

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

CH

RULE REVIEW CHECKLIST

File No. 1786
DATE RECEIVED 1-22-91
REVIEW DATE 1-31-91
DUE DATE 2-5-91
(DIS)APPROVED 2-5-91
WITHDRAWN _____

Docket No. 05 0009 0697
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 1-28-91
REVISOR (DIS)APPROVED 2/1/91
FILED W/SEC. OF STATE 2/6/91
RETURNED TO AGENCY 2/7/91

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
August 13, 1990 Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
September 25, 1990 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
116.07 subd 4 Statutory Authority
_____ Small Business Statement
_____ Expenditure of public money statement
10-8-90 Signature

✓ Statement of Need and Reasonableness (if applicable)
NA Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
October 17, 1990 Dated (30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
October 22 1990 Date (30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
December 19, 1990 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
September 14, 1990 Date

_____ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Alan Mitchell Name of SAAG representing agency 6-1200

_____ Notice of Submission to Attorney General (if applicable)

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: February 6, 1991

TO: RANDY HUKRIEDE
Minnesota Pollution Control Agency

FROM: CHARLENE HATCHER
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to Household Battery Collection

The above-referenced rule has been approved as to its legality by the Attorney General on February 5, 1991.

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.

CH:sc
Enclosures
cc: Alan Mitchell
William Brown, Chief Judge
MaryAnn Hruby

Pollution Control Agency

Adopted Permanent Rules Relating to Household Battery Collection

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 K, see M.R.]

L. Household battery collection programs meeting the requirements of part 7045.0686.

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

7045.0020 DEFINITIONS.

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

Subp. 37b. **Household battery.** "Household battery" means a disposable or rechargeable dry cell, generated by a household and commonly used as a power source for household products. "Household battery" includes nickel-cadmium, alkaline, mercuric oxide, silver oxide, zinc oxide, zinc-air, lithium, and zinc-carbon batteries, but excludes lead-acid batteries.

[For text of subps 37b to 102, see M.R.]

Subp. 102a. **Waste household battery.** "Waste household battery" means a household battery which is discarded before use.

Subp. 102b. **Waste oil.** "Waste oil" means virgin oil that is discarded before use.

[For text of subps 103 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, including:

(1) collected household hazardous waste to the

extent that the requirements of part 7045.0310 are met; and

(2) collected spent or waste household batteries to the extent that the requirements of part 7045.0686 are met;

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

7045.0686 SPECIAL REQUIREMENTS FOR MANAGEMENT OF SPENT OR WASTE HOUSEHOLD BATTERIES.

Subpart 1. **Scope.** The requirements of this part apply to operators who collect, store, transport, or reclaim spent or waste household batteries as a part of a household battery management program.

A. "Household battery management program" means:

(1) a program established to accept or collect spent or waste household batteries;

(2) a program established by a resource recovery facility to segregate spent or waste household batteries from household waste; or

(3) a program established by a solid waste disposal facility to segregate spent or waste household batteries from household waste during processing activities.

B. Operators who collect, transport, or store spent or waste household batteries which are sent for recycling but who do not reclaim them are subject to regulation under subparts 2 and 3, but are not otherwise subject to regulation under parts 7045.0205 to 7045.1380, and chapter 7001 for such collection, transportation, and storage.

C. Operators who collect, transport, or store spent or waste household batteries which are not recycled are subject to regulation under subpart 3 and part 7045.0310.

D. Operators who collect, transport, store, and also reclaim spent or waste household batteries are subject to regulation under subparts 2 to 4.

Subp. 2. **Notification.** An operator who intends to establish or operate all or part of a household battery 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 battery management program. If household batteries are speculatively accumulated as defined in part 7045.0020, a permit is required under chapter 7001 instead of this notification.

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

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

B. the location of all household battery collection sites;

C. the duration and operating hours of the program;

D. the intended program service area;

E. the manner in which household batteries will be collected, stored, and disposed of or recycled;

F. the amount of time the operator intends to store household batteries at individual collection sites;

G. a description of the containers used to collect and store household batteries;

H. the name and address of all facilities which will dispose of or recycle the household batteries;

I. a description of how the operator will manage cracked or leaking household batteries;

J. a description of how the operator will clean up spills resulting from leaking household batteries; and

K. any other information necessary to describe all aspects of the program.

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. **Standards for storage.** Spent or waste household batteries must be stored according to items A to C.

