

179 June 11

STATE REGISTER

STATE OF MINNESOTA

EXECUTIVE ORDERS

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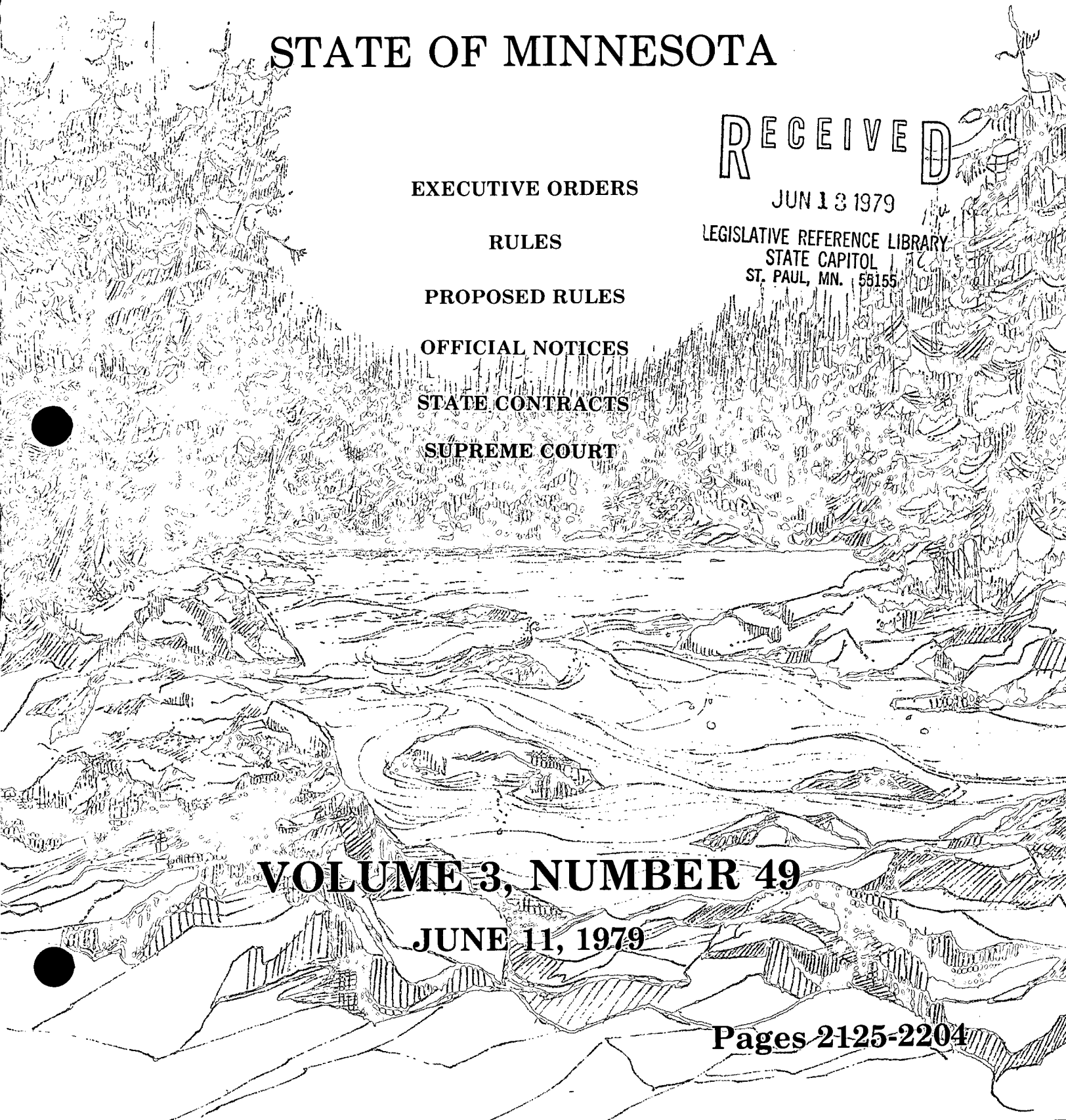
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STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUMES 3 AND 4			
50	Monday June 4	Monday June 11	Monday June 18
51	Monday June 11	Monday June 18	Monday June 25
52	Monday June 18	Monday June 25	Monday July 2
1 (Volume 4)	Monday June 25	Monday July 2	Monday July 9

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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F. Lee Jacques greatly admired wolves and advocated their preservation. *The Wolf Pack*, a Jacques oil painting, depicts wolves running after prey along the shoreline of a frozen lake in the Superior National Forest. Jacques reconstructed the picture from footprints in the snow. The same scene, with a slightly different illustration, appears in Florence Jacques' *Snowshoe Country*, a book about the same wild region of northeastern Minnesota. (Photograph courtesy of the John Ford Bell Museum of Natural History, University of Minnesota)

MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in Volume 3, Numbers 40-49 of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here al-

though they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* is published each quarter and at the end of the volume year.

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EXECUTIVE ORDERS

Executive Order No. 79-25

Authorizing the Bureau of Criminal Apprehension to Provide Criminal History Conviction Data to the Department of Public Welfare and Various County Welfare Departments

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, the Department of Public Welfare and the various county welfare departments license foster homes, family day care homes, day care facilities, and residential facilities for children and handicapped adults; and,

WHEREAS, the qualifications of any person applying for a license to operate a foster home, a family day care home, a day care facility, or a residential facility must be evaluated before issuing a license or denying a license application; and,

WHEREAS, the determination of whether an applicant appropriately qualifies to hold such licenses requires consideration of criminal history conviction information, if any, that may exist;

NOW, THEREFORE, I ORDER:

The Bureau of Criminal Apprehension, with the informed consent of the subject of the data, to furnish to the Commissioner of Public Welfare, the director of any county welfare agency, or their representatives, subject to the restrictions in Minn. Stat. § 364.04:

1. All felony convictions and the following conviction criminal history data for the below listed offenses as referred to in the Criminal Code of 1963, as amended, Minn. Stat. § 609.01 *et seq.*:

- A. Homicides
- B. Crimes against the person
- C. Crimes of compulsion
- D. Sex crimes
- E. Incest
- F. Theft and burglary
- G. Embezzlement and crimes relating to fraud or misuse of funds
- H. Arson
- I. Obscene telephone calls

as such data may pertain to the following individuals:

A. Applicants, operators, and other persons living in the household of any family day care facility or any family residential facility seeking a license from the Department of Public Welfare;

B. Directors and residential unit supervisors of all non-family residential and non-residential programs (such as group homes; maternity shelters; child-caring institutions; residential programs for the mentally retarded, inebriate or drug-dependent, adult mentally ill, and physically handicapped) seeking a license from the Department of Public Welfare; and

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C. Directors and division or unit supervisors of all agencies placing children for care that are seeking a license from the Department of Public Welfare.

2. All felony convictions and the following conviction criminal history data for the below listed offenses as referred to in the Criminal Code of 1963, as amended, Minn. Stat. § 609.01 *et seq.*:

- A. Homicides
- B. Crimes against the person
- C. Crimes of compulsion
- D. Sex crimes
- E. Incest
- F. Theft and burglary
- G. Arson
- H. Obscene telephone calls

as such data may pertain to the staff of:

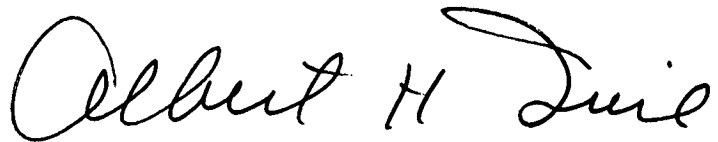
A. All non-family residential and non-residential programs seeking a license from the Department of Public Welfare; and

B. All agencies placing children for care that are seeking a license from the Department of Public Welfare

3. "Informed Consent" as used herein shall conform to Minnesota and federal law, including, but not limited to, the provisions of Minn. Stat. §§ 15.162 to 15.1697, and rules promulgated thereunder.

Pursuant to Minn. Stat. § 4.035 (1978), this order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is superseded or rescinded by proper authority or it expires in accordance with Minn. Stat. § 4.035 (1978).

IN TESTIMONY WHEREOF, I hereunto set my hand this 29th day of May, 1979.



RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption as proposed and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which

has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Pollution Control Agency

Identification, Labeling, Classification, Storage, Collection, Transportation and Disposal of Hazardous Waste

On September 19, 1977, the Pollution Control Agency proposed a series of hazardous waste rules (HW 1-HW 10) and some amendments to existing solid waste rules (SW 1, 2, 3, 4, 6, and 7). These proposed rules and proposed amendments to existing rules were published at *State Register*, Volume 2, Number 11, pp. 522-617, September 19, 1977, (2 S.R. 522). The proposed hazardous waste rules are now adopted as set forth below, although Appendices A-J, which are adopted as proposed and are a part of the rules, are not republished below. The proposed amendments to existing solid waste rules are now adopted as proposed and are also not republished here.

Rules as Adopted

6 MCAR § 4.9001 ~~HW 1~~ General applicability, definitions, abbreviations, incorporations, severability, and variances.

A. General applicability. The provisions of these rules govern the identification, classification, storage, labeling, transportation, treatment, processing, and disposal of hazardous waste by any person and the issuance of permits for the construction, operation, and closure of a hazardous waste facility for the protection of the environment.

B. Definitions. As used in these hazardous waste rules the following words shall have the meanings defined herein:

1. Agency: the Minnesota Pollution Control Agency.

2. Chemical composition: any of the following:

a. A standard chemical nomenclature such as those adopted by the International Union of Pure and Applied Chemistry or the Chemical Abstracts' Service.

b. Common chemical name when it is documented to the Director that the number of isomers, related compounds of similar chemical structure and property, etc., make chemical analysis or delineation impractical.

c. Common chemical name of a mixture of components with similar properties, but not including a trade name.

3. Components of the waste: chemical elements, chemical compounds, and ions that constitute the waste and those that may form during the management of the waste from chemical reactions among the components or as biological products of microbial action.

4. Container: any packaging or containment unit, excluding portable tanks and storage tanks.

5. Corrosive material: a material that has any one of the following properties:

a. a pH that is greater than 12 or less than 3 for a liquid, semisolid, sludge, or saturated aqueous solution of a solid or gas; material;

b. the ability to cause a visible destruction or irreversible alteration of skin tissues at the site of contact following an exposure period of four hours or less when tested by the technique described in 16 C.F.R. § 1500.41 (1977);

c. a corrosion rate of 0.250 inch per year or more on Society of Automotive Engineers' 1020 Steel when tested in accordance with the minimum requirements described in the National Association of Corrosive Engineers' Standard TM-01-69, at a test temperature of 130°F (54.4°C).

6. Demolition debris: concrete, blacktop, bricks, stone facing, concrete block, stucco, glass, structural metal, and wood from demolished structures.

7. 6- Director: the Executive Director of the Minnesota Pollution Control Agency.

8. 7- Explosive material: a material that has the property either to evolve large volumes of gas that are dissipated

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in a shock wave or to heat the surrounding air so as to cause a high pressure gas that is dissipated in a shock wave. Explosive materials include, but are not limited to, explosives as defined in 49 C.F.R. § 173.50 (1976) and compressed gases as defined in 49 C.F.R. § 173.300 (1976).

9. ~~8.~~ Facility operator: any person who owns, leases, operates, controls, supervises, closes, or abandons a hazardous waste facility.

10. ~~9.~~ Flammable material: any material that:

a. has a flash point below 200°F (93.3°C), except the following:

(1) a material comprised of miscible components having one or more components with a flash point of 200°F (93.3°C), or higher, that make up at least 99% of the total volume of the mixture;

(2) a material that has a flash point greater than 100°F (37.8°C) and that when heated to 200°F (93.3°C) will not support combustion beyond the flash;

(3) an explosive material; or

b. may ignite without application of a flame or spark including, but not limited to, nitro cellulose, certain metal hydrides, alkali metals, some oily fabrics, some processed meals and acidic anhydrides.

c. is capable of spontaneously producing temperatures in excess of 200°F (93.3°C).

11. ~~10.~~ Flash point: the minimum temperature at which a material gives off vapor within a test vessel in sufficient concentration to form an ignitable mixture with air near the surface of the material.

12. ~~11.~~ Floodplain: as defined in Minn. Stat. § 104.02, subd. 3.

13. Garbage: discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

14. ~~12.~~ Generator: a person who produces a hazardous waste within the State of Minnesota or a person who produces a hazardous waste outside the State of Minnesota that is transported to a ~~location~~ hazardous waste facility within the State of Minnesota.

15. ~~13.~~ Groundwater: the water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground. The term ground water shall be synonymous with underground water.

16. ~~14.~~ Hazardous property: any property of a waste that requires the waste to be classified as a hazardous waste.

17. ~~15.~~ Hazardous waste: as defined in Minn. Stat. § 116.06, subd. 13.

18. ~~16.~~ Hazardous waste facility: real or personal property that is used or is constructed to be used for the management of hazardous waste including, but not limited to the following:

a. Hazardous waste containerized storage facility: a hazardous waste facility that is designed or operated for the on-site storage of hazardous waste that is in containers, portable tanks, or storage tanks.

b. Hazardous waste noncontainerized storage facility: a hazardous waste facility that is designed or operated for the storage of hazardous waste in lagoons, basins, ponds, vaults, or similar bulk storage other than containers or tanks.

c. Hazardous waste transfer station: a hazardous waste facility that receives wastes from one or more generators and is designed or operated for the purpose of intermediate storage of wastes prior to transportation of the waste to another hazardous waste facility.

d. Hazardous waste processing facility: a hazardous waste facility that is designed and operated to modify the chemical composition or chemical, physical, or biological properties of a hazardous waste by means such as incineration, reclamation, distillation, precipitation, or other similar processes.

e. Hazardous waste land disposal facility: a hazardous waste facility that is designed or operated for the purpose of disposing of, or storing for a period greater than one year, hazardous waste in the subsurface of the land.

f. Hazardous waste land treatment facility: a hazardous waste facility that is designed or operated for the purpose of utilizing the surface of the land as the medium by

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **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."

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which biological, physical, or chemical processes can provide treatment of hazardous waste.

19. ~~47.~~ Hazardous waste management: the total system for the identification, storage, collection and removal of hazardous waste from public or private property, the transportation of the waste to a hazardous waste facility, and the ultimate processing or disposal of the waste by approved methods in accordance with these rules. Any reference to hazardous waste being managed shall refer to the foregoing.

20. ~~48.~~ Incompatible wastes: wastes that when in contact with each other pose a threat to human health and safety that does not exist when they are separate, including, but not limited to, wastes that pursuant to 49 C.F.R. § 177.848 (1976) cannot be stored or transported together.

21. ~~49.~~ Irritative material: a noncorrosive material which has the property to cause a local reversible injury to a biological membrane at the site of contact as determined by either of the following:

a. Practical experience with the waste where short term exposures have caused first degree burns and where long term exposures may cause second degree burns;

b. Skin irritation of an empirical score of five or more as determined pursuant to 16 C.F.R. § 1500.41 (1977).

22. ~~20.~~ Leachate: a liquid that is released from, or percolated through, a waste as a result of conditions that arise during storage, land disposal, or land treatment.

23. ~~24.~~ Median lethal concentration (LC₅₀): the calculated concentration at which a material kills 50% of a group of test animals within a specified time.

a. Aquatic LC₅₀: the LC₅₀ determined by a test in which the specified time is 96 hours, the test animals are at least 10 fathead minnows, and the route of administration follows accepted static or flow through bioassay techniques.

b. Inhalation LC₅₀: the LC₅₀ determined by a test in which the specified time is 14 days, the group of the test animals is at least ten white laboratory rats of 200 to 300 grams each, half of which are male and half of which are female, and the route of administration is continuous respiratory exposure for a period of one hour.

24. ~~22.~~ Median lethal dose (LD₅₀): the calculated dose at which a material kills 50% of a group of test animals within a specified time.

a. Oral LD₅₀: the LD₅₀ determined by a test in which the specified time is 14 days, the group of test animals is at least ten white laboratory rats of 200 to 300 grams

each, half of which are male and half of which are female, and the route of administration is a single oral dose.

b. Dermal LD₅₀: the LD₅₀ determined by a test in which the specified time is 14 days, the group of test animals is ten or more white rabbits, half of which are male and half of which are female, and the route of administration is a 24 hour exposure with continuous contact on bare skin.

~~23.~~ ~~Oil: a petroleum derived material that does not have a defined chemical structure.~~

25. ~~24.~~ On-site management: the handling of a hazardous waste after generation without transporting such hazardous waste by public thoroughfare.

26. ~~25.~~ Open burning: the burning of any matter whereby the resultant combustion products are emitted directly to the atmosphere without passing through an adequate stack, duct, or chimney.

27. ~~26.~~ Oxidative material: any material with the property to readily supply oxygen to a reaction in the absence of air. Oxidative materials include, but are not limited to, oxides, organic and inorganic peroxides, permanganates, perrhenates, chlorates, perchlorates, persulfates, nitric acid, organic and inorganic nitrates, iodates, periodates, bromates, perselenates, perbromates, chromates, dichromates, ozone, and perborates. Bromine, chlorine, fluorine, and iodine react similarly to oxygen under some conditions and are therefore also oxidative materials.

28. Person: as defined in Minn. Stat. § 116.06, subd. 8.

29. ~~27.~~ Pesticide: ~~a material that is labeled, represented, or intended for use as an economic poison in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act. (7 U.S.C.A. §§ 136-136y (1977)-) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or dessicant.~~

30. Petroleum waste: an oily waste generated by petroleum storage, petroleum refining and petroleum refinery products storage.

31. ~~29.~~ Resource recovery: as defined in Minn. Stat. § 473.121, subd. 31c.

32. ~~30.~~ Routine waste management: the total system for the handling of a waste by one of the following methods:

a. Storage, collection, and removal of waste from public or private property, its transportation to intermediate

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or final disposal facilities, and its ultimate disposal at a sanitary landfill permitted by the Agency.

b. Discharge into a sewer system and subsequent treatment at a wastewater treatment works operated pursuant to a National Pollutant Discharge Elimination System Permit or State Disposal Permit.

c. Discharge into the atmosphere as an air contaminant or emission emitted pursuant to an Emission Facility Operating Permit.

d. A wastewater discharge pursuant to a National Pollutant Discharge Elimination System Permit or a State Disposal System Permit.

33. Rubbish: discarded paper, cardboard, scrap metal, yard clippings, crop residues, brush, wood, glass, bedding, crockery or litter.

34. ~~34~~. Sanitary landfill: a land disposal site employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste in thin layers, compacting the solid waste to the smallest practical volume, and applying cover material at the end of each operating day, or at intervals as may be required by the Agency.

35. ~~32~~. Saturated zone: that part of the earth's crust in which all the voids, large and small, are ideally filled with water under pressure greater than atmospheric.

36. ~~33~~. Sewage: as defined in Minn. Stat. § 115.01, subd. ~~6~~ 2.

37. ~~34~~. Sewer system: as defined in Minn. Stat. § 115.01 subd. 6.

38. ~~35~~. Shoreland: as defined in Minn. Stat. § 105.485 subd. 2.

39. ~~36~~. Tank: any packaging or containment unit having a capacity of 100 gallons or greater that is used to confine and hold a material. Tanks that are anchored, fixed, or attached to one location are storage tanks, and those that are not are portable tanks.

40. ~~37~~. Toxic material: a material with any one of the following properties:

a. An oral LD₅₀ less than 500 milligrams of material per kilogram of body weight of test animal.

b. A dermal LD₅₀ less than 1000 milligrams of material per kilogram of body weight of test animal.

c. An inhalation LC₅₀ (when the material or a component is in a form that may be inhaled) less than:

(1) 2000 milligrams of material as dust or mist per cubic meter of air, or

(2) 1000 parts per million of material as gas or vapor.

d. An aquatic LC₅₀ less than 100 milligrams of material per liter of water.

41. ~~38~~. Waste: any discarded material including, but not limited to, solids, semisolids, sludges, liquids, gases, and their vapors, mists, or dusts.

42. ~~39~~. Waters of the state: as defined in Minn. Stat. § 115.01, subd. 9.

43. ~~40~~. Water table: the surface of the ground water at which the pressure is atmospheric. Generally this is the top of the saturated zone.

44. ~~41~~. Wetland: a natural marsh where water stands near, at or above the soil surface during a significant portion of most years, and which is eligible for classification as an inland fresh water wetland type 3, 4 or 5 under U.S. Department of Interior classifications.

C. Abbreviations. The abbreviations used in these hazardous waste regulations have the following meanings:

1. A.S.T.M.: American Society for Testing and Materials.

2. C.F.R.: Code of Federal Regulations.

3. LC50: median lethal concentration.

4. LD50: median lethal dose.

5. NPDES: National Pollutant Discharge Elimination System.

D. Incorporations. The following are contained in the indicated appendices at the end of this rule and are hereby incorporated and made a part of these rules and shall apply as indicated within these rules:

1. ASTM D3243-~~73~~ 76 (Appendix A).

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2. ASTM D56-70 (Appendix B).
3. ASTM D3278-73 (Appendix C).
4. ASTM D93-73 (Appendix D).
5. ASTM D2487-69 (Appendix E).
6. ASTM ~~D2499-69~~ D2488-69 (Appendix F).
7. National Association of Corrosion Engineers' Standard TM-01-69 (Appendix G).
8. 10 C.F.R. § 20.301 (1977) (Appendix H).
9. 16 C.F.R. § 1500.41 (1977) (Appendix I).
10. 49 C.F.R. §§ 173.50, 173.300, 177.824 and 177.848 (1976) (Appendix J).
11. United States Department of Interior inland fresh water wetland types 3, 4, and 5 (Appendix K).

E. Severability. If any provision of these rules or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions of these rules that can be given effect without the invalid provision or application. To this end, the provision of all rules and the various applications thereof are declared to be severable.

F. Variances. The Agency may grant a variance pursuant to Minnesota Regulations MPCA 6 from any requirement in these hazardous waste regulations in order to avoid undue hardship and promote the effective and reasonable application and enforcement of these regulations. The Agency may prescribe such conditions and time limitations in a variance as it deems necessary for prevention, control, and abatement of pollution in harmony with local, state, and federal law. Any person may apply for a variance from any requirement of these hazardous waste rules. Such variance shall be applied for and acted upon by the Agency in accordance with Minn. Stat. § 116.07, subd. 5, and other applicable statutes and rules.

G. Other standards. Nothing in these hazardous waste rules shall relieve any person from any obligations or duties imposed by any other laws, statutes, rules, standards, or ordinances of the federal, state or local governments or any agency thereof now in effect or which become effective in the future. In the event these hazardous waste rules conflict with any such laws, statutes, rules, standards, or ordinances, the more stringent shall apply. Nothing in these rules shall be construed to require any person to comply with any portion of these rules if that portion should at any time be preempted by federal law.

6 MCAR § 4.9002 ~~HW2~~ Classification, evaluation, and certification of waste.

A. Applicability. This rule establishes the criteria for determining whether a waste is a hazardous waste.

B. Hazardous wastes. The following wastes are hazardous wastes:

1. A waste that contains a component specified in List 1 is a hazardous waste if the concentration of that component in any part of the waste at any time during or after its production exceeds 0.1% by weight; exceeds the concentration listed.

List 1	
<u>Component</u>	<u>Concentration (ppm)</u>
2-Acetylaminofluorene (2-AAF)	<u>1000</u>
4-Aminodiphenyl (4-ADP)	<u>100</u>
Arsenic and its Compounds	<u>500</u>
Benzene	<u>100</u>
Benzidine	<u>100</u>
Beryllium and its Compounds	<u>20</u>
Cadmium and its Compounds	<u>500</u>
Carbon Tetrachloride	<u>100</u>
Chloroform	<u>100</u>
bis-(Chloromethyl) ether (BCME)	<u>100</u>
Chloremethyl methyl ether (CMME)	<u>100</u>
Chromium and its Compounds (VI)	<u>1000</u>
3,3'-Dichlorobenzidine (DCB)	<u>1000</u>
4-Dimethylaminoazobenzene (DAB)	<u>1000</u>
Ethyleneimine (EI)	<u>1000</u>
Lead and its Compounds	<u>600</u>
4,4-Methylene-bis-2-Chloroaniline (MOCA)	<u>100</u>
α-Naphthylamine (1-NA)	<u>1000</u>
β-Naphthylamine (2-NA)	<u>100</u>
Nickel and its Compounds	<u>10,000</u>
4-Nitrobiphenyl (4-NBP)	<u>100</u>
n-Nitrosodimethylamine (DMN)	<u>1000</u>
Polychlorinated biphenyl (PCB)	<u>500</u>
β-Propiolactone (BPL)	<u>1000</u>
Vinyl Chloride (VCM)	<u>100</u>

2. A waste which contains a component specified in List 2 is a hazardous waste unless leachate from that waste does not contain that component at a concentration in excess of that specified in List 2.

List 2	
<u>Component</u>	<u>Limit Concentration (ppm)</u>
Aldrin	<u>0+ 0.03</u>
Arsenic and its Compounds	<u>5.0</u>

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Cadmium and its Compounds	1.0
Chlordane	0.3 <u>0.1</u>
Chromium and its Compounds	5.0
DDT	0.02 <u>0.01</u>
Endrin	0.02
Heptachlor	0.01
Lead and its Compounds	3.0
Mercury and its Compounds	0.2
Methoxychlor	0.05 <u>0.3</u>
Mirex	0.01
Polychlorinated Biphenyl (PCB)	0.02 <u>0.01</u>
Toxaphene	0.4 <u>0.05</u>
Mirex	0.01

3. Any of the following wastes:

- a. An explosive material.
- b. A flammable material.
- c. An irritative material.
- d. A corrosive material.
- e. An oxidative material.
- f. A toxic material.
- g. Used crankcase oil
- h. Petroleum waste

4. A waste that is ~~comprised a mixture~~ of small amounts of unrelated substances chemicals such that the description of any sample or set of samples is not representative of the total waste. ~~Such wastes shall include, but not be limited to;~~ Examples are discarded chemicals from a chemistry laboratory, wastes from pilot plant chemical reactions, and discarded prescription drugs.

~~5. Any other waste that cannot be handled by routine waste management techniques because it presents a substantial present or potential hazard to human health or to other living organisms is a hazardous waste, including, but not limited to:~~

a. ~~Waste oil.~~

b. ~~Wastes that are capable of spontaneously producing temperatures in excess of 200°F (93.3°C).~~

5. Any other waste that is not a hazardous waste under

any provision in 6 MCAR § 4.9002 B.1.-4., but that the Agency determines pursuant to 6 MCAR § 4.9002 H.2. cannot be handled by routine waste management techniques because it poses a substantial present or potential hazard to human health or other living organisms.

C. Exempt wastes. The following wastes may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of these rules:

1. ~~Normal household refuse, similar garbage, or rubbish and sewage; from households.~~

2. Sewage.

3. Garbage, rubbish and demolition debris from nonhousehold sources.

4. ~~2.~~ Asbestos in taconite wastes.

5. ~~3.~~ Septic tank sludge from households.

6. ~~4.~~ An air contaminant or emission emitted pursuant to an Emission Facility Operating Permit.

5. ~~A composite wastewater discharged to a municipal sewer system or discharged pursuant to an NPDES or a State Disposal System Permit. This exemption does not include any of the wastes that are discharged into a sewer system.~~

7. Any composite wastewater that is formed in a sewer system by the combination of two or more individual wastes that have been discharged into the sewer system. This exemption does not include any of the individual wastes which form the composite wastewater.

8. Wastes discharged pursuant to an NPDES Permit or a State Disposal System Permit.

9. ~~6.~~ Municipal sewage sludge.

10. ~~7.~~ Radioactive waste that is produced pursuant to a permit issued under 10 C.F.R. Parts 30, 40 and 70 (1976) and that is disposed of in compliance with 10 C.F.R. § 20.301 (1976).

