

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1357

Docket No. 05.0009.0696

DATE RECEIVED 3/17/87
REVIEW DATE 3/26/87
DUE DATE 4/1/87

APPROVED 4/1/87
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING ✓
EMERGENCY RULE

REVISOR APPROVED ✓
REVISOR DISAPPROVED
FILED W/SEC. STATE 4/02
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion
June 16, 1986 Date published in State Register
None Comments

Petition for Adoption of a Rule

✓ Board's Authorizing Resolution

✓ Proposed rule
Yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
116.07 Subd 4 Statutory Authority
yes Small business statement
no Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
12/18/86 Date (30)/25 days before adoption

✓ Publication in State Register
12/22/86 Date (30)/25 days before adoption

✓ Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting
2/24/87 Date

✓ (1) Written requests, submissions or comments see affidavit

✓ Declaration of attorney
Mamie Segall Name of SAAG representing agency

✓ Notice of Submission to Attorney General

✓ Affidavit of Mailing Notice to Attorney General

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT

ATTORNEY GENERAL

TO:

MAMIE S. SEGALL
Special Assistant
Attorney General

DATE: 4/06/87

FROM:

MIKE MILES
Assistant Attorney General

PHONE: 6-6555

SUBJECT:

In the Matter of the Adopted Rules Relating to Small Quantity Generators

The above-referenced rule has been approved as to its legality by the Attorney General on April 1, 1987.

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

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

4

Pollution Control Agency

Adopted Permanent Rules Relating to Small Quantity Generators

Rules as Adopted

7045.0075 PETITIONS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Petition for use of alternate manifest.** A person who meets the criteria in item A may submit a petition to the director for approval of the use of an alternate manifest system as described in item B. The criteria the director shall use in determining whether to approve the use of the alternate manifest system are provided in item C.

A. Only persons meeting the following criteria are eligible to file a petition under this subpart:

(1) the person proposing to use the alternate manifest system must agree to only use the alternate manifest for the transportation of waste from small quantity generators;

(2) the person proposing to use the alternate manifest system must agree to only use the alternate manifest for waste that will be reclaimed under a contractual agreement specifying the type and frequency of waste shipments; and

(3) the person proposing to use the alternate manifest system must own and operate the recycling facility to which the waste is proposed to be transported, and must also own the vehicle to be used in transporting the waste to the recycling facility and in delivering reclaimed material back to the generator.

B. Upon approval, an alternate manifest system may be used in lieu of the manifest system described in parts 7045.0261 to 7045.0265. The director shall only approve alternate manifest systems meeting the following criteria:

(1) The alternate manifest system must include a manifest form to be used by the generator to notify the director each time waste is transported under this subpart. The manifest

form must include: a space for the generator's name, mailing address, telephone number, and United States Environmental Protection Agency identification number; a space for the transporter's name and United States Environmental Protection Agency identification number; a space for the name, address, telephone number, and United States Environmental Protection Agency identification number of the recycling facility; a space for the United States Department of Transportation shipping name, hazard class, and identification number of the waste as specified in the United States Department of Transportation Code, title 49, parts 171 to 179; a space for the number and type of containers and total volume of the waste being shipped; a space for the waste identification number as specified in part 7045.0131, 7045.0135, or 7045.0137; a space for the signature of the generator or the generator's authorized representative affirming the correctness of the information; the mailing address of the director; and a statement advising the generator to complete the form and submit it to the director within five working days of transporting waste.

(2) The alternate manifest system must provide for the petitioner's submittal, on a monthly basis, of summaries of the names and identification numbers of generators who transported wastes using the alternate manifest and the volume and number of containers of each waste type shipped by each generator.

(3) The alternate manifest system must allow generators the option of using the manifest system provided in parts 7045.0261 and 7045.0265 in lieu of the alternate manifest system.

C. To obtain the director's approval of the alternate manifest system, the petitioner must:

(1) submit information demonstrating that the petitioner meets the criteria in item A;

(2) submit information demonstrating that the proposed alternate manifest system meets the criteria in item B; and

(3) submit information demonstrating the effectiveness and reliability of the alternate manifest system, including the following: information on the waste that will be managed and the general type of customers who will be using the alternate manifest system; information on the type of recyling service provided by the petitioner and a description of the petitioner's recycling facility; information on the type of vehicle to be used and the system to be used to pick up and deliver waste from the generator to the petitioner's recycling facility; and a discussion of the measures to be taken to educate generators on the use of the alternate manifest and their responsibilities as waste generators.

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. [Unchanged.]

Subp. 2. **Exemption.** A generator maintaining small quantity generator status is only required to comply with the generator requirements of parts 7045.0205 to 7045.0304 as provided in subpart 5.

Subp. 3. **Excessive generation.** Except as provided in item B, if the quantity of hazardous waste generated in any calendar month exceeds the quantities listed in subpart 1, the small quantity generator loses small quantity generator status and thereafter is subject to all the generator requirements of this chapter.

A. Once small quantity generator status is lost, the generator shall not regain that status until the generator is notified in writing by the director that small quantity generator status has been approved. The director shall only approve small quantity generator status under this subpart if the generator can demonstrate to the satisfaction of the director that the waste quantities that will be generated in the future will meet the limits established in subpart 1. The generator shall make this demonstration by submitting a written statement to the director requesting reclassification as a small

quantity generator and including the information necessary for the director to evaluate the request. The information shall include an explanation of the circumstances that resulted in each instance of overgeneration during the past year; an explanation of the measures that the generator has taken to correct the cause of overgeneration; and other information as may be necessary to document that the overgeneration will not reoccur.

B. If the quantity of hazardous waste generated in any calendar month exceeds the quantities listed in subpart 1 and the cause of the overgeneration is a spill or accidental release of a hazardous waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E; the shut-down or cleanup of some part of the generation process; or the replacement of PCB containing equipment, the small quantity generator loses small quantity generator status and is subject to all the generator requirements of this chapter. However, in any of these cases, a generator will automatically regain small quantity generator status without applying to the director for approval if the generator:

(1) resumes generation within the quantity limits in subpart 1; and

(2) complies with the quantity limits in subpart 1 during the other eleven months of the calendar year.

A generator who cannot automatically regain small quantity generator status under this subpart may apply for reclassification under item A.

C. Wastes accumulated when small quantity generator status is lost are ineligible for management under part 7045.0219 and must be managed in accordance with the generator requirements in this chapter, regardless of the cause of the excessive generation.

Subp. 4. **Accumulation on-site.** A small quantity generator who does not have a permit or interim status may accumulate hazardous waste on-site under the following conditions: if the quantity of hazardous waste accumulated at any time exceeds the

quantities set forth in item A or B, whichever applies, the small quantity generator must manage all of the accumulated waste in accordance with all the generator requirements set forth in parts 7045.0205 to 7045.0304, excluding this part, but does not lose the small quantity generator status.

A. The following provisions apply to waste not listed as acute hazardous waste:

(1) A small quantity generator who in a calendar month generates at least 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site for 180 days or less if the quantity of waste accumulated on-site never exceeds 3,000 kilograms and the small quantity generator meets all the requirements of subpart 5. For purposes of this subitem, the time period for accumulation begins when the generator begins accumulation in a container or tank.

(2) A small quantity generator who in a calendar month generates less than 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site indefinitely until 1,000 kilograms of waste are accumulated, at which point the small quantity generator may only store the waste on-site for a period of 180 days following the date the 1,000 kilogram limit is reached. A small quantity generator accumulating waste under this subitem must meet the requirements of subpart 5, except for subpart 5, item B, subitems (2) to (5).

(3) If waste accumulated under item A, subitem (1) or (2) must be transported 200 miles or more to a facility, the small quantity generator may store the wastes for an additional 90 days beyond the established limits. In this event, the small quantity generator must maintain evidence on-site that arrangements have been made for the transport of the waste to the facility and, if requested, show the evidence to the director.

B. The following provisions apply to waste listed as acute hazardous waste: a small quantity generator who generates

waste listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site indefinitely until the limit of subpart 1, item B or C is met, at which point the small quantity generator must manage the waste on-site in accordance with all the generator requirements in parts 7045.0205 to 7045.0304, excluding this part. Until then, a small quantity generator accumulating wastes under this item must meet the requirements of subpart 5, except for subpart 5, item B, subitems (2) to (5).

Subp. 5. **Management requirements.**

A. Small quantity generators shall comply with the following requirements of this chapter:

(1) parts 7045.0214 to 7045.0217;

(2) parts 7045.0220 to 7045.0255 except part 7045.0230, subpart 1, item G;

(3) parts 7045.0261 to 7045.0290, except that an alternate manifest system may be used if the director approves such system under part 7045.0075, subpart 5;

(4) part 7045.0292, subpart 1, items C to F and as applicable, subpart 4;

(5) parts 7045.0294 to 7045.0302;

(6) parts 7045.0566 and 7045.0568; and

(7) parts 7045.0626 and 7045.0628.

B. Unless explicitly exempted under subpart 4, all small quantity generators must also comply with the following requirements:

(1) Small quantity generators shall label all containers and tanks in a manner generally identifying their contents to employees and emergency personnel. The labels must contain an easily understood description of the waste.

(2) Small quantity generators shall ensure that there is available at all times at least one employee responsible for coordinating all emergency response measures provided in subitem (5). This employee, identified as the emergency coordinator, must be either on the generator's premises or available to respond to an emergency by reaching the

premises within a short period of time.

(3) Small quantity generators shall post the following information next to the telephone on the premises: the name and telephone number of the emergency coordinator; the location of fire extinguishers and spill control material, and, if present, the fire alarm; and the telephone number of the fire department, unless there is a direct alarm.

(4) Small quantity generators must ensure and document that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

(5) The emergency coordinator or a designee must respond to any emergencies that arise. Appropriate responses include: in the event of a fire, call the fire department or try to extinguish the fire by using a fire extinguisher; in the event of a spill, contain the flow of hazardous waste to the extent possible and as soon as practicable, clean up the hazardous waste and any contaminated materials or soils; in the event of a fire, explosion, or other release that could threaten human health outside the premises or when the generator has knowledge that a spill has reached surface water, the generator must immediately comply with part 7045.0275, subparts 2 and 3 and notify the National Response Center using their 24-hour toll-free number (800) 424-8802 and provide the name, address, identification number of the generator, date, time, type of incident, and the estimated quantity and disposition of any recovered materials.

(6) If waste generated by a small quantity generator is transported using an alternate manifest for waste transport as provided in part 7045.0075, subpart 5, the small quantity generator shall maintain a copy of the reclamation and transport agreement during the term of the agreement and for a period of at least three years after termination or expiration of the agreement.

(7) For each shipment of waste using an alternate

manifest for waste transport as provided in part 7045.0075, subpart 5, the small quantity generator shall submit a completed copy of that alternate manifest to the director within five working days of the transporter's acceptance of the waste shipment.

(8) The small quantity generator shall 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: permitted to accept hazardous waste under the agency's permitting procedures; or in interim status under parts 7045.0552 to 7045.0642; or authorized to manage hazardous waste by the Environmental Protection Agency or by a state with a hazardous waste management program authorized by the Environmental Protection Agency; or a facility which in accordance with part 7045.0125 beneficially uses or reuses, or legitimately recycles, or reclaims the waste or treats the waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

C. A contingency plan meeting the requirements of part 7045.0466 may be used to fulfill the requirements of item B, subitems (2) to (5).

Subp. 6. [Unchanged.]

