

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJM
8/4/92

RULE REVIEW CHECKLIST

File No. 1934
DATE RECEIVED 7-30-92
REVIEW DATE 8-10-92
DUE DATE 8-13-92
~~(DIS)~~ APPROVED 8/10/92
WITHDRAWN

Docket No. 05 0009 0701
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 8/4/92
REVISOR (DIS)APPROVED 8/6/92
FILED W/SEC. OF STATE 8/10/92
RETURNED TO AGENCY 8/10/92

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
Feb 24, 1992 Date published in State Register
Comments

Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
March 24, 1992 Date adopted

✓ Proposed Rule
Revisor's Certificate

Notice of Intent to Adopt Rule
116.62 Statutory Authority
✓ Small Business Statement
Expenditure of public money statement
undated by signed Signature - not necessary to date d

✓ Statement of Need and Reasonableness (if applicable)
Small Business Statement
NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
April 14, 1992 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
Copy of rule or summary attached

✓ Publication in State Register
April 20, 1992 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
June 29, 1992 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
June 29, 1992 Date

NA Written Requests, Submissions or Comments

✓ Declaration of Attorney
Ann Seha Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

Stat Authority 116.62

subd 2 The agency shall adopt rules for the under chapter 14 establishing standards and criteria governing the testing and inspection of motor vehicles for air pollution.

end of comment period May 20, 1992

STATE OF MINNESOTA

Office of the Attorney General

TO : DAVE KELSO
Minnesota Pollution Control Agency
Air Quality Division
520 Lafayette Road North
St. Paul

DATE : August 10, 1992

FROM : MARY JO MURRAY
Special Assistant
Attorney General

PHONE : 296-3258

SUBJECT : In the Matter of the Adopted Rule Relating to Nonstandard Engines; Automobile Emisison Standards

The above-referenced rule has been approved as to its legality by the Attorney General on August 10, 1992.

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.

Enclosures
cc: Ann M. Seha
William Brown, Chief Judge
MaryAnn Hruby

MJM:jj.rules.az1

Pollution Control Agency

Adopted Permanent Rules Relating to Nonstandard Engines; Automobile Emission Standards

Rules as Adopted

7005.5030 EXHAUST EMISSION TEST.

[For text of subps 1 to 9, see M.R.]

Subp. 10. **Reconstructed (KIT) vehicles.** All reconstructed (KIT) subject vehicles shall be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the year of manufacture of the engine installed in the vehicle.

Subp. 11. **Exchanged engines.** For the purposes of parts 7005.5010 to 7005.5105, a motor vehicle with an exchanged engine must be tested as described in items A to C.

A. Except as provided in item B, a motor vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis.

B. A vehicle manufactured in model year 1991 or older that has received an exchanged or rebuilt engine, or other vehicle made from manufactured kit bodies (KIT cars), must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, unless the owner of the vehicle complies with the procedure in item C.

C. If a motor vehicle described in item B has not been inspected, or if it has been inspected and failed to meet the emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, the agency representative upon request by the motorist shall certify the year the engine was manufactured by checking the identification number of the engine block and by

reviewing documentation provided by the vehicle owner. The vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the year of the engine as certified by the agency representative. If the identification number on the block of the engine is absent and the vehicle owner is unable to provide documentation as to the engine year, the vehicle must be tested for compliance with the exhaust emission standards for model year 1976. If the agency representative determines that the engine was manufactured prior to 1976, the motor vehicle is not a subject vehicle.

Classification of a motor vehicle with an exchanged engine under parts 7005.5010 to 7005.5105, and receipt of a certificate of compliance or certificate of waiver for the motor vehicle shall not exempt the owner of the motor vehicle from the requirements of part 7005.1190 and Minnesota Statutes, section 325E.0951.

APPROVED AS TO FORM AND LEGALITY

8/10 19 92

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

AUG 10 1992

Joan Anderson Growe
Secretary of State

10:50 RL

PLEADINGS REGISTER

Proposed Rules Governing Nonstandard Engines; Reconstructed Vehicles and Exchanged Engines, Minn. Rules Part 7005.5030 Subpart 10 and Subpart 11

Number	Title of Pleading
1.	Notice of Intent to Solicit Outside Information Regarding Proposed Rules, 16 State Register 1948, (February 24, 1992) (Photocopy)
2.	Proposed Permanent Rules Relating to Nonstandard Engines; Automobile Emission Standards
3.	Statement of Need and Reasonableness (Photocopy)
4.	Certificate of Authorizing Resolution to Hold a Rulemaking Hearing (Photocopy)
5.	Affidavit of Sending the Statement of Need and Reasonableness to the Legislative Commission to Review Administrative Rules (Photocopy)
6.	Notice of Intent to Adopt Rules Without a Public Hearing, 16 State Register 2307-2308, (April 20, 1992) (Photocopy)
7.	Notice of Intent to Adopt Rules Without a Public Hearing (Mailed Notice) (Photocopy)
8.	Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List (Photocopy)
9.	Mailing List (Photocopy)
10.	Findings of Fact, Conclusions and Order Adopting Rules (Photocopy)
11.	Resolution Adopting Rules (Photocopy)
12.	Certificate of Resolution Adopting Rules (Photocopy)
13.	Declaration of Counsel

Department of Human Services

Mental Health Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Compulsive Gambling Assessments

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of a rule governing compulsive gambling assessments. The adoption of the rule is authorized by *Minnesota Statutes*, section 245.98, subdivision 2a, which directs the commissioner to adopt by rule criteria to be used in conducting compulsive gambling assessments of certain offenders identified under *Minnesota Statutes*, section 609.115, subdivison 9. *Minnesota Statutes*, section 245.98, subdivision 2a, also directs the commissioner to adopt by rule standards to qualify a person to: (1) assess offenders for compulsive gambling treatment; and (2) provide treatment indicated in a compulsive gambling assessment. The rules must also specify the circumstances, in which, in the absence of an independent assessor, the assessment may be performed by a person with a direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Alan Mathiason, Department of Human Services, Mental Health Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3828. Oral statements will be received during regular business hours over the telephone at (612) 296-2220 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Date: 14 February 1992

Jim Schmidt
Rulemaker

Pollution Control Agency

Air Quality Division

Notice of Intent to Solicit Outside Information Regarding Proposed Amendments to Rules Governing Exchanged Engines

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking information or comments from outside sources in preparing to propose amendments relating to motor vehicle inspection; clarifying that kit cars and vehicles with exchanged engines may be tested to the age of the engine under certain conditions; and requiring that model year 1992 and newer vehicles be tested to the age of the chassis. The adoption of the rules is authorized by *Minnesota Statute* § 116.62 (1990), which authorizes the MPCA to implement the vehicle emission inspection program.