11. ~~8.~~ A waste pesticide that is not in List 1 or List 2 or an unrinsed pesticide container that contained a pesticide that is not in List 1 or List 2.

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12. The Director shall exempt wastes resulting from spills from all or any provision of these rules if the exemption is necessary to expedite the proper management of the spilled material and to prevent, abate or control pollution.

D. Evaluation of wastes.

1. Any person who produces any waste within the State of Minnesota or any person who produces a waste outside the State of Minnesota that is transported to a location managed within the State of Minnesota, and which waste is not an exempt waste under subsection C., shall evaluate the waste to determine if it is hazardous. The person evaluating the waste shall collect a representative sample of the waste, compare the properties of the waste with the criteria for a hazardous waste in subsection B., and determine whether the waste is hazardous, and submit either a certification or a disclosure to the Agency, in accordance with the procedures set forth in this rule.

2. The requirements for evaluating a waste shall apply person shall reevaluate the waste whenever the person has reason to believe that the composition of a the waste is altered so that the samples used in results of the previous evaluation are no longer representative of the waste.

3. This evaluation shall be of the individual waste prior to any mingling or combining with other wastes. If wastes are subsequently mingled or combined, except for wastes that are mingled or combined in a sewer system, the generator shall also evaluate the waste resulting from the mingling or combining.

4. A person who produces two or more wastes that are similar or are from similar processes such that one waste is representative of the other wastes may use one evaluation for all such wastes.

~~E. Sample Collection.~~ The person evaluating the waste shall obtain a representative sample of the waste for testing at the time when the hazardous properties being measured pose the greatest hazard. The person shall consider the following variations in the waste composition and their causes in collecting a sample for evaluation:

1. Variations in the process by which the waste is produced.

2. Variations in chemical composition and physical state.

3. Any other variations indicated by past experience with the waste or similar wastes.

E. F. Comparison of properties.

1. Generally. The person evaluating the waste shall use

such test procedures and conditions as are necessary to determine whether the waste has any hazardous properties. Such tests shall include a determination of the chemical composition of the representative sample of the waste and a quantitative analysis to determine the concentration of any component in List 1 or List 2 that is known or suspected to be in the waste. To evaluate the flammable, irritative, corrosive, or toxic properties of the waste, the person producing the waste may utilize experience with the waste or similar wastes or data collected on the components of the waste in lieu of the tests that defined the properties in HW 1. However, if such experience or data does not conclusively demonstrate that the particular property for the waste is either hazardous or not hazardous, the person shall conduct the appropriate tests for that property.

1. General. Any person evaluating a waste shall obtain such data as are necessary to determine whether the waste has any hazardous properties at any time during its management. The data may be obtained from the literature, from experience with the waste, or from other sources, but if data is not available, then actual tests of a sample of the waste shall be conducted.

2. List 1 and List 2 components. Whenever the person evaluating a waste knows or suspects that any of the components in List 1 or List 2 is in the waste, the person shall conduct a quantitative analysis to determine the concentration of each component in List 1 that is known or suspected to be in the waste and a leachate test for each component in List 2 that is known or suspected to be in the waste.

3. Other hazardous properties.

a. A person evaluating a waste shall determine whether the waste has any of the properties of an explosive material, a flammable material, an irritative material, a corrosive material, an oxidative material, and a toxic material. However, once the person determines that a waste has one of the properties of one of the classes of hazardous wastes described above, the person need not determine whether it has any of the other properties of the same class. For example, if a waste is a hazardous waste because of its oral LD₅₀, the dermal LD₅₀ need not be determined, but the waste must be evaluated to determine whether it is also explosive, flammable, irritative, corrosive, or oxidative.

b. Generators of wastes comprised of small amounts of unrelated chemicals such that a description of any sample or set of samples is not representative of the total waste, generators of petroleum waste, and generators of used crankcase oil need not evaluate such wastes to determine whether they have any of the properties of an explosive material, a flammable material, an irritative material, a corrosive material, an oxidative material, and a toxic material. Such generators are also not required for such wastes to

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conduct a quantitative analysis to determine the concentration of each component in List 1 that is known or suspected to be in the waste nor a leachate test for each component in List 2 that is known or suspected to be in the waste.

4. 2. Flammable materials. Testing for flammable properties. Whenever the flash point of a waste is to be determined, one of the following test procedures shall be used. The test chosen shall be appropriate for the characteristics of the waste that is tested.

a. Standard Method of Test for Flash Point by Tag Closed Tester (ASTM D56-70).

b. Standard Method of Test for Flash Point of Aviation Turbine Fuels by Setaflash Closed Tester (ASTM D3243-7376).

c. Standard Methods of Test for Flash Point of Liquids by Setaflash Closed Tester (ASTM D3278-73).

d. Standard Method of Test for Flash Point by Pensky-Martens Closed Tester (ASTM D93-73) or alternate tests authorized in this standard.

For any waste containing components with different volatilities and flash points and having a flash point higher than ~~20°F (6.67°C)~~ 200°F (93.3°C) according to the test procedure employed, a second test shall be conducted on a sample of the liquid portion of the material that remains after evaporation in an open beaker (or similar container), under ambient pressure and temperature (20 to 25°C) conditions, to 90 percent of original volume or for a period of four hours, whichever occurs first, with the lower flash point of the two tests being the flash point of the material.

5. 3. Toxic materials. Testing for toxic properties. Any person who is determining whether a waste is a toxic material may elect to use the following modification to the LC₅₀ and LD₅₀ test procedures if the actual LC₅₀ or LD₅₀ is unknown:

a. A single dosage or exposure level equivalent to the maximum dosage or exposure level in 6 MCAR § 4.9001 HW + B.37, which establishes that a material is a toxic material shall be administered to a test population of ten animals. The animals shall be the kind specified in the LC₅₀ and LD₅₀ test procedures. The animals are then observed for a period of 14 days or 96 hours whichever is applicable. If five or more of the test animals die, the waste shall be classified as a toxic material. If three or four of the test animals die, then either the waste shall be classified as a

toxic material or additional dosage or exposure levels shall be tested and the actual LD₅₀ or LC₅₀ determined. If less than three of the ten test animals die, then the waste shall not be classified as a toxic material.

6. Testing for corrosive properties. Any person testing for corrosive properties may elect to use the following procedure for a nonaqueous waste: The person may prepare an aqueous solution that contains equal parts of the waste and water and test it for pH. If the pH of the solution is greater than 12 or less than 3, the person may classify the waste as a corrosive waste in lieu of evaluating the waste for the criteria indicated by 6 MCAR § 4.9001 B.5. If the person elects not to classify the nonaqueous waste as a corrosive waste or if the pH of the solution is not greater than 12 or less than 3, additional evaluation to determine corrosivity must be performed.

7. Sample collection. In the event the person evaluating the waste must conduct tests to determine the properties of the waste, the person shall collect a representative sample of the waste. In an attempt to collect a sample at the time when the properties being measured pose the greatest hazard, the person shall consider the following variations in the waste composition and their causes in collecting a sample for evaluation:

a. Variations in the process by which the waste is produced.

b. Variations in chemical composition and physical state.

c. Any other variations indicated by past experience with the waste or similar wastes.

F. G. Results of evaluation. The person evaluating the waste shall either file a certification that the waste is not a hazardous waste, or if the person evaluating the waste determines that the waste is hazardous has any properties of a hazardous waste, the person shall file a disclosure with the Agency and manage the waste in accordance with the requirements of these rules.

H. Contents of a Certification

1. Any person who evaluates a waste and determines that it is not a hazardous waste shall prepare a certification containing the following information:

a. The sampling procedure and the reasons for determining that the sample is representative of the waste.

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b. The chemical composition of the waste and the anticipated fluctuations in the chemical composition that will occur during normal operations.

e. The concentration of any component in List 1 or List 2 that is in the waste.

d. The results of any other tests conducted to compare the properties of the waste with the criteria for a hazardous waste set forth in subsection B of this regulation.

e. An evaluation of the accuracy and precision of any tests conducted.

f. A statement that the waste does not have any hazardous properties.

g. The name, address, and signature of the person who produces the waste and submits the certification.

h. Any other information that the person deems important.

2. No person shall make a false statement in a certification. The certification shall be submitted under oath.

I. Submission of a Certification to the Agency

1. Existing Wastes. Any person who evaluates a waste that is being produced on the effective date of these regulations and who determines that it is not a hazardous waste shall submit a certification to the Agency within one year after the effective date of these regulations.

2. New wastes.

a. Any person who produces a waste within the State of Minnesota that is not being produced on the day these hazardous waste regulations take effect and that is not an exempt waste or a hazardous waste shall submit a certification to the Agency within 90 days after producing the waste. The waste shall not be disposed of or change possession until at least thirty (30) days after the certification is filed with the Agency.

b. Any person who produces a waste outside the State of Minnesota that is not being transported to a location within the State of Minnesota on the day these regulations take effect and that is not an exempt waste or a hazardous waste and who intends to transport the waste to a location within the State of Minnesota shall submit a certification to the Agency before the waste is transported to a location within the State of Minnesota. The waste shall not be transported into Minnesota until at least thirty (30) days after the certification is filed with the Agency.

G. Submission of evaluation results.

1. The Director may request at any time that a person producing a waste submit the results of the evaluation of the waste to the Agency. Upon such request by the Director, setting forth the reasons therefor, the person shall submit the following information:

a. The type of waste and the source or process from which it was produced.

b. The chemical composition of the waste and the anticipated fluctuations in its chemical composition.

c. The concentration of each component in List 1 that is known or suspected to be in the waste and the concentration in the leachate of each component in List 2 that is known or suspected to be in the waste. If the component is not detected in the waste or in the leachate, the level of detectability of the testing method used shall be reported.

d. The results of the evaluation to determine whether the waste has any of the properties of an explosive material, a flammable material, an irritative material, a corrosive material, an oxidative material, and a toxic material and the source of the data or information relied upon.

e. In the event any tests were conducted to evaluate the waste, the person shall submit the following:

(1) The sampling procedure and the reasons for determining that the sample is representative of the waste.

(2) The results of all tests conducted.

(3) A discussion of the accuracy and precision of any tests conducted.

2. If the person who is requested by the Director to submit the results of an evaluation of a waste fails to submit the required information within thirty (30) days after the request, the waste shall be managed as a hazardous waste and the person who produces the waste shall be considered a generator until the Agency has determined whether the waste is hazardous or not.

3. If the Director determines that the results of the evaluation are not adequate to determine whether or not the waste is hazardous, the Director may require the person to conduct an additional evaluation. The Director shall notify the person in writing of such determination, the reasons therefor, and the additional tests that must be run or additional data that must be obtained. If the results of the additional evaluation are not reported to the Agency within thirty (30) days of the request, the waste shall be managed as a hazardous waste and the person who produces the waste shall be considered a generator until the Agency has deter-

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mined whether the waste is hazardous or not. The Director may grant up to an additional ninety (90) days where the person demonstrates such extension to be necessary.

H. J- Agency determination that a waste is hazardous.

1- Upon the filing of a certification demonstrating that a waste is not hazardous, the waste shall not be considered a hazardous waste unless a contrary determination is subsequently made by the Agency. Nothing contained in a certification, however, shall preclude the Agency from determining that a waste is a hazardous waste.

2- The Director may decide that a certification is not adequate to determine whether a waste is a hazardous waste. If the Director decides that a certification is not adequate, the person who submitted the certification shall be notified by the Director in writing of such decision, the reasons therefor, and the additional tests and evaluations that are necessary. If these tests and evaluations are not reported within thirty (30) days, the waste shall be managed as a hazardous waste and the person who produces the waste shall be considered a generator until the Agency has determined whether the waste is hazardous or not.

1. 3- The Director or his agent Agency or any member, employee, or agent thereof, when authorized by it, may enter upon the property of the person who produced the produces any waste to take samples of any the waste and may conduct tests, analyses, and evaluations to determine whether the waste is a hazardous waste. The results of the tests, analyses, and evaluations shall be made available, upon request, to the person.

2. 4- The Director may recommend to the Agency that a waste be classified as a hazardous waste: because it has one or more of the properties of a hazardous waste or because the waste cannot be handled by routine waste management techniques because it poses a substantial or potential hazard to human health or other living organisms. The Director shall notify the person producing the waste in writing of the recommendation and the person shall have at least thirty (30) days to submit any additional material or written comments to the Agency before the Agency makes a determination. The Agency shall notify the person in writing of its decision. The Agency shall hold a contested case hearing pursuant to Minn. Stat. §§ 15.0418 *et seq.* upon request of the person producing the waste.

3. In the event the Director recommends that a waste be classified as a hazardous waste, the waste shall be managed as a hazardous waste and the person who produces the

waste shall be considered a generator until the Agency has determined whether the waste is hazardous or until six months after the date of the Director's recommendation, whichever occurs first; provided, however, that the person shall not be required to obtain a Hazardous Waste Facility Permit for storage of the waste on-site during this time. Any such recommendation by the Director shall be considered by the Agency on an expeditious basis.

K- Subsequent evaluations- The Director may request a person who produces a waste that has been certified as a non-hazardous waste to reevaluate the waste if there is a change in the management of the waste or new evidence indicates that the waste may be hazardous.

6 MCAR § 4.9003 HW 3 Generation of hazardous waste.

A. Applicability. This rule prescribes the duties of a generator.

B. Production of a hazardous waste. No person shall produce a hazardous waste within the State of Minnesota or produce a hazardous waste outside the State of Minnesota that is transported to a location hazardous waste facility within the State of Minnesota unless that person has adequate financial resources to insure that the hazardous waste is managed in accordance with these regulations; disposed of, treated, or processed at a hazardous waste facility permitted to manage such waste. Nothing in this provision is intended to restrict or enlarge or affect in any way, any liability the generator may have to correct the mismanagement of the hazardous waste or pay for damages or alleviate any pollution caused by the mismanagement of the hazardous waste.

C. Preparation of a disclosure. Each generator shall prepare a disclosure for each hazardous waste that he produces or transports, except used crankcase oil that is collected by a transporter registered pursuant to 6 MCAR § 4.9005 HW 5 E.

D. Contents of a disclosure.

1. Each generator in its disclosure shall include the following information:

a- The sampling procedure and the reasons for determining that the sample is representative of the waste.

a. The type of waste and the source or process from which it is generated.

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~~b. The results of any tests conducted to compare the properties of the waste with the criteria for a hazardous waste set forth in subsection B. of HW-2 and an evaluation of the accuracy and precision of any tests conducted.~~

~~b. e. The chemical composition of the waste and the anticipated fluctuations in the chemical composition that will occur during normal operations.~~

~~c. The concentration of each component in List 1 that is known or suspected to be in the waste and the concentration in the leachate of each component in List 2 that is known or suspected to be in the waste. If the component is not detected in the waste or in the leachate, the level of detectability of the testing method used shall be reported.~~

~~d. The hazardous properties of the waste, and the source of the data or information used to identify the hazardous properties.~~

~~e. In the event any tests were conducted to evaluate the waste, the following information shall be included in the disclosure:~~

~~(1) The sampling procedure and the reasons for determining that the sample is representative of the waste.~~

~~(2) The results of all tests conducted.~~

~~(3) A discussion of the accuracy and precision of any tests conducted.~~

~~f. e. A list of special handling procedures, labels and safety equipment necessary for safe handling and storage of the hazardous waste.~~

~~g. f. The name, address, telephone numbers, and title of the individual at the generator's facility responsible for arranging for the management of the hazardous waste.~~

~~h. g. A copy of procedures for personnel to follow in the case of spills of the hazardous waste.~~

~~i. h. A summary of the following relating to the management of the hazardous waste for the year preceding the filing of the disclosure or for the period since the last disclosure was filed if that filing was more than one year ago:~~

~~(1) The amount of the hazardous waste produced.~~

~~(2) The names and identification numbers of the transporters utilized.~~

~~(3) The names of the hazardous waste facilities utilized, and, as applicable:~~

~~(a) The numbers of the Hazardous Waste Facility Permits issued by the Agency for those facilities located in the State of Minnesota.~~

~~(b) The addresses of those facilities located outside the State of Minnesota.~~

~~(c) The name of the waste water treatment works to which a sewer hazardous waste was discharged.~~

~~(d) The NPDES or State Disposal Permit number for discharges to sewers other than a municipal sewer system.~~

~~(4) The amounts spilled, amounts recovered, and any resultant damages from spills of the hazardous waste.~~

~~(4) A summary taken from the shipping papers and other records of the generator of the amounts spilled, amounts recovered, and any resultant environmental or health damages from spills of the hazardous waste.~~

~~j. i. A prediction of the following relating to the management of the hazardous waste for the year immediately following the filing of the disclosure:~~

~~(1) The estimated amounts to be produced.~~

~~(2) The names and identification numbers of the transporters to be used.~~

~~(3) The frequency with which the hazardous waste is expected to be transported or discharged.~~

~~(4) The names of the hazardous waste facilities to be involved in the management of the hazardous waste and, as applicable:~~

~~(a) The numbers of the Hazardous Waste Facility Permits issued by the Agency for those facilities located in the State of Minnesota.~~

~~(b) The addresses of those facilities located outside the State of Minnesota.~~

~~(c) The name of the waste water treatment works to which a sewer hazardous waste was discharged.~~

~~(d) The NPDES or State Disposal Permit number for discharges to sewers other than a municipal sewer system.~~

~~k. A list of all nonexempt wastes of the generator that have been determined by the generator to be nonhazardous wastes. The list shall include the type of waste and the source or process from which the waste was produced. Examples of the information required are (1) salt~~

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solution from water softening, and (2) wash water from potato processing.

1. j- Any other information that the Generator deems important.

2. Generators of wastes that are comprised of small amounts of unrelated chemicals such that a description of any sample or set of samples is not representative of the total waste, generators of petroleum waste, and generators of used crankcase oil are not required to include in the disclosures for those wastes the items listed in subparts b., c., d., and e. above, but these generators shall identify those components in List 1 or List 2 in 6 MCAR § 4.9002 B. that the generator knows or suspects are in the waste.

3. 2- No person shall make a false statement in a disclosure. The disclosure shall be submitted under oath.

E. Submission of a disclosure to the agency.

1. Existing hazardous waste. Each generator who is producing a hazardous waste in the State of Minnesota or who is producing a hazardous waste outside the State of Minnesota that is being transported to a ~~location~~ hazardous waste facility within the State of Minnesota on the day these hazardous waste rules take effect shall submit a disclosure to the Agency within one year after the effective date of these rules. A generator who has produced a hazardous waste in the past and who anticipates producing that hazardous waste in the future may elect to file a disclosure on that hazardous waste under this provision. In such event, the generator shall not be required to file a disclosure under 6 MCAR § 4.9003 E.2. for that waste.

2. New hazardous wastes.

a. Any generator who produces a hazardous waste in the State of Minnesota that is not being produced on the day these hazardous waste rules take effect shall submit a disclosure to the Agency within ninety (90) days after first producing the hazardous waste. The hazardous waste shall not be disposed of or change possession until at least thirty (30) days after the disclosure is filed with the Agency.

b. Any generator who produces a hazardous waste outside the State of Minnesota that is not being transported to a ~~location~~ hazardous waste facility within the State of Minnesota on the day these regulations take effect shall file a disclosure with the Agency before the hazardous waste is transported to a ~~location~~ hazardous waste facility within the

State of Minnesota. The hazardous waste shall not be transported to a ~~location~~ hazardous waste facility within the State of Minnesota until at least thirty (30) days after the disclosure is filed with the Agency.

3. Annual resubmission of a disclosure.

a. After submitting its first disclosure, each generator who is required to submit a disclosure pursuant to subparagraph 1 shall submit a subsequent disclosure according to the following schedule if any hazardous waste has been produced and managed since the first disclosure:

First Letter in Name of Generator	Month of Submission (The disclosure shall be made the first time the indicated month occurs after the rules have been in effect for a period of two years.)
L-N	January
A-C	March
D-G	May
T-Z	July
O-S	September
H-K	November

Each such generator shall submit a new disclosure ~~on the~~ within ten (10) days of the anniversary date of the second disclosure if any hazardous waste has been produced or managed in the preceding year.

b. Any generator who is required to file a disclosure pursuant to subparagraph 2, shall submit a new disclosure ~~on~~ within ten (10) days of the anniversary date of the first disclosure.

c. In submitting a new disclosure for a hazardous waste, the generator need not repeat any information required in a disclosure that has not changed from the previous disclosure but may merely indicate that the information is the same.

d. e- Any generator who does not submit a disclosure because the hazardous waste was not produced or transported during the preceding period or year shall inform the Agency of such fact and shall comply with the requirements for submitting a disclosure for a new hazardous waste in the event a hazardous waste is again produced or transported.

F. Preparation of Hazardous Waste Shipping Papers.

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Each generator shall prepare hazardous waste shipping papers for each hazardous waste in accordance with 6 MCAR § 4.9008 HW 8.

G. Preparation of Hazardous Waste labels.

1. Each generator shall attach a "Hazardous Waste"

label to each container and portable tank containing hazardous waste in accordance with the following requirements:

a. The label shall not be smaller than 4" by 6¼". The letters, "HAZARDOUS WASTE," shall not be less than ¾" high. Except for size and color, the label shall have the appearance of the following design:

<h1>HAZARDOUS WASTE</h1>		
<hr/>		
Generator	Shipment #	Gen. Number
Date Filled	Consignee	MPCA Permit #

b. The lettering and lines of a "Hazardous Waste" label shall be black and the background color shall be a standard fluorescent pink.

c. In addition to the words, "Hazardous Waste," the label placed on portable tanks and containers shall contain the following information:

- (1) The name of the generator.
- (2) The identifying shipment number from the shipping papers required in 6 MCAR § 4.9008 HW 8.
- (3) The date the container or portable tank was finally filled.
- (4) The name of the hazardous waste facility that is responsible for the ultimate disposition of the hazardous

waste and the permit number if that facility is licensed by the Agency pursuant to these rules.

d. The "Hazardous Waste" label must be capable of withstanding open weather exposure for no less than thirty (30) days without substantial reduction in effectiveness.

2. The container or portable tank shall be labeled and marked in a manner that is suitable for interstate commerce.

3. Any generator or other person who maintains a storage tank containing hazardous waste shall attach a "Hazardous Waste" label to the storage tank in a legible and conspicuous manner. A "Hazardous Waste" label shall be plainly visible and legible to any person who may operate any outlet valve.

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H. Containers and tanks.

Each generator shall put hazardous waste only into containers or tanks that comply with the requirements of 6 MCAR § 4.9004 HW 4 for storage of hazardous waste in containers and tanks at hazardous waste facilities.

~~I. Proper hazardous waste management.~~

~~Each generator shall take all necessary measures to retain sufficient control over its hazardous waste so that the generator can insure that the hazardous waste will be managed in accordance with these regulations. If at any time the hazardous waste is being improperly managed by anyone, the generator shall take all necessary steps to correct such improper management.~~

I. Proper hazardous waste management. No generator shall relinquish control of a hazardous waste when the generator has reason to believe that the hazardous waste is not being properly managed. Nothing in this rule is intended to restrict or enlarge or affect in any way, any liability the generator may have to correct the mismanagement of the hazardous waste or pay for damages or alleviate any pollution caused by the mismanagement of the hazardous waste.

6 MCAR § 4.9004 HW 4 Location, operation, and closure of a hazardous waste facility.

A. Applicability. This rule establishes criteria for the location, operation, and closure of a hazardous waste facility. This rule, however, does not apply to a waste water treatment works that is operated pursuant to an NPDES Permit or State Disposal Permit.

B. Hazardous waste facility location.

1. No person shall establish, construct, or operate a hazardous waste facility in a wetland, in a floodplain, or within shoreland.

2. No person shall establish, construct, or operate a hazardous waste facility in a location where the topography, geology, hydrology, or soil is unsuitable for the protection of the groundwater and the surface water.

3. No person shall establish, construct or operate a hazardous waste facility in a location where such activity would result in emissions of air contaminants causing the violation of the ambient air quality standards established in APC 1.

C. Hazardous waste facility operation.

1. Generally. No person shall operate a hazardous waste facility except in conformance with the following requirements:

a. The facility operator shall prepare procedures for personnel to follow in the case of spills of hazardous waste and in the case of fire and other emergencies. The facility operator shall post these procedures in a conspicuous place at the facility site.

b. The facility operator shall have safety equipment available at the facility site for use during spills, fires, and other emergencies.

c. The facility operator shall have available at all times written procedures for handling spills, fires, and other emergencies. The facility operator shall train and instruct all personnel at the facility site in these procedures. The facility operator shall maintain records of the training and instruction programs that are held.

d. The facility operator shall construct and begin operating a site monitoring system that is approved by the Agency as adequate to determine the effect of the facility on the soil, groundwater, and air before accepting or storing any hazardous waste at the facility.

e. The facility operator shall control access to the facility by the use of fences, gates, locks and other similar methods and allow access only to persons who are knowledgeable in the safety and emergency procedures needed for handling the hazardous waste. The facility operator shall provide security against unauthorized entry onto the site.

f. The facility operator shall have communication equipment available at the site for summoning aid in an emergency.

g. The facility operator shall maintain lighting at the facility in a manner sufficient to ensure safety and proper operation if the facility is operated during hours of darkness.

h. The facility operator shall not allow scavenging at the facility.

i. The facility operator shall prevent the ~~just~~ discharge of hazardous waste from the facility to the surface waters or groundwaters of the State. The facility operator shall prevent hazardous waste from entering drains, sewer inlets, storm sewers, sanitary sewers, doorways, vents, tun-

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nels, pipes, windows, or areas with permeable earth or soil floors.

j. The facility operator shall handle shipping papers as provided in 6 MCAR § 4.9008 HW 8.

k. The facility operator shall not accept waste from outside the State of Minnesota unless specifically authorized to do so by his Hazardous Waste Facility Permit and unless written approval is obtained from the Director. The Director shall approve the acceptance of the waste if the Director determines that:

(1) The hazardous waste is a waste that can be properly managed at the facility, and

(2) The generator has filed a disclosure with the Agency.

The Director shall act on the request as expeditiously as possible.

2. Acceptance of hazardous waste.

a. No facility operator shall accept a shipment of hazardous waste that does not meet the following requirements:

(1) The shipping papers are complete.

(2) Each container and portable tank containing hazardous waste is properly labeled.

(3) The shipping papers and the labels are consistent.

b. No facility operator shall accept a shipment of hazardous waste that the facility operator is not allowed to manage under the Hazardous Waste Facility Permit.

c. The facility operator shall schedule the arrival of hazardous waste in a manner that minimizes the potential problem of incompatible wastes coming in contact.

3. Storage of Hazardous Waste in Containers and Tanks.

a. The facility operator shall segregate incompatible wastes stored in containers and tanks to minimize the potential problem of incompatible wastes coming in contact during storage.

b. The facility operator shall regularly inspect all containers and tanks to determine if any leaks have occurred and in the event a leak has occurred, take necessary action pursuant to subparagraph 1.c.

c. The facility operator shall store hazardous waste in containers and tanks in a manner such that the facility operator can locate any shipment of hazardous waste and any hazardous waste from any particular generator stored on the site.

d. The facility operator shall store hazardous waste in containers and tanks that are located out-of-doors only with a liner and dike system which meets the following requirements:

(1) The liner and dike system shall have a permeability rate no greater than 10^{-7} centimeters per second when being subjected to a head of one foot of water and shall be of a composition that will not increase in permeability as a result of contact with the hazardous waste.

(2) The liner and dike system shall be constructed so as to hold a volume equal to the volume of the largest storage tank plus the total capacity of all containers and portable tanks plus one foot of freeboard.

(3) The interface between the dike and underlying liner shall be constructed so as to provide a seal against movement of hazardous waste or solutions thereof.