A. Storage of spent or waste household batteries shall be in vented, corrosion resistant containers.

B. Storage of containers of spent or waste household

batteries shall be subject to the requirements of part 7045.0526, subparts 2 to 6 and 9.

C. If the storage of spent or waste batteries meets the criteria of speculative accumulation as defined in part 7045.0020, the storage is also subject to the following requirements: parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

Subp. 4. **Standards for operators of facilities that store spent or waste household batteries before reclaiming.** The operators of facilities that store batteries before reclaiming them are subject to regulation under parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

INSTRUCTION TO REVISOR. Reletter Minnesota Rules, part 7045.0020, subparts 37b and 37c as subparts 37c and 37d respectively and correct internal references accordingly.

APPROVED AS TO LEGALITY

February 5, 19 91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene F. Hatcher
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 05 1991
Joan Anderson Growe
Secretary of State
4:00 P.M.

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In The Matter Of Proposed Amendment Of Rules Governing The Collection Of Household Batteries, Minn. Rules Pts. 7001.0520, 7045.0020, 7045.0120, and 7045.0686.

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The subject of this proceeding is the amendment of rules of the Minnesota Pollution Control Agency (hereinafter "Agency") governing the permitting, management, treatment, storage, and disposal of hazardous waste to specifically address the management of facilities for the collection of household batteries. These amendments will amend two chapters of Minnesota Rules, Minn. Rules chs. 7001 and 7045.

In 1990 the Minnesota Legislature signed into law (Minnesota Statutes, § 115A.9155 and 325E.125) certain measures to ensure that batteries would be managed in an environmentally sound manner. Among the provisions contained in the new law is a prohibition on the disposal in municipal solid waste of mercuric oxide, silver oxide, nickel-cadmium and sealed lead-acid batteries purchased for or used by a government agency, or an industrial, communications or medical facility. Coupled with this provision is a requirement that battery manufacturers establish a collection system to collect these types of batteries. Both of these portions of the new law became effective August 1, 1990.

Another important provision in the new law requires all alkaline batteries sold in Minnesota to contain no more than 0.025 percent mercury by February 1, 1992. An interim level of 0.3 percent must be met by January 1, 1991. MPCA staff believes that these mercury reductions will eventually allow these batteries to be regulated as nonhazardous wastes.

A third provision in the law requires that by July 1, 1993 rechargeable consumer products sold in Minnesota have a removable battery or battery pack so that the batteries can be removed when the product is disposed. In addition, rechargeable products must be labeled in a manner that informs the consumer about the type of electrode used in the battery and that the battery must be recycled or disposed of properly.

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 proposed amendments as required by Minn. Stat. § 116.07, subd. 6 (1988). Part VII sets forth the Agency's conclusion regarding the proposed 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 battery collection programs. These collection programs are currently regulated by Minn. Rules pt. 7045.0310. However, the Agency is establishing the more specific 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 batteries are a type of household hazardous waste. When household hazardous wastes are collected they are subject to regulation as hazardous waste. Collected household batteries are therefore currently regulated by Minn. Rules pt. 7045.0310.

Under the current rules, an operator of a household hazardous waste collection program is required to ship collected waste with a licensed hazardous waste transporter and to obtain a generator identification number prior to shipment of wastes. These requirements were necessary because the collected household hazardous wastes present a risk to the public if improperly transported and an administrative mechanism is needed to track the wastes from collection until disposal at a hazardous waste facility.

However, some types of household batteries (mercuric oxide, silver oxide and nickel-cadmium) are recyclable, and once collected can be sent for reclamation. Because these batteries have a value as a reclaimable product and because the risks to the public during transportation are minimal, they need not be as stringently regulated as other types of household hazardous wastes. In addition, household battery collection programs will be somewhat different from traditional household hazardous waste collection programs. Whereas many of the

materials collected at current household hazardous waste collections present a hazard to workers handling the material, household batteries present a minimal risk to persons handling them.

