

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of Proposed Amendments
Governing Mining Wastes, the Lists of
Hazardous Wastes, Shipments of Hazardous
Wastes Out-of-state, and Mixtures of
Hazardous and Nonhazardous Wastes,
Minn. Rules Pts. 7045.0020, 7045.0102,
7045.0120, 7045.0135, 7045.0139,
7045.0141, and 7045.0265

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 of hazardous waste. Specifically, the amendments the Agency is proposing pertain to the following:

A. Limiting the hazardous waste regulatory exclusion for mineral processing wastes to nine specific waste streams. In 1980, the United States Environmental Protection Agency (EPA) excluded all mineral processing wastes from regulation as hazardous wastes. In federal amendments promulgated January 23, 1990, EPA limited the scope of the exclusion to twenty mineral processing waste streams. Based upon EPA data, however, the Agency is of the opinion that eleven of the twenty wastes that EPA has decided to retain within the exclusion are potentially too hazardous to remain within the exclusion (see Exhibits 2, 3, 7, and 9). Therefore, the proposed amendments exempt only nine mineral processing wastes from hazardous waste regulation.

B. Requirements for mixtures of hazardous and nonhazardous wastes in cases where the nonhazardous waste is a mining waste excluded from hazardous waste regulation. These proposed amendments incorporate federal amendments promulgated September 1, 1989. The proposed amendments contain specific

requirements for determining whether or not mixtures of hazardous wastes and mining wastes excluded from hazardous waste regulation are subject to hazardous waste regulation.

C. Clarification of the definition of "designated facility". This proposed amendment incorporates a federal amendment promulgated January 23, 1990. The proposed amendment clarifies the requirements for designated facilities receiving hazardous wastes from out-of-state.

D. Clarification of the requirements for generators of hazardous waste when using hazardous waste manifests. This proposed amendment incorporates a federal amendment promulgated January 23, 1990. The proposed amendment clarifies that a generator is responsible for assuring that any out-of-state transporters or facilities, which handle the generator's waste, sign the hazardous waste manifest used for tracking that waste.

E. Changes in the listings of hazardous wastes. These proposed amendments incorporate federal amendments which added three waste streams to the lists of hazardous wastes and changed the listing description of two currently listed waste streams.

F. Clarifications of the existing rules regarding mixtures of hazardous and nonhazardous wastes. These proposed amendments clarify the existing rules for mixtures by changing the language and format and by explicitly stating some of the implicit aspects of the existing rules. The proposed amendments state directly that the mixing of hazardous waste and nonhazardous waste constitutes treatment and is subject to additional requirements.

The bulk of these proposed amendments are based upon federally mandated regulations. The proposed amendments, which add three waste streams to the lists of hazardous wastes and change the listing description of a currently listed waste, were promulgated by EPA under the authority of the Hazardous and

Solid Waste Amendments of 1984 (HSWA). Federal amendments promulgated under HSWA, such as these, are effective in Minnesota on the effective date of the federal regulation, even if the amendments have not yet been incorporated into state rules by that time. The effective dates for these federal amendments have passed. The federal amendments, which limit the hazardous waste regulatory exclusion for mineral processing wastes, set out the requirements for mixtures of excluded mineral processing wastes and hazardous wastes; clarify the definition of "designated facility"; clarify the requirements for generators of hazardous wastes when using hazardous waste manifests; and modify the scope of a currently listed waste stream, were promulgated by EPA under the authority of the Resource Conservation and Recovery Act (RCRA). Federal amendments promulgated under RCRA are not effective in Minnesota until they are incorporated into state rules. The remaining proposed amendments, those which seek to clarify the rules governing mixtures of hazardous and nonhazardous wastes, are changes initiated by the Agency. The Agency's authority to adopt all of these amendments is provided under Minn. Stat. § 116.07, subd. 4 (1990).

This Statement of Need and Reasonableness is divided into seven parts. Following this introduction, Part II contains the Agency's explanation of the need for the proposed amendments. Part III discusses the reasonableness of the proposed amendments. Part IV documents how the Agency has considered the methods of reducing the impact of the proposed amendments on small businesses as required by Minn. Stat. § 14.115 (1990). Part V documents the economic factors the Agency considered in drafting the amendments as required by Minn. Stat. § 116.07, subd. 6 (1990). Part VI sets forth the Agency's conclusion regarding the amendments. Part VII contains a list of 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 North, St. Paul, Minnesota 55155.

