

Minnesota Attorney General: Administrative Rules Proceedings

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DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: September 5, 1990

TO: CINDY PERUSSE
MPCA
Hazardous Waste Section

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Household Hazardous Waste

The above-referenced rule has been approved as to its legality by the Attorney General on September 4, 1990.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:sc

cc: Alan Mitchell
William Brown, Chief Judge
MaryAnn Hruby

Pollution Control Agency

Adopted Permanent Rules Relating to Household Hazardous Waste

Rules as Adopted

7001.0520 PERMIT REQUIREMENTS.

[For text of subpart 1, see M.R.]

Subp. 2. **Exclusions.** A person who conducts any of the following activities is not required to obtain a hazardous waste facility permit for that activity:

[For text of items A to J, see M.R.]

K. Household hazardous waste collection programs meeting the requirements of part 7045.0310.

[For text of subps 3 to 6, see M.R.]

7045.0020 DEFINITIONS.

[For text of subps 1 to 37, see M.R.]

Subp. 37a. **Household.** "Household" has the meaning given in Minnesota Statutes, section 115A.96, subdivision 1, paragraph (a).

Subp. 37b. **Household hazardous waste.** "Household hazardous waste" has the meaning given in Minnesota Statutes, section 115A.96, subdivision 1, paragraph (b).

Subp. 37c. **Household waste.** "Household waste" means any material including garbage, trash, and sanitary wastes in septic tanks derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

[For text of subps 38 to 109, see M.R.]

7045.0120 EXEMPT WASTES.

The following wastes may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

A. ~~household-waste-and-collected-household-hazardous~~

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~~waste-to-the-extent-that-the-requirements-in-part-7045.0310-are met~~ collected household hazardous waste, to the extent that the requirements in part 7045.0310 are met, and household waste;

[For text of items B to P, see M.R.]

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

Subpart 1. **Applicability.** ~~A person~~ An operator who establishes or operates all or part of a household hazardous waste management program is only required to comply with the requirements in this part with respect to collected household hazardous waste. "Household hazardous waste management program" means:

A. a program established to accept or collect household hazardous waste from households, except as otherwise provided in part 7045.0685;

B. a program established by a resource recovery facility to segregate household hazardous waste from household waste; or

C. a program established by a solid waste disposal facility to segregate household hazardous waste from household waste during processing activities.

Subp. 2. **Notification.** ~~A person~~ An operator who intends to establish or operate all or part of a household hazardous waste management program shall ensure that the information required in items A to K is submitted to the commissioner at least 30 days before initiating the household hazardous waste management program. This notification is not required for collection sites for which a permit is required under part 7001.0520.

The notification shall provide a complete description of the program including, as applicable:

A. the name, address, and telephone number of ~~persons~~ operators establishing the program;

B. the location of all household hazardous waste collection sites;

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C. the duration and operating hours of the program;

D. the intended program service area;

E. the manner in which waste will be collected, stored, treated, transported, and disposed of;

F. the amount of time the ~~person~~ operator intends to store collected waste at individual collection sites;

G. a description of the physical structures to be used to collect and store collected waste;

H. a description of personnel safety training to be given;

I. a description of the safety and emergency procedures established for the program;

J. any other information necessary to describe all aspects of the program; and

K. the name and address of all waste transporters and the facilities which will treat or dispose of the waste.

~~Persons~~ Operators who submit a notification and subsequently change any aspect of the program as described in the notification must submit, within 30 days of making the change, an amended notification to the commissioner fully describing the program changes.

Subp. 3. **Management requirements.** ~~A person~~ An operator who establishes or operates all or part of a household hazardous waste management program shall ensure that collected waste is managed in compliance with the hazardous waste generator requirements in parts 7045.0205 to 7045.0304, except as modified in items A to H.

A. The ~~person~~ operator need not comply with the disclosure and management plan requirements of parts 7045.0220, 7045.0230, and 7045.0240 to 7045.0249.

B. The ~~person~~ operator need not obtain a generator identification number as required in part 7045.0221, unless or until the ~~person~~ operator transports or offers for transport household hazardous waste for off-site treatment, storage, or disposal at a permitted hazardous waste facility.

C. The ~~person~~ operator need not meet the personnel

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requirements in subpart 3, ~~a person~~ an operator who establishes or operates all or part of a household hazardous waste management program, shall also comply with the requirements for personnel training, ignitable, reactive, or incompatible wastes, preparedness and prevention, arrangements with local authorities for emergencies, contingency planning, emergency procedures, and postemergency procedures in parts 7045.0454, subparts 1 to 3; 7045.0456, subparts 1 and 2; 7045.0462; 7045.0464; 7045.0468; 7045.0470; and 7045.0572, respectively.

Subp. 5. **Transportation requirements.** ~~A person~~ An operator or other persons who ~~transports~~ transport waste collected as a result of a household hazardous waste management program shall transport collected waste in compliance with the requirements in items A to C.

A. A transporter may not accept household hazardous waste from any ~~person~~ operator who establishes or operates all or part of a household hazardous waste management program unless the waste is accompanied by either a manifest signed by the generator according to parts 7045.0205 to 7045.0304 or a shipping paper prepared according to subpart 3, item E, subitem (1).

B. If the designated facility to which the household hazardous waste is destined has a hazardous waste facility permit, the transporter shall comply with all of the hazardous waste transporter requirements in parts 7045.0351 to 7045.0397.

C. If the designated facility to which the household hazardous waste is destined is a facility that has obtained approval from the commissioner under subpart 6, the transporter shall comply with the hazardous waste transporter requirements in parts 7045.0351 to 7045.0395, except:

(1) part 7045.0361; and

(2) a shipping paper prepared according to subpart 3, item E, subitem (1), may be used, in lieu of a manifest, to comply with the requirements of parts 7045.0351 to 7045.0395.

D. An operator who transports waste for hire in

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Minnesota must obtain for-hire operating authority from the Minnesota Transportation Regulation Board as required by Minnesota Statutes, chapter 221.

Subp. 6. **Storage of collected wastes.** ~~A person~~ An operator who stores household hazardous waste for more than 90 days must comply with the requirements of items A to E.

A. No ~~person~~ operator may store household hazardous waste for more than 90 days after the accumulation start date as provided in part 7045.0292, without the approval of the commissioner. A ~~person~~ operator may request approval from the commissioner to store household hazardous waste for more than 90 days.

B. ~~A person~~ An operator intending to store household hazardous waste for more than 90 days must submit a request for approval to the commissioner at least 30 days before initiating a household hazardous waste program. The commissioner shall approve the request if the commissioner determines that, based on the information contained in the request, the storage and management practices employed at the storage facility will appropriately protect human health and the environment from any adverse effects associated with the household hazardous waste.

C. If the commissioner approves a request, the ~~person~~ operator shall manage the waste in compliance with the applicable standards in part 7045.0526 for the use and management of containers, but no hazardous waste facility permit is required unless the ~~person~~ operator treats or disposes of the waste on-site.

D. If the commissioner does not approve a request, the ~~person~~ operator must transport or arrange to transport the household hazardous waste for off-site activities at a facility that either has a hazardous waste permit or has obtained the commissioner's approval under this subpart. ~~Persons~~ Operators who store household hazardous waste for more than 90 days without the commissioner's approval are in violation of this chapter.

E. If the ~~person~~ operator has not submitted a request

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training, preparedness, prevention, and contingency planning requirements of part 7045.0292, subpart 1, item H.

D. The **person** operator may only transport or offer for transport household hazardous waste for off-site activities to a facility that either has a hazardous waste permit or has obtained the commissioner's approval under subpart 6.

E. If the **person** operator transports or offers for transport household hazardous waste for off-site activities at a facility that has obtained the commissioner's approval under subpart 6, the **person** operator:

(1) may, in lieu of a manifest, prepare and use a shipping paper containing all the information required on a manifest in part 7045.0261, excluding the identification number, to comply with the requirements of parts 7045.0205 to 7045.0304;

(2) may, in lieu of designating a facility or alternate facility as required in part 7045.0261, subpart 2, designate a facility approved under subpart 6 on the shipping paper prepared under subitem (1);

(3) must either designate another facility approved under subpart 6 or instruct the transporter to return the waste, if the transporter is unable to deliver the household hazardous waste to the facility designated on the shipping paper; and

(4) need not comply with the waste management requirements of part 7045.0275, subpart 1.

F. If the **person** operator intends to store household hazardous waste for more than 90 days after the accumulation start date as provided in part 7045.0292, the **person** operator must obtain the approval of the commissioner as set out in subpart 6, but no facility permit is required unless the **person** operator treats or disposes of the waste on-site.

