

Minnesota Pollution Control Agency

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Telephone (612) 296-6300

July 31, 1991

Maryann Hruby, Director
Legislative Commission to
Review Administrative Rules
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

As required by 1990 amendments to the Administrative Procedures Act, we are forwarding copies of our Statement of Need and Reasonableness (SONAR) for two separate proposed rule and rule amendment packages. These SONARs support rulemakings which govern the following:

8/12/91 Lead Contaminated Residential Sites - Response Action Priorities

8/19/91 Hazardous Waste Generator Licensing and Very Small Quantity
Generator Hazardous Waste Collection Program

If you have any questions please contact me at 612/297-8369.

Sincerely,

A handwritten signature in cursive script that reads "Carol Nankivel".

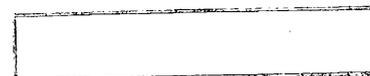
Carol Nankivel, Supervisor
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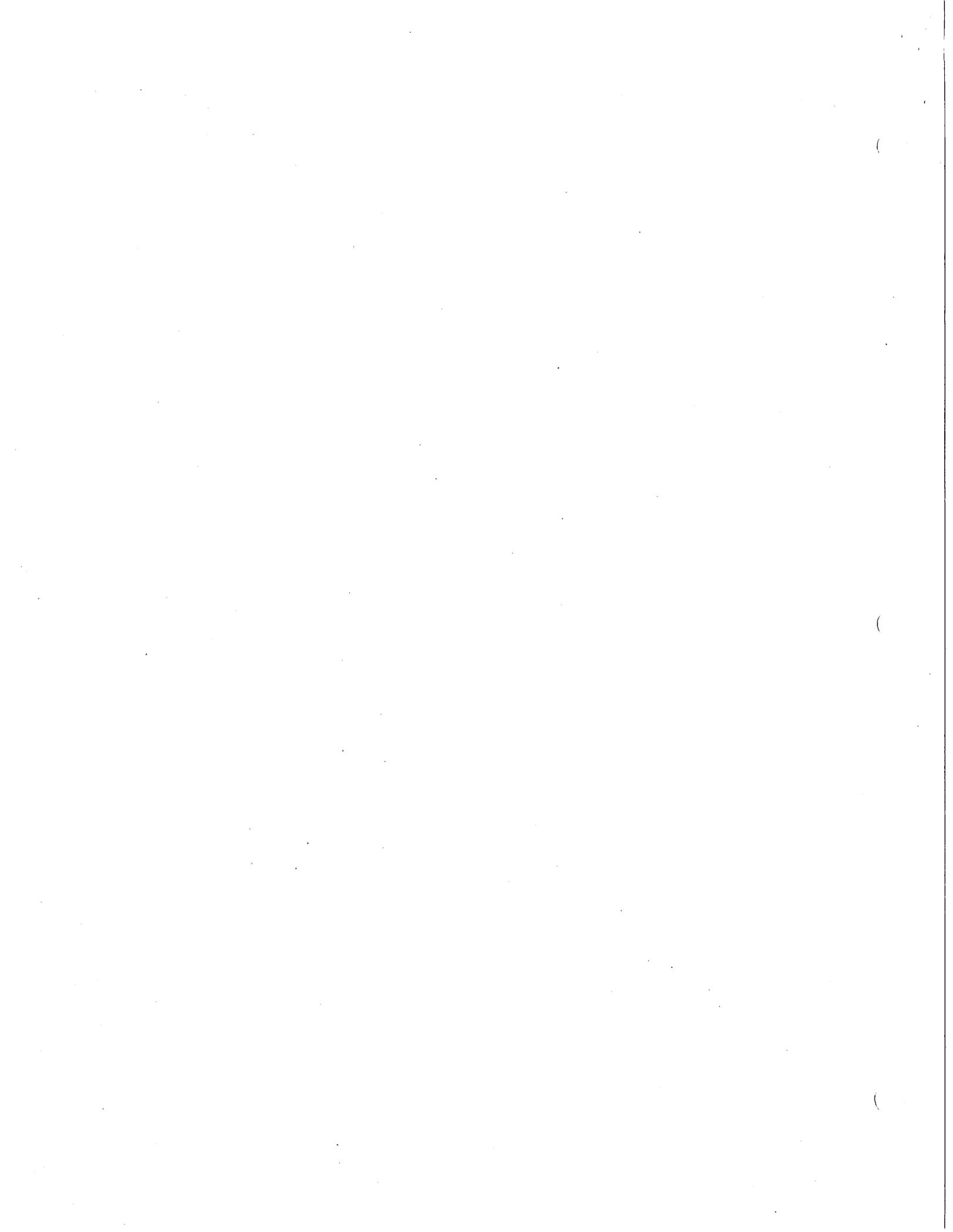
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Enclosure

The Legislative Commission to
Review Administrative Rules

AUG - 2 1991





STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments
Governing The Management, Treatment, Storage,
and Disposal of Hazardous Waste, Minn. Rules
Pts. 7001.0520, 7001.0530, 7001.0550,
7001.0710, 7045.0020, 7045.0075, 7045.0102,
7045.0120, 7045.0121, 7045.0125, 7045.0135,
7045.0137, 7045.0205, 7045.0206, 7045.0208,
7045.0211, 7045.0212, 7045.0213, 7045.0219,
7045.0220, 7045.0225, 7045.0230, 7045.0235,
7045.0240, 7045.0243, 7045.0245, 7045.0247,
7045.0248, 7045.0249, 7045.0250, 7045.0255,
7045.0261, 7045.0275, 7045.0290, 7045.0292,
7045.0294, 7045.0296, 7045.0298, 7045.0300,
7045.0304, 7045.0305, 7045.0310, 7045.0320,
7045.0351, 7045.0375, 7045.0450, 7045.0458,
7045.0472, 7045.0488, 7045.0526, 7045.0532,
7045.0534, 7045.0552, 7045.0564, 7045.0578,
7045.0596, 7045.0629, 7045.0655, 7045.0665,
7045.0675, 7045.0685, 7045.0692, 7045.1020,
7045.1030, 7045.1300, 7046.0031, and 7046.0050

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 Agency is proposing hazardous waste rule amendments that are separated for discussion into three categories: requirements for very small quantity generators, changes to the hazardous waste disclosure and reporting requirements, and changes to provide clarification to existing rules.

The first category pertains to the level of regulation for very small quantity generators (VSQGS). VSQGS are generators who produce less than 100 kilograms or 22 gallons per month of hazardous waste. The proposed amendments

**The Legislative Commission to
Review Administrative Rules**

AUG - 2 1991



provide the regulatory structure for the operation of and participation in VSQG hazardous waste collection programs.

The second category relates to hazardous waste generator disclosure and reporting requirements. Under current rules, all hazardous waste generators must disclose their wastes, submit a management plan for approval, and submit an annual report. The proposed amendments replace the disclosure requirement with a "Hazardous Waste Generator License" requirement.

The third category includes several and varied housekeeping measures to refine parts of the rules that have been identified by MPCA staff, metropolitan county hazardous waste personnel, and hazardous waste generators as needing clarification. Some revisions have also been made simply to enhance readability.

This statement of need and reasonableness is divided into six 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 discusses 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. Authority to adopt these amendments is provided under Minn. Stat. § 116.07, subd. 4 (1990).

