

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

FILE COPY

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : October 12, 1989

TO : LEROY PADDOCK
Assistant Attorney General

FROM : MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE : 6-6839

SUBJECT : Rules Relating to Hazardous Substance Notification

Although I approved the above-entitled rules, I would like to bring two concerns to your attention.

1. First, the Minn. Stat. § 14.22 requires the Notice of Intent to Adopt the rule to contain a "citation to the most specific statutory authority for the proposed rule." Your client's notice cited only one source: section 299F.094, subd. 2, which discusses the Notification Report Form but does not provide rulemaking authority. Your client's Statement of Need and Reasonableness did cite other statutory cites for rulemaking authority. I decided to okay the rules on the grounds that subdivision 1 of section 299F.094 mentions the "commissioner rules." But in the future, your client needs to be careful in citing the complete statutory authority in the Notice of Intent.

2. More importantly, I raise the issue whether your client complied with the 180 day deadline in section 14.12. That law requires an agency to publish their Notice of Intent within 180 days after the effective date of the legislature requiring such rules.

In this case, Minn. Stat. § 299F.094 was passed in 1986 and the Notice of Intent not published until May of 1989, well passed the 180 day deadline. There are a couple of questions which need to be answered: does the legislation require rules? Are these new rules and not amendments to existing rules? If so, your client should give these notices required in section 14.12.

I just wanted to bring these two issues to your attention for you and your client to handle however you see fit.

MJC:pai

FILE COPY

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : October 12, 1989

TO : KATHERINE BURKE MOORE, Rule Coordinator
Minnesota Department of Public Safety
Room 211 Transportation Building

FROM : MARTHA J. CASSERLY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

MJC

PHONE :

SUBJECT : In the Matter of the Adopted Rule Relating to Hazardous Substance Notification

The above-referenced rule has been approved as to its legality by the Attorney General on October 9, 1989.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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:bbl
Enclosure
cc: William Brown, Chief Judge
MaryAnn Hruby

RULE REVIEW CHECKLIST

File No. 1628 Docket No. 05 0009.0710

DATE RECEIVED 9-25-89 ADOPTED W/O HEARING _____

REVIEW DATE 10-4-89 EMERGENCY RULE _____

DUE DATE 10-9-89 Revisor 9-26-89 ~~9~~ 10-2-89 called comment told her we only have 1 copy. Said she would send another copy.

REVISOR APPROVED only 1 copy

APPROVED 10-9-89 REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE 10/12/89

WITHDRAWN _____ RETURNED TO AGENCY _____

10-3-89 Received rule from Revisor have 4 rules PN

B4 Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
- 11-14-88 Date published in State Register
- _____ Comments

_____ Petition for Adoption of a Rule (if applicable)

_____ Board's Authorizing Resolution
- _____ Date adopted

_____ Proposed Rule
- yes Revisor's Certificate 1 copy = 2 as of 10-3-89

_____ Notice of Intent to Adopt Rule
- 299F.094 Subd 2 Statutory Authority see my notes
- yes Small Business Statement
- _____ Expenditure of public money statement
- 4-10-89 Signature

_____ Statement of Need and Reasonableness (if applicable)
- yes Small Business Statement
- no Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- April 28, 1989 Date (30)/25 days before adoption
- ✓ Notice attached
- _____ Copy of rule or summary attached

✓ Publication in State Register
- May 1, 1989 Date (30)/25 days before adoption

✓ (180-day) deadline from:
- _____ Effective date of law requiring rule (14.12) (both rules)
- ✓ end of comment period (§ 14.26) (rules without hearing)
- _____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting
- _____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- 8-21-89 Date

_____ Written requests, submissions or comments

✓ Declaration of attorney
- LeRoy Paddock Name of SAAG representing agency

_____ Notice of Submission to Atty. Gen. (if applicable)

_____ Aff. of Mailing Notice to Atty. Gen. (if applicable)

Department of Public Safety

Adopted Permanent Rules Relating to Hazardous Substance Notification

Rules as Adopted

7513.0100 FORM.

The hazardous substance notification report form, as required by Minnesota Statutes, section 299F.094, is the "Tier One - Emergency and Hazardous Chemical Inventory" form used by the state under the Superfund Amendments and Reauthorization Act of 1986, Public Law Number 99-499, title III, section 312.