(4) The dike shall be constructed in a manner that provides necessary ramps for vehicles needing access to the storage areas.

e. The facility operator shall store hazardous waste in containers that are located out-of-doors in a manner that complies with the following requirements:

(1) The facility operator shall stack containers with a capacity of less than 45 gallons in rows no more than 30 feet in length, five feet in width, and six feet in height, unless otherwise stated in the Hazardous Waste Facility Permit.

(2) The facility operator shall store containers with a capacity of 45 gallons or more in rows no more than 30 feet in length and two containers in width and shall not stack the containers, unless otherwise stated in the Hazardous Waste Facility Permit.

(3) The facility operator shall maintain a minimum of five feet between rows of containers of hazardous waste.

(4) If exposure of the containers to moisture or direct sunlight will create a hazardous condition or adversely affect the containers' ability to contain the hazardous waste, the facility operator shall store containers in an area with overhead roofing or other covering that does not obstruct the visibility of the labels.

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f. No facility operator shall store hazardous waste in containers and tanks unless the containers and tanks meet the following requirements:

(1) Containers and tanks shall be of sturdy, leak-proof construction. Containers shall be of adequate wall thickness, of adequate weld, hinge, and seam strength, and of sufficient material strength to withstand side and bottom shock, while filled, without impairment of the ability of the container or tank to fully contain the hazardous waste.

(2) Except during filling or emptying, the container or tank shall be securely closed, ~~so that there is no escape of hazardous waste or its vapors.~~ In the event that state or federal law requires a tank to be vented, the tank shall be equipped with a vapor recovery system; provided that persons who store used crankcase oil in tanks with a capacity of less than 5000 gallons (18,927 liters) shall not be required to equip such tanks with a vapor recovery system.

(3) Lids, caps, hinges, or other closure devices shall be of sufficient strength and construction so that when closed they will withstand dropping, overturning, or other shock without impairment of the container's or tank's ability to fully contain the hazardous waste. Gasketed closures shall be fitted with gaskets of material that is sufficient to prevent leakage and that will not be deteriorated by the contents.

(4) Containers, tanks, and their closures shall be constructed of materials or protected by a liner that will not undergo chemical reaction with the contained waste or with other substances that the container may foreseeably contact if such a reaction may impair the container's or tank's ability to contain the waste.

(5) Corroded or damaged containers or tanks shall not be used to contain hazardous wastes.

(6) Containers and portable tanks of hazardous waste shall be suitable for interstate transportation.

g. Hazardous waste shall not be stored in containers or tanks for more than one year.

4. Reuse of hazardous waste containers.

The facility operator shall handle containers and tanks that have contained hazardous waste in one of the following manners:

a. Rinse, clean, and drain all hazardous waste from the containers and tanks prior to leaving the hazardous waste facility.

b. Manage the containers and tanks as a hazardous waste.

c. Reuse the containers or tanks without rinsing, cleaning, and draining if all of the following conditions are met:

(1) The containers and tanks be used to store or transport one type of hazardous waste exclusively.

(2) The containers and tanks are closed until re-use.

(3) The containers and tanks be suitable for use in accordance with 6 MCAR § 4.9004 HW 4.

5. Disposal of hazardous waste.

a. The facility operator shall not discharge hazardous waste directly into the saturated zone by such means as injection wells or other devices used for the purposes of injecting materials.

b. The facility operator shall not dispose of hazardous waste by open burning.

c. The facility operator shall not engage in activities that would result in emissions of air contaminants causing the violation of the ambient air quality standards established in APC 1.

d. The facility operator shall not dispose of hazardous waste in a manner that contaminates the soil unless such disposal is authorized in a Hazardous Waste Facility Permit.

6. Records and reports.

a. The facility operator shall submit the site monitoring results to the Agency on a quarterly basis.

b. The facility operator shall file a monthly summary with the Director that identifies the amount of hazardous waste managed, the names of the generators of the hazardous waste, and the identity of the types of hazardous waste managed; provided, however, that a facility operator who is also a generator and manages only its own waste at an on-site facility shall file this summary on a quarterly basis.

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c. The facility operator shall maintain a log at the facility site that indicates the date that each shipment arrived, the shipment number, the name of the generator of the shipment, the name of the transporter who delivered the shipment, the location of the shipment at the facility, and the date that the hazardous waste was processed, disposed of, or transported from the facility. The facility operator shall submit the log to the Agency upon the request of the Director.

d. The facility operator shall submit to the Agency the records of personnel training and instruction in the procedures to follow in handling spills, fires, and other emergencies upon the request of the Director.

e. For Hazardous Waste Land Disposal Facilities, the facility operator shall maintain a ledger for each cell containing the names of the generators of the hazardous wastes, the dates of acceptance of each shipment of hazardous waste, the amount in gallons or tons of each shipment, the shipment numbers, and the chemical composition of each shipment of hazardous waste. The facility operator shall submit the ledger to the Agency at the closure of each cell or upon the request of the Director.

D. Hazardous Waste Facility Closure Other Than Hazardous Waste Land Disposal Facilities.

1. The facility operator shall give the Agency a minimum of ninety (90) days written notice prior to the closing of the facility. The written notice shall include:

a. Anticipated last day of operation;

b. The existing inventory count and the inventory reduction schedule; and

c. A discussion of how conditions of the Hazardous Waste Facility Permit will be met.

2. The facility operator shall remove, before the facility is closed, all hazardous waste from the facility unless otherwise authorized by the Hazardous Waste Facility Permit.

3. The facility operator shall meet the conditions of the facility's Hazardous Waste Facility Permit for closing the facility. This provision shall apply even if the Permit has expired or has been suspended or revoked.

4. The facility operator shall submit certification to the Agency by a registered professional engineer that the facility has been closed in accordance with the requirements of this rule and the Hazardous Waste Facility Permit.

E. Hazardous Waste Land Disposal Facility closure.

1. The facility operator shall give the Agency a minimum of one hundred and eighty (180) days written notice prior to closing a Hazardous Waste Land Disposal Facility. The written notice shall include:

a. Anticipated last day of operation;

b. A discussion of how the requirements of this rule shall be met; and

c. A discussion of how conditions of the Hazardous Waste Facility Permit shall be met.

2. The facility operator shall close the Hazardous Waste Land Disposal Facility in accordance with the following requirements:

a. The facility operator shall close access to the facility and prevent additional waste disposal.

b. The facility operator shall provide, construct, and maintain measures to protect groundwater and surface water and to control air emissions from the facility.

c. The facility operator shall cover the hazardous waste with an adequate amount of cover material to eliminate blowing of the hazardous waste and to minimize leachate production by the hazardous waste.

d. On all areas that have been covered with soil, the facility operator shall cover the area with adequate topsoil and provide vegetation that is sufficient to prevent erosion.

e. The facility operator shall establish and maintain a final grade that promotes surface water runoff without excessive erosion and shall divert surface water drainage around and away from the disposal area.

f. The facility operator shall construct, ~~maintain and operate a gas monitoring~~, a groundwater monitoring system, ~~and a surface water monitoring system~~, and, if necessary, a gas monitoring system if such systems are not already installed.

g. The facility operator shall record a detailed description, including a plat, with the county ~~registrar of deeds recorder~~. The description shall include a statement that the site has been used for the disposal of hazardous wastes, the general types and location of wastes, depth of fill, and other information of interest to potential land owners.

h. The facility operator shall file with the Agency and with the appropriate county office a final plot plan and cross sections that delineate the location of each major type of waste disposed of at the facility.

3. The facility operator to whom a Hazardous Waste

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Facility Permit has been issued shall close the facility as required by the Permit. Such a facility operator shall submit certification to the Agency by a registered professional engineer that the Hazardous Waste Land Disposal Facility has been closed in accordance with the requirements of this rule and the Hazardous Waste Facility Permit. This provision shall apply even if the Permit has expired or been suspended or revoked.

~~4. A facility operator who closes a Hazardous Waste Land Disposal Facility shall perform the following long term maintenance, monitoring, and surveillance of the facility:~~

~~a. Maintain the impervious liner and final cover.~~

~~b. Maintain surface water drainage in a manner that minimizes erosion.~~

~~c. Treat contaminated surface water runoff.~~

~~d. Collect and treat leachate.~~

~~e. Continue the gas monitoring system, the groundwater monitoring system, and a surface water monitoring system for the time period that the hazardous waste may pose a threat to the environment.~~

~~f. Remove hazardous waste from the facility in the event the hazardous waste poses a threat to air, land, or water resources of the state, or public health and safety. The facility operator shall perform such removal regardless of the cause of the threat.~~

~~4.5. A facility operator who closes a Hazardous Waste Land Disposal Facility shall establish and continue in effect financial arrangements that are adequate to finance the long-term maintenance, monitoring and surveillance required by this regulation.~~

F. Long-term maintenance, monitoring, and surveillance of hazardous waste facilities other than Hazardous Waste Land Disposal Facilities.

1. A facility operator who closes a hazardous waste facility other than a Hazardous Waste Land Disposal Facility shall conduct such long term maintenance, monitoring, and surveillance of the facility as is necessary to prevent pollution of the air, land, and water resources of the State.

2. The requirements of this rule shall continue for as long as the hazardous waste poses a threat to the environment, unless the State of Minnesota or the United States

agrees to assume responsibility for the long term maintenance, monitoring, and surveillance requirements described herein.

G. Hazardous Waste Land Disposal Facility long-term maintenance after closure.

1. A facility operator who closes a Hazardous Waste Land Disposal Facility shall perform the following long term maintenance, monitoring, and surveillance of the facility:

a. Maintain the impervious liner and final cover.

b. Maintain surface water drainage in a manner that minimizes erosion.

c. Treat contaminated surface water runoff.

d. Collect and treat leachate.

e. Maintain a groundwater monitoring system and a surface water monitoring system and, if necessary, a gas monitoring system.

f. Remove hazardous waste from the facility or otherwise alleviate the threat in the event the hazardous waste is a threat to air, land, or water resources of the state, or public health or safety. The facility operator shall remove the waste or otherwise alleviate the threat regardless of the cause of the threat.

2. The requirements of this rule shall continue for as long as the hazardous waste poses a threat to the environment, unless the State of Minnesota or the United States agrees to assume responsibility for the long term maintenance, monitoring, and surveillance requirements described herein.

H. F. Closure of unpermitted hazardous waste facilities

1. The facility operator of a hazardous waste facility that is in operation on the effective date of these rules who does not apply for a Hazardous Waste Facility Permit pursuant to 6 MCAR § 4.9006 HW 6 shall close the facility in accordance with the requirements of this rule.

2. A facility operator who closed or abandoned a Hazardous Waste Land Disposal Facility prior to the effective date of these rules shall comply with the requirements of this rule.

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~~I. G.~~ Small Hazardous Waste Containerized Storage Facilities. The facility operator of a Hazardous Waste Containerized Storage Facility with a capacity of less than 5,000 gallons (18,927 liters) of hazardous waste in containers and tanks shall not be required to comply with the requirements of subparagraph 1 of paragraph B., of subparagraphs 1.d., 1.f., 2.b., 6.a., 6.b., 6.c., and 6.d. of paragraph C., and subparagraphs 1., 3. and 4. of paragraph D., provided no other hazardous waste facility is located at the same site.

6 MCAR § 4.9005 ~~HW 5~~ Transportation of hazardous waste.

A. Applicability. This rule establishes criteria for the loading and transportation of hazardous waste by any person to insure that hazardous wastes are loaded and transported in a manner which minimizes risks to human health and the environment.

~~B. Transporting hazardous waste. No person shall transport a hazardous waste except in conformance with the following requirements:~~

B. Loading of hazardous wastes. No person shall load or unload hazardous waste onto or from any motor vehicle, railroad car, barge, airplane or other vehicle except in accordance with the following requirements:

1. All containers of hazardous waste shall be loaded so that they are reasonably secured against movement within the vehicle by which the hazardous waste is being transported.

2. Tank vehicles shall not be left unattended during the loading or unloading of a hazardous waste.

3. No tools or equipment likely to damage the effectiveness of the closure of any container or adversely affect the ability of a container to contain a hazardous waste shall be used for loading or unloading hazardous waste.

~~4. Hazardous waste shall not be transported in the same vehicle with food or fiber intended for human or animal consumption or use.~~

4. Hazardous waste and food or fiber intended for human or animal consumption or use shall not be loaded in the same vehicle.

5. Hazardous waste shall not be transported loaded in the same vehicle with incompatible wastes or other materials with which it is incompatible.

6. Broken or leaking containers of hazardous waste or containers with an outside surface that is contaminated with hazardous waste shall not be loaded or offered for transportation. neither be accepted for transportation nor transported. If during the course of transportation, a container is

discovered to be broken or leaking, the container shall be removed from the public highway to the nearest safe location and isolated pending proper disposition in the safest and most expeditious manner possible. The generator shall render all reasonable assistance to the transporter in repackaging, packing and cleaning up the waste so that the trip may be resumed.

7. No container or tank containing hazardous waste shall be transported loaded on a vehicle unless the container or tank is properly labeled as required by 6 MCAR § 4.9003 HW 3. Destroyed, lost or detached labels shall be replaced.

~~8. Cargo tanks used to transport any hazardous waste shall be tested, inspected, and maintained to insure that there is no unintentional release or leakage of the waste during transportation. Every cargo tank and every compartment of a cargo tank used to transport hazardous wastes shall fulfill the applicable requirements set forth in 49 C.F.R. § 177.824 (1976). No hazardous waste of a type or volume that is beyond the capability of the cargo tank shall be transported in the cargo tank.~~

8. No cargo tank or cargo tank compartment shall be loaded with hazardous waste unless it has been tested, inspected, and maintained to insure that there is no unintentional release or leakage of waste during transportation and unless it fulfills the applicable requirements set forth in 49 C.F.R. § 177.824 (1976). The person loading the tank or compartment shall be considered to have complied with this provision if the person owning or leasing the cargo tank certifies that all requirements of this provision have been met.

~~9. The transporter shall not deliver the hazardous waste to a hazardous waste facility located in the State of Minnesota, if the facility operator has not obtained a Hazardous Waste Facility Permit from the Agency.~~

9. No hazardous waste of a type or volume that is beyond the capability of the cargo tank shall be loaded in the cargo tank.

10. No cargo tank shall be loaded unless it is properly labeled as required by 6 MCAR § 4.9003.

11. The hazardous wastes of two or more generators shall not be commingled unless such commingling is indicated on the shipping papers of all of the generators.

12. The hazardous waste shall be given to a transporter as soon as possible after loading.

C. Transportation of hazardous waste.

1. 10. The driver operator of a vehicle transporting

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hazardous waste shall maintain possession of the hazardous waste shipping papers during transportation as follows:

a. When the vehicle is a motor vehicle and the driver is at the vehicle's controls the copies shipping papers shall be either:

(1) Within his immediate reach while he is restrained by the lap belt, or

(2) Readily visible to a person entering the driver's compartment or in a folder that is mounted to the inside of the door on the driver's side of the vehicle.

b. When the vehicle is a motor vehicle and the driver is not at the vehicle's controls, the copies shipping papers shall be displayed as follows:

(1) In a holder that is mounted to the inside of the door on the driver's side of the vehicle, or

(2) On the driver's seat in the vehicle.

c. When the vehicle is a train, a member of the crew shall maintain the shipping papers in the caboose.

d. When the vehicle is other than a motor vehicle or train, the operator of the vehicle shall maintain the shipping papers in an accessible location determined by the operator.

e. If, pursuant to the provisions of 6 MCAR § 4.9008 G., a vehicle operator does not have a copy of the shipping papers in his possession, as required by this section, then the transporter shall maintain the spill information given to him by the generator pursuant to 6 MCAR § 4.9008 g. in such a manner that the information will be available to the vehicle operator as soon as he requests it, or in such other manner that is approved in writing by the Agency.

2. ~~4.~~ The transporter shall comply with all applicable requirements of 6 MCAR § 4.9008 HW 8 relating to shipping papers.

3. The transporter shall replace any labels required by 6 MCAR § 4.9003 if they are destroyed, lost or detached.

D. ~~E.~~ Time in transit.

1. ~~Any transporter who has a spill or leak of hazardous~~

~~waste during transit shall comply with the provisions of HW 10.~~

1. Any person who transports hazardous waste shall deliver the hazardous waste to its final destination as soon as possible after loading of the hazardous waste.

2. In the event that a shipment of hazardous waste is not accepted by the facility operator within 48 hours after arrival at the destination or in the event the facility operator does not sign the hazardous waste shipping papers, the transporter shall immediately return the shipment of hazardous waste to the generator and the generator shall accept it and pay for the return transportation. If the wastes of two or more generators have been commingled as provided in 6 MCAR § 4.9005 B.11., each generator shall accept a portion of the hazardous waste equal to the generator's contribution to the total volume of waste.

E. ~~D.~~ Spills in transit. These provisions shall apply to all spills of hazardous wastes while in transit within the State of Minnesota.

1. Any transporter who has a spill or leak of hazardous waste during transit shall comply with the provisions of 6 MCAR § 4.9010 HW 10.

2. In the case of a spill or leakage of hazardous waste during transit, the amount spilled, the amount recovered, the location of the spill site, and the disposition of the spilled wastes and any contaminated material shall be noted on or attached to the hazardous waste shipping papers by the transporter.

3. The transporter shall notify the generator as soon as possible of any spill or leak during transit.

4. The generator shall maintain a written summary of all spills and leaks that occur during transit for a period of five years.

5. If during the course of transportation, a container is discovered to be broken or leaking, the transporter shall remove the container to the nearest safe location and isolate it pending proper disposition in the safest and most expeditious manner possible. The generator shall render all reasonable assistance to the transporter in repackaging, packing and cleaning up the waste so that the trip may be resumed. "All reasonable assistance" means providing the transporter with all necessary information about the waste and about procedures for repackaging, packing and cleaning up the waste and in addition providing any physical as-

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sistance that the generator is uniquely suited to provide and that the transporter is willing to bear the costs of. Nothing in this provision is, however, intended to restrict or enlarge or affect in any way any liability the generator may have to repackage, pack and clean up the waste.

F. Delivery of hazardous waste. No person shall deliver hazardous waste to or give hazardous waste to a transporter for shipment to a hazardous waste facility located in the State of Minnesota, if the facility operator has not obtained a Hazardous Waste Facility Permit from the Agency. Nothing in this provision is intended to require the transporter to undertake any evaluation of a waste to determine whether it is hazardous.

G. E. Registration of hazardous waste transporters. Any person who transports hazardous waste that originates or terminates in Minnesota or who transports hazardous waste to a location in Minnesota shall register with the Agency and obtain an identification number prior to transporting the hazardous waste. The transporter may request a particular number when he registers and may obtain that number if it is satisfactory to the Agency. The transporter shall keep the Agency advised of his current address.

H. F. Transportation of waste used crankcase oil. A transporter of waste used crankcase oil shall maintain a log that shows the source and disposition of all waste used crankcase oil. Upon the written request of the Director, the transporter shall submit any information from the log that the Director requests. The transporter shall retain all information for a period of two years.

6 MCAR § 4.9006 ~~HW-6~~ The Hazardous Waste Facility Permit program.

A. Applicability. This rule governs the application procedures, the issuance, and the conditions of a Hazardous Waste Facility Permit. The provisions in this rule and the Agency's Rules of Procedure, MPCA 1-13, shall be construed to complement each other.

B. Other permits. Obtaining a Hazardous Waste Facility Permit pursuant to this regulation shall not exempt a person from any requirement to obtain any other applicable federal, state, and local permits.

C. Permit required. No person shall do any of the following without obtaining a Hazardous Waste Facility Permit from the Agency:

1. Establish, construct, operate, close, or abandon a hazardous waste facility;
2. Make any change in, addition to, or extension of a permitted hazardous waste facility or part thereof;

3. ~~Effect~~ Make any expansion, production increase, or process modification that results in new or increased capabilities of a permitted hazardous waste facility; or

4. Operate such a permitted hazardous waste facility, or part thereof, that has been changed, added to, or extended or that has new or increased capabilities.

D. Submission of Hazardous Waste Facility Permit application.

1. Any person who is operating a hazardous waste facility on the day these rules take effect shall submit to the Agency a preliminary application for a hazardous waste facility permit within 180 days of the effective date of these rules; except any person who, on the effective date of these rules, is operating a Hazardous Waste Containerized Storage Facility that is not in the same location as any other type of hazardous waste facility shall submit a preliminary application for a Hazardous Waste Facility Permit for such facility according to the following schedule:

The First Letter in the Name of Applicant	Application Due Date
L-N	10 months after effective date
A-C	12 months after effective date
D-G	14 months after effective date
T-Z	16 months after effective date
O-S	18 months after effective date
H-K	20 months after effective date

2. Any person who has submitted a preliminary application for a Hazardous Waste Facility Permit shall submit a final application after the person has received the Director's comments on the preliminary application.

3. In the event that a person operates hazardous waste facilities at more than one location, a separate application shall be filed by the person for each facility.

4. In the event that a person operates more than one type of hazardous waste facility at one location, then the person shall file a single application containing all the required information for each type of hazardous waste facility that will be at that location.

5. When the application is for a change, addition to, or extension of a permitted hazardous waste facility or part thereof or when the application is for new or increased capabilities at a permitted hazardous waste facility, the Agency may waive in writing the submission of plans and specifications or any parts thereof.

6. The Agency ~~shall~~ need not accept a permit application unless the application contains all the information required by these rules. If a permit application is incomplete

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or deficient, the Director shall advise the applicant of such incompleteness or deficiency. Further processing of the application may be suspended until the applicant has supplied the necessary information or otherwise corrected the deficiency.

E. Granting and reissuance of permits.

1. The Agency shall not grant or reissue a Hazardous Waste Facility Permit unless the Agency determines that the hazardous waste facility and its operation will comply with the requirements of applicable pollution control statutes and rules.

2. The Agency shall not grant or reissue a Hazardous Waste Facility Permit ~~until unless the permittee provides documentation of applicant has established~~ financial arrangements that are adequate to provide for:

a. The proper removal, transportation and disposal of the total amount of hazardous waste that the facility ~~has the capacity~~ operator will be permitted to store; and

b. The closure of the facility in accordance with these rules and the conditions of the permit.

c. The long-term maintenance, monitoring, and surveillance requirements provided for in these rules and the conditions of the permit for a Hazardous Waste Land Disposal Facility for a period of thirty (30) years after closure, unless the Agency determines that a shorter period of time is adequate to determine the long term effect of the facility on the soil, groundwater, and air. Nothing in this rule, however, shall limit the responsibility of the facility operator to provide maintenance, monitoring, and surveillance for a longer period of time in accordance with 6 MCAR § 4.9004.

F. Review of permits.

1. Any person who wishes to continue to operate a hazardous waste facility shall, at least 180 days before his Hazardous Waste Facility Permit expires, submit a written request to the Agency for reissuance of the permit.

2. The Agency shall review the request for reissuance. In reviewing the request, the Agency shall consider:

a. Whether the permittee is in compliance with or has complied with terms, conditions, requirements, and schedules of compliance of the expiring permit, and with

applicable pollution control statutes and rules, including any additions, revisions or modifications thereto.

b. Whether there have been changes in the state of the art during the term of the permit.

c. Whether the Agency has up-to-date information on the nature of the facility, production levels, the operational practices and monitoring data.

d. Whether any modifications to the permit are necessary. In conducting the review, the Agency may require additional information to be submitted to aid the review.

G. Hazardous Waste Facility Permit general conditions.

1. All Hazardous Waste Facility Permits shall have the following general conditions:

a. The permittee shall establish, construct, operate, and close the facility in accordance with:

(1) The plans, specifications, and reports identified in the permit;

(2) The Agency's hazardous waste rules; and

(3) The conditions of the permit issued by the Agency.

b. The permittee shall allow any authorized Agency employee or agent to enter upon any property — public or private — to have access to and copy any applicable records, to inspect the hazardous waste facility and its operations, to sample any waste, and otherwise to obtain necessary information pertaining to the construction, operation, and closure of the hazardous waste facility and the hazardous waste managed there.

c. The permittee shall, upon the request of any authorized Agency employee or agent, disclose the times at which any operation occurs.

d. The permittee shall not store volumes of hazardous wastes in excess of the volumes approved by the Agency in the permit.

e. The permittee shall manage only those types of hazardous waste that are approved by the permit.

f. The permit shall have a term not to exceed five years.

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2. Hazardous Waste Facility Permits for facilities that existed prior to the effective date of these rules may in addition provide interim dates for achievement of compliance with applicable rules, other relevant laws and conditions of the permit.

3. Hazardous Waste Facility Permits for new facilities shall, in addition, have the following general conditions:

a. The permittee shall not begin operation of the hazardous waste facility until the permittee has submitted a certification by a registered professional engineer that the hazardous waste facility has been constructed according to the engineering plans and specifications as approved, with any modifications, by the permit.

b. The permittee shall construct and commence operation of the facility within the time schedule specified in the permit.

4. If the Hazardous Waste Facility Permit authorizes the permittee to accept hazardous waste from outside the State of Minnesota, the permittee shall advise the Director at least 30 days in advance of the intention to accept hazardous waste from outside the State of Minnesota. The permittee shall not accept the hazardous waste without written approval from the Director, that the hazardous waste is consistent with those hazardous wastes that are specified in the permit.

H. Hazardous Waste Facility Permit special conditions. The Agency may shall include special permit conditions to restrict the establishment, construction, operation, or closure of a hazardous waste facility whenever the Agency deems such special conditions necessary in order to perform its responsibilities and duties under its rules and other relevant laws.

I. Exceptions.

1. A generator who establishes, constructs, operates, or closes an on-site hazardous waste resource recovery facility that is owned by the generator and is operated solely for the purpose of recycling hazardous waste produced by that generator shall not be required to obtain a Hazardous Waste Facility Permit for that facility.

2. The facility operator of a Hazardous Waste Containerized Storage Facility with a capacity of less than 5,000 gallons (18,927 liters) that is not in the same location as any other types of hazardous waste facility shall not be required to obtain a Hazardous Waste Facility Permit for that facility.

3. The facility operator of a wastewater treatment works operated pursuant to a National Pollutant Discharge Elimination System Permit or State Disposal Permit shall

not be required to obtain a Hazardous Waste Facility Permit for that facility.

4. No person shall be required to obtain a Hazardous Waste Facility Permit for receiving used crankcase oil from other persons for the purpose of supplying that oil to a recycler if the capacity of the facility is less than 5000 gallons (18,927 liters) and if the used crankcase oil is not mixed with other wastes.

6 MCAR § 4.9007-HW-7 Contents of Hazardous Waste Facility Permit applications.

A. Applicability. This rule establishes the information that must be submitted in an application for a Hazardous Waste Facility Permit.

B. Preliminary application.

1. All hazardous waste facilities. Any person who submits a preliminary application to the Agency for a Hazardous Waste Facility Permit, regardless of the kind of facility, shall provide the following information in the preliminary application:

a. All information required by MPCA 5.

b. An area plan having a scale and vertical contour intervals sufficient to show existing surrounding features to within one mile radius, and delineating the following:

(1) County, township, and municipal boundaries.

(2) A north arrow, town, range, and section number.

(3) Surface waters, floodplains, and wetlands.

(4) Boundaries of parks and wildlife refuges.

(5) Highways, roads, and rights of way for railroads, including a designation of the main access to the facility.

(6) Approximate daily utilization of each access route by vehicles transporting hazardous waste.

(7) Surface water drainage patterns and drainage divides with the direction of the drainage denoted by arrows.

(8) Land use patterns and zoning.

(9) Buildings within ¼ mile of the proposed facility and their apparent uses.

(10) Quarries and gravel pits (active and abandoned).

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(11) Major rock outcroppings and fault zones.

(12) Sanitary landfills or dumps (active and abandoned).