G. The **person** operator need not comply with the record keeping requirements of part 7045.0294, subparts 2 and 3.

H. The **person** operator need not comply with the annual reporting requirements of part 7045.0296.

Subp. 4. **Additional requirements.** In addition to the

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as required under item B, or if the commissioner does not approve a request, the commissioner may still grant a storage extension if household hazardous waste must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances as provided in part 7045.0292, subpart 3.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 04 1990
Secretary of State

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

September 4 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassenly
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 04 1990
Joan Anderson Growe
Secretary of State

M

MJC

RULE REVIEW CHECKLIST

File No. 1727
DATE RECEIVED 8-20-90
REVIEW DATE 8-29-90
DUE DATE 9-4-90
(DIS)APPROVED 9-4-90 mjc
WITHDRAWN

Docket No. 05 0009 0697
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 9-22-90
REVISOR (DIS)APPROVED 8/30/90
FILED W/SEC. OF STATE 9-4-90
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

Notice to Solicit Outside Information/Opinion (if applicable)

Date published in State Register

Comments

✓ Board's Authorizing Resolution

March 29, 1990 Date adopted

✓ Proposed Rule

✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule

116.07 subd 4 Statutory Authority

NA Small Business Statement

Expenditure of public money statement

4-20-90 Signature

✓ Statement of Need and Reasonableness (if applicable)

NA Small Business Statement

NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

April 20, 1990 Dated (30)/25 days before adoption

✓ Notice attached indicates it is attached

Copy of rule or summary attached

✓ Publication in State Register

April 23, 1990 Date (30)/25 days before adoption

✓ 180-day deadline from:

NA ✓ Effective date of law requiring rule

✓ (14.12) (both rules) amendments doesn't apply

end of comment period (§ 14.26) (rules without hearing)

effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting

June 26, 1990 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting

6-26-90 Date

Declaration of Attorney

Alan Mitchell Name of SAAG representing agency

NA Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

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

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

Date: 3-26-90

for Barbara Lindsey Sims
Gerald L. Willet
Commissioner

Pollution Control Agency

Proposed Permanent Rules Relating to Household Hazardous Waste

Rules as Proposed

7001.0520 PERMIT REQUIREMENTS.

[For text of subpart 1, see M.R.]

Subp. 2. **Exclusions.** A person who conducts any of the following activities is not required to obtain a hazardous waste facility permit for that activity:

[For text of items A to J, see M.R.]

K. Household hazardous waste collection programs meeting the requirements of part 7045.0310.

[For text of subps 3 to 6, see M.R.]

7045.0020 DEFINITIONS.

[For text of subps 1 to 37, see M.R.]

Subp. 37a. Household. "Household" has the meaning given in Minnesota Statutes, section 115A.96, subdivision 1, paragraph (a).

Subp. 37b. Household hazardous waste. "Household hazardous waste" has the meaning given in Minnesota Statutes, section 115A.96, subdivision 1, paragraph (b).

Subp. 37c. Household waste. "Household waste" means any material including garbage, trash, and sanitary wastes in septic tanks derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

[For text of subps 38 to 109, see M.R.]

7045.0120 EXEMPT WASTES.

The following wastes may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

A. ~~normal refuse from households including garbage,~~

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~~trash,-and-sanitary-wastes-in-septic-tanks.--Households-include single-and-multiple-residences,-hotels,-and-motels~~ household waste and collected household hazardous waste to the extent that the requirements in part 7045.0310 are met;

[For text of items B to P, see M.R.]

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

Subpart 1. **Applicability.** A person who establishes or operates all or part of a household hazardous waste management program is only required to comply with the requirements in this part with respect to collected household hazardous waste. "Household hazardous waste management program" means:

A. a program established to accept or collect household hazardous waste from households, except as otherwise provided in part 7045.0685;

B. a program established by a resource recovery facility to segregate household hazardous waste from household waste; or

C. a program established by a solid waste disposal facility to segregate household hazardous waste from household waste during processing activities.

Subp. 2. **Notification.** A person who intends to establish or operate all or part of a household hazardous waste management program shall ensure that the information required in items A to K is submitted to the commissioner at least 30 days before initiating the household hazardous waste management program. This notification is not required for collection sites for which a permit is required under part 7001.0520.

The notification shall provide a complete description of the program including, as applicable:

A. the name, address, and telephone number of persons establishing the program;

B. the location of all household hazardous waste collection sites;

C. the duration and operating hours of the program;

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D. the intended program service area;

E. the manner in which waste will be collected, stored, treated, transported, and disposed of;

F. the amount of time the person intends to store collected waste at individual collection sites;

G. a description of the physical structures to be used to collect and store collected waste;

H. a description of personnel safety training to be given;

I. a description of the safety and emergency procedures established for the program;

J. any other information necessary to describe all aspects of the program; and

K. the name and address of all waste transporters and the facilities which will treat or dispose of the waste.

Persons who submit a notification and subsequently change any aspect of the program as described in the notification must submit, within 30 days of making the change, an amended notification to the commissioner fully describing the program changes.

Subp. 3. **Management requirements.** A person who establishes or operates all or part of a household hazardous waste management program shall ensure that collected waste is managed in compliance with the hazardous waste generator requirements in parts 7045.0205 to 7045.0304, except as modified in items A to H.

A. The person need not comply with the disclosure and management plan requirements of parts 7045.0220, 7045.0230, and 7045.0240 to 7045.0249.

B. The person need not obtain a generator identification number as required in part 7045.0221, unless or until the person transports or offers for transport household hazardous waste for off-site treatment, storage, or disposal at a permitted hazardous waste facility.

C. The person need not meet the personnel training, preparedness, prevention, and contingency planning requirements

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of part 7045.0292, subpart 1, item H.

D. The person may only transport or offer for transport household hazardous waste for off-site activities to a facility that either has a hazardous waste permit or has obtained the commissioner's approval under subpart 6.

E. If the person transports or offers for transport household hazardous waste for off-site activities at a facility that has obtained the commissioner's approval under subpart 6, the person:

(1) may, in lieu of a manifest, prepare and use a shipping paper containing all the information required on a manifest in part 7045.0261, excluding the identification number, to comply with the requirements of parts 7045.0205 to 7045.0304;

(2) may, in lieu of designating a facility or alternate facility as required in part 7045.0261, subpart 2, designate a facility approved under subpart 6 on the shipping paper prepared under subitem (1);

(3) must either designate another facility approved under subpart 6 or instruct the transporter to return the waste, if the transporter is unable to deliver the household hazardous waste to the facility designated on the shipping paper; and

(4) need not comply with the waste management requirements of part 7045.0275, subpart 1.

F. If the person intends to store household hazardous waste for more than 90 days after the accumulation start date as provided in part 7045.0292, the person must obtain the approval of the commissioner as set out in subpart 6, but no facility permit is required unless the person treats or disposes of the waste on-site.

G. The person need not comply with the record keeping requirements of part 7045.0294, subparts 2 and 3.

H. The person need not comply with the annual reporting requirements of part 7045.0296.

Subp. 4. **Additional requirements.** In addition to the requirements in subpart 3, a person who establishes or operates

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all or part of a household hazardous waste management program, shall also comply with the requirements for personnel training, ignitable, reactive, or incompatible wastes, preparedness and prevention, arrangements with local authorities for emergencies, contingency planning, emergency procedures, and postemergency procedures in parts 7045.0454, subparts 1 to 3; 7045.0456, subparts 1 and 2; 7045.0462; 7045.0464; 7045.0468; 7045.0470; and 7045.0572, respectively.

Subp. 5. **Transportation requirements.** A person who transports waste collected as a result of a household hazardous waste management program shall transport collected waste in compliance with the requirements in items A to C.

A. A transporter may not accept household hazardous waste from any person who establishes or operates all or part of a household hazardous waste management program unless the waste is accompanied by either a manifest signed by the generator according to parts 7045.0205 to 7045.0304 or a shipping paper prepared according to subpart 3, item E, subitem (1).

B. If the designated facility to which the household hazardous waste is destined has a hazardous waste facility permit, the transporter shall comply with all of the hazardous waste transporter requirements in parts 7045.0351 to 7045.0397.

C. If the designated facility to which the household hazardous waste is destined is a facility that has obtained approval from the commissioner under subpart 6, the transporter shall comply with the hazardous waste transporter requirements in parts 7045.0351 to 7045.0395, except:

(1) part 7045.0361; and

(2) a shipping paper prepared according to subpart 3, item E, subitem (1), may be used, in lieu of a manifest, to comply with the requirements of parts 7045.0351 to 7045.0395.