7513.0200 EXAMPLE: HAZARDOUS SUBSTANCE NOTIFICATION REPORT FORM.



MINNESOTA EMERGENCY RESPONSE COMMISSION
C/O DEPT OF PUBLIC SAFETY
STATE CAPITOL BUILDING
ROOM B-5
ST. PAUL, MN 55155
(612) 296-0481

Tier One EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY
Aggregate Information by Hazard Type

FOR OFFICIAL USE ONLY: Status / Date Received

➔ **Important: Read instructions before completing form. Mail completed form to the above address and local fire department.**

Facility Identification

Name _____
Street Address _____
City _____ State _____ Zip _____
County _____ ERC ID# _____
SIC Code ☐☐☐☐ Dun & Brad Number ☐☐-☐☐☐-☐☐☐☐

Owner/Operator

Name _____
Mail Address _____
Phone ( )

Emergency Contacts

Name _____
Title _____
Phone ( )
24 Hour Phone ( )

Name _____
Title _____
Phone ( )
24 Hour Phone ( )

Reporting Period From January 1 to December 31, 19____

Physical Hazards

☐ Check if site plan is attached

Hazard Type	Max Amount*	Average Daily Amount*	Number of Days On-Site	General Location
Fire	☐☐	☐☐	☐☐☐	
Sudden Release of Pressure	☐☐	☐☐	☐☐☐	
Reactivity	☐☐	☐☐	☐☐☐	

Approved by Revisor _____

Health Hazards

Immediate (acute) ☐☐ ☐☐ ☐☐☐

Delayed (Chronic) ☐☐ ☐☐ ☐☐☐

Certification *(Read and sign after completing all sections)*

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals responsible for obtaining the information, I believe that the submitted information is true, accurate and complete.

Name and official title of owner/operator OR owner/operator's authorized representative

Signature Date signed

* Reporting Ranges	Range Value	Weight Range in Pounds From...	To...
	00	0	99
	01	100	999
	02	1000	9,999
	03	10,000	99,999
	04	100,000	999,999
	05	1,000,000	9,999,999
	06	10,000,000	49,999,999
	07	50,000,000	99,999,999
	08	100,000,000	499,999,999
	09	500,000,000	999,999,999
	10	1 billion	higher than 1 billion

PS-04003-01 (12/87)

Page ___ of ___ pages
Form Approved OMB No. 2050-0072

15 7513.0300 ALTERNATIVE.

16 A facility may submit a Tier Two form, "Emergency and

17 Hazardous Chemical Inventory," under the Superfund Amendments

18 and Reauthorization Act of 1986, Public Law Number 99-499, title

19 III, section 312, instead of the Tier One Form.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 12 1989
Secretary of State

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

October 9 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M T Cassedy

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

OCT 12 1989

Joan Anderson Growe

Secretary of State

9:10 AM

Department of Public Safety

Emergency Response Commission

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules of the State Department of Public Safety Governing Hazardous Material Reporting and Placarding

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to promulgate rules governing Hazardous Material and Placarding.

The promulgation of these rules is authorized by *Minnesota Statutes* section 299F.093, which requires the agency to establish the form and content of the hazardous substance notification form and to allow a fire department to require employers within its jurisdiction to post signs indicating the presence of hazardous substances.

The State Department of Public Safety requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Jeff Bruce
Management Analyst
Department of Public Safety
Room 205 Transportation Building
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-2608 and in person at the above address.

Any written material received by the State Department of Public Safety shall become part of the rulemaking record in the event that the rules are promulgated.

Department of Public Service

Energy Division

Notice of Public Comment Period and Public Meeting Pertaining to State Energy Policy and Conservation Report

NOTICE IS HEREBY GIVEN that the Department of Public Service has completed a draft of the State Energy Policy and Conservation Report as required by *Minnesota Statutes* 216C.18. The comprehensive report is entitled "ENERGY—Minnesota's Options for the 1990s," and identifies major emerging trends in energy supply, consumption, conservation and costs, and offers recommendations to the legislature on energy related issues. Copies of the document are available from the Department at the address below.

Public meetings to solicit comments on the document will be held on Tuesday, November 29, 1988 at 1:30 p.m. and 7:00 p.m. in Room 10 of the State Office Building, 100 Constitution Avenue, St. Paul, Minnesota. The meetings will be officiated by Judge Stephen Swanson from the State Administrative Hearings Office.

Written comments regarding the document will also be accepted. Comments should be addressed to William Grant, Manager, Energy Information and Analysis Office, at the address below. Comments must be received at the Department's office no later than 4:00 p.m., December 13, 1988.