The MPCA requests information and comments concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing. All statements should be submitted to:

Dave Kelso
Minnesota Pollution Control Agency
Air Quality Division
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: (612) 297-5488

Oral inquiries will be received by Mr. Kelso during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

All written or oral comments will be accepted until 4:30 p.m., March 9, 1992. Any written materials received by the MPCA shall become part of the rulemaking record in the event that the rule is adopted.

Charles W. Williams
Commissioner

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Nonstandard Engines; Automobile Emission Standards

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7005

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

Pollution Control Agency

Proposed Permanent Rules Relating to Nonstandard Engines; Automobile Emission Standards

Rules as Proposed

7005.5030 EXHAUST EMISSION TEST.

[For text of subps 1 to 9, see M.R.]

Subp. 10. Reconstructed (KIT) vehicles. All reconstructed (KIT) subject vehicles shall be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the year of manufacture of the engine installed in the vehicle.

Subp. 11. Exchanged engines. For the purposes of parts 7005.5010 to 7005.5105, a motor vehicle with an exchanged engine ~~shall be classified by the model year and manufacturer's make of the exchanged engine~~ must be tested as described in items A to C.

A. Except as provided in item B, a motor vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis.

B. A vehicle manufactured in model year 1991 or older that has received an exchanged or rebuilt engine, or other vehicle made from manufactured kit bodies (KIT cars), must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, unless the owner of the vehicle complies with the procedure in item C.

C. If a motor vehicle described in item B has not been inspected, or if it has been inspected and failed to meet the emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, the agency representative upon request by the motorist shall certify the year the engine was manufactured

Approved by Revisor

by checking the identification number of the engine block and by reviewing documentation provided by the vehicle owner. The vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the year of the engine as certified by the agency representative. If the identification number on the block of the engine is absent and the vehicle owner is unable to provide documentation as to the engine year, the vehicle must be tested for compliance with the exhaust emission standards for model year 1976. If the agency representative determines that the engine was manufactured prior to 1976, the motor vehicle is not a subject vehicle.

Classification of a motor vehicle with an exchanged engine under parts 7005.5010 to 7005.5105, and receipt of a certificate of compliance or certificate of waiver for the motor vehicle shall not exempt the owner of the motor vehicle from the requirements of part 7005.1190 and Minnesota Statutes, section 325E.0951.

Approved
by Revisor _____

Office of the Revisor of Statutes
Administrative Rules

Carla M. Riehle
Assistant Revisor
297-2948

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

July 22, 1992

Norma L. Florell
Pollution Control Agency
Program Development Section
520 Lafayette Road

RE: File No. 2016

Dear Norma:

Enclosed are stripped copies of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your emergency rules or rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

CMR/cs

Carla M. Riehle

Pollution Control Agency

Adopted Permanent Rules Relating to Nonstandard Engines; Automobile Emission Standards

Rules as Adopted

7005.5030 EXHAUST EMISSION TEST.

[For text of subps 1 to 9, see M.R.]

Subp. 10. **Reconstructed (KIT) vehicles.** All reconstructed (KIT) subject vehicles shall be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the year of manufacture of the engine installed in the vehicle.

Subp. 11. **Exchanged engines.** For the purposes of parts 7005.5010 to 7005.5105, a motor vehicle with an exchanged engine must be tested as described in items A to C.

A. Except as provided in item B, a motor vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis.

B. A vehicle manufactured in model year 1991 or older that has received an exchanged or rebuilt engine, or other vehicle made from manufactured kit bodies (KIT cars), must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, unless the owner of the vehicle complies with the procedure in item C.

C. If a motor vehicle described in item B has not been inspected, or if it has been inspected and failed to meet the emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, the agency representative upon request by the motorist shall certify the year the engine was manufactured by checking the identification number of the engine block and by

reviewing documentation provided by the vehicle owner. The vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the year of the engine as certified by the agency representative. If the identification number on the block of the engine is absent and the vehicle owner is unable to provide documentation as to the engine year, the vehicle must be tested for compliance with the exhaust emission standards for model year 1976. If the agency representative determines that the engine was manufactured prior to 1976, the motor vehicle is not a subject vehicle.

Classification of a motor vehicle with an exchanged engine under parts 7005.5010 to 7005.5105, and receipt of a certificate of compliance or certificate of waiver for the motor vehicle shall not exempt the owner of the motor vehicle from the requirements of part 7005.1190 and Minnesota Statutes, section 325E.0951.

Pollution Control Agency

Adopted Permanent Rules Relating to Nonstandard Engines; Automobile Emission Standards

Rules as Adopted

7005.5030 EXHAUST EMISSION TEST.

[For text of subps 1 to 9, see M.R.]

Subp. 10. **Reconstructed (KIT) vehicles.** All reconstructed (KIT) subject vehicles shall be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the year of manufacture of the engine installed in the vehicle.

Subp. 11. **Exchanged engines.** For the purposes of parts 7005.5010 to 7005.5105, a motor vehicle with an exchanged engine must be tested as described in items A to C.

A. Except as provided in item B, a motor vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis.

B. A vehicle manufactured in model year 1991 or older that has received an exchanged or rebuilt engine, or other vehicle made from manufactured kit bodies (KIT cars), must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, unless the owner of the vehicle complies with the procedure in item C.

C. If a motor vehicle described in item B has not been inspected, or if it has been inspected and failed to meet the emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, the agency representative upon request by the motorist shall certify the year the engine was manufactured by checking the identification number of the engine block and by

reviewing documentation provided by the vehicle owner. The vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the year of the engine as certified by the agency representative. If the identification number on the block of the engine is absent and the vehicle owner is unable to provide documentation as to the engine year, the vehicle must be tested for compliance with the exhaust emission standards for model year 1976. If the agency representative determines that the engine was manufactured prior to 1976, the motor vehicle is not a subject vehicle.

Classification of a motor vehicle with an exchanged engine under parts 7005.5010 to 7005.5105, and receipt of a certificate of compliance or certificate of waiver for the motor vehicle shall not exempt the owner of the motor vehicle from the requirements of part 7005.1190 and Minnesota Statutes, section 325E.0951.