Subp. 6. **Storage of collected wastes.** A person who stores household hazardous waste for more than 90 days must comply with the requirements of items A to E.

A. No person may store household hazardous waste for

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more than 90 days after the accumulation start date as provided in part 7045.0292, without the approval of the commissioner. A person may request approval from the commissioner to store household hazardous waste for more than 90 days.

B. A person intending to store household hazardous waste for more than 90 days must submit a request for approval to the commissioner at least 30 days before initiating a household hazardous waste program. The commissioner shall approve the request if the commissioner determines that, based on the information contained in the request, the storage and management practices employed at the storage facility will appropriately protect human health and the environment from any adverse effects associated with the household hazardous waste.

C. If the commissioner approves a request, the person shall manage the waste in compliance with the applicable standards in part 7045.0526 for the use and management of containers, but no hazardous waste facility permit is required unless the person treats or disposes of the waste on-site.

D. If the commissioner does not approve a request, the person must transport or arrange to transport the household hazardous waste for off-site activities at a facility that either has a hazardous waste permit or has obtained the commissioner's approval under this subpart. Persons who store household hazardous waste for more than 90 days without the commissioner's approval are in violation of this chapter.

E. If the person has not submitted a request as required under item B, or if the commissioner does not approve a request, the commissioner may still grant a storage extension if household hazardous waste must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances as provided in part 7045.0292, subpart 3.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Household Hazardous Waste

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapters 7001 and 7045

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

PUBLIC RESOURCES SECTION
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075
FACSIMILE: (612) 297-4139

August 17, 1990

RECEIVED
AUG 20 1990
Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

Ms. Christie Eller
Assistant Attorney General
Office of the Attorney General
525 Park Street
St. Paul, MN 55155

RE: In the Matter of the Proposed Amendments of Rules Governing the Management and Operation of Household Hazardous Waste Collection Programs, Minn. Rules Parts 7001.0520, 7045.0120, 7045.0120, and 7045.0310.

Dear Ms. Eller:

On June 26, 1990, the Minnesota Pollution Control Agency adopted the above-captioned rule amendments governing the management and operation of household hazardous waste collection programs. Enclosed for your review are the following:

1. Certificate of Resolution Authorizing Rules (March 29, 1990).

2. Rules as proposed with Revisor's certificate.

3. Notice of Intent to Adopt Rule Amendments Without a Public Hearing, as mailed.

4. Statement of Need and Reasonableness.

5. Affidavit of Mailing the Notice of Intent to Adopt Rule Without a Public Hearing and Certificate of Mailing List.

6. Notice of Intent to Adopt Rules Without a Public Hearing and Rules as Proposed, as published in the State Register (14 S.R. 2489-2493, April 23, 1990).

7. Rules as adopted (original and three copies).

8. Certificate of Resolution Adopting Rules (June 26, 1990).

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9. Findings of Fact, Conclusions of Law, and Order Adopting Rules (two copies).

10. Comments received during the comment period.

11. Affidavit stating that no requests were received for notification of submission of rules to the Attorney General.

12. Declaration of Counsel.

The MPCA did not publish a Notice of Intent to Solicit Outside Opinion for these rule amendments.

For your information, the four digit docket client code is F215. 0697 - per Alan Mitchell

Very truly yours,

Alan R. Mitchell

Alan R. Mitchell
Special Assistant
Attorney General

Enclosures

AMR:jks.ad1

CERTIFICATION OF RESOLUTION AUTHORIZING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the state of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 27th day of March 1990, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Commissioner of the Minnesota Pollution Control Agency is hereby granted the authority to sign and to give notice of the Minnesota Pollution Control Agency's intent to adopt, without a public hearing, the attached amendments to the Minnesota Pollution Control Agency's permit rules and hazardous waste rules governing the management, storage, treatment and disposal of hazardous waste, Minn. Rules pts. 7001.0520, 7045.0020, 7045.0120, and 7045.0310, to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and publish the notice and the rule amendments in the State Register, and to perform any acts incidental thereto, including making any form changes in the rule amendments that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1988).
>
> BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Commissioner is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rule amendments as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for the Notice of Hearing, as well as acting as the Minnesota Pollution Control Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 29th day of March 1990.

Gerald L. Willet

GERALD L. WILLET
Commissioner

116.07 subd 4

.... Pursuant to chapter 14, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of this chapter for generators of hazardous waste, the management, identification provisions of this chapter ...

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Management, Treatment, Storage and Disposal of Hazardous Waste, Minn. Rules chs. 7001 and 7045.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1988). The Agency's authority to adopt the rules is set forth in Minn. Stat. § 116.07, subd. 4.

(2) All persons have until 4:30 p.m. on May 23, 1990, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. (3) Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. (4) If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing.

(6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the Agency will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1988).

(5) Comments or written requests for a public hearing must be submitted to:

Cindy Perusse
Minnesota Pollution Control Agency
Hazardous Waste Division
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 643 - 3475

(8) The proposed rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rules as noticed.

(11) The proposed rules, if adopted, will provide standards for the transportation of collected household hazardous waste and the operation of temporary and permanent household hazardous waste collection programs. One free copy of the rules is available upon request from Cindy Perusse at the address and telephone number stated above.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Cindy Perusse upon request.

(14) You are hereby advised, pursuant to Minn. Stat. § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rules will have no effect on small businesses. Businesses are prohibited from bringing their wastes to household hazardous waste collections and so will not be governed by these rules.

(9) If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rules as adopted, must submit a written request to Cindy Perusse at the above address.

Dated: 4-20-90

Gerald L. Willet

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Management and Operation of Household Hazardous Waste Collection Programs, Minn. Rules Parts 7001.0520, 7045.0020, 7045.0120 & 7045.0310.

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Cindy Perusse, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 1.414, subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 20 day of April, 1990.

That on the 20 day of April, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail system or in the United States mail for first class mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Cindy Perusse

Subscribed and sworn to before me this 20 day of April, 1990.

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STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Management and Operation of Household Hazardous Waste Collection Programs. Minn. Rules Pts. 7001.0520, 7045.0020, 7045.0120, and 7045.0310

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

(1) The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the twenty-sixth day of June 1990. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the MPCA, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

(1) 1. Notice of the MPCA's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on April 23, 1990, and was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat. §§ 14.14, subd. 1a. and 14.22 (1988) on April 20, 1990.

(2) 2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

(4) 3. All persons were given the opportunity to submit comments on the proposed rule amendments for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on May 23, 1990.

(5) 4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the MPCA.

6. The MPCA received one written comment letter during the comment period from the Dakota County public health department. One written comment letter was received outside the comment period from the Minnesota Department of Transportation (MnDOT). Also, MPCA staff made one comment. The MPCA finds that three modifications to the proposed rule amendments are justified by the record in this proceeding, as follows:

a. Throughout the proposed the amendments the term "person" is used when referring to the individual who is subject to the proposed rules. The Dakota County comment pointed out that the definition of "person" in Minn. Stat. §116.06, subd. 8 specifically excludes the Minnesota Pollution Control Agency from that definition. This would mean that MPCA sponsored collections would be exempt from regulation under these rules. This was not the MPCA's intent. The MPCA agrees with this comment and is making the modification. This is a minor modification and does not change the regulatory nature of the amendment and merely provides clarification of the applicability of the requirement.

Minn. Rules pts. 7001.0560, 7045.0020, 7045.0120 and 7045.0310 are modified to change "person" to "operator."

b. After additional review of the amendments by MPCA staff a change was made to the sentence structure of Minn. Rules pt. 7045.0210, Exempt Wastes, item A. The proposed language stated: "household waste and collected household hazardous waste to the extent that the requirements in part 7045.0310 are met." This would mean that household waste would also be regulated under Minn. Rules pt. 7045.0310. This was not MPCA's intent. The change has been made so that only collected household hazardous waste is being regulated by

Minn. Rules pt. 7045.0310. This is a minor modification and does not change the regulatory nature of the amendment and only provides clarification of the applicability of the requirements.

Minn. Rules pt. 7045.0120, item A is amended to read:

Collected household hazardous waste to the extent that the requirements in part 7045.0310 are met and household waste.

c. MnDOT staff commented that the exceptions made in the proposed rules to transporter requirements may be misconstrued to mean that those were the only transporter requirements applicable. MnDOT felt it appropriate to reference the MnDOT requirement to obtain Minnesota Motor Carrier authority. The MPCA supports this modification. It does not result in a substantial change to the regulatory nature of the amendments because this requirement has already been implemented through MnDOT.