7045.0261 MANIFEST DOCUMENT; GENERAL REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Designation of facility.** A generator must designate on the manifest either one facility which is permitted to handle the waste described on the manifest or one facility which in accordance with part 7045.0125 beneficially uses or reuses, or legitimately recycles, or reclaims the waste or treats the waste before beneficial use or reuse, or legitimate recycling or reclamation.

Subp. 3. to 10. [Unchanged.]

7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

Subpart 1. **When allowed without a permit.** A generator may accumulate hazardous waste on-site without a permit or without

having interim status if:

A. to H. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

7045.0381 USE OF MANIFEST.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Use of an alternate manifest.** Transporters who transport hazardous waste accompanied by an alternate manifest as provided in part 7045.0075, subpart 5 must:

A. for each shipment, record on a log or shipping paper the name, address, and United States Environmental Protection Agency identification number of the waste generator, the quantity of waste accepted, all United States Department of Transportation shipping information, and the date the waste was accepted;

B. carry the information required in item A when transporting waste to the reclamation facility; and

C. maintain a copy of the information required in item A and the reclamation agreement during the term of the agreement and for three years after termination or expiration of the agreement.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 2 1987
Joan Anderson Growe
Secretary of State

11:00 AM

APPROVED AS TO FORM AND LEGALITY

4/1 19 87

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
ASSISTANT ATTORNEY GENERAL

MINNESOTA POLLUTION CONTROL AGENCY
SOLID AND HAZARDOUS WASTE DIVISION

Notice of Intent to Solicit Outside Opinions Concerning Amendments to Minn. Rules Ch. 7045 Governing the Management of 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. Information and comments are being sought to aid in preparation of draft amendments.

In response to recently promulgated amendments to the United States Environmental Protection Agency (EPA) hazardous waste program, the MPCA is considering amendments to rules governing hazardous waste in the following areas:

1. Regulations pertaining to small quantity generators of hazardous waste. The amendments promulgated by EPA on March 24, 1986 (Federal Register, Vol. 51, pp. 10146-10176), expand the regulatory requirements for generators of between 100 kilograms and 1,000 kilograms hazardous waste per calendar month.

2. Closure, post-closure and financial responsibility requirements applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. Amendments to the federal regulations, promulgated May 2, 1986 (Federal Register, Vol. 51, pp. 16422-16459), apply to both interim status and permitted facilities.

3. Listing of various wastes as hazardous, including:
   - wastes from the production of ethylene dibromide (EDB) as promulgated in the February 13, 1986 Federal Register, Vol. 51, pp. 5327-5331.

- wastes from the production of dinitrotoluene (DNT), toluene diamine (TDA), and toluene diisocyanate (TSI) as promulgated in the October 23, 1985 Federal Register, Vol. 50, pp. 42936-42943.

- Spent 1,1,2-trichloroethane, benzene, 2-ethoxyethanol, and 2-nitropropane as promulgated in the February 25, 1986 Federal Register, Vol. 51, pp. 6537-6542.

The MPCA requests information and comments concerning the subject matter of the proposed amendments. Written or oral information or comments will be accepted until July 16, 1986. Written statements should be addressed to:

Carol Nankivel
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 612/296-7260.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing Petitions and the Management of Hazardous Waste from Small Quantity Generators, Minn. Rules Pts. 7045.0075, 7045.0219, 7045.0261, 7045.0292, and 7045.0381

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION

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 Adopt Rules Without a Public Hearing (10 S.R. 2516, June 16, 1986) as the person to receive comments on the Agency's intent to adopt rules concerning the above-entitled subject.

2. That the comment period set forth in the notice terminated at 4:30 p.m. on July 16, 1986.

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

Carol R Nankivel

Subscribed and sworn to before me
this 16 day of March, 1987.
Cynthia B Gillingham



HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

March 24, 1987

Ms. Rita Desmond
Legal Assistant
Office of the Attorney General
Administrative Building
St. Paul, MN 55155

Dear Ms. Desmond:

The "Affidavit Regarding Comments Received Pursuant to Notice of Intent to Solicit Outside Opinion" in the small quantity generator rule package had an error in the body of the affidavit. I have enclosed another affidavit.

If you have any questions about this, please call me.

Very truly yours,

Mamie S. Segall

MAMIE S. SEGALL
Special Assistant
Attorney General

Environmental Protection Division

MSS:jo
Enclosure

RECEIVED
ATTORNEY GENERAL'S OFFICE

MAR 25 1987

204 ADMINISTRATION BLDG
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing Petitions and the Management of Hazardous Waste from Small Quantity Generators, Minn. Rules Pts. 7045.0075, 7045.0219, 7045.0261, 7045.0292, and 7045.0381

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION

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 Solicit Outside Opinion (10 S.R. 2516, June 16, 1986) as the person to receive comments on the Agency's intent to adopt rules concerning the above-entitled subject.

2. That the comment period set forth in the notice terminated at 4:30 p.m. on July 16, 1986.

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

Carol R Nankivel

Subscribed and sworn to before me
this 24 day of March, 1987.

Cynthia B Gillingham
Notary Public

CYNTHIA B. GILLINGHAM
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My commission expires 10-3-91

CERTIFICATE OF MINNESOTA POLLUTION CONTROL 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 25th day of November, 1986, 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 and directed to give notice of the MPCA's intent to adopt without a public hearing the attached amendments to the MPCA's hazardous waste rules governing petitions for alternate manifests and the management of hazardous waste from small quantity generators, Minn. Rules pts. 7045.0075, 7045.0219, 7045.0261, 7045.0292, and 7045.0381 to all persons who have registered their names with the MPCA for that purpose and publish the notice and the rule amendments in the State Register, and to perform any and all 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 (1985 supp.).

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 22nd day of January, 1987.

Thomas J. Kalitowski
Executive Director

Pollution Control Agency

Proposed Permanent Rules Relating to Small Quantity Generators

Rules as Proposed

7045.0075 PETITIONS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Petition for use of alternate manifest.** A person who meets the criteria in item A may submit a petition to the director for approval of the use of an alternate manifest system as described in item B. The criteria the director shall use in determining whether to approve the use of the alternate manifest system are provided in item C.

A. Only persons meeting the following criteria are eligible to file a petition under this subpart:

(1) the person proposing to use the alternate manifest system must agree to only use the alternate manifest for the transportation of waste from small quantity generators;

(2) the person proposing to use the alternate manifest system must agree to only use the alternate manifest for waste that will be reclaimed under a contractual agreement specifying the type and frequency of waste shipments; and

(3) the person proposing to use the alternate manifest system must own and operate the recycling facility to which the waste is proposed to be transported, and must also own the vehicle to be used in transporting the waste to the recycling facility and in delivering reclaimed material back to the generator.

B. Upon approval, an alternate manifest system may be used in lieu of the manifest system described in parts 7045.0261 to 7045.0265. The director shall only approve alternate manifest systems meeting the following criteria:

(1) The alternate manifest system must include a manifest form to be used by the generator to notify the director each time waste is transported under this subpart. The manifest

form must include: a space for the generator's name, mailing address, telephone number, and United States Environmental Protection Agency identification number; a space for the transporter's name and United States Environmental Protection Agency identification number; a space for the name, address, telephone number, and United States Environmental Protection Agency identification number of the recycling facility; a space for the United States Department of Transportation shipping name, hazard class, and identification number of the waste as specified in the United States Department of Transportation Code, title 49, parts 171 to 179; a space for the number and type of containers and total volume of the waste being shipped; a space for the waste identification number as specified in part 7045.0131, 7045.0135, or 7045.0137; a space for the signature of the generator or the generator's authorized representative affirming the correctness of the information; the mailing address of the director; and a statement advising the generator to complete the form and submit it to the director within five working days of transporting waste.

(2) The alternate manifest system must provide for the petitioner's submittal, on a monthly basis, of summaries of the names and identification numbers of generators who transported wastes using the alternate manifest and the volume and number of containers of each waste type shipped by each generator.

(3) The alternate manifest system must allow generators the option of using the manifest system provided in parts 7045.0261 and 7045.0265 in lieu of the alternate manifest system.

C. To obtain the director's approval of the alternate manifest system, the petitioner must:

(1) submit information demonstrating that the petitioner meets the criteria in item A;

(2) submit information demonstrating that the proposed alternate manifest system meets the criteria in item B; and

(3) submit information demonstrating the effectiveness and reliability of the alternate manifest system, including the following: information on the waste that will be managed and the general type of customers who will be using the alternate manifest system; information on the type of recyling service provided by the petitioner and a description of the petitioner's recycling facility; information on the type of vehicle to be used and the system to be used to pick up and deliver waste from the generator to the petitioner's recycling facility; and a discussion of the measures to be taken to educate generators on the use of the alternate manifest and their responsibilities as waste generators.

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. [Unchanged.]

Subp. 2. **Exemption.** A generator maintaining small quantity ~~generator's hazardous wastes are not subject to the~~ generator status is only required to comply with the generator requirements of parts 7045.0205 to 7045.0304 ~~and a hazardous waste facility permit if the generator complies with the requirements of this part~~ as provided in subpart 5.

Subp. 3. **Excessive generation.** Except as provided in item B, if the quantity of hazardous waste generated in any calendar month exceeds the quantities listed in subpart 1, the small quantity generator ~~becomes a~~ loses small quantity generator status and thereafter is subject to all the generator requirements of this chapter.

A. Once small quantity generator status is lost, the generator shall not regain that status until the generator is notified in writing by the director that small quantity generator status has been approved. The director shall only approve small quantity generator status under this subpart if the generator can demonstrate to the satisfaction of the director that the waste quantities that will be generated in the future will meet the limits established in subpart 1. The

generator shall make this demonstration by submitting a written statement to the director requesting reclassification as a small quantity generator and including the information necessary for the director to evaluate the request. The information shall include an explanation of the circumstances that resulted in each instance of overgeneration during the past year; an explanation of the measures that the generator has taken to correct the cause of overgeneration; and other information as may be necessary to document that the overgeneration will not reoccur.

B. If the quantity of hazardous waste generated in any calendar month exceeds the quantities listed in subpart 1 and the cause of the overgeneration is a spill or accidental release of a hazardous waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E; the shut-down or cleanup of some part of the generation process; or the replacement of PCB containing equipment, the small quantity generator loses small quantity generator status and is subject to all the generator requirements of this chapter. However, in any of these cases, a generator will automatically regain small quantity generator status without applying to the director for approval if the generator:

(1) resumes generation within the quantity limits in subpart 1; and

(2) complies with the quantity limits in subpart 1 during the other eleven months of the calendar year.

A generator who cannot automatically regain small quantity generator status under this subpart may apply for reclassification under item A.

C. Wastes accumulated when small quantity generator status is lost are ineligible for management under part 7045.0219 and must be managed in accordance with the generator requirements in this chapter, regardless of the cause of the excessive generation.

Subp. 4. **Accumulation on-site.** A small quantity generator who does not have a permit or interim status may accumulate

hazardous waste on-site~~.~~ under the following conditions: if the quantity of hazardous waste accumulated at any time exceeds the quantities ~~listed in subpart 1~~ set forth in item A or B, whichever applies, the small quantity generator must manage all of the accumulated waste ~~according to~~ in accordance with all the generator requirements ~~of this chapter~~ set forth in parts 7045.0205 to 7045.0304, excluding this part, but does not lose the small quantity generator status. ~~The time period of part 7045.0292, subpart 1, item A for accumulation of wastes on site for a small quantity generator begins when the accumulated wastes exceed the applicable exclusion level.~~

A. The following provisions apply to waste not listed as acute hazardous waste:

(1) A small quantity generator who in a calendar month generates at least 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site for 180 days or less if the quantity of waste accumulated on-site never exceeds 3,000 kilograms and the small quantity generator meets all the requirements of subpart 5. For purposes of this subitem, the time period for accumulation begins when the generator begins accumulation in a container or tank.

