for facilities recycling or reusing hazardous waste, and small quantity generators and transfer facilities storing hazardous waste.

2. Clarification of the applicability of various rules governing hazardous waste management.

3. Incorporation of the requirements set forth in the 1984 amendments to the Resource Conservation and Recovery Act (RCRA). Such amendments may be required by the U.S. Environmental Protection Agency (EPA) for states seeking or having received final authorization of their hazardous waste program under RCRA.

4. The use of "master manifests" or other shipping documents for use when a single transporter is collecting similar wastes from a number of generators during a single day and shipping those wastes to a single facility for use, reuse, recycling or reclamation, and the use of "recycled material" manifests which could be used by generators in shipping wastes to be used, reused, recycled or reclaimed. This manifest could be useful for generators who have found that out-of-state recycling/reuse facilities are reluctant to accept shipments of material accompanied by a hazardous waste manifest as is currently required by Minnesota rules. No amendments are intended which would modify or exempt generators from EPA or U.S. Department of Transportation requirements regarding transportation of hazardous waste.

5. Based on comments received, the MPCA may consider amending other provisions of the hazardous waste rules.

The MPCA requests information and comments concerning the subject matter of the proposed amendments. Written or oral information or comments will be accepted until February 28, 1985. Written statements should be addressed to Karen Ryss, Minnesota Pollution Control Agency, Solid and Hazardous Waste Division, 1935 West County Road B2, Roseville, Minnesota 55113. Oral statements will be received during regular business hours at 612/297-1793.

January 21, 1985

Thomas J. Kalitowski
Executive Director

Pollution Control Agency
Solid and Hazardous Waste Division

Outside Opinion Sought Regarding Rules for Solid Waste Management

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from sources outside the MPCA for the purpose of revising the State's solid waste rules pursuant to Minnesota Statutes, section 116.07 as amended by the 1984 legislative session.

The legislative amendments mandate the establishment of requirements for the closure and post-closure care of solid waste disposal facilities and requirements for proof of financial capability of owners or operators of solid waste disposal facilities. A certificate of need process is required for new capacity at mixed-municipal land disposal facilities located outside the metropolitan area. The revisions will also include changes to rules on county solid waste management plans, resource recovery facilities, ground water protection, design and operation of solid waste management facilities, and ground water monitoring systems. These rules will pertain to mixed-municipal solid waste and nonhazardous industrial waste. Preliminary draft copies of these rules will be mailed, as they are completed, to those interested parties on the MPCA rules mailing list.

The MPCA invites all interested persons or groups to submit information or comments on these subjects to the following staff members:

County Solid Waste Management Plans and Certificate of Need	Cathy Berg Moeger	612/296-7247
Financial Assurance	Robert J. McCarron	612/296-7353
Design and Operation of Solid Waste Management Facilities	Myrna M. Halbach	612/297-1791
Ground Water Protection and Monitoring	Donald L. Jakes	612/296-7375
Industrial Waste/Codisposal	Carol M. Rogers	612/296-7247

Oral statements will be accepted by the appropriate staff member during regular business hours over the telephone. Written comments may be sent to the appropriate staff member at:

Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B2
Roseville, Minnesota 55113

Any written material received by the MPCA by April 1, 1985 shall become part of the background record regarding these rules.

January 18, 1985

Thomas J. Kalitowski
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Availability of References, Facilities Governed by Interim Status, Interim Status Landfills and Rule Appendices, Minn. Rules Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

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

It is hereby ordered this 28th day of August, 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.

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 27th day of 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 Executive Director of the Minnesota Pollution Control Agency (MPCA) is hereby granted the authority to sign an order of the MPCA directing that the 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 the availability of references, facilities governed by interim status, interim status landfills, and appendices, Minnesota Rules parts 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260, to sign the Notice thereof, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the MPCA to make in order to obtain the revisor's certification as required by Minn. Stat. §14.07, subd. 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 27th day of August, 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 Availability of References, Facilities Governed by Interim Status, Interim Status Landfills and Rule Appendices, Minn. Rules Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

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 Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260, rules governing the availability of references, facilities governed by interim status, interim status landfills, and rule appendices.