Minnesota Department of Public Service
Energy Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
296-5175
1-800-652-9747 (ask for energy)

Persons not interested in receiving or commenting on the draft report but wishing to receive a copy of the final document, may call or write the Department. It is anticipated that the final report will be available mid-January, 1988.

Department of Public Safety

Proposed Permanent Rules Relating to Hazardous Substance Notification

Rules as Proposed (all new material)

7513.0100 FORM.

The hazardous substance notification report form, as required by Minnesota Statutes, section 299F.094, is the "Tier One - Emergency and Hazardous Chemical Inventory" form used by the state under the Superfund Amendments and Reauthorization Act of 1986, Public Law Number 99-499, title III, section 312.

7513.0200 EXAMPLE: HAZARDOUS SUBSTANCE NOTIFICATION REPORT FORM.

MINNESOTA EMERGENCY RESPONSE COMMISSION
C/O DEPT OF PUBLIC SAFETY
STATE CAPITOL BUILDING
ROOM B-5
ST. PAUL, MN 55155
(612) 296-0481

Tier One EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY
Aggregate Information by Hazard Type

FOR OFFICIAL USE ONLY: Status / Date Received

➔ **Important: Read instructions before completing form. Mail completed form to the above address and local fire department.**

Facility Identification

Name
Street Address
City State Zip
County EPC ID#
SIC Code Dun & Brad Number

Owner/Operator

Name
Mail Address
Phone ( )

Emergency Contacts

Name
Title
Phone ( )
24 Hour Phone ( )

Name
Title
Phone ( )
24 Hour Phone ( )

Reporting Period From January 1 to December 31, 19____

Physical Hazards

Hazard Type	*Max Amount**	*Average Daily Amount**	*Number of Days On-Site*	*General Location*
Fire				
Sudden Release of Pressure				
Reactivity				

☐ Check if site plan is attached

Approved by Revisor

Health Hazards

Immediate (acute) ☐☐ ☐☐ ☐☐☐ _____

Delayed (Chronic) ☐☐ ☐☐ ☐☐☐ _____

Certification *(Read and sign after completing all sections)*

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals responsible for obtaining the information, I believe that the submitted information is true, accurate and complete.

Name and official title of owner/operator OR owner/operator's authorized representative

Signature _____ Date signed _____

* Reporting Ranges	Range Value	Weight Range in Pounds From...	To...
	00	0	99
	01	100	999
	02	1000	9,999
	03	10,000	99,999
	04	100,000	999,999
	05	1,000,000	9,999,999
	06	10,000,000	49,999,999
	07	50,000,000	99,999,999
	08	100,000,000	499,999,999
	09	500,000,000	999,999,999
	10	1 billion	higher than 1 billion

PS-04003-01 (12/87)

Page ___ of ___ pages
Form Approved OMB No. 2050-0072

Approved by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Hazardous Substance Notification

AGENCY: Department of Public Safety

MINNESOTA RULES: Chapter 7513

The attached rules are approved for publication in the State Register

Ron Ray
Assistant Revisor

Department of Public Safety

Proposed Permanent Rules Relating to Hazardous Substance Notification

Rules as Proposed (all new material)

7513.0100 FORM.

The hazardous substance notification report form, as required by Minnesota Statutes, section 299F.094, is the "Tier One - Emergency and Hazardous Chemical Inventory" form used by the state under the Superfund Amendments and Reauthorization Act of 1986, Public Law Number 99-499, title III, section 312.

7513.0200 EXAMPLE: HAZARDOUS SUBSTANCE NOTIFICATION REPORT FORM.

MINNESOTA EMERGENCY RESPONSE COMMISSION
C/O DEPT OF PUBLIC SAFETY
STATE CAPITOL BUILDING
ROOM B-5
ST. PAUL, MN 55155
(612) 296-0481

Tier One EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY
Aggregate Information by Hazard Type

FOR OFFICIAL USE ONLY: Status / Date Received

Important: Read instructions before completing form. Mail completed form to the above address and local fire department.