(2) A small quantity generator who in a calendar month generates less than 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site indefinitely until 1,000 kilograms of waste are accumulated, at which point the small quantity generator may only store the waste on-site for a period of 180 days following the date the 1,000 kilogram limit is reached. A small quantity generator accumulating waste under this subitem must meet the requirements of subpart 5, except for subpart 5, item B, subitems (2) to (5).

(3) If waste accumulated under item A, subitem (1) or (2) must be transported 200 miles or more to a facility, the small quantity generator may store the wastes for an additional 90 days beyond the established limits. In this

event, the small quantity generator must maintain evidence on-site that arrangements have been made for the transport of the waste to the facility and, if requested, show the evidence to the director.

B. The following provisions apply to waste listed as acute hazardous waste: a small quantity generator who generates waste listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site indefinitely until the limit of subpart 1, item B or C is met, at which point the small quantity generator must manage the waste on-site in accordance with all the generator requirements in parts 7045.0205 to 7045.0304, excluding this part. Until then, a small quantity generator accumulating wastes under this item must meet the requirements of subpart 5, except for subpart 5, item B, subitems (2) to (5).

Subp. 5. **Management requirements.** **A**

A. Small quantity ~~generator~~ generators shall comply with the following requirements of this chapter:

~~A.~~ (1) parts 7045.0214 to 7045.0217;

~~B.~~ (2) parts 7045.0220 to 7045.0255 except part 7045.0230, subpart 1, item G;

~~C.~~ (3) parts 7045.0261 ~~and 7045.0265~~ to 7045.0290, except that an alternate manifest system may be used if the director approves such system under part 7045.0075, subpart 5;

~~D. parts 7045.0275 and 7045.0290;~~

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

~~F.~~ (5) parts 7045.0294 to 7045.0302;

(6) parts 7045.0566 and 7045.0568; and

(7) parts 7045.0626 and 7045.0628.

B. Unless explicitly exempted under subpart 4, all small quantity generators must also comply with the following requirements:

(1) Small quantity generators shall label all containers and tanks in a manner generally identifying their

contents to employees and emergency personnel. The labels must contain an easily understood description of the waste.

(2) Small quantity generators shall ensure that there is available at all times at least one employee responsible for coordinating all emergency response measures provided in subitem (5). This employee, identified as the emergency coordinator, must be either on the generator's premises or available to respond to an emergency by reaching the premises within a short period of time.

(3) Small quantity generators shall post the following information next to the telephone on the premises: the name and telephone number of the emergency coordinator; the location of fire extinguishers and spill control material, and, if present, the fire alarm; and the telephone number of the fire department, unless there is a direct alarm.

(4) Small quantity generators must ensure and document that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

(5) The emergency coordinator or a designee must respond to any emergencies that arise. Appropriate responses include: in the event of a fire, call the fire department or try to extinguish the fire by using a fire extinguisher; in the event of a spill, contain the flow of hazardous waste to the extent possible and as soon as practicable, clean up the hazardous waste and any contaminated materials or soils; in the event of a fire, explosion, or other release that could threaten human health outside the premises or when the generator has knowledge that a spill has reached surface water, the generator must immediately comply with part 7045.0275, subparts 2 and 3 and notify the National Response Center using their 24-hour toll-free number (800) 424-8802 and provide the name, address, identification number of the generator, date, time, type of incident, and the estimated quantity and disposition of any recovered materials.

(6) If waste generated by a small quantity generator is transported using an alternate manifest for waste transport as provided in part 7045.0075, subpart 5, the small quantity generator shall maintain a copy of the reclamation and transport agreement during the term of the agreement and for a period of at least three years after termination or expiration of the agreement.

(7) For each shipment of waste using an alternate manifest for waste transport as provided in part 7045.0075, subpart 5, the small quantity generator shall submit a completed copy of that alternate manifest to the director within five working days of the transporter's acceptance of the waste shipment.

~~G.~~ (8) The small quantity generator shall 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)~~ permitted to accept hazardous waste under the agency's permitting procedures; or ~~(2)~~ in interim status under parts 7045.0552 to 7045.0642; or ~~(3)~~ authorized to manage hazardous waste by the Environmental Protection Agency or by a state with a hazardous waste management program authorized by the Environmental Protection Agency; or ~~(4)~~ a facility which in accordance with part 7045.0125 beneficially uses or reuses, or legitimately recycles, or reclaims the waste or treats the waste prior to beneficial use or reuse, or legitimate recycling or reclamation~~;--or~~.

~~(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.~~"

C. A contingency plan meeting the requirements of part 7045.0466 may be used to fulfill the requirements of item B, subitems (2) to (5).

Subp. 6. [Unchanged.]

7045.0261 MANIFEST DOCUMENT; GENERAL REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Designation of facility.** A generator must designate on the manifest either one facility which is permitted to handle the waste described on the manifest or one facility which in accordance with part 7045.0125 beneficially uses or reuses, or legitimately recycles, or reclaims the waste or treats the waste ~~prior to~~ before beneficial use or reuse, or legitimate recycling or reclamation. ~~A small quantity generator may, in the alternative, designate another site belonging to the same owner for consolidation of shipments providing the receiving site complies with parts 7045.0205 to 7045.1030.~~

Subp. 3. to 10. [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 H. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

7045.0381 USE OF MANIFEST.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Use of an alternate manifest.** Transporters who transport hazardous waste accompanied by an alternate manifest as provided in part 7045.0075, subpart 5 must:

A. for each shipment, record on a log or shipping paper the name, address, and United States Environmental Protection Agency identification number of the waste generator, the quantity of waste accepted, all United States Department of

Transportation shipping information, and the date the waste was accepted;

B. carry the information required in item A when transporting waste to the reclamation facility; and

C. maintain a copy of the information required in item A and the reclamation agreement during the term of the agreement and for three years after termination or expiration of the agreement.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Small Quantity Generators

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7045

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Adoption of Rules of
the State of Minnesota
Governing the Management
of Hazardous Waste from
Small Quantity Generators

NOTICE OF INTENT TO
ADOPT A RULE WITHOUT
A PUBLIC HEARING

Notice is hereby given that the State of Minnesota intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28.[1] The statutory authority to adopt the rules is Minn. Stat. § 116.07, subd. 4 (1984).

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Interested persons have until 4:30 p.m. on January 21, 1987 to submit comments on the proposed rules. Comment is encouraged.[2] Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.[3]

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing.[4] Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed.[5] If a public hearing is required, the Minnesota Pollution Control Agency (MPCA) will proceed pursuant to

Minn. Stat. §§ 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Carol Nankivel
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
520 Lafayette Road
St. Paul, Minnesota 55155

The proposed rules may be modified if the modifications are supported by data and views submitted to the MPCA and do not result in a substantial change in the proposed rules as noticed.

The rules follow this notice. One free copy of the rules is available on request from the MPCA. Contact Carol Nankivel at 612/296-7260 or at the address listed above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is also available from Carol Nankivel upon request at 612/296-7260 or at the address listed above.

You are hereby advised pursuant to Minn. Stat. § 14.115 (supp. 1985), "Small business considerations in rulemaking," that the proposed amendments will have a minimal impact on small businesses. Since most aspects of the amendments are already required under the federal hazardous waste program, the MPCA is merely adopting as State rules the regulations already in effect on the federal level. The provisions which are not based on federal requirements and which are more stringent than the existing State rules only address the requirement that small quantity generators comply with the pretransport requirements to label, mark and placard waste before shipment and to generally identify the contents of waste containers during the accumulation period. These additional requirements are not expected to impose a significant burden on small businesses.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rules, must submit the written request to Carol Nankivel at the address listed above.

Date: DEC 08 1986

Thomas J. Kalitowski
Executive Director

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Management of Hazardous Waste From Small Quantity Generators, Minn. Rules Pts. 7045.0075, 7045.0219, 7045.0261, 7045,0292, and 7045.0381

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The subject of this proceeding is the amendment of the rules of the Minnesota Pollution Control Agency (hereinafter "Agency") governing the management of hazardous waste from small quantity generators. The amendments are based in part on amendments promulgated by the U.S. Environmental Protection Agency (hereinafter "EPA") under the Hazardous and Solid Waste Amendments of 1984 (hereinafter "HSWA"), Public Law 98-616 (Exhibit 1). The federal small quantity generator requirements were proposed in the August 1, 1985 Federal Register (50 FR 31277-31306) (Exhibit 2) and published as final rules in the March 24, 1986 Federal Register (51 FR 10146-10176) (Exhibit 3).

The Agency is also proposing changes to Minn. Rules pt. 7045.0075 (Petitions) and Minn. Rules pt. 7045.0219 (Special Requirements for Small Quantity Generators of Hazardous Waste) which are not based on the federal regulations but which are the result of suggestions and comments by the public.

These rules are proposed for amendment pursuant to the Agency's authority under Minn. Stat. § 116.07, subd. 4 (supp. 1985).

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 an explanation of the reasonableness of the

proposed amendments. Pursuant to the requirements of Minn. Stat. § 14.115 (supp. 1985), Part IV documents how the Agency has considered the methods of reducing the impact of the proposed amendments on small businesses. Part V contains a list of the exhibits relied on by the Agency to support the proposed amendments. The exhibits are available for review at the Agency's offices at 520 Lafayette Road, St. Paul, Minnesota 55155.

II. 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 an agency is appropriate.

Need is a broad test that does not easily lend itself to evaluation of each proposed revision. In the broad sense, the need for amendments to the Agency's rules governing the management of hazardous waste from small quantity generators has two bases: the need for consistency with the federal hazardous waste regulations and the need for rules which provide an acceptable level of protection for human health and the environment without unduly restricting normal business practices.

A. Need for Consistency with Federal Regulations.

In 1976, Congress adopted the Resource Conservation and Recovery Act (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 EPA to grant authority to states to operate the program. In states that receive authorization, the state environmental agency administers the state program in lieu of the federal program. To receive and maintain authorization, the state program must be "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 pursuant to the 1976 and 1980 RCRA amendments from EPA effective February 11, 1985. See 50 FR 3756 (January 28, 1985). A state with final authorization administers its hazardous waste program in lieu of the EPA program for those regulations which were promulgated pursuant to RCRA as adopted in 1976 and as amended in 1980.

However, the authorization did not extend to those requirements promulgated pursuant to HSWA. A state must obtain authorization specifically under HSWA. Before the Agency can apply for authorization under HSWA, any rule amendments intended to maintain equivalency to the federal program must be in effect in Minnesota. The existing federal regulations establish specific time frames for the adoption of state rules intended to maintain equivalency to the federal

rules.

Although federal regulations promulgated under RCRA are not in effect in Minnesota until the state rules are amended to incorporate the federal changes, federal regulations promulgated under HSWA go into effect in all states on the federal effective date regardless of the state's authorization status or the fact that the existing state rules have not been amended to reflect the federal program.

The federal regulations governing small quantity generators were promulgated under HSWA and have been in effect in Minnesota since September 22, 1986. At this time, small quantity generators in Minnesota must comply with the most stringent aspects of the state and federal regulations. Therefore, there is a need to incorporate the more stringent portions of the federal regulations into the state rules to eliminate the dual regulation that currently exists.