The proposed amendments, if adopted, will update the reference for acceptable test methods, more specifically define the applicability of interim status standards, and impose more stringent requirements regarding closure and the management of containers at interim status landfills. The Agency also proposes to repeal Appendices K, L, and M under Minn. Rules pts. 7045.1240 to 7045.1260, because these appendices are now obsolete. The proposed rule amendments are authorized by Minn. Stat. §116.07, subd. 4 (1984). One free copy of the rule amendments is available from the Agency upon request. 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 Nankivel
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7260

Interested persons have until 4:30 p.m. on November 8, 1985, to submit comments on the proposed rule amendments. Comments should be submitted to Carol Nankivel 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 the Agency receives twenty-five written requests for a public hearing on the proposed rule amendments during 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), as amended by Minn. Laws 1985, First Special Session, ch. 10, §38. 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 Nankivel at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. §14.115 (1984), "Small business considerations in rulemaking," that the proposed amendments will have a minimal effect on small businesses. The amendment which updates a document referenced in the rules and the amendments which make clarifying changes regarding the applicability of the interim status requirements will not change the effect of the hazardous waste rules as they have been previously implemented in Minnesota. The more stringent requirements for interim status landfills are not expected to affect any small businesses because no such facilities are being operated in Minnesota.



THOMAS J. KALITOWSKI
Executive Director

Dated: October 1, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Availability of References, Facilities Governed by Interim Status, Interim Status Landfills and Rule Appendices, Minn. Rules Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

CARL AGERBECK, being duly sworn, deposes and says:

That on the 3RD day of October, 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.

Subscribed and sworn to before me this
3rd day of October, 1985.

Notary Public

KENNETH ALLEN STEVENSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Exp. Aug. 6, 1987

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Availability of References, Facilities Governed by Interim Status, Interim Status Landfills and Rule Appendices, Minn. Rules Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

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 10:00 a.m., this 3 day of October, 1985.

Elaine A. Zoch

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Minneapolis, MN 55405
Attn: Earl Jackelen

Washington County Community
Health Services
2000 Industrial Boulevard
Stillwater, MN 55082
Attn: Michael Ayers

Waste Management of
Minnesota, Inc.
Post Office Box 67
Anoka, MN 55303
Attn: Terry Miller

Waste Oil Service
1338 15th Avenue South
Moorhead, MN 56560
Attn: Arden Cochran

Waste Research and Reclamation
Route 7, Highway 93 South
Eau Claire, WI 54701
Attn: Gene Jameson

Watkins, Inc.
150 Liberty Street
Winona, MN 55987
Attn: L. M. Ferdinandsen

Watt/Peterson, Inc.
15020-27th Avenue North
Plymouth, MN 55441
Attn: Jerry Kotsmith

5501 South Highway 100
Minneapolis, MN 55416
Attn: L. J. Anderson

Westinghouse Electric Corp.
205 Bishops Way
Post Office Box 1000
Elm Grove, WI 53122
Attn: G. W. Hammond

Weyerhaeuser Company
200 Grand Avenue
Rothschild, WI 54474
Attn: William Hall

Winona Van Norman
4730 West Highway 61
P.O. Box 145
Winona, MN 55987
Attn: Walter B. Rotach

Worum Chemical Company
2130 Energy Park Drive
St. Paul, MN 55108
Attn: John Pallansch

Zenk Engineering, Inc.
Post Office Box 689
Albert Lea, MN 56007
Attn: William Trygstad

3M
Post Office Box 33331
Bldg. 21-2W-06
St. Paul, MN 55133
Attn: Georjean Adams

3M
Post Office Box 33331
St. Paul, MN 55133
Attn: Ken Grant

3M
Post Office Box 33331
Building 21-2W
St. Paul, MN 55133
Attn: Gene Johnson

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
St. Paul, MN 55101

D. Late charges must billed to the borrower on the 30-day delinquent letter mailed by the board and are due and payable immediately.