II. NEED FOR THE PROPOSED AMENDMENTS

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 that does not lend itself to evaluation of each proposed revision. In the broad sense, the need to amend the Agency's rules governing the management of hazardous waste has three foundations:

(1) the need to provide a reasonable disposal option for very small quantity generators; (2) the need to change the generator hazardous waste disclosure system to a more formalized license system; and (3) the need to improve the accessibility for generators and enforceability for the Agency of the rules by improving the clarity of the rules through language and format revisions.

Under item (1), various sources inside and outside the Agency, including the staff of the Minnesota Technical Assistance Program (MnTAP), advised the Agency that transport and disposal of hazardous waste for VSQs is complicated and costly, and that the Agency should consider amending the rules to allow waste consolidation options. The rules currently require that all transport of hazardous waste must be done by a licensed hazardous waste transporter to a permitted hazardous waste facility using a hazardous waste manifest. Because of the expense and effort involved in making such arrangements, MPCA staff believe that many VSQ's simply stored their waste indefinitely or worse, disposed of it illegally. By allowing a practical option for disposal, hazardous waste from VSQs will not be accumulated for very long periods of time and will be less likely to be disposed of improperly.

For item (2), the license amendment proposal was Agency staff-initiated after being identified as a potentially useful enforcement and public information tool. The proposed hazardous waste generator licensing requirements

will provide staff and other government regulatory personnel, such as fire marshals, with practical and easily accessible hazardous waste information.

For item (3), housekeeping revisions to clarify, strengthen, and correct existing rule language are needed as an ongoing part of an active and complex program, especially a regulatory program with a large state-wide clientele.

The proposed amendments will continue to ensure protection of human health and the environment while allowing more flexibility in the management of hazardous waste for VSQGs by providing options for waste consolidation and by enabling easier access to hazardous waste information through the license requirement. It is necessary to adopt the proposed amendments for these reasons.

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 reasonableness of the proposed amendments is discussed below.

MINN. RULES CHAPTER 7001

PERMITS

MINN. RULES PT. 7001.0520 PERMIT REQUIREMENTS.

Subpart 2. Exclusions.

Item A. The clause "for fewer than 90 days" is deleted from this exclusion that allows generators to accumulate waste for a period of time without obtaining a permit. The time period for small and very small quantity generators is 180 days, therefore the 90 day reference is deleted.

Item B. The reference to Minn. Rules pt. 7045.0304 is changed to Minn. Rules pt. 7045.0213, subp. 2 due to the repeal of Minn. Rules pt. 7045.0304 and its incorporation into Minn. Rules pt. 7045.0213, subp. 2.

Item H. Waste managed as provided in Minn. Rules pt. 7045.0219, subp. 2 had been exempt from permit requirements. That phrase is deleted since it referenced accumulation time limits for small and very small quantity generators now located in item A.

Item M. This item proposes to exclude very small quantity generator hazardous waste collection programs from the permit requirements of this chapter if the operator meets the requirements of Minn. Rules pt. 7045.0320. This exclusion is reasonable because it removes the disincentive of obtaining a permit for operator/owners of collection programs. The VSQG collection programs will provide a service to the generators but also a public service by providing a practical disposal option for hazardous waste. The VSQG hazardous waste collection program requirements of Minn. Rules pt. 7045.0320 require that the collection program operator meet large quantity generator management requirements including personnel training, preparedness and prevention, contingency planning, and container requirements.

MINN. RULES CHAPTER 7045

HAZARDOUS WASTE

The reference to "parts 7045.0205 to 7045.0304" is changed to "parts 7045.0205 to 7045.0320." This rule citation is used throughout Minn. Rules Chapter 7045 as a generic reference to generator standards. Minn. Rules pts. 7045.0310 (Special Requirements for Waste Collected as Result of Household Hazardous Waste Management Program) and Minn. Rules pt. 7045.0320 (Requirements for Waste Collected as Result of Very Small Quantity Generator Hazardous Waste Collection Program) were recently added; thereby, requiring the change in this reference. Minn. Rule Pts. affected are: 7045.0125, 7045.0135, 7045.0205,

7045.0212, 7045.0213, 7045.0219, 7045.0310, 7045.0351, 7045.0375, 7045.0450, 7045.0472, 7045.0488, 7045.0578, 7045.0596, 7045.0655, 7045.0665, 7045.0675 and 7045.0692.

The reference to "parts 7045.0100 to 7045.0141" is changed to "parts 7045.0100 to 7045.0143." This rule citation is used throughout Minn. Rules Chapters 7001 and 7045 as a generic reference to identification and listing of hazardous waste rules. Minn. Rules pt. 7045.0143 (Groundwater Protection Hazardous Constituents List) was recently added (13 SR 577); thereby, requiring the change in this reference. Minn. Rules Pts. affected are: 7001.0530, 7001.0550, 7001.0710, 7045.0020, 7045.0075, 7045.0261, 7045.0300, 7045.0458, 7045.0526, 7045.0532, 7045.0534, 7045.0564 and 7045.0655.

MINN. RULES PT. 7045.0020 DEFINITIONS.

The following definitions have been added to or amended in this Rulemaking:

Subp. 6d. Cathodic protection. "Cathodic protection" is defined as the primary means of preventing corrosion of a metal surface by making that surface the cathode of an electrochemical cell. An aboveground storage tank system can be cathodically protected through the application of either galvanic anodes or impressed current. It is reasonable to define cathodic protection because it is the primary method of preventing corrosion in metal tanks and pipes, thereby keeping them from leaking. This definition is the standard definition used in the industry.

Subp. 9d. Compatible. Two or more substances are "compatible" if they maintain their respective physical and chemical properties upon contact with one another. It is reasonable to define this term because compatibility is an important factor in determining which materials can be used with particular substances to construct the safeguards which are required in the rules.

Subp. 13b. Corrosion protection. "Corrosion protection" is a method used to protect a metal tank, piping, or other components from corroding. The term is widely used in the storage tank industry and in the Agency's hazardous waste tank programs. The definition is the industry standard and is consistently used in Agency storage tank programs.

Subp. 31. Generator. The definition of generator is expanded such that the term generator means all size generators unless the rule provision specifically states otherwise. This is reasonable to avoid confusion.

Subp. 37d. Household Hazardous Waste Collection Site or Collection Site. The term "collection site" is being added in order to distinguish between a "facility" and a site which accepts and stores only household hazardous wastes. The rule currently uses the term facility in a general way to refer to both types of sites. Staff in the Agency's permits unit commented that the term "facility" has a specific meaning in the regulatory sense and it is confusing to refer to a non-permitted site, such as a household hazardous waste collection site, and a permitted site, such as a fully permitted hazardous waste storage and disposal facility, both as "facility." The term "collection site" is therefore added throughout the rule where appropriate for clarification.

Subp. 38e. Impermeable. "Impermeable" means a substance is not able to pass through the depth of a containment area. The term is widely used in the storage tank industry and in the Agency's hazardous waste tank programs. The term is sometimes defined using specific design standards. This definition uses a more general approach which sets forth the outcome without a specific design standard.

Subp. 43a. Indoor storage. It is reasonable to define the term "indoor storage" as storage within a permanently constructed building with at least a roof, three walls, and a nonabsorbent floor because this type of structure affords adequate protection from the elements for containers.

