

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE
MINNESOTA COMMISSIONER
OF TRANSPORTATION

In the Matter of Proposed
Rules Relating to Licensing
of Hazardous Waste Transporters

STATEMENT OF NEED
AND REASONABLENESS

The Commissioner of Transportation, pursuant to Laws 1987, Chapter 393, Article 1, presents facts establishing the need for and the reasonableness of proposed rules relating to licensing of hazardous waste transporters.

I. STATUTORY AUTHORITY

Laws 1987, Chapter 393, Article 1, Section 1, subdivision 1, says

Subdivision 1. (LICENSE REQUIREMENT.) (a) A person may not transport hazardous waste that is required to have a manifest under Minnesota Rules, part 7045.0261, or is required to have shipping papers under Minnesota Rules, part 7045.0125, without a license issued under this section.

Subdivision 1. requires the creation of a licensing program for hazardous waste transporters. Section 1. requires the Commissioner to issue licenses and vehicle identification decals to applicants who comply with the requirements of the section. The requirements include payment of the fees prescribed by law and filing of insurance certificates.

Section 1, subdivision 4, of that law, says

Subd. 4. (RULEMAKING AUTHORITY.) The Commissioner shall adopt rules to implement this section. The Commissioner may adopt rules to require licensed transporters to report to the Commissioner.

The Commissioner of Transportation is required to adopt rules to initiate and administer a hazardous waste transporter licensing program. Implementing that section necessarily implies the adoption of rules prescribing application forms for licenses and vehicle identification decals and the display of the decals as required by Section 1, Subdivision 1.(b).

II. STATEMENT OF COMPLIANCE WITH CHAPTER 14

The Minnesota Department of Transportation (Mn/DOT) published a Notice of Intent to Solicit Outside Information in the State Register on June 22, 1987. On June 17, 1987, a copy of the Notice of Intent to Solicit Outside Information was mailed to all persons who have registered with Mn/DOT for the purpose of receiving rulemaking notices. Mn/DOT also issued a news release on July 8, 1987 that requested information or opinions on the subject of licenses for hazardous waste transporters. The news release was mailed to trade associations that represent truckers, motor carrier trade journals, regional development commissions, about 230 daily and weekly newspapers, numerous large private businesses, and law enforcement agencies. On July 29, 1987, Mn/DOT sent a memorandum to all carriers listed by the Minnesota Pollution Control Agency (MPCA) as hazardous waste transporters in Minnesota. That memorandum described the content of the proposed rules, specifically stated that the proposed rules would affect small business and requested comments on the effect on small businesses. Mn/DOT has received 7 letters in response to all those notices.

The proposed hazardous waste transporter rules do not impose "costs mandated by the state" as defined in Minnesota Statutes, section 3.981, subdivision 2, do not require the expenditure of money by local public bodies, (Minnesota Statutes, section 14.11) and do not effect agricultural land use. The licensing rules are largely dictated by the language of Laws 1987, Chapter 393. Chapter 393, Article I defines hazardous waste, prescribes the license and decal fees, sets the length of time that the licenses and decals will be effective, and requires that hazardous waste transporters file proof that they carry the amount of insurance required by federal law.

The licensing rules prescribe the information to be asked of license and decal applicants. They prescribe the appearance of the decal and where it must be placed on the vehicle. The rules also prescribe the information a licensee will be required to report to the Commissioner.

Although the rules contain license and decal fees, the fees are not imposed by the rules. They are imposed by the licensing law. See Laws 1987, Chapter 393, Article 1, Section 1, Subdivision 1(b). The fees are restated in the rules for the convenience of applicants.