Although some aspects of the existing state program are more stringent than the federal requirements and states are not required to adopt less stringent federal standards, the Agency believes it is important to maintain as much consistency as possible between Minnesota's rules and the federal program. The need to comply with multiple sets of rules makes compliance difficult for generators who must frequently transport their waste to other states for final disposal. Therefore, to the extent it can be accomplished without posing a threat to human health and the environment, amendment of Minnesota's hazardous waste rules to incorporate EPA's amendments is desirable.

B. Need for Managing Hazardous Waste Consistent with the Protection of Human Health and the Environment.

The amendments to the Minnesota hazardous waste rules include provisions protective of human health and the environment by expanding some aspects of the requirements for the management of hazardous waste from small quantity generators beyond the level required by the federal regulations. The amendments retain most of the current State provisions, including requirements for disclosures, identification numbers, spill management, containers, record keeping and annual reporting. These State requirements, in additional to the federal requirements, provide more complete management of hazardous wastes to minimize the potential for harm to human health and the environment.

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

The Agency is required by Minn. Stat. ch. 14 (supp. 1985) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules or amendments. 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.

Although no official comments were received in direct response to the Agency's Notice to Solicit Outside Opinion on the small quantity generator amendments, as published in the June 16, 1986 State Register, the Agency has been asked to consider reductions in the level of regulation of small quantity generators. Members of the regulated community in Minnesota have requested that

the Agency specifically provide a reduction in the requirements for the use of a hazardous waste manifest under certain conditions (Exhibits 4, 5, 6 and 7). A number of comments and suggestions which support the amendments discussed in this Statement of Need and Reasonableness were provided in the Agency's discussions with the public. A public meeting was held on July 25, 1986 and the opportunity for further discussion was provided at meetings of the Agency Rules Committee on August 25, 1986 and October 27, 1986.

A. Minn. Rules Pt. 7045.0075 (Petitions).

The State rules currently require that all hazardous waste be accompanied by a manifest when it is transported and do not provide any exception to this requirement for small quantity generators. The federal regulations do not require the use of a hazardous waste manifest for transporting waste for conditionally exempt generators (1 to 100 kilograms per month) and provide a conditional exemption from manifest use for small quantity generators (100 to 1,0000 kilograms per month) whose waste is being reclaimed under a contract with a facility that also owns and operates the transport vehicle and meets certain other record keeping requirements.

The Agency does not believe the adoption of the federal exemption is reasonable because it does not provide a sufficient level of assurance to the Agency or the waste generator that the waste is being properly managed. The full exemption would enable the generator, transporter and recycling facility to transport and manage hazardous waste without being required to notify the Agency or each other of their activities. The Agency would only receive information on the management of conditionally exempt small quantity generator's waste when

annual reports are submitted and would have no way to verify the information provided by the generator. Additionally, the waste generator would not receive any notification that the wastes shipped were actually received at the designated facility. The Agency does not believe that the federal exemption provides a reliable means of regulating a significant portion of Minnesota's hazardous waste stream.

However, the Agency has received comments indicating that some reduction in manifest requirements is appropriate to relieve some of the burden of compliance for small quantity generators. The Agency agrees that it is reasonable to reduce some aspects of hazardous waste regulation in recognition of the particular concerns of small quantity generators. The Agency has developed a compromise between the use of the full hazardous waste manifest and the federal exemption which addresses the concerns of the regulated community while still providing adequate tracking of waste transport.

The Agency is amending Minn. Rules pt. 7045.0075 to add a subpart addressing the requirements to obtain approval to use an alternate manifest for the transport of hazardous waste from small quantity generators to a recycling facility. A procedure is provided for the owner or operator of the facility and transport vehicles to petition the director for a reduction in the manifest requirements. It is reasonable to restrict the use of the petition process to the owners or operators of the recycling facility and the transport vehicles because these aspects of the management system have the most control over the waste and can provide the most assurance that the alternate system will provide acceptable tracking.

The conditions established under the federal regulations limit the opportunity for reduced manifest requirements to the contract transport of hazardous waste from generators of less than 1,000 kilograms a month to a recycling facility by means of vehicles owned and operated by the same company as the recycling facility. These conditions from the federal regulations are specified in the amendments in order to be equivalent with the federal program.

The amendments additionally require that the petitioner provide the generator with the option of using the full manifest if requested and that the petitioner provide monthly reports to the Agency summarizing the waste transport activities of that month. These additional requirements are reasonable because they provide two important components of the tracking system that would not be otherwise addressed unless the full manifest is used. The requirement for the recycler's monthly report to the director will provide the Agency with reasonably current information regarding waste transport activities. Without this requirement the Agency would only be notified of waste transport through the generators notice and would only be able to verify the generators data when the recycling facility submitted an annual report. The Agency believes that a one-year time lapse in notification is unacceptable for tracking waste movement. Mismanagement of the waste would not be detected until the annual report is submitted and verified, and timely enforcement actions could not be instituted to correct the situation. The monthly reporting requirement represents a reasonable compromise between immediate notification, as is provided with the use of the full manifest, and the once a year notification provided under the federal regulations.

The requirement that the petitioner provide the generator with the option of using the full manifest is reasonable because it provides generators with the assurance that they need not relinquish control of their hazardous waste under conditions providing less than the maximum level of surveillance.

The amendments establish requirements for the information required to be provided on the generator's notification to the director. The amendments require a generator using an alternate manifest system to notify the director of waste transport within five working days of each waste shipment. Because this notification is provided in lieu of the manifest, it represents the most immediate source of information to the Agency regarding the waste shipment and can be used to verify the information submitted by the facility in the monthly report. Therefore, it is reasonable to require that the notification include specific information regarding the type and quantity of waste being shipped and also adequately identify the generator shipping the waste, the transporter and the facility to which it is being shipped. The information required to be provided on the alternate manifest notification form corresponds to much of the information required on the actual manifest. It is reasonable to provide a similar level of detail because the intent and function of both systems are the same.

The amendments also require that the generator's notification form provide the mailing address of the Agency and a statement directing the generator to submit the form to the director. This is reasonable because it provides additional assistance to the generator who may be unfamiliar with the operation of an alternate system.

Subpart 5, item C of the amendments also require that the petitioner provide the director with specific information relating to the use of the alternate manifest system. It is reasonable to require such information in order for the director to evaluate whether the alternate system will provide an adequate level of waste tracking and environmental protection. The director must consider all parts of the management system in making the decision to allow the reduction in manifest requirements. This includes evaluation of the generator and type of waste in question, the transportation aspect and the operation of the facility which will be actually recycling the waste.

The amendments also require that the petitioner provide a discussion of the educational efforts that will be made to help generators adjust to the use of an alternate manifest system. It is reasonable to require that the petitioner provide information to the generators who will be affected by the new system. Generators who contract with a company using an alternate manifest are still responsible for the proper management of the waste to the same extent as if a full manifest was being used. However, because the alternate manifest represents a reduction in regulation, the generator may believe that there has been some corresponding reduction in responsibility. Because of the potential for misunderstanding and because of generator's unfamiliarity with the alternate manifest system, it is reasonable to require that some measures be made to educate generators. It is reasonable to require evidence of these educational efforts as part of the evaluation of the effectiveness of the entire system.

B. Minn. Rules Pt. 7045.0219 (Special Requirements for Small Quantity Generators.

The Agency is amending Minn. Rules pt. 7045.0219 to incorporate the requirements of the federal small quantity generator regulations and in response to comments received.

The amendments to subp. 2 only rephrase the requirements that apply to small quantity generators. This amendment does not change the effect of this subpart but is reasonable because it eliminates a source of confusion regarding the requirements that apply to small quantity generators.

Subpart 3 is amended to provide a mechanism for generators who generate waste above the specified small quantity generator levels to regain their small quantity generator status. Under the federal program, generators who exceed the small quantity generator limits one month may automatically regain their small quantity generator status the next month by simply determining that they will not again exceed the generation limits. The federal regulations do not require the generator to take any action to be reclassified and allow for month to month changes in the generator's status. The State rules do not currently allow small quantity generators to determine their status on a monthly basis. The existing State rules address the consequences of over-generation by providing that, once the generation limits have been exceeded, the generator is then subject to regulation as a full-scale generator. The Agency maintains its position that it is not reasonable to allow generators to routinely change their status on a monthly basis. However, the Agency recognizes that there are legitimate situations where the generator should be reclassified as a small quantity generator. In order to address these situations, subp. 3 is amended to require that generators who wish to be reclassified must provide a demonstration of

their eligibility to the director. The amendments establish the criteria which the director will consider in the decision to reclassify a generator. These criteria are reasonable because they will enable the director to evaluate the nature of the over-generation and to determine whether or not the over-generation is likely to recur.

The amendments specify three sets of circumstances of over-generation which will result in the loss of small quantity generator status but that do not require a demonstration by the generator to regain the original status as a small quantity generator. Although the generator must comply with the requirements for a full-scale generator for the management of the waste, the amendments provide for automatic reclassification. It is reasonable to provide for automatic reclassification for certain circumstances in order to relieve the burden on Agency staff time in evaluating and approving requests. Reclassification as a small quantity generator is automatically granted if the over-generation is a result of a spill, the result of cleanup activities, or caused by the replacement of PCB containing equipment and it occurs in only one month per calendar year. In these cases there is no need to provide the director with evidence to evaluate the short-term nature of the situation.

Subpart 4 addresses the accumulation of waste by small quantity generators. The existing rules only allow waste accumulation for 90 days after the applicable exclusion levels have been exceeded. This existing 90-day limit and the accumulation start date are the same for all small quantity generators, regardless of the amount or type of waste generated.

The federal regulations provide for different accumulation start dates and

accumulation periods depending on the amount of waste generated and the nature of the waste. In order to maintain consistency with the federal regulations and to eliminate confusion for the regulated community, the amendments parallel the federal regulations in regard to the accumulation start date and the accumulation period, and apply as follows.

Small quantity generators who generate more than 100 kilograms per month of waste that is not acute hazardous waste may accumulate waste for a period of 180 days from the start of waste accumulation. Small quantity generators who generate 100 kilograms or less per month of waste that is not acute hazardous waste may accumulate waste for 180 days from the date that the amount of accumulated waste exceeds 1,000 kilograms.

Acute hazardous waste may be accumulated for a period of 90 days after the accumulation limits are reached. The accumulation limits for acute hazardous waste are the same as the monthly generation limits, 1 kilogram for the waste and 100 kilograms for residues or contaminated material resulting from a spill of the waste.

The federal regulations also provide for accumulation of a total of 6,000 kilograms of hazardous waste. The existing State rules do not specify an accumulation limit. However, 4,000 kilograms is the maximum amount that could be accumulated during the time currently allowed for small quantity generators. This represents the maximum accumulation rate of 1,000 kilograms per month for a period of 90 days after the initial 1,000 kilograms are accumulated. The amendments are more stringent than the federal regulations and only allow the accumulation of 3,000 kilograms of hazardous waste. In the development of the

amendments, concerns were raised regarding the potential risk of storing large amounts of hazardous waste at an unlicensed facility for a period that could extend to six months or longer. The Agency believes that 6,000 kilograms is an unreasonably large volume of waste to accumulate under the requirements of the small quantity generator rules. Input from the regulated community provided the information that ten barrels is frequently the smallest unit of hazardous waste that can be contracted for transport to a facility. The Agency believes that it is reasonable to limit the amount of waste that can be accumulated to an amount generally corresponding to this ten barrel limit and have established 3,000 kilograms as the maximum amount that can be accumulated. This amount of waste significantly reduces the potential risks during storage and still provides a reasonable amount of waste accumulation to minimize the costs associated with waste transport and disposal.