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

Minn. Stat. ch. 14 (1990) 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 which does not easily lend itself to evaluation of each proposed revision. In the case of this proceeding, the need for amendments to the Agency's rules governing the management of hazardous waste has two bases: (A) the need for consistency with federal hazardous waste regulations; and (B) the need to provide clarity in the state hazardous waste rules.

A. Need for Consistency with Federal Regulations.

In 1976, Congress adopted RCRA (42 U.S.C. § 6901 et seq.) to regulate the management of hazardous waste. In adopting RCRA, Congress provided for eventual state control of the hazardous waste program and set up a 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 to 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. The proposed amendments contained in

this rulemaking are at least as stringent as the applicable federal amendments. The proposed amendments limiting the hazardous waste regulatory exclusion for mineral processing wastes to nine specific waste streams is more stringent than the applicable federal amendments which retain an additional eleven wastes within the federal exclusion. The rest of the proposed amendments are as stringent as the applicable federal amendments.

Minnesota received final authorization from EPA for its hazardous waste program pursuant to RCRA effective February 11, 1985 (see 50 FR 3756, published on 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. In order to maintain authorization, the state must enact equivalent requirements within specific time frames when new, more stringent federal requirements are promulgated by EPA. The bulk of the federal amendments incorporated in this rulemaking were promulgated by EPA under RCRA, including the exclusion of specific mineral processing wastes from hazardous waste regulation, the requirements for the management of mixtures of hazardous and nonhazardous wastes, the requirements for generators of hazardous waste, the changes in the definition of "designated facility", and the exclusion of a specific source waste from zirconium phosphating from the lists of hazardous wastes. Minnesota must adopt all of these amendments by July 1, 1991, in order to maintain EPA authorization. The federal amendment excluding a specific source waste from zirconium phosphating from the hazardous wastes list represents a less stringent form of regulation than is currently found in the state hazardous waste rules, so the Agency is not required to adopt it. Based upon findings by EPA, however, the Agency has decided to incorporate this amendment into state rules. These RCRA regulations will not be effective in Minnesota until they are adopted by the Agency.

Federal amendments promulgated under HSWA, such as the federal amendments which added waste streams to the lists of hazardous wastes and changed the listing description of a currently listed hazardous waste, become effective nationally regardless of state authorization. These federal amendments are enforced by EPA until the states modify their programs to include the HSWA amendments. Thus, Minnesota must modify its hazardous waste rules to incorporate HSWA amendments and apply for and receive authorization from EPA to enforce HSWA provisions in lieu of EPA as a part of its state program.

The proposed rules incorporate federal amendments promulgated under RCRA and HSWA in order for the state hazardous waste rules to be consistent with federal regulations and to maintain state authorization from EPA to administer the hazardous waste program.

B. Need to Provide Clarity in the Existing State Hazardous Waste Rules.

The proposed rules clarify the existing rules governing mixtures of hazardous and nonhazardous wastes. Sections of the existing rules governing mixtures are difficult to read and interpret and warrant change for the sake of clarity. The proposed amendments explicitly state implicit requirements of the rules and change the language and format of parts of the rules in an attempt to make the rules more understandable.

III. REASONABLENESS OF THE PROPOSED AMENDMENTS

The Agency is required by Minn. Stat. ch. 14 (1990) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules or amendments. The Agency proposes to incorporate federal amendments promulgated by EPA into the state hazardous waste rules. A complete discussion of the reasonableness of these federal amendments is presented in Exhibits 3, 5, 6, 7, and 8 listed in Part VII of this document, which are hereby incorporated by reference. The proposed amendments involve Minn. Rules pts. 7045.0020,

7045.0102, 7045.0120, 7045.0135, 7045.0139, 7045.0141, and 7045.0265. The reasonableness of each proposed amendment to the state hazardous waste rules is discussed below.

A. Minn. Rules pt. 7045.0020 Definitions.

The existing Minn. Rules pt. 7045.0020 provides definitions for a variety of terms found in the rules. The proposed rules incorporate a federal clarification of the definition of the term "designated facility" found in subpart 15 of this part. This clarification was promulgated by EPA on January 23, 1990. The proposed rules require that before a shipment of hazardous waste can be sent to a designated facility located in a state not authorized by EPA to regulate that particular waste as hazardous, the receiving state must first give the facility permission to accept that particular waste. It is reasonable to incorporate this federal amendment into the state rules in order to clarify the definition and provide consistency between state rules and federal regulations.