Facility Identification
Name
Street Address
City State Zip
County EPC ID#
SIC Code Dun & Brad Number

Owner/Operator
Name
Mail Address
Phone ( )

Emergency Contacts
Name
Title
Phone ( )
24 Hour Phone ( )

Name
Title
Phone ( )
24 Hour Phone ( )

Reporting Period From January 1 to December 31, 19____

☐ Check if site plan is attached

	Hazard Type	Max Amount*	Average Daily Amount*	Number of Days On-Site	General Location
Physical Hazards	Fire				
	Sudden Release of Pressure				
	Reactivity				

Approved by Revisor _____

Health Hazards

Immediate (acute) ☐☐ ☐☐ ☐☐☐

Delayed (Chronic) ☐☐ ☐☐ ☐☐☐

Certification *(Read and sign after completing all sections)*

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals responsible for obtaining the information, I believe that the submitted information is true, accurate and complete.

Name and official title of owner/operator OR owner/operator's authorized representative

Signature Date signed

* Reporting Ranges	Range Value	Weight Range in Pounds From...	To...
	00	0	99
	01	100	999
	02	1000	9,999
	03	10,000	99,999
	04	100,000	999,999
	05	1,000,000	9,999,999
	06	10,000,000	49,999,999
	07	50,000,000	99,999,999
	08	100,000,000	499,999,999
	09	500,000,000	999,999,999
	10	1 billion	higher than 1 billion

PS-04883-01 (12/87)

Page ___ of ___ pages
Form Approved OMB No. 2050-0072

Approved by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of the Rule of the State Department of Public Safety governing the Hazardous Substance Notification Form	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the State Department of Public Safety intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 299F.094, Subd. 2.

(2) All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. (2) Comment is encouraged. Each comment should identify (3) the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

(4) Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) 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. (5) (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

Jeff Bruce
Room 205
Transportation Bldg.
St. Paul, MN 55155

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(11) A copy of the proposed rule is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied

upon to support the proposed rule has been prepared and is available from Jeff Bruce upon request.

(14) The proposed rule will have a positive impact on any affected small businesses. The proposed rule will consolidate and simplify the requirements of Minnesota Statutes, section 299F.094, subd. 2 and Section 312 of Title III of the Superfund Amendments and Reauthorization Act of 1986.

(9) If no hearing is required, upon adoption of the rule, the rule 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 rule, must submit the written request to Jeff Bruce.

4/10/89
date

Paul J. Tschida
Paul J. Tschida,
Commissioner of Public Safety

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

EMERGENCY RESPONSE COMMISSION

In the matter of the proposed rules of the Department of Public Safety governing the Hazardous Substance Notification Form

STATEMENT OF NEED AND REASONABLENESS

GENERAL STATEMENT

Minnesota Statutes section 299F. 094, Subd. 2 requires the Commissioner of Public Safety to develop a hazardous substance notification report form. This rule consists of the form and instructions on its use.

STATUTORY AUTHORITY

Explicit authority for this rule is contained in Minnesota Statutes, section 299F.094, Subd. 2. Authority is also contained in Minnesota Statutes, section 299A.01, Subd. 6 which authorizes the Commissioner of Public Safety to fulfill the duties set by legislation like section 299F.094, Subd. 2. Finally this procedure directly affects the rights of and procedures available to the public, therefore, the Commissioner is authorized to promulgate this rule by Minnesota Statutes, section 14.06.

EFFECT OF THE RULES

These rules will have a direct effect on all employers required by Minnesota Statutes, section 299F.094 to submit a hazardous substance notification report form.

SMALL BUSINESS CONSIDERATIONS

Some of the parties required by statute to submit a hazardous substance notification report form may be small businesses. Section 312 of Title III of the Superfund Amendments and Reauthorization Act of 1986 requires many of these same parties to submit a "Tier One Emergency and Hazardous Chemical Inventory" form. The form required by federal statute provides all the information required by Minnesota Statutes, section 299F.094 so, in this rule, the Commissioner specifies that the federal form will fulfill the requirements of the Minnesota statute. Using the federal form to fulfill the requirements of the Minnesota statute avoids duplication of effort and reduces the impact of this rule on small businesses as well as other parties

required to submit the federal form and a hazardous substance notification report form.

This rule contains no compliance requirements. The stringency of the reporting requirements of Minnesota Statutes, section 299F.094 has been reduced by these rules, to the greatest extent possible, consistent with the statute and with federal requirements. The rule imposes no schedules on small businesses. The rule imposes no compliance requirement on small businesses. Reporting requirements have been consolidated with federal reporting requirements. The rule imposes no design or operational standards on small businesses. The hazardous materials stored at small businesses can present as much a threat to the public as hazardous materials stored at other businesses. To exempt small businesses from the coverage of this rule would present a threat to the public that substantially outweighs any possible benefit to small businesses. In any event the exemption of small businesses from the coverage of this rule would be inconsistent with Minnesota Statutes, section 299F.044, Subd. 2.