Subpart 4 also provides for an additional 90-day accumulation period for small quantity generators of waste that is not acute hazardous waste who must transport their hazardous waste 200 miles or more to a treatment, storage or disposal facility. This additional time period is provided in the federal regulations and is being included in the amendments in response to comments received. This additional accumulation time represents a relaxation of the existing State rules. However, members of the regulated community indicated that the additional 90 days would be a significant benefit for small quantity generators who frequently encounter delays in arranging for disposal of waste. Because Minnesota has very few facilities for hazardous waste treatment, storage and disposal, most small quantity generators will qualify for the 200 mile

transport extension. The amendments are more restrictive than the federal regulations in that they require the generator to maintain evidence on-site that arrangements have been made to transport the waste to a facility beyond the 200 mile limit. This is a reasonable requirement to allow inspectors to determine that the additional accumulation time is justified.

The amendments to subp. 4 provide a reduction in one aspect of regulation for generators of less than 100 kilograms of hazardous waste a month. Generators of less than 100 kilograms a month are not required to comply with the federal emergency requirements although they must still meet the management requirements that have always been imposed by the State rules. The federal regulations provide a total exemption from regulation for this category of generators, including a full exemption from manifest use and the requirement to dispose of waste at a hazardous waste disposal facility. The State rules have never provided these exemptions to small quantity generators and the Agency believes it is not reasonable to provide them at this time. The waste from small quantity generators makes up a significant portion of the hazardous waste generated in Minnesota and would be a serious environmental concern if it was exempted from regulation. However, the Agency agrees that certain reductions in regulation are appropriate and are providing the same exemption from the emergency requirements as is provided under the federal program.

Subpart 5 establishes the management requirements for small quantity generators. Item A, subitems 1 to 5 are essentially the same as the current State rules. Former item D has been deleted but the requirements of this item have been incorporated into the amended item A, subitem 3. These requirements were formerly presented as two separate items because the rules did not require

compliance with Minn. Rules pt. 7045.0270 regarding pretransport requirements. However, as a result of comments received supporting the application of Minn. Rules pt. 7045.0270 to small quantity generators, the amendments now require compliance with Minn. Rules pt. 7045.0270 and therefore the entire sequence of rules from Minn. Rules pts. 7045.0261 through 7045.0290 can be cited.

The application of the pretransport requirements of Minn. Rules pt. 7045.0270 has been the subject of frequent discussions and misunderstanding between the Agency and the regulated community. The requirements of Minn. Rules pt. 7045.0270 require marking, labeling, packaging and placarding of waste before transport, and also the labeling of storage tanks. Although the labeling, marking, packaging and placarding requirements of Minn. Rules pt. 7045.0270 were not previously required of small quantity generators as a condition of the small quantity generator rule (Minn. Rules pt. 7045.0219), they have always been required as conditions of the Department of Transportation requirements for the transportation of hazardous waste. Small quantity generators were required to meet the Department of Transportation requirements under the former item H of subp. 5. The Agency received input at the meetings of the Agency Rules Committee indicating that Minn. Rules pt. 7045.0270 should be required of small quantity generators. It is reasonable to remove this source of confusion by clearly placing the responsibility for the pretransport requirements on the generator and citing Minn. Rules pt. 7045.0270 in the rule.

Subpart 5, item A, subitem 3 also allows for an exception to the manifest requirements as provided in Minn. Rules pt. 7045.0075, subp. 5. The amendments require that all small quantity generators use a hazardous waste manifest for

transporting their waste. The federal regulations exempt generators of less than 100 kilograms a month from the manifest requirements and provide a conditional exemption for generators of between 100 and 1,000 a month. The amendments do not provide a manifest exemption to the same extent as the federal regulations. However, Minn. Rules pt. 7045.0075, subp. 5 provides for reduced manifest requirements under certain circumstances. It is reasonable to provide a notice of the exception to the manifest requirements at this point in the rules so that the regulated community is aware that the option exists. The exemption to the manifest requirements is more thoroughly discussed in section A of this Statement of Need and Reasonableness.

Amended subp. 5, item A, subitem 4 requires compliance with Minn. Rules pt. 7045.0292, subp. 1, items C to F. The existing rule requires compliance with items D to G of Minn. Rules pt. 7045.0292, subp. 1. Minn. Rules pt. 7045.0292 addresses the accumulation of hazardous waste by generators.

The amendments are adding a requirement to comply with item C, which requires that containers be marked with the date upon which each period of accumulation begins, or in the case of tanks, that a record be kept of the accumulation start date, and that containers and tanks be marked with the words "Hazardous Waste." It is reasonable to require the marking of the accumulation start date in order for inspectors to determine compliance with the 180-day accumulation period.

The requirement to mark containers with the words "Hazardous Waste" was previously stated under the former item J of Minn. Rules pt. 7045.0219, subp. 5, which is now deleted. It is reasonable to extend this marking requirement to

include tanks containing hazardous waste because the same concerns exist for tanks as for containers. It is reasonable to identify tanks and containers so that they can be readily inspected and handled in accordance with the hazardous waste requirements.

The requirement to comply with item G of Minn. Rules pt. 7045.0292, subp. 1 has been deleted because it is made unnecessary by the addition of the new item A, subitem 7 to subp. 5 of Minn. Rules pt. 7045.0219. The deleted provision required shading of ignitable wastes. However, this requirement is addressed under Minn. Rules pt. 7045.0626, Use and Management of Containers and is further discussed below. It is reasonable to delete it to avoid duplication of requirements.

Items A, subitems 6 and 7 add requirements for compliance with Minn. Rules pts. 7045.0566, Preparedness and Prevention, 7045.0568, Arrangements with Local Authorities for Emergencies, 7045.0626 Interim Status Use and Management of Containers, and 7045.0628, Interim Status Tanks. These rules correspond to the more stringent requirements now included in the federal regulations and are reasonable in order to maintain equivalency with the federal program.

Two minor requirements of Minn. Rules pt. 7045.0626 are more stringent than the requirements of the federal regulations. Subpart 4 requires shading of containers if direct sunlight could create a storage problem. This requirement has always been applied to outdoor container storage through operation of Minn. Rules pt. 7045.0292, subp. 1, item G, and does not represent a change in regulation.

Minn. Rules pt. 7045.0626, subp. 8 addresses the closure of container

storage facilities and the cleanup and removal of contaminated containers, liners, bases and soils in the storage area at the time of closure. Although it is not anticipated that containers will present a contamination threat during the 180-day accumulation period, it is reasonable to retain this provision for proper cleanup in the event that problems develop.

Subpart 5, item B, subitem 1 requires that containers and tanks be labeled in a manner to generally identify the contents to employees, inspectors and emergency personnel. This requirement is imposed in response to comments received stating that the current level of hazardous waste identification is inadequate. Commenters cited the need for emergency personnel and employees to be able to identify the contents of containers and tanks. Although containers and tanks are required to be marked with the words "Hazardous Waste," this requirement does not fully address the needs of the individuals who must deal with the waste. Emergency personnel will benefit from the knowledge that the container holds hazardous waste but will be additionally benefitted by the knowledge that the container holds spent solvents, solder scrap or waste acid. The need to provide a general characterization will not present a burden to the generator and will provide an additional measure of safety for the management of hazardous waste, especially because wastes may be accumulated for three times as long as was previously allowed.

Subpart 5, item B, subitems 2 through 5 are based on the federal regulations and address the designation of an emergency coordinator and appropriate responses to emergency situations. The State rules do not currently contain any provisions that parallel these federal requirements so it was not

possible to reference existing rule language. It is reasonable to incorporate the federal language entirely into the amendments in order to keep the State rules equivalent to the federal regulations. Compliance with these requirements is not required under the federal regulations or the amendments for small quantity generators of acute hazardous waste or generators of less than 100 kilograms a month of waste that is not acutely hazardous. These exemptions are provided in subp. 4, item A, subitem 2 and item B.

The federal emergency response requirements have been incorporated verbatim except for one additional requirement in subp. 5, item B, subitem 5. This provision requires that the generator comply with the requirements of Minn. Rules pt. 7045.0275 subp. 2 and 3 regarding duty to report and recover spills. Although the duty to report and recover spills is also required in the management requirements specified in the amendments to Minn. Rules pt. 7045.0219, subp. 5, item A, subitem 3, it is reasonable to repeat the requirement at this point to avoid any confusion regarding the need to contact the National Response Center and the Agency in the event of a spill.

Subpart 5, item B, subitem 6 requires that the generator must maintain a copy of the reclamation and transport agreement if an alternate manifest is used to transport waste. The federal regulations require that this information be maintained in the generator's files for at least three years after termination of expiration of the agreement. It is reasonable to include this requirement in order to maintain consistency with the federal regulations. The amendments additionally require that the agreement also be kept on file during the term of the agreement. Although this is not stated in the federal regulations, it is a

reasonable extension of the federal requirement and will ensure that the contract information is available for review by inspectors at any time during the term of the agreement.

Subpart 5, item B, subitem 7 specifies that the generator must submit a copy of the alternate manifest to the director within five working days of waste shipment. The use of the alternate manifest system is discussed in Section A of this Statement of Need and Reasonableness. The requirement to submit the generator's notification within five days is reasonable because this is the time currently allowed for submittal of the manifest. The Agency's interest in obtaining this information in a timely manner is the same for the full manifest or an alternate manifest so it is reasonable that it be submitted within the same time frames.

Subpart 5, item B, subitem 8 establishes the requirements for the treatment, storage or disposal of waste from small quantity generators. The disposal options are the same as the existing rules except that small quantity generators are no longer allowed the option of consolidating wastes at a central site prior to shipment. This option was previously allowed under the State rules because the previous federal regulations exempted hazardous waste from small quantity generators from the management requirements for hazardous waste, and there was no concern that the State rules would be less stringent. However, the more stringent federal regulations do not allow the consolidation of shipments and therefore, the State rules must be amended to delete this option.

Subpart 5, item C allows for the preparation of a facility contingency plan in lieu of the requirements in item B, subitems 2 through 5. The requirements

for a facility contingency plan are much more extensive than the emergency response requirements for small quantity generators. However, Agency staff received comments indicating that in some cases a small quantity generator may also be a permitted facility and will already have prepared a full contingency plan. Compliance with the emergency response requirements of item B, subitems 2 through 5 would be duplicative in such cases so it is therefore reasonable to waive them when the more extensive information is available.

C. Minn. Rules Pts. 7045.0261 (Manifest Document; General Requirements) and 7045.0292 (Accumulation of Hazardous Waste).

The amendments to Minn. Rules pts. 7045.0261 and 7045.0292 are necessary in order to delete obsolete cross-references to a management option for wastes from small quantity generators. The State rules formerly allowed small quantity generators to consolidate shipments from several points at one location owned by the same generator. This option has been eliminated from the rules as discussed in Section B of this Statement. It is therefore reasonable to delete references to this option where they occur within the rules.

D. Minn. Rules Pt. 7045.0381 (Use of Manifest).

Minn. Rules pt. 7045.0381 is amended to incorporate provisions relating to the waste transporters' responsibilities when an alternate manifest is used in lieu of the full hazardous waste manifest. The use of the alternate manifest is discussed in section A of this Statement of Need and Reasonableness. The requirements for transporters are the same as are required by the federal regulations to qualify for the full federal exemption from manifest use. It is reasonable to require the same transporter requirements to maintain consistency with the federal regulations and to avoid confusion for the regulated community.