STATE OF MINNESOTA

POLLUTION CONTROL AGENCY

In The Matter Of Proposed Rule Amendments Governing; Reconstructed Vehicles And Exchanged Engines, Minn. Rules Part 7005.5030 Subpart 10 and Subpart 11

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Minnesota Pollution Control Agency (MPCA) was authorized and directed by the 1988 Minnesota Legislature to adopt rules establishing a motor vehicle Inspection/Maintenance Program for the Twin Cities seven county metropolitan area. 1988 Minn. Laws ch. 661 (codified as Minn. Stat. §§ 116.60 to 116.65) required the MPCA to adopt standards and criteria governing the testing and inspection of motor vehicles for air pollution emissions and to hire a contractor to build and operate a network of inspection facilities.

As required by Minn. Stat. § 116.62, the MPCA adopted Minn. Rules pts. 7005.5010 to 7005.5105, which established standards and criteria governing the testing and inspection of motor vehicles for carbon monoxide and hydrocarbon emissions in the Twin Cities seven county metropolitan area.

As directed by Minn. Stat. §§ 116.60 to 116.65, the MCPA issued a Request for Proposal (RFP) to hire a contractor to build and operate a network of inspection facilities. Five proposals were received by the MPCA in response to the RFP. Upon completion of a review process, the MPCA awarded Systems Control, Inc. the contract during the summer of 1990. Vehicle testing then began on July 1, 1991.

Since implementation of the motor vehicle Inspection/Maintenance Program on July 1, 1991, the MPCA recognized a need to make a minor amendment to Minn. Rules pt. 7005.5030, subps. 10 and 11 to clarify the emission standards that

apply to vehicles with reconstructed vehicles and exchanged engines.

A Notice to Solicit Outside Opinion was published in the State Register on Monday, February 24, 1992. No comments were received by the MCPA.

II. STATEMENT OF AGENCY'S STATUTORY AUTHORITY

The MPCA's statutory authority to adopt the rules is set forth in Minn. Stat. § 116.62, which provides in part:

Subd. 1. Establishment. The MPCA shall establish and administer a program to test and inspect for air pollution emissions the motor vehicles that are subject to the requirement of Minn. Stat. § 116.61.

Subd. 2. Criteria and Standards.

(a) The MCPA shall adopt rules for the program under chapter 14 establishing standards and criteria governing the testing and inspection of motor vehicles for air pollution emissions.

(b) The rules must specify maximum pollutant emission levels for motor vehicles, giving consideration to the levels of emissions necessary to achieve applicable federal and state air quality standards. The standards may be different for different model years, sizes, and types of motor vehicles.

(c) The rules must establish testing procedures and standards for test equipment used for the inspection. The test procedures or procedures producing comparable results must be available to the automobile pollution equipment repair industry. The test equipment used for the inspection or comparable equipment must be available to the repair industry on the open market.

(d) The rules must establish standards and procedures for the issuance of licenses for fleet inspection stations.

(e) The rules must establish standards and procedures for the issuance of certificates of compliance and waiver.

Under this statute, the MPCA has the necessary statutory authority to adopt the proposed rule amendment.

III. STATEMENT OF NEED

Minn. Stat. §§ 14.131, 14.14, subd. 2, and 14.23 (1990) require the MPCA to make an affirmative presentation of facts establishing the need for and the reasonableness of the proposed rules. In general terms, this means that the MPCA must set forth the reasons for proposing rules and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the MPCA is a proper one. The need for the changes to the Minn. Rules pt. 7005.5030, subps. 10 and 11 is discussed below.

The need for these changes to Minn. Rules pt. 7005.5030 subps. 10 and 11 arises from the MPCA's experience in implementing the motor vehicle Inspection/Maintenance Program. Specifically subp. 10 addresses the issue of a reconstructed vehicle and subp. 11 addresses the issue of exchanged engines as currently written.

Minn. Rules pt. 7005.5030. subp. 10 and subp. 11 do not explicitly establish which emission standards will be applied to cars made from a kit (Kit cars), and do not contain procedures for determining the proper emission standard to apply to motor vehicle which have exchanged engines.

To assist it in implementing the Inspection/Maintenance Program in accordance with Minn. Stat. §§ 116.60 to 116.65, there is a need for the MPCA to adopt changes to Minn. Rules pt. 7005.5030 subps. 10 and 11 in order to clarify that a Kit car is a form of a reconstructed vehicle and to establish a

procedure for determining the appropriate emission standards for testing vehicles containing an exchanged engine.

IV. STATEMENT OF REASONABLENESS

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

The amendment to Minn. Rules pt. 7005.5030 subp. 10 clarifies that a Kit vehicle is a reconstructed vehicle, and therefore shall be tested using the standards applicable to the year of manufacture of the engine installed in the vehicle. A Kit vehicle is a vehicle that has been built from several components and may not be easily classified by any particular model year. The engine, however, usually has an identifiable date of manufacture. Therefore, it is reasonable to clarify that a Kit vehicle is considered to be a reconstructed vehicle, so that the emission standard applied to it will correspond to the date of manufacture of the engine.

The amendment to Minn. Rules pt. 7005.5030 subp. 11 states that if a vehicle has an exchanged engine, the vehicle shall be classified by the model year of and the manufacturer's make of the exchanged engine or in some cases the model year of the chassis.

Item A of the proposed rule change states that except as provided in item B, a motor vehicle shall be tested for compliance with the exhaust emission standards in part 7005.5030, subp. 3, table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis.

Item B of the proposed rule change states that any vehicle manufactured in model year 1991 or older that has received an exchanged engine or rebuilt engine, or other vehicle made from manufactured Kit bodies (Kit cars), shall be tested for compliance with the exhaust emission standards in subpart 3, table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, unless the owner of the vehicle complies with the procedure outlined in item C.

Items A and B are reasonable because they clearly establish the standards to be used in testing Kit cars and vehicles with exchanged engines. A vehicle with an exchanged engine would be tested to the standards applicable to the model year of the chassis for all 1991 and older vehicles. The establishment of the 1991 model year as the cut off date is reasonable because it is easily determined by looking at the vehicle's registration and clarifies which vehicles are tested to standards applicable to the model year of the chassis. The use of 1991 as the cut off date is also reasonable because it places new car purchasers on notice that exchanged engines placed in cars after model year 1991, must not affect the car's compliance with emission standards applicable to the car's model year. Older cars may already have exchanged engines in which case application of the emission standards to the chassis year of the car could require a new engine, which would be very expensive. Therefore, it is reasonable to apply to these older vehicles the standards applicable to the model year of the engine.

