

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the
Proposed Rule Amendments
Governing the Management
and Operation of Household
Hazardous Waste Collection
Programs

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

Interest in household hazardous wastes began in the early 1980's when the first collection programs were implemented. These programs encouraged homeowners to bring any materials that may be hazardous from their homes to these collection centers, and the wastes would be identified, packaged and disposed of properly. This concept grew in popularity and in 1987 the Minnesota State Legislature adopted an amendment to the Waste Management Act (Minn. Stat. § 115A.96) authorizing the Minnesota Pollution Control Agency (hereinafter "Agency") to establish a state program to manage household hazardous wastes. The Agency was required to provide education to the public regarding the proper management of household hazardous wastes and technical assistance regarding the establishment and operation of collections by public or private entities. Since the enactment of that statute, over 100 collections have been conducted in Minnesota, primarily by the Agency and metropolitan area counties. Household hazardous waste collections are the primary tool to educate homeowners in identifying hazardous materials in their home and it provides an opportunity to properly dispose of these wastes in an environmentally safe manner. Substantial amounts of hazardous materials have been diverted from being disposed of in the trash, down the drain, or in the ground through these programs. Interest in household hazardous waste

collection programs is growing, both on the part of the general public and local units of government.

This Statement of Need and Reasonableness (hereinafter "Statement") is divided into eight parts. Following this introduction, Part II establishes the statutory authority for the amendments. Part III contains the Agency's explanation of the need for the proposed amendments. Part IV discusses the reasonableness of the proposed amendments. Part V 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, subd. 2 (1988). Part VI documents the economic factors the Agency considered in drafting the amendments as required by Minn. Stat. § 116.07, subd. 6 (1988). Part VII sets forth the Agency's conclusion regarding the amendments. Part VIII contains a list of the exhibits relied on by the Agency to support the proposed amendments. The exhibits, which are incorporated by reference into this Statement, are available for review at the Agency's offices at 520 Lafayette Road, St. Paul, Minnesota 55155.

II. STATUTORY AUTHORITY

The proposed amendments will govern the management of household hazardous waste collection programs. These collection programs are currently regulated by Minn. Stat. § 115A.96. However, the Agency is establishing the proposed requirements under the Agency's statutory authority to adopt rules governing the management of hazardous waste as set forth in Minn. Stat. § 116.07, subd. 4.

III. NEED FOR THE PROPOSED AMENDMENTS

Minn. Stat. ch. 14 (1988) requires an Agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rules or amendments as proposed. In general terms, this means that the 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 the Agency is appropriate. The need for the proposed amendments is discussed below.

Household hazardous waste programs are currently regulated by Minn. Stat. § 115A.96. Subdivision 4 requires the collected wastes to be handled according to the standards applicable to hazardous waste generators, with the exception that a facility permit is not required for storage over 90 days. However, the existing hazardous waste rules, specifically, Minn. Rules pt. 7045.0120, item A, exempt household waste from the hazardous waste rules. Because of this exemption, the generator standards in Minn. Rules pts. 7045.0205 to 7045.0304 do not specifically address household hazardous wastes or collections and are therefore confusing as to exactly how the generator standards apply to the household programs.

In addition, Agency staff have conducted numerous household hazardous waste collections over the past several years and have worked with counties and other entities to help them establish permanent collection programs of their own. Since passage of Minn. Stat. § 115A.96, the Agency has applied the generator standards in Minn. Rules pts. 7045.0205 to 7045.0304 to the household collection activities. The experience gained during that time leads the Agency to believe that it is necessary to revise the applicable standards to specifically address concerns regarding the tracking, management and transportation of household hazardous wastes.

Businesses and industries generate hazardous wastes that must be properly managed to avoid risk to human health and the environment. The hazardous waste rules are the means by which the Agency assures such safety. Household collection programs are somewhat different in that they function as a service to individuals by offering an environmentally safe alternative to disposing of hazardous materials in the trash. The Agency believes that this alternative must be encouraged and facilitated, as well as regulated, through the hazardous waste rules. Because of the environmental benefits of keeping household hazardous wastes out of the solid waste stream, the household collection programs should not be inhibited by strict regulations unless those regulations are specifically necessary for protection of human health and the environment.