B. Minn. Rules pt. 7045.0102 Mixtures of Wastes.

The existing Minn. Rules pt. 7045.0102, subpart 2 regulates the mixing of hazardous and nonhazardous wastes. All of the proposed amendments to this part are found in subpart 2. The proposed amendments are of two types: amendments to incorporate federal amendments promulgated by EPA on September 1, 1989; and state-initiated clarifications of the existing rules.

The proposed amendments to items B and H of subpart 2 of this part incorporate federal amendments which provide requirements for mixtures of hazardous wastes and mining wastes exempt from hazardous waste regulation under Minn. Rules pt. 7045.0120, item I. The proposed amendments to item B

state that mixtures of listed wastes and exempt mining wastes are exempt from hazardous waste regulation if the mixtures no longer exhibit any characteristic for which the hazardous waste was listed. As in current rules for mixtures involving listed hazardous wastes, the proposed amendments allow only wastes listed because of ignitability, corrosivity, or reactivity to be mixed. This is more stringent than the corresponding federal amendments which allow mixing of all types of listed wastes. The proposed amendments create a new item H which states that mixtures of exempt mining wastes and characteristic hazardous wastes are hazardous if the mixtures exhibit a characteristic which the exempt waste alone would not have exhibited, or if the mixtures continue to exhibit any characteristic exhibited by the hazardous waste prior to mixture. These proposed amendments are reasonable because they prevent these types of mixtures, even though they contain exempt mining wastes, from being treated as nonhazardous wastes when they continue to exhibit characteristics of hazardous waste. It is also reasonable to incorporate these federal amendments into the state rules in order to maintain consistency between state rules and federal regulations.

The Agency proposes to make state-initiated changes to subpart 2 of this part in order to clarify the requirements of the rule by adding explanatory text and in order to make the rule more easily read by changing the language and format of parts of the rule. The proposed amendments add a statement to the introduction of this subpart which explains that the mixing of hazardous and nonhazardous wastes as described in this subpart is treatment, and subsequently subject to additional requirements found in part 7045.0211. This is not a new requirement; it is an explicit statement of an implicit requirement of the rule.

The mixing of wastes fits the definition of "treatment" in Minn. Rules pt. 7045.0020, subp. 97, and the requirements for generators of hazardous waste that treat wastes are explicitly outlined in Minn. Rules pt. 7045.0211. This amendment explicitly states how these requirements found elsewhere in the rules apply to the requirements of this subpart. It is reasonable to add this statement to clarify the existing requirements of the rule.

The proposed amendments change the language of item A of subpart 2 by condensing the existing language. Item A currently specifies each of the hazardous waste characteristics individually. The proposed amendments condense this language into a statement which refers to "the characteristics of hazardous waste" as a whole. This is a cosmetic change which is intended to shorten and clarify the rule. This proposed change is also made to item B, but it also adds the characteristic of oxidativity to the list of characteristics identified. The Agency feels that this characteristic should also be considered in determining whether or not a mixture is hazardous in the event that mixing as described in item B produces an oxidative waste. This change will provide consistency between items A and B by adding the omitted characteristic of oxidativity. The proposed amendments also divide items B and D into subitems to make the rule more easily read. It is reasonable to make these changes for the sake of clarity and consistency.

C. Minn. Rules pt. 7045.0120 Exempt Wastes.

The existing Minn. Rules. pt. 7045.0120 exempts specific wastes from regulation as hazardous wastes. Item I of this part currently provides an exemption for all wastes from the extraction, beneficiation, and processing of ores and minerals. The Agency is proposing to amend item I to incorporate

federal amendments promulgated by EPA on September 1, 1989, and January 23, 1990. The proposed amendments define the term "beneficiation" and specify the mineral processing wastes contained in this exemption. The proposed amendments incorporate the federal definition of "beneficiation". The proposed amendments which specify the scope of the exemption for mineral processing wastes incorporate the federal amendments, except the proposed amendments more stringently restrict the scope of the exclusion as explained directly below.

In federal amendments promulgated September 1, 1989, EPA limited the scope of the exclusion for mineral processing wastes to twenty-five specific waste streams. In later federal amendments promulgated January 23, 1990, EPA removed five of these wastes from the exclusion, bringing the number of mineral processing wastes contained in the exclusion to twenty waste streams. These twenty wastes are currently being examined further by EPA to determine their final regulatory status.