FEES IMPOSED BY THE RULES

The rules do not fix any fees nor does the statute authorizing promulagation of the rules require that any fees be fixed. Therefore, no approval from the Commissioner of Finance is required.

FISCAL IMPACT

Adoption of these rules will not require the expenditure of public money by local public bodies.

ENVIRONMENTAL EFFECTS

Adoption of these rules will have no negative effect on the quality of air or water in the state nor will the rules have a negative effect on the quality and amount of agricultural land. These rules will help local authorities protect the quality of air, water, and agricultural land in the state from the effects of environmental emergencies involving hazardous materials.

DETAILED ANALYSIS

.0100 Form. Minnesota Statutes, section 299F.094, requires some employers to submit a hazardous substance notification report from. The purpose of this statute is to provide local fire departments with the information needed to respond in the safest and most effective manner possible to an emergency at one of regulated facilities. The statute specifies that the report must contain the following information "(1) the range of maximum combined quantities of

all hazardous substances contained in each designated hazard category that may reasonably be expected to be present in the work place during normal operations; (2) the street address and any other special identifier of the work place; and (3) the employer's name and street address with the telephone numbers of responsible persons in charge of the work place who can be reached at all times."

Many of the employers affected by the Minnesota statute are also required, by section 312 of Title III of the Superfund Amendments and Reuthorization Act, to complete a "Tier One Emergency and Hazardous Chemical Inventory" form. The "Tier One" form contains all the information required by Minnesota Statutes, section 299F.094. This rule specifies that the "Tier One" form is also the form required by the Minnesota Statute. This provision is a reasonable solution to the requirement of the Minnesota Statute because it avoids duplication of effort and minimizes the impact of these rules on the affected parties while accomplishing the policy of the Minnesota Statute.

.0200 Example: Hazardous Substance Notification Report Form. Some parties affected by this rule may not be familiar with the required form. To eliminate confusion and help affected parties comply with this rule and state statutes it is reasonable to reprint the form in the rules.

CONCLUSION

Minnesota Statutes, section 299F.094 creates a requirement for some employers. This rule establishes a procedure whereby those employers can comply without duplication of effort or unnecessary regulatory burden.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
EMERGENCY RESPONSE COMMISSION

In the Matter of the Proposed Adoption of the Rule of the State Department of Public Safety Governing Hazardous Substance Notification	AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

Jeff Bruce, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Department of Public Safety rulemaking mailing list was accurate, complete, and current as of the 28th day of April, 1989 at the City of St. Paul, State of Minnesota, I mailed the attached Notice of Intent to Adopt A Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list on the aforementioned date.

Jeff Bruce

Subscribed and sworn to before me this 9th day of May, 19 89.

David E. Orren
Notary Public

DAVID E. ORREN
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires May 4, 1992

emergency response plan, employee training, and procedures for handling emergency incidents.

Requirements for employers who respond to hazardous materials emergencies regardless of the location are contained in paragraph (q). These responders must develop and implement an emergency response plan to handle anticipated emergencies which address personnel roles, lines of authority, training, communication, emergency recognition and prevention, evacuation routes, decontamination, emergency medical treatment, personal protective equipment, and emergency response procedures. Employers must establish an Incident Command System (ICS) through which all emergency responders and their communications will be coordinated and controlled. During an emergency incident, the individual in charge of the ICS will be responsible for identifying the hazardous substances present, implementing appropriate emergency operations, assuring that appropriate personal protective equipment is worn, assuring appropriately equipped backup personnel are standing by, designating a safety official who will be responsible for identifying and evaluating hazards, and providing direction to the safety of the operations, and implementing appropriate decontamination procedures.

Training requirements for emergency response workers at other than RCRA sites or uncontrolled hazardous waste site cleanups is based on the type of response these employees will be expected to make. First responders at the "awareness level" will recognize the presence of hazardous materials and know how to notify the appropriate authorities. First responders at the "operations level" will respond for the purpose of protecting property, persons, or the environment without actually trying to stop the release; these responders require at least eight hours of training or sufficient experience to objectively demonstrate competency in six areas. Hazardous materials technicians and hazardous materials specialists will respond to stop the release, these responders require at least 24 hours of training and competency in specified areas. The on-scene incident commander will assume control of the incident scene and will require at least 24 hours of training and competency in specified areas.