For example, many of the programs are one day collections staffed by volunteers who work at the sites for short periods of time. The program operators are not always able to provide extensive training for the job as required by the existing generator standards. Also, because many different people bring a variety of materials to household hazardous waste collections, the volumes, sources and specific nature of the wastes cannot always be determined. However, the existing generator rules require generators to provide such information on disclosure statements to the Agency.

Some collection programs are located in areas that are not serviced by licensed hazardous waste transporters. Under the generator rules only licensed transporters can transport manifested hazardous waste. This requirement substantially inhibits collection programs in some areas by limiting the availability of transporters and increasing the expense of waste transport.

The above described special circumstances lead the Agency to believe that it is appropriate to apply different standards to household hazardous waste collection programs than currently apply to generators of hazardous waste. The

Agency feels that the proposed amendments are needed to ensure the safe and efficient operation of these collection programs while encouraging the development and use of such programs.

IV. REASONABLENESS OF THE PROPOSED AMENDMENTS

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

A. General Reasonableness of the Proposed Amendments

The Agency approached the need to adopt rules for household hazardous waste collection programs by examining the hazardous waste generator rules which currently regulate the programs and by observing collections operated by the Agency and by other parties. Applying the generator rules to the activities carried out at collections has served to identify those standards which are appropriate to the operation of collections as well as those standards which are inappropriate. The Agency has examined each of the rules applicable to hazardous waste generators and determined whether it is a necessary requirement for household hazardous waste collection programs in order to protect human health and the environment. The Agency has addressed the issues of collection, management, transportation and disposal of household hazardous wastes in a manner that will ensure worker and environmental protection while at the same time allowing these programs to continue and expand throughout the state. The Agency believes this approach to be reasonable.

B. Minn. Rules pt. 7001.0520 (Permit Requirements)

Subpart 2. Exclusions. The hazardous waste permit rules currently require a full hazardous waste permit for any waste stored over 90 days (Minn. Rules pt. 7001.0520). However, Minn. Stat. § 115A.96, subd. 4 allows collected household waste to be accumulated beyond 90 days without a permit with the permission of the Commissioner, provided the applicable standards for the use and management of containers are met. Proposed part 7001.0520, item K excludes household hazardous waste collection programs from the permit requirements if the operator meets the requirements of the proposed rules governing hazardous waste management programs. Minn. Rules pt. 7045.0310, includes provisions on how the Commissioner's approval for storage may be obtained and requires compliance with Minn. Rules pt. 7045.0526, which sets out the standards for the proper condition, inspection, and management of containers. This provision is reasonable because it makes the rules consistent with the statute which exempts such collections from facility permit requirements.

C. Minn. Rules pt. 7045.0020 (Definitions)

The current rules do not include definitions for the terms defined below. The terms household, household waste, and household hazardous waste may be interpreted in a number of different ways. The Agency believes it is reasonable to define these terms specifically so that there is a common understanding of the subject of these rules.

Subpart 37a. Household. This term will have the meaning given it in Minn. Stat. § 115A.96 subdivision 1a. This is reasonable because it makes the rules consistent with the statute.

Subpart 37b. Household hazardous waste. This term will have the meaning given it in Minn. Stat. § 115A.96, subdivision 1b. This is reasonable because it makes the rules consistent with the statute.

Subpart 37c. Household waste. Household waste is traditionally thought of as waste from a home or residence. This definition broadens that notion so that similar wastes generated from places other than homes can be included in these proposed regulations and it is reasonable to define that here. The specific sources of waste that are considered to generate "household waste" are based on the definition of household waste found in the federal hazardous waste regulations under 40 CFR 261.4 (b)(1).

D. Minn. Rules pt. 7045.0120 (Exempt Wastes)

This part in the current rule defines "refuse from households" as including garbage, trash, and sanitary wastes in septic tanks. Household hazardous wastes are not specifically mentioned but have always been included in this exemption. The proposed rules have taken this language, with some changes, and made it a definition, proposed subpart 37c. The proposed change to item A will simply exempt household waste (as newly defined) and collected household hazardous wastes that are managed as specified in part 7045.0310.

