

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Amendments of Rules Governing
the Management, Storage,
Treatment, and Disposal of
Hazardous Waste, Minn. Rules Pts.
7045.0020, 7045.0075, 7045.0080
7045.0102, 7045.0120, 7045.0125,
7045.0135, 7045.0139, 7045.0141
7045.0214, 7045.0261, 7045.0275,
7045.0296, 7045.0302, 7045.0395,
7045.0458, 7045.0460, 7045.0468,
7045.0476, 7045.0478, 7045.0482,
7045.0484, 7045.0485, 7045.0534,
7045.0538, 7045.0552, 7045.0556,
7045.0564, 7045.0584, 7045.0588,
7045.0638, 7001.0150, 7001.0520,
7001.0590, 7001.0600, 7001.0620,
7001.0650, 7001.0712 and 7001.0720

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this proceeding is the amendment of the rules of the Minnesota Pollution Control Agency (hereinafter "Agency") governing the management, treatment, storage, and disposal of hazardous waste. The amendments will incorporate provisions promulgated by the U.S. Environmental Protection Agency (hereinafter "EPA") under the Resource Conservation and Recovery Act (hereinafter "RCRA") and provisions of the Hazardous and Solid Waste Amendments of 1984 (hereinafter "HSWA"), Public Law 98-616 (Exhibit 1), and also changes necessary to maintain current information and consistent rule language. The EPA published regulations codifying HSWA in the July 15, 1985 Federal Register (50 FR 28702-28755) (Exhibit 2), which incorporate the early enactment provisions of HSWA into Title 40 of the Code of Federal Regulations (40 CFR). The July 15, 1985 regulations are hereinafter referred to as the codification regulations. The proposed amendments to Minnesota's hazardous waste rules

incorporate most of the federal regulations resulting from the July 15, 1985 publication.

The EPA published additional amendments to its hazardous waste regulations regarding the lists of hazardous wastes. These additions to the lists were promulgated under HSWA and were published on October 23, 1985 (Exhibit 3), February 13, 1986 (Exhibit 4), and February 25, 1986 (Exhibit 5). On May 28, 1986 the EPA also published a clarification to a previous hazardous waste listing under authority of RCRA (Exhibit 6) and a clarification to the codification regulations was published August 8, 1986 (Exhibit 8). The proposed amendments incorporate these federal listings.

The Agency is also amending the rules to provide specific time limits for MPCA's response to requests for information, to delete specific citations to the form number of the Minnesota hazardous waste manifest, and to change the address and telephone number of the Agency where it occurs in the rules.

Amendments to incorporate the requirements for the Paint Filter Liquids Test as established under HSWA in the April 30, 1985 Federal Register (Exhibit 7), are also included with this rulemaking.

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

This Statement of Need and Reasonableness is divided into several parts. Part II contains the Agency's explanation of the need for the proposed amendments. Part III contains an explanation of the reasonableness of the proposed amendments. Pursuant to the requirements of Minn. Stat. § 14.115 (supp. 1985), Part IV documents how the Agency has considered the methods of

reducing the impact of the proposed amendments on small businesses. Part V contains a list of the exhibits relied on by the Agency to support the proposed amendments. The exhibits are available for review at the Agency's offices at 520 Lafayette Road, St. Paul, Minnesota 55155.

II. NEED FOR THE PROPOSED AMENDMENTS TO THE HAZARDOUS WASTE RULES

Minn. Stat. ch. 14 (1984) requires an agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rules or amendments proposed. In general terms this means that an agency must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention and reasonableness means that the solution proposed by an agency is appropriate.

Need is a broad test that does not easily lend itself to evaluation of each proposed revision. In the broad sense, the need for amendments to the Agency's rules governing the management, treatment, storage, and disposal of hazardous waste has three bases: the need for consistency with the federal hazardous waste regulations; the need for rules which provide an acceptable level of protection for human health and the environment without unduly restricting normal commerce; and the need to maintain current information and consistent rule format in the hazardous waste rules.

A. Need for Consistency with Federal Regulations.

In 1976, Congress adopted RCRA to regulate the management of hazardous

waste. 42 U.S.C. §§ 6901 et seq. In adopting RCRA, Congress provided for eventual state control of the hazardous waste program and set up the mechanism for the EPA to grant authority to states to operate the program. In states that receive authorization, the state environmental agency administers the state program in lieu of the federal program. To receive and maintain authorization, the state program must be "equivalent" to the federal program and consistent with federal or state programs applicable in other states. EPA has defined equivalent to mean that the state requirements are at least as stringent as federal requirements. In terms of consistency, EPA's goal is to achieve an integrated national program which requires that final state programs do not conflict with each other or with the federal program.

Minnesota received final authorization for its hazardous waste program pursuant to the 1976 and 1980 RCRA amendments from EPA effective February 11, 1985. See 50 FR 3756 (January 28, 1985). A state with final authorization administers its hazardous waste program in lieu of the EPA program for those regulations which were promulgated pursuant to RCRA as adopted in 1976 and as amended in 1980.

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

In order for a state to obtain authorization under HSWA it must incorporate the technical aspects of the hazardous waste program and must also be able to demonstrate that its hazardous waste program is consistent with the federal program in regard to the federal Freedom of Information Act requirements. (Exhibit 9.) In interpreting the Freedom of Information Act requirements EPA has determined that the specific response times provided in the Freedom of Information Act must be incorporated into State statutes or rules before authorization can be granted. There is therefore a need to amend the rules to include the same response time limits to ensure that the authorization process can be implemented for the technical aspects of the program.

Although a state program may be more stringent than the federal requirements and states are not required to adopt less stringent federal standards, the Agency believes it is important to maintain as much consistency as possible between Minnesota's rules and the federal program. Much of the hazardous waste generated in Minnesota must be sent to other states for treatment or disposal because Minnesota has no commercial disposal facilities and only very limited commercial treatment facilities. This means that many generators must be knowledgeable about requirements of both the State and federal hazardous waste programs.

The need to comply with multiple sets of rules makes compliance difficult. Therefore, to the extent it can be accomplished without posing a threat to human health and the environment, amendment of Minnesota's hazardous waste rules to incorporate EPA's amendments is desirable.

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

The proposed amendments to the Minnesota hazardous waste rules include provisions protective of human health and the environment which provide additional protection by expanding the lists of hazardous wastes, by requiring in the permit application an assessment of the potential risks to the public from exposure to hazardous constituents or hazardous wastes as a result of releases from a hazardous waste facility. In addition, provisions are included for corrective actions for prior releases from hazardous and solid waste management units, which require a facility owner or operator to address what action would be taken should it be discovered that the activity of the previous owner or operator of the site caused a release of hazardous wastes or hazardous constituents.