E. Interest payments during the in-school period that are delinquent in excess of 120 days from the billing date must be capitalized. Capitalization of past due interest must be limited to two occasions before filing a claim.

F. A prepayment penalty must be assessed against borrowers who elect to make unscheduled payments of loan principal.

G. The board may grant forbearances in those instances when the borrower experiences hardship in making payments of principal and/or interest, and when the cosigner has since died or become permanently disabled. Such a forbearance might be granted for documented unemployment or similar financial hardship cases and is limited to 90 days, renewable upon further documentation for another 90 days.

H. The board shall provide borrowers and cosigners with an annual statement of outstanding principal and interest paid during the previous calendar year.

4850.0018 CLAIMS.

Subpart 1. **When filed.** If after exercising due diligence, and after 120 days from the billing date the board fails to collect a payment from a borrower or the cosigner, a claim must be filed by the board with the program insurer for the outstanding principal of the loan plus accrued interest.

Subp. 2. **When paid.** Claims are paid in four categories:

A. A claim for death of the borrower must be filed by the board upon receipt of a death certificate. The cosigner's obligation to make any further payment of principal and interest or both on a SELF loan is canceled as of the date of death.

B. If the borrower becomes totally and permanently disabled, a claim must be filed by the board upon receipt of proper medical documentation. The cosigner's obligation to make any further payment of principal and interest on a SELF loan is canceled as of the date of medical documentation.

C. If a borrower or cosigner fails to perform any of the conditions of the promissory note, a claim must be filed by the board.

D. If a borrower is adjudicated bankrupt and has liability for the SELF loan discharged, the cosigner remains liable for unpaid principal and interest. If the cosigner fails to perform any of the conditions of the promissory note, the board shall file a claim.

Pollution Control Agency

Proposed Rules Relating to Hazardous Waste; Interim Status

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 Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260, rules governing the availability of references, facilities governed by interim status, interim status landfills, and rule appendices.

The proposed amendments, if adopted, will update the reference for acceptable test methods, more specifically define the applicability of interim status standards, and impose more stringent requirements regarding closure and the management of containers at interim status landfills. The Agency also proposes to repeal Appendices K, L, and M under Minn. Rules pts. 7045.1240 to 7045.1260, because these appendices are now obsolete. The proposed rule amendments are authorized by Minn. Stat. § 116.07, subd. 4 (1984). The proposed rule amendments are published below. 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 Nankivel
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7260

Interested persons have until 4:30 p.m. on November 8, 1985, to submit comments on the proposed rule amendments. Comments should be submitted to Carol Nankivel 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 the Agency receives twenty-five written requests for a public hearing on the proposed rule amendments during 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), as amended by Minn. Laws 1985, First Special Session, ch. 10, § 38. 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 Nankivel at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1984), "Small business considerations in rulemaking," that the proposed amendments will have a minimal effect on small businesses. The amendment which updates a document referenced in the rules and the amendments which make clarifying changes regarding the applicability of the interim status requirements will not change the effect of the hazardous waste rules as they have been previously implemented in Minnesota. The more stringent requirements for interim status landfills are not expected to affect any small businesses because no such facilities are being operated in Minnesota.

Thomas J. Kalitowski
Executive Director

Rules as Proposed

7045.0065 AVAILABILITY OF REFERENCES.

The documents referred to in this chapter may be obtained by contacting the appropriate offices as listed in this part.

A. to F. [Unchanged.]

G. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, publication number SW 846, ~~First Edition, 1980 as updated by Revisions A (August 1980), B (July 1981), and C (February 1982) or Second Edition, 1982~~ as amended, of the Office of Solid Waste, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, available at the state of Minnesota Law Library and by subscription from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, (202) 783-3238; and

H. [Unchanged.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. **General requirements.** Parts 7045.0552 to 7045.0642 establish minimum standards for the management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. These standards apply to owners and operators of existing facilities who have fully complied with the requirements for state or federal interim status ~~and those who have failed to achieve state or federal interim status,~~ until ~~final disposition of the owner's or operator's permit application is made~~ a permit is issued or until applicable interim status closure and post-closure responsibilities are fulfilled, and those who have failed to achieve state or federal interim status. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after July 16, 1984, except as specifically provided otherwise.