This proposed change in item A of the current rule modifies the exemption of household hazardous waste to make it contingent on compliance with the requirements of part 7045.0310, which are the proposed requirements for household hazardous waste management. The Agency believes that this is a reasonable approach to clarifying the current rule with regards to household hazardous wastes. The Agency believes that it is reasonable to continue to consider household hazardous wastes to be exempt from regulation as a hazardous waste, provided that certain standards are met to ensure that the waste is acceptably managed while under this exempt status.

This exemption is similar to the exemption provided for hazardous waste samples under item N of part 7045.0120. These wastes are excluded from regulation as hazardous wastes provided certain conditions are met. In the case of household hazardous wastes, the conditions for proper management were so extensive that they were included in a separate part of the rules. However, it is the Agency's position that until collected household hazardous wastes are transported to a final treatment, storage or disposal site, they should continue to be exempt from regulation as hazardous wastes.

E. Minn. Rules pt. 7045.0310 (Special Requirements for Waste Collected as a Result of a Household Hazardous Waste Management Program)

Subpart 1. Applicability. This part identifies the regulated community governed by the proposed rules. Item A refers to any program which accepts or collects household hazardous wastes from households except as provided in Minn. Rules pt. 7045.0685, which are the existing rules for collection and reclamation of used lead acid batteries. Lead acid batteries are not included in these proposed rules because there are businesses such as gas stations and auto part stores that accept spent lead acid batteries brought in from individuals. Unless these batteries are excluded from the applicability, these types of businesses would be required to follow all the requirements proposed. Since there are already rules to address the handling and storage of spent lead acid batteries the Agency feels it is reasonable to exclude them from the proposed rules.

In preliminary discussions of the proposed rules there has been a concern identified regarding the status of batteries collected from households. In some cases, retail stores or businesses that are not otherwise involved in household hazardous waste collection may voluntarily collect batteries from households. There is a concern that these businesses will be discouraged from

offering this useful service if they become subject to regulation under the hazardous waste rules.

The statute governing household hazardous wastes states that wastes that are collected are subject to regulation under the generator standards and does not make any exception for batteries. The Agency recognizes that the collection of a single type of waste in a rather stable form like batteries presents significantly less risk than the large scale collection of various types of household hazardous waste. The Agency believes that a high level of regulation may not be appropriate for a site that only collects batteries from households. However, battery waste can pose safety problems in a collection setting. Certain management practices must be observed and even voluntary collection programs should be conducted under some sort of official supervision or at least a notification procedure.

The legislation has imposed full generator standards on household hazardous waste collection facilities since 1987. Since that time a few counties have begun to collect batteries. In these cases the Commissioner has issued letters to the sponsoring counties that waive the generator standards and establish more specific conditions for the operation of such collections. The Agency is examining collection options for household batteries through the Legislative Commission on Minnesota Resources (LCMR) Household Battery Study. At this time the Agency believes that it is appropriate to wait to develop rules until the Agency has fully assessed the concerns associated with battery collection and the options that are reasonably available for managing this specific waste stream.

Item B refers to programs established by a resource recovery facility to segregate household hazardous waste from household waste during processing,

and item C refers to programs established by solid waste disposal facilities to segregate household hazardous waste from household waste during processing. Minn. Stat. § 116.07, subd. 4k(a) requires that these facilities identified in items B and C, address household hazardous waste collections. It is therefore reasonable to include them in the applicability of the proposed rules.

Subpart 2. Notification. Any person who operates or establishes a household hazardous waste management program has to notify the Commissioner prior to beginning the program. The notification information is intended to be used in lieu of a generator's disclosure statement. Minn. Rules pt. 7045.0230 establishes disclosure requirements for hazardous waste generators. It lists the information required about the hazardous waste that is generated including chemical composition of the waste, their corresponding hazardous waste numbers, testing of the waste and estimated volumes produced in a year. At a household hazardous waste collection, residents drop off their hazardous wastes at the collection sites that may be held in parking lots staffed by volunteers. The nature of this type of operation precludes obtaining the kinds of information required on a disclosure. The proposed notification information will provide the Commissioner with the details on location of the program, names of operators, manner of storage, safety and emergency procedures, names of waste transporters, and other information necessary to describe the program. This provides a level of accountability that is appropriate for household hazardous waste collection programs and the Agency believes this is a reasonable approach.