Medical surveillance is required for organized and designated HAZMAT teams and hazardous materials specialists and for any emergency response employee who exhibits signs or symptoms which may have resulted from exposure to hazardous substances during the course of an emergency incident.

By this notice, Minnesota OSHA proposes to adopt the final 1910.120 standard, as published in the Federal Register on March 6, 1989.

Department of Public Safety

Proposed Permanent Rules Relating to Hazardous Substance Notification

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes,* section 299F.094, Subd. 2.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule 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 rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Jeff Bruce
Room 205
Transportation Building
St. Paul, MN 55155

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.

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

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableless that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Jeff Bruce upon request.

The proposed rule will have a positive impact on any affected small businesses. The proposed rule will consolidate and simplify the requirments of *Minnesota Statutes*, section 299F.094, subd. 2 and Section 312 of Title III of the Superfund Amendments and Reauthorization Act of 1986.

If no hearing is required, upon adoption of the rule, the rule 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 rule, must submit the written request to Jeff Bruce.

Dated: 10 April 1989

Paul J. Tschida
Commissioner of Public Safety

Rules as Proposed (all new material)

7513.0100 FORM.

The hazardous substance notification report form, as required by Minnesota Statutes, section 299F.094, is the "Tier One - Emergency and Hazardous Chemical Inventory" form used by the state under the Superfund Amendments and Reauthorization Act of 1986, Public Law Number 99-499, title III, section 312.

7513.0200 EXAMPLE: HAZARDOUS SUBSTANCE NOTIFICATION REPORT FORM.

MINNESOTA EMERGENCY RESPONSE COMMISSION
C/O DEPT OF PUBLIC SAFETY
STATE CAPITOL BUILDING
ROOM B-5
ST. PAUL, MN 55155
(612) 296-0481

Tier One EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY
Aggregate Information by Hazard Type

FOR OFFICIAL USE ONLY
Status
Date Received

➔ **Important: Read instructions before completing form. Mail completed form to the above address and local fire department.**

Facility Identification

Name _____
Street Address _____
City _____ State _____ Zip _____
County _____ ERC ID# _____
SIC Code ☐☐☐☐ Dun & Brad Number ☐☐-☐☐☐-☐☐☐☐

Owner/Operator

Name _____
Mail Address _____
Phone ( )

Emergency Contacts

Name _____
Title _____
Phone ( )
24 Hour Phone ( )

Name _____
Title _____
Phone ( )
24 Hour Phone ( )

Reporting Period From January 1 to December 31, 19_____

Physical Hazards

Hazard Type	*Max Amount**	*Average Daily Amount**	*Number of Days On-Site*	*General Location*
Fire	☐☐	☐☐	☐☐☐	
Sudden Release of Pressure	☐☐	☐☐	☐☐☐	
Reactivity	☐☐	☐☐	☐☐☐	

☐ Check if site plan is attached

Health Hazards

Immediate (acute)	☐☐	☐☐	☐☐☐	
Delayed (Chronic)	☐☐	☐☐	☐☐☐	

Certification *(Read and sign after completing all sections)*

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals responsible for obtaining the information, I believe that the submitted information is true, accurate and complete.

Name and official title of owner/operator OR owner/operator's authorized representative

Signature

Date signed

* Reporting Ranges

Range Value	Weight Range in Pounds From...	To...
00	0	99
01	100	999
02	1000	9,999
03	10,000	99,999
04	100,000	999,999
05	1,000,000	9,999,999
06	10,000,000	49,999,999
07	50,000,000	99,999,999
08	100,000,000	499,999,999
09	500,000,000	999,999,999
10	1 billion	higher than 1 billion

PS-04003-01 (12/87)

Page ___ of ___ pages
Form Approved OMB No. 2050-0072

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.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
EMERGENCY RESPONSE COMMISSION

In the Matter of the Adoption of the Rule of the State Department of Public Safety Governing Hazardous Substance Notification	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on May 1, 1989 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes §§ 14.14, subd. 1a, and 14.22 on April 28, 1989. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency. (5) No submissions or comments on the rule were received by the agency. (7) No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

(3) The Director of the Minnesota Plant Food and Chemical Association suggested orally to the agency that the Tier II Emergency and Chemical Inventory Form contains the same information and would serve the same information and would serve the same function as the Tier I Emergency and Chemical Inventory Form. Members of the industry represented by the Association are more familiar with the Tier II form. For these reasons the agency has added Part 7513.0300 to the proposed rule allowing the Tier II form at the option of the facility.