For the above described reasons the Agency believes that it is appropriate to apply different standards to household battery collection programs than currently apply to household hazardous waste programs. 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 battery collection programs by examining the hazardous waste rules which currently regulate household hazardous waste collection programs. The Agency has examined the rules applicable to household hazardous waste collection programs and has determined which of these rules are also necessary requirements for household battery 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 batteries 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. A household hazardous waste collection program meeting the requirements in part 7045.0310, is not currently required to obtain a full hazardous waste facility permit. Since household batteries are a type of household hazardous waste, it is reasonable to also exclude household battery collection programs from the permit requirements if the operators meet the requirements of the proposed rules governing household battery programs. Collected batteries represent a minimal risk to human health and the environment and are reasonably regulated without a permit.

C. Minn. Rules pt. 7045.0020 (Definitions)

The current hazardous waste rules do not include definitions for the terms "household battery" and "waste battery" which 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 37b. Household Battery. This term is already defined in Minn. Stat. § 115A.961, subd. 1 as "disposable or rechargeable dry cells commonly used as power sources for household or consumer products including, but not limited to, nickel-cadmium, alkaline, mercuric oxide, silver oxide, zinc oxide, lithium, and carbon-zinc batteries, but excluding lead-acid batteries". To avoid confusion between household generated batteries and business generated batteries, the definition of household batteries has been rewritten to read "disposable or rechargeable dry cells, generated by households, commonly used as power sources for household products including nickel-cadmium, alkaline, mercuric oxide, silver oxide, zinc oxide, lithium, and zinc-carbon batteries, but excluding lead-acid batteries. Because the proposed rules do not govern

batteries generated by business, this is a reasonable limitation of the term for the purposes of these rules. The Agency only intends that these rules apply to batteries generated by households.

Subpart 102a. Waste Household Battery. This term is defined as a household battery which is discarded before use. It is reasonable to define this term since the rules will only regulate spent or waste household batteries and not "new" household batteries.

Subparts 37c, household hazardous waste, 37d, household waste, and 102b, waste oil, were previously numbered 37b, 37c, and 102a, respectively. Their numbers are revised due to the insertion of the definitions for household battery (subpart 37b) and waste household battery (subpart 102a).

D. Minn. Rules pt. 7045.0210 (Exempt Wastes)

This part in the current rule exempts "collected household hazardous waste, to the extent that the requirements in part 7045.0310 are met, and household waste". The proposed change to item A would also exempt "collected spent or waste household batteries, to the extent that the requirements of part 7045.0686 are met".

Since an exemption exists for household hazardous wastes, and household batteries are a specific type of household hazardous waste, the Agency believes it is reasonable to specifically exempt household batteries from regulation as hazardous waste provided certain standards are met.

E. Minn. Rules pt. 7045.0686 (Special Requirements for the Management of Spent or Waste Household Batteries)

Subpart 1. Scope. This subpart identifies the regulated community governed by the proposed rules.

Any program which accepts or collects spent or waste household batteries will be regulated by the proposed rules. However, MPCA staff believe that it is

reasonable to more specifically identify the types of programs that will be collecting spent or waste household batteries in order to clearly focus the proposed rules on those programs. Item A establishes the scope of the proposed rules to generally apply to any program which accepts or collects spent or waste household batteries and additionally identifies the following programs as regulated: any program which is established by a resource recovery facility to segregate spent or waste household batteries from household waste; or any program which is established by a solid waste disposal facility to segregate spent or waste household batteries from household waste during processing activities. It is reasonable to provide as clear an understanding of the scope of the proposed rules as possible in order to address all potentially regulated programs and avoid ambiguity in the application of the rules.

All of the types of battery collection programs identified in the scope of the proposed rules are currently regulated under the existing rules governing household hazardous waste programs, Minn. Rules pt. 7045.0310. However, because the management and environmental concerns associated with the collection of spent or waste household batteries are different from the concerns associated with programs which address the collection of all types of household hazardous waste, it is reasonable to establish additional rules to specifically address those unique concerns.

Items B, C, and D specify the rules under which operators of household battery programs are governed for collection, transportation, storage, and reclamation of household batteries.