III. NEED AND REASONABLENESS - GENERAL

Due to the inherently dangerous characteristics of hazardous materials, a need to minimize the high risk of its transportation has been nationally recognized. The Office of Technology Assessment of the U.S. Congress estimates that over 1.5 billion tons of hazardous materials were transported in the United States in 1982. Half of this transportation occurred on the highway.(1) A more recent estimate is that at least 250,000 shipments of hazardous materials are made each day, totaling at least 4 billion tons per year. This volume is expected to double every ten years.(2)

This rulemaking process addresses the transportation of only one type of hazardous material: hazardous waste. Hazardous waste can be roughly described as a material with hazardous characteristics that is no longer of any use to anyone. It is estimated that hazardous waste accounts for about 4 percent of the total volume of hazardous material transported, which is about 160 million metric tons each year.(3) The transportation of waste is particularly in need of regulation because hazardous waste generally has no economic value to anyone. The generator of the waste must pay to have it removed. Hazardous waste cannot be legally disposed of in the sewer, a landfill or a dump. It must be taken to government approved treatment, storage or disposal facilities. Because of the expense and difficulty of disposing of the waste, there is a temptation to dispose of it improperly, or to hire the least expensive means of having it transported away. The hazardous characteristics of the material and the difficulty of packaging, transporting and disposing of it make close government regulation and oversight necessary in order to protect the public.

Data from the Hazardous Waste Management Information System, Solid and Hazardous Waste Division, Minnesota Pollution Control Agency, show that 57,600 hazardous waste manifests were filed

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- (1) U.S. Congress, Office of Technology Assessment, Transportation of Hazardous Materials, (U.S. Government Printing Office, Washington D.C., July 1986), p. 4.
 - (2) National Research Council, Transportation Research Board, Transportation of Hazardous Materials, Transportation Research Record 1063, Transportation of Hazardous Wastes in Arizona: Development of a Data Base Management System for Basic Analysis, (1986), p. 1.
 - (3) Ibid.

with the Minnesota Pollution Control Agency from January 1, 1984 to October 12, 1987. Each manifest represents a shipment from one generator of hazardous waste. The size of shipments varies greatly. A shipment might be a tank, a barrel, a drum, or other smaller package, or any number of those containers.

The U.S. Department of Transportation classifies hazardous materials according to the properties of the materials and the kind of dangers the materials present to life and health. Of the 57,600 shipments noted above, the following hazard classes are represented:

- 60 % flammable
- 10 % corrosive
- 5 % other regulated material (may pose risk when transported, but does not meet definitions of other hazard classes)
- 2 % combustible
- .5 % poison
- .5 % explosive

Data from the Office of Motor Carrier Safety and Compliance, Minnesota Department of Transportation, show that the following spills of hazardous waste on highways in Minnesota have been reported:

1982	6
1983	2
1984	1
1985	3
1986	1

Data from the Hazardous Material Information System, Information Systems Division, Research and Special Programs Administration (RSPA), U.S. Department of Transportation, show that 18 Hazardous Waste Incidents on Minnesota highways were reported to RSPA between January 1, 1981 and December 31, 1986. Of the 18, 5 were the result of vehicular accidents and the rest were releases due to some kind of package failure. No deaths or injuries were reported. Property damage from all 18 totaled \$128,500 (one accident accounted for \$125,000 of the loss). The wastes were from the following hazard classes:

8	flammable liquid
7	ORM-E
1	radioactive
1	poison
1	corrosive

When Mn/DOT has inspected vehicles carrying hazardous waste or other hazardous materials, over twenty percent of the vehicles have been mechanically unfit for service. In 1986, Mn/DOT inspected 557 vehicles carrying hazardous materials and issued 122 misdemeanor citations, 133 notices to take a vehicle out of service on the highway, and 1,318 violation warnings.

Minnesota adopted the Federal Hazardous Material Regulations, Title 49, Code of Federal Regulations, Parts 1-99 (now numbered Parts 100-199) as revised January 1, 1970, in 1970. The Minnesota rules mirror the federal regulations with few exceptions. Under the federal rules, transporters of hazardous waste must notify the EPA of their status, refuse any shipment which lacks a manifest and report any cargo discharges or spills.

In 1987, with the passage of Laws 1987, Chapter 393, the Minnesota Legislature approved a licensing program for hazardous waste transporters. This law and two related laws were proposed by the Attorney General. Laws of Minnesota 1987, Chapter 174, amended Minnesota Statutes, section 116.072 to give the MPCA Director the authority to assess administrative penalties for violations of hazardous waste laws and rules, including violations of the hazardous waste transporter law. Laws of Minnesota, Chapter 267, amended Minnesota Statutes, section 115.071, subd. 2 and section 609.671 to increase the severity of criminal penalties for the violation of hazardous waste laws and rules. It was the intent of the Legislature and Attorney General to create a comprehensive system of regulation and enforcement for the handling of hazardous waste.