C. Need to Maintain Current Information and Consistent Format in the Hazardous Waste Rules.

The hazardous waste rules and materials used to support the hazardous waste program in Minnesota are subject to change as the federal program and existing conditions change. The manifest document which must accompany the transport of hazardous waste is subject to changes and when changed, is assigned a new form number. The address of the MPCA is also subject to change. There is a need to amend the rules where these two items are referenced in order to reflect the current address of the Agency and to eliminate the need for future amendments to change the form number of the manifest form.

The Office of the Revisor of Statutes reviews rule amendments for form and

consistency. In order to comply with the standards of the revisor, there is a need to correct an existing provision of the rules to correspond to the way similar provisions are being phrased at this time.

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

The Agency is required by Minn. Stat. ch. 14 (supp. 1985) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules or amendments. Reasonableness is the opposite of arbitrariness and capriciousness. It means that there is a rational basis for the Agency's action. The reasonableness of each of the proposed amendments is discussed below.

A. Minn. Rules Pt. 7045.0020 (Definitions).

The Agency is amending Minn. Rules pt. 7045.0020 to add two definitions which are important to the proposed amendments. These definitions add terms which are used in the federal codification regulations (Exhibit 2). It is reasonable to define these terms in the rules in order to maintain consistency with the federal program. Because both terms are used elsewhere in the amendments, it is reasonable to define them so that the regulated community can understand the requirements of the amendments. The terms are "marketer" in Minn. Rules pt. 7045.0020, subp. 55a and "waste oil" in Minn. Rules pt. 7045.0020, subp. 102a.

Marketer is equivalent to the federal definition in 40 CFR § 266.43a. It is reasonable to define the term to make it clear what the term means with respect to hazardous waste fuels and used oil fuels.

Waste oil is the definition used in the preamble to the codification rule (50 FR 28718, Exhibit 2). Although EPA does not specifically define the term in the federal regulations, it is reasonable to define the term so that the regulated community can understand the requirements of the amendments. It is important to define the term to distinguish waste oil from used oil, which is significant to the regulations promulgated pursuant to HSWA.

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

Minn. Rules pt. 7045.0075, subp. 2 sets forth the procedure for petitioning the Agency to exclude a waste produced at a particular facility from the lists of hazardous waste. The petitioning procedure is amended to provide that the waste be evaluated for factors or constituents other than those which may have resulted in the listing of the waste as hazardous in the first place. Although the existing State rules allowed consideration of other factors, the amendment is reasonable to maintain consistency with the federal delisting procedure. The amended federal procedure ensures that if a waste is delisted, it is not hazardous for another reason. Requiring such an additional evaluation is reasonable to protect human health and the environment and require continued proper management of the waste. This petition is equivalent to 40 CFR § 260.22.

C. Minn. Rules Pt. 7045.0080 (Data Availability).

Minn. Rules pt. 7045.0080 is added to the hazardous waste rules in order to provide the public with specific assurance that requests for information will be addressed to the same extent and within the same time limits as addressed under the federal program. The provisions in this part are based on equivalent provisions in 40 CFR Part 2.112 (Exhibit 10), a federal regulation implementing

the Freedom of Information Act. In order to receive authorization for HSWA the MPCA is required to respond to requests for information within the same time period as EPA would respond if EPA were implementing the HSWA requirements in Minnesota.

Minn. Rules pt. 7045.0080 requires the director to provide a written response to requests for information within ten working days of receiving the request. This response must provide a determination of the information that will be released and if information will not be released, the reason for the denial. The director may take an additional ten days to respond to a request if there are reasons why the determination of the availability of the requested information cannot be made within the original ten-day period. The conditions for instituting this extension period are specified in the rule. Additional time may be provided if the request for information is not clear and the director must clarify the nature of the request.

Subp. 4 of the amendments provides the public with the right to take action against the MPCA in the event that the ten-day response time has run and the MPCA has not responded to the request. The ability to institute action is consistent with the corresponding federal Freedom of Information Act requirements and also is provided in Minn. Stat. § 13.08.

D. Minn. Rules Pt. 7045.0102 (Mixtures of Hazardous and Nonhazardous Wastes).

Minn. Rules pt. 7045.0102 sets forth the requirements for mixtures of hazardous and nonhazardous wastes. The proposed amendment to Minn. Rules pt. 7045.0102 provides that different requirements apply to mixtures of

hazardous waste which are burned for energy recovery and to mixtures of hazardous wastes used in a manner constituting disposal than apply to hazardous wastes managed in other ways. It is reasonable to amend this part so that it is clearly stated to the regulated community that there are other requirements in the rules for mixtures burned for energy recovery or used in a manner constituting disposal.

E. Minn. Rules Pt. 7045.0120 (Exempt Wastes).

The Agency is amending Minn. Rules pt. 7045.0120, item A to clarify the exemption for household waste and to add specific provisions for the exemption of resource recovery facilities managing municipal solid waste. The rules previously provided an exemption for normal refuse from households. However, the federal HSWA amendments (40 CFR § 261.4 (b)(10)) replaced this exemption with the more comprehensive household waste exemption now being added to the State rules. The amendment includes additional provisions regarding resource recovery facilities. The federal regulations simply exempt resource recovery facilities if they only burn household wastes and wastes from commercial and industrial sources that do not contain hazardous wastes. If the resource recovery facility does not accept hazardous wastes and inspections are conducted to ensure that it is not received or burned, the facility is not regulated under the federal hazardous waste regulations. However, the Agency believes that additional restrictions are appropriate for resource recovery facilities to address hazardous wastes which are inadvertently received by the facility. It is acknowledged that some hazardous wastes may be illegally disposed in the waste stream going to the resource recovery facility. Some provision must be

made for the management of such illegally disposed wastes when they are isolated from the nonhazardous waste stream at the resource recovery facility. The rule amendments first require that the owner or operator of the resource recovery facility make a reasonable effort to determine the source of hazardous waste. This is reasonable in order to prevent future illegal disposal by bringing generators into the hazardous waste program and monitoring their waste management activities. Also, it is in the resource recovery facility's best interest to return hazardous waste to the rightful owner to avoid the expense of properly managing and disposing of the waste.