The Agency proposes to exempt from hazardous waste regulation only nine of the twenty mineral processing wastes which EPA has retained in the exclusion. Based on data given on these twenty wastes in EPA's July 1990 Report to Congress on Special Wastes From Mineral Processing and other EPA proposed and final regulations (see Exhibits 2, 3, 7, and 9), the Agency believes that eleven of these wastes are potentially hazardous and should not be excluded from hazardous waste regulation. Data given in these EPA documents shows that all of these eleven wastes are known to have exhibited a characteristic of hazardous waste at some time in the past. Thus, the Agency believes that these eleven wastes should be subject to evaluation to determine whether or not they are hazardous,

rather than exempt from hazardous waste regulation. These eleven wastes are: slag from primary lead processing; process wastewater from hydrofluoric acid production; chloride process waste solids from titanium tetrachloride production; calcium sulfate wastewater treatment plant sludge from primary copper processing; process wastewater from phosphoric acid production; process wastewater from primary magnesium processing by the anhydrous process; slag from primary zinc processing; phosphogypsum from phosphoric acid production; slag from primary copper processing; air pollution control dust sludge from iron blast furnaces; and basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production. The nine wastes which the Agency is retaining within the exclusion are not known to have displayed a characteristic of hazardous waste, even though EPA has studied and tested these wastes extensively. These nine wastes are: slag from elemental phosphorous production; fluorogypsum from hydrofluoric acid production; gasifier ash from coal gasification; red and brown muds from bauxite refining; basic oxygen furnace and open hearth furnace slag from carbon steel production; iron blast furnace slag; process wastewater from coal gasification; treated residue from the roasting/leaching of chrome ore; and slag tailings from primary copper processing.

In incorporating federal regulations, the Agency must be at least as stringent as or more stringent than the federal regulations. The proposed amendments which incorporate the federal definition of "beneficiation" and retain the exclusion for the nine specified mineral processing wastes are reasonable because they provide for consistency with federal regulations by being as stringent as federal regulations. By not exempting the other eleven processing wastes which EPA has excluded from regulation, the proposed rules are

more stringent than EPA's. It is reasonable to not exempt these eleven processing wastes from hazardous waste regulation because these wastes are known to display hazardous waste characteristics. EPA states in its Report to Congress on Special Wastes From Mineral Processing that four of the processing wastes EPA has excluded "have posed or may pose a danger to health or the environment." Although EPA does not state this directly about the other seven wastes, data in the report shows that these wastes have displayed characteristics of hazardous waste. It is reasonable to not exclude wastes such as these in order to provide for greater protection of human health and the environment. Although these eleven wastes are not retained within the exemption, they are not subject automatically to regulation as hazardous wastes. They are, however, subject to evaluation to determine whether or not they are hazardous and if they should be treated as such.

In deciding whether or not to retain some of these potentially hazardous wastes within the exclusion, EPA considered the economic factors which would affect existing facilities which generate these wastes if these wastes would have to be regulated as hazardous. In some cases, such as in the case of lead slag from primary lead processing, the economic costs were substantial enough to cause EPA to retain some of these wastes within the exclusion. The Agency did not need to consider existing facilities producing these wastes in deciding whether or not to exempt these wastes, because there are currently no facilities in Minnesota which produce any of these twenty processing wastes. Not being bound by the same economic constraints as EPA, the Agency proposes to not exempt eleven of these processing wastes in consideration of possible future situations where these potentially hazardous wastes are produced or disposed of in Minnesota.

The Agency believes that the possibility of a mineral processing facility being sited in Minnesota in the future is remote. The high cost of siting a new processing facility mandates that any new processing facility would need to be sited near a very large reserve of ore. Minnesota contains taconite (a type of iron ore) and copper reserves. The taconite reserve in northern Minnesota is large, but the capacity of existing out-of-state facilities which process the ore is sufficient to handle the quantity of ore mined. This situation makes the siting of a new taconite processing facility unlikely. If copper were ever mined in Minnesota, it would most likely be shipped for processing to existing nearby facilities in Michigan and Canada. Thus, the combination of the types and sizes of mineral reserves in Minnesota and the numbers and locations of processing facilities outside Minnesota makes the siting of a mineral processing facility in Minnesota economically impractical. Since it is very unlikely that such a facility will be sited in Minnesota in the future, the proposed rules will not have an impact on the mining industry in Minnesota. In the event that these wastes would be produced in Minnesota, the potential hazardousness of these wastes makes it reasonable to require that they be evaluated. It is more consistent to require evaluation of these wastes than to allow a blanket exclusion for wastes known to have the potential to be hazardous.