(13) The location and surface elevations of all active and abandoned wells within ¼ mile of the facility.

(14) Any other applicable area features necessary to determine the suitability of the area for the hazardous waste facility.

c. A site plot plan of existing conditions at the location of the proposed facility, with the site plot plan having a scale and vertical contour interval acceptable to the Director, including all land within 1000 feet of the property lines of the proposed facility, and the following:

(1) County, township, and municipal boundaries.

(2) A north arrow, town, range, and section number.

(3) Zoning and land use patterns.

(4) Surface waters, floodplains, and wetlands.

(5) Highways, roads, and railroads (including rights of way of railroads), including a designation of those that will be utilized as main accesses to the facility.

(6) A conceptual layout of the facility.

(7) Existing and proposed drainage patterns of surface water runoff denoted by arrows.

(8) Sanitary and storm sewers, sewer connections, electric power lines, and underground gas lines serving the facility.

(9) The location and surface elevations of surrounding wells (active and abandoned), on-site soil borings, well installations, and piezometers, all of which shall be tied into a bench mark.

(10) All buildings and their uses.

(11) Existing ground cover vegetation.

(12) Rock outcroppings, sink holes and faults.

(13) The boundary lines and ownership of all property bordering the proposed site of the facility.

(14) Any other site features necessary to determine the suitability of the site for the hazardous waste facility.

d. An estimate of the cost for:

(1) The proper removal, transportation, and disposal of the total amount of hazardous waste that the applicant has requested to store.

(2) The closure of the facility in accordance with these rules.

2. Hazardous Waste Containerized Storage Facilities, Hazardous Waste Transfer Station Facilities, and Hazardous Waste Processing Facilities. In addition to the information required by subparagraph 1. of this section, any person who submits a preliminary application for a Hazardous Waste Facility Permit for a Hazardous Waste Containerized Storage Facility, a Hazardous Waste Transfer Station, or a Hazardous Waste Processing Facility shall submit the following additional information:

a. A report that summarizes the available information on the subsurface conditions at the proposed site for the facility and reviews dominant soil types, underlying bedrock, groundwater quality, and the location and depths of all wells within one thousand feet.

b. When required by the Director, a report that summarizes the subsurface field investigations conducted by the applicant to determine the feasibility of the proposed location.

c. An engineering report that conceptually assesses the construction of the facility and any existing construction proposed to be used at the facility.

d. A report that conceptually addresses the operation of the facility including when applicable:

(1) A general description of the waste types proposed to be brought to the facility describing the approximate chemical composition, the hazardous properties, and the estimated quantities that will be handled on a yearly basis.

(2) A discussion of the inventory control procedures to be utilized in managing each waste type at the facility.

(3) A description of any processing including,

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but not limited to, chemical precipitation, incineration, chemical fixation, blending, or repackaging that is proposed to occur at the facility.

(4) A delineation of the actual or proposed management of the hazardous waste that is brought to the facility and that is subsequently removed from the facility for management elsewhere.

(5) A description of the anticipated air emissions, wastewater effluents, hazardous wastes, and solid wastes that will be produced by the facility.

3. Hazardous Waste Noncontainerized Storage Facilities, Hazardous Waste Land Treatment Facilities, and Hazardous Waste Land Disposal Facilities. In addition to the information required by subparagraph 1. of this section, any person who submits a preliminary application for a Hazardous Waste Facility Permit for a Hazardous Waste Noncontainerized Storage Facility, Hazardous Waste Land Treatment Facility, or Hazardous Waste Land Disposal Facility shall submit the following additional information:

a. A report on the subsurface conditions at the proposed facility based on a field investigation that includes a sufficient number of soil borings, groundwater monitoring wells, and piezometers to accurately investigate subsurface conditions. The location, placement and construction of the soil borings, monitoring wells, and piezometers shall be done in a manner that facilitates the preparation of plot plans and cross sections. The report shall include, unless otherwise specified by the Director:

(1) Logs of borings classified according to ASTM D 2487-69 and ASTM D 2488-69.

(2) A plot plan that delineates the surface of the underlying groundwater, the direction of groundwater flow, perched water tables, recharge and discharge areas, and the location of soil borings, groundwater monitoring wells and piezometers, and the dates of inspection and water levels recorded in establishing the groundwater information listed by each well and piezometer.

(3) The placement and construction of monitoring wells and piezometers.

(4) Cross sections prepared from the field investigation that illustrate soil profile, groundwater aquifers, vertical and horizontal direction of groundwater flow and other significant geological features, and, should the field investigation indicate the need for an investigation of the underlying bedrock, core samples or cuttings taken from borings and rock types adequately defined as to petrology and stratigraphy.

(5) A comparison of the findings of the field in-

vestigations with previous research and literature on the subsurface conditions at the site and an explanation of any discrepancies in the findings of the field investigation and previous research.

(6) An estimated water balance for the location of the proposed facility that considers precipitation, drainage, infiltration, exfiltration, percolation, evaporation and runoff.

(7) A section that addresses the porosity and permeability of major soil types that were encountered in the field investigation, including a description of the procedures used in the testing of the major soil types. The section shall discuss:

(a) The ability of the soil to attenuate the hazardous waste and the leachate thereof through ion exchange, absorption, adsorption, precipitation, and other such mechanisms.

(b) A review of the anticipated products from such mechanisms including both final and intermediate biochemical metabolites and chemical degradation products.

(c) An assessment of how effective the soil attenuation processes will be in providing treatment to the hazardous waste and leachate thereof.

(8) A section that addresses the seasonal fluctuation in groundwater levels, an approximation of the historic high groundwater levels expected based on field investigations, and influences on the groundwater levels by local wells, irrigation, or drainage ditches.

(9) A section on groundwater quality that delineates the natural quality, assesses the potential impact of the hazardous waste to be accepted at the facility and the leachate thereof on groundwater quality, and appraises whether this facility would preclude beneficial present and future uses of the groundwater.

b. An engineering report that conceptually addresses the design of the facility including:

(1) A description of the wastes to be managed at the facility, including the amount, general chemical composition, and properties of the waste.

(2) Any treatment processes that will be utilized to prepare the waste before land disposal, land treatment, or storage.

(3) A site plot plan that delineates the conceptual engineering plans for the facility.

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(4) A section that describes and assesses as applicable:

(a) The preliminary specifications for the liners, the liners currently under consideration, and the individual liners' ability to meet those specifications.

(b) The preliminary specifications for the leachate collection system, the materials currently under consideration, and the ability of those materials to meet the specifications.

(c) The preliminary design criteria for any leachate treatment system being proposed.

(5) A conceptual discussion of the operation of the proposed facility.

c. A report that:

(1) Evaluates the expected effect of the vapors, gases and dusts from the wastes on the air quality at the actual site and in the immediate vicinity of the site.

(2) Appraises the expected subsurface migration of the vapors and gases from the wastes relative to conditions found in the subsurface investigations.

4. Hazardous Waste Land Disposal Facilities. In addition to the information required by subparagraphs 1. and 3. of this section, any person who submits a preliminary application for a Hazardous Waste Facility Permit for a Hazardous Waste Land Disposal Facility shall submit an estimate of the cost of maintenance, monitoring, and surveillance of the facility for a thirty (30) year period after closure of the facility, unless the Agency determines that a shorter period of time is adequate.

C. Final application.

1. All hazardous waste facilities. Any person who submits a final application to the Agency for a Hazardous Waste Facility Permit, regardless of the kind of facility, shall provide the following information:

a. Any information required to respond to the comments made by the Director on the preliminary application.

b. An engineering report that details the plans and specifications for the construction of the facility, which shall be referenced into the plot plans, including when applicable:

(1) A site plot plan that delineates the final engineering plans for the facility. If the facility involves progressive development of different parts of the area designated for the facility, the applicant shall submit a series of plot plans to illustrate the progressive development of the facility. All site plot plans shall be of sufficient detail, scale, and vertical contour interval to allow for actual construction from the plot plan. The site plot plan shall include:

(a) All information contained on the site plot plan submitted with the preliminary plans and specifications.

(b) A detailed layout of the facility as it is to be built, indicating buildings, fencing, utilities, storage areas, earthwork, and other applicable details.

(c) The location of any air quality, water quality or groundwater monitoring devices located or proposed to be located at the facility.

(d) Arrows delineating surface water drainage patterns after construction of the proposed facility, including the relationship of the drainage patterns to the runoff containment lagoons.

(2) Specifications for the construction of all storage areas and storage tanks, clearly delineating thickness of liners, liner material, grades, drains, sewer inlets, vehicle ramps, foundation construction, and storage tank construction.

(3) A section on the equipment that will be installed at the facility. The section shall include a discussion of underlying physical principles or chemical reactions, detailed drawings and specifications of all equipment, expected performance data, air emissions data, and the water quality of the wastewater discharge.

(4) A section that delineates the design and specifications for the treatment of contaminated runoff or snow that would arise from the operation of the facility.

c. An operations manual that includes:

(1) A section that delineates procedures, methods, and maintenance that must be done at the facility on a daily or periodic basis to insure proper management of the waste at the facility.

(2) Inventory control procedures to be utilized at the facility to properly manage the waste in inventory, including:

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(a) Locations for storage of each waste type, together with a clear delineation of which waste types are not compatible, the recommended maximum times of storage, and the methods for logging shipments into and out of inventory.

(b) Maintenance and inspection schedules for insuring that containers in storage are properly labeled and not leaking.

(3) A thorough description of the type and frequency of inspection or maintenance that shall be done on storage areas, dikes, storage tanks, liners, cover materials, leachate collection systems, any other construction and equipment at the proposed facility.

(4) A monitoring section that describes the procedures to be used and the parameters to be analyzed by the permittee to:

(a) Inventory and identify incoming hazardous waste.

(b) Conduct air and groundwater monitoring programs.

(c) Monitor the management of waste produced by the operation of the facility.

(5) A section on how to operate and manage holding basins for runoff or contaminated snow that arises from the operation of the facility.

(6) A description of the procedures that shall be employed by the facility personnel in responding to spills or other emergency situations that could arise during facility operation. Specific references shall be made to (a) the training or instruction that the facility personnel shall receive, (b) the on-site emergency and safety equipment, and (c) the arrangements for emergency services.

(7) A section outlining the specific management plan for all residuals and hazardous wastes that arise from the operation of the facility.

d. A closure manual describing the procedures and construction that will be used to close the facility, and the monitoring and maintenance required to be conducted at the facility after closure.

e. A description of the financial arrangements the applicant has made to pay for the following:

(1) The proper removal, transportation, and disposal of the total amount of hazardous waste that the applicant has requested to store.

(2) The closure of the facility in accordance with these regulations.

2. Hazardous Waste Noncontainerized Storage Facilities, Hazardous Waste Land Treatment Facilities, and Hazardous Waste Land Disposal Facilities. In addition to the information required by subparagraph 1 of this section, any person who submits a final application for a Hazardous Waste Facility Permit for a Hazardous Waste Noncontainerized Storage Facility, Hazardous Waste Land Treatment Facility, or a Hazardous Waste Land Disposal Facility, shall submit the following additional information:

a. A report on the subsurface conditions at the proposed facility. The report shall review the results of continued monitoring of groundwater conditions and supplement the information developed in the preliminary application. The report shall review the subsurface facility construction, including the following:

(1) Cross sections that illustrate the design of the facility in relationship to soil profiles, bedrock profiles, groundwater contours, and other geological features and that delineate the proposed location of lysimeters and groundwater monitoring wells relative to vertical and horizontal groundwater flows.

(2) A section that describes the water balance of the facility and its impact on the existing water balance and quality in the site area, and that contains, when deemed necessary by the Director, a plot plan that delineates how the groundwater contours will be affected by development of the facility.

(3) A section that reviews the effect of contaminants should a failure in the engineering design or construction occur. The section shall include an assessment of the ability of contaminants to pass through underlying soils, a description of the potential effect on the groundwater quality, and recommendations for remedial action should it be necessary.

b. A report that provides a detailed assessment of the specifications and design for liners, leachate collection systems, and leachate treatment systems.

c. A report on air and groundwater monitoring systems and other equipment that will be installed at the proposed facility and on the proposed monitoring procedures. The report shall include the location of monitoring wells and air monitoring stations, plans and specifications for the construction of the monitoring wells in accordance with requirements of the Minnesota Department of Health, plans and specification for the construction of air monitoring stations, the procedures for sampling, the frequency of sampling, and the kind of analyses to be performed, ~~the provi-~~

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sions that will be made for monitoring after the facility is closed (unless otherwise specified by the Director after completion of the review of the preliminary report); and a description of the financial arrangements made to insure monitoring at the site as long as the waste is present there.

d. A closure report and plot plan that delineates the finished construction of the facility after closure, and discusses long term maintenance and monitoring. The report and plan shall include the following:

(1) A site plot plan of the proposed final conditions at the facility. The plot plan shall have a scale and vertical contour interval acceptable to the Director and shall include:

- (a) Original contours.
- (b) Proposed final contours.
- (c) Original surface water drainage patterns.
- (d) Proposed final surface water drainage patterns.
- (e) Layout of the leachate collection system.
- (f) Layout of gas vents, gas migration barriers, and other such gas controls.
- (g) Access roads.
- (h) Finished landscaping.

(2) Cross sections that delineate each finished cell and cross sections that delineate the disposal or storage of each major waste type. The cross sections shall depict liners, leachate collection systems, the waste, cover materials, and other applicable details.

(3) A section that provides specifications for any construction or materials to be used in closing the facility.

~~(4) A section that discusses long term maintenance of liners, cover material, leachate collection systems, gas controls, and other applicable construction.~~

~~(5) A section that discusses operation of the leachate collection and treatment systems, gas controls, and runoff retention basins after closure.~~

~~(6) A section that discusses the continued sam-~~

~~pling and analysis of monitoring wells, leachate collection systems, emitted gases, and surface water runoff.~~

~~(7) A section that discusses the techniques for removal of chemical wastes from cells in case the waste poses a threat or has created a threat to air, land, or water resources of the state, or to public health and safety, regardless of the cause of that threat.~~

~~(8) A financial plan that proposes how to provide funds for long term maintenance, operation, and monitoring of the facility and funds for remedial actions in the case that any of the wastes poses a threat or has created a threat to air, land, and water resources of the state, or to public health or safety.~~

e. A report on the long term maintenance, monitoring and surveillance to be performed at the facility. For a Hazardous Waste Land Disposal Facility the report shall include all of the following information. For a Hazardous Waste Noncontainerized Storage Facility and a Hazardous Waste Land Treatment Facility, the report shall include any of the following information that is applicable:

(1) A discussion of the long term maintenance of liners, cover material, leachate collection systems, gas controls, and other applicable construction after closure.

(2) A discussion of the operation of the leachate collection and treatment systems, gas controls, and runoff retention basins after closure.

(3) A discussion of the continued sampling and analysis of monitoring wells, leachate collection systems, emitted gases, and surface water runoff after closure.

(4) A discussion of the techniques for removal of chemical wastes from cells in case the water poses a threat or has created a threat to air, land, or water resources of the state, or to public health or safety, after closure, regardless of the cause of that threat.

(5) A financial plan that indicates how the applicant will provide funds for maintenance, monitoring, and surveillance of the facility for thirty (30) years after closure, unless the Agency determines that a shorter period of time is adequate.

D. Waiver. Any person who submits a preliminary application or final application to the Agency for a Hazardous

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Waste Facility Permit shall not be required to submit that information which the Director informs the person in writing is not pertinent to a particular application.

6 MCAR § 4.9008 ~~HW 8~~ Hazardous waste shipping papers.

A. Applicability. This rule establishes requirements for the preparation of hazardous waste shipping papers by generators. This rule also establishes requirements for the handling, signing and submission of hazardous waste shipping papers by generators, transporters, and facility operators.

B. Hazardous waste shipping papers required. No person shall release, transport, or accept a hazardous waste that is not accompanied by hazardous waste shipping papers.

C. Preparation of hazardous waste shipping papers.

1. Each generator shall prepare hazardous waste shipping papers for each shipment of hazardous waste.

2. The generator shall prepare an original and a sufficient number of copies of the hazardous waste shipping papers so that all persons who are going to participate in the management of the hazardous waste will be able to comply with the provisions of this rule.

3. The hazardous waste shipping papers shall include the following information.

a. The names and addresses of the generator, transporters, and hazardous waste facilities to which the hazardous waste is to be transported.

b. An identifying shipment number.

c. The amount of hazardous waste being transported.

d. The approximate chemical composition of the waste.

e. The hazardous properties of the waste.

f. The dates during which the hazardous waste was produced.

g. The names and telephone numbers of persons and agencies to notify or consult with in case of spillage during handling or transportation.

h. The transporters' Agency identification numbers.

i. The names of other generators whose hazardous wastes are to be commingled with the generator's shipment of hazardous waste.

j. Procedures for handling spills, fires, and other emergencies.

k. The signature of the generator.

l. Any other information the generator deems important.

4. The hazardous waste shipping papers shall include a place for the signature of each transporter and facility operator who accepts possession of the shipment of hazardous waste and a place for the signature of the facility operator who is responsible for ultimate disposition of the hazardous waste.

D. Preparation of supplemental cover sheet. Each transporter or facility operator who commingles or consolidates more than one shipment of hazardous waste shall prepare a supplemental cover sheet. The supplemental cover sheet shall provide procedures for handling spills, fires, and other emergencies and shall accompany the hazardous waste shipping papers for each individual shipment of hazardous waste until ultimate disposition.

E. Signing and submission of hazardous waste shipping papers.

1. Each generator, transporter, and facility operator who relinquishes possession of a shipment of hazardous waste shall obtain the signature of the transporter or facility operator who accepts the shipment of hazardous waste on the original and each copy of the hazardous waste shipping papers. The generator shall retain one copy of the hazardous waste shipping papers. The transporter or facility operator shall obtain two copies of the hazardous waste shipping papers and, within two days after relinquishing possession, return one copy to the generator.

2. Each transporter or facility operator who accepts a shipment of hazardous waste shall sign the hazardous waste shipping papers.

3. The facility operator of a Hazardous Waste Processing Facility, a Hazardous Waste Land Disposal Facility, or a Hazardous Waste Land Treatment Facility shall sign the hazardous waste shipping papers a second time upon ultimate disposition of the hazardous waste and return the original to the generator within two days of ultimate disposition.

4. The generator of a shipment of hazardous waste shall maintain the original of the hazardous waste shipping papers for a period of five years after it is returned. Each transporter and facility operator who accepted the shipment of hazardous waste shall maintain a copy of the hazardous waste shipping papers for a period of five years after accepting the hazardous waste.

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5. Upon the request of the Director any generator, transporter, or facility operator shall submit the original or a copy of hazardous waste shipping papers to the Agency at the time and in the manner specified by the Director. If the request requires the generator to inform all transporters and facility operators managing the hazardous waste of the request, the generator shall so inform the transporters and facility operators, and the generator, transporters and facility operators shall comply with the Director's request.

6. In the event that a county ordinance is approved pursuant to 6 MCAR § 4.9009, the generator, transporter, and facility operator of a waste generated within that county or transported to a hazardous waste facility within that county shall sign and submit hazardous waste shipping papers as required by that ordinance.

F. Exemptions.

1. A generator who manages the hazardous waste at an on-site Hazardous Waste Processing Facility, Hazardous Waste Land Disposal Facility, or Hazardous Waste Land Treatment Facility is not required to comply with the requirements of this regulation with respect to those wastes on-site.

2. Generators and transporters of waste used crankcase oil are not required to have hazardous waste shipping papers accompany the waste used crankcase oil that they generate or transport unless the waste used crankcase oil has been mixed with other wastes.

3. Persons who release or accept hazardous waste that is discharged directly to a sewer system operated pursuant to an NPDES permit or State Disposal System Permit are exempted from the requirements of this rule with respect to such a discharge.

G. Mailing shipping papers. Any generator in Minnesota who ships his hazardous waste to a hazardous waste facility outside the State of Minnesota or any generator outside the State of Minnesota who ships his hazardous waste to a hazardous waste facility in Minnesota shall mail the required copies of the shipping papers to the hazardous waste facility if both of the following conditions are present:

1. A transporter that neither originates nor terminates a shipment in the State of Minnesota refuses to sign and carry the shipping papers, and

2. There is neither a federal law nor a state law of the

state in which the shipping papers were proffered that requires the transporter to sign and carry similar shipping papers.

When the facility operator receives the shipment of hazardous waste, he shall then treat the shipping papers in the same manner as if they had physically arrived with the shipment of hazardous waste. In addition, the generator shall provide all persons who will be transporting the waste within the State of Minnesota with appropriate written information on the procedures for handling spills, fires, and other emergencies.

H. Hazardous waste shipping paper format. Nothing in this rule shall be construed to require the shipping paper to be a document that is separate from and in addition to other documents already being utilized for the transportation of hazardous wastes. A generator may use a bill of lading or any other such document to fulfill the requirements of this rule so long as it contains all the required information and is handled as required by this rule. The information shall, however, be in a format that will make it amenable to computerized data processing and that has been approved by the Agency.

I. Certified bill of lading. Any generator that gives a bill of lading to a transporter shall, prior to the execution of the bill of lading, determine whether the facility operator can and will accept the shipment of hazardous waste and whether the facility, if within Minnesota, has a Hazardous Waste Facility Permit. The generator shall certify on the bill of lading that the facility operator can and will accept the shipment of hazardous waste and that the facility has a Hazardous Waste Facility Permit.

6 MCAR § 4.9009 ~~HW-9~~ County regulation of hazardous waste management.

A. Applicability. This rule establishes procedures for Agency review of county actions pertaining to hazardous waste management and the procedures for submission of documents in the event the county ordinance is approved by the Agency. Issuing, denying, modifying, imposing conditions upon, or revoking hazardous waste generator licenses or permits, and county hazardous waste rules shall be subject to review, denial, suspension, and reversal by the Agency.

B. Review of county ordinances.

1. A county that seeks Agency approval of a hazard-

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ous waste ordinance shall submit a copy of the ordinance to the Agency. The Agency shall advise the county in writing whether the ordinance is approved. The Agency shall approve a county ordinance that embodies the standards and requirements set forth in these hazardous waste rules.

2. If a metropolitan county submits notification of a county hazardous waste regulations or hazardous waste ordinance to the Agency for approval pursuant to Minn. Stat. § 473.811, subd. 5, the procedure established in ~~subparagraph~~ subparagraph 1. of paragraph D. for Agency review of county hazardous waste licenses and permits shall be followed. Any action by the Agency pursuant to such notification submission for Agency review of the county ordinance shall not be deemed to be Agency approval of such regulations or ordinance, unless such approval is explicit and is in writing.

3. For the purposes of this rule a metropolitan county is any one of the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

C. Certifications, disclosures and shipping papers. Effect of Agency approval of county ordinance. In the event that a county has adopted a hazardous waste ordinance that is approved in writing by the Agency:

1. A person producing a waste shall not be required to submit a certification to the Agency, unless specifically requested in writing by the Director to do so, if the following is the case:

a. The person evaluates the waste, determines that it is not a hazardous waste, and submits a certification to the county in accordance with the requirements of the county ordinance; and

b. The certification contains the same information required by these regulations; and

c. The county ordinance has been approved in writing by the Agency.

2. A generator shall not be required to submit the disclosure to the Agency, unless specifically requested in writing by the Director to do so, if the following is the case:

a. The generator submits a disclosure to the county in accordance with the requirements of the county ordinance; and

b. The disclosure contains the same information required by these regulations; and

c. The county ordinance has been approved in writing by the Agency.

1. Each generator who produces a hazardous waste within the county shall not be required to submit a disclosure to the Agency for that waste unless specifically requested in writing by the Director to do so.

2. 3. Each generator shall submit the required copies of the hazardous waste shipping papers to the county as required by the county ordinance for each shipment of hazardous waste that is transported.

3. 4. All persons shall comply with all other requirements of these rules, and all requirements of the county ordinance.

D. Duties of counties.

1. A county shall submit to the Agency written notification of all actions concerning hazardous waste generator licenses and or permits approved or reviewed by the county during the previous month. The notification shall be submitted to the Agency on the fifteenth day of each month. Upon the request of the Director, the county shall provide the Agency with a copy of all the information that it considered in reaching its decision. The Agency shall place the matter on the agenda of the next regularly scheduled meeting of the Agency, which will be on the fourth Tuesday of the month. The Agency may amend, modify, suspend, or reverse the action of the county. The action of the Agency in reviewing the county decision to grant the license or permit shall not affect the Agency's consideration of a Hazardous Waste Facility Permit for the same facility under these rules.

2. A county shall submit to the Director, upon his request, a copy of any disclosure or certification that has been submitted to the county.

3. A county shall submit to the Agency a yearly summary of hazardous waste management in the county. The yearly summary shall be submitted by March 1 for the year that ended on the previous December 31. The summary shall contain:

a. The name and license identification numbers assigned by the county to each generator in the county.

b. The total number of hazardous waste shipments.

c. The total quantities shipped for each type of hazardous waste.

d. The registration identification numbers pursuant to 6 MCAR § 4.9005 and names of the transporters used.

e. Facilities at which the waste was stored, processed, or disposed.

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- f. Number of spills and accidents.
- g. Any other information requested by the Director.

6 MCAR § 4.90010 HW-10 Spillages and leakages of hazardous waste.

A. ~~Duty to report and recover.~~ Any person who owns, has possession of, or otherwise has control of a hazardous waste that spills, leaks, or otherwise escapes from a container, vehicle tank, storage tank, portable tank, or other containment system, including its associated piping, shall immediately notify the Agency: if the hazardous waste may cause pollution of the air, land, or waters of the state. The person shall use, when applicable, the Agency's 24 hour telephone notification service. ~~The person shall recover the hazardous waste as rapidly and as thoroughly as possible and shall immediately take such other action as may be reasonably possible to protect human life and health and minimize or abate pollution of the water, air or land resources of the state caused thereby.~~

B. Duty to recover. Any person who owns, has possession

of, or otherwise has control of a hazardous waste that spills, leaks, or otherwise escapes from a container, vehicle tank, storage tank, portable tank, or other containment system, including its associated piping, shall recover the hazardous waste as rapidly and as thoroughly as possible and shall immediately take such other action as may be reasonably possible to protect human life and health and minimize or abate pollution of the water, air or land resources of the state caused thereby.

B. Open burning. No person shall undertake open burning of such hazardous waste unless the open burning has been approved in writing by the Director. The Director may approve open burning of the following substances:

1. Distilled petroleum products.

2. Crude oil, if it is not possible to recover the crude oil. The Director shall consider the location of such hazardous waste and the wind conditions and may approve such open burning only if there will be no adverse effect on residential areas or on traffic conditions.

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APPENDIX K

TYPE 3 - INLAND SHALLOW FRESH MARSHES. The soil is usually waterlogged during the growing season: often it is covered with as much as 6 inches or more of water. Vegetation includes grasses, bulrushes, spikerushes, and various other marsh plants such as cattails, arrowheads, pickerelweed, and smartweeds. Common representatives in the North are reed, whitetop, rice cutgrass, carex, and giant burreed. In the Southeast, maidencane, sawgrass, arrowhead, and pickerelweed are characteristic. These marshes may nearly fill shallow lake basins or sloughs, or they may border deep marshes on the landward side. They are also common as seep areas on irrigated lands.

Marshes of this type are used extensively as nesting and feeding habitat in the pothole country of the North Central States and elsewhere. In combination with deep fresh marshes (Type 4), they constitute the principal production areas for waterfowl. Florida and Georgia are the only States where the majority of the shallow fresh marshes are considered to be of lesser importance to waterfowl. Florida alone contains more than 2 million acres of this type.