For existing facilities which were not required to obtain federal interim status under the Resource Conservation and Recovery Act, United States Code, title 42, sections 6901 to 6986, as amended through June 30, 1983, but are required to obtain state interim status, the requirements of parts 7045.0590; 7045.0592; 7045.0632, subpart 4, items A and B; 7045.0634, subpart 2; 7045.0638, subparts 2, 7, and 8, become effective 12 months after July 16, 1984, and the requirements of parts 7045.0608 to 7045.0624 become effective 90 days after July 16, 1984.

Subp. 2. and 3. [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.

7045.0638 LANDFILLS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Closure and post-closure.** Closure and post-closure requirements are as follows:

A. ~~The owner or operator shall place a final cover over the landfill, and the closure plan under part 7045.0594 must specify the function and design of the cover. In the post-closure plan under part 7045.0600, the owner or operator shall include the post-closure care requirements of item D~~ At final closure of the landfill or upon closure of any landfill cell, the owner or operator shall cover the landfill or landfill cell with a final cover designed and constructed to:

(1) provide long-term minimization of migration of liquids through the closed landfill;

(2) function with minimum maintenance;

(3) promote drainage and minimize erosion or abrasion of the cover;

(4) accommodate settling and subsidence so that the cover's integrity is maintained; and

(5) have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

B. ~~In the closure and post-closure plans, the owner or operator shall address the following objectives and indicate how they will be achieved~~ After final closure, the owner or operator shall comply with all post-closure requirements contained in parts 7045.0600 to 7045.0606 including maintenance and monitoring throughout the post-closure care period. The owner or operator must:

(1) ~~control of pollutant migration from the facility via ground water, surface water, and air~~ maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effect of settling, subsidence, erosion, or other events;

(2) ~~control of surface water infiltration, including prevention of pooling; and~~ maintain and monitor the ground water monitoring system and comply with all other applicable requirements of parts 7045.0590 and 7045.0592;

(3) ~~prevention of erosion~~ prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(4) protect and maintain surveyed bench marks used in complying with part 7045.0638, subpart 3.

~~C. The owner or operator shall consider at least the following factors in addressing the closure and post-closure care objectives of item B:~~

~~(1) type and amount of hazardous waste and hazardous waste constituents in the landfill;~~

~~(2) the mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;~~

~~(3) site location, topography, and surrounding land use, with respect to the potential effects of pollutant migration including at a minimum the proximity to ground water, surface water, and drinking water sources;~~

~~(4) climate, including amount, frequency, and pH of precipitation;~~

~~(5) characteristics of the cover including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope, and type of vegetation on the cover; and~~

~~(6) geological and soil profiles and surface and subsurface hydrology of the site.~~

~~D. In addition to the requirements of part 7045.0602 during the post-closure care period, the owner or operator of a hazardous waste landfill shall:~~

~~(1) maintain the function and integrity of the final cover as specified in the approved closure plan;~~

~~(2) maintain and monitor the leachate collection, removal, and treatment system to prevent excess accumulation of leachate in the system. If the collected leachate is a hazardous waste under parts 7045.0100 to 7045.0141, it must be managed as a hazardous waste in accordance with all applicable requirements of parts 7045.0205 to 7045.0397 and 7045.0552 to 7045.0642. If the collected leachate is discharged through a point source to waters of the United States, it is subject to the requirements of the Federal Water Pollution Control Act Amendments of 1972, United States Code, title 33, section 1342, as amended through June 30, 1983;~~

~~(3) maintain and monitor the gas collection and control system to control the vertical and horizontal escape of gases;~~

~~(4) protect and maintain surveyed bench marks; and~~

~~(5) restrict access to the landfill as appropriate for its post-closure use.~~

Subp. 5. to 7. [Unchanged.]