Minn. Rules pt. 7045.0310, subp. 5 is amended to read:

Subpart 5 Transportation Requirements [A through C unchanged]

D. A person who transports hazardous waste for-hire in Minnesota must obtain for-hire operating authority from the Minnesota Transportation Regulation Board as required by Minnesota Statutes, Chapter 221.

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed amendments to the rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 6. above.

8. The above-captioned rule amendments, together with the modifications made by the MPCA in Finding No. 6. above to respond to comments received during the comment period, are needed and reasonable.

CONCLUSIONS

1. The MPCA duly acquired and has jurisdiction over this proceeding.

2. The MPCA published and served due, timely, and adequate notice of the intent to adopt amendments to the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rule amendments are supported by the record and do not result in a substantial change in the proposed rule amendments.

NOW THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 7001.0520, 7045.0020, 7045.0120, 7045.0310 governing the management and operation of household hazardous waste collection programs are adopted pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4 (1988).

Dated: _____

_____
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00993

Hon. Dan Erhart
Anoka Co Commissioner

01012

24700 Eleven Mile Road
Southfield, MI 48037

2320 County Road J
White Bear Lake, MN 55110

325 E. Main
Anoka, MN 55303

Hon. C. A. Boyer
Becker Co Commissioner
Lake Ave. Box 787
Courthouse
Detroit Lakes, MN 56501

01014

Hon. Gail Skare
Beltrami Co Commissioner
6th & Beltrami
Box 248
Bemidji, MN 56601

01016

Hon. Ronald Larson
Aitkin Co Commissioner
209-2nd St. N.W.
Aitkin, MN 56431

01020

Hon. Luverne Bergemann
Blue Earth Co Commissioner
204 S. 5th St.
Box 8608
Mankato, MN 56002

01031

Hon. Alex Laveau
Carlton Co Commissioner
Courthouse
Carlton, MN 55718

01034

Hon. Delores Baumhofer
Chippewa Co Commissioner
629 N. 11th St.
Montevideo, MN 56265

01039

Hon. Earl Gnan
Carver Co Commissioner
600 E. 4th St.
Chaska, MN 55318

01045

Hon. Erwin Ostlund
Cass Co Commissioner
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01048

Hon. Elwood Throndrud
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Ortonville, MN 56278

01050

Hon. Charles Griebel
Brown Co Commissioner
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Box 248
New Ulm, MN 56073

01052

Hon. Kenneth Solberg
Clearwater Co Commissioner
Courthouse
Bagley, MN 56621

01065

Hon. Wesley Hedstrom
Cook Co Commissioner
Courthouse
Grand Marais, MN 55604

01066

Hon. Tom Greig
Chisago Co Commissioner
Chisago Co Govt Ctr
Center City, MN 55012

01071

Hon. Charles Brantner
Clay Co Commissioner
807 N. 11th St.
Moorhead, MN 56560

01072

Hon. Marlowe Nelsen
Cottonwood Co Commissioner
Courthouse
Windom, MN 56101

01088

Hon. Howard Peterson
Crow Wing Co Commissioner
326 Laurel St.
Brainerd, MN 56401

01089

Hon. Lance Wilson
Dodge Co Commissioner
Box 38
Courthouse
Mantorville, MN 55955

01092

Hon. Charles Pingry
Faribault Co Commissioner
North Main
Blue Earth, MN 56013

01105

Hon. Bill Collins
Douglas Co Commissioner
305-8th Ave. W.
Alexandria, MN 56308

01112

Hon. Robert Thompson
Fillmore Co Commissioner
Courthouse
Preston, MN 55965

01116

Hon. Arnold Biedermann
Freeborn Co Commissioner
411 S. Broadway
Albert Lea, MN 56007

01117

Hon. Lyle Lexvold
Goodhue Co Commissioner
Courthouse

01120

Hon. Lyle Alvstad
Grant Co Commissioner
Courthouse

01121

Hon. Norman Hoscheit
Houston Co Commissioner
304 S. Marshall

01125

Red Wing, MN 55066

Hon. Jeff Spartz
Hennepin Co Commissioner
Hennepin Co Govt Ctr
Minneapolis, MN 55487

01134

Hon. Doug Carpenter
Itasca Co Commissioner
Courthouse
Grand Rapids, MN 55744

01149

Hon. Randy Swenson
Kittson Co Commissioner
410 S. 5th
Hallock, MN 56728

01167

Hon. Carl Hauschild
Lincoln Co Commissioner
Courthouse
Ivanhoe, MN 56142

01195

Hon. William Cole
Lyon Co Commissioner
607 W. Main
Marshall, MN 56258

01206

Hon. Dorothy Grotte
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Fairmont, MN 56031

01211

Hon. Duane Kirchner
Murray Co Commissioner
Murray Co Govt Ctr
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Slayton, MN 56172

01250

Hon. Robert Shaw
Mower Co Commissioner
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Austin, MN 55912

01259

Elbow Lake, MN 56531

Hon. Frank Weisbrod
Isanti Co Commissioner
237 S.W. 2nd Ave.
Cambridge, MN 55008

01139

Hon. Milford Gentz
Jackson Co Commissioner
Fourth St.
Jackson, MN 56143

01152

Hon. Donald Sandbeck
Koochiching Co Commissioner
Courthouse
Int'l Falls, MN 56649

01169

Hon. Albert Hoffman
Lac Qui Parle Co Commissioner
Courthouse 600-6th
Madison, MN 56256

01197

Hon. Richard Larson
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Mahnomen, MN 56557

01208

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McLeod Co Commissioner
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Worthington, MN 56187

01253

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St. Peter, MN 56082

01261

Caledonia, MN 55921

Hon. Jerome Fuller
Hubbard Co Commissioner
Third & Court Sts.
Park Rapids, MN 56470

01146

Hon. Dan Stevens
Kanabec Co Commissioner
18 N. Vine
Mora, MN 55051

01164

Hon. Robert Culhane
Le Sueur Co Commissioner
88 S. Park Ave.
Le Center, MN 56057

01193

Hon. Stan Cornelius
Lake-Woods Co Commissioner
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Baudette, MN 56623

01200

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208 E. Colvin
Warren, MN 56762

01210

Hon. David Oberfeld
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635-2nd St. S.E.
Milaca, MN 56353

01225

Hon. Melfred Venske
Morrison Co Commissioner
Broadway East
Little Falls, MN 56345

01257

Hon. Herb Mauritson
Norman Co Commissioner
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Ada, MN 56510

01266

Hon. Jean Michaels
Olmsted Co Commissioner
515-2nd St. S.W.
Rochester, MN 55902

01277

Hon. Clayton Ihlen
Pipestone Co Commissioner
410 S. Hiawatha
Pipestone, MN 56164

01284

Hon. Sydney Nelson
Otter Tail Co Commissioner
Court & Junius
Fergus Falls, MN 56537

01289

Hon. Bill Penning
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01291

Hon. Glen Danelski
Pine Co Commissioner
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Pine City, MN 55063

01292

Hon. Don Bakken
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01295

Hon. Hal Norgard
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15 W. Kellogg
St. Paul, MN 55102

01310

Hon. Granville Walburn
Pope Co Commissioner
Courthouse
Glenwood, MN 56334

01318

Hon. Irving Beyer
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Red Lake Falls, MN 56750

01322

Hon. Joan Miska
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01323

Hon. Gale Dahlager
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01324

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01330

Hon. Richard Mertz
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Shakopee, MN 55379

01342

Hon. Lyle Smith
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01344

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01346

Hon. Dennis Roning
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01348

Hon. John Bach
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01361

Hon. Herb Kloos
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Morris, MN 56267

01362

Hon. Gary Doty
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Hon. John Langan
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Hon. Lyle Freer
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Hon. Sally Evert
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Hon. Donald Peterson
Winona Co Commissioner
Community Hlth Bd
R 1 Box 65B
Winona, MN 55987
01420

Hon. Arlyn Nelson
Wright Co Commissioner
10 N.W. 2nd St.
Buffalo, MN 55313
01421

Hon. Lester Reckow
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St. James, MN 56081
01424

Hon. Stanley Berg
Yellow Med Co Commissioner
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01430

Hon. Kalvin Michels
Wilkin Co Commissioner
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01433

Mr. Bob Hutchison (612)422-7068
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Mr. Bruce E. Benson (218)384-4280
Zoning Administrator
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Carlton, MN 55718
1448

Mr. Jack Wimmer (612)259-3613
Zoning Administrator
Stearns County
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01507

Mr. Robert Lockyear (612)439-3220
Planning Coordinator
Washington County Courthouse
14900 North 61st Street
Stillwater, MN 55082
01515

size matrix. The fee for each subsequent income step can be calculated by totalling items A, B, and C and multiplying the total by 104 percent to adjust for inflation:

A. the amount of the fee for the previous step;

B. $30; and

C. 12 times the number of steps that precede the step for which the fee is being calculated.

Copies of the current fee schedule may be obtained by contacting the Minnesota Department of Human Services, Chemical Dependency Program Division, 444 Lafayette Road, Saint Paul, MN 55155-3823.