IV. CONSIDERATION OF SMALL BUSINESS

Minn. Stat. § 14.115 (supp. 1985) requires Minnesota agencies when proposing amendments to existing rules which may affect small business, to consider the impact of the rule on small business. The objective of Minn. Stat. ch. 116 (supp. 1985) is to protect the public health and welfare and the environment from the adverse effects which will result when hazardous waste is mismanaged. Application of less stringent standards to the hazardous wastes generated or managed by small businesses would be contrary to the Agency's mandate since small businesses' hazardous wastes can cause the same environmental harm as that of larger businesses.

The volume of hazardous waste generated by a business is not directly proportional to the size of the business. Many large businesses generate very small quantities of hazardous waste and conversely, many small businesses will generate a very large volume of hazardous waste. Therefore, it is not fair or reasonable to impose regulations on the basis of the size of the business as this may have little relation to the potential for mismanagement and the extent of the adverse effects on human health and the environment if the waste is mismanaged.

The amendments will impose the same requirements on large businesses as small businesses. However, in many cases, small businesses will also be small quantity generators and will receive the benefits of the reduced requirements. The amendments provide a mixture of additional management requirements for hazardous waste and a reduction in certain aspects of the existing regulations. The major additional requirements being imposed as a result of the amendments

are already in effect in Minnesota as HSWA provisions. Incorporation of these federal provisions into the State rules will not impose any additional requirements on small businesses that are not currently being imposed. The additional requirements imposed by the State in the amendments are relatively minor and will not result in a burden to small quantity generators.

In general, the amendments represent a relaxation of the requirements currently in effect in Minnesota and will reduce the burden on small businesses. The amendments provide for a longer accumulation period, extensions to the accumulation period, reclassification opportunities and a significant reduction in some aspects of the manifest requirements.

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. LISTS OF EXHIBITS

The Agency is relying on the following documents to support these amendments.

Agency Ex. No.	Title
1	Resource Conservation and Recovery Act of 1976, as amended, Hazardous and Solid Waste Amendments of 1984. 42 U.S.C. 2002 (a) et. seq.
2	Federal Register, Vol. 50, No. 148, pages 31277-31306, August 1, 1985

3 Federal Register, Vol 51, No. 56, pages 10146-10176, March 24, 1986.

4 Letter from Sue Ryan representing Safety-Kleen Inc. to Richard Svanda, dated May 13, 1986.

5 Letter from Burton Ericson representing Safety-Kleen Inc. to members of the Agency Rules Committee, dated August 20, 1986.

6 Letter from Burton Ericson representing Safety-Kleen Inc. to Carol Nankivel, dated August 28, 1986.

7 Letter from Burton Ericson representing Safety-Kleen Inc. to Gordon Meyer, dated October 13, 1986.

Date: November 14, 1986

for Barbara Lyday Sims
Thomas J. Kalitowski
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules
Governing the Management of Hazardous
Waste from Small Quantity Generators,
Minn. Rules Pts. 7045.0075, 7045.0219,
7045.0261, 7045.0292, and 7045.0381

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I, Ron Linn, being duly sworn, deposes and says:

That on the 18th day of December, 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to adopt 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 St. Paul, 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 Minnesota Pollution Control Agency for the purpose of receiving notice of the proposed adoption of rules by the Pollution Control Agency.

Ronald Linn

Subscribed and sworn to before me
this 18th day of December, 1986

Maryanne Gibbons

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 Rules
Governing the Management of Hazardous
Waste from Small Quantity Generators,
Minn. Rules Pts. 7045.0075, 7045.0219,
7045.0261, 7045.0292, and 7045.0381

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minn. Stat. § 14.14 (Supp. 1985), that their names be placed on file with 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 8 a.m., this 18th day of December 1986.

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International Paper Company
6075 The Corners Parkway, #108
Norcross, GA 30092
Attn: Wilfred Cote

Interplastic Corporation
2015 Broadway Street, N.E.
Minneapolis, MN 55413
Attn: R. T. McCabe

Interstate Power Company
1000 Main Street
Dubuque, IA 52001
Attn: Harold Faherty

Interstate Power Company
129 North St. Paul Avenue, #246
Fulda, MN 56131
Attn: A. W. Koopman

Jostens
5501 Norman Center Drive
Minneapolis, Minnesota 55437
Attn: Joe Maccani

Kiscaden, Laura
5187 Jamaca Avenue North
Lake Elmo, Minnesota 55042

Kleer-Flo Company
15151 Technology Drive
Eden Prairie, MN 55344
Attn: Wallace Hilgren

Koch Refining Company
Post Office Box 64596
St. Paul, MN 55164
Attn: Thomas Segar

Kolstad Company Inc.
2507 Walnut Street
Roseville, Minnesota 55113
Attn: Bob Burggren

Land O'Lakes, Inc.
Post Office Box 116
Minneapolis, MN 55440
Attn: Inez Lange

Larsen Oil Company
507 Sherman
North Mankato, MN 56001
Attn: Dale Sweet

Larson Boats
702 West River Road
Little Falls, MN 56345
Attn: Allen Kuebelbeck

McLaughlin Gormley King Company
8810 Tenth Avenue North
Minneapolis, MN 55428
Attn: David J. Carlson

Metropolitan Waste Control Commission
350 Metro Square Building
St. Paul, MN 55101
Attn: Rebecca Flood IO

Milwaukee Solvents and Chemicals Corp.
14765 West Bobolink Avenue
Post Office Box 444
Menomonee Falls, WI 53051
Attn: C. A. Douthitt

Minnegasco, Inc.
700 West Linden Avenue
Post Office Box 1165
Minneapolis, MN 55440
Attn: Karen Lampert

Minnegasco, Inc.
601 West 61st Street
Minneapolis, MN 55419
Attn: Paul Deneka

Minnesota Automobile Dealers Association
277 University Avenue
St. Paul, MN 55103
Attn: James Schutjer

Minnesota Chapter of the
Nat'l Solid Waste Management Assoc.
4649 Bloomington Avenue South
Minneapolis, MN 55407
Attn: Mary Ayde

Minnesota Dept. of Natural Resources
Box 10C
500 Lafayette Road
St. Paul, MN 55155 IO
Attn: Charlotte Cohn

Minnesota Dept. of Transportation
3485 Hadley Avenue, North
Box 9050
North St. Paul, MN 55109
Attn: Gary Christiansen

Minnesota Dept. of Transportation
Room 704, Transportation Building
St. Paul, MN 55155
Attn: John Dustman

Minnesota Dept. of Transportation
Room 704 Transportation Bldg.
St. Paul, MN 55155
Attn; Cheryl Heide

Minnesota Plant Food and
Chemical Association
1821 University Avenue, Room 253
St. Paul, MN 55104
Attn: Craig Sallstrom

Minnesota Power
30 West Superior Street
Duluth, MN 55802
Attn: Diane Carlton

Minnesota Service Station Association
2700 North Rice Street
St. Paul, MN 55113
Attn: Brian Ettesvold

Minnesota Solvents and
Chemicals Corporation
2340 Rose Place
Roseville, MN 55113
Attn: A. G. Hale

Minnesota Waste Management Board
7323 58th Avenue North
Crystal, MN 55428
Attn: David Cera

Moersfelder, Edward, Leonard, et al
100 South 5th Street, #1500
Minneapolis, MN 55402

Moss and Barnett
1200 Pillsbury Center
Minneapolis, MN 55402
Attn: Michael Ahern

National Association of
Recycling Industries
330 Madison Avenue
New York, NY 10017
Attn: Paul Parker

National Association of
Solvent Recyclers
1333 New Hampshire Ave., N.W., #1100
Washington, D.C. 20036
Attn: Barbara Barchard

National Solid Wastes
Management Association
1730 Rhode Island Avenue N.W., 10th floor
Washington, D.C. 20036
Attn: Dr. Suellen Pirages

NCR Comten, Inc.
2700 North Snelling Avenue
Roseville, MN 55113
Attn: David Moline

North American Water Office
1519A East Franklin
Minneapolis, MN 55404
Attn: Lea Foushee

Northern States Power Co.
414 Nicollet Mall
Minneapolis, MN 55401
Attn: Robert D. Clough

Northern States Power Company
Env. and Reg. Act. Dept.
414 Nicollet Mall
Minneapolis, MN 55401
Attn: William Libro

Otter Tail Power Company
215 South Cascade
Fergus Falls, MN 56537
Attn: Terry Graumann

Outdoors Committee
Box 88
Longville, MN 56655
Attn: James Shields

Parker Hannifin Corp.
Plews Division
Highway 212
Granite Falls, MN 56241
Attn: Larry G. McLane

Pope-Reid Associates, Inc.
245 East 6th Street, #813
St. Paul, MN 55101
Attn: Robert Reid

Popham, Haik et al
4344 IDS Center
Minneapolis, MN 55402
Attn: James A. Payne

Portable Elevator Mfg. Company
Post Office Box 160
Glencoe, MN 55336
Attn: Dale Johnson

PPG Industries, Inc.
260 Kappa Drive
Pittsburgh, PA 15238
Attn: Christine Babka

Project Environment/Sierra Club
1313 Fifth Street, Southeast, #323
Minneapolis, MN 55414
Attn: Nelson French

Prometheus
127 South Park
Fairfax, MN 55332

Rexnord Chemical Products Inc.
7711 Computer Avenue
Minneapolis, MN 55435
Attn: Lawrence Benjamin

Richfield Energy Awareness Commission
7000 Portland Avenue
Richfield, MN 55423
Attn: S. M. Sanford

S. B. Foot Tanning, Red Wing, MN
P.O. Box 845
Dumas, TX 79029
Attn: David Guthe

Safety Kleen Corp.
777 Big Timber Road
Elgin, IL 60123
Attn: Sue Ryan

St. Cloud AVTI
1540 Northway Drive
St. Cloud, MN 56301
Attn: Mike Lehn

St. John's Hospital
403 Maria Avenue
St. Paul, MN 55106
Attn: John Pelant

St. Mary's Hospital
1216 - 2nd St. S.W.
Rochester, MN 55902
Attn: Alan Knutson

St. Mary's Hospital
1216 - 2nd St. S.W.
Rochester, MN 55902
Attn: C. M. Douglass

St. Paul Fire Department
101 E. 10th St. S.W.
St. Paul, MN 55101
Attn: Russ Polansky

Scott County Planning, Inspections,
Environmental Health
Scott County Courthouse
Shakopee, MN 55379
Attn: Peter Schmidt

Serco Labs
1931 W. Co. Rd. C2
St. Paul, MN 55113
Attn: Carol Kuehn

Sheldahl Inc.
P.O. Box 170
Northfield, MN 55057
Attn: David Miller

Smith System Manufacturing Co.
1100 S. 10th St.
Princeton, MN 55371
Attn: John Tulp

Solv-Oil Service and Supply Company
Box 338
Eden Prairie, MN 55343
Attn: David L. Tollefson

Soo Line Railroad Company
Box 530
Minneapolis, MN 55440
Attn: G. J. Lentzner

Soo Line Railroad Company
105 South Fifth Street
P.O. Box 530
Minneapolis, MN 55440
Attn: Michael Mullins

Southern Minnesota Sugar Cooperative
Post Office Box 500
Renville, MN 56284
Attn: William DeBelly

Sperry Corporation
Semiconductor Operations
Post Office Box 64724, M.S. H2N26
St. Paul, MN 55164
Attn: Jean Krueger

Standard Solvents Company
Division of Willjon Co.
4906 France Avenue North
Minneapolis, MN 55429
Attn: David Heegaard

Stone Container Corporation
3805 Presidential Parkway, #101
Atlanta, Georgia 30340
Attn: Curtis Barton

Tape Mark Company
150 East Marie
West St. Paul, MN 55118
Attn: Doris Polson

Telex Communications, Inc.
9600 Aldrich Avenue South
Minneapolis, MN 55420
Attn: Paul Metcalf

Union Carbide Corp-Linde Division
120 S. Riverside Plaza
Chicago, IL 60606
Attn: Michael A. Mikovich

United Power Association
Highway 10
Elk River, MN 55330
Attn: Jim Eggen

University of Minnesota
MNTAP, Boynton Health Service
W-163
Minneapolis, MN 55455
Attn: Donna Peterson

Valley Truck Service
Box 123
Bayport, Minnesota 55003
Attn: Ronald Nelson

Van Hoven Company, Inc.
Box 56
South St. Paul, MN 55075
Attn: E. G. Van Hoven Jr.