Subp. 8. **Special requirements for containers.** ~~An empty container must be crushed flat, shredded, or similarly reduced in~~

~~volume before it is buried beneath the surface of a landfill~~ Unless they are very small, such as an ampule, containers must be either:

A. at least 90 percent full when placed in the landfill; or

B. crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

Subp. 9. [Unchanged.]

REPEALER. Minnesota Rules, parts 7045.1240, 7045.1250, and 7045.1260 are repealed.

Pollution Control Agency

Proposed Rules Relating to Hazardous Waste Recycling and Reuse

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 Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520, rules governing hazardous waste which is reused or recycled.

The proposed amendments, if adopted, will set forth management requirements for generators, transporters, and facilities of recyclable hazardous waste, including waste used as feedstock, characteristic by-products and sludges, waste burned for energy recovery, and waste used in a manner constituting disposal. Specific requirements are also set forth for the management of hazardous waste being reclaimed for precious metals and spent lead-acid batteries. The proposed amendments are based on recent amendments to U.S. Environmental Protection Agency hazardous waste regulations. The proposed rule amendments are authorized by Minn. Stat. § 116.07, subd. 4 (1984). The proposed rule amendments are published below. 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:

Melba Hensel
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7712

Interested persons have until 4:30 p.m. on November 8, 1985, to submit comments on the proposed rule amendments. Comments should be submitted to Melba Hensel 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 the Agency receives twenty-five written requests for a public hearing on the proposed rule amendments during 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), as amended by Minn. Laws 1985, First Special Session, ch. 10, § 38. 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 Melba Hensel at the address previously stated.

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.

Attachment 1

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing the Availability of References, Applicability of Interim Status Standards, Interim Status Landfills, and Appendices, Minn. Rules, Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 17th day of December, 1985. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the MPCA, being fully advised in the premises, hereby adopts the following Findings of Fact and Conclusions.

FINDINGS OF FACT

1. The MPCA published its notice of intent to adopt the above-captioned rule amendments, together with the proposed rule amendments, in the State Register on October 7, 1985 (10 S.R. 824).

2. On October 3, 1985, the MPCA gave the same notice by mail to all persons who have registered their names with the MPCA pursuant to Minn. Stat. § 14.14 (Supp. 1985).

3. The notice of the MPCA'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 (Supp. 1985).

4. The MPCA 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 rule amendments.

5. The 30 day comment period, as set out in the notice, expired on November 8, 1985.

6. During the comment period, the MPCA received no written comments.

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

CONCLUSIONS

1. The MPCA duly acquired and has jurisdiction over this proceeding.

2. The MPCA 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

Thomas J. Kalitowski
Executive Director

Dated: December 17, 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 17th day December, 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 the availability of references, facilities governed by interim status, interim status landfills, and appendices, Minn. Rules Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260, pursuant to the authority vested in the MPCA by Minn. Stat. §116.07, subd. 4 (Supp. 1985).

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. §14.07, subd. 2 (Supp. 1985).

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 17th day of December, 1985.



THOMAS J. KALITOWSKI
Executive Director

Attachment 2

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Availability of References, Facilities Governed by Interim Status, Interim Status Landfills and Rule Appendices, Minn. Rules Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

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 the availability of references, Minn. Rules, pt. 7045.0065, facilities governed by interim status, Minn. Rules pt. 7045.0552, interim status landfills, Minn. Rules pt. 7045.0638 and appendices to the hazardous waste rules, Minn. Rules pts. 7045.1240, 7045.1250, and 7045.1260. 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 update a reference document, clarify the applicability of the interim status requirements, add management requirements for interim status landfills and repeal three appendices to the hazardous waste rules.

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 exhibits relied on by the Agency to support the proposed amendments. The exhibits are 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 (1984) 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 and the need to update the rules to remove obsolete information.

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 Fed. Reg. 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. Under 40 C.F.R. § 271.21, an authorized state is required to enact equivalent provisions within one year of the date of promulgation of the federal requirement, unless a statutory amendment is required, in which case the time limit is two years. However, until they are adopted as state requirements, the federal requirements promulgated under RCRA do not take effect in an authorized state.