The possibility also remains that mineral processing wastes from out-of-state could be disposed of in Minnesota. Most processing wastes are disposed of on-site, but some are shipped off-site for disposal. Given this possibility, the proposed rules remove eleven of the twenty mineral processing wastes from EPA's exclusion because they are known to have exhibited a characteristic of hazardous waste at some time in the past. The Agency believes that these wastes should be subject to evaluation to determine whether or not they are hazardous wastes.

D. Minn. Rules pt. 7045.0135 Lists of Hazardous Wastes.

The existing Minn. Rules pt. 7045.0135 contains the lists of hazardous wastes. Subpart 2 of this part contains the list of hazardous wastes from nonspecific sources. The Agency proposes to amend subpart 2 to incorporate federal amendments promulgated by EPA on February 14, 1990. The proposed rules modify the scope of the listing of hazardous waste number F019, wastewater treatment sludges from the chemical conversion coating process of aluminum, found in this subpart. The proposed amendment excludes wastewater treatment sludges from the zirconium phosphating step of this process. This proposed amendment is reasonable because EPA has determined that this particular wastewater treatment sludge is nonhazardous.

The Agency also proposes to amend subpart 2 to incorporate a federal amendment promulgated by EPA on December 11, 1989. The proposed rules clarify the listing description of hazardous waste number F024, certain wastes from the production of chlorinated aliphatic hydrocarbons, and add another waste, to be numbered F025, to the list of hazardous wastes from nonspecific sources found in subpart 2 of this part. The proposed listing for waste number F025 includes other wastes from the production of certain chlorinated aliphatic hydrocarbons. It is reasonable to incorporate these federal amendments into the state rules in order to maintain consistency between state rules and federal regulations.

Subpart 3 of this part contains the list of hazardous wastes from specific sources. The Agency proposes to amend subpart 3 to incorporate federal amendments promulgated by EPA on October 6, 1989. The proposed amendments add two waste streams from the production of methyl bromide to this list. These wastes are numbered as K131 and K132 in the proposed rules. It is reasonable to incorporate these federal amendments into the state rules in order to maintain consistency between state rules and federal regulations.

E. Minn. Rules pt. 7045.0139 Basis for Listing Hazardous Wastes.

The existing Minn. Rules pt. 7045.0139, subp. 2 contains a list of the hazardous constituents which caused the Agency to list wastes as hazardous in part 7045.0135. As discussed in Section D above, the proposed amendments to part 7045.0135 add waste streams to the lists of hazardous wastes. Therefore, the Agency is proposing to amend Minn. Rules pt. 7045.0139, subpart 2 to add the constituents which caused the Agency to add these wastes to the lists of hazardous wastes. The constituents causing hazardous waste numbers F025, K131, and K132 to be added to the lists of hazardous wastes are added to the list of constituents in subpart 2. It is reasonable to incorporate these federal amendments into state rules in order to maintain consistency between state rules and federal regulations.

F. Minn. Rules pt. 7045.0141 Hazardous Constituents.

The existing Minn. Rules pt. 7045.0141 provides a list of hazardous constituents and their Chemical Abstract Service registry numbers. The Agency is proposing to amend this part to incorporate federal amendments promulgated by EPA on December 11, 1989. The proposed amendments add the constituent allyl chloride to the list of constituents found in subpart 2 of this part. It is reasonable to incorporate this federal amendment into state rules in order to maintain consistency between state rules and federal regulations.

G. Minn. Rules pt. 7045.0265 Use of Manifest.

The existing Minn. Rules pt. 7045.0265, subp. 4 contains the requirements for generators using hazardous waste manifests when shipping hazardous wastes out-of-state. The proposed amendment to this part incorporates a federal amendment promulgated by EPA on January 23, 1990, and changes the format of subpart 4 to accommodate this amendment. The proposed amendment clarifies that

it is the responsibility of the generator to assure that any out-of-state transporters and designated facilities handling the generator's waste sign the hazardous waste manifest accompanying the waste shipment. In changing the format of this subpart to accommodate the proposed amendments, the existing rules in subpart 4 will be contained in an introduction to the subpart and in item A of the subpart. The proposed amendment will be contained in a new item B. This proposed amendment is only a clarification of the existing rules and adds no new requirements. It is reasonable to incorporate this proposed amendment into state rules in the interest of clarity and to maintain consistency of language between state rules and federal regulations.