Flyway area:

	<u>Acres</u>
1. Pacific north -----	33,700
2. Pacific south -----	64,100
3. Central north -----	817,600
4. Central south -----	84,600
5. Mississippi north -----	758,500
6. Mississippi south -----	15,300
7. Atlantic north -----	35,900
8. Atlantic south -----	2,159,900

TYPE 4 - INLAND DEEP FRESH MARSHES. The soil is covered with 6 inches to 3 feet or more of water during the growing season. Vegetation includes cattails, reeds, bulrushes, spikerushes, and wildrice. In open areas, pondweeds, naiads, coontail, watermilfoills, waterweeds, duckweeds, waterlilies, or spatterdocks may occur. Waterhyacinth and waterprimroses form surface mats in some localities in the Southeast. These deep-marshes may almost completely fill shallow lake basins, potholes, limestone sinks, and sloughs, or they may border open water in such depressions.

Deep fresh marshes constitute the best breeding habitat in the country, and they are also important feeding places. In

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the Western States they are heavily used by migrating birds. especially diving ducks. Florida and Texas are the only States in which the vast majority of these marshes are not rated as being of primary importance to waterfowl.

Flyway area:

Acres

1. Pacific north -----	92,500
2. Pacific south -----	62,500
3. Central north -----	686,500
4. Central south -----	46,800
5. Mississippi north -----	427,700
6. Mississippi south -----	21,500
7. Atlantic north -----	25,700
8. Atlantic south -----	984,100

TYPE 5 - INLAND OPEN FRESH WATER. Shallow ponds and reservoirs are included in this type. Water is usually less than 10 feet deep and is fringed by a border of emergent vegetation. Vegetation (mainly at water depths of less than 6 feet) includes pondweeds, naiads, wildceierv, coontail, watermilfoils, muskgrasses, waterlilies, spatterdocks, and (in the south) water-hyacynth.

In the pothole country of the North Central States, Type 5 areas are used extensively as brood areas when, in midsummer and late summer, the less permanent marshes begin to dry out. The borders of such areas are used for nesting throughout the Northern States. Where vegetation is plentiful, they are used in all sections of the country as feeding and resting areas by ducks, geese, and coots, especially during the migration period.

Flyway area:

Acres

1. Pacific north -----	40,500
2. Pacific south -----	51,900
3. Central north -----	676,800
4. Central south -----	87,100
5. Mississippi north -----	1,000,200
6. Mississippi south -----	186,500
7. Atlantic north -----	12,000
8. Atlantic south -----	541,500

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PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Public Hearings on Agency Rules

June 18-25, 1979

Date	Agency & Rule Matter	Time & Place
June 20	Public Service Commission Gas & Electric Utilities' Access to Customer Premises Hearing Examiner: Harry Semour Crump	9:30 a.m., Large Hearing Rm., 7th Floor, American Center Bldg., 160 E. Kellogg Blvd., St. Paul, MN
June 21	Energy Agency Rescheduled Hearing on Rules Relating to Establishing Materials, Installation & Labeling Standards for Thermal Insulation Products Hearing Examiner: Allan W. Klein	9:00 a.m., Rm. A, Capitol Square Bldg., 550 Cedar St., St. Paul, MN
June 22	Health Department Rules Relating to Food, Beverages and Lodging Establishments, License Fees, Clean Indoor Air & Swimming Pools Hearing Examiner: Natalie Gaul	9:30 a.m., Rm. 105, Dept. of Health Bldg., 717 Delaware St., Minneapolis, MN

Department of Agriculture

Proposed Rules Governing the Disposal of Refuse from Transport Involved in Foreign Commerce

Notice of Additional Hearing

Notice is hereby given that an additional public hearing in the above-entitled matter will be held in the Jury Lounge, Saint Louis County Courthouse, Duluth, Minnesota on July 12, 1979 at 2:00 p.m. and continuing until all persons have had an opportunity to be heard. This hearing is a continuation of public hearings heard in this matter on May 15, 1979 in Duluth, Minnesota and on May 16, 1979 in Saint Paul, Minnesota.

This hearing is for the purpose of receiving testimony on proposed changes to the Rules as Proposed published at *State Register*, Volume 3, Number 40, p. 1847, April 9, 1979 (3 S.R. 1847). These proposed changes, if adopted, would require the refuse on transport involved in foreign



This artist's rendition of an emigrant train leaving St. Paul Union Depot was published in *Harper's Weekly*, September 13, 1886. (Courtesy of the Minnesota Historical Society)

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commerce within the territorial limits of Minnesota be maintained in tight containers with vermin proof covers. The proposed changes would also require that refuse aboard transport involved in foreign commerce be removed upon docking or landing, every three days thereafter while docked or landed in Minnesota, and immediately before departure from Minnesota.

Copies of these proposed changes to the Rules as Proposed are now available and one free copy may be obtained by writing to the Minnesota Department of Agriculture, 420 State Office Building, Saint Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing. The department's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 18.44-18.61. A supplement to the "Statement of Need and Reasonableness" explaining why the department feels the proposed changes are necessary and outlining the testimony they will be introducing, will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available for public inspection.

May 29, 1979

Mark W. Seetin
Commissioner

The amendments shown below incorporate those amendments proposed at *State Register*, Volume 3, Number 40, p. 1847, April 9, 1979, as well as changes proposed subsequent to that publication of Proposed Amendments and Notice of Hearing.

Amendments as Proposed

3 MCAR § 1.0190 General.

A. Purpose and authority. It is the purpose of these rules contained herein to carry out and enforce the provisions of the Plant Pest Act, Minn. Stat. §§ 18.44 to 18.61. These rules relate to the disposal and handling of refuse and dunnage of foreign origin at Minnesota ports of entry in a prescribed manner to prevent the entry and dissemination of plant pests.

B. Definitions. For purposes of these rules, the following definitions and those in Minn. Stat. § 18.46 shall apply:

1. "Approved sewage system" means any sewage system approved by the commissioner upon his determina-

tion that the system is designed and operated in such a manner as to prevent the dissemination of plant pest.

2. "Dunnage" means structural wood products in any form used to secure cargo in any manner.

3. "Refuse" means all material derived in whole or in part from the fruits, vegetables, meats, or other plant or animal (including poultry) material which is carried aboard any vehicle involved in foreign commerce.

4. "Transport involved in foreign commerce" means any ship or aircraft arriving in Minnesota from any point outside the borders of the United States and Canada.

5. "Vehicle" means any conveyance used to transport refuse and/or dunnage from any transport involved in foreign commerce in Minnesota.

6. "Vermin" means any animal life, except plant pests as defined in Minn. Stat. § 18.46, subd. 13.

3 MCAR § 1.0191 Agri 190 Registration.

A. (a) Every person who engages in the business of removing or disposing of refuse and/or dunnage from vessels transport involved in foreign commerce shall register annually with the commissioner of agriculture, and shall furnish such information as may be required to demonstrate compliance with the certification requirements set forth in these rules.

B. (b) In conjunction with the registration an annual inspection will shall be made of the incinerator, incinerator site and refuse collection equipment utilized in the removal, transportation and disposal of refuse and/or dunnage by a member of the Minnesota Department of Agriculture the commissioner before certificate is granted, and, if all the requirements are satisfied a certificate of approval will shall be issued by the commissioner. This certificate must be incinerator site and retained by the certificate holder.

C. If at any time during the year the requirements of these rules regulations are not met, after notice and hearing pursuant to Minn. Stat. ch. 15, the certificate may shall be revoked. The commissioner may, when it is deemed that the continued operation of certificate holder poses an imminent threat of plant pest dissemination, suspend the certificate until the commissioner has issued an order on the certificate revocation.

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(e) This section shall not apply to municipalities or any subdivisions the state.

3 MCAR § 1.0192 Operating standards. ~~Agg 191 Disposal facilities and procedures.~~

A. Refuse handling.

(a) Refuse shall be transported directly into an incinerator for immediate incineration. In no event shall refuse be stored in the incinerator for a period longer than 24 hours.

1. All transports involved in foreign commerce shall immediately upon arrival have all refuse removed and disposed of in a manner pursuant to these rules. No refuse shall accumulate for more than three (3) days on board such transports involved in foreign commerce unless authorized in writing to do so by the commissioner because the commissioner determines that no method for proper disposal is available pursuant to 3 MCAR § 1.192 D.

All refuse shall be removed from transports involved in foreign commerce in a manner pursuant to these rules immediately before departure from the state.

2. Until removed, refuse shall be retained in tight containers with vermin proof covers.

3. Refuse shall be delivered at least daily to the disposal facility. In no case shall refuse be held in a vehicle for longer than 12 hours or overnight.

4. Refuse removed from transports involved in foreign commerce shall not be removed from the confines of the State's borders until the refuse has been reduced to ash or sterilized in accordance with these rules.

5. Refuse shall be handled at all times in a manner which prevents spillage. Any refuse spilled shall be picked up and placed within the vehicle and/or disposal facility immediately. The site of the spillage shall be cleaned so as to assure that the site is pest free.

6. (a) Containers used for unloading and transporting refuse from transport involved in foreign commerce shall be leakproof and shall have adequate vermin proof covers.

7. (b) Vehicles used for transporting refuse shall be leakproof and the bed or body the refuse shall be enclosed completely covered with a tarpaulin or other covering tightly secured when it is used to prevent spillage and prevent vermin entry. Covering is not required when the refuse is contained in tight containers with vermin proof covers or in closed plastic bags so as to contain the materials in the vehicle until ultimate disposal.

B. Approved refuse disposal.

(c) Refuse disposal shall be by means of incineration only. Incinerators shall be equipped with a power type burner of at least 150,000 BTU capacity and shall be so constructed and operated as to completely reduce refuse to ash.

1. The following methods shall be used for refuse disposal:

a. Incineration, providing the incinerator is capable of reducing its contents completely to ash in a 24 hour period. No refuse residue shall be removed from an incinerator for disposal unless it has been reduced to ash or slag.

b. Sterilization by live steam, cooking, or boiling at a temperature of no less than 212 degrees F (100 degrees C) for 30 minutes.

c. Grinding into an approved sewage system.

d. Any other manner approved by the commissioner that would eliminate all pest risks.

C. Dunnage disposal.

1. No pest risk. If dunnage involved in foreign commerce arriving within the borders of Minnesota is inspected and found apparently free from plant pests, it shall be released by the commissioner and need not be disposed of pursuant to these rules.

2. Pest risk. If evidence of plant pests is found, all of the dunnage material involved shall be treated in a manner prescribed.

a. Complete incineration or open burning in compliance with Minnesota Air Pollution Control rules.

b. Fumigation by chemicals and treatment schedules deemed necessary by the commissioner to eliminate the pest risk.

c. Spraying or dusting with proper chemical concentrations deemed necessary by the commissioner to eliminate the pest risk and in conformance with 3 MCAR § 1.0338.

d. Steam sterilization in a manner approved by the commissioner to eliminate the pest risk.

D. If the commissioner determines that the preceding methods of disposal are not available, the refuse and/or

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dunnage shall be required to remain on the transport involved in foreign commerce until an alternative means of disposal has been approved by the commissioner as complying with the purposes of these rules.

E. Any financial responsibility to accomplish any treatment of dunnage and/or refuse shall belong to those responsible for delivering the dunnage and/or refuse to Minnesota.

Agr 192 Definitions

(a) "Refuse" means any waste material containing any plant or animal material which is carried aboard any vessel.

(b) "Vessel" means any water carrier used for transporting cargo or passengers in commerce on public water comprising all that part of Lake Superior and the waters extending therefrom up to the point where T. H. #23 crosses the St. Louis River which are situated within the territorial boundary of the State of Minnesota.

(c) "Dunnage" includes lumber in any form and any other material used aboard a vessel to secure cargo in any manner.

Department of Natural Resources

Proposed Rules for Designation, Classification, and Management of the Cannon River from Faribault to the Mississippi River, as a Component of the State's Wild and Scenic River System

Notice of Hearing

Notice is hereby given that public hearings will be held on the above-captioned matter at:

8 p.m. July 17, 1979 at the Red Wing City Library (Footroom), 225 Broadway, Red Wing, Minnesota.

8 p.m. July 18, 1979 at the Dakota County Government Center Board Room 1560 Highway 55, Hastings, Minnesota.

8 p.m. July 19, 1979 at the Faribault Junior High School Auditorium, 315 Northwest Fourth Avenue, Faribault, Minnesota.

The hearing shall continue until all representatives of associations and other interested or affected persons or groups have had an opportunity to be heard concerning the above-mentioned matter by submitting oral or written data, statements, or arguments.

The hearing examiner will be Allan Klein from the Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104 (612-296-8100). The hearing is a rule-making proceeding, conducted according to Minn. Stat. §§ 15.0411-15.0417, 15.051, and 15.052, and the rules for rule-making, which are 9 MCAR §§ 2.101-2.199.

Twenty-five days prior to the hearing a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the public hearing, written material may be submitted and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report) or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

The proposed management plan relates to the following matters:

Reasons for including the Cannon River in the Minnesota Wild, Scenic and Recreational Rivers System.

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The proposed classification of the river or segments of the river.

The proposed land use district boundaries which shall not exceed 320 acres per each river mile on both sides (not each side) of the river.

The proposed methods for preserving the river and its adjacent land, including the recommended land acquisition.

The proposed regulations for local land use control, including such matters as lot size and building height and setback requirements, vegetative cutting provisions, use within land use districts, and criteria for utility crossings, public roads and river crossing.

The proposed plan for recreational management within the land use district, including the location and design of campsites, rest areas, and accesses.

The proposed plan for administration of the management plan.

Copies of the management plan are available for inspection at public libraries in Faribault, Northfield, Cannon Falls, Hastings and Red Wing, and at the Legislative Reference Library in the state Capitol. Interested individuals may receive a free copy of the plan by writing or calling the Department of Natural Resources, Office of Planning, Rivers Section, Box 10 Centennial Office Building, St. Paul, MN 55155 (612-296-6784). Copies of the management plan will also be available at the public hearings.

The proposed management plan for the Cannon River has been prepared in accordance with Minnesota Statutes 104.35 and the Statewide Rules and Regulations relating to the Wild, Scenic and Recreational Rivers System (Minnesota Regulations NR 78-81).

Under Minn. Stat. § 10A.01, subd. 11 (1976), a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute, "lobbyist" means any individual engaged for pay or other consideration or authorized by another individual or association to spend money who spends more than five hours of any month or more than \$250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or who spends more than \$250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. "Lobbyist" does not include any: (a) public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity; (b) party or his representative appearing in

a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action; (c) individual in the course of selling goods or services to be paid for by public funds; (d) news media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action; (e) paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or (f) stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not spend over \$250, excluding travel expenses, in any year in communicating with public officials.

Questions regarding lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-1720.

Dated this 24th day of May, 1979.

Joseph N. Alexander
Commissioner

Rules as Proposed (all new material)

Chapter Twenty-Nine: 6 MCAR § 1.2900 Designation, Classification and Management of the Cannon River in Rice, Dakota and Goodhue Counties

6 MCAR § 1.2900 Designation.

A. The river. That portion of the Cannon River from the northern city limits of Faribault (the common border of the SE¼ and the NE¼ of Section 19, T110N-R20W) to its confluence with the Mississippi River is hereby designated a component of the Minnesota wild, scenic and recreational rivers system.

B. Authority. This designation is made by the Commissioner of Natural Resources pursuant to the authority of the Minnesota Wild and Scenic Rivers Act (Minn. Stat. §§ 104.31 to 104.40).

C. Shoreland included. The designation and these rules apply to the river and the adjacent lands as provided for in the land use district descriptions. The land use district boundaries were drawn in accordance with Minnesota Regulations NR 78 (g) (2) (bb).

D. Definition. The definition of "normal high-water mark" (NR 78 (d)) shall be changed to read: "Ordinary high-water mark" means a mark delineating the highest water level which has been maintained for a sufficient

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period of time to leave evidence upon the landscape. In areas where the ordinary high-water mark is not evident, setbacks shall be measured from the top of the bank of the river channel. A channel is a natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

E. Severability. The provisions of these regulations shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

6 MCAR § 1.2910 Classification. The following classifications are made in accordance with the provisions of Minnesota Regulations NR 78 (f).

Recreational:

That portion of the Cannon River and its adjacent lands from the northern city limits of Faribault (the common border of the north and south halves of Sections 19 and 20, T110N-R20W) to the State Hwy. 56 bridge, and from the Lake Byllesby Dam (the common border of Sections 13 and 14, T112N-R18W) to the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls. (The Lake Byllesby Reservoir is excluded from this segment.)

Scenic:

That portion of the Cannon River and adjacent lands from the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls to the river's confluence with the Mississippi River.

6 MCAR § 1.2920 Management.

A. Land use provisions.

1. The Commissioner of Natural Resources hereby adopts the Scenic and Recreational land use districts as identified in the land use district descriptions of these rules and regulations. The land use districts were derived in accordance with Minnesota Rule NR 78 (g) (2) (bb).

2. Minnesota Rules NR 78-81 shall apply to all lands within the Scenic and Recreational land use districts, except as specified in these regulations.

3. Because some areas along the Cannon River have been considerably developed, and because the wild and scenic rivers act states that management plans shall be pre-

pared "with no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land . . ." (Minn. Stat 104.35), the municipalities of Cannon Falls, Dundas and Northfield all adopt regulations as specified in 6 MCAR § 1.2920 D.

4. If land is annexed, incorporated or in any other way transferred to another jurisdiction a moratorium shall exist on all subdivision platting, building permits, construction, grading and filling, and vegetative cutting until the newly responsible unit of government adopts zoning for that land. The zoning shall meet the provisions of these rules and regulations that applied to the land before the transfer. This provision does not apply to work for which lawful permits were previously issued.

5. Minnesota Rules NR 79 (c) (3) (bb) (iii), NR 79 (d) (2) and NR 79 (g) (1) specify regulations concerning designated tributaries. These regulations apply only to lands within the land use district. Designated tributaries along the Cannon River shall be:

- a. Belle Creek
- b. Chub Creek
- c. Heath Creek
- d. Little Cannon River
- e. North Cannon River
- f. Pine Creek
- g. Spring Brook
- h. Trout Brook
- i. Wolf Creek

6. Because the Cannon River valley is a major source of sand and gravel in the area and because this resource can be extracted in a manner that will have minor environmental impact, sand and gravel extraction shall be allowed as a conditional use, subject to the following conditions:

a. Commercial manufacturing of sand and gravel by-products shall be nonpermitted uses in the land use district.

b. The following shall be submitted to the local authority as part of the application for a conditional use permit:

(1) A detailed site plan.

(2) A soil erosion and sediment control plan showing that the mining operation will not adversely affect the quality of surface or subsurface waters.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **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."

PROPOSED RULES

(3) A dust and noise control plan.

(4) A detailed site reclamation plan. Reclamation shall be initiated immediately after the termination of the mining operation and upon completion the area shall be restored to as near its original state as practicable.

c. Mining operations shall not take place within 300 feet of the river and designated tributaries. This distance does not apply to water pumps needed for the mining operation. However, appropriation of water from the river shall require a permit from the DNR, Division of Waters.

d. No sand and gravel operation shall be conducted on parcels of land or a combination of parcels of less than 20 acres.

7. To reduce the effects of litter along the river, canoe and inner tube rental establishments shall:

a. Provide disposal refuse containers to those renting canoes and inner tubes.

b. Require the return of refuse containers along with all refuse from the river trip.

8. Existing development in the village of Welch in E½, W½, NE¼ of Section 28, T113N-R16W, north of the river, shall be allowed to continue as now identified by the Goodhue County zoning ordinance, as amended in 1976.

9. Because agricultural uses are permitted in the land use district and because of the pre-existence of agricultural buildings along the Cannon River, Minnesota Regulations NR 79 (c) (3) (dd) shall be amended to read:

Structure height shall not exceed 35 feet, except for building used primarily for agricultural purposes.

10. Minnesota Regulations NR 79 (c) (3) (cc) (i) shall be modified to read:

Structures shall be allowed on slopes of greater than 13 percent or on blufflines if structures can meet the following criteria:

a. Sewage system facilities must be installed so as to comply with the Sanitary Provisions (d) of NR 79.

b. Structures must be adequately screened.

c. It must be proven that any potential or actual erosion or sedimentation problems do not exist, and that adequate measures shall be taken to prevent them.

d. Where bearing capacity is in doubt soil boring samples must be taken.

e. Consideration must be given to color and architectural design (including roof slope and orientation), subject to scrutiny of the township and county planning commission.

11. NR 79 (b) (2) shall be amended to include the following:

	Land use districts	
	Scenic River	Recreational River
(tt) Sand and gravel extraction, subject to provisions of NR 2920 A. 6.	C	C
(uu) Canoe rental establishments, subject to provisions of NR 2920 A. 7.	C	C
(vv) Inner tube rental establishments	N	N

12. NR 79 (i) (Utility Companies, Standards and Criteria for Utility Crossings) shall be amended to include:

3. Accessory facilities to power plants (intake and outflow structures), not within the jurisdiction of the local authority, when located in the land use district shall be screened to the maximum extent possible to minimize the visual intrusion on the landscape.

B. Land acquisition.

1. Fee title acquisition from willing sellers is recommended in those areas where recreational sites are needed, as identified in 6 MCAR § 1.2920 C. 2.

2. Scenic easement acquisition from willing sellers is recommended in those areas having outstanding scenic, natural or similar values and in areas with high development potential.

3. Because acquisition of lands or interests in land is from willing sellers at market value, some lands recommended for scenic easement acquisition may be purchased in fee title. Additional land or interests in land other than those recommended may be purchased within the land use district to further the policies established in Minn. Stat. § 104.32, and the management plan.

4. Other forms of acquisition, such as use easements or leases, may be substituted for the recommended acquisition or used to acquire interests in other lands within the land use district when such purchases further the policies of these rules and regulations and Minn. § 104.32.

5. The DNR shall consider leasing rest areas for an initial five-year period, with the option for longer leasing or purchase after that period.

6. Land or interests in land recommended to be ac-

PROPOSED RULES

quired in these rules and regulations will be acquired from willing sellers when funds are available for such purposes, as provided for in Minn. Stat. § 104.37.

7. Wherever feasible, land will be exchanged in a manner prescribed by state law to acquire land in the land use district. Land will not be exchanged, however, if such exchanges would adversely affect this or other DNR management programs.

8. The Commissioner of Natural Resources shall not request or use condemnation to acquire lands in the Cannon River land use district through the wild and scenic rivers program.

C. Recreation management.

1. General.

a. It is the intent of these rules and regulations to manage recreation to provide for the orderly use of public lands and waters within the Scenic and Recreational river land use districts. The development and maintenance of selected land- and water-oriented recreational facilities will help "protect the rights of private landowners, ensure quietude, prohibit trespassing, and maintain the essential quality of wild and scenic river land use districts," as provided for in Minnesota Regulations NR 80 (a) (1).

b. NR 80 (b) (1) shall be amended to impose the current state penalty for a misdemeanor.

2. Uses.

a. Priority areas for development of governmental recreational facilities are listed below. If these parcels are not available for use similar parcels may be used.

Location	Facility	Present Ownership
T111N-R20 W, Section 1 in Sechler Park	Campsite, Rest Area	Northfield
T111N-R20W, Section 1, NW¼, on either side of Northfield Mill Dam	Portage	Northfield, Private
T112N-R19W, Section 31 E½ of the NW¼	Access	Carleton College
T112N-R18W, Section 7 S½ of the SE¼, north of river	Campsite, Rest Area	Dakota County
T112N-R18W, Section 8 north of river	Access	Private

T112N-R18W, Section 13 & 14 south of river	Portage	Goodhue County
T112N-R17W, Section 2 NE¼ of the NE¼ of the SE¼	Rest Area	Private
T113N-R16W, Section 35 SW¼ of the NE¼, near Belle Creek	Rest Area	DNR
T113N-R15W, Section 19 south of river	Access	Private
T113N-R15W, Section 22 E½ of the NW¼ of the NW¼	Rest Area	DNR

b. Because sufficient public land exists between Faribault and Northfield, all public recreational facilities in this area shall be located on existing public land.

c. The development of public or private facilities within the land use district shall conform to the site typicals in these rules and regulations. In addition, when establishing rest areas, sufficient land shall be acquired to provide a 300-foot buffer zone between the activity area and adjacent property.

d. DNR rest areas shall not be established closer than four miles to existing rest areas and shall be inaccessible by road.

e. To establish the Cannon River as a day use river the DNR shall establish no overnight camping areas along the river.

f. All public and private camping areas established along the river shall be periodically inspected and subject to all regulations of the Minnesota Pollution Control Agency, the Minnesota Department of Health and all local zoning ordinances.

g. If a recreational site is found in violation of Department of Public Health regulations more than three times in one season, the site shall be closed.

h. No special DNR facilities for motorboats shall be provided.

i. The DNR shall not develop or provide for trails within the land use district. This shall not include local trails or state-funded grant-in-aid trails.

j. Snowmobile use on lands in the land use district shall be allowed:

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PROPOSED RULES

(1) On private lands, only with the permission of the appropriate landowner(s).

(2) On public lands where provided for.

3. Maintenance.

a. The DNR shall be responsible for and shall allocate funds for maintenance of DNR recreational facilities within the Cannon River land use district. The DNR is encouraged to hire area residents to help maintain recreational facilities.

b. A "carry-in, carry-out" policy shall be implemented by river users. To help ensure the success of this policy, no trash receptacles shall be provided at DNR rest areas and areas shall be maintained to prevent the establishment of dumps.

c. Orientation signs identifying all recreational facilities along the river, containing the recreational rules for the river and explaining the "carry-in, carry-out" refuse policy shall be posted at accesses.

d. If heavy use of recreational facilities wears down river land, causes erosion or leads to problems with adjacent landowners, DNR sites shall be closed.

4. Enforcement. The DNR's Division of Enforcement shall determine with the local units of government the division of responsibilities for the enforcement of the wild and scenic river user regulations (Minnesota Rule NR 80). The Division of Enforcement shall also take appropriate action to ensure expeditious enforcement of wild and scenic river regulations.

D. Administration.

1. The local zoning authority shall administer the wild and scenic rivers ordinance in accordance with the provisions of NR 81.

2. Dakota and Goodhue counties and the city of Red Wing shall enact or amend such ordinances and maps as necessary to:

a. Establish the Scenic and Recreational land use districts in their jurisdiction according to Minnesota rule 6 MCAR § 1.2910, to include the lands identified in the land use district descriptions.

b. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900, except as indicated in 6 MCAR § 1.2920 D. 4., 5. and 6.

3. Rice County shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational land use district in its jurisdiction according to Minnesota Rule 6 MCAR § 1.2910, to include the lands identified in the land use district descriptions.

b. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900), except as indicated in 6 MCAR § 1.2920 D. 4. and 5.

c. It is recommended that Rice County also continue to enforce present agricultural preservation zoning, as identified in Section 15 of the 1975 Rice County zoning ordinance, on lands beyond 350 feet of the ordinary high-water mark.

4. The municipalities of Dundas (In T111N-R20W: that portion located in the S½ of the N½ of Section 15; and Section 11) and Northfield (In T111N-R20W: that portion located in Section 11; Section 2, south of the river; and the SW¼ of the SW¼ of Section 1, east of the river) shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use districts according to 6 MCAR § 1.2910 to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Rules NR 82-84 (Municipal Shoreland Management for Natural Environment Waters) except NR 84 (a) (2) and NR 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78(d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff) and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900).

5. The municipalities of Dundas (In T111N-R20W: that portion located in the N½ of the N½ of Section 15; and Section 10) and Northfield (In T111N-R20W: that portion located in Section 2, north of the river; and Section 1, except the SW¼ of the SW¼ east of the river. In T112N-R20W: Section 36. In T112N-R19W: Sections 30 and 31) shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use districts according to 6 MCAR § 1.2910, to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Regulations NR 82-84 (Municipal Shoreland Management for General Development Waters), except NR 84 (a) (2) and NR 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78 (d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff), and (gg); NR 80 and NR 81.