Operators who collect, transport, or store spent or waste household batteries which are then sent for recycling, but who do not reclaim them, are subject to regulation only under Minn. Rules pt. 7045.0686, subps. 2 (notification) and 3 (standards for storage). This would exempt them from the

rest of the hazardous waste rules and specifically from the requirements in Minn. Rules pt. 7045.0310 of using a licensed transporter and obtaining a generator identification number to transport collected materials. The Agency believes this is reasonable for two reasons. The batteries are being sent for recycling and therefore have a value which makes them less likely to be mismanaged. Also, batteries are relatively inert and therefore pose less of a hazard for shipping than other types of household hazardous waste.

Operators who collect, transport, or store spent or waste household batteries which are not recycled are subject to regulation under Minn. Rules pt. 7045.0686, subp. 3 and also pt. 7045.0310. The Agency believes it is reasonable to subject these operators to the increased requirements of Minn. Rules pt. 7045.0310 since the batteries they are collecting will not be recycled, and instead will be disposed of as hazardous waste. This means that there is an increased risk of mismanagement to avoid the cost of proper disposal.

Operators who collect, transport, store and also reclaim spent or waste household batteries are subject to regulation under Minn. Rules pt. 7045.0686, subps. 2, 3 and 4 (standards for facilities that store spent or waste household batteries before reclaiming them). Since these operations will be actually processing the batteries to reclaim metals the Agency feels it is reasonable to subject them to the same requirements as facilities which reclaim spent lead-acid batteries (Minn. Rules pts. 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632 and the permitting requirements of chapter 7001 for hazardous waste storage facilities). These types of facilities represent an environmental risk and are appropriately regulated at a more stringent level. The specific risks and requirements are described in the discussion of each subpart.

Subpart 2. Notification. 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 similar to what is required for household hazardous waste collection programs. Because household batteries are a subset of household hazardous waste, the Agency believes that this level of regulation is also reasonable for a household battery collection program.

Subpart 3. Standards for storage of spent or waste household batteries. Household batteries contain electrolytes which often are corrosive. In addition, household batteries which are not fully discharged can produce hydrogen gas if they contact other batteries in a container. If the container is not vented and sufficient hydrogen gas is generated, an explosion may result. Item A requires that spent or waste household batteries be stored in vented, corrosion resistant containers. The Agency believes it is reasonable to require the operator to containerize the electrolyte, should a battery develop a leak, and to use vented containers to store collected batteries to avoid a possible explosion from the production of hydrogen gas.

Item B requires that storage of containers of spent or waste household batteries shall be subject to the requirements of Minn. Rules pt. 7045.0526, subps. 2 to 6 and 9. These requirements address the condition of containers, the compatibility of wastes with containers, the management of containers, the inspection of containers, containment, and closure.

The Agency believes that all of these areas need to be regulated to insure that batteries are stored in a environmentally safe manner. In addition, the Agency feels that proper closure of a facility which has stored spent or waste

household batteries is necessary to correct any contamination problems which may have occurred at the site and to prevent future environmental damage. It is therefore reasonable to require that spent or waste household battery collection programs comply with the requirements of Minn. Rules pt. 7045.0526, subps. 2 to 6 and 9.

Item C specifies that if the storage of spent or waste household batteries meets the criteria of speculative accumulation as defined in Minn. Rules pt. 7045.0020, that storage is also subject to the following requirements: Minn. Rules pts. 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

These requirements are the same as those specified in Minn. Rules pt. 7045.0685, subp. 2 for spent lead-acid batteries which are speculatively accumulated. Speculative accumulation refers to a business activity where a recyclable material is stored until the market improves. In the past the Agency has encountered serious environmental problems resulting from businesses storing wastes for extended periods of time waiting for a better market. For this reason, such accumulation is carefully regulated. Both household batteries and lead-acid batteries contain metals which may cause soil or water contamination if they become cracked and subsequently leak during storage. When batteries are speculatively accumulated they may be stored for a longer period of time before reclamation, which increases the probability of a leak developing during storage. Therefore, because of the increased risk, it is reasonable to subject spent or waste household batteries, which are speculatively accumulated, to the same requirements as speculatively accumulated lead-acid batteries.