Congress enacted the Hazardous and Solid Waste Amendments of 1984 (hereinafter "HSWA") when they reauthorized RCRA. Under HSWA, EPA is directed to promulgate new hazardous waste regulations and amendments within specified time frames to address specific areas of concern. In order to address these concerns in a timely manner, Congress has directed EPA to require regulations

and amendments promulgated under HSWA to become effective nationwide on the specified effective date without regard for any states' authorization status. Therefore, regulations and amendments promulgated under HSWA become effective in Minnesota prior to any amendments of state rules. However, under 40 C.F.R. § 271.21, authorized states are required, within specified time frames, to enact requirements equivalent to those self-implementing provisions promulgated under HSWA.

The amendments proposed here are in response to amendments to the federal regulations which revise, clarify and add requirements which cause the federal regulations to be more stringent than the current State rules. One of them is promulgated under HSWA, the others under RCRA.

EPA has adopted an amendment to 40 C.F.R. Part 260 to update the document which provides the reference for analytical procedures. 50 Fed. Reg. 18370 (April 30, 1985) (Exhibit 1). This amendment is promulgated under HSWA and makes EPA's regulations referencing this document more current and complete and therefore could be more stringent than the Agency's existing rules. Additional amendments to this document were recently promulgated to correct previous errors and to clarify certain provisions. 49 Fed. Reg. 47390 (December 4, 1984) (Exhibit 4). These amendments should be incorporated into the State rules to ensure correctness and consistency. The proposed amendment to Minn. Rules pt. 7045.0065 will provide for the incorporation of revisions to this document as they are published. Since such revisions are done under HSWA, they will be in effect in Minnesota as they are published. By referencing SW 846 as amended, the rule will not need to be amended every time EPA publishes a revision to this

document.

EPA has adopted an amendment to 40 C.F.R. Part 265 to clarify the applicability of the interim status standards. 49 Fed. Reg. 46094 (November 21, 1984) (Exhibit 2). This amendment makes EPA's rules more specific regarding the application of interim status standards and therefore could be interpreted as being more stringent than the Agency's existing rules. The proposed amendment to Minn. Rules pt. 7045.0552 incorporates the provisions of the federal regulations as amended.

EPA has adopted amendments to 40 C.F.R. Part 265 to impose more stringent requirements on the owners or operators of interim status landfills. 50 Fed. Reg. 16044 (April 23, 1985) (Exhibit 3). These amendments make EPA's rules more stringent regarding the closure and post-closure requirements and the disposal of containers at interim status landfills. The proposed amendments to Minn. Rules pt. 7045.0638, subps. 4 and 8 incorporate the provisions of the federal regulations as amended.

These three amendments are needed in order to maintain equivalency and promote consistency between federal and Agency rules regarding these aspects of hazardous waste regulation.

B. Need to Remove Obsolete Information.

When the Agency's hazardous waste rules were amended in July 1984, many provisions of the previous hazardous waste rules were no longer applicable. Most of these obsolete provisions were repealed as part of the rulemaking actions to adopt the Agency's current hazardous waste rules.

However, three appendices were inadvertently retained in the hazardous

waste rules even though they were obsolete in relation to the new rules. These three appendices address the classification of wetlands, sampling procedures, and the information required on hazardous material shipping papers. The continued presence of these irrelevant appendices in the hazardous waste rules creates confusion regarding their application. The amendments to repeal these appendices are needed in order to avoid this confusion.

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

The Agency is required by Minn. Stat. ch. 14 (1984) 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 Pt. 7045.0065.

The Agency is proposing to amend Minn. Rules pt. 7045.0065, item G, to update the reference document described there. This document, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, publication number SW 846, has been frequently updated and amended to incorporate additional test methods and procedures as they are developed. EPA amended 40 C.F.R. § 260.11 to refer to SW 846 as amended by Updates I and II. Update I (April, 1984) corrects previous errors and clarifies certain provisions in SW 846. Update II (April, 1985) specifies the paint filter test to be used to determine the absence or presence of free liquids in a hazardous waste. These amendments are discussed in Exhibits 1 and 4, and those discussions are hereby incorporated by reference.