Item C states that if a vehicle containing an exchanged engine described above in item B as being a model year 1991 or older, has not been inspected or has failed to meet the emission standards applicable to the vehicle's chassis, the MPCA representative upon request by the motorist shall certify the year the engine was manufactured by checking the identification number of the engine

block and by reviewing documentation provided by the vehicle owner. The vehicle will then be tested using the standards applicable to the year of the engine as certified by the MPCA representative.

Checking the identification number of the engine block and reviewing documentation provided by the vehicle owner to certify the year the engine was manufactured is reasonable because most engines have an easily identifiable date of manufacture on the engine block. Where there is no identification number on the engine block, it is reasonable to review documentation provided by the vehicle owner to certify the date of manufacture. It would be unreasonable to require the use of the identification number on the engine block to determine the age of the engine when none exists.

Item C also states that if the identification number on the block of the engine is absent and the vehicle owner is unable to provide documentation as to the engine year, the vehicle shall be tested for compliance with exhaust emission standards for model year 1976. Where there is no identification number on the engine block or documentation to certify the date of manufacture, it is reasonable to test to standards for model year 1976 for two reasons. First, the MPCA representative would have to conclude that the vehicle is required to be tested because the MPCA representative is unable to certify that the age of the engine is older than 1976. Vehicles older than 1976 are not subject to the emission test. See Minn. Stat. § 116.61, subd. 2(1). Second, since the vehicle will be tested and the age of the engine cannot be determined, it is reasonable to use test standards for 1976 because 1976 test standards are easier to meet therefore providing a benefit to the motoring public.

Item C is also reasonable, because it establishes clear procedures for identifying the emission standard that would apply to vehicles tested to the

model year of the engine under the different possible scenarios: engine year ascertainable, engine year not ascertainable, and engine year that renders the car exempt from testing. By establishing clearly the emission standards that apply to vehicles with exchanged engines, this amendment will reduce disputes about applicable standards, thereby making the overall program easier to administer.

The unamended text of this subpart acknowledges that engine switching is done by the public and provides a means of classifying a motor vehicle for purposes of the inspection and maintenance program required by parts 7005.5010 to 7005.5105, but does not relieve the owner of a motor vehicle from the requirements of Minn. Stat. § 325E.0951 or Minn. Rules pt. 7005.1190, which prohibit, in part, removing, altering, or otherwise rendering inoperative any air pollution control system on a motor vehicle.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 14.115, subd. 2 (1990) requires the MPCA, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

In proposing these rule amendments, the MPCA considered the feasibility of establishing lesser requirements for inspection of vehicles owned by small businesses but concluded that, because air pollutant emissions from vehicles owned by small business have an equally deleterious impact on air quality as any other vehicles, the purposes of the rules would be defeated by such a measure. Also, the rule amendment clarifies the emission standards which apply to vehicles, but does not change which vehicles are subject to testing under current rules, and is therefore not expected to increase costs of compliance for small businesses.

VI. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the MPCA is required by Minn. Stat. § 116.07, subd. 6 (1990) to give due consideration to economic factors. The statute provides:

> In exercising all its powers the Minnesota Pollution Control Agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

In proposing the changes to part 7005.5030. subps. 10 and 11 the MPCA has given due consideration to available information as to any economic impacts the proposed changes would have. No significant adverse economic impacts are anticipated to result from the adoption of the proposed rule changes, which are clarifying amendments designed to identify the emission standards which apply

to certain vehicles that, because of their configuration, are difficult to classify as to model year.

VII. AGRICULTURAL LANDS

This proposed rule amendment will not have a direct and substantial adverse impact on agricultural land in the state. See Minn. Stat. § 14.11, subd. 2 (1990).

VIII. CONCLUSION

Based on the foregoing, the proposed changes to Minn. Rules, pt. 7005.3050 subps. 10 and 11 are both needed and reasonable.

Dated: March 24, 1992

Charles W. Williams
Commissioner

CERTIFICATE OF MINNESOTA POLLUTION CONTROL AGENCY'S AUTHORIZATION RESOLUTION

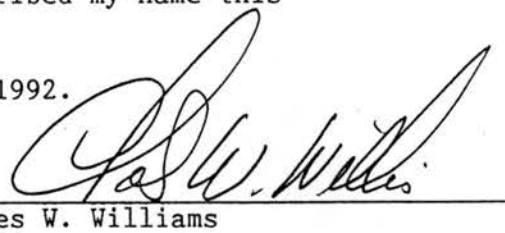
I, Charles W. Williams, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 24 day of March 1992, 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 Commissioner of the Minnesota Pollution Control Agency is hereby granted the authority to sign and to give notice of the Minnesota Pollution Control Agency's intent to adopt, without a public hearing, the attached amendments to Minn. Rules Pt. 7005.5030, subp. 10 and subp. 11, to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and publish the notice and the proposed rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subs. 2 (1990).

BE IT FURTHER RESOLVED that in the event a public hearing becomes necessary the Commissioner of the Minnesota Pollution Control Agency is also granted the authority to call a hearing for the purpose of adopting the attached amendments to Minn. Rules Pt. 7005.5030, subp. 10 and subp. 11, to sign the Notice thereof, to act as the Minnesota Pollution Control Agency's representative at the hearing, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1990).

IN WITNESS WHEREOF, I have hereunto subscribed my name this

24 day of March, 1992.



Charles W. Williams
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing Exhaust Emission Test, Minn. Rule Part 7005.5030, subp. 10 (Reconstructed Vehicles) and subp. 11 (Exchanged Engines)

AFFIDAVIT OF SENDING THE STATEMENT OF NEED AND REASONABLENESS TO THE LEGISLATIVE COMMISSION TO REVIEW ADMINISTRATIVE RULES

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Vanessa Romero, being duly sworn says:

That on the 30 day of March, 1992, I mailed a copy of the Statement of Need and Reasonableness pursuant to Minn. Stat. §§ 14.131, along with the attached cover letter to the Executive Director of the Legislative Commission to Review Administrative Rules by depositing in the United States mail with first class postage prepaid.

Vanessa Romero

Subscribed and sworn to before me this 20th day of April, 1992.