PROPOSED RULES

d. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900).

6. The municipality of Cannon Falls shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use district according to 6 MCAR § 1.2910, to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Rules NR 82-84 (Municipal Shoreland Management for Recreational Development Waters), except NR 84 (a) (2) and 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78 (d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff) and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900).

7. Local zoning authorities may retain or adopt regulations that are more restrictive than those required by these rules and regulations, pursuant to Minn. Stat. §§ 394.21, 394.33 and 462.353.

8. The DNR shall assist local units of government in implementing these rules and regulations, in accordance with Minn. Stat. § 104.36.

9. The DNR shall delineate the land use district boundaries on the appropriate zoning maps for the affected local units of government.

10. Every five years the DNR shall conduct a public informational meeting to determine the effectiveness, the progress and the opportunities for improvement of these rules and regulations.

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Legal descriptions

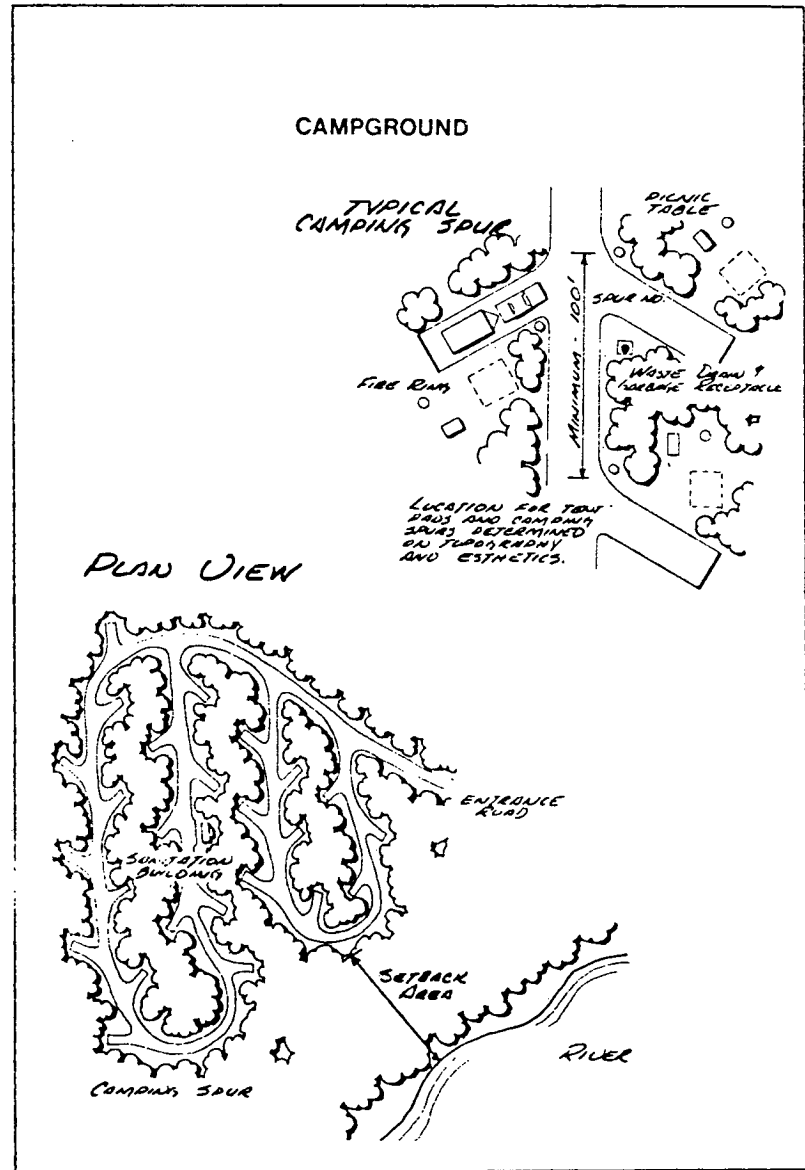
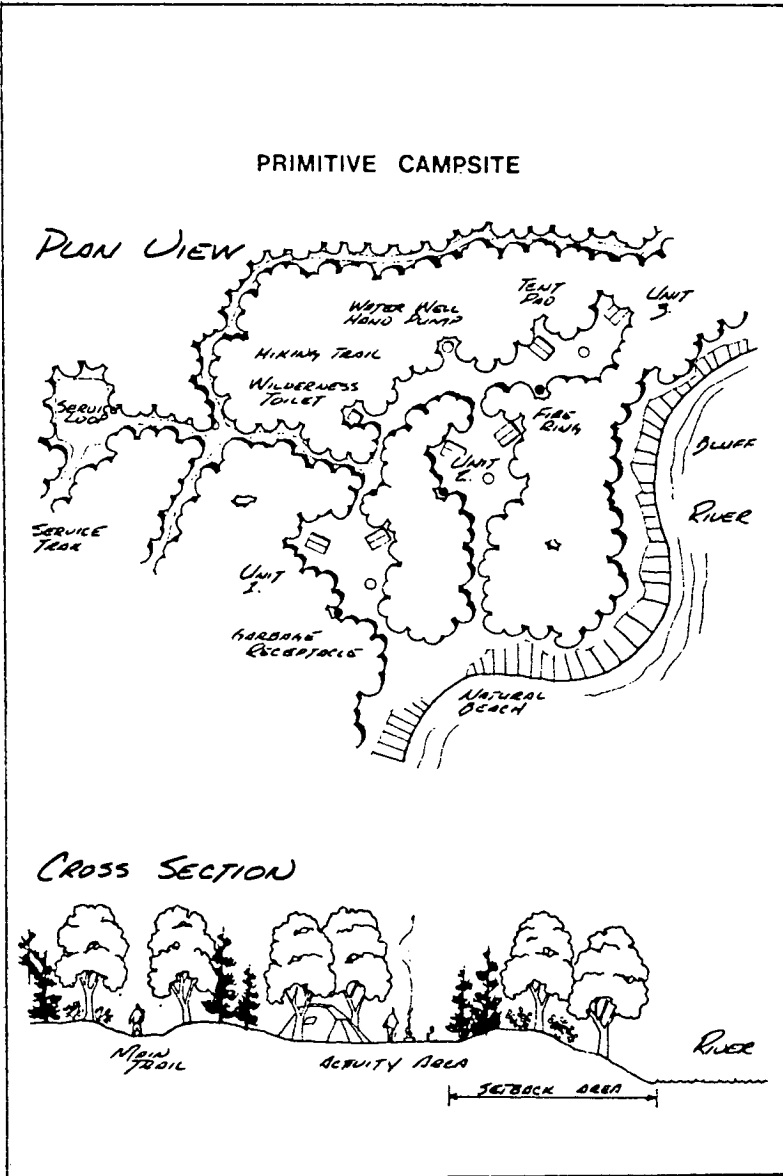
OHWM=ordinary high-water mark
 CRI & P RR=Chicago, Rock Island and Pacific Railroad
 CGW RR=Chicago-Great Western Railroad

Description	Acres
T110N-R20W	
Section 19	
SW 1/4 of NE 1/4 E of CRI&P RR	3.00
SE 1/4 of NE 1/4 " "	38.00
S 1/2 of NE 1/4 of NE 1/4 " "	15.00
Section 20	
NW 1/4	160.00
NW 1/4 of NE 1/4	40.00
Section 17	
E 1/2 of SW 1/4 of SW 1/4	20.00
SE 1/4 of SW 1/4	40.00
SE 1/4	160.00
NE 1/4	160.00
Section 16	
N 1/2 of SW 1/4 of SW 1/4	20.00
NW 1/4 of SE 1/4 of SW 1/4	10.00
W 1/2 of NE 1/4 of SW 1/4	20.00
NW 1/4 of SW 1/4	40.00
SW 1/4 of NW 1/4	40.00
W 1/2 of SE 1/4 of NW 1/4	20.00
W 1/2 of NW 1/4 of NW 1/4	20.00
Section 8	
SE 1/4	160.00
S 1/2 of NE 1/4	80.00
NW 1/4 of NE 1/4	40.00
E 1/2 of SE 1/4 of NW 1/4	20.00
NE 1/4 of NW 1/4	40.00
E 1/2 of NW 1/4 of NW 1/4	20.00
Section 9	
W 1/2 of SW 1/4	40.00
Section 5	
E 1/2 of SW 1/4	80.00
E 1/2 of W 1/2 of SW 1/4	40.00
E 1/2 of W 1/2 of NW 1/4	40.00
E 1/2 of NW 1/4	80.77
NE 1/4	161.48
Section 4	
NW 1/4	161.28
N 1/2 of NE 1/4	80.96
N 1/2 of S 1/2 of NE 1/4	40.00
Section 3	
NW 1/4 of NW 1/4	40.31
N 1/2 of SW 1/4 of NW 1/4	20.00
W 1/2 of NE 1/4 of NW 1/4	20.00
T111N-R20W	
Section 33	
E 1/2 of SE 1/4 of SE 1/4	20.00

Section 34		
E 1/2 of NW 1/4	80.00	
S 1/2 of NW 1/4 of NW 1/4	20.00	
SW 1/4 of NW 1/4	40.00	
NE 1/4 of SW 1/4	40.00	
W 1/2 of SW 1/4	80.00	
W 1/2 of SE 1/4 of SW 1/4	20.00	
W 1/2 of NE 1/4	80.00	
NE 1/4 of NE 1/4	40.00	
Section 27		
E 1/4	160.00	
E 1/2 of W 1/2 of NE 1/4	40.00	
E 1/2 of NW 1/4 of SE 1/4	20.00	
S 1/2 of SW 1/4 of SE 1/4	20.00	
NW 1/4 of NW 1/4 of NE 1/4	10.00	
Section 26		
W 1/2 of SW 1/4	80.00	
SW 1/4 of NW 1/4	40.00	
W 1/2 of NW 1/4 of NW 1/4	20.00	
Section 22		
E 1/2	320.00	
Section 15		
W 1/2 of E 1/2 of SE 1/4	40.00	
W 1/2 of SE 1/4	80.00	
NE 1/4 within 300' of OHWM only	32.00	
Section 10		
SE 1/4 within 300' of OHWM only	41.00	
Section 11		
NW 1/4 of SW 1/4 N & W of river	4.00	
NW 1/4 of SW 1/4 within 300' of OHWM S & E of river	12.00	
SE 1/4 of NW 1/4	40.00	
NE 1/4 of NW 1/4 E of CRI&P RR	36.00	
SW 1/4 of NW 1/4 " "	33.00	
N 1/2 of NW 1/4 of NE 1/4	20.00	
NW 1/4 of NW 1/4 E of CRI&P RR	4.00	
Section 2		
SW 1/4 of SE 1/4 E of CRI&P RR	36.00	
SE 1/4 of SE 1/4	40.00	
NE 1/4 of SE 1/4 SE of CRI&P RR	22.00	
SE 1/4 of NW 1/4 of SE 1/4 " "	4.00	
SE 1/4 of SW 1/4 " "	7.00	
Section 1		
Within 300' of OHWM S & E of river	57.00	
NW 1/4 of SW 1/4 N & W of river to CRI&P RR	29.00	
SW 1/4 of NW 1/4 S & E of CRI&P RR	6.00	
E 1/2 of NW 1/4 within 300' of OHWM N & W of river	8.00	
N 1/2 of NE 1/4 " "	19.00	
N 1/2 of NE 1/4 within 300' of OHWM N of river	3.00	

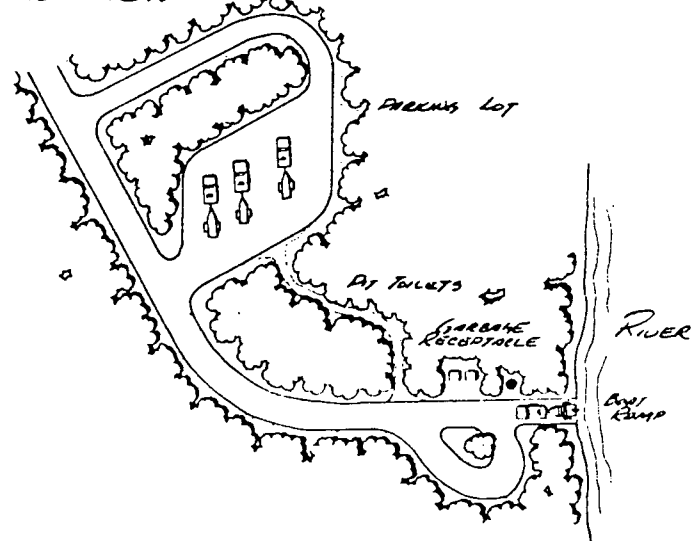
T112N-R20W		
Section 36		
SE 1/4 of SE 1/4 within 300' of OHWM W of river	5.00	
T112N-R19W		
Section 31		
Within 300' of OHWM	86.00	
T111N-R19W		
Section 6		
NW 1/4 of NW 1/4 of NW 1/4 within 300' of OHWM E of river	2.00	
T112N-R19W		
Section 30		
SE 1/4 of SW 1/4 S & E of State Hwy 3	22.00	
S 1/2 of SW 1/4 E of State Hwy 3	152.00	
SW 1/4 of NE 1/4 " "	4.00	
E 1/2 of NE 1/4 E of CSAH 47	49.00	
Section 29		
SW 1/4 of NW 1/4	40.00	
NW 1/4 of NW 1/4 S & E of CSAH 47	34.00	
NE 1/4 of NW 1/4	40.00	
N 1/2 of NW 1/4 of NE 1/4	20.00	
Section 20		
SE 1/4 S & E of CASH 47	121.00	
S 1/2 of SW 1/4 " "	23.00	
Section 21		
SW 1/4	160.00	
SE 1/4 of NW 1/4	40.00	
NW 1/4 of SE 1/4	40.00	
N 1/2 of NE 1/4 of SE 1/4	20.00	
S 1/2 of NE 1/4	80.00	
S 1/2 of NE 1/4 of NE 1/4	20.00	
Section 22		
N 1/4	160.00	
N 1/2 of SE 1/4 of NW 1/4	20.00	
N 1/2 of SW 1/4 of NE 1/4	20.00	
SW 1/4 of NW 1/4	40.00	
Section 15		
S of CGW RR	106.00	
Section 14		
W 1/2 of SW 1/4 S of CGW RR	75.00	
N 1/2 of SE 1/4 of SW 1/4	20.00	
NE 1/4 of SW 1/4	40.00	
SE 1/4 of NW 1/4 S of CGW RR	15.00	
NW 1/4 of SE 1/4	40.00	
N 1/2 of NE 1/4 of SE 1/4	20.00	
NE 1/4 S of CGW RR	94.00	
SW 1/4 of NW 1/4 " "	1.00	

Typical sites

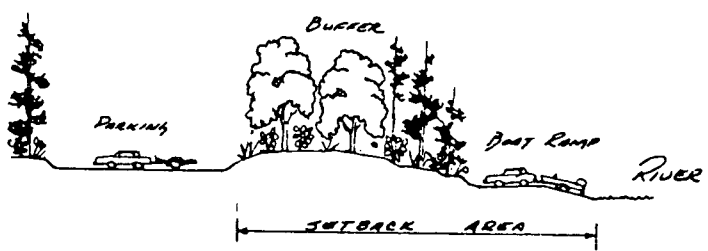


BOAT ACCESS

PLAN VIEW

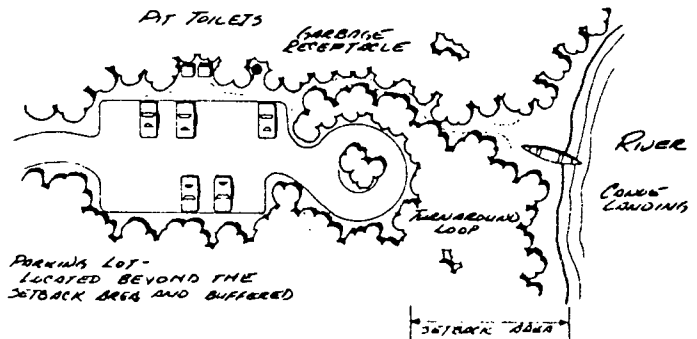


CROSS SECTION

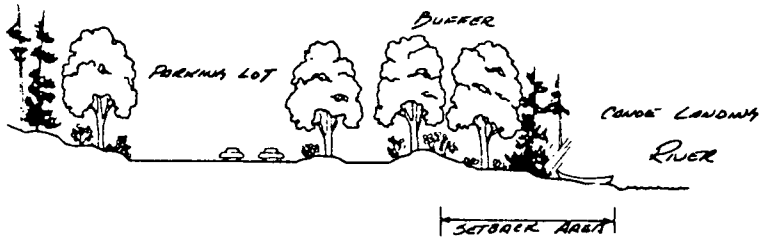


CANOE ACCESS

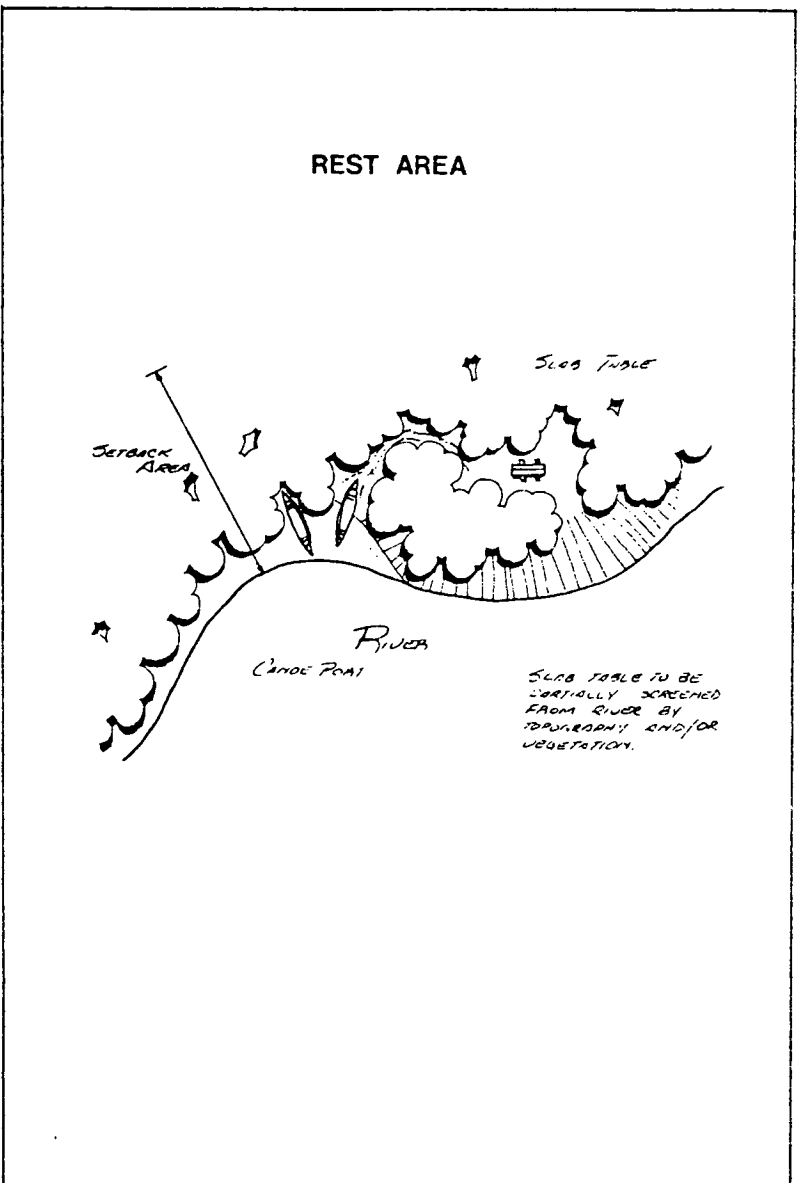
PLAN VIEW



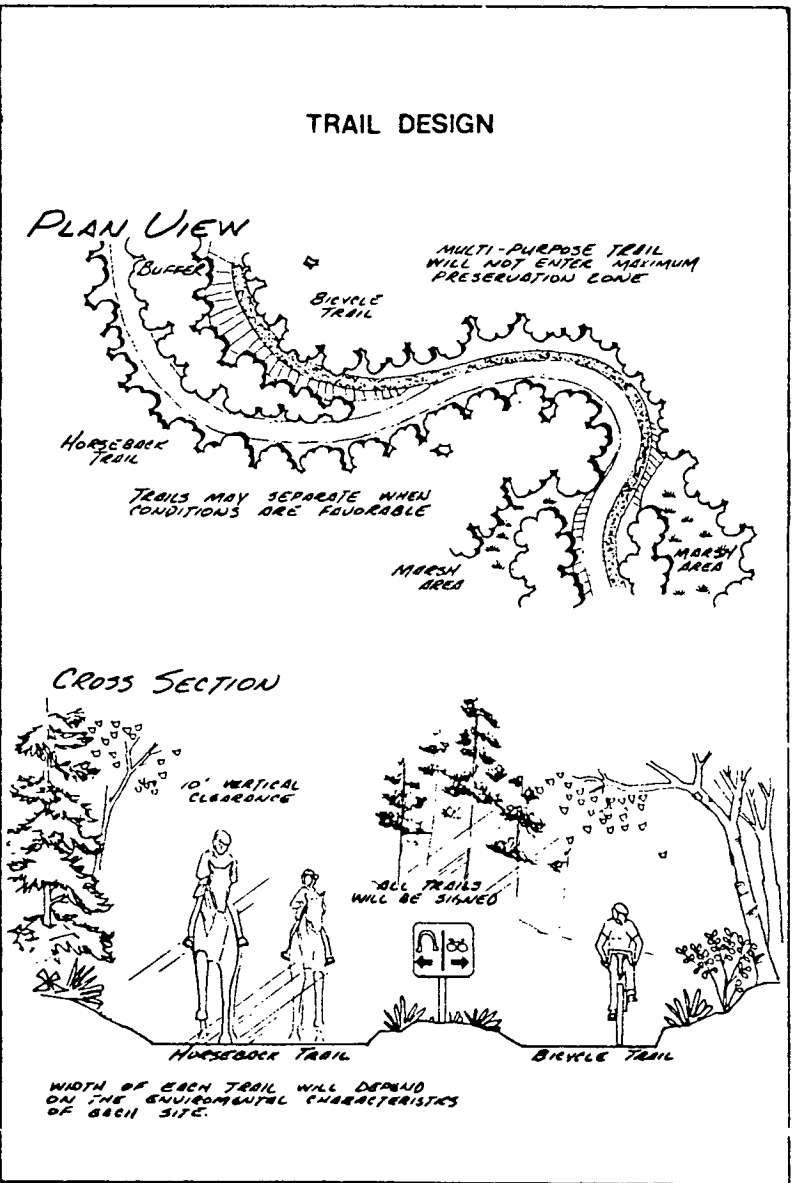
CROSS SECTION



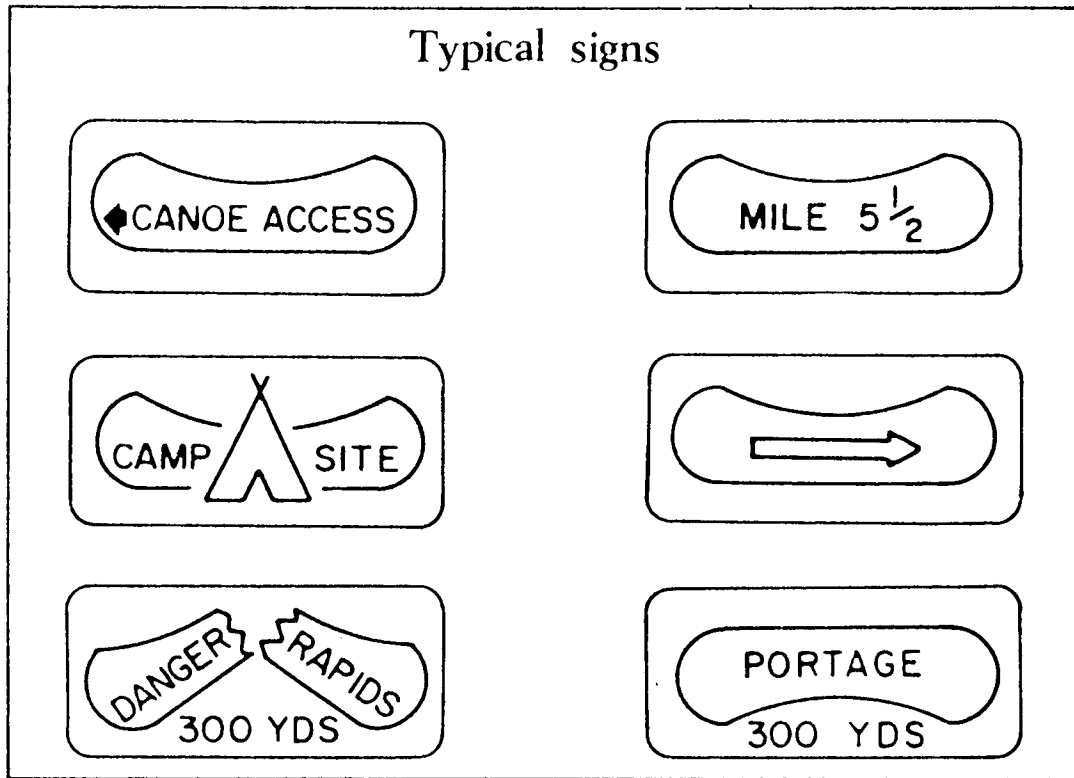
REST AREA



TRAIL DESIGN



PROPOSED RULES



Pollution Control Agency Proposed Amendment of APC 13 and APC 24 and Proposed Adoption of New Rules 6 MCAR §§ 4.0034, 4.0035, 4.0036, and 4.0037 Relating to the Control of the Emissions of Hydrocarbons

Notice of Hearing

Notice is hereby given that a rule hearing in the above-entitled matter will be held in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, on Monday, July 16, 1979, commencing at 9:30 a.m., and continuing on subsequent days if necessary until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the

hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8109, either before or after the hearings until the record is closed. The record will remain open for five working days after the hearing ends, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner.

The proposed amendments and rules, if adopted, would establish emission standards and performance specifications and compliance schedules for owners and operators of facilities that emit hydrocarbons. The intent of these rules is to reduce hydrocarbon emission in areas of the state where significant emissions occur and where ozone problems have been identified. The amendments to APC 13 would require certain controls on older petroleum storage vessels located in the Twin Cities, Duluth, and Olmsted and Sherburne Counties. The amendments to APC 24 establish performance standards and compliance schedules that apply to vacuum producing systems and wastewater separators and during process unit turnarounds at petroleum refineries. 6 MCAR § 4.0034 establishes standards of performance and compliance schedules for surface coating facilities in the Twin Cities, Duluth, and Carlton, Olmsted, and Sherburne

PROPOSED RULES

Counties. 6 MCAR § 4.0035 establishes standards of performance and compliance schedules for gasoline marketing facilities in the Twin Cities, Duluth, and Carlton, Olmsted, and Sherburne Counties. 6 MCAR § 4.0036 establishes standards of performance and compliance schedules for solvent metal cleaning facilities in the same areas of the state as the other rules. 6 MCAR § 4.0037 prohibits certain uses of cutback asphalts for roadways in the Twin Cities.

Notice: The proposed rules are subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rules to participate in the rule hearing process.

The Agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 116.07 subd. 4 (1978).

Copies of the proposed rules are now available and one free copy may be obtained by writing to Mr. Tom Townsend, Division of Air Quality, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the Hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge. Copies of the Statement of Need and Reasonableness are also available from Mr. Townsend.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices

Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Date: May 25, 1979

Terry Hoffman
Executive Director
Minnesota Pollution Control Agency
Joseph F. Grinnell
Chairman
Minnesota Pollution Control Agency

Amendments as Proposed

APC 13 Standards of performance for storage vessels for petroleum liquids.