9530.7024 CLIENT FEES FOR CATEGORY III AND IV PROGRAMS.

When a client who has no responsible relatives and who is not the custodial parent of a minor child is placed in a category III or IV program licensed under parts 9530.4100 to 9530.4450, the local agency shall determine the client's countable income in accordance with parts 9500.1200 to 9500.1318.

A. The local agency shall subtract the amount established as the clothing and personal needs allowance for medical assistance recipients under *Minnesota Statutes*, section 256B.35, subdivision 1, and the amount established as an additional earned income disregard under *Minnesota Statutes*, section 256D.06, subdivision 1b, from the client's countable income, whether the client's income is earned or unearned.

B. If the client is regularly contributing to the financial support of the client's natural or adopted minor child or children, the local agency shall verify the support payment and subtract the amount specified in a court order, if one exists. If no court order exists, the local agency shall determine the number of dependent children the client supports and subtract the amount paid, up to the amount specified for that number of children in the standards for aid to families with dependent children established in part 9500.2440, subpart 6. The local agency shall verify child support payments made through a bank statement, a canceled check, a receipt, or through the public agency responsible for child support enforcement. The method of verification must be recorded in the client's case record.

C. The local agency shall subtract the amount of income that remains from the negotiated rate for board and lodging expenses for the category III or IV program to determine how much of the negotiated rate shall be paid for with funds from the Consolidated Chemical Dependency Treatment Fund.

D. The local agency shall record this information on a form supplied by the department, and send the form to the department. The department shall bill the client monthly, according to the information supplied by the local agency.

E. The local agency shall make a monthly redetermination of the countable income of a client in a category III or IV program, and the amount the client owes toward the negotiated rate according to this part.

F. The client may make expenditures from income subtracted according to *Minnesota Statutes*, section 256D.06, subdivision 1b, on approval of the local agency.

REPEALER. *Minnesota Rules*, part 9530.7020, subparts 3 and 4 are repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Household Hazardous Waste

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rules without a public hearing following the procedure set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1988). The Agency's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.07, subd. 4.

All persons have until 4:30 p.m. on May 23, 1990, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

Comments or written requests for a public hearing must be submitted to:

Cindy Perusse
Minnesota Pollution Control Agency
Hazardous Waste Division
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 643-3475

The proposed rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rules as noticed.

The proposed rules, if adopted, will provide standards for the transportation of collected household hazardous waste and the operation of temporary and permanent household hazardous waste collection programs. The proposed rules are published below. One free copy of the rules is available upon request from Cindy Perusse at the address and telephone number stated above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Cindy Perusse upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rules will have no effect on small businesses. Businesses are prohibited from bringing their wastes to household hazardous waste collections and so will not be governed by these rules.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rules as adopted, must submit a written request to Cindy Perusse at the above address.

Gerald L. Willet
Commissioner

Rules as Proposed

7001.0520 PERMIT REQUIREMENTS.

[For text of subpart 1, see M.R.]

Subp. 2. **Exclusions.** A person who conducts any of the following activities is not required to obtain a hazardous waste facility permit for that activity:

[For text of items A to J, see M.R.]

K. Household hazardous waste collection programs meeting the requirements of part 7045.0310.

[For text of subps 3 to 6, see M.R.]

7045.0020 DEFINITIONS.

[For text of subps 1 to 37, see M.R.]

Subp. 37a. **Household.** "Household" has the meaning given in *Minnesota Statutes*, section 115A.96, subdivision 1, paragraph (a).

Subp. 37b. **Household hazardous waste.** "Household hazardous waste" has the meaning given in *Minnesota Statutes*, section 115A.96, subdivision 1, paragraph (b).

Subp. 37c. **Household waste.** "Household waste" means any material including garbage, trash, and sanitary wastes in septic tanks derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

[For text of subps 38 to 109, see M.R.]

7045.0120 EXEMPT WASTES.

The following wastes may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

A. ~~normal refuse from households including garbage, trash, and sanitary wastes in septic tanks. Households include single and multiple residences, hotels, and motels~~ household waste and collected household hazardous waste to the extent that the requirements in part 7045.0310 are met;

[For text of items B to P, see M.R.]

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

Subpart 1. **Applicability.** A person who establishes or operates all or part of a household hazardous waste management program is only required to comply with the requirements in this part with respect to collected household hazardous waste. "Household hazardous waste management program" means:

A. a program established to accept or collect household hazardous waste from households, except as otherwise provided in part 7045.0685;

B. a program established by a resource recovery facility to segregate household hazardous waste from household waste; or

C. a program established by a solid waste disposal facility to segregate household hazardous waste from household waste during processing activities.

Subp. 2. **Notification.** A person who intends to establish or operate all or part of a household hazardous waste management program shall ensure that the information required in items A to K is submitted to the commissioner at least 30 days before initiating the household hazardous waste management program. This notification is not required for collection sites for which a permit is required under part 7001.0520.

The notification shall provide a complete description of the program including, as applicable:

A. the name, address, and telephone number of persons establishing the program;

B. the location of all household hazardous waste collection sites;

C. the duration and operating hours of the program;

D. the intended program service area;

E. the manner in which waste will be collected, stored, treated, transported, and disposed of;

F. the amount of time the person intends to store collected waste at individual collection sites;

G. a description of the physical structures to be used to collect and store collected waste;

H. a description of personnel safety training to be given;

I. a description of the safety and emergency procedures established for the program;

J. any other information necessary to describe all aspects of the program; and

K. the name and address of all waste transporters and the facilities which will treat or dispose of the waste.

Persons who submit a notification and subsequently change any aspect of the program as described in the notification must submit, within 30 days of making the change, an amended notification to the commissioner fully describing the program changes.

Subp. 3. **Management requirements.** A person who establishes or operates all or part of a household hazardous waste management program shall ensure that collected waste is managed in compliance with the hazardous waste generator requirements in parts 7045.0205 to 7045.0304, except as modified in items A to H.

A. The person need not comply with the disclosure and management plan requirements of parts 7045.0220, 7045.0230, and 7045.0240 to 7045.0249.

B. The person need not obtain a generator identification number as required in part 7045.0221, unless or until the person transports or offers for transport household hazardous waste for off-site treatment, storage, or disposal at a permitted hazardous waste facility.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

C. The person need not meet the personnel training, preparedness, prevention, and contingency planning requirements of part 7045.0292, subpart 1, item H.

D. The person may only transport or offer for transport household hazardous waste for off-site activities to a facility that either has a hazardous waste permit or has obtained the commissioner's approval under subpart 6.

E. If the person transports or offers for transport household hazardous waste for off-site activities at a facility that has obtained the commissioner's approval under subpart 6, the person:

(1) may, in lieu of a manifest, prepare and use a shipping paper containing all the information required on a manifest in part 7045.0261, excluding the identification number, to comply with the requirements of parts 7045.0205 to 7045.0304;

(2) may, in lieu of designating a facility or alternate facility as required in part 7045.0261, subpart 2, designate a facility approved under subpart 6 on the shipping paper prepared under subitem (1);

(3) must either designate another facility approved under subpart 6 or instruct the transporter to return the waste, if the transporter is unable to deliver the household hazardous waste to the facility designated on the shipping paper; and

(4) need not comply with the waste management requirements of part 7045.0275, subpart 1.

F. If the person intends to store household hazardous waste for more than 90 days after the accumulation start date as provided in part 7045.0292, the person must obtain the approval of the commissioner as set out in subpart 6, but no facility permit is required unless the person treats or disposes of the waste on-site.