Jodi D Rasmuss

Notary Public

JODI D. RASMUSSEN
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires 10-23-94

Minnesota Pollution Control Agency
520 Lafayette Road, Saint Paul, Minnesota 55155-3898
Telephone (612) 296-6300

March 31 , 1992

Ms. Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules
State Office Building, Room 55
100 Constitution Avenue
St. Paul, Minnesota 55155

Dear Ms. Hruby:

Subject: State of Need and Reasonableness for Proposed Amended Rule Governing Reconstructed Vehicles and Exchanged Engines (Minn. Rule Part 7005.5030, subp. 10 and subp. 11)

Enclosed for your review is a copy of the Statement of Need and Reasonableness for proposed revisions to Minn. Rule part 7005.5030, subp. 10 (Reconstructed Vehicles) and subp. 11 (Exchanged Engines), as required by Minnesota Statutes, section 14.115 subd. 8. If you have any questions please call me at (612) 296-7712.

Sincerely,

Norma L. Florell

Norma L. Florell
Planning and Rule Coordinator
Air Quality Division

NLF:jmd

Enclosure

Code, section VIII, division 1, construction and be designed for 250 pounds per square inch gage (17.57 kilograms/cm² gage) (1724.0 kPa gage) working pressure minimum.

Subp. 4. **Storage tank capacity.** A storage tank capacity for anhydrous ammonia must be limited to 56 percent of water weight capacity at 60 degrees Fahrenheit (15.6 degrees centigrade). Gage glasses must be equipped with excess flow valves to stop the flow of ammonia if breakage occurs. Meters with mercury as the manometer liquid must not be used.

Subp. 5. **Procedures.** The unloading of either tank trunk or railroad tank car must be done by creating a pressure differential between the storage tank and the portable vessel or a direct transfer by suitable liquid ammonia pump. Flexible connections of ammonia design at 350 pounds per square inch gage (24.6 kilograms/cm² gage) (2413.0 kPa gage) working pressure rating must be used between the portable vessel and unloading rack. Cars must be blocked before connections are made and proper warning signs must be put in place on a railroad siding. The unloading operation must be under continuous supervision.

Subp. 6. **Masks and helmets.** Two safety masks approved under American National Standards Institute, standard Z87.1, must be located in a readily accessible location immediately adjacent to the unloading or charging operation.

Pollution Control Agency

Proposed Permanent Rules Relating to Nonstandard Engines; Automobile Emission Standards

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) 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* § 14.22 to 14.28 (1990). The MPCA's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.62 (1990).

All persons have until 4:30 p.m. May 20, 1992, to submit comments orally or in writing on the proposed rule amendments. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. Comment is encouraged. Written comments should be directed to Dave Kelso at the address listed below.

Mr. Dave Kelso
Air Quality Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

Oral comments will be accepted by Mr. Kelso at the MPCA during regular business hours or over the telephone at (612) 297-5488.

The proposed amended rule 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 rule as noticed.

The proposed amended rule, if adopted, will clarify that a Kit car is a form of a reconstructed vehicle and will identify appropriate emission standards for testing vehicles containing an exchanged engine under a variety of circumstances. The proposed amended rule is published below. One free copy of the amended rule is available upon request from Norma Florell at the address and telephone number stated below.

Any person may make a written request for a public hearing on the amended rule within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address and telephone number, and is encouraged to identify the portion of the proposed amended rule addressed, the reason for the request, and any change proposed.

If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes* § 14.131 to 14.20 (1990).

Written requests for a public hearing should be directed to Norma Florell at the address listed below.

Ms. Norma Florell
Air Quality Division

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.

Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

All general questions regarding the rulemaking process should be directed to Norma Florell at (612) 296-7712.

A **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed amended rule and identifies the data and information relied upon to support the proposed amended rule has been prepared and is available from Norma Florell upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1990), "Small business considerations in rulemaking," that the proposed amended rule will not have an impact on small businesses. The MPCA considered the feasibility of establishing lesser requirements for inspection of vehicles owned by small businesses but concluded that, because air pollutant emissions from vehicles owned by small businesses have an equally deleterious impact on air quality as any other vehicles, the purposes of the rules would be defeated by such a measure. The amended rule clarifies the emission standards which apply to vehicles, but does not change which vehicles are subject to testing under current rules, and is therefore not expected to increase costs of compliance for small businesses.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.11, subd. 1 (1990) "Impact on Local Public Bodies," that the proposed amended rule will not have an impact on expenditure of public money by local bodies.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.11, subd. 2 (1990) "Agricultural Land," that the proposed amended rule will not have an impact on agricultural land in the state.

If no hearing is required, upon adoption of the amended 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 form relates to legality. Any person may request notification of the date of submission of this material 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 rule as adopted, must submit a written request to Norma Florell.

Charles W. Williams
Commssioner

Rules as Proposed

7005.5030 EXHAUST EMISSION TEST.

[For text of subps 1 to 9, see M.R.]

Subp. 10. **Reconstructed (KIT) vehicles.** All reconstructed (KIT) subject vehicles shall be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the year of manufacture of the engine installed in the vehicle.

Subp. 11. **Exchanged engines.** For the purposes of parts 7005.5010 to 7005.5105, a motor vehicle with an exchanged engine ~~shall be classified by the model year and manufacturer's make of the exchanged engine~~ must be tested as described in items A to C.

A. Except as provided in item B, a motor vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis.

B. A vehicle manufactured in model year 1991 or older that has received an exchanged or rebuilt engine, or other vehicle made from manufactured kit bodies (KIT cars), must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, unless the owner of the vehicle complies with the procedure in item C.

C. If a motor vehicle described in item B has not been inspected, or if it has been inspected and failed to meet the emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, the agency representative upon request by the motorist shall certify the year the engine was manufactured by checking the identification number of the engine block and by reviewing documentation provided by the vehicle owner. The vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the year of the engine as certified by the agency representative. If the identification number on the block of the engine is absent and the vehicle owner is unable to provide documentation as to the engine year, the vehicle must be tested for compliance with the exhaust emission standards for model year 1976. If the agency representative determines that the engine was manufactured prior to 1976, the motor vehicle is not a subject vehicle.