The need for hazardous waste transporter licensing rules is closely tied to public demand for safe use and disposal of hazardous materials and substances. The Office of Technology Assessment in its report to the Congress in 1986, noted that a survey of 3,107 local emergency management organizations by the Federal Emergency Management Agency showed that a highway hazardous materials incident was regarded as the second most serious hazard threatening local jurisdictions. The only hazard perceived as more significant was the threat of nuclear attack.(4)

As of 1986, 34 states had established registration and fee requirements for hazardous waste transportation.(5)

(4) Ibid., page 218.

(5) U.S. Congress, Office of Technology Assessment, Transportation of Hazardous Materials, (U.S. Government Printing Office, Washington, D.C., July 1986), pp. 178-179.

IV. PART BY PART ANALYSIS OF PROPOSED RULES RELATING TO LICENSING OF HAZARDOUS WASTE TRANSPORTERS

PART 8870.0100 DEFINITIONS.

The definitions are needed to provide a shorthand, easy reference. The definitions of "Commissioner" and "Department" are short references to the Commissioner of Transportation and the Minnesota Department of Transportation.

"Hazardous waste" is defined using the definition in Minnesota Statutes, Chapter 116, which authorizes the MPCA to regulate hazardous waste. Pursuant to Subdivision 1 of the licensing law, the application of the licensing requirement is based on the MPCA rules that prescribe which wastes must be shipped with a manifest or shipping papers. This definition is reasonable because it is the one adopted by MPCA in regulating hazardous waste (see Minnesota Rules, part 7045.0200, subp. 33), and is, therefore, consistent with other hazardous waste regulations. This uniformity makes it easier for transporters to comply with rules governing hazardous waste.

"Person" is needed to define who is subject to these rules. Since these rules are required pursuant to Minnesota Statutes, Chapter 221, the definition of "person" in section 221.011, subdivision 6 was used. Under Minnesota Statutes, section 645.27, the state is not bound by passage of a law unless explicitly or unmistakably included. County and local government agencies are not named among the entities listed in the definition of "person" in section 221.011, subd. 6. Therefore, neither the state, nor other units of government will be subject to the licensing law and rules, but all other individuals, businesses and non-government entities will be subject to the rules.

"Trailer" describes the units of motor vehicles to which the rules apply. A trailer has no independent power. Trailers include full trailers that support their own weight when drawn by a power unit, and semi-trailers, which rest partially on the power unit and have axles and wheels only at the rear. Trailer includes all cargo carrying units that are drawn behind a powered unit. The definition makes it clear that the decal is required on all vehicles that transport hazardous waste by specifying that "trailer" includes any other cargo-carrying unit. Due to frequent changes in technology, there are too many different configurations of vehicles to be able to describe all of them. An all-inclusive definition of trailer carries out the legislative intent to regulate all transporters who are not specifically exempted by the law. Those exemptions are based, not on the kind of vehicle used, but on the kind of waste that is transported.

"Transport" is defined to show that the licensing rules apply only to motor carriage on a public highway. This is so because the Legislature has placed the licensing requirement in Chapter 221 and stated that the decal requirement applies to "vehicles." Under Minnesota Statutes, section 221.011, subdivision 3, "vehicle" means "vehicles used upon the highways for the transportation of persons or property." Testimony during committee hearings showed that the Legislature intended to license transportation of hazardous waste only on highways.

8870.0200 SCOPE.

Subpart 1. License Required. The scope section of the rule is divided into two parts. Subpart 1 states the general requirement that the rules apply to hazardous waste transportation on a public highway and that except as provided in subpart 2 no person shall transport it without a license. The law says that "a person may not transport hazardous waste that is required to have a manifest under Minnesota Rules, part 7045.0261, or is required to have shipping papers under Minnesota Rules, part 7045.0125, without a license issued under this section."