However, if the source of the illegally disposed hazardous waste cannot be determined, the owner or operator of the resource recovery facility must meet certain management requirements applicable to generators of hazardous waste. The Agency believes that, in this case, it is not reasonable to apply all of the generator requirements, such as waste evaluation as prescribed in Minn. Rules pt. 7045.0214 and disclosures as required by Minn. Rules pt. 7045.0230 to the inadvertent recipient of hazardous waste. However, in order to ensure that the waste is properly managed it is reasonable to impose certain conditions regarding identification numbers, manifest use and proper management prior to disposal. The management requirements being applied are the pretransport requirements addressing marking, labeling and placarding, proper management regarding relinquishing control and spill management, accumulation of waste, record keeping and annual reporting of the wastes received.

It is not reasonable to require the owner or operator of a resource recovery facility to comply with the 90 day accumulation limit that is applied

to full scale generators. Because hazardous wastes will only be sporadically received at the resource recovery facility and there is no way to know what type of waste will be received, it is unreasonable to expect the facility to have an ongoing procedure for disposal of these wastes. The amendments only require that the wastes received be disposed of within one year of receipt. This is a reasonable time span to allow the owner or operator of the facility to accumulate a shipment and make arrangements for its disposal.

The amendments also specify that the resource recovery facility must have a solid waste permit. The question of the type of facility requirements that should be applied was discussed during meetings with the regulated community and county hazardous waste staff. It was determined that facility requirements could not reasonably be specified in the rule, given the uncertainty of the waste stream received. Therefore, the amendments do not include requirements for personnel training, contingency planning or specific facility provisions. These considerations will be more appropriately addressed in the facility permit. It is reasonable to require that the resource recovery facility have a solid waste permit to incorporate the necessary facility requirements.

The Agency is also requiring that the ash from resource recovery facilities be evaluated to determine if it is hazardous. Minn. Rules pt. 7045.0214 provides that any waste, including ash, generated from the treatment of hazardous waste is also a hazardous waste. Because the amendments exempt the waste received at resource recovery facilities from consideration as hazardous waste, the ash is therefore not addressed under Minn. Rules pt. 7045.0214, subp. 3. However, the concern existed that the facility may generate an ash

which is hazardous due to a characteristic, such as EP toxicity, even though hazardous waste was not burned at the facility. It is reasonable for the amendments to specify that the ash must still be evaluated to determine if it is hazardous. This evaluation must also be done in accordance with the conditions of the solid waste permit. Due to the variability of the waste burned, the ash may also vary in composition and character. Any requirements needed to address this variability relative to ash evaluation would be most appropriately addressed in the solid waste permit.

F. Minn. Rules Pt. 7045.0125 (Management of Waste by Use, Reuse, Recycling and Reclamation).

Minn. Rules pt. 7045.0125 is amended to be consistent with the requirements of 40 CFR § 266.31 (b) and 40 CFR § 266.34 (d).

Minn. Rules pt. 7045.0125, subp. 10, item C, subitem (1) is added to provide that a cement kiln which burns hazardous waste would be subject to the thermal treatment facility standards. This is more stringent than the federal requirement of 40 CFR § 266.31 which requires the imposition of the thermal treatment standards only within municipalities with populations greater than 500,000. (Thermal treatment is the treatment of hazardous waste using elevated temperatures.) Although Minnesota does not have any municipalities with a population greater than 500,000 nor does it have a cement plant, the provision for cement kilns must be included to maintain consistency with the federal requirements. It is reasonable to apply the thermal treatment standards without regard to population size in order to protect public health and the environment throughout the State. Such a provision will ensure that if a cement kiln is

developed in the State, the same standards will apply regardless of location.

Minn. Rules pt. 7045.0125, subp. 10, item C, subitem (2) is added to provide that petroleum wastes which are converted into petroleum coke can be burned in a cement kiln, unless the petroleum coke exhibits a characteristic of hazardous waste. The petroleum coke would be regulated as hazardous since it is produced from a hazardous waste. However, since the coke is used as a fuel and generally does not exhibit a characteristic of hazardous waste, it is reasonable to include this exception. Based on this exemption, cement kilns would be eligible to burn such petroleum coke, as are other types of facilities such as utilities. This provision is equivalent to the exception in 40 CFR § 266.31 (b)(2).

Minn. Rules pt. 7045.0125, subp. 10, item D is added to require labeling of fuel containing hazardous waste. The rule requires that any person who distributes, produces, or markets a fuel containing hazardous waste, or a hazardous waste burned directly as a fuel must include a warning label in the invoice or bill of sale for the fuel. The warning applies to fuel containing any hazardous waste. It is reasonable to provide the requirements so that all persons who manage or regulate the fuel understand that it is a hazardous waste or contains a hazardous waste and must be handled accordingly since it is a substance potentially more dangerous than a virgin fuel. Omitting this requirement would be less stringent than the federal regulations. This rule is equivalent to 40 CFR § 266.34 (d)(1).

Minn. Rules pt. 7045.0125, subp. 11 is added to provide certain exceptions from the labeling requirements for fuels produced from hazardous wastes

indigenous to the refining operations. It is reasonable to provide this exception since reinsertion of certain oily hazardous wastes into the refining process is a common practice. Because fuels produced from the refining practice would contain hazardous waste, labeling would be required under Minn. Rules pt. 7045.0125, subp. 10, item D for all fuels produced from the refining process. Since the exceptions are limited in nature and require that certain provisions be met, such as removal of contaminants, fuels which meet these requirements do not pose the same potential for adverse effects as other fuels which contain hazardous waste. Also, item C requires that the fuel not exhibit any hazardous waste characteristics. It is reasonable to provide the exceptions so that all fuels would not have to be labeled as hazardous waste fuels. The exceptions are the same as those in 40 CFR 266.34 (d)(2), (3) and (4).

G. Minn. Rules Pt. 7045.0135 (Lists of Hazardous Wastes).

Minn. Rules pt. 7045.0135 is entitled "Lists of Hazardous Wastes." The Agency is amending subps. 2, 3 and 4 of this rule. The amendments to these three subparts are discussed below.

Subp. 2 lists hazardous waste from non-specific sources. The amendment to subp. 2 adds four spent solvents and their recovery still bottoms to two of the waste numbers listed in this subpart. The addition of these solvents is taken verbatim from recent amendments to the federal hazardous waste regulations. The amendment would add 1,1,2-trichloroethane to hazardous waste number F002, spent halogenated solvents. Hazardous waste number F005, spent nonhalogenated solvents, would be expanded by the addition of benzene, 2-ethoxyethanol, and 2-nitropropane. The hazardous constituents in these wastes are the solvents

themselves, which have been shown to exhibit a variety of chronic toxic effects. In addition, benzene has been determined to cause leukemia in humans. A complete discussion of the reasonableness of these four additions to hazardous wastes from non-specific sources is provided at pages 6537 to 6542 of Exhibit 5.