In order to continue to accommodate such additions, the rules are being amended to delete references to specific updates and to instead refer to the document as amended. It is reasonable to provide this level of flexibility so that each addition to the document will be in effect if applicable. Maintaining the reference to the most current document is necessary because it could cause the effect of the Agency's rules to be less stringent than the federal program. As more precise analytical techniques are developed, it will change the application of the hazardous waste rules in certain circumstances. For example, if the test procedure for determining the Extraction Procedure toxicity of a waste is changed in the federal regulations but not in the State rules, a waste could be tested under the federal rules and be a hazardous waste, but not be a hazardous waste under the older techniques established in the State rules.

It is reasonable to amend the rules to delete the specific references to various updates of this document and to add the ongoing update to refer to this document "as amended" in order to maintain consistency with the federal regulations and to ensure that uniform procedures are used in evaluating waste. Because the amendments to update this document have been and will continue to be promulgated under HSWA, it is reasonable to add the statement "as amended" to this reference instead of citing each update as it is published because amendments promulgated under HSWA are in effect in Minnesota on the date the federal regulations become effective, regardless of the states' activities to keep the reference current. By specifying in the rule that the amended reference is in effect, the regulated community will not be subjected to conflicting provisions where two different test procedures could be cited, one

for the state rules as established in the rules and one for the most recent federal amendment.

B. Minn. Rules Pt. 7045.0552, Subp. 1.

The Agency is proposing to amend Minn. Rules pt. 7045.0552, subp. 1 to incorporate a technical amendment to the corresponding federal regulation. The proposed amendment will make the state rule equivalent to the amended federal regulation. EPA amended 40 C.F.R. § 265.1 to clarify the applicability of the interim status standards of 40 C.F.R. Part 265. The current state rule is equivalent to the previous federal regulation and uses the phrase "until final disposition of the permit" to describe the period of interim status. EPA found that this phrase could be misinterpreted to mean that facilities which are denied a permit are not regulated under interim status. As this has never been the intent or the application of the rules, it is reasonable to amend this provision to clarify the applicability of these rules, and to maintain equivalency and promote consistency with the federal regulations. The reasonableness of the amendment to the federal regulation is discussed in Exhibit 2, and that discussion is hereby incorporated by reference.

C. Minn. Rules Pt. 7045.0638, Subps. 4 an 8.

The Agency is proposing to amend Minn. Rules pt. 7045.0638, subps. 4 and 8 to incorporate the amendments to the federal regulations regarding interim status landfill closure and post-closure care and the management of containers at such landfills.

Subp. 4 of Minn. Rules pt. 7045.0638 addresses landfill closure and post-closure and were taken almost verbatim from the previous federal

regulation. 40 C.F.R. § 265.310 was amended on April 23, 1985 to impose more stringent closure and post-closure requirements for interim status landfills. It is proposed to incorporate that amendment into the state rules. Such amendment will make the state rule identical to the corresponding federal regulation. The reasonableness of the amendment to the federal regulation is discussed in Exhibit 3, and that discussion is hereby incorporated by reference.

The current interim status landfill requirements are very similar to the requirements for permitted facilities, although they are less explicit and less environmentally protective. EPA has decided that it is appropriate to extend certain of the requirements for permitted facilities to interim status landfills. The requirements are changed from general requirements for the owner or operator to address certain factors in their plans for closure and post-closure to specific criteria for the development of landfill covers and post-closure activities. It is reasonable to continue to parallel the federal regulations by incorporating the same requirements into the state rules and deleting the previous requirements.

Subpart 8 of Minn. Rules pt. 7045.0638 addresses the management of containers at interim status landfills. The current state rules are the same as previous federal regulations and only required that empty containers be crushed, shredded or reduced to the maximum practicable extent before disposal. EPA received comments that the regulations should exclude small containers from this requirement and should establish when a container is actually full. The amendments to 40 C.F.R. § 265.315 provide for the exclusion of small containers, such as ampules, and establish that containers must be at least 90 percent full

to be disposed of as full. It is proposed to amend Minn. Rules pt. 7045.0638, subp. 8 to incorporate that amendment and make the state rule identical to the amended corresponding federal regulation. The reasonableness of the amendment to the federal regulation is discussed in Exhibit 3, and that discussion is hereby incorporated by reference. It is reasonable to continue to parallel the federal regulations by incorporating the same requirements into the state rules.