Classification of a motor vehicle with an exchanged engine under parts 7005.5010 to 7005.5105, and receipt of a certificate of compliance or certificate of waiver for the motor vehicle shall not exempt the owner of the motor vehicle from the requirements of part 7005.1190 and *Minnesota Statutes*, section 325E.0951.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing Exhaust Emission Test, Minn. Rule Part 7005.5030, subp.10 (Reconstructed Vehicles) and subp. 11 (Exchanged Engine)

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) 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 Minn. Stat. § 14.22 to 14.28 (1990). The MPCA's authority to adopt the rule is set forth in Minn. Stat. § 116.62 (1990).

All persons have until 4:30 p.m. May 20, 1992, to submit comments orally or in writing on the proposed rule amendments. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. Comment is encouraged. Written comments should be directed to Dave Kelso at the address listed below.

Mr. Dave Kelso
Air Quality Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

Oral comments will be accepted by Mr. Kelso at the MPCA during regular business hours or over the telephone at (612) 297-5488.

The proposed amended rule 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 rule as noticed.

The proposed amended rule, if adopted, will clarify that a Kit car is a form of a reconstructed vehicle and will identify appropriate emission standards for testing vehicles containing an exchanged engine under a variety of circumstances. A copy of the proposed amended rule is enclosed.

Any person may make a written request for a public hearing on the amended rule within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address and telephone number, and is encouraged to identify the portion of the proposed amended rule addressed, the reason for the request, and any change proposed.

If a public hearing is required, the MPCA will proceed pursuant to Minn. Stat. § 14.131 to 14.20 (1990).

(5) Written requests for a public hearing should be directed to Norma Florell at the address listed below.

Ms. Norma Florell
Air Quality Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

All general questions regarding the rulemaking process should be directed to Norma Florell at (612) 296-7712.

(11) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amended rule and identifies the data and information relied upon to support the proposed amended rule has been prepared and is available from Norma Florell upon request.

(14) You are hereby advised, pursuant to Minn. Stat. § 14.115 (1990), "Small business considerations in rulemaking," that the proposed amended rule will not have an impact on small businesses. The MPCA considered the feasibility of establishing lesser requirements for inspection of vehicles owned by small businesses but concluded that, because air pollutant emissions from vehicles owned by small businesses have an equally deleterious impact on air quality as any other vehicles, the purposes of the rules would be defeated by such a measure. The amended rule clarifies the emission standards which apply to vehicles, but does not change which vehicles are subject to testing under current rules, and is therefore not expected to increase costs of compliance for small businesses.

(13) You are hereby advised, pursuant to Minn. Stat. § 14.11, subd. 1 (1990) "Impact on Local Public Bodies", that the proposed amended rule will not have an impact on expenditure of public money by local bodies.

You are hereby advised, pursuant to Minn. Stat. § 14.11, subd. 2 (1990) "Agricultural Land", that the proposed amended rule will not have an impact on agricultural land in the state.

(9) If no hearing is required, upon adoption of the amended 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 form relates to legality. Any person may request notification of the date of submission of this material 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 rule as adopted, must submit a written request to Norma FLorell.

Charles A. Bloomquist

CHARLES W. WILLIAMS
Commissioner

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Nonstandard Engines; Automobile Emission Standards

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7005

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

Pollution Control Agency

Proposed Permanent Rules Relating to Nonstandard Engines; Automobile Emission Standards

Rules as Proposed

7005.5030 EXHAUST EMISSION TEST.

[For text of subps 1 to 9, see M.R.]

Subp. 10. **Reconstructed (KIT) vehicles.** All reconstructed (KIT) subject vehicles shall be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the year of manufacture of the engine installed in the vehicle.

Subp. 11. **Exchanged engines.** For the purposes of parts 7005.5010 to 7005.5105, a motor vehicle with an exchanged engine ~~shall be classified by the model year and manufacturer's make of the exchanged engine~~ must be tested as described in items A to C.

A. Except as provided in item B, a motor vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis.

B. A vehicle manufactured in model year 1991 or older that has received an exchanged or rebuilt engine, or other vehicle made from manufactured kit bodies (KIT cars), must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, unless the owner of the vehicle complies with the procedure in item C.

C. If a motor vehicle described in item B has not been inspected, or if it has been inspected and failed to meet the emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, the agency representative upon request by the motorist shall certify the year the engine was manufactured

Approved by Revisor

by checking the identification number of the engine block and by reviewing documentation provided by the vehicle owner. The vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the year of the engine as certified by the agency representative. If the identification number on the block of the engine is absent and the vehicle owner is unable to provide documentation as to the engine year, the vehicle must be tested for compliance with the exhaust emission standards for model year 1976. If the agency representative determines that the engine was manufactured prior to 1976, the motor vehicle is not a subject vehicle.

Classification of a motor vehicle with an exchanged engine under parts 7005.5010 to 7005.5105, and receipt of a certificate of compliance or certificate of waiver for the motor vehicle shall not exempt the owner of the motor vehicle from the requirements of part 7005.1190 and Minnesota Statutes, section 325E.0951.

Approved
by Revisor _____

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing Exhaust Emission Test, Minn. Rule Part 7005.5030 subp. 10 (Reconstructed Vehicles)and subp. 11 (Exchanged Engines)

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Vanessa R. Romero, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. § 14.14 subd. 1a and 14.30 (1990) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 14 day of April, 1992.

That on the 14 day of April, 1992, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed 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 a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Vanessa R. Romero

Subscribed and sworn to before me
this 20th day of April, 1992.

Jodi D. Rasmussen
Notary Public

JODI D. RASMUSSEN
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires 10-23-94