Subp. 64a. Outdoor storage. It is reasonable to define the term "outdoor storage" as storage that does meet the minimum requirements of "indoor storage" because it draws a clear regulatory line between two types of structures. The generator accumulation requirements (Minn. Rules pt. 7045.0292) have different requirements for indoor and outdoor storage and a generator's storage area clearly needs to fall into one category.

Subp. 80a. Secondary Containment. "Secondary containment" is a safeguard designed to contain a release. The term is widely used in the storage tank industry and in the hazardous waste tank programs. The definition is the industry standard and is consistent across Agency storage tank programs.

Subp. 100c. Vault system. This system is an underground, concrete, impermeable secondary containment structure with four walls, a floor, and roof used to encapsulate one or more tanks. It is reasonable to define a vault system in this manner because it provides a common term for the regulated community, the storage tank industry, and the Agency.

MINN. RULES PT. 7045.0102 MIXTURES OF HAZARDOUS AND NONHAZARDOUS WASTES.

Subp. 3. Mixtures of used oil and hazardous waste. Item C is added to provide a limited very small quantity generator exception to the used oil mixture provisions. There is no change from what was previously provided under Minn. Rules pt. 7045.0219, subs. 4 and 6, which is repealed in this rulemaking.

MINN. RULES PT. 7045.0120 EXEMPT WASTES.

Subp. 1. Exempt types of waste. The amendments propose to separate this part into 2 subparts. Subp. 1 will continue to list waste exempt from regulation under this chapter. Subp. 2 will list waste that is exempt under certain conditions.

Item A. Household waste continues to be exempt by collected household waste and collected household batteries are exempt only under certain conditions and are therefore relocated in subp. 2.

Item B. The exemption for mixtures of untreated sanitary sewage and other wastes that are discharged to a publicly owned treatment works is removed from this item. The exemption for sewage remains. The requirements for pretreated and unpretreated discharges to a sanitary sewer system are now found in Minn. Rules pt. 7045.0305.

Item I. The reference to hazardous waste facility as specified in Minn. Rules pt. 7045.0219, subp. 5, item B is changed to Minn. Rules pt. 7045.0208 because Minn. Rules pt. 7045.0219 is repealed and relocated without substantive change in Minn. Rules pt. 7045.0208.

Item Q. Pesticides meeting the requirements of Minn. Rules pt. 7045.0213, subp. 2 are exempt from the requirements of this chapter. This exemption currently is provided in Minn. Rules pt. 7045.0213 but for consistency it is included in this part.

Item R. Samples from treatability studies under Minn. Rules pt. 7045.0121 are exempt waste. This exemption is not new but is now located in this part in addition to Minn. Rules pt. 7045.0121 so that all exempt wastes are in one part and may be easily referenced.

Subp. 2. Waste regulated under collection programs. The listing of exempt waste under this part has recently, within the past two years, expanded to included waste that is exempt if it is collected as provided in specific collection program directives. For clarity, the proposed amendments group collected wastes under one subpart.

Items A and B. Collect household hazardous waste and collected household batteries are relocated from subp. 1, item A without change to the requirements.

Item C. Collected hazardous waste from very small quantity generator hazardous waste collection programs licensed under Minn. Rules pt. 7045.0320 is and exempt waste under specific conditions. While not totally exempt from regulation under Minn. Rules ch. 7045, by meeting specially developed requirements (see Part 7045.0320 of this SONAR), this waste is exempt from the other requirements of Minn. Rules ch. 7045.

MINN. RULES PT. 7045.0121 TREATABILITY STUDY EXEMPTION.

Subp. 1. Applicability. The quantity determination exclusion in this part is deleted. The exclusion is relocated in Minn. Rules pt. 7045.0120 (Exempt wastes), item R. Minn. Rules pt. 7045.0120 is referenced in Minn. Rules pt. 7045.0206, subp. 2, item A. as exempt from quantity determinations. It is reasonable to locate the rules governing all exempt wastes in one part for easy reference.

Subp. 2. Conditions of exemption. The reference in item F to Minn. Rules pt. 7045.0296 (Annual reporting) is changed to Minn. Rules pt. 7045.0248 (License reissuance application and report) because Minn. Rules pt. 7045.0296 under the former disclosure requirements is repealed and replaced by Minn. Rules pt. 7045.0248 under the new licensing requirements. There is no change in the information that a generator needs to report to the commissioner.

MINN. RULES PT. 7045.0125 MANAGEMENT OF WASTE BY USE, REUSE, RECYCLING, AND RECLAMATION.

Subp. 3. Out-of-State Wastes. Out-of-state wastes were exempt from reporting requirements previously under Minn. Rules pt. 7045.0296 which is now repealed. The reporting requirements are now under Minn. Rules pt. 7045.0248 and out-of-state wastes are still exempt.

Subp. 5. Requirements for use of hazardous wastes as feedstock. This subpart is revised to reflect the changes in license and reporting subpart numbering. The language is also expanded to enhance readability.

Subp. 6. Requirements for reclamation of specific hazardous wastes. This subpart is revised to incorporate by reference the requirements of subpart 5, item B. This is reasonable because it eliminates duplicative language. In addition, this change makes it immediately apparent that these requirements are identical to the feedstock requirements.

MINN. RULES PT. 7045.0135 LIST OF HAZARDOUS WASTES.

Subp. 1. General. The word "disclosure" is changed to "license". The disclosure requirements of the generator rules are being replaced by license requirements. See the discussion provided in parts 7045.0225 to 7045.0250 of SONAR.

The listing of acutely hazardous wastes listed in subps. 2 and 3 and the statement related to quantity determination is deleted because it is unnecessary. The material is now located in Minn. Rules pt. 7045.0206 (Generator size determination).

Subp. 4. Discarded commercial chemical products, off specification species, containers, and spill residues. The statements in items E and F related to quantity determination are deleted because they are unnecessary. Detailed instructions for generator size determination are now located in

Minn. Rules pt. 7045.0206. These waste do count towards size determination because they are not exempted under Minn. Rules pt. 7045.0206, subp. 2.

Subp. 5. PCB wastes. The statement in item B related to quantity determination is deleted for reasons given under Minn. Rules pt. 7045.0135, subp. 4. This waste is also to be counted towards size determination.

MINN. RULES PT. 7045.0137 SMALL AMOUNTS OF UNRELATED CHEMICAL.

Language is inserted that limits the hazardous waste number of MNO2 to use for licensing purposes only. This change is for clarification to inform the generator of the limited use of this waste number. The clarification is needed since a generator is required to more fully characterize each waste code for manifesting and disposal purposes. In addition, the reference to Minn. Rules pt. 7045.0235 is changed to Minn. Rules pt. 7045.0230, subp. 4 where the provision has been relocated.

MINN. RULES PT. 7045.0205 APPLICABILITY OF GENERATOR STANDARDS.

Subp. 2. Applicability to generators and Subp. 3 Applicability to owners or operators of hazardous waste facilities. The language in these subparts is expanded for readability to include both the parts that are cross-referenced and a short description of the parts. There is no change in the actual requirements of this part.

MINN. RULES PT. 7045.0206 GENERATOR SIZE DETERMINATION.

Subp. 1. Applicability. This part applies to all generators in determining generator size.