Subpart 2 states the exceptions to the general rule. All the exceptions provided in the rule are the exceptions provided by the law, but they are stated in longer form in order to make it easier for people to understand them. The Minnesota Rules parts specified in the law are rules adopted by the Pollution Control Agency. The law states that if the hazardous waste requires a manifest or shipping papers, the transporter must obtain a license. If the transportation of the hazardous waste does not require a manifest or shipping papers under Minnesota Rule, parts 7045.0261 or 7045.0125, then a license is not required. Because the Legislature has specifically stated the conditions under which hazardous waste transportation will require a license, Mn/DOT is not at liberty to grant any exemptions other than those provided by law.

8870.0300 HAZARDOUS WASTE TRANSPORTER LICENSE APPLICATION.

Subpart 1. Application Procedure. Subpart 1 lists the documents that an applicant for a hazardous waste transporter license must submit to the Commissioner. The applicant must submit the information required on the application form, the fees described in the law, and the insurance certificate that is required by law.

Subpart 2 describes the information required on the application form. The Commissioner must have information that enables him to identify the transporter, the transporter's business address and telephone, and the vehicles that the applicant will use to

transport the hazardous waste. Having the assumed name used by an applicant in doing business also enables the Commissioner to identify the applicant. The business location is needed so that the licensee can be located if it is necessary to conduct an audit or inspection to make sure that the licensee is complying with the law. It is reasonable to request the applicant to provide the location from which his transportation business is conducted and the address of his terminals because he may have trucks in more than one location. In addition, the applicant may be maintaining the paperwork for his business at a terminal. It might be necessary to visit that location to examine driver qualification files, records that show the hours of service that drivers of hazardous waste transporter vehicles drive, and other records required by law to be maintained by persons who transport hazardous waste.

It is necessary to know the state where the applicant's business is incorporated because it provides an additional means of maintaining contact with an applicant whose business is such that he wishes to hide his activities from the state. It also provides a means of legal contact with carriers that are not Minnesota corporations. In most states, the Secretary of State or Commerce can be served in a legal action against anyone incorporated in that state. Under certain conditions, it might be necessary to take legal action against a transporter who illegally transported or dumped hazardous waste in Minnesota. The applicant's mailing address enables Mn/DOT to communicate with applicants who do not maintain local offices. Some applicants receive mail, not at a terminal or garage, but at a post office box. Names of corporate officers, general partners, associates, or other owners of the applicant's business show what persons are legally responsible for the conduct of the business in the event that it is necessary to seek compliance or to communicate changes in law or procedure.

The name and phone number of a person who can answer questions about the applicant's transportation business is a very important requirement because there must be someone who can be reached easily if there is an accident or a release of hazardous waste on the highway. In most cases it is necessary to contact someone in the business to have spilled material cleaned up, to arrange for the filing of accident or discharge reports, and to provide information about how accidents can be avoided in the future.

The Environmental Protection Agency identification number of the applicant is required by both federal and state law, Title 49, Code of Federal Regulations, Part 263.11(a) and Minnesota Rules, part 7045.0361. It verifies that the applicant may legally transport hazardous waste in Minnesota. This number must be placed on the manifest or the shipping papers in the vehicle

transporting the hazardous waste. The manifest or shipping paper will be inspected when a truck is stopped at a scale site or at a road check on the highway. It provides a way to track each hazardous waste shipment from the generator to the disposal site and helps to determine who is responsible for the hazardous waste.

The Interstate Commerce Commission MC number of the applicant provides an additional means of identifying interstate carriers of hazardous waste. An MC number is assigned to all interstate carriers who have a permit or certificate from the Interstate Commerce Commission to haul regulated commodities. It provides an additional source of information about the carrier's business and safety history that would be useful if it were necessary to take enforcement action against the carrier.

The information as to whether the applicant's business is a corporation, partnership, association, or sole proprietorship provides additional information about the carrier's form of business in the event the state needs to take legal action against the business. The information as to whether the transporter is also a generator, recycler or a treatment, storage or disposal facility is a reasonable means of determining the degree of experience of the applicant in handling hazardous waste.