G. The person need not comply with the record keeping requirements of part 7045.0294, subparts 2 and 3.

H. The person need not comply with the annual reporting requirements of part 7045.0296.

Subp. 4. **Additional requirements.** In addition to the requirements in subpart 3, a person who establishes or operates all or part of a household hazardous waste management program, shall also comply with the requirements for personnel training, ignitable, reactive, or incompatible wastes, preparedness and prevention, arrangements with local authorities for emergencies, contingency planning, emergency procedures, and postemergency procedures in parts 7045.0454, subparts 1 to 3; 7045.0456, subparts 1 and 2; 7045.0462; 7045.0464; 7045.0468; 7045.0470; and 7045.0572, respectively.

Subp. 5. **Transportation requirements.** A person who transports waste collected as a result of a household hazardous waste management program shall transport collected waste in compliance with the requirements in items A to C.

A. A transporter may not accept household hazardous waste from any person who establishes or operates all or part of a household hazardous waste management program unless the waste is accompanied by either a manifest signed by the generator according to parts 7045.0205 to 7045.0304 or a shipping paper prepared according to subpart 3, item E, subitem (1).

B. If the designated facility to which the household hazardous waste is destined has a hazardous waste facility permit, the transporter shall comply with all of the hazardous waste transporter requirements in parts 7045.0351 to 7045.0397.

C. If the designated facility to which the household hazardous waste is destined is a facility that has obtained approval from the commissioner under subpart 6, the transporter shall comply with the hazardous waste transporter requirements in parts 7045.0351 to 7045.0395, except:

(1) part 7045.0361; and

(2) a shipping paper prepared according to subpart 3, item E, subitem (1), may be used, in lieu of a manifest, to comply with the requirements of parts 7045.0351 to 7045.0395.

Subp. 6. **Storage of collected wastes.** A person who stores household hazardous waste for more than 90 days must comply with the requirements of items A to E.

A. No person may store household hazardous waste for more than 90 days after the accumulation start date as provided in part 7045.0292, without the approval of the commissioner. A person may request approval from the commissioner to store household hazardous waste for more than 90 days.

B. A person intending to store household hazardous waste for more than 90 days must submit a request for approval to the commissioner at least 30 days before initiating a household hazardous waste program. The commissioner shall approve the request if the commissioner determines that, based on the information contained in the request, the storage and management practices employed at the storage facility will appropriately protect human health and the environment from any adverse effects associated with the household hazardous waste.

C. If the commissioner approves a request, the person shall manage the waste in compliance with the applicable standards in part 7045.0526 for the use and management of containers, but no hazardous waste facility permit is required unless the person treats or disposes of the waste on-site.

D. If the commissioner does not approve a request, the person must transport or arrange to transport the household hazardous waste for off-site activities at a facility that either has a hazardous waste permit or has obtained the commissioner's approval under this subpart. Persons who store household hazardous waste for more than 90 days without the commissioner's approval are in violation of this chapter.

E. If the person has not submitted a request as required under item B, or if the commissioner does not approve a request, the commissioner may still grant a storage extension if household hazardous waste must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances as provided in part 7045.0292, subpart 3.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Health

Adopted Permanent Rules Relating to Hearing Instrument Dispenser Registration

The rules proposed and published at *State Register*, Volume 14, Number 20, pages 1160-1170, November 13, 1989 (14 S.R. 1160) are adopted with the following modifications:

Rules as Adopted

4745.0010 DEFINITIONS.

Subp. 2. **Active practice.** "Active practice" means engaged in hearing instrument selling and activities directly related to hearing instrument selling for a minimum of 750 hours a year for three of the last five years.

Subp. 4. **ANSI.** "ANSI" means ANSI S3.6-1989, American National Standard Specification for Audiometers from the American National Standards Institute. This document is incorporated by reference and is not subject to frequent change. This document is available through the Minitex interlibrary loan system.

Subp. 5. **Applicant.** "Applicant" means a person who applies to the commissioner for registration or registration renewal.

Subp. ~~5~~ 6. **Approved continuing education sponsor.** "Approved continuing education sponsor" means an organization that offers a learning experience designed to promote continuing competency in the procedures and techniques of hearing instrument selling as defined in subpart 13 and that meets the criteria in part 4745.0045, subpart 3.

Subp. ~~6~~ 7. **Commissioner.** "Commissioner" means the commissioner of the Department of Health or a designee.

Subp. ~~7~~ 8. **Contact hour.** "Contact hour" means an instructional session of 50 consecutive minutes, excluding coffee breaks, registration, meals with or without a speaker, and social activities.

Subp. ~~8~~ 9. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in hearing instrument selling issued by any authority.

~~Subp. 9. **Credentialing.** "Credentialing" means the process or system for issuing a credential or otherwise issuing evidence of qualification or authorization to engage in hearing instrument selling.~~

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STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management and Operation, Treatment, of Household Hazardous Waste Collection Programs, Minn. Rules Pt. 7001.0520, 7045.0020,7045.0120, 7045.0130.

AFFIDAVIT OF RECEIVING NO REQUESTS FOR NOTIFICATION OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Cindy Perusse, being duly sworn says:

1. That she is the person named in the Notice of Intent to Adopt Rules Without a Public Hearing (SR 14, April 23,1990) as the person to receive requests for notification of submission of rule adopted without a public hearing to the Attorney General concerning the above-entitled matter.

2. That there were no requests received by the the Minnesota Pollution Control Agency for notification of submission of rule adopted without a public hearing to the Attorney General concerning the above-entitled matter.

Cindy Perusse

Subscribed and sworn to before me
this 16 day of August, 1990.

Diane Fox
Notary Public

DIANE FOX
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires 2-25-96

DEPARTMENT : POLLUTION CONTROL AGENCY

STATE OF MINNESOTA

Office Memorandum

DATE : June 6, 1990

TO : HOUSEHOLD HAZARDOUS WASTE FILE

FROM : Cindy Perusse
Rules Unit
Hazardous Waste Division

PHONE : 643-3475

SUBJECT : CHANGE TO HOUSEHOLD HAZARDOUS WASTE AMENDMENTS

Minn. Rules pt. 7045.0120, Exempt Wastes, item A of the proposed household hazardous waste rules reads: "household waste and collected household hazardous waste to the extent that the requirements in part 7045.0310 are met". This could be interpreted to mean that household waste is also to be regulated under Minn. Rules pt. 7045.0310, which are the new requirements for household hazardous waste collections. This was not the MPCA's intent and was simply an error in sentence structure. A minor modification has been made to the language and will not cause a change in the regulatory nature of the amendments.

Minn. Rules pt. 7045.0210, item A is modified to read:

A. Collected household hazardous waste to the extent that the requirements in part 7045.0310 are met and household waste.

CP:cj

DAKOTA COUNTY
PUBLIC HEALTH DEPARTMENT
HUMAN SERVICES DIVISION 33 EAST WENTWORTH, WEST ST. PAUL, MINNESOTA 55118

DONNA M. ANDERSON
DIRECTOR
(612) 450-2614
Fax (612) 450-2948

REPLY TO:
☐ Public Health Nursing Service
☑ Environmental Health Services
☐ Emergency Medical Services

☐ Public Health Nursing Service
Burnsville Office (612) 435-8055
1101 West Cty. Rd. 42
Burnsville, MN 55337

RECEIVED
MAY 22 1990
MPCA, HAZARDOUS WASTE DIVISION

May 21, 1990

Ms. Cindy Perusse, Pollution Control Specialist
Minnesota Pollution Control Agency
Hazardous Waste Division
520 Lafayette Road North
St. Paul, Minnesota 55155

Dear Ms. Perusse:

Dakota County Public Health staff welcome the opportunity to comment on the proposed rules for management, treatment, storage and disposal of household hazardous wastes. As you may be aware, Dakota County has had an active household hazardous waste (HHW) management program for several years and is interested in your adoption of rules which clarify the present regulatory structure relating to HHW management. Dakota County staff have appreciated the discussions we have held with MPCA staff concerning these proposed rules, and the opportunity to speak on this issue to the MPCA Board Committee on Hazardous and Special Wastes.

In general, staff believe these rules are well-written and very positive. Several points, however, will follow which we believe should be modified in the final rule to allow for HHW to be managed effectively, efficiently, and safely by Dakota County and other governmental units and private businesses throughout Minnesota.

1. Definition of Person. Throughout this rule, "person" is used to define the individual, governmental unit, or business involved in these activities. The MPCA is excluded from this definition. This would mean that all MPCA-sponsored collection programs would not be covered by these rules, while metropolitan county and other programs independent from MPCA sponsorship would be regulated. This obviously was an oversight on the part of those who drafted this rule. We recommend substituting another phrase for person, such as "individual, business or governmental unit", to include Agency-sponsored programs under this rule. Since the relaxation of manifesting requirements, disclosures, and other revisions will greatly help the MPCA-sponsored programs in less populated portions of Minnesota, it is to the MPCA's benefit to make this change.