Subpart 3. Management requirements. Minn. Stat. § 115A.96 establishes the generator standards as the basis for household hazardous waste collections. These standards govern all aspects of hazardous waste management and have been the requirements which business and industry have followed when

managing their wastes. The Agency believes that this is a reasonable basis of regulation for household hazardous waste collection programs. However, based on the Agency's experiences with household hazardous waste collection programs, the Agency believes that certain exceptions and modifications to the generator standards are reasonable.

Item A provides an exception from the disclosure and management plan requirements. As discussed above, it is not possible for the operators of household hazardous waste collections to anticipate the kind of information required in a disclosure and management plan. However, the Agency believes that the notification requirements provide a reasonable alternative to the need to obtain advance information regarding the collection program.

Item B excludes the generator from the requirement to obtain an identification number until the collected waste is sent off site to a treatment, storage or disposal facility. Generator identification numbers are required in order to accurately track hazardous waste when it is transported from the point of generation to the point of treatment, storage or disposal. Under the hazardous waste program, such tracking is done by entering manifest information into a computerized system, and a unique generator number is necessary for the operation of that tracking system. The same tracking concerns do not exist for household hazardous waste collections. One day collections do not represent a permanent source of waste generation, and the proposed rules do not require that a manifest be used to transport waste from collection points to intermediate collection points. The proposed rules only require a manifest when the collected waste is transported to its final destination. The Agency believes that until the manifest is required, the waste shipment will not be entered into a computerized tracking system and there is no need for a unique, site specific generator identification number.

Identification numbers must be obtained from the Environmental Protection Agency and involve time and expense which is not justifiable until there is an actual use for the information. It is therefore reasonable to exclude operators of collection sites from the need to obtain an identification number until such a number becomes necessary for manifest purposes.

Item C provides an exemption from the generator requirements for personnel training, preparedness and prevention, and contingency planning. These requirements are cited in part 7045.0292 by referencing provisions in the interim status facility standards. These provisions, parts 7045.0558, and parts 7045.0566 to 7045.0576 address personnel training, preparedness and prevention, arrangements with local authorities for emergencies, contingency plans, emergency procedures, and post emergency requirements. Subpart 4 of the proposed rules establishes essentially the same requirements which will be applicable to household hazardous waste collection sites. These provisions will be further discussed at that point. Item C is reasonable to avoid duplication of requirements.

Item D requires that a person only transport household hazardous waste off site to a permitted facility or Commissioner approved facility. While a permitted facility may treat, store, and dispose of hazardous waste, a Commissioner approved facility may only store hazardous waste. A Commissioner approved facility would not require a licensed transporter to deliver the wastes. This option was developed to expedite the management of household hazardous waste collected from areas not readily serviced by licensed hazardous waste transporters. The Agency believes this is a reasonable provision.

Item E establishes the requirements for the transportation of collected household hazardous wastes. As discussed above, the proposed rules are providing operators of collection sites the option of transporting the

waste without a hazardous waste manifest until the waste is ultimately disposed. This is only an option, and an operator may use a manifest if they so desire. However, the Agency believes that while the waste is being managed as an exempt waste, there is no need to have it fully tracked through the hazardous waste system.

The Agency does not disagree that the Minnesota Department of Transportation (MnDOT) requirement for the use of a licensed transporter is a reasonable requirement for commercial generators of hazardous waste. Use of a licensed transporter ensures a level of transporter insurance coverage and MnDOT surveillance that provides for an additional level of environmental and human health protection. However, by requiring a licensed transporter, the rules greatly increase the cost of waste transport, and in remote areas of the state, licensed transporters may not even be available. The Agency is concerned that the expense and unavailability of licensed transporters will present an obstacle to the environmental benefit of household hazardous waste collection programs. For this reason, the Agency is retaining the exempt status of collected household hazardous waste while making this exempt status contingent upon meeting basic management standards. As exempt wastes, the MnDOT requirements for licensed transporters under part 8870.0200 are not applicable.

All household hazardous waste collections conducted to this time in Minnesota have been sponsored by the Agency and all wastes collected under these programs have been transported by a licensed transporter. However, the Agency believes that there are a number of reasons why allowing program operators the option of using an unlicensed transporter is justified. These reasons are relative risk, cost and accountability.