Subp. 3 lists hazardous waste from specific sources. The amendment to subp. 3 adds nine groups of hazardous wastes from non-specific sources to the previously listed wastes and clarifies the scope of one previously listed waste. This clarification and the added wastes are taken verbatim from federal amendments to federal hazardous waste regulations.

Six of these wastes, hazardous waste numbers K111, K112, K113, K114, K115, and K116, are generated during the production of dinitrotoluene (DNT), toluenediamine (TDA), and toluenediisocyanate (TDI). These wastes are listed due to toxicity. Hazardous waste number K111 is also listed because of its corrosivity. A discussion of the reasonableness of these six additions is provided at pages 42936 to 42943 of Exhibit 3. Three of these wastes, hazardous waste numbers K117, K118, and K136, are generated during the production of ethylene dibromide (EDB). These wastes are listed because of their toxicity. A discussion of the reasonableness of these three additions is provided at pages 5327 to 5330 of Exhibit 4.

The clarification to the listing of spent pickle liquor by steel finishing operations, hazardous waste number K062, is taken verbatim from a recent amendment to the federal regulations which narrowed the scope of this listing (see Exhibits 6 and 11).

The clarification specifies that the listing applies only to spent pickle

liquor generated by steel finishing operations from the iron and steel industry. Lead and chromium, the constituents for which the waste was originally listed, are present in spent pickle liquor from iron and steel production in concentrations exceeding the maximum permissible leachate concentrations.

The listing of hazardous waste number K062 was amended in response to petitions filed with EPA. Data submitted in support of these petitions demonstrated that spent pickle liquor generated by steel finishing operations from hot dip galvanizing and porcelain enameling companies did not contain concentrations of lead, chromium, and other Extraction Procedure (hereinafter "EP") Toxic metals above permissible leachate concentrations. A complete discussion of the reasonableness of this amendment is provided at pages 19320 to 19322 of Exhibit 6.

Subp. 4 lists items which are hazardous wastes when they are discarded or intended to be discarded. The amendments to subp. 4 add several compounds to the list of toxic wastes in item F. These amendments are taken verbatim from the recently amended federal regulations and are discussed in Exhibits 3 and 5. The addition of hazardous waste numbers U328, U353, U359 is in conjunction with the listing of four solvents in subp. 2; the addition of U328, and U353 is in conjunction with the listing of toluene wastes in subp. 3.

In addition, the primary hazardous properties of hazardous waste numbers U171 and U149 are amended to include toxicity as well as ignitability.

Minn. Rules pt. 7045.0135, subp. 4 is also amended to provide that the wastes listed in that part are hazardous wastes if they are mixed with used oil or waste oil and used for dust suppression or road treatment, or if they are

blended for use as a fuel. It is reasonable to make it clear that the mixing of listed wastes into used oil or waste oil makes them subject to full regulation as hazardous waste. Omission of this provision would be less stringent than the federal regulations. This is equivalent to 40 CFR § 261.33.

H. Minn. Rules Pt. 7045.0139 (Basis for Listing Hazardous Wastes).

The amendments to Minn. Rules pt. 7045.0139 expand the list specifying the constituents which caused a waste to be listed as hazardous. It is reasonable to amend this list to address the additions to the wastes from non-specific sources in the amendment to Minn. Rules pt. 7045.0135, subp. 2, and the nine wastes from specific sources added by the amendments to Minn. Rules pt. 7045.0135, subp. 3. This list is necessary so that generators will know the constituent which caused their waste to be listed and will therefore be able to determine if the wastes produced at their facilities may qualify for an exemption pursuant to Minn. Rules pt. 7045.0075, subp. 2. These amendments are taken verbatim from the recently amended federal regulations and are discussed in Exhibits 3, 4, and 5. It is reasonable to amend this rule in order to maintain consistency with federal regulations.

I. Minn. Rules Pt. 7045.0141 (Hazardous Constituents).

The amendments to Minn. Rules pt. 7045.0141 add additional constituents to the list of hazardous constituents in response to the wastes being listed in the amendments to Minn. Rules pt. 7045.0135, subps. 2 and 3. It is reasonable to amend this list to include constituents not previously listed in order to provide for acceptable ground water monitoring at the facilities where these wastes are managed and the consideration of these constituents in the review of

delisting petitions. This list is implemented in the development of a ground water monitoring program and must accurately reflect the constituents which may be present. Minn. Rules pt. 7045.0075 requires that the MPCA consider all hazardous constituents when reviewing a petition to delist a hazardous waste. It is reasonable to amend this rule in order to maintain consistency with the federal regulations.

J. Minn. Rules Pt. 7045.0214 (Evaluation of Wastes).

Minn. Rules pt. 7045.0214, subp. 3 describes wastes generated by the treatment, storage, or disposal of hazardous waste. Item B provides for an exemption for lime stabilized pickle liquor sludge from iron and steel facilities with Standard Industrial Classification Codes 331 or 332. The amendment to item B adds a reference to the Office of Management and Budget Standard Industrial Classification Manual, from which the Standard Industrial Classification Codes specified in this rule were obtained. It is reasonable to provide a reference to identify the source of these classification codes.

K. Minn. Rules Pt. 7045.0261 (Manifest Document; General Requirements).

Hazardous waste being transported to a treatment, storage or disposal facility must be accompanied by a hazardous waste manifest. Minn. Rules pt. 7045.0261 requires the use of the Minnesota manifest form for all waste transport to or from Minnesota, except for waste being transported to states which require a specific State manifest form. The required Minnesota manifest form is identified at several places in the hazardous waste rules by its designated form number. In Minnesota, the Department of Administration assigns form numbers for official State documents and forms. When those documents are

revised or altered, the form number is also changed.

Several changes to the Minnesota manifest are necessary in order to accommodate federal changes to the manifest form and to change the address of the Agency's offices and the 24-hour emergency telephone number. As a result of these changes, the Department of Administration has determined that the form number of the Minnesota manifest must also be changed, from PQ-00371-01 (10/84) to PQ-00371-02 (10/86). The hazardous waste rules refer to the Minnesota manifest form by the original form number. It is very likely that the manifest form and thus the form number will periodically change in the future. It is reasonable to delete all references to the form number to avoid the necessity of frequent amendments to the rules to maintain current information on the form. There is no need to include the manifest form number in the rules because it is adequately identified by the name of the form. There is only one Minnesota manifest form and the most current edition is the form the rules require for hazardous waste transport.