Viall, Ray
District 5 Safety Officer
2055 North Lilac Drive
Golden Valley, MN 55422

Victory Envelope Inc.
1501 Park Road
Post Office Box 159
Chanhassen, MN 55317
Attn: Lori Storms

Warden Oil Co. Inc.
187 Humboldt Avenue North
Minneapolis, MN 55405
Attn: Earl Jackelen

Washington County Public Health
14900 - 61st North
Post Office Box 6
Stillwater, MN 55082
Attn: Fred Anderson

Waste Management-Blaine
Post Office Box 9
Circle Pines, MN 55014
Attn: Ron Pfeifer

Waste Management of MN, Inc.
14730 Sunfish Lake Boulevard
Post Office Box 67
Anoka, MN 55303
Attn: Terry Miller

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

Worum Chemical Company
2130 Energy Park Drive
St. Paul, MN 55108
Attn: Ruth O'Connell

Zenk, Read, et al
Post Office Box 689
Albert Lea, MN 56007
Attn: William Trygstad

3M
Post Office Box 33331
Bldg. 21-2W-05
St. Paul, MN 55133
Attn: Ken Grant

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

3M
3M Center
270-5N-05
St. Paul, MN 55144
Attn: Loren Pecore

Mr. Robert Hutchison
Anoka County Health Department
County Courthouse
325 East Main Street
Anoka, Minnesota 55303

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

Mr. George Kinney
Dakota County Community
Health Services
33 East Wentworth, Suite 101
West St. Paul, Minnesota 55118

Mr. Greg Lie
Hennepin County Department
of Environment and Energy
822 South Third Street, #300
Minneapolis, Minnesota 55415

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
Scott County Courthouse
Shakopee, Minnesota 55379

Mr. Tom Dellenbach
Washington County Community
Health Services
14900 North 61st Street
Stillwater, Minnesota 55082

MICA Environmental Committee
Metropolitan Inter-County Assoc.
114 Metro Square, 7th and Robert
St. Paul, MN 55101
Attn: Robert Orth

Minnesota Association of
Commerce and Industry
480 Cedar St., 300 Hanover Bldg.
St. Paul, MN 55101
Attn: Ann Duff

Karen Ryss
4130 Brigadoon Drive
Shoreview, MN 55126

4700.4000 UNIFORM REPORTS.

Award recipients shall furnish uniform reports to the commissioner. Reports of expenditure, filed on forms provided by the commissioner, and annual reports of evaluations of activities shall be submitted no later than 90 days following the close of the fiscal year.

REPEALER. Minnesota Rules, part 4615.0200 is repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Small Quantity Generators

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the State of Minnesota intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28. The statutory authority to adopt the rules is Minn. Stat. § 116.07, subd. 4 (1984).

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Interested persons have until 4:30 p.m. on January 21, 1987 to submit comments on the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Minnesota Pollution Control Agency (MPCA) will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Carol Nankivel
Minnesota Pollution Control Agency
520 Lafayete Road
St. Paul, Minnesota 55155

The proposed rules may be modified if the modifications are supported by data and views submitted to the MPCA and do not result in a substantial change in the proposed rules as noticed.

The rules follow this notice. One free copy of the rules is available on request from the MPCA. Contact Carol Nankivel at 612/296-7260 or at the address listed above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is also available from Carol Nankivel upon request at 612/296-7260 or at the address listed above.

You are hereby advised pursuant to Minn. Stat. § 14.115 (supp. 1985), "Small business considerations in rulemaking," that the proposed amendments will have a minimal impact on small businesses. Since most aspects of the amendments are already required under the federal hazardous waste program, the MPCA is merely adopting as State rules the regulations already in effect on the federal level. The provisions which are not based on federal requirements and which are more stringent than the existing State rules only address the requirement that small quantity generators comply with the pretransport requirements to label, mark and placard waste before shipment and to generally identify the contents of waste containers during the accumulation period. These additional requirements are not expected to impose a significant burden on small businesses.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rules, must submit the written request to Carol Nankivel at the address listed above.

Dated: 8 December 1986

Thomas J. Kalitowski, Executive Director
Pollution Control Agency

Rules as Proposed

7045.0075 PETITIONS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Petition for use of alternate manifest.** A person who meets the criteria in item A may submit a petition to the director for approval of the use of an alternate manifest system as described in item B. The criteria the director shall use in determining whether to approve the use of the alternate manifest system are provided in item C.

A. Only persons meeting the following criteria are eligible to file a petition under this subpart:

(1) the person proposing to use the alternate manifest system must agree to only use the alternate manifest for the transportation of waste from small quantity generators;

(2) the person proposing to use the alternate manifest system must agree to only use the alternate manifest for waste that will be reclaimed under a contractual agreement specifying the type and frequency of waste shipments; and

(3) the person proposing to use the alternate manifest system must own and operate the recycling facility to which the waste is proposed to be transported, and must also own the vehicle to be used in transporting the waste to the recycling facility and in delivering reclaimed material back to the generator.

B. Upon approval, an alternate manifest system may be used in lieu of the manifest system described in parts 7045.0261 to 7045.0265. The director shall only approve alternate manifest systems meeting the following criteria:

(1) The alternate manifest system must include a manifest form to be used by the generator to notify the director each time waste is transported under this subpart. The manifest form must include: a space for the generator's name, mailing address, telephone number, and United States Environmental Protection Agency identification number; a space for the transporter's name and United States Environmental Protection Agency identification number; a space for the name, address, telephone number, and United States Environmental Protection Agency identification number of the recycling facility; a space for the United States Department of Transportation shipping name, hazard class, and identification number of the waste as specified in the United States Department of Transportation Code, title 49, parts 171 to 179; a space for the number and type of containers and total volume of the waste being shipped; a space for the waste identification number as specified in part 7045.0131, 7045.0135, or 7045.0137; a space for the signature of the generator or the generator's authorized representative affirming the correctness of the information; the mailing address of the director; and a statement advising the generator to complete the form and submit it to the director within five working days of transporting waste.

(2) The alternate manifest system must provide for the petitioner's submittal, on a monthly basis, of summaries of the names and identification numbers of generators who transported wastes using the alternate manifest and the volume and number of containers of each waste type shipped by each generator.

(3) The alternate manifest system must allow generators the option of using the manifest system provided in parts 7045.0261 and 7045.0265 in lieu of the alternate manifest system.

C. To obtain the director's approval of the alternate manifest system, the petitioner must:

(1) submit information demonstrating that the petitioner meets the criteria in item A;

(2) submit information demonstrating that the proposed alternate manifest system meets the criteria in item B; and

(3) submit information demonstrating the effectiveness and reliability of the alternate manifest system, including the following: information on the waste that will be managed and the general type of customers who will be using the alternate manifest system; information on the type of recyling service provided by the petitioner and a description of the petitioner's recycling facility; information on the type of vehicle to be used and the system to be used to pick up and deliver waste from the generator to the petitioner's recycling facility; and a discussion of the measures to be taken to educate generators on the use of the alternate manifest and their responsibilities as waste generators.

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. [Unchanged.]

Subp. 2. **Exemption.** A generator maintaining small quantity ~~generator's hazardous wastes are not subject to the~~ generator status

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.

is only required to comply with the generator requirements of parts 7045.0205 to 7045.0304 ~~and a hazardous waste facility permit if the generator complies with the requirements of this part~~ as provided in subpart 5.

Subp. 3. **Excessive generation.** Except as provided in item B, if the quantity of hazardous waste generated in any calendar month exceeds the quantities listed in subpart 1, the small quantity generator ~~becomes a~~ loses small quantity generator status and thereafter is subject to all the generator requirements of this chapter.

A. Once small quantity generator status is lost, the generator shall not regain that status until the generator is notified in writing by the director that small quantity generator status has been approved. The director shall only approve small quantity generator status under this subpart if the generator can demonstrate to the satisfaction of the director that the waste quantities that will be generated in the future will meet the limits established in subpart 1. The generator shall make this demonstration by submitting a written statement to the director requesting reclassification as a small quantity generator and including the information necessary for the director to evaluate the request. The information shall include an explanation of the circumstances that resulted in each instance of overgeneration during the past year; an explanation of the measures that the generator has taken to correct the cause of overgeneration; and other information as may be necessary to document that the overgeneration will not reoccur.

B. If the quantity of hazardous waste generated in any calendar month exceeds the quantities listed in subpart 1 and the cause of the overgeneration is a spill or accidental release of a hazardous waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E; the shut-down or cleanup of some part of the generation process; or the replacement of PCB containing equipment, the small quantity generator loses small quantity generator status and is subject to all the generator requirements of this chapter. However, in any of these cases, a generator will automatically regain small quantity generator status without applying to the director for approval if the generator:

(1) resumes generation within the quantity limits in subpart 1; and

(2) complies with the quantity limits in subpart 1 during the other eleven months of the calendar year.

A generator who cannot automatically regain small quantity generator status under this subpart may apply for reclassification under item A.

C. Wastes accumulated when small quantity generator status is lost are ineligible for management under part 7045.0219 and must be managed in accordance with the generator requirements in this chapter, regardless of the cause of the excessive generation.

Subp. 4. **Accumulation on-site.** A small quantity generator who does not have a permit or interim status may accumulate hazardous waste on-site~~.~~ under the following conditions: if the quantity of hazardous waste accumulated at any time exceeds the quantities ~~listed in subpart 1~~ set forth in item A or B, whichever applies, the small quantity generator must manage all of the accumulated waste ~~according to~~ in accordance with all the generator requirements ~~of this chapter~~ set forth in parts 7045.0205 to 7045.0304, excluding this part, but does not lose the small quantity generator status. ~~The time period of part 7045.0292, subpart 1, item A for accumulation of wastes on-site for a small quantity generator begins when the accumulated wastes exceed the applicable exclusion level.~~

A. The following provisions apply to waste not listed as acute hazardous waste:

(1) A small quantity generator who in a calendar month generates at least 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site for 180 days or less if the quantity of waste accumulated on-site never exceeds 3,000 kilograms and the small quantity generator meets all the requirements of subpart 5. For purposes of this subitem, the time period for accumulation begins when the generator begins accumulation in a container or tank.

(2) A small quantity generator who in a calendar month generates less than 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site indefinitely until 1,000 kilograms of waste are accumulated, at which point the small quantity generator may only store the waste on-site for a period of 180 days following the date the 1,000 kilogram limit is reached. A small quantity generator accumulating waste under this subitem must meet the requirements of subpart 5, except for subpart 5, item B, subitems (2) to (5).