The Agency agrees that by allowing the option of, under certain circumstances, transporting collected wastes without a licensed transporter, there is a certain reduction in the level of environmental protection. The Agency is in a position of seeking to regulate for the maximum environmental benefit while maintaining a reasonable level of protection for human health and the environment. Total regulation of household hazardous wastes from the point of collection would represent the most environmentally safe position. However, by imposing a prohibitively high standard of regulation, the Agency would be in effect discouraging the collection of these wastes and encouraging the continued disposal of these wastes in landfills and resource recovery facilities. The Agency believes that the state would then run a higher risk of environmental harm than it would if the Agency allows collected wastes to be managed at a somewhat reduced level of regulation.

The Minnesota Legislature is committed to a major initiative to get all areas of the state involved in the process of removing household hazardous wastes from the waste stream that is being disposed of in municipal solid waste landfills. All counties are mandated to develop plans by 1992 for collecting household hazardous wastes, and solid waste and resource recovery facilities must also develop plans before they are re-permitted.

The Agency anticipates that in the future there will be many different types of household waste collections. The Agency, in working with counties, is considering conducting city to city "milk-runs", where wastes are collected along a route over a several day period, or they may do one-day collections within a certain radius of a collection facility. The Agency expects that such

programs will be conducted in less populated areas of the state where there is little option of immediately delivering the collected waste to a permitted facility. The Agency is concerned that in these cases the cost of engaging a licensed transporter to do the milk-run or daily pick-ups may be prohibitive and prevent the development of such collection options. In some areas of the state that do not have a high concentration of commercial hazardous waste generators and a high demand for transportation services, arrangements for licensed transporters may only be made with transporters from the metropolitan area. Counties will have limited budgets for the collection of household hazardous waste. If transportation is a major expense, fewer household waste collections will be held and less waste will be collected for proper management.

The Agency believes that the same concerns do not exist for transportation of collected household hazardous waste as exist for commercially generated hazardous waste. Household hazardous waste collections are sponsored by government units or businesses, such as resource recovery facilities or solid waste disposal facilities, with an interest in keeping such waste out of the environment. Licensing of hazardous waste transporters is reasonable where there is a high risk that the waste would not otherwise be carefully managed while enroute to the disposal facility or where there is a concern that the generator of the waste will not have the resources to provide for cleanup in the event of a spill during transportation. However, these same concerns are not applicable to the entities that sponsor household hazardous waste collections. Because these sponsors will have an interest in ensuring the safe management of the collected wastes they can be expected to provide for safe transportation.

The Agency believes that in this case, transporting the collected waste without a manifest but with a shipping paper, which provides all the information required on a manifest, will provide an acceptable level of environmental protection. The same concerns that exist for the transportation of hazardous waste from commercial hazardous waste generators do not exist for the transportation of household waste. Such collections are intended, not for expedient waste disposal, but to more appropriately manage a waste that would be otherwise transported without a manifest as a solid waste. Therefore, the Agency believes that the optional use of a manifest is reasonable.

Item F refers the operator of the collection site to an additional provision of the proposed rules governing storage of the waste. Under the generator standards, waste may not be stored for more than 90 days without a hazardous waste facility permit. The statute specifically allows storage without a permit. The Agency believes that it is reasonable to allow storage for more than 90 days if certain conditions are met. This item is a reasonable reference to the storage provisions that are allowed.

The proposed rules specify that no facility permit is required unless the person treats or disposes of the wastes on site. The issue of what constitutes treatment has been discussed in the development of the proposed rules. The process of waste "treatment" covers a wide range of activities, from relatively simple bulking of paint wastes to much more dangerous activities such as re-containerization of reactive waste and the operation of solvent recovery stills. Representatives of the metropolitan counties have stated that it is essential that the operators of household hazardous waste collections be allowed to conduct some simple treatment processes without being required to obtain a full facility permit. Because the term "treatment" can be

so broadly applied and may cover activities that should be reasonably regulated under a hazardous waste permit, the Agency believes that this is an issue that should be further examined and perhaps regulated in more specific detail.

However, the Agency recognizes that there is a more immediate need to provide rules to govern the most common aspects of household hazardous waste collections so that these programs may safely continue.