The Agency's address and 24-hour emergency telephone number are two of the changes being made to the manifest form. The Agency's address and telephone number are also specified in the rules. It is reasonable to amend the rules to delete the former address and telephone number and add the Agency's new address and telephone number so that the information provided in the rules is current and accurate.

L. Minn. Rules Pt. 7045.0275 (Proper Hazardous Waste Management).

Minn. Rules pt. 7045.0275 is amended to correct the telephone number for the MPCA's 24-hour notification requirement. This amendment is reasonable for

the reasons presented in section K.

M. Minn. Rules Pt. 7045.0296 (Annual Reporting).

Minn. Rules pt. 7045.0296, subp. 2 is amended to include the requirements of 40 CFR § 262.41. The amendments set forth additional requirements for hazardous waste generators regarding waste minimization and reduction of the toxicity of the hazardous waste generated. The generator must have a waste minimization program in place and must provide information on the annual report describing efforts to reduce the volume and toxicity of the waste generated during the previous years. Also required is a comparison of the toxicity and volume of the waste generated during the reporting year with that generated during the previous years, to the extent that such information is available. The annual report must also include a certification by the generator that the information provided is accurate. It is reasonable to include these provisions so that the regulated community understands the requirements regarding waste minimization for the annual report. Omission of these requirements would be less stringent than the federal regulations.

N. Minn. Rules Pt. 7045.0302 (International Shipments; Special Conditions).

Minn. Rules pt. 7045.0302 is amended to require an annual report by March 1 of each year for all hazardous waste exported during the previous year. The annual report must be submitted to the EPA in Washington and must describe the types, quantities, frequency, and ultimate destination of the exported hazardous waste. It is reasonable to include this provision so that the regulated community understands the additional requirement for exporting

hazardous waste. Omission of this provision would be less stringent than 40 CFR § 262.50.

This rule is also being amended to delete all references to the manifest form number and change the MPCA's address. These amendments are reasonable for the reasons presented in section K.

O. Minn. Rules Pt. 7045.0395 (Hazardous Waste Discharges).

Minn. Rules pt. 7045.0395 is amended to correct the telephone number for the MPCA's 24-hour notification requirement. This amendment is reasonable for the reasons presented in section K.

P. Minn. Rules Pt. 7045.0458 (Waste Analysis Requirements).

Minn. Rules pt. 7045.0458 is amended by the addition of a reference to Minn. Rules pt. 7045.0538, subp. 10. This provision addresses the use of the Paint Filter Liquids Test and is reasonable for the reasons presented in section Y.

Q. Minn. Rules Pt. 7045.0460 (Location Standards).

Minn. Rules pt. 7045.0460 is amended to prohibit the placement of any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine or cave. It is reasonable to include this requirement to make it clear to the regulated community that there are prohibitions on where hazardous waste can be placed. Omission of this prohibition would be less stringent than 40 CFR § 264.18.

R. Minn. Rules Pt. 7045.0468 (Emergency Procedures).

Minn. Rules Pt. 7045.0468 is amended to correct the telephone number for the MPCA's 24-hour notification requirement. This amendment is reasonable for the reasons presented in section K.

S. Minn. Rules Pt. 7045.0476 Manifest Discrepancies.

Minn. Rules pt. 7045.0476 is amended to delete a reference to the manifest form number. This amendment is reasonable for the reasons presented in section K.

T. Minn. Rules Pt. 7045.0478 (Operating Record).

Minn. Rules pt. 7045.0478 is amended to set forth a new requirement to be included in the operating record of a hazardous waste facility. A hazardous waste facility permittee must certify that he has a program in place to reduce the volume and toxicity of the waste generated, and that the method of treatment, storage, or disposal is the "practicable method currently available to the permittee which minimizes the present and future threat to human health and the environment." It is reasonable to include the requirement so that the regulated community understands that hazardous waste facilities are also subject to waste minimization requirements for the hazardous wastes generated at the facility. This requirement is equivalent to 40 CFR § 264.73.

This rule is also amended to include a reference to the results of analyses conducted to determine if free liquids are present in the waste. The reference is to the Paint Filter Liquids Test and is reasonable for the reasons discussed in section Y.

U. Minn. Rules Pt. 7045.0484 (Required Reports).

The MPCA is amending Minn. Rules pt. 7045.0482 to incorporate EPA requirements published as technical corrections to the federal codification regulations (Exhibit 8).

The waste minimization requirements established in the federal codification regulations are at this time being incorporated into Minn. Rules pt. 7045.0296.

The original provision requires a waste minimization certification in annual reports from all generators who ship waste off-site. The technical correction clarifies that the waste minimization requirements also apply to generators who treat, store and dispose of hazardous waste at on-site facilities as well as to generators who ship to off-site facilities. Generators who manage waste on-site are governed by the generator standards and also by the facility requirements. It is appropriate to add the technical correction regarding the waste minimization requirements that apply to on-site waste management to the section of the rules that applies to facilities. This corresponds to the way the federal regulations were amended to include this correction. As a HSWA amendment, compliance with this provision has been in effect in Minnesota since August 8, 1986.

V. Minn. Rules Pt. 7045.0484 (Ground Water Protection).

The Agency is amending Minn. Rules pt. 7045.0484 to incorporate additional requirements promulgated by EPA (40 CFR § 264.90), rephrase the requirements that remain, and to delete requirements that are no longer relevant. The rules formerly specified that the ground water protection requirements applied to facilities that received hazardous waste after the effective date of the State rules (July 16, 1984). Closed facilities that received hazardous waste before the effective date of the State rules but after the effective date of the federal ground water requirements were regulated only by the federal rules. It is reasonable to delete these requirements as they are now superseded by the new requirements added to the federal regulations in response to the HSWA amendments.

The requirements being added are taken from the federal rules addressing releases from hazardous and solid waste management facilities. The amendments to the State rules have moved the effective date for coverage of surface impoundments, waste piles, land treatment units and landfills from those facilities which received waste after January 26, 1983 to those facilities receiving waste after July 26, 1982 and changed the reference from the federal regulations to the State rules. It is reasonable to incorporate this date into the proposed amendments because, as a HSWA amendment, it is in effect in Minnesota regardless of the status of the State rules. The original State rules referred to federal authority because at that time the State was not authorized under RCRA by EPA. Now that the State is authorized under RCRA and intends to seek authorization under HSWA, it is reasonable to change accountability to the State rules so that the regulated community understands that the State intends to implement the provisions of this rule in lieu of EPA. Until the State is authorized under HSWA for this provision the federal regulations remain in effect in the State, however, the State rules and federal regulations will be the same regarding the effective date.