2. Definition of Treatment. The issue of what constitutes treatment has been discussed by metro county staff and MPCA staff and Board members on several occasions. In the SONAR, MPCA staff acknowledge the counties' concerns. While we are encouraged by the statements in the SONAR, we still have some issues we believe need to be addressed in the rule. Such activities as paint bulking, solvent bulking or acid-base neutralization and sewering have been characterized as treatment steps, and thus disallowed without a facility permit by proposed MN Rule Chapter 7045.0310 Subparts 3.F. and 6.C. During one of the Board Committee meetings, Agency staff stated that they would define treatment. We recommend you to do this soon. Metropolitan county staff will be required by legislation to collect wastes from households; if they are processing this waste as economically as possible, they may find the counties cited by MPCA enforcement staff for treatment without a permit when doing a process they believe to be quite safe, environmentally sound, and most economical.

3. Generator Status. Please modify this rule to allow operators of HHW collection sites the same on-site treatment processes as hazardous waste generators. The metropolitan counties as the site operators are, in fact, hazardous waste generators, and they should not be treated more stringently than any other generator. A generator, for instance, is allowed to bulk solvents of different kinds, collected from different generation points throughout his plant, into one 55-gallon drum. Metropolitan counties should not be treated more strictly. To force the one-day collection events to package all paint cans and solvent containers for transport to a permitted hazardous waste facility at which bulking would be permitted would increase the costs of the collections to the point that fewer collections would be held and less HHW managed. The SONAR states bulking will be allowed, but the rules states a permit is necessary. We would like the rule changed to match the SONAR. We do not wish to be in a situation in which we break any rules.

4. Contingency Plan. The proposed contingency plan, personnel training, emergency procedures, and other requirements as set forth in MN Chapter 7045.0310 Subp. 4. are overly restrictive for one-day collection events, although they would be appropriate for permanent collection sites. A more correct listing of emergency procedures and training requirements would be those of MN Rule Chapter 7045.0219 Subp. 5. Dakota County would request these changes be made to this rule, rather than allowing interpretations based upon statements in the SONAR. In proposed MN Rule Chapter 7045.0310 Subp. 6.

(also Subp. 3. F.), all individuals wishing to store collected HHW for periods greater than 90 days are required to obtain the Commissioner's approval before 90 days have elapsed. Dakota County staff recommend that this subpart be amended to automatically grant approval if no response to a request for storage has been received by the requesting site operator within a reasonable time period. This change is seen as necessary to prevent possible denial of a request after 90 days has elapsed, followed by citation for operation of a non-permitted storage facility.

Dakota County staff would appreciate your consideration of these recommended changes to the proposed rules governing management of HHW. County staff are interested in working with you to ensure proper regulation of collected HHW. Thank you for the opportunity to comment on these proposed rules. If you wish to discuss these comments and recommendations, please contact me at 450-2793.

Sincerely,

George Kinney
Environmental Health Supervisor

GK/sh
SJH:Perusse

attachment

pc: Jeff Harthun, Environmental Health Services Director
Donna Anderson, Public Health Director
Barry Schade, Resource Recovery Project Manager
Jeff Connell, Planning and Program Management Director

Minnesota Department of Transportation
Motor Carrier Safety and Compliance
151 Livestock Exchange Building
100 Stockyard Road
South St. Paul, MN 55075

Celebrate MINNESOTA 1990

May 23, 1990

RECEIVED
MAY 24 1990
MPCA, HAZARDOUS WASTE DIVISION

Cindy Perusse
Minnesota Pollution Control Agency
Hazardous Waste Division
520 Lafayette Road North
St. Paul, Minnesota 55155

Dear Ms. Perusse:

These are the comments of the Minnesota Department of Transportation with respect to the proposed permanent rules relating to household hazardous waste published in the State Register on April 23, 1990.

We have reviewed the rules and are concerned about the provision that would allow persons who are not licensed hazardous waste transporters to transport household hazardous waste. The fact that the waste is generated by a household does not make the waste any less hazardous than that generated at any other site. When these household wastes are collected at a site and then transported in large quantities from a site, they pose the same hazard in transportation as waste from other sites particularly if they have been repacked.

In Minnesota, there are 46 licensed hazardous waste transporters. Seventeen of those transporters are located outside of the metropolitan area or in Wisconsin or South Dakota just across the border from Minnesota. Those transporters also have operations in Minnesota. For your information, we have attached a map showing the location of the non-metropolitan hazardous waste transporters. There are benefits to using a licensed hazardous waste transporter. The benefits are that the employees are more likely to have been trained in the handling of the waste and that the hazardous waste transporter will be insured. This may not be the case with non-licensed transporters.

The rule makes no reference to the requirement that all for-hire transporters operating in Minnesota must obtain Minnesota motor carrier authority. This is already a requirement in Minnesota under Minnesota Statutes, Section 221.021. In order to give people who transport hazardous waste notice of this requirement, we propose that you add to Minnesota Rule 7045.0310, subpart 5 a new provision that would be say:

> D. A person who transports hazardous waste for-hire in Minnesota must obtain for-hire operating authority from the Minnesota Transportation Regulation Board as required by Minnesota Statutes, Chapter 221.

The exemption of household hazardous waste transporters from the hazardous waste licensing requirement does not exempt those transporters from the requirement that they comply with the U.S. Department of Transportation Hazardous Material Transportation Regulations if those regulations are otherwise applicable. Depending on the waste transported and the quantity, the transporter may be required to carry shipping papers that meet all U.S. Department of Transportation requirements. They may be required to meet packaging requirements contained in Code of Federal Regulations, Title 49, Parts 173.3, 173.12, 173.28. Depending on the waste transported, they may also be required to meet load segregation requirements contained in Code of Federal Regulations, Title 49, Part 177.848. They may also be required to comply with the insurance requirements of the Federal Highway Administration contained in Code of Federal Regulations Title 49, Part 387.

I believe it would be appropriate to make some reference to these requirements under "Subpart 5 Transportation Requirements" so that transporters are not mistakenly led to believe that because they are exempt from the transporter license requirements, they are, therefore, exempt from all other requirements affecting the transportation of hazardous waste.

None of these proposed changes would make a substantial change to the rule as proposed. They would not impose any new requirements on the transporters that do not already exist in law. They would merely give notice to persons who are following these rules that there may be other rules that apply to their business depending on the type and the quantity of waste transported.

It should be noted that if the household hazardous waste is transported in a vehicle owned by a government agency or a unit of government, they are already exempt from the hazardous waste transporter licensing requirement. We are concerned about the advisability of exempting for-hire transporters from these requirements and propose at a minimum that you reference the hazardous material transportation regulations in order to protect the public.

Thank you for considering our comments. If you have any questions about our comments, please feel free to contact me at 296-0331, or to contact Michael Ritchie at 297-1646.

Sincerely,

Elizabeth M. Parker

Elizabeth M. Parker, Acting Director

cc: Leonard W. Levine
Darryl E. Durgin
Michael Ritchie

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the state of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the twenty-sixth day of June 1990, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Minnesota Pollution Control Agency (MPCA) hereby approves and adopts the attached amendments to the MPCA's hazardous waste rules governing the management, storage, treatment and disposal of hazardous waste, Minn. Rules pt. 7001.0520, 7045.0020, 7045.0120, and 7045.0310.
>
> BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner is authorized to make any form changes in the rules that the Revisor of Statutes requires the MPCA to make in order to obtain the Revisor's Certification as required by Minn. Stat. § 14.07, subd. 2, (1988)
>
> BE IT FURTHER RESOLVED, that the MPCA adopts the Findings of Fact, Conclusions, and Order Adopting Rule Amendments and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the MPCA to perform the necessary acts to provide that the rule amendments shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26 day of June 1990.

Gerald L. Willet

GERALD L. WILLET
Commissioner

Pollution Control Agency

Adopted Permanent Rules Relating to Household Hazardous Waste

Rules as Adopted

7001.0520 PERMIT REQUIREMENTS.

[For text of subpart 1, see M.R.]

Subp. 2. **Exclusions.** A person who conducts any of the following activities is not required to obtain a hazardous waste facility permit for that activity:

[For text of items A to J, see M.R.]

K. Household hazardous waste collection programs meeting the requirements of part 7045.0310.

[For text of subps 3 to 6, see M.R.]