The Agency will continue to work toward the development of rules that will provide more specific regulation of the treatment activities that may be conducted as part of a household hazardous waste program. However, in order to continue with the promulgation of the proposed rules the Agency is proposing to allow the same treatment options for household hazardous waste collections as are allowed for generators of hazardous wastes.

Under the existing rules governing the issuance of hazardous waste permits, certain exceptions are provided. Part 7001.0520 provides an exclusion for the accumulation of hazardous waste by generators. The Agency has interpreted this exclusion to also extend to any treatment activities that are done in the accumulation containers. Thus a generator and the operator of a household collection may combine or bulk wastes, or conduct solidification or neutralization activities if it is done within the accumulation container. The Agency does not extend this exclusion to address treatment activities conducted in tanks or containers constructed for the purpose of waste treatment if those tanks and containers are not the accumulation vessel. (Exhibit 5)

The permit rule also provides for certain treatment activities to be conducted under permit by rule regulations. Such activities as elementary neutralization or pretreatment may be conducted if the waste and the treatment

activity meet the specified requirements. The Agency believes that it is reasonable at this time to consider the operator of the collection site as the generator of the waste for purposes of allowing permit by rule treatment of the waste.

The Agency is proposing this interpretation of the regulatory status of the operator of the household hazardous waste collection site in recognition of the need to allow certain basic waste treatment activities in order to encourage the collection of household hazardous wastes. Bulking and re-containerization of wastes will significantly reduce the expense of handling a large portion of the wastes received at collections. However, the Agency recognizes that there is a certain risk associated with any process for waste treatment and believes that additional constraints may be reasonably imposed in future rule amendments.

Item G excludes the operator of a collection site from the need to meet certain generator recordkeeping requirements. Minn. Rules pt. 7045.0294, subparts 2 and 3, require that the generator keep a copy of their disclosure, annual report and the test results of their waste analyses.. This information is not required from the operators of household waste collection sites so it is not reasonable to require that they keep copies of it.

Item H excludes the operator of a household collection site from the requirement to submit an annual report. As discussed above, the proposed notification requirements are intended to provide the Commissioner with the information needed to approve the operation of the household hazardous waste collection site. Annual reporting is a means of monitoring the type and quantity of waste generated by hazardous waste generators and is not relevant to the concerns associated with household hazardous waste collections. It is therefore reasonable to provide an exclusion from this requirement.

Subpart 4. Additional Requirements. This part refers to personnel training, contingency planning and emergency procedures. These subparts specify general training of personnel, requires a program director and sets out minimum training requirements. Training deadlines, reviews, and some recordkeeping procedures have been excluded. Many collection programs are single day events staffed by volunteers who work for short periods of time. Substantial training and recordkeeping would be unnecessary and too time consuming given the nature of the collection programs. The Agency believes these requirements are reasonable.

Representatives of the metropolitan counties expressed a concern regarding the requirement for a contingency plan. They were concerned that the originally proposed contingency plan requirements of part 7045.0466 were too stringent and recommended that the contingency plan requirements of part 7045.0572 be required instead. The Agency agrees with this suggestion and is proposing that the operators of household hazardous waste collections prepare a contingency plan according to the requirements of part 7045.0572. This type of contingency plan will provide a reasonable level of planning for emergency situations while not presenting an unreasonable burden to the operators of household hazardous waste collection programs.

Subpart 5. Transportation requirements. The transportation of wastes from a household hazardous waste management program must be done in compliance with the requirements in items A to C. Item A requires a transporter to only accept waste from household hazardous waste collections if a manifest or shipping paper accompanies it. This requirement makes these proposed rules consistent with the generator standards and with the other provisions of the proposed rules. Item B requires waste destined for a permitted facility to be transported according to the transporter rules in parts 7045.0351 to 7045.0397.

This is reasonable because the rules governing the operation of permitted disposal facilities require compliance with those rules. No waste may be accepted at a permitted facility unless it has been transported in compliance with parts 7045.0351 to 7045.0397. Item C requires collected waste destined for a Commissioner approved facility to comply with the hazardous waste transporter standards in parts 7045.0351 to 7045.0395 except that a identification number is not required and a shipping paper may be used instead of a manifest. Even though a manifest is not required, there are certain standards necessary to ensure the safe transportation of waste. It is reasonable to apply these standards to the transporters of collected household hazardous waste to ensure the protection of human health and the environment.