HON. RANVILLE WALBURN 01308
COMMISSIONER
PO BOX 37
WILLARD, MN 56385

HON. JOAN MISKA 01313
REDWOOD CO. COMMISSIONER
109 COOK ST.
REDWOOD FALLS, MN 56283

HON. GALE DAHLAGER 01314
RENVILLE CO COMMISSIONER
R 2 BOX 56
SACRED HEART, MN 56285

HON. JERRY PINEUR 01316
RICE CO COMMISSIONER
R 1 BOX 73G
MORRISTOWN, MN 55052

HON. RICHARD MERTZ 01332
SCOTT CO COMMISSIONER
845 LEWIS ST.
SHAKOPEE, MN 55379

HON. LYLE SMITH 01334
SHERBURNE CO COMMISSIONER
BOX 325
BIG LAKE, MN 55309

HON. WILLIAM MATTSON 01336
ST. LOUIS CO COMMISSIONER
100 N 5TH AVE W
SUITE 208
DULUTH, MN 55802-1292

HON. JOHN BACH 01344
SIBLEY CO COMMISSIONER
R 1 BOX 187
HENDERSON, MN 56044

HON. JOHN GALKERUD 01349
ROSEAU CO COMMISSIONER
R 2
BADGER, MN 56714

HON. ROBERT GAMBRINO 01359
STEARNS CO COMMISSIONER
BOX 743
ST. CLOUD, MN 56302

HON. LESTER OELTJENBRUNS 01379
STEELE CO COMMISSIONER
R 4 BOX 257
OWATONNA, MN 55060

HON. HERB KLOOS 01380
STEVENS CO COMMISSIONER
RR 1 BOX 177
DONNELLY, MN 56235

HON. STEVE RAGUSE 01387
TRAVERSE CO COMMISSIONER
R
BC
WHEATON, MN 56296

HON. SALLY EVERT 01389
WASHINGTON CO COMMISSIONER
550 S. GROVE
STILLWATER, MN 55082

HON. LESTER RECKOW 01395
WATONWAN CO COMMISSIONER
911 S. 2ND ST.
ST. JAMES, MN 56081

HON. JAMES PONCELET 01398
WABASHA CO COMMISSIONER
R 1 BOX 110
MAZEPPA, MN 55956

HON. CALVIN CONDON 01402
WASECA CO COMMISSIONER
409-5TH ST. N.E.
WASECA, MN 56093

HON. DONALD PETERSON 01410
WINONA CO COMMISSIONER
R 1 BOX 65B
WINONA, MN 55987

HON. STANLEY BERG 01421
YELLOW MED CO COMMISSIONER
R 1 BOX 125
CLARKFIELD, MN 56223

HON. KALVIN MICHELS 01423
WILKIN CO COMMISSIONER
205 N. 14TH ST.
BRECKENRIDGE, MN 56520

HON. DONALD PETERSON 01431
WINONA CO COMMISSIONER
R 1 BOX 65B
WINONA, MN 55987

HON. ARLYN NELSON 01432
WRIGHT CO COMMISSIONER
213 S. 4TH AVE.
BUFFALO, MN 55313

MR. BRUCE E. BENSON 01448
ZONING ADMINISTRATOR
CARLTON COUNTY COURTHOUSE
BOX 220
CARLTON, MN 55718

MR. JACK WIMMER 01507
ZONING ADMINISTRATOR
STEARNS COUNTY PLANNING DEPT.
705 COURTHOUSE SQUARE - RM 43
ST. CLOUD, MN 56301