Subpart 4. Standards for operators of facilities that store spent or waste household batteries before reclaiming them. The operators of facilities that store batteries before reclaiming them are subject to regulation under Minn. Rules pts. 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

These requirements are the same as those specified in part 7045.0685, subp. 3 for operators of facilities that store spent lead-acid batteries before reclaiming them. To reclaim the metals from lead-acid batteries or household batteries, they must be broken open. This processing increases the chance for the metals contained in them to contaminate the environment. Therefore, the Agency feels it is reasonable to subject operators of facilities which store household batteries before reclaiming them to the same requirements as operators of facilities which store lead-acid batteries prior to reclaiming them.

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 amendments will not have any effect on most small businesses because businesses are prohibited from bringing their spent or waste batteries to household battery collections. The proposed amendments will only regulate batteries generated from households.

The only small businesses that would be affected by the proposed amendments would be those which operate collection programs for household batteries, or that reclaim collected household batteries. However, since the proposed amendments either reduce or maintain the current level of regulation, the Agency does not believe that there will be any adverse economic effect from the proposed amendments. The fact that the regulations reduce certain requirements may be an economic benefit to certain businesses.

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 regarding 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 battery 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 rules to more accurately address the concerns associated with household battery collections, the proposed amendments will reduce the expense associated with the operation of collection programs. The most significant reduction in regulation is the area of transporting the spent or waste household batteries to a reclamation facility.

By eliminating the requirement for collection operators to use a licensed transporter, the proposed rules will reduce the expense associated with transporting the collected batteries by 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 battery collection.

VII. CONCLUSION

Based on the foregoing, the proposed Minn. Rules pts. 7001.0520, 7045.0020, 7045.0120, and 7045.0686 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	Minn. Rules pt. 7045.0310.

September 14, 1990
Date

for Ann Glumac
Gerald L. Willet

Stat Authority 116.07 subd 4
... the pollution control agency may adopt, amend and rescind rules and standards having the force of law

November 26, 1990 end of comment period

Call about SOLAR

14.131

The agency shall send a copy of the statement of need and reasonableness to the legislative commission to review administrative rules when it becomes available for public review.

LCARA

1-22-91

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

January 18, 1991

Ms. Patty Nolte
Legal Assistant
Office of the Attorney General
525 Park Street, Suite 500
St. Paul, Minnesota 55155

Re: In the Matter of the Proposed Amendments of Rules Governing the Management of Household Batteries, Minn. Rules Chs. 7001 and 7045

Dear Ms. Nolte:

On December 18, 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. Notice of Intent to Solicit Outside Opinion (15 S.R. 387-388, August 13, 1990).

2. Affidavit of no written comments received pursuant to Notice of Intent to Solicit Outside Opinion (December 18, 1990).

3. Certificate of Agency's Authorizing Resolution (September 25, 1990).

4. Rules as proposed with Revisor's certificate.

5. Notice of Intent to Adopt Rule Amendments Without a Public Hearing, as mailed (October 8, 1990).

6. Affidavit of Mailing the Notice of Intent to Adopt Rule Amendments Without a Public Hearing and Certificate of Mailing List (October 17, 1990).

7. Statement of Need and Reasonableness.

8. Notice of Intent to Adopt Rule Amendments Without a Public Hearing and rule amendments as proposed (15 S.R. 948-951, October 22, 1990).

9. Affidavit that no comments were received from the public (December 31, 1990).

Equal Opportunity Employer

Printed on Recycled Paper

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

11. Certificate of Resolution Adopting Rules (December 19, 1990).

12. Findings of Fact, Conclusions, and Order Adopting Rules (December 19, 1990) (two copies).

13. Affidavit of Receiving No Requests for Notice of Submission of Rule Amendments Adopted Without a Public Hearing to the Attorney General (December 18, 1990).

14. Declaration of Counsel.

For your information, the four digit client code is 0697.