Subp. 2. Large quantity generator. A large quantity generator was previously described as a generator who did not meet the quantity definitions of small quantity generator or very small quantity generator. For clarity the

quantities are specifically stated in this subpart. There is not change in this definition from the size quantities for a large quantity generator from the former rules.

Subp. 3. Small quantity generators. This size definition was formerly located in Minn. Rules pt. 7045.0219, subp. 1 and has been relocated to this part with no change.

Subp. 4. Very small quantity generators. This size definition was formerly located in Minn. Rules pt. 7045.0219, subp. 4, item A, subitem 2 although it was not specifically identified as applying to very small quantity generators but was a subcategory of small quantity generator: ". . .a small quantity generator who in a calendar year generates less than 100 kilograms of waste . . ." There are also other parts of the chapter that provide special requirements for this subcategory of small quantity generator, for example, the used oil mixtures requirement (Minn. Rules pt. 7045.0102, subp. 3, item C). This rulemaking also includes a specialized collection program limited to this size generator. It is reasonable to define and name this category separately for clarity.

Subp. 5. Exempt wastes. Items A to F provide that the waste streams listed in this subpart are not included when a generator counts his or her hazardous wastes to determine generator size. Except for item D, the exemptions are fully based on what the federal program (40 CFR Part 261.5) provides and it is reasonable to incorporate these exceptions. Wastes exempt from regulation; recycled wastes meeting the requirements under Minn. Rules pt. 7045.0125; used oil that is recycled; mixtures of hazardous and nonhazardous waste if the resultant mixture is nonhazardous under Minn. Rules pt. 7045.0102; and spent materials that are reclaimed and reused on-site provided the spent material has

been counted once. These are reasonable in that they are based in fairness (counting only once) and common sense (not counting what is not regulated). The recycling exemption offers an incentive to recycling. Since all of the above are based on federal regulations and the state rule had not previously specifically addressed the size determination issue, these provisions are to a great extent already used in the implementation of the state hazardous waste program.

Subp. 6. Changes in generator status. This subpart provides the process for determining generator size when a generator's rates of monthly generation temporarily exceed the maximum amounts provided in subps. 3 and 4. The requirements for this process were formerly located in Minn. Rules pt. 7045.0219, subp. 3 (Excessive generation). The requirements are not changed although the language is expanded to include the process for very small quantity generators. Very small quantity generators need not seek written reinstatement to very small quantity generator status from the commissioner if their volume of generation returns to the allowable quantity limits and the very small quantity generator complies with the allowable quantity limits during the other 11 months of the calendar year. This is reasonable because the number of very small quantity generators in the hazardous waste management system (approximately 10,000) makes micromanagement by the Agency unrealistic.

MINN. RULES PT. 7045.0208 TREATMENT OR DISPOSAL.

Subp. 1. Treatment or disposal options. Items A to D list out a generator's options for treatment or disposal. The language is identical to language formerly located in Minn. Rules pt. 7045.0219 for small quantity generators, Minn. Rules pt. 7045.0292 for large quantity generators, and Minn. Rules pt. 7045.0290 for all generators. This new part emphasizes the importance

of these regulations by placing them in a separate part. This part can then be easily referenced where treatment or disposal options are found in other parts of the rules; thereby, enhancing consistency and text clarity.

Subp. 2. Relinquishing control. This language was formerly located in Minn. Rules pts. 7045.0275, subp. 1 and 7045.0290, subp. 2. The text has been consolidated with the requirements remaining the same. The revision is made to improve the format of the rules.

Subp. 3. Effect on liability. This language, formerly located in part 7045.0290, subpart 3, is relocated to improve the format of the rules. There is no change in the requirement.

MINN. RULES PT. 7045.0211 REQUIREMENTS FOR GENERATORS WITH ON-SITE FACILITIES.

Subp. 1. Waste procedures. Items A to G, referencing specific generator management requirements, are deleted. A generator with an on-site facility is currently exempt from Minn. Rules pts. 7045.0261 to 7045.0290. It is not necessary to have the rules specifically exempt the generator from these parts because the parts only apply to wastes being transported, which is not the case with on-site facilities. It is reasonable to clearly indicate to this type of generator that he or she is fully regulated under this chapter. One change is that the generator is required to comply with Minn. Rules pt. 7045.0210 (Financial responsibility of hazardous waste generators). There is no reason for this type of generator to be exempt from the financial responsibility provision that applies to all other generators.

Subp. 2. Standards for wastes shipped off-site and Subp. 3. On-site facility standards. Both subparts are repealed because they are redundant with subp. 1.

MINN. RULES PT. 7045.0213 FARMERS; PESTICIDES.

Minn. Rules pt. 7045.0304 is included in this part as subpart 2 with no change in the requirements. It's inclusion is reasonable because this part and Minn. Rules pt. 7045.0304 both pertain to farmers and pesticides. The clarity of the rule is improved by combining rule parts relating to the same subject.

MINN. RULES PT. 7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

This part is repealed. All of the provisions of this part are now located in other parts of this chapter with no substantive change. For example, accumulation requirements for all generators are now located in Minn. Rules pt. 7045.0292. This format change emphasizes the fact that small and very small quantity generators must meet the requirements of Minn. Rules pts. 7045.0205 to 7044.0320 with limited exceptions.

Subp. 1. Applicability; quantities. Relocated to Minn. Rules pt. 7045.0206.

Subp. 2. Exemption. No longer needed because of change in rule format.

Subp. 3. Excessive generation. Relocated to Minn. Rules pt. 7045.0206.

Subp. 4. Accumulation on-site. Relocated to Minn. Rules pts. 7045.0292 and 7045.0102.

Subp. 5. Management requirements.

Item A. No longer needed because of change in rule format.

Item B. Relocated to Minn. Rules pt. 7045.0292.

Item B., subitems 6 and 7. Relocated to Minn. Rules pt. 7045.0294, subp. 1a.

Item B., subitem 8. Relocated to Minn. Rules pt. 7045.0208.

Subp. 6. Mixtures. Relocated to Minn. Rules pt. 7045.0102.

Subp. 7. Testing. This part is no longer needed since the one time exemption date of March 29, 1991 is past. The current language of Minn. Rules pt. 7045.0131, subp. 7 (Toxicity) applies to all size generators.

MINN. RULES PT. 7045.0220 DISCLOSURE; MANAGEMENT PLAN.

This part is repealed. The disclosure requirement is replaced by a license requirement as set forth in Minn. Rules pt. 7045.0225. See Part 7045.0225 of this SONAR.

MINN. RULES PT. 7045.0225 GENERATOR LICENSE.

The information required by the MPCA under the proposed licensing rules remains essentially the same as that already required under the disclosure, management plan and annual reporting requirements. However, the proposed licensing provisions provide more detail concerning the terms and conditions to be met by a generator than are currently in effect under the disclosure provisions. It is reasonable to change from a disclosure requirement to a licensing requirement because the concept of disclosure is not easily understood by hazardous waste generators. Licensing is clearly understood as a process that includes applications, approval and issuance of a license, and a contractual relationship between the licensor and licensee. Those elements were contained in the disclosure process but it was often confusing to the regulated community. In addition, the metropolitan counties, under the authority provided allowing the counties to manage county hazardous waste programs, already require generator licenses. Using licensing language and processes in the state non-metropolitan program will provide statewide consistency. A new requirement under subp. 2 is that the generator must post the license in a public area at the licensed site. This is reasonable because it provides easily accessible

hazardous waste information to government personnel for inspection or emergency purposes. It also serves as a tool for public information regarding hazardous waste.