MR. ROBERT LOCKYEAR 01515
PLANNING COORDINATOR
WASHINGTON COUNTY COURTHOUSE
14900 NORTH 61ST STREET
STILLWATER, MN 55082

DAVID CERA 02151
2010 JERSEY AVE S
ST LOUIS PARK, MN 55426

CITIZENS FOR BETTER ENVIROMENT 02154
3255 HENNEPIN AVE S
SUITE #150
MPLS, MN 55408

HON LL COLLINS
OL : CO COMMISSIONER
117 HAWTHORNE
LEXANDRIA, MN 56308

01110

HON. ROBERT THOMPSON
FILLMORE CO COMMISSIONER

LANESBORO, MN 55949

01114

HON. ARNOLD BIEDERMANN
FREEBORN CO COMMISSIONER
219 N. 1ST AVE.
ALBERT LEA, MN 56007

01115

HON. RANDY JOHNSON
IENNEPIN CO COMMISSIONER
-2400 GOVT CTR
IINNEAPOLIS, MN 55487

01121

HON. FRANK WEISBROD
ISANTI CO COMMISSIONER
R 2
CAMBRIDGE, MN 55008

01137

HON. MILFORD GENTZ
JACKSON CO COMMISSIONER
R 1 BOX 85
LAKEFIELD, MN 56150

01150

HON. RANDY SWENSON
CITTSON CO COMMISSIONER
R 1 BOX 162
ANCASTER, MN 56735

01165

HON. DONALD SANDBECK
KOOCHICHING CO COMMISSIONER
R 8 BOX 620
JAMESON ADDITION
INT'L FALLS, MN 56649

01167

HON. ROBERT CULHANE
LE SUEUR CO COMMISSIONER
R 1 BOX 90
WATERVILLE, MN 56096

01183

HON. STAN CORNELIUS
AKE-WOODS CO COMMISSIONER
512-1ST AVE. S.E.
BAUDETTE, MN 56623

01191

HON. ALBERT HOFFMAN
LAC QUI PARLE CO COMMISSIONER
R 1 BOX 33
BELLINGHAM, MN 56212

01197

HON. CARL HAUSCHILD
LINCOLN CO COMMISSIONER
R 1 BOX 183
MINNEOTA, MN 56264

01203

HON. WILLIAM COLE
LYON CO COMMISSIONER
10 JTHVIEW DR.
MAR L, MN 56258

01205

HON. RICHARD LARSON
MAHNOMEN CO COMMISSIONER
R 2
MAHNOMEN, MN 56557

01207

HON. DAVID OBERFELD
MILLE LACS CO COMMISSIONER
R 1 BOX 235
ISLE, MN 56342

01225

HON. LEONARD STOLTMAN
MARSHALL CO COMMISSIONER
BOX 322
ARGYLE, MN 56713

01229

HON. STEVE PIERCE
MARTIN CO COMMISSIONER
220 S PRAIRIE
FAIRMONT, MN 56031

01230

HON. HERB MAURITSON
NORMAN CO COMMISSIONER
R 1 BOX 24A
SHELLY, MN 56581

01246

HON. MARVIN BAUMGARD
OBLES CO COMMISSIONER
529 FRONTIER RD
BREWSTER, MN 56119

01253

HON. MELFRED VENSKE
MORRISON CO COMMISSIONER
R 1 BOX 210B
RANDALL, MN 56475

01257

HON. DUANE KIRCHNER
MURRAY CO COMMISSIONER
R 2 BOX 159
WESTBROOK, MN 56183

01260

HON. KENNETH ALBRECHT
NICOLLET CO COMMISSIONER
R 2 BOX 161
NORTH MANKATO, MN 56003

01261

HON. CLAYTON IHLEN
PIPESTONE CO COMMISSIONER
R 3
PIPESTONE, MN 56164

01274

HON. JEAN MICHAELS
OLMSTED CO COMMISSIONER
1010 SKYLINE DR. S.W.
ROCHESTER, MN 55902

01277

HON. BILL PENNING
PENNINGTON CO COMMISSIONER
115 S. KENDALL AVE. N
THF RVR FLLS, MN 56701

01281

HON. DON BAKKEN
POLK CO COMMISSIONER
BOX 627
FERTILE, MN 56540

01285

HON. HAL NORGARD
RAMSEY CO COMMISSIONER
COURTHOUSE
15 W KELLOGG
ST PAUL, MN 55102

01300

MA\ \HL
)A\ ASSOCIATES
4390 MCMENEMY ROAD
ST. PAUL, MN 55127
00886

HONORABLE DON WINKELMAN, SR.
CHAIRMAN
BENTON COUNTY BOARD
1983 95TH AVENUE
SAUK RAPIDS, MN 56379
00891

HONORABLE HOWARD CHRISTIANSON
CHAIRMAN
KANDIYOHI COUNTY BOARD
809 SW 16TH STREET
WILLMAR, MN 56201
00921

HONORABLE DONALD MAHER, CHAIRMAN
DAKOTA COUNTY BOARD
C/O DAKOTA COUNTY GOV'T CTR
1560 HIGHWAY 55
HASTINGS, MN 55033
00927

HONORABLE DALE SMOLNISKY
CHAIRMAN
MEEKER COUNTY BOARD
742 EAST CRESCENT LANE
LITCHFIELD, MN 55355
00929

LAKE COUNTY BOARD
COURTHOUSE
601 3RD AVENUE
TWO HARBORS, MN 55616
00934

DEBRA GATES
LAW DEPARTMENT
P O BOX 391
ASHLAND, KY 41114
00975

DOUGLAS M. CARNIVAL
ATTORNEY AT LAW
1700 LINCOLN CENTRE
333 SOUTH 7TH STREET
MINNEAPOLIS, MN 55402
00977

MARY SIGMUNDIK
INSTITUTE FOR ENVIRONMENTAL ASSESSME
641 EAST MAIN STREET
ANOKA, MN 55303
00978

CHRIS NADLER
RETEC
23 OLD TOWN SQUARE
SUITE 250
FORT COLLINS, CO 80524
00981

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STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of Proposed Rule Amendments Governing; Reconstructed Vehicles and Exchanged Engines, Minn. Rules Part 7005.5030 Subpart 10 and Subpart 11

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came for decision before the Minnesota Pollution Control Agency (MPCA) on the 23 day of June, 1992. 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 proposed rule amendments, 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, Conclusions, and Order Adopting Rules:

FINDINGS OF FACT

1. The MPCA received no written or oral comments on the proposed amended rule in response to the Notice of Intent to Solicit Outside Information Regarding Proposed Amendments to Rules Governing Reconstructed Vehicles and Exchanged Engines, published in the State Register on February 24, 1992.

2. The MPCA received no written or oral comments on the proposed rule amendments in response to the Notice of Intent to Adopt the above-entitled rule amendments published in the State Register on April 20, 1992, and that was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat. § 14.14, subd. 1a and 14.22 (1990), on April 14, 1992.

3. Copies of the proposed rule amendments and Statement of Need and Reasonableness (SONAR) were sent to the Legislative Commission to Review Administrative Rules on March 30, 1992.

4. The SONAR was prepared prior to mailing and publication of the notice, and was made available to the public.

5. All persons were given the opportunity to submit comments on the rule amendments for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on May 20, 1992.

6. No requests for notice of submission to the Attorney General were received by the MPCA.

7. During the comment period the MPCA received no written or oral comments and no requests for a public hearing. The MPCA adopts the SONAR, in its entirety, as the factual basis for the proposed rules. The MPCA hereby incorporates the SONAR into these findings.

8. The MPCA finds that the above-entitled rule amendments published in the State Register on April 20, 1992, are needed and reasonable.

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 the rule amendments without a public hearing.
3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pt. 7005.5030, subpart 10 (Reconstructed Vehicles) and subp. 11 (Exchanged Engines), are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §§ 116.62 (1990).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: 6/27/92

Charles W. Williams
Commissioner

comment period, the MPCA staff believes that the MPCA Board should adopt the attached Findings of Fact, Conclusions, and Order Adopting Rules.

IV. **Recommendation:**

The staff recommends that the MPCA Board adopt the attached suggested staff resolution and Findings of Fact, Conclusions and Order Adopting Rules.

SUGGESTED STAFF RESOLUTION

BE IT RESOLVED, that the Minnesota Pollution Control Agency hereby approves and adopts the amendments to Minn. Rules pt. 7005.5030, subp. 10 (Reconstructed Vehicles) and subp. 11 (Exchanged Engines), under the authority set forth in Minn. Stat. § 116.62, as published in the State Register, Volume 16, April 20, 1992, pages 2307 to 2308.

BE IT FURTHER RESOLVED, that prior to publishing the rule as adopted in the State Register, the Commissioner is authorized to make any form changes in the rule that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the revisor's certification as required by Minn. Stat. § 14.28 (1990).

BE IT FURTHER RESOLVED, that the Minnesota Pollution Control Agency adopts the Findings of Fact, Conclusions, and Order Adopting Rules and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Minnesota Pollution Control Agency and to perform the necessary acts to provide that the rule shall have the force and effect of law.

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Charles W. Williams, do hereby certify that I am the Commissioner 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 23rd day June, 1992, 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 hereby approves and adopts amendments to Minn. Rules pt. 7005.5030, subpart 10 (Reconstructed Vehicles) and subp. 11 (Exchanged Engines), under the authority set forth in Minn. Stat. § 116.62, as published in the State Register, Volume 16, April 20, 1992, pages 2307 to 2308.

BE IT FURTHER RESOLVED, that prior to publishing the rule as adopted in the State Register, the Commissioner is authorized to make any form changes in the rule that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the revisor's certification as required by Minn. Stat. § 14.28 (1990).

BE IT FURTHER RESOLVED, that the Minnesota Pollution Control Agency adopts the Findings of Fact, Conclusions, and Order Adopting Rules and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Minnesota Pollution Control Agency and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 29th day of June, 1992.

CHARLES W. WILLIAMS
Commissioner

In the Matter of the Proposed Rule Amendments Governing Reconstructed Vehicles and Exchanged Engines, Minn. Rules Part 7005.5030, Subpart 10 and Subpart 11

DECLARATION OF COUNSEL

I, Ann M. Seha, Special 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 75.F825.0701.

Ann M. Seha

ANN M. SEHA

Special Assistant
Attorney General