Subpart 6. Storage of Collected Wastes. Minn. Stat. § 115A.96, subd. 4 allows collected household waste to be accumulated beyond 90 days with the permission of the Commissioner, provided the applicable standards for the use and management of containers are met. No facility permit is required. Proposed subpart 6 requires the Commissioner's approval for storage beyond 90 days. This is a reasonable interpretation of statutory intent. Subpart 6 also specifies that the Commissioner's approval may be obtained if the requester provides, 30 days prior to initiation, information that assures that management practices will be employed at the storage facility that will appropriately protect human health and the environment from any adverse effects. This is reasonable in order to provide assurance of proper management and because it is consistent with the statutory requirements.

If approval to store the waste is not granted, the waste must be removed from the site to a permitted facility or to a facility which has received approval under this subpart. This is reasonable because, if the requester cannot show that human health and the environment are protected, the

waste should be removed to a facility that does provide such safeguards before any damage occurs.

Subpart 6 also requires compliance with existing Minn. Rules pt. 7045.0526 which sets the standards for the proper condition, inspection, and management of containers. This is reasonable because it makes the rules consistent with the statutory requirement.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 14.115, subd. 2 (1988) requires the Agency, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses: a) the establishment of less stringent compliance or reporting requirements for small businesses; b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses; c) the consolidation or simplification of compliance or reporting requirements for small businesses; d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and e) the exemption of small businesses from any or all requirements of the rule.

The proposed rules will not have any effect on small businesses because businesses are prohibited from bringing their wastes to household hazardous waste collections.

VI. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the Agency is required by Minn. Stat. 116.07, subd. 6 (1988) 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 which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

In proposing the requirements of these amendments, the Agency has given due consideration to available information as to any economic impacts the proposed amendments would have. The major effect of the proposed amendments will be to present an economic benefit to the public entities which will be sponsoring household hazardous waste collection programs. The proposed amendments represent a reduction of the level of regulation that is imposed under the current level of regulation. By revising the generator standards to more accurately address the concerns associated with household hazardous waste collections, the proposed rules reduce the expense associated with the operation of collection programs. The most significant reductions in regulation are the areas of disclosures and reporting and in the option for the use of a shipping paper in lieu of a manifest.

By eliminating the requirement for collection operators to submit disclosures and annual reports of waste management activities, the proposed rules will reduce the amount of paperwork and recordkeeping necessary to operate a collection program. As discussed in Part IV of this document, disclosures and annual reports are not a reasonable means of monitoring the operation of household hazardous waste collection sites. Therefore, to the extent that the Agency can eliminate unnecessary requirements, the sponsoring communities will gain an economic benefit in the form of reduced staff time and effort.

The proposed rules also allow the operators of collection programs the option of using a shipping paper instead of a hazardous waste manifest. Anyone transporting a hazardous waste which is not specifically exempted from the

MnDOT licensing requirements must be licensed by the MnDOT as a hazardous waste transporter. The requirement for a license places some limits on the number of transporters available in a service area and increases the cost of waste transportation. By allowing waste to be transported without a licensed transporter the Agency is allowing the operators of collection sites to arrange for less expensive options for transporting collected wastes. The Agency believes that it is reasonable to provide an economic incentive in order to promote the environmental benefit of conducting household hazardous waste collection.

VII. CONCLUSION

Based on the foregoing, the proposed Minn. Rules pts. 7001.0520, 7045.0020, 7045.0120, and 7045.0310 are both needed and reasonable.

VIII. LIST OF EXHIBITS


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

Agency

<u>Ex. No.</u>	<u>Title</u>
1	<u>Federal Register</u> , Vol. 50, No. 15, pages 28702-28755, July 15, 1985.
2	<u>Federal Register</u> , Vol. 51, No. 215, pages 40353-40355, November 6, 1986.
3	Minn. Stat. § 115A.96, as amended, July 1988.
4	<u>A Survey of Household Hazardous Waste and Related Collection Programs</u> , U.S. EPA, October 1986.
5	<u>Federal Register</u> , Vol. 51, No. 56, pages 10146-10176, March 24, 1986.

Date:

3-26-90

for 
Gerald L. Willet
Commissioner