The second change in the ground water protection requirements clarifies the applicability of the newly added Minn. Rules pt. 7045.0485 addressing corrective action. Minn. Rules pt. 7045.0484, subp. 1, item A, subitem 1 specifies that facilities governed by the ground water protection requirements must also comply with the requirements of Minn. Rules pt. 7045.0485, regarding corrective action at any previously used hazardous or solid waste management facility. This is a reasonable addition to the rules to ensure that the regulated community is aware

that both sets of rules may be applicable and that compliance with Minn. Rules pt. 7045.0484 does not preclude the additional applicability of Minn. Rules pt. 7045.0485.

Minn. Rules pt. 7045.0484, subp. 1, item A, subitem 3 states that the financial responsibility requirements of Minn. Rules pt. 7045.0485 apply to regulated units. This is a reasonable provision because it clarifies that, in addition to the financial assurance required for future activities at a regulated unit, it may be necessary to conduct corrective action for previous activities and additional financial assurance will be required. These two clarifying references to the requirements of Minn. Rules pt. 7045.0485 correspond to similar requirements in 40 CFR § 264.90 (a)(2).

An amendment to Minn. Rules pt. 7045.0484, subp. 1, item B, subitem 2 is proposed to delete a reference to Minn. Rules pt. 7045.0534, subp. 5. This subpart referred to the requirements for inspection of waste pile liners to qualify for an exemption from the ground water monitoring requirements. As discussed in section X, this exemption is no longer granted by the rules, therefore it is reasonable to delete this obsolete cross-reference.

An amendment to Minn. Rules pt. 7045.0484, subp. 12, item E is also proposed to delete a reference to double-lined waste piles. Because of the proposed changes discussed in section X, these requirements are no longer applicable to double-lined waste piles, and it is therefore reasonable to delete this reference.

W. Minn. Rules Pt. 7045.0485 (Corrective Action for Solid Waste Management Units).

The Agency is adding a new rule, Minn. Rules pt. 7045.0485 to incorporate the federal requirements of 40 CFR § 264.101. This rule will establish the applicability and conditions of specific corrective action requirements at facilities seeking a hazardous waste permit. The owner or operator of such a facility will be required to correct any contamination that has resulted from releases from any solid or hazardous waste management activities, even if those activities occurred in the past. It is reasonable to add this provision to the State rules to cover those situations where previous contamination exists at a site being considered for a permit. It is not reasonable to grant a permit for a facility at a contaminated site without addressing corrective actions regarding the contamination.

The amendments specify that corrective actions must be established in the permit if they cannot be completed prior to issuance of the permit. This provides a reasonable assurance that corrective actions will take place and that money will be available as needed, without unreasonably restricting the use of the site by withholding the permit until corrective actions are complete. Corrective actions may occur over a considerable time span and it is reasonable to grant a permit if it includes the necessary provisions to ensure the completion of corrective action.

The amendments also include a statement that financial assurance must be provided under this rule in addition to the financial assurance currently required by the hazardous waste rules. This is a reasonable statement to

clarify the requirements of this part and ensure that money is available as needed.

X. Minn. Rules Pt. 7045.0534 (Waste Piles).

The Agency is amending Minn. Rules pt. 7045.0534, by deleting subps. 4 and 5. These subparts are being deleted to maintain consistency with the federal requirements. The federal rules formerly provided an exemption from the ground water monitoring requirements for waste piles which had a double liner system. The HSWA amendments to 40 CFR § 264.252 removed this exemption so that the specific liner requirements are no longer applicable and are therefore deleted.

The State rules did not provide the same total exemption for double-lined waste piles. Double-lined waste piles were only exempted from certain detection monitoring requirements of the State rules. It is reasonable to delete Minn. Rules pt. 7045.0534, subp. 4 to ensure that the requirements for waste piles do not provide exemptions that are not allowed by the federal regulations. The specific requirements for double-lined waste piles are no longer relevant without the exemption and are therefore reasonably deleted.

The federal regulations also provided an exemption from the ground water monitoring requirements for waste piles with liners that could be inspected. The HSWA amendments to 40 CFR § 264.253 removed this exemption so that waste piles with inspectable liners are now subject to all ground water monitoring requirements. Minn. Rules pt. 7045.0534, subp. 5 provided this same exemption. It is therefore reasonable to delete this subpart to maintain consistency with the federal regulations.

Y. Minn. Rules Pt. 7045.0538 (Landfills).

The Agency is amending Minn. Rules pt. 7045.0538, subp. 10 to address the management of liquids in permitted landfills. This amendment is made in response to HSWA amendments to 40 CFR § 264.314 which establish an effective date after which bulk or noncontainerized liquid hazardous waste cannot be disposed of in a landfill. The State rules have always prohibited the placement of bulk or noncontainerized wastes in landfills so that no amendments were necessary to address that aspect. However, the State rules did allow the use of absorbents to eliminate free liquids. The amended federal regulations prohibit the use of absorbents after May 8, 1985. Therefore, it is reasonable to delete the language allowing the use of absorbents and to incorporate the federal prohibition into the State rules so that the use of absorbents is not allowed as a liquid treatment prior to landfill disposal.

Although as a HSWA provision, the federal prohibition has applied in Minnesota since May 8, 1985, it is not possible to incorporate a past date into the rules to apply retroactively. However, facilities have been required to comply with the prohibition since the effective date of the federal requirements. It is reasonable to incorporate the effect of the federal prohibition into the State rules by prohibiting the placement of bulk or containerized waste when absorbents have been eliminated to remove free liquids.

Minn. Rules pt. 7045.0538, subp. 10 establishes special requirements for liquid waste disposed of in landfills. The Agency is amending Minn. Rules pt. 7045.0538, subp. 10 to incorporate amendments to the federal regulations which specify use of the Paint Filter Liquids Test to determine the presence or

absence of free liquids in bulk or containerized waste. 40 CFR § 264.314 was amended on April 30, 1985 (Exhibit 7) to require the use of the Paint Filter Liquids Test to determine presence or absence of free liquids in either a containerized or bulk waste.

Minn. Rules pt. 7045.0538, subp. 10 and pt. 7045.0638, subp. 7 prohibit the placement of liquid wastes or wastes containing free liquids in landfills. In light of this prohibition, it is reasonable to specify a method for determination of free liquids in waste. These amendments will make the State rules equivalent to the corresponding federal regulation.