In the event that it must take enforcement action against the applicant, the state needs to know whether the applicant has been convicted, pled guilty to, or paid a civil or criminal fine for violating other laws or regulations governing hazardous waste. This information will help the state decide how to prosecute violations of Minnesota's hazardous waste law. If the Commissioner wishes to assess an administrative penalty against a transporter, he must, under section 2 of the law, consider the transporter's history of past violations. The history could suggest that the transporter is a danger to the public and appears to have little regard for the law, or it could show that the transporter has a good safety record and should not be severely penalized.

Subpart 3. Fee. This subpart merely restates the requirement in the law that the license fee is \$500.

Subpart 4. Insurance Requirements. This subpart restates the requirement in the law that the applicant shall file a certificate of insurance with the Commissioner and that the certificate must meet the requirements of federal law for transporters of hazardous waste.

8870.0400 HAZARDOUS WASTE TRANSPORTER LICENSE.

Subpart 1. Issuance of License. This subpart restates the provision in the law that the Commissioner issue a license to an applicant who meets the requirements. The Commissioner has no discretion to refuse a license to an applicant who provides the application information required by the rule. The license must be numbered to allow the Department to keep track of the issuance of licenses. The effective date implements the provision in the law requiring that the license be effective for a period of three years. Printing the effective date on the license enables the applicant to determine the date, three years from the effective date, when the license will expire. Then he must apply for a new license.

Subpart 2. Maintenance of License. Subpart 2 requires the licensee to keep the license at his principal place of business and to present it upon request for inspection by the Commissioner or any law enforcement officer. This allows enforcement personnel to determine whether or not a transporter is licensed. Law enforcement officers are authorized to enforce the general criminal laws of the state, of which this is one. The penalties provided for violation are criminal penalties.

Subpart 3 restates the requirement in the law that the license expires three years from its effective date.

Subpart 4 restates the requirement in the law that the license may not be transferred to another person.

Subpart 5 requires the Commissioner to keep a record of each hazardous waste transporter license. This would allow the commissioner to maintain a list of all licensed transporters or to verify that a licensee had been issued a license if he lost the license.

Requirements of the law are restated in the rules to bring together all the requirements for licensing to make it easier for people to use the rules and comply with the law.

Part 8870.0500 VEHICLE IDENTIFICATION DECAL REQUIRED.

This part requires that each single unit vehicle and trailer used to transport hazardous waste must bear one valid and readily legible decal and that it must be kept clean. This restates a requirement in Article 1, Section 1, subdivision 1(b), which says that the vehicle identification decal must be displayed on the single unit vehicle or trailer to which it is assigned. It is certainly reasonable to require that the decal be kept clean and legible so that enforcement officers will be able to tell without

stopping the vehicle and waiting for the operator to clean it that the vehicle is validly licensed. The presence of the decal is evidence that the vehicle has been registered for use under a license granted by the Commissioner. It also alerts an inspector or officer to the presence of hazardous waste so that compliance with packaging, placarding, manifest and other safety requirements can be examined.

8870.0600 VEHICLE IDENTIFICATION DECAL APPLICATION.

Subpart 1 of this part specifies the information that an applicant for a decal must submit. Some of the information duplicates that required on the initial license application. A licensee may apply to purchase decals after he has obtained the license if he adds newly purchased or leased vehicles to his fleet. It is necessary to have the applicant's name, transporter license number, and address on the decal application so that it can be matched with the license. The identification information about the vehicle is required so that the vehicle can be identified on the road. Many transporters do not own their vehicles. They rent or lease them from a leasing company whose name appears on the vehicle. The leasing company is not providing the transportation and is not responsible for the operation of the vehicle. It is necessary to have as much information as possible about the vehicle to identify who is responsible for it when it is transporting hazardous waste.

Subpart 2 requires the applicant to pay the decal fee described in the law. That requirement is restated for consistency.

8870.0700 VEHICLE IDENTIFICATION DECAL.

Subpart 1. Issuance. This subpart requires the Commissioner to issue a decal for each vehicle for which the identification information is provided. If the required information is provided and the applicant has already been granted a license, the Commissioner will issue the decal.

Subpart 2 provides that the decals will be serially numbered and bear the month and year of expiration. The decals are serially numbered so that the restriction against transfer of the decal can be enforced. Each decal will be identified with a specific transporter and a specific vehicle. If decals are serially numbered, there can be only one decal with each number. This discourages counterfeiting and illegal transfer of decals. The decals will bear the month and year of expiration so that the operator of the vehicle can determine when it must be replaced. The decal will bear the words "hazardous waste transporter" so that the vehicle will be identifiable to law enforcement officers at weigh scales and on the road.