Very truly yours,

Alan Mitchell

ALAN R. MITCHELL
Special Assistant
Attorney General

Environmental Protection
Division

ARM:jlm:AP1
Enclosures
cc: Jeanne Eggleston, MPCA

Minnesota Pollution Control Agency
520 Lafayette Road, Saint Paul, Minnesota 55155-3898
Telephone (612) 296-6300

Celebrate MINNESOTA 1990

October 11, 1990

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

Dear Ms. Hruby:

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

- Toxicity Characteristics Testing Procedures
- Household Hazardous Waste Management Plans
- Lead Abatement in Soils
- Minimum Technology (Double Liners) for Hazardous Waste Facilities
- Management of Household Batteries

If you have any questions please contact me at 612/643-3498.

Sincerely,

Randall G. Hubred
for
Carol Nankivel, Supervisor
Rules Unit
Program Development Section
Hazardous Waste Division

CN/JAE:jao

Enclosures

RECEIVED
JAN 2 ? 1991
ATTORNEY GENERAL'S OFFICE
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155

Office of the Revisor of Statutes
Administrative Rules

Carla M. Riehle
Assistant Revisor
297-2948

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

February 1, 1991

Randall G. Hukriede
Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155

RE: File No. 1759

Dear Mr. Hukriede:

I have approved your rules adopted without a public hearing, and am enclosing a copy of these rules for your records.

I have also delivered two copies of these rules to the Attorney General for approval. If they are approved, the Attorney General will file two copies of the approved rules with the Secretary of State. The Secretary of State will then notify me of that fact.

After I am notified that the rules are filed with the Secretary of State, I will prepare three copies of a notice of adoption for you.

If you have any questions, please call me.

Very truly yours,

Carla M. Riehle

Subsequent meetings will be at the call of the society's president as necessary to conduct fair-related business. Dates and times will be available from the media and public relations office in the Service Building on the fairgrounds.

Minnesota State Arts Board

Notice of Board Meeting

The next regular meeting of the Minnesota State Arts Board will take place at 1:00 p.m. on Thursday, August 23, 1990 at the Arts Board offices, 432 Summit Avenue in Saint Paul. The public is invited to attend. Open meeting law guidelines will be in effect. Agenda items will include a year-end report on Arts Board activities during fiscal year 1990.

For information on this meeting or other programs, contact the Arts Board, 432 Summit Avenue, Saint Paul, MN 55102, (612) 297-2603 or toll-free from greater Minnesota at (800) 652-9747.

Minnesota Health Care Access Commission

Notice of Meeting of Health Care Access Commission

The next meeting of the Minnesota Health Care Access Commission will be Thursday, August 30, 1990, from 1:00 to 5:00 p.m. in Room 107 of the State Capitol. Please call the Health Care Access Commission office, 297-5980, for further information.

Metropolitan Council

Notice of Public Meeting for Alternative Environmental Review Process to be Used in the Designation of a Search Area for a New Major Airport

The Metropolitan Council has drafted an application to the Minnesota Environmental Quality Board (EQB) to use an "alternative environmental review" process in the designation of a search area for locating a new major airport. The use of an alternative form of state environmental review is provided for in EQB rules.

This application will be the subject of a public meeting to be held on Tuesday, Sept. 4, 1990, at 11 a.m. at the Metropolitan Council offices, Mears Park Centre, 230 E. Fifth St., St. Paul. All interested persons are encouraged to attend the meeting and offer comments. Persons may register in advance to speak by calling the Council's Community Outreach Division at 291-6500. Written comments will also be accepted; they must be received by 5 p.m. Sept. 4.

Any informational meeting describing the alternative environmental review process will be held for anyone interested on Tuesday, Aug. 28, at 3 p.m. in the Metropolitan Council chambers.

Copies of the application are available for public inspection at designated libraries throughout the region. For information on the location of these libraries or a free copy of the application, call 291-8140. Other questions should be directed to transportation staff at 291-6308.

Pollution Control Agency

Division of Hazardous Waste

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Management of Spent or Waste Household Batteries, *Minnesota Rules* Chapter 7045

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking opinions from outside sources regarding the proposed rules governing the management of spent or waste household batteries.

The purpose of this rulemaking is to develop rules to facilitate the recycling of household batteries. The Agency is considering developing special standards for the collection, storage, and transportation of spent or waste household batteries.