D. Minn. Rules Pts. 7045.1240, 7045.1250, and 7045.1260.

The Agency is proposing to repeal Minn. Rules pts. 7045.1240, 7045.1250 and 7045.1260 which address the classification of wetlands, sampling procedures and shipping papers for hazardous materials. These three rules are Appendices K, L, and M of the hazardous waste rules. These appendices were applicable to the previous hazardous waste rules that were in effect in Minnesota until July 1984. At that time the current hazardous waste rules went into effect and Appendices K, L, and M were no longer referred to in the rules and were thus obsolete. It is reasonable to repeal these appendices because they do not serve any purpose in the rules and may create confusion.

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 (1984) 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 have minimal impact on small businesses. The amendments to update the document referenced in the rules and the clarifying changes regarding the applicability of the interim status requirements will not change the effect of the hazardous waste rules as they have been previously implemented in Minnesota. The more stringent requirements for interim status landfills are not expected to affect any small businesses because no such facilities are being operated in Minnesota.

V. CONCLUSION

The Agency 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 Agency'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 documents to support these amendments:

MPCA Ex. No.	Title
1	Federal Register, Volume 50, Number 83, pages 18370-18375, April 30, 1985.
2	Federal Register, Volume 49, Number 226, pages 46094-46095, November 21, 1984
3	Federal Register, Volume 50, Number 78, pages 16044-16048, April 23, 1985.
4	Federal Register, Volume 49, Number 234, pages 47390-47391, December 4, 1984.

Dated: August 15, 1985

Thomas J. Kalitowski
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Availability of References, Facilities Governed by Interim Status, Interim Status Landfills and Rule Appendices, Minn. Rules Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO ADOPT RULE AMENDMENTS WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol R. 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 (10 S.R. 824, October 7, 1985) as the person to receive comments on the Agency's intent to amend rules concerning the above-entitled subject.

2. That the comment period set forth in the notice terminated at 4:30 p.m. on November 8, 1985.

3. That during the public comment period no comments were received by the Agency.

Carol R Nankivel

Subscribed and sworn to before me
this 17th day of December, 1985.

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 9-24-91

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Availability of References, Facilities Governed by Interim Status, Interim Status Landfills and Rule Appendices, Minn. Rules Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

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: December 17, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Availability of References, Facilities Governed by Interim Status, Interim Status Landfills and Rule Appendices, Minn. Rules Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol 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 (10 S.R. 824, October 7, 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 submitted to the Attorney General.

Carol R Nankivel

Subscribed and sworn to before me
this 17th day of December, 1985.

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 9-24-91

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

January 7, 1985

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

Re: In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Availability of References, Facilities Governed by Interim Status, Interim Status Landfills and Rule Appendices, Minn. Rules Pts. 7045.0065, 7045.0552, 7045.0638, 7045.1240, 7045.1250, and 7045.1260

Dear Mr. Miles:

On December 17, 1985, the Minnesota Pollution Control Agency adopted amendments to the above-captioned rules governing the availability of references, facilities governed by interim status, interim status landfills, and rule appendices. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Order Adopting Rule Amendments (two copies).

3. Certificate of Agency's Resolution Adopting Rules.

4. Notice of intent to solicit outside opinion (9 S.R. 1696, January 28, 1985).

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

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

7. Certificate of Agency's Authorizing Resolution.

8. Notice of Intent to Amend Rules Without A Public Hearing and rule amendments as proposed (10 S.R. 824, October 7, 1985).

9. Affidavit Regarding Comments Received Pursuant to Notice of Intent to Adopt Rule Without a Public Hearing.

10. Notice of Intent to Amend 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