MINN. RULES PT. 7045.0230 CONTENT OF LICENSE APPLICATION.

Subp. 1. Information required. The information required in an application is the same as previously required in a disclosure. However, the proposed rules state that the commissioner will provide a form for license application.

Subp. 3. Prohibition. The prohibition against making a false statement is repealed in this part and is now included in Minn. Rules pt. 7045.0243, subp. 3, item D.

Subp. 4. Laboratory wastes. See part 7045.0235 of this SONAR.

MINN. RULES PT. 7045.0235 LABORATORY WASTES.

This part is repealed. The substance of this part is relocated to Minn. Rules pt. 7045.0230, subp. 4 because the exemptions provided for these wastes is limited to application requirements; therefore, it is appropriate to locate the exemption as a subpart of Minn. Rules pt. 7045.0230.

MINN. RULES PT. 7045.0240 SUBMISSION OF LICENSE APPLICATION.

Subp. 1. Existing hazardous waste and subp. 2. New hazardous waste.

Subps. 1 and 2 are repealed because they address application submittal under timelines that are replaced by subp. 3. The requirement for generators outside the state of Minnesota who transport waste to a hazardous waste facility within the state to notify the commissioner is repealed. This is reasonable because the agency receives the hazardous waste information needed through the manifest notification system.

Subp. 3 License application submittal. This part provides that a generator must submit a license application within 30 days of first producing a hazardous waste. The generator must not treat, dispose of, or relinquish the waste until at least 30 days after application submittal. After that period, the generator may proceed to manage his or her waste including management under Minn. Rules pt. 7045.0208 which provides treatment and disposal options. This schedule affords the Agency 30 days to respond if the Agency perceives that there is a problem with the application. At the same time it provides the generator the opportunity to proceed with his or her operation while waiting for the license application process to be completed.

Subp. 4. Prohibition on generation. This part states that a generator who is denied a license or does not submit a timely application must immediately stop generating hazardous waste. While it is stated in Minn. Rules pt. 7045.0225 that a generator must obtain a license to generate, this provision clarifies the results of not obtaining a license.

MINN. RULES PT. 7045.0243 TERM AND CONDITIONS OF LICENSE.

Subp. 1. Term of license. The term of license for large and small quantity generators is one year with a provision for the initial license to be issued for from nine to eighteen months in order for the Agency to bring new licensees into the annual fee and report cycle. The former disclosure and reporting requirements, including the fee cycle under Minn. Rules ch. 7046, were on an annual cycle and the licensing process continues on an annual cycle.

The term of license for very small generators is not to exceed two years. The option of a longer term allows the Agency to place very small quantity generators on a two year cycle when it is appropriate.

Subp. 2. Special conditions. This subpart provides the Agency with the ability to specialize a license. This affords the agency the opportunity to customize conditions for specific generators which is reasonable in a contractual relationship. It is possible for the licensee to negotiate a special condition with the Agency as long as it is within the requirements of existing state law and administrative rule.

Subp. 3. General conditions. The general conditions are not an expansion of existing state law or administrative rule. They are placed in this part to offer clear guidance to the licensee about the Agency's requirements.

MINN. RULES PT. 7045.0245 LICENSE APPROVAL AND ISSUANCE.

Subp. 1. Review and approval. The review and approval process is similar to that process formerly in place for disclosures. The new component is the Agency's process for approval or denial of the application. Inherent to a licensing process is the ability to approve or deny the license.

Subp. 2. License issuance. In order for a license to be issued, the application must be approved and generator fees must be paid. It is reasonable to include payment of fees as a condition of license issuance because the fees collected support the operating costs of the licensing program.

MINN. RULES PT. 7045.0247 LICENSE REISSUANCE AND CONTINUATION OF EXPIRED LICENSE.

Subp. 1. License reissuance. The generator's license will be reissued if the generator meets the reporting requirements of Minn. Rules pt. 7045.0248 and pays generator fees required under Minn. Rules ch. 7046. It is reasonable to require a report and payment of fees in order to allow a generator to continue to generate hazardous waste because it is substantially the same requirement as found under the previous disclosure provisions.

Subp. 2. Continuation of expired license. This subpart allows the generator to continue operation under the conditions of the expired license if the licensee has submitted an application for reissuance, responds to Agency requests for information, pays generator fees, and is in compliance with the conditions of the expired license. It is reasonable to allow continued operation if these basic requirements are met.

MINN. RULES PT. 7045.0248 LICENSE REPORTING REQUIREMENTS.

This part is substantially the same as Minn. Rules pt. 7045.0296 (Annual reporting) that is being repealed. The contents of this part are relocated within the licensing section of the chapter (Minn. Rules pts. 7045.0225 to 7045.0250) because the report is an integral part of the license requirements and the reissuance process. Subp. 1, item H has been expanded to include the actual certification language for clarity.

MINN. RULES PT. 7045.0249 MANAGEMENT CHANGES.

This part is repealed. Minn. Rules pt. 7045.0243 (Term and conditions of license), item H now addresses management changes.

MINN. RULES PT. 7045.0250 LICENSE REVOCATION.

This part is similar in format and in substance to the process provided for the revocation of a hazardous waste facility permit under Minn. Rules pts. 7001.0180 and 7001.0190. It is reasonable to incorporate a process that is already in place and with which the public and the Agency is familiar. A revocation provision is an integral part of a license program as is reasonable so long as it provides a clear understanding of what is expected, in addition to a hearing process.

Subp. 1. Justifications to revoke. The commissioner may revoke a license if the licensee has failed to comply with existing laws or license conditions, to disclose relevant or truthful information, or to pay a penalty owed under Minn. Stat. § 116.072.

Subp. 2. Procedure. The commissioner must give a 30 day written notice of intent to revoke with specific justification. It is reasonable for a licensee to be given formal and written notice of the commissioner's intent to revoke. This clearly documents the commissioner's justification which then allows the licensee to respond specifically.

Subp. 3. Reinstatement. This subpart provides a process for the licensee to respond to the commissioner's notice to revoke under subp. 2. It is reasonable to provide for a response and subsequent review by the commissioner before proceeding to a formal contested case hearing as provided under subp. 4.

Subp. 4. Revocation without reissuance. This subpart provides that the commissioner give notice to the licensee of intent to revoke the license without reissuance. The licensee may request a contested case hearing in accordance with the rules of the Office of Administrative Hearings. This process parallels the facility permit revocation process in Minn. Rules pt. 7001.0190. It is reasonable to use the same process since permitting and licensing procedures are similar in format and impact for the regulated community.

MINN. RULES PT. 7045.0255 ONE-TIME DISPOSAL REQUIREMENTS.

This language is revised for clarity and to replace disclosure terms with license terms. There is no change in the actual requirements.

MINN. RULES PT. 7045.0261 MANIFEST DOCUMENT; GENERAL REQUIREMENTS.