7045.0020 DEFINITIONS.

[For text of subps 1 to 37, see M.R.]

Subp. 37a. **Household.** "Household" has the meaning given in Minnesota Statutes, section 115A.96, subdivision 1, paragraph (a).

Subp. 37b. **Household hazardous waste.** "Household hazardous waste" has the meaning given in Minnesota Statutes, section 115A.96, subdivision 1, paragraph (b).

Subp. 37c. **Household waste.** "Household waste" means any material including garbage, trash, and sanitary wastes in septic tanks derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

[For text of subps 38 to 109, see M.R.]

7045.0120 EXEMPT WASTES.

The following wastes may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

A. ~~household-waste-and-collected-household-hazardous~~

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~~waste-to-the-extent-that-the-requirements-in-part-7045.0310-are met~~ collected household hazardous waste, to the extent that the requirements in part 7045.0310 are met, and household waste;

[For text of items B to P, see M.R.]

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

Subpart 1. **Applicability.** ~~A person~~ An operator who establishes or operates all or part of a household hazardous waste management program is only required to comply with the requirements in this part with respect to collected household hazardous waste. "Household hazardous waste management program" means:

A. a program established to accept or collect household hazardous waste from households, except as otherwise provided in part 7045.0685;

B. a program established by a resource recovery facility to segregate household hazardous waste from household waste; or

C. a program established by a solid waste disposal facility to segregate household hazardous waste from household waste during processing activities.

Subp. 2. **Notification.** ~~A person~~ An operator who intends to establish or operate all or part of a household hazardous waste management program shall ensure that the information required in items A to K is submitted to the commissioner at least 30 days before initiating the household hazardous waste management program. This notification is not required for collection sites for which a permit is required under part 7001.0520.

The notification shall provide a complete description of the program including, as applicable:

A. the name, address, and telephone number of ~~persons~~ operators establishing the program;

B. the location of all household hazardous waste collection sites;

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C. the duration and operating hours of the program;

D. the intended program service area;

E. the manner in which waste will be collected, stored, treated, transported, and disposed of;

F. the amount of time the ~~person~~ operator intends to store collected waste at individual collection sites;

G. a description of the physical structures to be used to collect and store collected waste;

H. a description of personnel safety training to be given;

I. a description of the safety and emergency procedures established for the program;

J. any other information necessary to describe all aspects of the program; and

K. the name and address of all waste transporters and the facilities which will treat or dispose of the waste.

~~Persons~~ Operators who submit a notification and subsequently change any aspect of the program as described in the notification must submit, within 30 days of making the change, an amended notification to the commissioner fully describing the program changes.

Subp. 3. **Management requirements.** ~~A person~~ An operator who establishes or operates all or part of a household hazardous waste management program shall ensure that collected waste is managed in compliance with the hazardous waste generator requirements in parts 7045.0205 to 7045.0304, except as modified in items A to H.

A. The ~~person~~ operator need not comply with the disclosure and management plan requirements of parts 7045.0220, 7045.0230, and 7045.0240 to 7045.0249.

B. The ~~person~~ operator need not obtain a generator identification number as required in part 7045.0221, unless or until the ~~person~~ operator transports or offers for transport household hazardous waste for off-site treatment, storage, or disposal at a permitted hazardous waste facility.

C. The ~~person~~ operator need not meet the personnel

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training, preparedness, prevention, and contingency planning requirements of part 7045.0292, subpart 1, item H.

D. The **person** operator may only transport or offer for transport household hazardous waste for off-site activities to a facility that either has a hazardous waste permit or has obtained the commissioner's approval under subpart 6.

E. If the **person** operator transports or offers for transport household hazardous waste for off-site activities at a facility that has obtained the commissioner's approval under subpart 6, the **person** operator:

(1) may, in lieu of a manifest, prepare and use a shipping paper containing all the information required on a manifest in part 7045.0261, excluding the identification number, to comply with the requirements of parts 7045.0205 to 7045.0304;

(2) may, in lieu of designating a facility or alternate facility as required in part 7045.0261, subpart 2, designate a facility approved under subpart 6 on the shipping paper prepared under subitem (1);

(3) must either designate another facility approved under subpart 6 or instruct the transporter to return the waste, if the transporter is unable to deliver the household hazardous waste to the facility designated on the shipping paper; and

(4) need not comply with the waste management requirements of part 7045.0275, subpart 1.

F. If the **person** operator intends to store household hazardous waste for more than 90 days after the accumulation start date as provided in part 7045.0292, the **person** operator must obtain the approval of the commissioner as set out in subpart 6, but no facility permit is required unless the **person** operator treats or disposes of the waste on-site.

G. The **person** operator need not comply with the record keeping requirements of part 7045.0294, subparts 2 and 3.

H. The **person** operator need not comply with the annual reporting requirements of part 7045.0296.

Subp. 4. **Additional requirements.** In addition to the

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requirements in subpart 3, ~~a person~~ an operator who establishes or operates all or part of a household hazardous waste management program, shall also comply with the requirements for personnel training, ignitable, reactive, or incompatible wastes, preparedness and prevention, arrangements with local authorities for emergencies, contingency planning, emergency procedures, and postemergency procedures in parts 7045.0454, subparts 1 to 3; 7045.0456, subparts 1 and 2; 7045.0462; 7045.0464; 7045.0468; 7045.0470; and 7045.0572, respectively.

Subp. 5. **Transportation requirements.** ~~A person~~ An operator or other persons who ~~transports~~ transport waste collected as a result of a household hazardous waste management program shall transport collected waste in compliance with the requirements in items A to C.

A. A transporter may not accept household hazardous waste from any ~~person~~ operator who establishes or operates all or part of a household hazardous waste management program unless the waste is accompanied by either a manifest signed by the generator according to parts 7045.0205 to 7045.0304 or a shipping paper prepared according to subpart 3, item E, subitem (1).

B. If the designated facility to which the household hazardous waste is destined has a hazardous waste facility permit, the transporter shall comply with all of the hazardous waste transporter requirements in parts 7045.0351 to 7045.0397.

C. If the designated facility to which the household hazardous waste is destined is a facility that has obtained approval from the commissioner under subpart 6, the transporter shall comply with the hazardous waste transporter requirements in parts 7045.0351 to 7045.0395, except:

(1) part 7045.0361; and

(2) a shipping paper prepared according to subpart 3, item E, subitem (1), may be used, in lieu of a manifest, to comply with the requirements of parts 7045.0351 to 7045.0395.

D. An operator who transports waste for hire in

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Minnesota must obtain for-hire operating authority from the Minnesota Transportation Regulation Board as required by Minnesota Statutes, chapter 221.

Subp. 6. **Storage of collected wastes.** **A person** An operator who stores household hazardous waste for more than 90 days must comply with the requirements of items A to E.

A. No **person** operator may store household hazardous waste for more than 90 days after the accumulation start date as provided in part 7045.0292, without the approval of the commissioner. A **person** operator may request approval from the commissioner to store household hazardous waste for more than 90 days.

B. **A person** An operator intending to store household hazardous waste for more than 90 days must submit a request for approval to the commissioner at least 30 days before initiating a household hazardous waste program. The commissioner shall approve the request if the commissioner determines that, based on the information contained in the request, the storage and management practices employed at the storage facility will appropriately protect human health and the environment from any adverse effects associated with the household hazardous waste.

C. If the commissioner approves a request, the **person** operator shall manage the waste in compliance with the applicable standards in part 7045.0526 for the use and management of containers, but no hazardous waste facility permit is required unless the **person** operator treats or disposes of the waste on-site.

D. If the commissioner does not approve a request, the **person** operator must transport or arrange to transport the household hazardous waste for off-site activities at a facility that either has a hazardous waste permit or has obtained the commissioner's approval under this subpart. **Persons** Operators who store household hazardous waste for more than 90 days without the commissioner's approval are in violation of this chapter.

E. If the **person** operator has not submitted a request

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as required under item B, or if the commissioner does not approve a request, the commissioner may still grant a storage extension if household hazardous waste must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances as provided in part 7045.0292, subpart 3.

Approved
by Revisor _____

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of Proposed Amendments of Rules Governing the Management and Operation of Household Hazardous Waste Collection Programs, Minn. Rules pts. 7001.0520, 7045.0020, 7045.0120, and 7045.0310

DECLARATION OF COUNSEL

I, Alan R. Mitchell, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed.

Alan R. Mitchell
Special Assistant
Attorney General

Dated: August 17, 1990.