Z. Minn. Rules Pt. 7045.0552 (Facilities Governed by Interim Status).

Minn. Rules pt. 7045.0552 is amended to set forth the applicability of the interim status requirements for hazardous waste facilities which are not regulated as facilities by federal regulation, but are regulated by State rule only. Minn. Rules pt. 7045.0552, subp. 1a states that a facility which was previously unregulated becomes subject to the interim status requirements on the effective date of any rules which make the facility subject to regulation. In addition, this subpart provides that such a facility must submit a Part B application for a hazardous waste facility permit within one year of the effective date of any rules which make the facility subject to the requirement to obtain a permit. This is a reasonable requirement so that the regulated community understands that there are certain facilities which are subject only to State permitting requirements. Although a facility not previously subject to permitting requirements is immediately subject to regulation on the effective date of any rules which bring it into regulation, it is reasonable to allow the

facility owner or operator one year from the effective date to submit a Part B application. The one year time frame is equivalent to that allowed for existing facilities which become subject to regulation in 40 CFR § 270.73.

AA. Minn. Rules Pt. 7045.0556 (General Facility Standards).

Minn. Rules pt. 7045.0556, subp. 7 is added to prohibit the placement of any hazardous waste in any salt dome, salt bed formation, underground mine or cave which has interim status. The result of this requirement is that hazardous waste cannot be placed in any of the four settings unless that location has a hazardous waste facility permit. Placement refers to all treatment, storage, and disposal activities. This is a reasonable prohibition since it provides the greatest protection for human health and the environment from wastes placed in a repository which may be porous or fractured and subject to leakage. Omission of this prohibition would be less stringent than 40 CFR § 265.18.

BB. Minn. Rules Pt. 7045.0564 (Waste Analysis Requirements).

Minn. Rules pt. 7045.0564 is amended by the addition of a reference to Minn. Rules pt. 7045.0638, subp. 7. This provision addresses the use of the Paint Filter Liquids Test and is reasonable for the reasons discussed in section Y.

CC. Minn. Rules Pt. 7045.0584 (Operating Record).

Minn. Rules pt. 7045.0584 is amended by the addition of a reference to Minn. Rules pt. 7045.0638, subp. 7. This provision addresses the use of the Paint Filter Liquids Test and is reasonable for the reasons discussed in section Y.

DD. Minn. Rules Pt. 7045.0588 (Required Reports).

Minn. Rules pt. 7045.0588 is amended by the addition of requirements to specify the efforts taken to reduce the volume and toxicity of waste generated

and to indicate the results of those efforts in the annual report. This provision is reasonable for the reasons discussed in section T.

EE. Minn. Rules Pt. 7045.0638 (Landfills).

The Agency is amending Minn. Rules pt. 7045.0638, subp. 7 to address the management of liquid waste in interim status landfills. This amendment is in response to HSWA amendments to 40 CFR § 265.314 which establish an effective date for the prohibition of bulk liquids and the use of absorbents to eliminate free liquids. The State rules previously allowed the use of absorbents to eliminate free liquids in waste being disposed at interim status landfills. The State prohibition on the use of absorbents is reasonable in order to maintain consistency with the federal regulations governing interim status landfills.

This rule is also amended to include a reference to the Paint Filter Liquids Test required as part of the waste analysis requirements to be included in the waste analysis plan, and to require that the Paint Filter Liquids Test be used for determining the presence or absence of free liquids in the wastes received at the facility. These provisions are reasonable for the same reasons discussed in Section Y.

FF. Minn. Rules Pt. 7001.0150 (Terms and Conditions of Permits).

Minn. Rules pt. 7001.0150, subp. 2 is amended to provide that the permit must contain conditions that the director determines are necessary to protect human health and the environment and that the permittee must keep records for three years from the date of sample, measurement, report certification or application. This is reasonable since it makes it clear when the three-year period begins. The wording in the existing rule provides only that the records

are kept for three years, but the start date of the three-year period is unclear. The amendment also requires that the permittee retain the waste minimization certification required by Minn. Rules pt. 7045.0478, subp. 3, for three years. These changes are equivalent to 40 CFR §§ 270.30 and 270.32, and omission would be less stringent than the federal program.

GG. Minn. Rules Pt. 7001.0520 (Permit Requirements). Minn. Rules pt. 7001.0520 is amended to add a requirement to subpart 3, item B which sets forth the requirements for publicly owned treatment works (POTW) that accept hazardous wastes and are eligible for a hazardous waste facility permit by rule. Subp. 3, item B, subitem (3) is amended to require compliance with the corrective action provisions of Minn. Rules pt. 7045.0485. This requirement applies to a POTW which accepts hazardous waste by truck, rail, or a pipe that does not carry sewage. The corrective action requirement would apply to any releases from solid waste or hazardous waste management units at the POTW, which includes wastewater treatment sludge units. Failure to include this requirement would be less stringent than 40 CFR § 270.60 (c).

HH. Minn. Rules Pt. 7001.0590 (Part B Information for Surface Impoundments).

Minn. Rules pt. 7001.0590 is amended to set forth the information requirements on potential exposure to the public by hazardous wastes or hazardous constituents through releases related to a surface impoundment. Along with the hazardous waste facility permit application, the facility owner or operator must submit a detailed engineering report addressing the potential releases from normal operations and accidents at the facility, including

incidents associated with transportation to or from the facility; potential pathways of human exposure to hazardous wastes or hazardous constituents associated with the facility; and the potential nature and magnitude of the human exposure resulting from such releases. In addition, the owners or operators of surface impoundments who have already submitted a Part B application must also submit the exposure information. This is a reasonable requirement since it provides for an evaluation of the public risk presented by management of hazardous waste in a surface impoundment. This is equivalent to 40 CFR § 270.10 (j).

II. Minn. Rules Pt. 7001.0600 (Part B Information Requirements for Waste Piles).

Minn. Rules pt. 7001.0600 is amended to set forth additional Part B information requirements for waste piles. The amendment to item B is the addition of a provision which allows a permit applicant applying for certain exemptions to the location requirements to submit detailed plans and an engineering report describing how the operational and design requirements of pt. 7045.0534, subp. 1 will be met. Pt. 7045.0534, subp. 1 requires design and operation of the waste pile to minimize runoff, run-on, leachate generation, and wind dispersal of the waste. The previous language was unclear as to how compliance would be achieved. In addition, the permittee must provide a description in the inspection plan of the inspection procedure for the waste pile, including the liner and appurtenances for run-on and run-off control. This is reasonable because it assures that the owner or operator of a waste pile will inspect the facility, and control run-on, run-off and leachate which may

pose a threat to human health and the environment. These provisions must be included to be equivalent to those in 40 CFR §§ 270.18 (b) and 270.18 (d).