Subp. 1a. Exemptions. This subpart lists generators who may transport without a manifest. Item A provides that very small quantity generators may transport their own wastes to very small quantity generator hazardous waste

collection programs licensed under Minn. Rules pt. 7045.0320. This is reasonable because transport and disposal of small quantities of hazardous waste for this size of generator is costly and not easily available. Item B provides for the use of the alternate manifest system that is relocated from Minn. Rules pt. 7045.0219. There is no change in the requirements of item B.

MINN. RULES PT. 7045.0275 PROPER HAZARDOUS WASTE MANAGEMENT.

Subp. 1. Relinquishing control. This subpart is repealed and relocated in Minn. Rules pt. 7045.0208, subp. 2 without change in the actual requirement.

MINN. RULES PT. 7045.0290 HAZARDOUS WASTE MANAGEMENT.

This part is repealed and are relocated in Minn. Rules pt. 7045.0208 with no change in the actual requirements.

MINN. RULES PT. 7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

The overall change in this part is incorporating the small quantity and very small quantity generator accumulation requirements from Minn. Rules pt. 7045.0219. This incorporation has necessitated some revision to format and subpart order.

Subp. 1. When allowed without a permit. This subpart sets forth the accumulation requirements for large quantity generators. The language in item A that delineates the treatment and disposal options is replaced by a reference to subpart 7045.0208. There is no substantive change to the requirements for large quantity generators except:

Item F. Containers that hold free liquids that are stored indoors must be place on an impermeable surface. For outdoor storage, the current rule requires placement of containers on a curbed impermeable surface. It is reasonable to expand the rule to include inside storage areas because containers stored on surfaces that are not impermeable pose an environment hazard if the containers leak.

Item H. Minn. Rules pt. 7045.0562, subps. 1 and 2 (General requirements for ignitable, reactive, or incompatible waste for interim status facilities) is incorporated by reference into the large quantity generator accumulation requirements for large quantity generators. This requires the generator to take precautions to prevent reactions that generate extreme heat or other reactions. This is a reasonable requirement for a potentially dangerous situation.

Subp. 2. Start date. This part defines the date on which accumulation starts. The part is expanded to include the accumulation start dates for small and very small quantity generators. The start dates remain the same as they were under Minn. Rules pt. 7045.0219.

Subp. 3. Accumulation requiring a permit. This part is repealed and relocated without substantive change in subp. 10.

Subp. 4. Accumulation of waste by generator. This part is repealed, renamed and relocated without substantive change in subp. 8.

Subp. 5. Small quantity generators. This subpart is relocated from Minn. Rules pt. 7045.0219, subp. 4, item A, subitem 1 without substantive change.

Subp. 6. Very small quantity generators. This subpart is relocated from Minn. Rules pt. 7045.0219, subp. 4, item A, subitem 2 without substantive change.

Subp. 7. Acute hazardous waste accumulation. This subpart is relocated from Minn. Rules pt. 7045.0219, subp. 4, item B without substantive change.

Subp. 8. Satellite accumulation. Formerly located in subp. 4.

Subp. 9. Transportation time extension. Formerly located in Minn. Rules pt. 7045.0219, subp. 4, item A, subitem 3. There is no substantive change in the requirements.

Subp. 10. Time extension and Subp. 11. Accumulation requiring a permit. These requirements were formerly located in subp. 3 for large quantity generators and in Minn. Rules pt. 7045.0219, subp. 5 for small and very small quantity generators. There is no substantive change in the requirement.

MINN. RULES PT. 7045.0294 RECORD KEEPING.

Subp. 1. Manifests. A reference to the generic "he" is changed to gender neutral language.

Subp. 1a. Alternate Manifests. The record keeping requirements for the alternate manifest system under Minn. Rules pt. 7045.0075, subp. 5 have been relocated from Minn. Rules pt. 7045.0219, subp. 5, item B to this part without any change in the actual requirements.

Subp. 2. Reports. The term "disclosure" is changed to "license application". See part 7045.0225 of SONAR.

Subp. 2a. Container Inspection Reports. Containers that are used for the accumulation of hazardous waste under Minn. Rules pt. 7045.0292 must currently be inspected at least weekly and a written record must be kept. See Minn. Rules pt. 7045.0626, subp. 5 (use and management of containers) which is incorporated by reference in Minn. Rules pt. 7045.0292. It is reasonable to incorporate this requirement in this part and to include a retention time of three years which is consistent with other record retention requirements.

Subp. 5. Location of Records. The records required under this part must be located at the license site and must be accessible for review. This is reasonable because Agency inspection personnel cannot complete an onsite inspection without reviewing the records required in this part.

MINN. RULES PT. 7045.0296 ANNUAL REPORTING.

This part is repealed. The requirements of this part are now located in Minn. Rules pt. 7045.0248 with modifications. The relocation places the

requirements within the generator licensing requirements of Minn. Rules pts. 7045.0225 to 7045.0250 which is reasonable because re-licensing for generators is contingent upon meeting the reporting requirements.

MINN. RULES PT. 7045.0298 EXCEPTION REPORTING.

Two references to the generic "he" and "his" are change to gender neutral language.

MINN. RULES PT. 7045.0304 FARMERS; SPECIAL CONDITIONS.

This part is repealed. The substance of this part is now located in part 7045.0213, subpart 2. See part 7045.0213 of SONAR.

MINN. RULES PT. 7045.0305 STANDARD FOR GENERATORS WHO SEWER HAZARDOUS WASTE.

This part addresses the counting of sewered waste for size determination purposes. It provides that untreated hazardous waste disposed of by sewerage will be fully counted. The pretreated waste that meets an 80 percent reduction of the quantity of the hazardous waste constituent mass prior to sewerage will not be counted. It also provides that a generator who has a volume of zero under the pretreatment exemption will be classified as a very small quantity generator and must meet requirements applicable to very small quantity generators. This approach is reasonable because it acknowledges that the sewerage option for disposal does not eliminate the need for a generator to participate in hazardous waste management practices, including licensing and reporting requirements. At the same time, the pretreatment exemption provides an incentive for pretreatment.

MINN. RULES PT. 7045.0310 SPECIAL REQUIREMENTS FOR WASTE COLLECTED AS RESULT OF HOUSEHOLD HAZARDOUS WASTE MANAGEMENT PROGRAM.

Subp. 2. Notification.

The notification exemption for permitted facilities is being deleted. Staff believes it is necessary to be informed via a notification form, of all household hazardous waste collection sites established whether or not the collection site is established at a permitted facility. When this rule was originally adopted, staff felt that a facility permit could be a means of providing this information. However, staff now realize that the permit process will not necessarily provide this information, and in order to provide consistency in the rules to all operators of collection sites, staff feels it is necessary to require a notification from everyone.

Item K. The requirement for, "any other information necessary to describe all aspects of the program" is being deleted because it is a vague requirement. The original intent of this provision was to allow the Agency to request additional information on the notification if necessary. Because the Agency has general authority to request additional information from an operator if needed, this particular requirement is not necessary. Also, because of the vagueness of the language, operators have no way of determining which information would be necessary to include. Therefore the deletion of this item is reasonable.

Subp. 3. Management Requirements.

Item B. The language of this item has been changed in order to make the statement more clear and is for grammatical purposes only.