(3) If waste accumulated under item A, subitem (1) or (2) must be transported 200 miles or more to a facility, the small quantity generator may store the wastes for an additional 90 days beyond the established limits. In this event, the small quantity generator must maintain evidence on-site that arrangements have been made for the transport of the waste to the facility and, if requested, show the evidence to the director.

B. The following provisions apply to waste listed as acute hazardous waste: a small quantity generator who generates waste listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site indefinitely until the limit of subpart 1, item B or C is met, at which point the small quantity generator must manage the waste on-site in accordance with all the generator requirements in parts 7045.0205 to 7045.0304, excluding this part. Until then, a small quantity generator accumulating wastes under this item must meet the requirements of subpart 5, except for subpart 5, item B, subitems (2) to (5).

Subp. 5. **Management requirements.** ~~A~~

A. Small quantity ~~generator~~ generators shall comply with the following requirements of this chapter:

~~A.~~ (1) parts 7045.0214 to 7045.0217;

~~B.~~ (2) parts 7045.0220 to 7045.0255 except part 7045.0230, subpart 1, item G;

~~C.~~ (3) parts 7045.0261 ~~and 7045.0265~~ to 7045.0290, except that an alternate manifest system may be used if the director approves such system under part 7045.0075, subpart 5;

~~D. parts 7045.0275 and 7045.0290;~~

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

~~F.~~ (5) parts 7045.0294 to 7045.0302;

(6) parts 7045.0566 and 7045.0568; and

(7) parts 7045.0626 and 7045.0628.

B. Unless explicitly exempted under subpart 4, all small quantity generators must also comply with the following requirements:

(1) Small quantity generators shall label all containers and tanks in a manner generally identifying their contents to employees and emergency personnel. The labels must contain an easily understood description of the waste.

(2) Small quantity generators shall ensure that there is available at all times at least one employee responsible for coordinating all emergency response measures provided in subitem (5). This employee, identified as the emergency coordinator, must be either on the generator's premises or available to respond to an emergency by reaching the premises within a short period of time.

(3) Small quantity generators shall post the following information next to the telephone on the premises: the name and telephone number of the emergency coordinator; the location of fire extinguishers and spill control material, and, if present, the fire alarm; and the telephone number of the fire department, unless there is a direct alarm.

(4) Small quantity generators must ensure and document that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

(5) The emergency coordinator or a designee must respond to any emergencies that arise. Appropriate responses include: in the event of a fire, call the fire department or try to extinguish the fire by using a fire extinguisher; in the event of a spill, contain the flow of hazardous waste to the extent possible and as soon as practicable, clean up the hazardous waste and any contaminated materials or soils; in the event of a fire, explosion, or other release that could threaten human health outside the premises or when the generator has knowledge that a spill has reached surface water, the generator must immediately comply with part 7045.0275, subparts 2 and 3 and notify the National Response Center using their 24-hour toll-free number (800) 424-8802 and provide the name, address, identification number of the generator, date, time, type of incident, and the estimated quantity and disposition of any recovered materials.

(6) If waste generated by a small quantity generator is transported using an alternate manifest for waste transport as provided in part 7045.0075, subpart 5, the small quantity generator shall maintain a copy of the reclamation and transport agreement during the term of the agreement and for a period of at least three years after termination or expiration of the agreement.

(7) For each shipment of waste using an alternate manifest for waste transport as provided in part 7045.0075, subpart 5, the small quantity generator shall submit a completed copy of that alternate manifest to the director within five working days of the transporter's acceptance of the waste shipment.

~~G.~~ (8) The small quantity generator shall 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)~~ permitted to accept hazardous waste under the agency's permitting procedures; or ~~(2)~~ in interim status under parts 7045.0552 to 7045.0642; or ~~(3)~~ authorized to manage hazardous waste by the Environmental Protection Agency or by a state with a hazardous waste management program authorized by the Environmental Protection Agency; or ~~(4)~~ a facility which in accordance with part 7045.0125 beneficially uses or reuses, or legitimately recycles, or reclaims the waste or treats the waste prior to beneficial use or reuse, or legitimate recycling or reclamation; ~~or~~.

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~~(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."~~

C. A contingency plan meeting the requirements of part 7045.0466 may be used to fulfill the requirements of item B, subitems (2) to (5).

Subp. 6. [Unchanged.]

7045.0261 MANIFEST DOCUMENT; GENERAL REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Designation of facility.** A generator must designate on the manifest either one facility which is permitted to handle the waste described on the manifest or one facility which in accordance with part 7045.0125 beneficially uses or reuses, or legitimately recycles, or reclaims the waste or treats the waste ~~prior to~~ before beneficial use or reuse, or legitimate recycling or reclamation. ~~A small quantity generator may, in the alternative, designate another site belonging to the same owner for consolidation of shipments providing the receiving site complies with parts 7045.0205 to 7045.1030.~~

Subp. 3. to 10. [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 H. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

7045.0381 USE OF MANIFEST.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Use of an alternate manifest.** Transporters who transport hazardous waste accompanied by an alternate manifest as provided in part 7045.0075, subpart 5 must:

A. for each shipment, record on a log or shipping paper the name, address, and United States Environmental Protection Agency identification number of the waste generator, the quantity of waste accepted, all United States Department of Transportation shipping information, and the date the waste was accepted;

B. carry the information required in item A when transporting waste to the reclamation facility; and

C. maintain a copy of the information required in item A and the reclamation agreement during the term of the agreement and for three years after termination or expiration of the agreement.

CERTIFICATE OF AGENCY'S RESOLUTION ADOPTING RULES

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 24th day of February, 1987, 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 petitions and the management of hazardous waste from small quantity generators, Minn. Rules pts. 7045.0075, 7045.0219, 7045.0261, 7045.0292, and 7045.0381, pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4 (1986).

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 Statutes requires the MPCA to make in order to obtain the revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1986).

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 16 day of March, 1987.

Thomas Kalitowski

THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing Petitions and the Management of Hazardous Waste from Small Quantity Generators, Minn. Rules Pts. 7045.0075, 7045.0219, 7045.0261, 7045.0292, and 7045.0381

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 24th day of February 1987. 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 December 22, 1986 (11 SR 1102).

2. On December 18, 1986, 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 (1986).

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 (1986).

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 January 21, 1987.

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

for Thomas J. Kalitowski
Executive Director

Dated: February 24, 1987

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing Petitions and the Management of Hazardous Waste from Small Quantity Generators, Minn. Rules Pts. 7045.0075, 7045.0219, 7045.0261, 7045.0292, and 7045.0381

ORDER ADOPTING RULES

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 December 22, 1986 (11 SR 1102) and was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat. § 14.14 (1986) on December 18, 1986. 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. 7045.0075, 7045.0219, 7045.0261, 7045.0292 and 7045.0381, governing petitions and the management of hazardous waste from small quantity generators, are adopted as proposed pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4 (1986).

Duane Dahlberg
Chairperson

Thomas J. Kalitowski
for Executive Director

Dated: February 24, 1987

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing Petitions and the Management of Hazardous Waste from Small Quantity Generators, Minn. Rules Pts. 7045.0075, 7045.0219, 7045.0261, 7045.0292, and 7045.0381

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO ADOPT RULES 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 Adopt Rules Without a Public Hearing (11 S.R. 1102, December 22, 1986) as the person to receive comments on the Agency's intent to adopt rules concerning the above-entitled subject.

2. That the comment period set forth in the notice terminated at 4:30 p.m. on January 21, 1987.

3. That during the public comment period one comment was received by the Agency.

4. That the individual who commented withdrew his comment when I explained to him that he misread the proposed rule.

5. That, therefore, during the comment period no comments were received by the Agency.

Carol R Nankivel

Subscribed and sworn to before me
this 16 day of March, 1986.

Cynthia B Gillingham
Notary Public

CYNTHIA B. GILLINGHAM
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My commission expires 10-3-91

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Amendment of Rules Governing
Petitions and the Management
of Hazardous Waste from Small
Quantity Generators, Minn. Rules
Pts. 7045.0075, 7045.0219,
7045.0261, 7045.0292, and 7045.0381

DECLARATION OF COUNSEL

I, Mamie S. Segall, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0696.

Mamie S. Segall

MAMIE S. SEGALL
Special Assistant
Attorney General

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing Petitions and the Management of Hazardous Waste from Small Quantity Generators, Minn. Rules Pts. 7045.0075, 7045.0219, 7045.0261, 7045.0292, and 7045.0381

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. § 14.26 (1986):

PLEASE TAKE NOTICE that the above-captioned rules as adopted has been submitted to the Office of the Attorney General on this date, March 16, 1987, for review as to legality and form to the extent form relates to legality. The proposed rules, the rules as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and request for a hearing received, and other required documents also have been submitted to the Attorney General.

The rules must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rules. Any written comments must be submitted within eight calendar days of the date of the submission of the rules to the Attorney General. Your comments must address only the issue of legality of the rules or the legality of the specific parts or subparts of the rules. The Attorney General standards for review are set forth in Minnesota Rules, pt. 2010.1000. You may receive a copy of the Attorney General decision upon written request to the Attorney General. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone: (612) 296-1288

Any written comments submitted to the Attorney General must be submitted to Carol R. Nankivel at the address stated above.

Dated: 3/16/87

Mamie S Segall

MAMIE S. SEGALL
Special Assistant
Attorney General

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing Petitions and the Management of Hazardous Waste from Small Quantity Generators, Minn. Rules Pts. 7045.0075, 7045.0219, 7045.0261, 7045.0292, and 7045.0381

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Ronald Linn, being duly sworn says:

That on the 16 day of March, 1987, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States Mailing or in the United States Mail a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Ronald Linn

Subscribed and sworn to before me this 16 day of March, 1987.

Cynthia B Gillingham
Notary Public

CYNTHIA B. GILLINGHAM
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My commission expires 10-3-91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

March 16, 1987

RECEIVED
ATTORNEY GENERAL'S OFFICE

MAR 17 1987

204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

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

Re: In the Matter of the Proposed Amendments to Rules Governing Petitions and the Management of Hazardous Waste from Small Quantity Generators, Minn. Rules Pts. 7045.0075, 7045.0219, 7045.0261, 7045.0292, and 7045.0381

Dear Mr. Miles:

On February 24, 1987, the Minnesota Pollution Control Agency adopted the above-captioned rules governing the management, storage, treatment, and disposal of hazardous waste. Enclosed for your review are the following:

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

2. Order Adopting Rules (two copies).

3. Certificate of Agency's Resolution Adopting Rules.

4. Notice of Intent to solicit outside opinion (10 S.R. 2516, June 16, 1986).

5. Affidavit Regarding Comments Received Pursuant to Notice of Intent to Solicit Outside Opinion.

6. Certificate of Agency's Authorizing Resolution.

7. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (11 S.R. 1102, December 22, 1986).

8. Affidavit Regarding Comments Received Pursuant to Notice of Intent to Adopt Rules Without a Public Hearing.

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

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

11. Rules as proposed.

12. Findings of Fact and Conclusions.

13. Statement of Need and Reasonableness.

14. Statement of Compliance with Rulemaking Procedures.

15. Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General.

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

Very truly yours,

Mamie S. Segall

MAMIE S. SEGALL
Special Assistant
Attorney General

MSS:jo
Enclosures

RECEIVED
MAR 17 1987
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Rule

ok

Notice of Intent

116.07 subd 4 (1984) ok