(b) Standards of performance for storage vessels.

(1) Pre July 7, 1969 storage vessels.

(aa) There are no standards of performance promulgated in this regulation rule for storage vessels with storage capacities less than or equal to 65,000 gallons (246,405 liters) for which construction was commenced prior to July 7, 1969.

(bb) The owner or operator of any storage vessel with a storage capacity greater than 65,000 gallons (246,405 liters) for which construction was commenced prior to July 7, 1969, and which either is located in Anoka, Carlton, Carver, Dakota, Hennepin, Ramsey, Scott or Washington County or in the City of Duluth, or is located at an emission facility which emits more than 100 tons per year of volatile organic compounds to the atmosphere in Sherburne or Olmsted Counties, shall comply with the following requirements:

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(i) If the true vapor pressure of the petroleum liquid, as stored, is equal to or greater than 128 mm Hg (2.5 psia) but not greater than 642 mm Hg (12.5 psia) the storage vessel shall be equipped with a floating roof, a vapor recovery system or their equivalents.

(ii) If the true vapor pressure of the petroleum liquid, as stored, is greater than 642 mm Hg (12.5 psia), the storage vessel shall be equipped with a vapor recovery system or its equivalent.

(cc) There are no standards of performance in this rule for storage vessels with storage capacities greater than 65,000 gallons (246,405 liters) for which construction was commenced prior to July 7, 1969, except as provided in paragraph (b) (1) (bb) for these size storage vessels in certain locations in the State.

(dd) Compliance schedules.

The owner or operator of a petroleum liquid storage vessel, for which construction was commenced prior to July 7, 1969, and to which this rule is applicable, shall adhere to the increments of progress contained in the following schedule:

(i) The owner or operator shall submit to the Agency on or before March 31, 1980 a final control plan to comply with this rule.

(ii) The owner or operator shall award contracts or issue purchase orders for the emission control equipment identified in the final control plan March 31, 1981.

(iii) The owner or operator shall initiate on site installation of the emission control equipment on or before September 30, 1981.

(iv) The owner or operator shall complete installation of the emission control equipment on or before November 30, 1981.

(v) The owner or operator shall achieve final compliance with this rule on or before December 31, 1981.

APC 24 Standards of performance for petroleum refineries.

(a) Definitions.

(14) "Firebox" means the chamber or compartment of a boiler or furnace in which materials are burned,

but does not mean the combustion chamber of an incinerator.

(15) "Turnaround" means the procedure of shutting a refinery unit down after a run to do necessary maintenance and repair work, and, subsequently, putting the unit back on stream.

(16) "Vacuum producing system" means any reciprocating, rotary, or centrifugal blower or compressor, or any jet ejector or device that takes suction from a pressure below atmospheric and discharges against atmospheric pressure.

(b) Standards of performance for existing affected facilities at petroleum refineries.

(4) Vacuum producing system. Effective January 1, 1980, the owner or operator of a petroleum refinery shall control the emissions of volatile organic compounds from any vacuum producing systems by piping the vapors to an appropriate firebox or incinerator, or by compressing the vapors and adding them to the refinery fuel gas system, or by other method demonstrated to provide an equivalent control of emissions.

(5) Wastewater separators. Effective July 1, 1981, the owner or operator of a petroleum refinery shall control the emissions of volatile organic compounds from any wastewater separators by equipping the forebays and separator sections with covers and seals to minimize the amount of oily water exposed to the atmosphere. In addition, all covers, forebays and separator sections shall be equipped with lids and seals which are kept in a closed position at all times except when in actual use. The requirements of this paragraph shall not apply to separator sections which either are equipped with scraper mechanisms or collect less than 200 gallons per day of material whose vapor pressure exceeds 1.5 psia.

(6) Process unit turnarounds. Effective January 1, 1980, the owner or operator of a petroleum refinery shall control the emissions of volatile organic compounds from process unit turnarounds by compressing the vapors and adding them to the refinery fuel gas system or by flaring the vapors until the pressure in the process vessel is 19.7 pounds per square inch absolute or less. The owner or operator shall notify the Agency in writing 30 days before process unit turnarounds.

(7) Compliance schedule for wastewater separators. The owner or operator of a petroleum refinery which has one or more wastewater separators to which paragraph (b) (5) of this rule is applicable shall adhere to the increments of progress contained in the following schedule:

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(aa) The owner or operator shall submit to the Agency on or before July 31, 1980, a final control plan for compliance with paragraph (b) (5) of this rule.

(bb) The owner or operator shall award contracts or issue purchase orders for the emission control system described in the final control plan on or before December 31, 1980.

(cc) The owner or operator shall initiate on site installation of the emission control system on or before April 31, 1981.

(dd) The owner or operator shall complete installation of the emission control system on or before June 30, 1981.

(ee) The owner or operator shall achieve final compliance with paragraph (b) (5) of this rule on or before July 31, 1981.

(c) Standards of performance for new affected facilities at petroleum refineries.

(4) Vacuum producing system. The owner or operator of a petroleum refinery shall control the emissions of volatile organic compounds from any vacuum producing systems by piping the vapors to an appropriate firebox or incinerator, or by compressing the vapors and adding them to the refinery fuel gas system, or by other method demonstrated to provide an equivalent control of emissions.

(5) Wastewater separators. The owner or operator of a petroleum refinery shall control the emissions of volatile organic compounds from any wastewater separators by equipping the forebays and separator sections with covers and seals to minimize the amount of oily water exposed to the atmosphere. In addition, all covers, forebays and separator sections shall be equipped with lids and seals which are kept in a closed position at all times except when in actual use. The requirements of this paragraph shall not apply to separator sections which either are equipped with scraper mechanisms or collect less than 200 gallons per day of material whose vapor pressure exceeds 1.5 psia.

(6) Process unit turnarounds. The owner or operator of a petroleum refinery shall control the emissions of volatile organic compounds from process unit turnarounds by compressing the vapors and adding them to the refinery fuel gas system or by flaring the vapors until the

pressure in the process vessel is 19.7 pounds per square inch absolute or less. The owner or operator shall notify the Agency in writing 30 days before process unit turnarounds.

Rules as Proposed (all new material)

6 MCAR § 4.0034 Standards of performance for surface coating facilities.

A. Definitions. As used in this rule, the following words have the meanings defined herein:

1. "Application area" means the area where the coating is applied by spraying, dipping or flowcoating techniques.

2. "Automobile and light duty truck coating line" means a coating line where a coating material is applied to automobile and light duty truck bodies and exterior sheet metal at an automobile and light duty truck manufacturing plant.

3. "Automobile and light duty truck manufacturing plant" means a surface coating facility where parts are manufactured or finished for eventual inclusion into a finished automobile or light-duty truck ready for sale to vehicle dealers, but not including customizers, body shops and other painters.

4. "Capture system" means the equipment, including hoods, ducts, and fans, used to contain, capture, or transport a pollutant to the control equipment.

5. "Coating applicator" means equipment used to apply a surface coating.

6. "Coating line" means an emission source consisting of the combination of an application area and any associated flash-off areas, and ovens where a surface coating is applied, dried, or cured.

7. "Coil coating line" means a coating line where a coating material is applied to any flat metal sheet or strip that comes in rolls or coils.

8. "Electrophoretic applied primer" means a primer applied by dipping the component in a coating bath with an electrical potential difference between the component and the bath.

9. "End sealing compound coating" means the appli-

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cation to can ends of a synthetic rubber compound which functions as a gasket when the end is assembled on the can.

10. "Exterior base coating" means an initial coating applied to the exterior of a can.

11. "Fabric coating line" means a coating line where a coating material is applied to a textile substrate with a knife, roll or rotogravure coater.

12. "Flash-off area" means the area between the application area and the oven.

13. "Interior base coating" means a coating applied by roller or spray to the interior of a can to provide a protective lining between the can metal and product.

14. "Large appliances coating line" means a coating line where a coating material is applied to doors, cases, lids, panels and interior support parts of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners and other similar products.

15. "Light-duty truck" means any truck weighing less than 3864 kilograms (8500 pounds) gross.

16. "Magnet wire coating line" means a coating line where a coating of electrically insulating varnish or enamel is applied to aluminum or copper wire to be used in electrical machinery.

17. "Metal furniture coating line" means a coating line where a coating material is applied to any furniture piece made of metal or any metal part which will be assembled with other metal, wood, fabric, plastic or glass parts to form a furniture piece.

18. "Oven" means a chamber within which heat is used to bake, cure, polymerize, or dry a surface coating.

19. "Overvarnish" means a coating applied directly over ink.

20. "Paper coating line" means a coating line where a coating material is applied to paper or pressure sensitive tapes, regardless of substrate, including web coatings on plastic fibers and decorative coatings on metal foil.

21. "Potential to emit" means the capability at maximum capacity to emit volatile organic compounds in the absence of air pollution control equipment.

22. "Prime coat" means the first film of coating material applied in a multiple coat operation.

23. "Quench area" means a chamber where hot metal exiting an oven is cooled.

24. "Sheet basecoat" means in can coating, the first application of a coating material when the metal is in sheet form.

25. "Single coat" means a single film of coating material applied directly to the metal substrate without a primer application.

26. "Spray primer" means any primer that is spray applied.

27. "Surface Coating facility" means any plant, building, structure or installation that contains a coating line and which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).

28. "Three-piece can side-seam spray coating" means the application of a coating material to the exterior and interior of a welded, cemented or soldered seam.

29. "Top coat" means the final film of coating material applied in a multiple coat operation.

30. "Transfer Efficiency" means the weight (or volume) of coating solids adhering to an object divided by the total weight (or volume) of coating solids used in the application process.

31. "24 hour period" means any twenty-four hour period commencing at midnight.

32. "Two-piece can exterior end coating" means the application of a coating material by roller coating or spraying to the exterior end of a can.

33. "Vinyl coating line" means a coating line where a topcoat or printing is applied to vinyl coated fabric or vinyl sheets.

34. "Volatile organic compounds" means any compound of carbon that has a vapor pressure greater than 0.1 millimeters of mercury at standard conditions, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

B. Geographic areas of applicability.

1. Rule APC 34 applies to all surface coating facilities in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties.

2. Rule APC 34 applies only to surface coating facilities located in Carlton, Olmsted and Sherburne Counties and the City of Duluth at which volatile organic compound emissions exceed 100 tons per year.

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3. Rule APC 34 does not apply in other counties of Minnesota.

C. Standards of performance for emissions of volatile organic compounds from surface coating facilities.

1. Automobile and light duty truck manufacturing. No owner or operator of a surface coating facility shall allow or cause the emission of volatile organic compounds from an automobile and light duty truck coating line to exceed:

a. 0.15 kilograms per liter of coating material (1.2 pounds per gallon) excluding water, delivered to the coating applicator in the application of the prime coat;

b. 0.38 kilograms per liter of coating material (3.2 pounds per gallon) excluding water, delivered to the applicator in the application of prime surfacer coating, provided that the transfer efficiency is 53 percent or greater.

c. 0.44 kilograms per liter of coating material (3.6 pounds per gallon), excluding water, delivered to the coating applicator in the application of the top coat, provided that the transfer efficiency is 65 percent or greater;

d. 0.58 kilograms per liter of coating material (4.8 pounds per gallon), excluding water, delivered to the coating applicator in the application of the final repair.

2. Can coating. No owner or operator of a surface coating facility shall cause or allow the emission of volatile organic compound from sheet, can or end coating lines to exceed:

a. 0.34 kilograms per liter of coating material (2.8 pounds per gallon), excluding water, delivered to the coating applicator in the application of sheet basecoat and over-
varnish or two-piece can exterior coating;

b. 0.51 kilograms per liter of coating material (4.2 pounds per gallon), excluding water, delivered to the coating applicator in the application of interior base coating and two-piece can exterior end coating;

c. 0.66 kilograms per liter of coating material (5.5 pounds per gallon), excluding water, delivered to the coating applicator in the application of three-piece can side-seam coating;

d. 0.44 kilograms per liter of coating material (3.7 pounds per gallon), excluding water, delivered to the coat-

ing applicator in the application of end sealing compound coating.

3. Paper coating.

a. No owner or operator of a surface coating facility shall cause or allow the emission of volatile organic compounds from a paper coating line to exceed 0.35 kilograms per liter of coating material (2.9 pounds per gallon), excluding water, delivered to the coating applicator.

b. The owner or operator of surface coating facilities whose capacity for volatile organic compound emissions in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties in calendar year 1977 exceeded 28,000 tons may alternatively achieve compliance with this regulation for its existing facilities by meeting the following requirements:

(1) The existing nonexempt facilities located within Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties shall not exceed the following volatile organic compound emission limitations for the combined facilities by the dates indicated.

Date	Total Emissions
December 31, 1980	21,000 tons per year
December 31, 1981	18,000 tons per year
December 31, 1982	15,000 tons per year
December 31, 1983	12,000 tons per year

(2) The owner or operator shall submit to the Agency a record of volatile organic compound emissions occurring on a monthly basis signed by an authorized representative of the owner or operator.

4. Coil coating. No owner or operator of a surface coating facility shall cause or allow the emission of volatile organic compound from a coil coating line to exceed 0.31 kilograms per liter of coating material (2.6 pounds per gallon) excluding water, delivered to the coating applicator in the application of prime and topcoat coatings or single coat coatings.

5. Fabric coating. No owner or operator of a surface coating facility shall cause or allow the emission of volatile organic compound from the fabric coating line to exceed 0.35 kilograms per liter of coating material (2.9 pounds per gallon), excluding water, delivered to the coating applicator.

6. Vinyl coating. No owner or operator of a surface

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coating facility shall cause or allow the emission of volatile organic compound from the vinyl coating line to exceed 0.45 kilograms per liter of coating material (3.8 pounds per gallon), excluding water, delivered to the coating applicator.

7. Metal furniture coating. No owner or operator of a surface coating facility shall cause or allow the emission of volatile organic compound from a metal furniture coating line to exceed 0.36 kilograms per liter of coating material (3.0 pounds per gallon), excluding water, delivered to the coating applicator in the application of prime and top coat coatings or single coat coatings.

8. Large appliances coating. No owner or operator of a surface coating facility shall cause or allow the emission of volatile organic compound from a large appliance coating line to exceed 0.34 kilograms per liter of coating material (2.8 pounds per gallon), excluding water, delivered to the coating applicator from prime and top coat coatings or single coatings. This limitation shall not apply to the use of quick-drying lacquers for repair of scratches and nicks that occur during assembly, provided that the use of these lacquers does not exceed 0.95 liters (1 quart) in any 8 hour period.

9. Magnet wire coating. No owner or operator of a surface coating facility shall cause or allow the emission of volatile organic compound from a magnet wire coating line to exceed 0.20 kilograms per liter of coating material (1.7 pounds per gallon), excluding water, delivered to the coating applicator.

D. Standards of performance for emissions of particulate matter. No owner or operator of a surface coating facility shall cause to be discharged to the atmosphere from any surface coating line any gases which:

1. Contain particulate matter in excess of the limits allowed by Minnesota Regulation APC 5, or

2. Exceed the limits for visible emissions allowed by Minnesota Regulation APC 5.

E. Emission averaging for surface coating facilities.

1. The owner or operator of a surface coating facility shall be deemed to comply with paragraph C. of this rule if:

a. the installation of each coating line which is included in this emission averaging procedure shall have commenced on or before the date of adoption of this rule,

b. the combined emission rate from all coating lines at the surface coating facility is less than or equal to an emission rate determined by the following equation:

$$E = A_1 \times B_1 + A_2 \times B_2 + \dots + A_n \times B_n$$

where

E = the allowable emission rate from the surface coating facility in kilograms per hour (pounds per hour)

A_1, A_2, \dots, A_n = the allowable emission rate for each coating line pursuant to paragraph C. of this rule in kilograms per liter (pounds per gallon) of coating, excluding water, delivered to the coating applicators

B_1, B_2, \dots, B_n = amount of coating material in liters per hour (gallons per hour), excluding water, delivered to the coating applicator for each coating line

2. Compliance with the allowable emission rate for the coating plant as determined under paragraph E.1. shall be achieved on a daily weighted average basis.

3. The owner or operator of a surface coating facility shall maintain records of the quantity and solvent content of each coating applied in such a manner so as to demonstrate compliance with paragraph E. of this rule.

F. Exemptions. The requirements of rule APC 34 paragraph C. shall not apply to:

1. Coating lines whose emission of volatile organic compounds do not exceed 6.8 kilograms (15 pounds) in any one day;

2. Coating lines used exclusively for chemical or physical analysis, for determination of product quality, or research and development, provided that

a. The operation of the coating line is not an integral part of the production process,

b. The volatile organic compound emissions from the coating line do not exceed 25 tons per year.

3. Emissions of

a. Methane

b. Ethane

c. Trichlorotrifluoroethane (Freon 113)

d. 1,1,1 — Trichloroethane (Methyl Chloroform)

G. Operation of air pollution control equipment.

1. In addition to the emission limitations of paragraph C., no owner or operator of a surface coating facility shall operate a thermal oxidizer to abate volatile organic compound emissions that does not oxidize to carbon dioxide and

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water or otherwise remove at least 90 percent by weight of the volatile organic compound emissions which enter the thermal oxidizer.

2. The owner or operator of a surface coating facility who has installed a thermal oxidizer shall not be required to operate the thermal oxidizer during the months of November, December, January, February, and March in order to satisfy the requirements of paragraph C, provided that such thermal oxidizers are operated for the duration of any period for which an ozone alert, warning or emergency has been declared.

3. The design, operation, and efficiency of any capture system used for a thermal oxidizer, carbon adsorption, or other control equipment shall follow good engineering practice.

H. Records. The owner or operator of a surface coating facility shall keep records of the quantity and type of coating delivered to the coating applicator for each coating line. Such records shall be kept for no less than four (4) years and shall be made available to the Agency upon request.

I. Compliance schedules for existing sources.

1. Control equipment installations. Except as provided in paragraphs I.3. and I.4., the owner or operator of an existing surface coating facility who proposes to comply with paragraph C. by installing and operating emission control equipment or replacement process equipment shall adhere to the increments of progress contained in the following schedule:

a. The owner or operator shall submit final plans for the emission control or process equipment to the Agency within six months of the effective date of this rule;

b. The owner or operator shall award contracts for the emission control or process equipment or place orders for the purchase of component parts within one year of the effective date of this rule;

c. The owner or operator shall initiate on-site construction or installation of the emission control or process equipment within eighteen (18) months of the effective date of this rule;

d. The owner or operator shall complete on-site construction or installation of the emission control or process equipment within twenty-one (21) months of the effective date of this rule;

e. The owner or operator shall achieve final compliance no later than two years after the effective date of this rule;

f. Any owner or operator of an emission source subject to the compliance schedule of this subsection shall certify to the Agency within fifteen (15) days after the deadline for each increment of progress, whether the required increment of progress has been met.

2. Low solvent coatings. Except as provided in paragraphs I.3. and I.4., the owner or operator of an existing surface coating facility who proposes to comply with paragraph C. by use of low solvent content coatings shall adhere to the increments of progress contained in the following schedule:

a. The owner or operator shall submit final plans for the application of low solvent content coating technology to the Agency within six (6) months of the effective date of this rule;

b. The owner or operator shall complete research and development of low solvent content coatings within one year of the effective date of this rule;

c. The owner or operator shall complete evaluation of product quality and commercial acceptance within eighteen (18) months of the effective date of this rule;

d. The owner or operator shall issue purchase orders for low solvent content coatings and process modifications within twenty-one (21) months after the effective date of this rule;

e. The owner or operator shall complete initiation of process modifications within two (2) years of the effective date of this rule;

f. The owner or operator shall complete process modifications and commence use of low solvent content coatings within thirty-three (33) months of the effective date of this rule;

g. The owner or operator shall achieve final compliance no later than three (3) years of the effective date of this rule;

h. Any owner or operator of a surface coating facility subject to the compliance schedule of this subsection shall certify to the Agency within fifteen (15) days after the

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deadline for each increment of progress, whether the required increment of progress has been met.

3. The owner or operator of an automobile and light duty truck manufacturing plant shall adhere to the increments of progress contained in the following schedule:

a. Prime system.

(1) The owner or operator shall submit to the Agency a final control plan for complying with paragraphs c.1.a. and b. of this rule on or before June 30, 1981.

(2) The owner or operator shall award contracts or issue purchase orders for emission control systems or process modifications identified in the final control plan on or before December 31, 1981.

(3) The owner or operator shall initiate on-site installation of emission control systems or process modifications for the prime system on or before July 31, 1982.

(4) The owner or operator shall complete installation of emission control systems or process modifications for the prime system on or before November 30, 1982.

(5) The owner or operator shall achieve final compliance with paragraphs C.1.a. and b. of this rule on or before December 31, 1982.

b. Topcoat and final repair systems.

(1) The owner or operator shall submit to the Agency a final control plan for complying with paragraph C.1.c. and d. of this rule on or before June 30, 1984.

(2) The owner or operator shall award contracts or issue purchase orders for emission control systems or process modifications identified in the final control plan for the topcoat and final repair systems on or before December 31, 1984.

(3) The owner or operator shall initiate on-site installation of emission control systems or process modifications for the topcoat and final repair systems on or before July 31, 1985.

(4) The owner or operator shall complete on-site installation of emission control systems or process modifications for the topcoat and final repair systems on or before November 30, 1985.

(5) The owner or operator shall achieve final compliance with paragraphs C.1.c. and d. of this rule on or before December 31, 1985.

4. The owner or operator of surface coating facilities

whose capacity for volatile organic compound emissions in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties in calendar year 1977 exceeded 28,000 tons shall adhere to the increments of progress contained in the following schedule:

a. The owner or operator shall submit to the Agency a final control plan for reducing emissions to a level of 21,000 tons per year on or before March 31, 1980.

b. The owner or operator shall award contracts or issue purchase orders for emission control systems or process modifications identified in the final control plan on or before June 30, 1980.

c. The owner or operator shall initiate on-site installation of emission control systems or process modifications on or before September 30, 1980.

d. The owner or operator shall complete installation of emission control systems or process modifications on or before November 30, 1980.

J. Test methods and procedures.

1. Unless other methods are approved by the Agency, any owner or operator required to submit performance tests for a coating line shall utilize the following methods:

a. Method 1 for sample and velocity transverses.

b. Method 2 for velocity and volumetric flow rate.

c. Method 3 for gas analysis.

d. Method 5 for particulate matter and associated moisture content.

e. Method 9 for visual determination of the opacity of emissions from stationary sources.

f. ASTM D 1475-60 Standard Method of Test for Density of Paint, Varnish, Lacquer and Related Products.

g. ASTM D 2369-73 Standard Method of Test for Volatile Content of Paints.

h. ASTM 1644-59 Method A, Standard Methods of Test for Nonvolatile Contents of Varnishes.

i. ASTM D 2369-73 Standard Method of Test for Volatile Content of Paints.

j. Reference Method for Determination of Total Gaseous Nonmethane Organic Emissions as Carbon-Automated Analyzer Version, published in US EPA publi-

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cation EPA-450/2-78-041 "Measurement of Volatile Organic Compounds."

6 MCAR § 4.0035 Standards of performance for gasoline marketing facilities.

A. Definitions. As used in this rule, the following words have the meanings defined herein:

1. "Bulk gasoline plant" means any gasoline storage and distribution facility with an average daily throughput over a one year period of less than 20,000 gallons (75,800 liters) of gasoline.

2. "Bulk gasoline terminal" means any gasoline storage and distribution facility with an average daily throughput over a one year period of 20,000 gallons (75,800 liters) of gasoline or more.

3. "Gasoline" means any petroleum distillate having a Reid vapor pressure of four (4) pounds or greater which is produced for use as motor fuel.

4. "Gasoline dispensing facility" means any site where gasoline is transferred from a stationary storage tank to a motor vehicle gasoline tank.

5. "Gasoline marketing facility" means a bulk gasoline terminal, bulk gasoline plant, or gasoline dispensing facility.

6. "Vapor control system" means any system that prevents release to the atmosphere of organic compounds in the vapors displaced from a tank during the transfer of gasoline.

B. Applicability.

1. Bulk gasoline terminals. This rule applies to bulk gasoline terminals in Anoka, Carlton, Carver, Dakota, Hennepin, Olmsted, Ramsey, Scott, Sherburne, Washington Counties and the City of Duluth.

2. Bulk gasoline plants. This rule applies to bulk gasoline plants located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties whose average annual throughput is greater than 606,400 liters (160,000 gallons), and to bulk gasoline plants located in Carlton County and the City of Duluth whose average annual throughput is greater than 350,000 gallons.

3. Gasoline dispensing facilities. This rule applies to

gasoline dispensing facilities which are located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties and which have an annual throughput of more than 606,400 liters (160,000 gallons) of gasoline.

C. Standards of performance for gasoline marketing facilities.

1. Bulk gasoline terminals.

a. No owner or operator of a bulk gasoline terminal may cause or allow the loading of gasoline into any tank truck or trailer from any bulk gasoline terminal unless:

(1) The bulk gasoline terminal is equipped with a vapor control system which limits emission of volatile organic material to eighty (80) milligrams per liter of gasoline (4.7 grains per gallon) loaded;

(2) All displaced vapors and gases are vented only to the vapor control system;

(3) There is no liquid drainage from the loading device when it is not in use;

(4) All loading and vapor lines are equipped with fittings which are vapor tight and close automatically when disconnected; and

(5) There are no leaks in the tank truck or transporter, its pressure vacuum relief valves, its hatch covers, or the vapor and liquid lines.

(6) The pressure in the vapor collection system does not exceed the relief pressure of the tank truck or transporter.

2. Bulk gasoline plants.

a. No owner or operator of a bulk gasoline plant may cause or allow the transfer of gasoline between a tank truck, or trailer and a stationary storage tank unless:

(1) The tank truck or trailer and the stationary storage tank are each equipped with a vapor balance system as described in paragraph (b) of this subsection;

(2) Each vapor balance system is operating;

(3) The tank truck or trailer hatches are closed at all times during loading operations;

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(4) There are no leaks in the stationary storage tank, associated vapor and liquid lines, pressure/vacuum relief valves, or hatch covers; and

(5) The pressure relief valve(s) on the stationary storage tank and the tank truck or trailer are set to release at no less than 0.7 psig or the highest pressure allowed by State or local fire codes or the guidelines of the National Fire Prevention Association if any of those are less than 0.7 psig;

(6) The stationary storage tank is equipped with a submerged loading pipe;

(7) Equipment is available at the bulk plant to provide for the submerged filling bottom filling of the tank truck or transporter; or

b. A vapor balance system required under paragraph (a) of this subsection shall include the following components:

(1) A vapor space connection on the stationary storage tank that is equipped with fittings which are vapor tight and close automatically upon disconnection;

(2) A connecting pipe or hose that is equipped with fittings which are vapor tight and close automatically upon disconnection; and,

(3) A vapor space connection on the tank truck or trailer that is equipped with fittings which are vapor tight and close automatically upon disconnection.

c. The owner or operator of a bulk plant in Carlton County or the City of Duluth or a bulk plant whose average annual throughput is not more than 1,000,000 gallons per year may use submerged fill loading of tank trucks or trailers as an alternative to a vapor balance system. This alternative does not apply to the filling of stationary storage tanks.