Item C. The requirements for personnel training, preparedness, prevention and contingency planning were originally to be covered under Minn. Rules chs. 7045.0454, 7045.0462, 7045.0464, 7045.0468, 7045.0470, and

7045.0572 as referenced in subpart 4 of this rule. However, after closer review of these sections staff discovered that these requirements are identical to what is required under Minn. Rules pt. 7045.0292, subp. 1, item H as referenced here in item C as an exemption. Because Chapter 7045.0292, subp. 1, item H is located within 7045.0205 through 7045.0304 which are referenced under the management requirements of subpart 3, staff decided to delete the requirements of subpart 4 of this rule and to include the requirements of Minn. Rules pt. 7045.0292 subp. 1, item H. The way to achieve that is to delete this item so that it will not be exempted. This change is reasonable in order to remove the redundancy and clarify the personnel training, preparedness, prevention and contingency planning requirements.

Item E. The new term "collection site" has been added to this item for reasons mentioned in Minn. Rules pt. 7045.0020 above. Also, the language of this item needed to be restructured for grammatical purposes.

Item E (2): This item is being amended to include the term "collection site" and to restructure the sentence to make it more clear.

Item F. This subpart is being amended to include the phrase "intends to perform treatment procedures other than those allowed in subpart 7." This phrase is being added to reflect the language of subpart 7, which allows for certain types of treatment methods for collected household hazardous waste at the collection site. If an operator wants to perform a treatment procedure not mentioned in subpart 7, then the operator will need special permission from the Commissioner. This amendment is reasonable in order to provide consistency with all parts of the rule.

Item H. This item is being deleted because Minn. Rules Pt. 7045.0296 is repealed. The reporting requirements are located in Minn. Rules pt. 7045.0248 which is already exempt under item A.

Subp. 4. Additional Requirements.

Currently, this subpart and subpart 3 item C contain different rule part references but the requirements in each rule reference are identical. In subpart 3, item C, operators are exempt from the personnel training, preparedness, prevention, and contingency planning requirements of Minn. Rules pt. 7045.0292. In this subpart the requirements for these same procedures are added back in but reference a rule part from a different section of the hazardous waste rules. Therefore, staff is proposing to delete the language of subpart 4 and keep the requirements of subpart 3, item C in order to remove the redundancy, clarify the management requirements and to maintain consistency with the other rule references given throughout this amendment.

Subp. 5. Transportation Requirements.

Items B and C. These items are being amended to change the sentence structure and are for grammatical purposes only.

Subp. 6. Storage of Collected Wastes.

Items A and B. This subpart is amended to add the phrase "accept household hazardous waste from another collection site" to the language. This subpart currently states that the requirements apply to an operator who stores household hazardous wastes for more than 90 days. It is important to specify that an operator of a household hazardous waste collection site may "accept" collected household hazardous waste from off-site because otherwise this would not be allowed without a permit. It is not the Agency's intent that a permit be required in order for operators to accept collected household hazardous waste from other sites. The addition of this phrase is necessary in order to clarify the intent of this subpart.

Item C. The reference to Minn. Rules Part 7045.0528 has been added because of staff's comment that the operators of some collection sites, particularly those held at facilities, may wish to store the collected wastes in tanks instead of barrels. It is necessary therefore to reference the storage tank management rules. The last sentence of this item is deleted because it refers to treatment of collected wastes and it is irrelevant with regard to this specific subpart and unnecessary because the requirements for on-site treatment have been stated elsewhere in the rule.

Item D. The phrase "...which allows management of the waste..." is being added to make it clear that a hazardous waste permit must specifically allow for the acceptance and management of household hazardous waste from collection sites. This amendment is needed in order to emphasize that while wastes from households are exempt from regulation, collected household hazardous wastes delivered from collection sites are regulated wastes and must be managed appropriately.

Subp. 7. Treatment.

Item C, Subitem 2. This part currently requires that the person performing the treatment procedure must have experience or training in the particular procedure. However, this requirement is already implied under subpart 2, item H for personnel safety training procedures. In these procedures it is required that employees be trained relative to their duties. Therefore, this item is being deleted to remove the redundancy.

Item C, Subitem 4. The requirement for evidence of liability insurance is being deleted because it is beyond the scope of the Agency's duties to delve into the financial aspects of the operation of collection sites or facilities. If liability insurance is a requirement of these rules then it would be necessary to also indicate what amount of insurance would be sufficient. The

Agency does not believe that this is an appropriate regulatory function and is not requiring such information from the generator. Financial issues should be the responsibility of the operator. Therefore the Agency feels it is reasonable to delete this requirement.

MINN. RULES PT. 7045.0320 VERY SMALL QUANTITY GENERATOR HAZARDOUS WASTE
COLLECTION PROGRAMS.

The proposed amendments allow very small quantity generators to consolidate their wastes at an off-site location prior to final transport and disposal. Proposed rules also provide that very small quantity generators may transport their own wastes to the collection site without hazardous waste manifests and without employing Department of Transportation licensed transporters (Minn. Rules pt. 7045.0261). Persons who operate a consolidation site must be licensed under this part and must meet management requirements that parallel those required of large quantity generators.

Subp. 1. Applicability. This part identifies the regulated community governed by this part as being persons who establish or operate a hazardous waste collection program for very small quantity generators.

Subp. 2. Definitions. The definitions of a collection program, collection site, program operator, and site operator are provided for clarity. The program and the site definitions limit applicability to programs and sites licensed under this part.

Subp. 3. Licensing. An operator of a program must obtain a license to operate and must reapply annually. Generators of hazardous waste are required to obtain a license and hazardous waste facilities are required to obtain a permit. Although a collection program is neither a generator or a facility, the level of environmental risk it presents falls somewhere in between. Licensing a program allows for Agency review of the operation and management procedures and

for the potential denial of a license if the Agency determines that the operation would not sufficiently protect human health and the environment.

Subp. 4. License application. The application requests standard site and operation information such as owner and operator names and addresses, collection site locations, service area, operating hours, anticipated waste streams and a description of how the waste is to be managed including information regarding proposed onsite treatment. The applicant must also provide a description of personnel safety training and emergency procedures. The names and addresses of proposed transporters and facilities to be used must also be provided. It is reasonable to require the submittal of such information so that the Agency can evaluate the collection program's ability to manage hazardous waste.

Subp. 5. Changes to license conditions. An operator of a program is required to report changes to the conditions of the license in the next annual report for treatment changes addressing the bulking of paints, solvents, motor oil, and antifreeze. Treatment changes other than bulking must be approved by the commissioner before being implemented by the collection program. This process is reasonable because it allows the program to continue operation without interruption. At the same time, the Agency through the annual review process is able to monitor activities sufficiently. The exceptions are changes to treatment processes other than bulking which require closer monitoring for potential problems.

Subp. 6. License issuance and reissuance. The license issuance and reissuance requirements are based on the same process used for generators. This is reasonable since the process is familiar to the regulated community and lends consistency to the review and approval methods used within the hazardous waste program.

Subp. 7. Reporting requirements. The reporting requirements include the reporting requirements for generators under Minn. Rules pt. 7045.0248 but are adjusted to apply to collection program circumstances. It is reasonable to require a level of reporting similar to that required of generators.