The Agency requests information and opinions concerning the subject matter of the proposed rule. Interested persons or groups may submit data or views orally or in writing. Oral or written statements or comments should be directed to:

Randy Hukriede
Minnesota Pollution Control Agency

520 Lafayette Road North
St. Paul, MN 55155
Telephone: (612) 643-3470

Oral statements will be received during regular business hours, 8:00 a.m. to 4:00 p.m., Monday through Friday.

Statements and comments will be accepted until August 28, 1990. Any written materials received by the Agency shall become part of the rulemaking record in the event that the rule is adopted.

Gerald L. Willet
Commissioner

Minnesota Pollution Control Agency

Water Quality Division

Notice of Intent to Solicit Outside Opinions Regarding Amendment of Rules Governing the Individual On-site Wastewater Treatment Systems Grants Program

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking information or opinions from sources outside the Agency for the improvement of the administrative rules for the state Individual On-site Wastewater Treatment Systems Grants Program (on-site program). These rules are found under *Minnesota Rules* pts. 7077.0700 through 7077.0765.

This program provides grants to municipalities to assist their residents with the costs of repairing and replacing on-site wastewater treatment systems that are failing to meet state water quality standards. Amendments are needed to implement program changes mandated by the 1990 Legislature. If the information gathered from outside the Agency identifies a need to improve parts of the administrative process, additional proposed amendments will be developed and presented to the public for comment. The amendment of these parts is authorized by *Minnesota Statutes* § 116.18, subd. 3c(f) (1990).

The agency requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to:

Debbie Olson
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155
Telephone: (612) 296-7223

All statements of information and opinion will be accepted until 4:30 p.m. Friday, September 28, 1990. Any written materials received by the Agency shall become part of the rulemaking record in the event that the rule is amended.

Gerald L. Willet
Commissioner

Department of Public Safety

Driver and Vehicle Services

Notice of Solicitation of Outside Information or Opinions Regarding Possible Amendment to the Rule Governing School Bus Driver Qualifications

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing possible amendments to the rule governing school bus driver qualifications, specifically *Minnesota Rules*, parts 7414.1200 through 7414.1400 physical qualifications and examination. The adoption of the rule is authorized by *Minnesota Statutes*, sections 14.06 and 171.321, subdivision 2, which requires the agency to prescribe rules governing the qualifications of individuals to drive school buses.

The State Department of Public Safety requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Carol Manteuffel
Driver & Vehicle Services
Department of Public Safety

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of Proposed Rule Governing the Management of Household Batteries, Minnesota Rules Chapters 7001 and 7045

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Randy Hukriede being duly sworn on oath deposes and says:

1. That he is the person named in the Notice of Intent to Solicit Outside Opinion (15 SR 387-388, August 13, 1990) as the person to receive comments on the Minnesota Pollution Control Agency's intent to adopt rule amendments concerning the above-entitled matter.

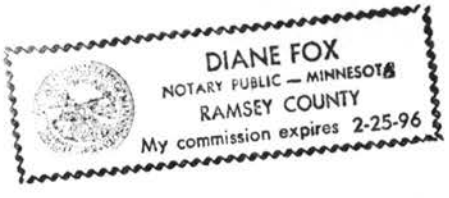
2. That the comment period set forth in the notice terminated at 4:00 p.m. on August 28, 1990.

3. That during the public comment period, there were no comments received by the Minnesota Pollution Control Agency regarding the above-entitled matter.

Randy Hukriede

Subscribed and sworn to before me
this 18 day of December 1990.

Diane Fox
Notary Public



CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Gerald 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 25th day of September, 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 7045.0686, 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 25 day of September, 1990.

Gerald L. Willet

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management of Household Batteries, 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 (MPCA) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rule amendments without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1988). The MPCA's authority to adopt the rule amendments is set forth in Minn. Stat. § 116.07, subd. 4 (1988).

(2) All persons have until 4:30 p.m. on November 26, 1990, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rules. Comment is encouraged.(3) Each comment should identify the portion of the proposed rule amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rule amendments 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 rule amendments addressed, the reason for the request, and any change proposed.(7) If a public hearing is required, the MPCA 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:

Randy Hukriede
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
612/643-3470

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

(11) The proposed rule amendments pertaining to the management of hazardous waste, if adopted, would provide for notification and operational standards for collection programs for household batteries.