Subpart 3 requires the decal to be affixed to the side of the vehicle opposite the driver and within three feet of the front of each trailer or the cargo part of the single unit vehicle. Establishing a particular place on every vehicle where the decal can be found, makes it easier for law enforcement officers to locate the decal. Requiring the decal to be affixed to the side of the vehicle opposite the driver enables law enforcement officers in vehicles and in the fixed scale sites to observe the decal and to identify vehicles transporting hazardous waste so that they can be inspected for compliance with the motor carrier safety regulations.

Subpart 4 is consistent with the requirements in the licensing law that new decals must be purchased each year and are effective only when the license is effective.

Subparts 5 and 6 require the Department to keep a record of each decal issued, and prohibit transferring the decal as provided in subdivision 1 of the law.

8870.0800 ACKNOWLEDGEMENT.

Subpart 1. Signature required. Each application for a license or decal be signed by a corporate officer, general partner or sole proprietor. In the trucking business it is common for owner-operators or persons who own only one vehicle to lease themselves and their vehicle to someone else to provide transportation. In that situation, the owner-operators or other persons often obtain documents, stickers and other indicia that appear to grant them authority to provide certain transportation services while they are working for the company to whom they have leased themselves. Under the federal motor carrier safety regulations and the federal hazardous material transportation regulations, the person who contracts to provide the transportation is responsible for the safety of the transportation, not the person who supplies the vehicle. The responsible person is the motor carrier, or in some cases, a private business operating its own vehicles to transport its own hazardous waste. In Minnesota, motor carriers must have a permit or certificate from the Minnesota Transportation Regulation Board to transport hazardous waste. The restriction that only certain persons may sign applications for licenses or decals is intended to restrict the issuance of licenses and decals to the people who are legally responsible for the transportation and to make them take and acknowledge responsibility for it, instead of allowing the responsibility to be taken by a person who is leasing his vehicle to the carrier and whose job is simply to drive the truck. The application may not be signed by an agent or attorney because those persons usually are not familiar with the business and merely act as conduits or signatories on various documents.

They have no control over the operation of the vehicles, driver qualifications, vehicle safety inspections, or completion of the manifest. Under federal and state law, those persons are not legally responsible for the safe transportation of the waste, and therefore, they may not sign these license applications.

Subpart 2 requires the applicant to state that he understands the laws that govern his business and that he will obey them.

Subpart 3 requires the person who signs the statement to attest that the statement is, to the best of his knowledge, complete, truthful and accurate. These requirements are an attempt to bring home to the person who signs the application that this is not an activity to be entered into lightly, and that there are numerous complicated laws and regulations that he must obey.

Subpart 4 requires the signatures of corporate officers and general partners to be notarized in order to assure that those signatures are actually the signatures of the persons whose names appear on the application.

8870.0900 TRAINING.

Subpart 1 requires the licensee to instruct his employees about the federal hazardous material transportation regulations. Code of Federal Regulations, Title 49, Part 177.800(a), states that "It is the duty of each such carrier to make the prescribed regulations effective and to thoroughly instruct employees in relation thereto." Every person who transports hazardous waste is subject to this requirement, which is adopted by reference in Minnesota Statutes, section 221.033. It is restated here to remind applicants and licensees that they are bound by this requirement.

Subpart 2 requires the applicant to sign a statement that he has complied with that requirement and has instructed his employees. This reinforces the state's position that this is considered an important safety requirement and will be enforced. It reinforces the regulation adopted by reference in Minnesota Statutes, section 221.033.

8870.1000 REPORTING REQUIREMENTS.

Subpart 1. Information Change. A licensee must report to the Commissioner of Transportation within ten days any change in name, address, or telephone number. This is essential information in the administration and enforcement of any licensing program, and particularly here because the state must be able to contact the transporter in the event of an accident, an injury, or a discharge. It may be necessary to have the name

and address so that the transporter can be informed of enforcement activity that will be undertaken against him. Ten days is a reasonable amount of time for people to notify the Department of these changes. That is ample time for the carrier to become settled or to complete paperwork.