JJ. Minn. Rules Pt. 7001.0620 (Part B Information Requirements for Landfills).

Minn. Rules pt. 7001.0620 is amended to set forth the specific information requirements on potential exposure to the public by hazardous wastes or hazardous constituents through releases related to a hazardous waste landfill. Along with the hazardous waste facility permit application, the facility owner or operator must submit a detailed engineering report addressing the potential for the public to be exposed to hazardous constituents through releases related to the facility including incidents associated with potential releases from normal operations and accidents at the facility, including incidents associated with transportation to or from the facility; potential pathways of human exposure to hazardous wastes or hazardous constituents associated with the facility; and the potential nature and magnitude of human exposure resulting from such releases. In addition, the owners or operators of landfills who have already submitted a Part B application must also submit the exposure information. This is a reasonable requirement since it provides for an evaluation of the public risk presented by a hazardous waste landfill. Omission of this provision would be less stringent than 40 CFR § 270.10 (j).

The rule is also amended to address the requirement in 40 CFR § 270.21 that an explanation be provided to explain how compliance with the bulk liquid prohibition has been achieved. In Minnesota bulk liquids have always been prohibited from landfill disposal but the use of absorbents has been allowed.

This explanation must address how compliance with the federal prohibition on absorbents was addressed before the same prohibition was incorporated into the State rules.

KK. Minn. Rules Pt. 7001.0650 (Interim Status).

Minn. Rules pt. 7001.0650 is amended to clarify certain qualifications for interim status of a facility. Minn. Rules pt. 7001.0650, subp. 1 is amended to provide that a facility is eligible for interim status if it was in existence on the effective date of rule amendments which make the facility subject to the requirement to have a hazardous waste facility permit. This is reasonable since a facility would unknowingly be in violation for not having a permit if it were not eligible for interim status.

However, items C and D are added to clarify that a facility which has been previously denied a hazardous waste facility permit or a facility which no longer has authority to operate under its permit is not eligible for interim status. This is reasonable because it further clarifies the conditions under which a facility is eligible for interim status. These requirements are equivalent to those of 40 CFR § 270.70.

Minn. Rules pt. 7001.0650, subp. 7 is amended to add a condition under which interim status will expire for facilities which have already submitted a Part A application and to which interim status has been granted. The added condition terminates State interim status when it is terminated by any of the provisions of 40 CFR § 270.73 (c). This is a reasonable way to incorporate the effect of the federal regulations into the State rules while accommodating EPA's concerns that past effective dates are observed. Failure to include the federal

requirements would make Minnesota's rules less stringent than the federal regulations.

LL. Minn. Rules Pt. 7001.0712 (Research, Development and Demonstration Permits).

Minn. Rules pt. 7001.0712 is added to set forth the procedure for application for research, development, and demonstration permits for hazardous waste facilities, other than land disposal facilities, which propose to utilize an innovative and experimental hazardous waste treatment technology. This part includes requirements for special research, development, and demonstration permits for technologies for which permit standards have not been established. The permits must contain terms and conditions to assure protection of human health and the environment by limiting the volumes and types of wastes only to those which are necessary for determining the efficacy and performance capabilities of the technology and process. The permits must include requirements for monitoring, operations, financial responsibility, closure, and remedial action. These requirements are reasonable since the facility owner or operator needs to understand what is required for a demonstration project.

The term of the permit is one year. Each permit may be renewed not more than three times and each renewal shall be for a period of not more than one year. In addition, the director may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment. Limitation of the term of the permit, limiting the renewal to three one-year periods, and providing for termination of operations are reasonable since they provide for review of the

facility operations with the intent of providing the greatest degree of protection of human health and the environment while still allowing development of new processes or technologies for treatment of hazardous waste. Minn. Rules pt. 7001.0712 corresponds to 40 CFR § 270.65.

IV. CONSIDERATION OF SMALL BUSINESS

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

The amendments will impose the same requirements on large businesses as small businesses. The amendments will require additional management requirements for hazardous waste and additional facility and permitting standards based on the potential for adverse effects on human health and the environment. This potential is not directly related to the size of the business generating or managing the wastes. Some additional expenses will be incurred as a result of the amendments due to changes in facility standards and resulting changes in the management requirements though these costs are difficult for the MPCA to quantify in the abstract. However, these requirements either follow

specifically from general requirements or are justified under the circumstances.

Those aspects of the amendments that are based on federal regulations promulgated under HSWA are already in effect in Minnesota. Incorporation of these provisions into the State rules will not impose any additional requirements on small businesses that are not currently being imposed by the federal regulations in effect in Minnesota.

V. CONCLUSION

The Agency has, in this document and its exhibits, made its presentation of facts establishing the need for and reasonableness of the proposed amendments to Minnesota's hazardous waste rules. This document constitutes the Agency's Statement of Need and Reasonableness for the proposed amendments to the hazardous waste rules.

VI. LISTS OF EXHIBITS

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

<u>Agency Ex. No.</u>	<u>Title</u>
1	<u>Federal Register</u> , Vol. 50, No. 135, pages 28702-28755, July 15, 1985
2	Resource Conservation and Recovery Act of 1976, as amended, Hazardous and Solid Waste Amendments of 1984. 42 U.S.C. 2002 (a), et seq.
3	<u>Federal Register</u> , Vol. 50, No. 205, pages 42936-42943, October 23, 1985
4	<u>Federal Register</u> , Vol. 51, No. 30, pages 5327-5330, February 13, 1986
5	<u>Federal Register</u> , Vol. 51, No. 37, pages 6537-6542, February 25, 1986
6	<u>Federal Register</u> , Vol. 51, No. 102, pages 19320-19322, May 28, 1986
7	<u>Federal Register</u> , Vol. 50, No. 83, pages 18370-18375, April 30, 1985
8	<u>Federal Register</u> , Vol. 51, No. 153, page 28556, August 8, 1986
9	5 U.S.C.S. § 552 (1986)
10	40 CFR § 2.112 (1984) as amended in 50 <u>Federal Register</u> , page 51659, December 18, 1985
11	<u>Federal Register</u> , Vol. 51, No. 183, page 33612, September 22, 1986

Date: 10/16/86



Thomas J. Kalitowski
Executive Director