IV. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

To comply with Minn. Stat. § 14.115 (1990), the Agency has considered the statutory methods for reducing the impact of the proposed rules on small businesses. The statute requires that each of the following methods be considered:

1. The establishment of less stringent compliance or reporting requirements;
2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements;
3. The consolidation or simplification of compliance or reporting requirements;
4. The establishment of performance standards for small businesses to replace design or operational standards in the rule; and
5. The exemption of small businesses from any or all requirements of the rule.

None of the proposed amendments will have a negative impact on small businesses. The proposed amendments dealing with the definition of "designated facility", the requirements for hazardous waste generators, and the state

initiated changes in the rules for mixtures are only clarifications and do not contribute additional requirements to the hazardous waste rules. Thus, these amendments will not have any impact on small businesses. The proposed amendments to the lists of hazardous wastes will not affect small businesses either. One of these amendments removes a waste stream from regulation, which would have a beneficial effect on businesses that produce that waste stream. The other amendments add wastes to the lists of hazardous wastes which are not produced by small entities (see Exhibits 5, 6, and 8), thus having no effect on small businesses. Regarding the proposed amendments to the rules governing mining wastes, EPA has determined that these requirements will not have a significant adverse impact on a substantial number of small businesses (see Exhibits 3 and 7). The Agency believes that the proposed rules governing mining wastes will not have any effect on Minnesota businesses because there are currently no mineral processing facilities of the type contained in these amendments in the state. Thus, the limitation of the exclusion for mineral processing wastes from hazardous waste regulation will not affect small businesses. The proposed amendments dealing with mixtures of mining wastes and hazardous wastes apply in Minnesota to mining operations, which are not considered small businesses.

V. CONSIDERATION OF ECONOMIC FACTORS

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

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

In order to remain authorized by EPA to administer its hazardous waste program, the Agency is required to adopt federal amendments which are more stringent than current hazardous waste rules. The bulk of the proposed amendments in this rulemaking are more stringent than current rules. Since these requirements were first promulgated by EPA, the Agency is not increasing the amount of regulation or the economic burden of hazardous waste management by incorporating these federal amendments into the state rules. Though the Agency is being more stringent than EPA in the proposed amendment which excludes fewer mineral processing wastes from hazardous waste regulation than EPA excludes, this will not incur additional economic costs in Minnesota because the wastes which the Agency has decided not to exempt from hazardous waste regulation are not currently generated in Minnesota. These more stringent amendments will not have adverse future economic impacts on industry in Minnesota because the possibility of the siting of facilities that produce these wastes in Minnesota is remote. The proposed amendment which excludes a specific source waste from

the listings of hazardous wastes would provide an economic benefit to any business producing that waste since that waste no longer needs to be managed as hazardous waste. The proposed clarification amendments will have no economic impact since they do not change the content of the rules.

VI. 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. The Agency has also stated in this document that the proposed amendments will not affect small businesses and will not incur greater economic costs than the federal amendments that they incorporate. This document constitutes the Agency's Statement of Need and Reasonableness for the proposed amendments to the hazardous waste rules.

VII. LIST 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. 53, No. 203, pages 41288-41300, October 20, 1988.
2	<u>Federal Register</u> , Vol. 54, No. 72, pages 15316-15354, April 17, 1989.
3	<u>Federal Register</u> , Vol. 54, No. 169, pages 36592-36642, September 1, 1989.
4	<u>Federal Register</u> , Vol. 54, No. 184, pages 39298-39318, September 25, 1989.
5	<u>Federal Register</u> , Vol. 54, No. 193, pages 41402-41407, October 6, 1989.
6	<u>Federal Register</u> , Vol. 54, No. 236, pages 50968-50979, December 11, 1989.
7	<u>Federal Register</u> , Vol. 55, No. 15, pages 2322-2354, January 23, 1990.
8	<u>Federal Register</u> , Vol. 55, No. 31, pages 5340-5342, February 14, 1990.
9	EPA Report to Congress on Special Wastes from Mineral Processing, July 1990.

2-15-91
Date

for Barbara Lindsey Sims
Charles W. Williams
Commissioner