Subpart 2 requires that within 30 days after the occurrence, the licensee must report to the Commissioner any accident involving the death of a human being, bodily injury to a person treated away from the scene, or total damage to all property aggregating \$4400 or more. These requirements are based on identical requirements in Minnesota law for motor carriers and in federal law for carriers operating in interstate commerce. This rule extends the requirement to private carriers who transport hazardous waste and to interstate carriers transporting hazardous waste in Minnesota. Adopting these standards for accident reports promotes uniformity. It alerts the Commissioner to a carrier who has an accident or releases waste, so that an officer or inspector can be sent to the carrier's office to talk to the safety director. The carrier's safety record and transportation activities can be examined and assistance can be provided if necessary to help him transport hazardous waste more safely.

Subpart 3 contains the same exceptions to accident reporting that the Minnesota motor carrier accident reporting requirement and the federal requirement contain. This accident report must be filed in addition to the accident report filed under Minnesota Statutes, section 169.09, with the Commissioner of Public Safety. The additional filing is needed because the accident reports filed with the Commissioner of Public Safety are not maintained in a way that makes them useful for identifying problems with hazardous waste transportation. The Department of Public Safety accident reports do not collect information about carriers, vehicle lessors, the type of commodity carried, the hazard class of the material, whether the driver met motor carrier safety qualifications, and the number of hours the driver had driven at the time of the accident.

Subpart 4 restates requirements in Minnesota Statutes, section 221.034, and adopted by reference in section 221.033, that require a report of a hazardous waste release. The carrier must provide immediate notice to the Emergency Services Division of the Department of Public Safety of death, injury, property damage over \$50,000, release of radioactive materials or etiologic agents, or any other release that presents a continuing danger to life. In addition, any other unintentional release must be reported in writing within 15 days. Restating the requirement in these rules alerts transporters that they are subject to those requirements and is a reasonable method of promoting compliance.

Subpart 5 provides that failure to comply with the accident reporting requirement is grounds for suspension or revocation of a license. Because hazardous waste can be dangerous, it is necessary for the state to have immediate notice of any life threatening discharge. The state must have an opportunity to supervise clean-up, or to check later to determine that the material has been safely removed. It gives the state an opportunity to do testing or to alert emergency response personnel. Without a strictly enforced release and accident notification requirement, the state loses the opportunity to mitigate danger or damage and to assist the transporter in providing safer transportation.

8870.1100 RENEWAL PROCEDURE.

Renewal applications must be made according to the procedure described for new applications. This allows the state to use the same forms for new or renewal applications. It simplifies renewal for the carrier and Mn/DOT. No additional information is required for renewal.

V. SMALL BUSINESS CONSIDERATIONS.

In accordance with Minnesota Statutes, section 14.115, subdivision 2, Mn/DOT has considered the methods described in subdivision 2(a) through (e) for reducing the impact of the rule on small businesses.

Item (a) requires considering whether less stringent compliance or reporting requirements can be established for small businesses. The hazardous waste transporter licensing law specifies who must obtain the license. The rule only prescribes the application information, all of which is necessary to identify the transporter and his vehicles. The rule has 2 reporting requirements: licensees must report changes of name, address, and telephone number and they must report accidents and releases of hazardous waste. These are truly minimal requirements and are necessary to protect the public no matter what the size of the business.

With respect to item (b), the only deadlines for compliance are those established by law for applying for and renewing licenses and decals, and those described above for reporting name and address changes and reporting releases and accidents. Mn/DOT lacks the authority to change the deadlines for obtaining and renewing licenses and decals, and feels that name and address and accident information is necessary from all businesses.

(c) There are no compliance or reporting requirements to simplify or consolidate other than those discussed above.

(d) The rule imposes no design or operational standards.

(e) The Department lacks the authority to exempt any business transporting hazardous wastes other than those transporting wastes described as exempt in the authorizing statute. Many farmers are small businesses. They are exempt from the license requirement when transporting used pesticide containers in compliance with MPCA regulations that govern rinsing and disposal of containers.

November 4, 1987