Subp. 8. Management requirements. An operator of a program must comply with essentially the same standards applicable to large quantity generators although the licensing and reporting requirements somewhat are modified to fit collection program circumstances. The accumulation limit of 90 days for large quantity generators under Minn. Rules pt. 7045.0292, subp. 1 is modified to allow small scale collection programs that collect amounts that correspond to small or very small quantity generator amounts to accumulate wastes according to the provisions of Minn. Rules pt. 7045.0292, subp. 3 or 4 as applicable. This allows the program operator to store small amounts of collected wastes for longer periods of time. This could be a financial benefit and the Agency believes it will not endanger the environment due to the smaller amounts accumulated.

Subp. 9. Transporting. Collected waste may be transported within the program without obtaining an identification number and without the use of a manifest. Within the program means that collect waste may be transported between collection sites within the same program. This allows larger amounts to be consolidated prior to final transport and is reasonable in that it allows for cost savings. The transporters are still required to meet transportation requirements under Minn. Rules pts. 7045.0351 to 7045.0397 which incorporate by reference the federal Department of Transportation hazardous waste transport regulations, including container standards.

Subp. 10. Generators who operate collection programs. Generators who operate collection programs are required to comply fully with generator management standards for their own wastes and to maintain separate records. Generators are not relieved of their responsibility under this chapter for their own wastes. This subpart reinforces requirements already in place and serves to clarify existing requirements.

MINN. RULES PT. 7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subp. 3. Exemptions. The reference to Minn. Rules pt. 7045.0304 is changed to Minn. Rules pt. 7045.0213 due to the repeal of Minn. Rules pt. 7045.0304 and its incorporation into Minn. Rules pt. 7045.0213. See part 7045.0213 of SONAR.

MINN. RULES PT. 7045.0526 USE AND MANAGEMENT OF CONTAINERS.

Subp. 6 Containment and subp. 9 Closure. The term "bases" is changed to "floors" because floors is consistent with terminology used in the indoor storage definition (subpart 7045.0020, item 43a).

MINN. RULES PT. 7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

The reference to Minn. Rules pt. 7045.0304 is changed to Minn. Rules pt. 7045.0213 due to the repeal of Minn. Rules pt. 7045.0304 and its incorporation into Minn. Rules pt. 7045.0213. See part 7045.0213 of SONAR.

MINN. RULES PT. 7045.0629 REQUIREMENTS FOR SMALL QUANTITY GENERATORS THAT ACCUMULATE HAZARDOUS WASTE IN TANKS.

Subp. 1. Scope. The reference to the accumulation limits of "7045.0219" is changed to "7045.0292" where the small quantity accumulation limits have been relocated without substantive change.

MINN. RULES PT. 7045.0685 SPENT LEAD-ACID BATTERIES BEING RECLAIMED.

Subp. 1. Scope. The term "composition" is changed to "nonabsorbent" because nonabsorbent is consistent with terminology used in the indoor storage definition (subpart 7045.0020, item 43a).

MINN. RULES PT. 7045.0692 HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY.

Subp. 1. Scope. In Item D the reference to Minn. Rules pt. 7045.0219, subp. 6 is changed to Minn. Rules pt. 7045.0102, subp. 3. The very small quantity generator used oil mixture regulations are relocated without change to the requirement. See part 7045.0102 of SONAR.

MINN. RULES PT. 7045.1020 EFFECT OF AGENCY APPROVAL OF COUNTY ORDINANCE.

The reference to disclosure requirements are replaced with license requirement citations. See parts 7045.0225 to 7045.0250 of SONAR.

MINN. RULES PT. 7045.1030 COUNTY ACTIONS.

Subp. 3. Reporting. Disclosure language is changed to license language. See parts 7045.0225 to 7045.0250 of SONAR. A general summary requirement replaces the previous specific requirements repealed in subpart 4. Subpart 4 is obsolete because most of the information is provided by the counties to the Agency on an ongoing basis through the use of electronic data transfers. The transfer of information is a dynamic system that warrants the flexibility provided in the new language.

Subp. 4. Annual summary. Repealed. See subp. 3.

MINN RULES PT. 7045.1300 LAND DISPOSAL RESTRICTIONS; APPLICABILITY AND

EXEMPTIONS.

Subp. 2. Exemptions. Language describing generator size quantities is deleted because Minn. Rules pt. 7045.0206 provides a comprehensive description of very small quantity generator status. Also, the reference to Minn. Rules pt. 7045.0304 is changed to Minn. Rules pt. 7045.0213 due to the repeal of Minn. Rules pt. 7045.0304 and its incorporation into Minn. Rules pt. 7045.0213. See part 7045.0213 of SONAR.

CHAPTER 7046

FACILITY AND GENERATOR FEES

MINN. RULES PT. 7046.0031 NONMETROPOLITAN AREA GENERATOR FEES.

Subp. 1. Basis of fees. The word "disclosure" is changed to "license." The disclosure requirements of the generator rules are being replaced by license requirements. See parts 7045.0225 to 7045.0250 of SONAR.

Subp. 4. Annual fees. The three references to Minn. Rules pt. 7045.0219 and generator size descriptive language are deleted. Subpart 7045.0219 is repealed in this rulemaking and a replacement reference is not needed because the terms "small quantity generator" and "very small quantity generator" are now defined under Minn. Rules pt. 7045.0020.

Subp. 5. Follow-up action fee. The reference to disclosure requirements are replaced with license requirement citations, including the annual reporting requirement (Minn. Rules pt. 7045.0296) that is now license reissuance application and report (Minn. Rules pt. 7045.0248). See parts 7045.0225 to 7045.0250 of SONAR.

MINN. RULES PT. 7046.0050 GENERATOR FEE EXEMPTIONS.

Subp. 4. Certain nonmetro area generators. The word "disclosure" is changed to "license." The disclosure requirements of the generator rules are being replaced by license requirements. See parts 7045.0225 to 7045.0250 of SONAR.

The reference to Minn. Rules pt. 7045.0296 (Annual reporting) is changed to Minn. Rules pt. 7045.0248 (License reissuance application and report) because Minn. Rules pt. 7045.0296 is replaced by Minn. Rules pt. 7045.0248 under the new licensing requirements. See part 7045.0248 of SONAR.

Subp. 6. Wastes collected as a result of a very small quantity generator hazardous waste collection program. A program operator is exempt from generator fees for the waste collected. This is reasonable because to collect fees from the collection program operators would mean that fees would be paid for the same wastes twice, initially by the very small quantity generator and subsequently by the program operator. The Agency is considering proposing a program fee from the collection program operator during a later rulemaking.

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 are designed to allow for flexibility in the rules and in some cases are less stringent than current rules, thus having a beneficial effect on all businesses to which they apply.

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.

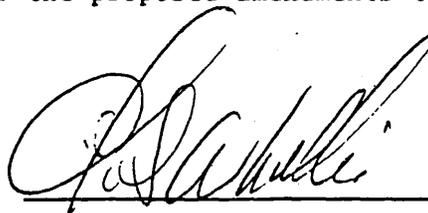
The proposed amendments reduce the burden of the hazardous waste rules. The proposed amendments are designed to allow for flexibility in the rules and are less stringent than current rules, thus having a beneficial economic effect on all businesses to which they apply. The proposed amendments not will incur any adverse economic impacts on any business.

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 adversely affect small businesses and will not incur greater economic costs. This document constitutes the Agency's Statement of Need and Reasonableness for the proposed amendments to Minnesota's hazardous waste rules.

Date:

July 22, 1991



Charles W. Williams
Commissioner