3. Gasoline dispensing facilities.

a. No owner or operator of a gasoline dispensing facility and no owner or operator of a tank truck or trailer shall cause or allow the transfer of gasoline from any tank truck or trailer into any stationary storage tank at a gasoline dispensing facility unless:

(1) The stationary storage tank is equipped with a submerged loading pipe, and

(2) The vapors displaced from the storage tank during filling are processed by a vapor control system as described in paragraph (b) of this subsection.

b. The vapor control system required by paragraph (a)(2) shall consist of:

(1) A vapor return line from the storage tank to the tank truck or trailer, and equipment that ensures that the vapor return line is connected before gasoline can be transferred to the tank, or

(2) A vapor control system which is designed to reduce emissions by ninety (90) percent on a weight basis.

c. Gasoline storage tanks equipped with floating roof covers or their equivalents and gasoline storage tanks of less than 2000 gallons capacity are exempted from the requirements of Rule APC 35, paragraph c.3.

D. Compliance schedules.

1. The owner or operator of a bulk gasoline plant or a gasoline dispensing facility to which this rule is applicable shall comply with this rule on or before December 31, 1981.

2. The owner or operator of a bulk gasoline terminal to which this rule is applicable shall adhere to the increments of progress contained in the following schedule:

a. The owner or operator shall submit a final control plan for complying with this rule to the Agency on or before June 30, 1980.

b. The owner or operator shall award contracts or issue purchase orders on or before December 31, 1980, for pollution control systems described in the final control plan.

c. The owner or operator shall initiate on site installation of the pollution control systems on or before June 30, 1981.

d. The owner or operator shall complete installation of the pollution control systems on or before November 30, 1981.

e. The owner or operator shall achieve final compliance with this rule on or before December 31, 1981.

6 MCAR § 4.0036 Standards of performance for solvent metal cleaning facilities.

A. Definitions. As used in this rule, the following words have the meanings defined herein:

1. "Cold cleaning" means the batch process of cleaning and removing soils from metal surfaces by spraying, brushing, flushing or immersion while maintaining the solvent below its boiling point. Wipe cleaning is not included in this definition.

2. "Conveyorized degreasing" means the continuous process of cleaning and removing soils from metal surfaces by operating with either cold or vaporized solvents.

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3. "Freeboard height" means:

- a. For cold cleaning, the distance from the solvent surface to the top edge of the degreaser tank, and
- b. For open top vapor degreasing, the distance from the top of the vapor zone to the top of the degreaser tank.

4. "Freeboard ratio" means the freeboard height divided by the width of the degreaser air/solvent area.

5. "Open top vapor degreasing" means the batch process of cleaning and removing soils from metal surfaces by condensing hot solvent vapor on the colder metal parts.

6. "Solvent" means organic materials which are liquid at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.

7. "Solvent metal cleaning" means the process of cleaning soils from metal surfaces by cold cleaning, open top vapor degreasing or conveyORIZED degreasing.

B. Applicability.

1. This rule applies to solvent metal cleaning facilities in Anoka, Carlton, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties and the City of Duluth.

2. This rule applies to solvent metal cleaning facilities at emission facilities which emit more than 100 tons per year of volatile organic compounds and which are located in Olmsted, and Sherburne Counties.

3. This rule does not apply in other counties of Minnesota.

C. Standards of performance for solvent metal cleaning facilities.

1. Cold cleaning equipment.

a. Covers. The owner or operator of a solvent metal cleaning facility shall equip a cold cleaner with a cover. In addition, the owner or operator shall equip the cold cleaner with a cover that can be easily operated with one hand if the solvent is heated or agitated or if the solvent has a volatility greater than two (2) Kilo Pascals (0.3 pounds per square inch absolute) measured at 38 degrees Centigrade (100 degrees Fahrenheit).

b. Drainage of parts. The owner or operator of a

solvent metal cleaning facility shall equip a cold cleaner with a facility for draining the cleaned parts. In addition, the owner or operator shall construct the drainage facility internally so that the parts are enclosed under the cover during draining, unless an internal drainage facility cannot fit within the cold cleaner, if the solvent has a volatility greater than 4.3 Kilo Pascals (0.6 pounds per square inch absolute).

c. Control devices. If the solvent is heated above forty-nine degrees Centigrade (120 degrees Fahrenheit), or if the solvent volatility is greater than 4.3 Kilo Pascals (0.6 pounds per square inch) measured at 38 degrees Centigrade (100 degrees Fahrenheit), the owner or operator of a solvent metal cleaning facility shall equip a cold cleaner with one of the following:

(1) Freeboard that gives a freeboard of 7/10 of the inside width of the tank, or 36 inches, whichever is less;

(2) Water cover if the solvent is insoluble in and heavier than water; or,

(3) Other systems, such as refrigerated chiller or carbon adsorption, demonstrated to provide equivalent or greater control of emissions.

d. Operation. The owner or operator of a solvent metal cleaning facility shall operate and maintain the cleaner in a manner which is consistent with good engineering practice and which minimizes solvent evaporation from the unit.

e. Remote solvent reservoirs. A remote solvent reservoir, that is, an enclosed tank into which solvent drains from the work area, shall be considered equivalent technology to covers for cold cleaners.

2. Open top vapor degreasers.

a. Covers. The owner or operator of a solvent metal cleaning facility shall equip an open top vapor degreaser with a cover that can be opened and closed easily without disturbing the vapor zone.

b. Safety switches. The owner or operator of a solvent metal cleaning facility shall equip an open top vapor degreaser with a device to prevent heat input unless there is adequate coolant and with a device that prevents spraying if the vapor level drops below the level of spraying.

c. Control devices. The owner or operator of a solvent metal cleaning facility shall equip an open top vapor

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **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."

PROPOSED RULES

degreaser with greater than one (1.00) square meter (10.8 square feet) of open area with one of the following devices:

(1) A freeboard height which is greater than or equal to 0.75 of the inside width of the degreaser tank, or thirty six (36) inches, whichever is less, and a powered cover; or,

(2) A refrigerated chiller; or,

(3) An enclosed design in which the cover or door opens only when the dry part is actually entering or exiting the degreaser; or,

(4) A carbon adsorption system with ventilation greater than or equal to fifteen (15) cubic meters per minute per square meter (50 cubic feet per minute per square foot) of air/vapor area when the cover is open, and exhausting less than twenty-five (25) parts per million of solvent averaged over one complete adsorption cycle; or,

(5) A control system, demonstrated to have control efficiency equivalent to or greater than any of the above.

d. Operation. The owner or operator of a solvent metal cleaning facility shall operate and maintain the cleaner in a manner which is consistent with good engineering practice and which minimizes solvent evaporation from the unit.

3. Conveyorized degreasers.

a. Control devices. The owner or operator of a solvent metal cleaning facility shall equip a conveyorized degreaser with an air/vapor interface greater than 2.00 square meters (22 square feet) with one of the following control devices:

(1) Refrigerated chiller; or,

(2) Carbon adsorption system with ventilation greater than or equal to fifteen (15) cubic meters per minute per square meter (50 cubic feet per minute per square foot) of air/vapor area when downtime covers are open, and exhausting less than twenty-five (25) parts per million of solvent by volume averaged over a complete adsorption cycle; or,

(3) Other systems demonstrated to have equivalent control.

b. Carry-out losses. The owner or operator of a solvent metal cleaning facility shall minimize carry-out losses from a conveyorized degreaser by positioning parts for best drainage or by the use of tumbling baskets or a drying tunnel.

c. Safety switches. To owner or operator of a solvent metal clean facility shall equip a conveyorized degreaser with the following:

(1) A device to prevent heat input unless there is adequate coolant,

(2) A device which prevents spraying if the vapor level drops below the level of spraying, and

(3) A device which prevents heat input if the vapor level rises too high.

d. Operation. The owner or operator of a solvent metal cleaning facility shall operate and maintain the cleaner in a manner which is consistent with good engineering practice and which minimizes solvent evaporation from the unit.

D. Solvent disposal and storage.

a. Waste solvent shall be stored in covered containers only.

b. Waste solvent shall not be disposed of such that greater than 20 percent of the waste solvent by weight evaporates into the atmosphere.

E. Exemptions.

1. Rule APC 36 does not apply to the use of the following solvents:

a. Trichlorotrifluoroethane (fluorocarbon 113)

b. 1,1,1 — Trichloroethane (Methyl Chloroform)

2. Rule APC 36 does not apply in Carlton County or the City of Duluth to open top vapor degreasers or conveyorized degreasers which emit less than 6.8 kilograms per day (15 pounds per day) of volatile organic compounds or to cold cleaning equipment to which not more than 5.7 liters per day (1.5 gallons per day) of solvent is added.

F. Compliance schedules.

1. The owner or operator of a solvent metal cleaning facility shall submit to the Agency a final control plan for complying with this rule on or before March 31, 1980.

2. The owner or operator shall award contracts or issue purchase orders for equipment modifications described in the final compliance plans on or before June 30, 1980.

3. The owner or operator shall initiate on-site equipment modifications on or before September 30, 1980.

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4. The owner or operator shall complete equipment modifications and achieve final compliance with this rule on or before November 30, 1980.

5. Cold cleaning operations shall be exempt from the requirements of paragraphs E.1., E.2., and E.3. of this rule.

6 MCAR § 4.0037 Standards of performance for the use of cutback asphalts.

A. Definitions. As used in this rule, the following words shall have the meanings defined herein:

1. "Asphalt" means a dark-brown to black cementitious material (solid, semi-solid, or liquid in consistency) in which the predominating constituents are bitumens which occur in nature as such or which are obtained as residue in refining petroleum.

2. "Cutback asphalt" means asphalt cement which

has been liquefied by blending with petroleum solvents (diluent).

3. "Penetrating prime coat" means an application of low-viscosity liquid asphalt to an absorbent surface.

B. Restrictions. After November 1, 1981, no person shall cause, allow, or permit the manufacture, mixing, storage, use, or application of cutback asphalts for road paving in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties except:

1. For long-life stockpile storage, or

2. For the use or application at ambient temperatures less than 50 degrees Fahrenheit (10 degrees Centigrade), or

3. For use as a penetrating prime coat.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject,

either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration Building Code Division

Notice of Intent to Hold a Public Hearing Regarding Amendments to the Minnesota State Building Code

The Department of Administration is drafting amendments to the Minnesota State Building Code, 2 MCAR §§ 1.10201-1.18901. These amendments are authorized by Minn. Stat. § 16.83, 1971.

The Department invites interested persons or groups to provide information, comments, advice or opinions on the subject in writing to:

Sivert Hendrickson
Building Code Division
408 Metro Square Building
St. Paul, Minnesota 55101

All statements of information or comments must be received by June 29, 1979. Any written material received by the Department will become part of the public hearing record.

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Department of Commerce Banking Division

Bulletin No. 2095: Maximum Lawful Rate of Interest for Mortgages for the Month of June 1979

This Bulletin Supersedes Bulletin No. 2092 Dated May 16, 1979, and Withdraws That Maximum Interest Rate for June, 1979, as Set Therein At 10.50%

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to House File No. 564, Chapter 279, 1979 Session Laws, as it amended Section 47.20, Subd. 4, Minnesota Statutes, effective May 31, 1979, hereby determines that the maximum lawful rate of interest for home mortgages for the month of June, 1979, is eleven and one-half (11.50) percent.

June 1, 1979

Michael J. Pint
Commissioner

Department of Transportation

Notice of Application and Opportunity for Hearing Regarding Petition to Retire and Remove Track No. 31, 833 Feet Long, Located in Cook, Minnesota

Notice is hereby given that Duluth, Winnipeg and Pacific Railway Company with offices at 1808 South 8th Street, Virginia, Minnesota 55792 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. §§ 219.741 and 218.041, subd. 3 (10) to retire and remove track No. 31, 833 feet long, located in Cook, Minnesota.

The petition recites among other matters that: "This trackage is no longer required for railway purposes and Russ & Mike's Pure Service, Inc., Cook, Minnesota, and John K. Gustafson, Standard Oil Agent, Cook, Minnesota, have requested that this trackage be removed so that the land can be further developed commercially."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before July 2, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to 9 MCAR § 2.210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

May 30, 1979

Richard P. Braun
Commissioner

Notice of Application and Opportunity for Hearing Regarding Petition to Retire and Remove Track No. 168 Located in the Vicinity of Lowry Ave. N. and Second St. W. in Minneapolis, Minnesota

Notice is hereby given that Soo Line Railroad Company with offices at 804 Soo Line Building, Box 530, Minneapolis, Minnesota 55440 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. §§ 219.741 and 218.041, subd. 3 (10) to retire and remove track No. 168 located in the vicinity of Lowry Ave. N. and Second St. N. in Minneapolis, Minnesota.

The petition recites among other matters: "That said Track #168 was constructed in 1948, is owned by Applicant and is located upon Applicant's property.

That said Track #168 served only one industry, Walker Wrecking Company, and was last used by that industry in 1973. Said industry has moved to a new location and is served at that location by another industrial track.

OFFICIAL NOTICES

That there is no present prospect that said Track #168 will be needed or used in the future.

That the public's convenience and necessity no longer require the continued maintenance of Applicant's Track #168 in Minneapolis and that the public and Applicant Soo Line would be benefited if said track were retired and removed."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before July 2, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a party to this matter must submit a timely petition to intervene to the Hearing Examiner pursuant to 9 MCAR § 2.210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in

this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

May 30, 1979

Richard P. Braun
Commissioner

Water Planning Board Notice of Meeting of the Water Planning Board

Notice is hereby given that the Water Planning Board will hold a meeting on Tuesday, June 19, 1979 in Conference Rooms A & B, 6th Floor, Space Center Building, 444 Lafayette Road, St. Paul, Minnesota. An agenda for the meeting may be obtained one week prior to the meeting by contacting the undersigned at 600 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101.

Thomas Kalitowski
Chairman

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any

consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Administration Notice of Request for Proposals to Provide Diagnostic and Referral Services for the State Employee Assistance Program

Notice is hereby given that the Department of Administration intends to engage the services of a contractor in each of the following areas to provide diagnostic and referral services for state employees: Winona, Rochester, Mankato,

Marshall, Willmar, Fergus Falls, Crookston, Bemidji, Brainerd, St. Cloud, Virginia and Duluth.

The estimated amount of the contract in each of these areas will not exceed \$3,500. Responses must be received by June 29, 1979.

Direct inquiries to:

Warren Gahlon
Director
State Employee Assistance Program
Suite 101
2301 Woodbridge Avenue
Roseville, Minnesota 55113
(612) 296-0765

Department of Economic Development Area and Community Assistance On Behalf of the City of Austin

Notice of Request for Proposals to Develop Strategies for the Retention and Stimulation of the City's Economic Base

The City of Austin, Minnesota is requesting proposals to develop strategies for the retention and stimulation of the City's economic base.

The intent of the study is to provide the City staff with statistical data, an economic adjustment strategy, a comprehensive long-range economic development program and an assessment of the Hormel situation vis a vis the community.

Proposals must be submitted no later than 5:00 p.m., July 2, 1979. Further information is available from Darrell Stacy, Administrative Assistant by writing or calling the City of Austin, 500 Fourth Avenue N.E., Austin, Minnesota 55912; (507) 437-7671, or from Victoria Kostohryz, Department of Economic Development, 480 Cedar Street, St. Paul, Minnesota 55101; (612) 296-3591.

Housing Finance Agency

Notice of Request for Proposals for Professional and Technical Services

Proposals are requested from professional mortgage lenders to provide professional and technical services in processing and packaging mortgage loans in the estimated total amount of \$100,000,000. in connection with the Minnesota Housing Finance Agency's Affordable Home Mortgage Program to: (1) provide all of the underwriting, document preparation and document review or (2) review the loans prepared and closed by Originating Lenders prior to submission to the Agency for purchase. Interested firms should contact Gail L. Vetter, Director, Home Improvement and Mortgage Loan Program (612) 296-9813. Proposals are to be submitted by June 18, 1979.

Iron Range Resources and Rehabilitation Board

Notice of Request for Proposals for Consultant Services

The Iron Range Resources and Rehabilitation Board, administrator of the Taconite Area Environmental Protection Fund, is soliciting proposals from Minnesota based consulting engineer firms to assist in prioritizing grant applications and to render consulting services in determining cost effectiveness of projects, evaluation of cost estimates and recommendations to proceed.

Interested parties can receive Request for Proposal documents from:

Michael Gentile
IRRRB
P.O. Box 678
Eveleth, MN 55734

Deadline for submission of proposals is 4:30 p.m., June 15, 1979.

Department of Public Safety Office of Public Information

Notice of Availability of a Graphics Art Contract

The Department of Public Safety is seeking proposals for a graphics art contract not to exceed \$29,000. The terms of the contract: July 1, 1979, until June 30, 1980. The contract is to include illustrations, layouts and finished art for publications, displays and presentations, lettering for posters and consultant assistance in the area of graphics.

Contractor is to pick up and deliver assignments to meet departmental deadlines. Prospective bidders must be prepared to furnish samples of previous work to the information office of the Department of Public Safety. Contact Harlan C. Olson, Acting Director, Office of Public Information, Department of Public Safety, 318 Transportation Building, 296-6652.

Final submission date for proposals is June 22, 1979.

**Department of Public Service
Utilities Division**

**Notice of Request for Proposals
for Consultant Services**

The Minnesota Department of Public Service is seeking proposals from persons and organizations with experience in public utility rate-making proceedings for consultant services in connection with the Department's review of the Continental Telephone Company of Minnesota, Inc. pending rate increase request.

The Consultant services required include:

A. Preparation for cross-examination of witnesses from Continental Telephone Company of Minnesota, Inc. on construction program; construction expenditure requirements; construction work in progress (CWIP); telephone utility plant in service; depreciation reserve; acquisition adjustments; extraordinary retirements.

B. Cooperating with the Participating Department Staff in investigating petitioners' books and records; developing and delivering direct testimony and financial exhibits in response to Continental Telephone Company witnesses.

C. Develop and deliver rebuttal and/or surrebuttal testimony on the same issues as required.

The estimated amount of the contract is \$18,000.

The contract will be let on or about July 5, 1979.

Direct any inquiries to:

Harold Nicholson
Department of Public Service
7th Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 296-8295

Proposals must be received by July 3, 1979.

**Department of Veterans Affairs
Minnesota Veterans Home**

**Notice of Contracts Available —
Fiscal Year 1980**

In accordance with Laws of 1978, ch. 480, the Department of Veterans Affairs, Minnesota Veterans Home is publishing notice that the contracts listed below are available and will be awarded for Fiscal Year 1980 (July 1, 1979 to June 30, 1980).

A. Medical, Dental, Podiatry, and Eye Acuity Testing Services

1. Notice is hereby given that the Minnesota Veterans Home intends to engage the services of licensed individuals to provide medical and dental services to the residents/patients of the Minnesota Veterans Home. The estimated amounts of the individual contracts are outlined below.

a. Medical Director (Including "on-call" services)	\$34,000.
b. Dental Services	\$16,000.
c. Podiatry Services	\$3,350.
d. Eye Acuity Testing/Related Services	\$4,830.

2. Notice is hereby given that the Minnesota Veterans Home intends to engage the services of a qualified corrective therapy consultant to provide the evaluation of individual residents/patients and the modalities required in the individual corrective therapy programs. The estimated amount of the contract is \$8.00 per hour.

3. Notice is hereby given that the Department of Veterans Affairs intends to engage the services of a licensed physician to review medical information to determine the medical eligibility for the department's financial assistance program. The estimated amount of the contract is not expected to exceed \$6,500.

Inquiries and formal expressions of interest should be submitted by June 18, 1979 to:

R. J. Lavell, Deputy Commissioner
Department of Veterans Affairs
Veterans Service Building
St. Paul, Minnesota 55155

SUPREME COURT

Decisions Filed Friday, May 25, 1979

Compiled by John McCarthy, Clerk

49050/167 Harry B. McIlvaine, Jr., Appellant, vs. State of Minnesota. Hennepin County.

An indictment voted by a grand jury at a session at which at least 16 grand jurors were present and 15 were qualified to vote on the particular case is valid.

Evidence of a shooting 16 hours after the charged crime was properly admitted to show intent and negate self-defense.

Affirmed. Sheran, C. J.

47892/77(1978) In the Matter of the Petition of Richard L. Linehan and Carol S. Linehan, His Wife, to Adopt James Robert Bryant. Hennepin County.

As between the natural father and a stepfather seeking adoption, the test in determining whether or not parental rights should be terminated under Minn. St. 260.221 is the present ability of the natural parent to develop a relationship beneficial to the child, and not merely whether it is in the child's best interest to terminate those rights.

The parental rights of a father out of custody should not be terminated if his passive neglect is found to be excusable and he has demonstrated an ability to resume a relationship beneficial to his child.

Affirmed. Otis, J. Concurring Specially, Todd, J.

47518/307 State of Minnesota vs. Donald Floyd Larson, Appellant. Pine County.

Under Rule 26.03, subd. 19(6), Rules of Criminal Procedure, defendant must establish a prima facie case of jury misconduct before he is entitled to a post-trial hearing to impeach the verdict. On the facts of this case, the trial court did not abuse its discretion by refusing to grant such a hearing where defendant's motion was based on newspaper reports of interviews with several jurors and defense counsel's affidavit.

Although it was advisable for the trial court to instruct the jury that defendant's plea of not guilty was not evidence of his innocence, defendant was not prejudiced where the evidence that he committed the crimes charged was overwhelming.

Although the trial court erred by instructing the jury that it should not give the court-appointed expert's testimony more or less weight than other expert testimony merely because he was appointed by the court, in light of all the circumstances of this case, the error was not prejudicial.

Minn. St. 611.026, which places the burden of proving mental illness on defendant, is not unconstitutional, and an instruction which informs the jury of defendant's burden is proper.

The trial court did not err by instructing the jury that defendant is presumed responsible for his acts; however, such instruction should be clearly distinguished from the presumption-of-innocence instruction to prevent confusion.

In a criminal case, where defendant relies on the defense of not guilty by reason of mental illness, the trial court need not instruct the jury that it should consider capacity to control behavior.

The trial court did not err by refusing to instruct the jury as to the consequences of a verdict of not guilty by reason of mental illness.

There was sufficient evidence for the jury to find that defendant murdered four persons but became mentally ill before he shot the fifth victim.

The probative value of three black-and-white photographs of some of the victims and a tape-recorded dying declaration of one of the victims was not substantially outweighed by their prejudicial effect and therefore their admission was not erroneous.

Affirmed. Rogosheske, J.

48922/375 Ronald D. Scinocca vs. St. Louis County Board of Commissioners, et al, Appellants. St. Louis County.

Plaintiff taxpayer has a sufficient interest in the enforcement of town zoning ordinances to confer standing in this mandamus proceeding.

Mandamus is the appropriate remedy to review a refusal of a public official to exercise discretion.

The county board is required by Minn. St. 394.32, subd. 3, to enforce town zoning ordinances only where the town has contracted with the county board for planning and enforcement.

Minn. St. 487.25, subd. 10, does not require the county attorney to prosecute violations of town zoning ordinances.

Reversed. Wahl, J. Took no part, Otis, J.

SUPREME COURT

48391/424 Sharon S. Arundel, Petitioner, vs. Edward M. Arundel. Hennepin County.

The trial court did not abuse its discretion in dividing equally the coverture property of the parties. In light of the permanent alimony award and division of coverture property, the trial court did not abuse its discretion in not awarding a portion of respondent's non-coverture property to petitioner.

The trial court did not abuse its discretion in awarding alimony in the amount of \$2,000 per month to petitioner.

While it was not an abuse of discretion to provide petitioner with life insurance protection in the amount of \$75,000, it was an abuse of discretion to provide that the insurance protection could be terminated in October of 1985.

Attorneys fees of \$500 are allowed to petitioner.

Affirmed in part, reversed in part, and remanded. Wahl, J. Took no part, Otis, J.

Decisions Filed Friday, June 1, 1979

Compiled by John McCarthy, Clerk

48636/142 Barbara Aaron vs. Allen H. Aaron, Appellant. Hennepin County.

Although in some marriage dissolution cases it may be proper for a trial court to consider tax consequences in making its distribution of property, in this case the trial court did not abuse its discretion in refusing to consider such consequences because the potential tax liability was too speculative.

The trial court did not abuse its discretion by refusing to consider such other factors as discounting to sell on contract for deed and sales commissions because of their speculative nature.

Affirmed. Yetka, J. Took no part, Otis, J.

48270/156 State of Minnesota vs. Robert Duane Hesse, Appellant. McLeod County.

Where a victim is present at trial, under oath and subject to cross-examination and the testimony of witness concerning the victim's statement is introduced for corroborative purposes, and not for the truth of the matter asserted, there

is no violation of the hearsay rule. Rule 801(c), Minnesota Rules of Evidence.

In sex crimes involving a child as a victim, the complainant's testimony need not be corroborated, see Minn. St. §§ 609.347, 609.342 to 609.346, but in an appropriate case the absence of corroboration would mandate a holding that the evidence was legally insufficient.

A conviction for criminal sexual conduct in the first degree bars his conviction for criminal sexual conduct in the second degree since the latter offense, requiring proof of only "sexual contact," is necessarily included in the former offense, requiring proof of "sexual penetration."

Affirmed in part, vacated in part. Yetka, J.

47326/134 (1978) In the Matter of the Application for the Disbarment of Harold McKenzie Braggans, an Attorney at Law of the State of Minnesota. Supreme Court.

On the recommendation for disbarment by a court-appointed referee and a supplemental petition filed by the Administrative Director of Professional Conduct, this court sitting en banc has determined, after a full hearing and a disciplinary proceeding of long duration, that no further delay in imposing disbarment is justified.

Numerous instances of handling clients' matters with inexcusable neglect continued after our severe public censure in 1972 and in violation of our order to restrict his practice substantially in 1975, and make it evident that for the protections of the public, Harold McKenzie Braggans must be and hereby is disbarred from the practice of law in the State of Minnesota.

Disbarred. Per Curiam. Took no part, Rogosheske, J.

48300/165 State of Minnesota vs. Donald Eugene Koonsman, Appellant. Winona County.

Defendant's convictions for kidnapping are affirmed. There is no merit to his contention that the evidence was legally insufficient, that the prosecutor was under a duty to call the victims to testify at the omnibus hearing, or that the court erred in not permitting individual questioning of the prospective juror, outside the presence of the others. In that defendant committed only one criminal sexual act, however, three of his four convictions for criminal sexual conduct must be reversed. Finally, defendant's sentence for the remaining conviction of criminal sexual conduct is vacated because it constitutes multiple sentencing in contravention of Minn. St. 609.035.

Convictions for kidnapping are affirmed, conviction for criminal sexual conduct in third degree affirmed but sen-

SUPREME COURT

tence vacated; remaining convictions for criminal sexual conduct vacated. Per Curiam.

49287/176 Steven Larson, Relator, vs. Department of Economic Security, Orpheum Minneapolis Cinema Corp. Department of Economic Security.

Where relator allegedly quit his employment because of harassment from coworkers, relator was properly denied unemployment compensation benefits upon the basis that he voluntarily discontinued his employment without good cause attributable to the employer where relator had failed to inform his employer of the allegations of harassment and therefore precluded his employer the opportunity of correcting this situation.

Affirmed. Per Curiam.

48861/222 State of Minnesota vs. Clarence Edward Sanders, Appellant. Ramsey County.

In an appeal from a verdict finding defendant guilty of criminal sexual conduct in the first and second degree, held, there was sufficient evidence to convict defendant of criminal sexual conduct in the first degree, but, in light of State v. Koonsman and State v. Hesse, filed herewith, defendant's conviction of criminal sexual conduct in the second degree is vacated.

The conviction of criminal sexual conduct in the first degree is affirmed; the conviction of criminal sexual conduct in the second degree is vacated. Per Curiam.

49393/223 State of Minnesota vs. Clarence Clark, Appellant. Beltrami County.

The record made at the time defendant entered his guilty plea demonstrates that there was a sufficient factual basis for the plea and that the plea was intelligently entered, therefore the district court did not err in denying defendant's motion to withdraw his negotiated guilty plea.

Affirmed. Per Curiam.

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