The rule would allow an employer to substitute a Tier II form for the Tier I form requested by the local fire department. Both the Tier I and Tier II forms were developed by the U.S. Environmental Protection Agency for reporting hazardous chemicals in excess of certain threshold amounts. Under the federal law, the employer may submit either form. The Tier II form is chemical specific information which the employer would normally prepare <u>prior to</u> aggregating the information by hazard type on the Tier I form. A Tier I form is usually submitted when an employer desires to keep specific chemical information as confidential as possible.

This provision is reasonable because it provides parties covered by Minnesota Statutes § 299F.094 to comply with the statutory requirements efficiently without duplication of paperwork. This provision does not present a substantial change from the published rule because parties covered by the statute and rule are familiar with both forms, because a party may submit either form, and because the Tier II form provides more detailed information for local fire fighters.

The above captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Minnesota Rules, Parts 7513.0100 to 7513.0300 as modified is adopted this 21st day of August 1989, pursuant to authority vested in me by Minnesota Statutes §§ 299F.094 and 299A.01.

Paul J. Tschida, Commissioner
Department of Public Safety

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
EMERGENCY RESPONSE COMMISSION

In the Matter of the Adoption of the Rule of the State Department of Public Safety Governing Hazardous Substance Notification

DECLARATION OF COUNSEL

I, LeRoy C. Paddock, Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General Billing purposes, the four-digit docket client code is 0710.

LeRoy C. Paddock
Assistant Attorney General

Public Safety - Rule Relates to Hazardous Substance Notification 7515.0100

This rules allows parties to submit a "Tier One Emergency and Hazardous Chemical Inventory" form required by the Federal Gov. to the MN Emergency Response Commission which is required by 299F.094 Subd 2. Since the information required under State Statute Sec (299F.094 Subd 2) is the same as contained in Tier One .. etc form in order to avoid duplication parties can ~~subsit~~ submit the Tier One form to the State Authorities

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Stat. Author 299F.094, Subd 2 Contents of Form

The hazardous substance notification report must be completed on a form developed by the commissioner of Public & Safety and contain the following information - lists three things that must be contained in the report.

- This does not grant authority to adopt a rule

Stat Authority

~~Amendment~~

Notice of Intent to Adopt a Rule Without a Puplic Hearing cites 299F.094 Subd 2 as the authority. Statement Of Need and Reasonableness cites 299F.094 Subd 2 and also 299A.01 Subd 6 and also 14.06.

MN Stat 299A.01 Subd. 6 states the Commissioner of Public Safety shall have the power to promulgate such rules pursuant to chapter 14, as are necessary to carry out the purposes of Laws 1969, chapter 1129. In addition, the commissioner may prescribe by rule fees for the rental of films from the department.

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

September 20, 1989

Ms. Christie Eller
Assistant Attorney General
Office of the Attorney General
515 Transportation Building
St. Paul, MN 55155

Re: In the Matter of Proposed Rules Governing Hazardous Substance Notification, Minn. Rules Parts 7513.0100 to 7513.0300

Dear Ms. Eller:

On June 20, 1989, the Minnesota Department of Public Safety adopted the above-captioned rules governing hazardous substance notification. Enclosed for your review are the following:

1. A copy of the Notice of Solicitation of Outside Opinion as published in the State Register,

2. A copy of the proposed rule certified for publication,

3. A copy of the Notice of Intent to Adopt the Rule Without a Public Hearing as mailed,

4. A copy of the Statement of Need and Reasonableness,

5. The Affidavit of Mailing the Notice of Intent to Adopt the Rule Without a Public Hearing and Certification of the Mailing List,

6. A copy of the Notice of Intent to Adopt the Rule Without a Public Hearing as published in the State Register,

7. Four copies of the Rule as adopted,

8. A copy of the Findings of Fact, Conclusions of Law, and Order adopting the rule,

9. No written requests, submissions, or comments were received by the agency except for requests solely for copies of the rule or statement of need and reasonableness, and

10. The Declaration of Counsel.

Respectfully,

Katherine Burke Moore

Katherine Burke Moore
Rule Coordinator

AN EQUAL OPPORTUNITY EMPLOYER