One free copy of the rules is available upon request from Randy Hukriede 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 rule amendments has been prepared and is available from Randy Hukriede upon request.

(14) You are hereby advised, pursuant to Minn. Stat. § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rule amendments will not have any effect on most small businesses because businesses are prohibited from bringing their spent or waste batteries to household battery collections. The proposed rule amendments will only regulate batteries generated from households.

The only small businesses that would be affected by the proposed rule amendments would be those which operate collection programs for household batteries, or that reclaim collected household batteries. However, since the proposed amendments either reduce or maintain the current level of regulation, the Agency does not believe that there will be any adverse economic effect from the proposed amendments. The fact that the proposed rule amendments reduce certain requirements may be an economic benefit to certain businesses.

(9) If no hearing is required, upon adoption of the rule amendments, the rule amendments and required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates 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, must submit the written request to Randy Hukriede.

Dated: 10-8-90

Barbara Lindsey Sims

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management of Household Batteries, Minn. Rules Chs. 7001 and 7045

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)

Randy Hukriede, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of the 17th day of October, 1990.

That on the 19th day of October, 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.

Randy Hukriede

Subscribed and sworn to before me
this 17 day of October, 1990.

Ardith M. Vos
Notary Public

ARDITH M. VOS
NOTARY PUBLIC — MINNESOTA
ANOKA COUNTY
My commission expires 1-12-94

H. A therapist must disclose to the board and its agents client records that the board and its agents consider to be germane to a disciplinary proceeding.

I. A therapist must obtain written, informed consent from each client before electronically recording sessions with that client or before permitting third-party supervisory observation of their sessions. The consent form should specify the purpose and proposed audience for the recording.

J. A therapist must disguise adequately the identity of a client when using material derived from a counseling relationship for purposes of training, research, professional meetings, or publications.

Subp. 7. **Research.** A marriage and family therapist must conduct research activities with full respect for the rights and dignity of participants and with full concern for their welfare according to the requirements of the "Ethical Principles of Psychologists, General Principle 9: Research with Human Participants," American Psychological Association, as amended June 2, 1989. These requirements are incorporated by reference and are not subject to frequent change. The requirements were published in "American Psychologist" March 1990, Volume 45, Number 3, pages 390-395. They are available through the Minitex interlibrary loan system. Participation in research is voluntary.

5300.0360 FEES.

All fees indicated in items A to K shall be paid by cash or in the form of check, bank draft, or money order, made payable to the Board of Marriage and Family Therapy, Colonial Park Office Building, 2700 University Avenue West, Suite 225, Saint Paul, Minnesota 55114. All fees are nonrefundable.

A. application for admission to written examination fee, $200;

B. written examination fee, not to exceed $250;

C. application for licensure fee, $100;

D. initial license fee, not to exceed $100;

E. application for licensure by reciprocity fee, $300;

F. annual renewal of license fee, $100;

G. late renewal fee, $50;

H. reinstatement of license fee, $150;

I. sponsor's application for approval of a continuing education course fee, $25;

J. penalty fee, $75;

K. duplicate license fee, $25.

The written examination fee in item B will be determined by the professional examination service approved by the Association for Marriage and Family Therapy Regulatory Boards administering the examination.

The initial license fee in item E will be prorated accordingly, depending on the month in which the applicant is approved for licensure.

Pollution Control Agency

Proposed Permanent Rules Relating to Household Battery Collection

Notice of Intent to Adopt Rules Without a Public Hearing

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

All persons have until 4:30 p.m. on November 26, 1990, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rule amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rule amendments 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 must state his or her name and address,

and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

Comments or written requests for a public hearing must be submitted to Randy Hukriede, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, Minnesota 55155, (telephone 612-643-3470).

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

The proposed rule amendments pertaining to the management of household batteries if adopted, would provide notification and operational standards for collection programs for household batteries.

The proposed rule amendments are published below. One free copy of the rules is available upon request from Randy Hukriede 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 rule amendments has been prepared and is available from Randy Hukriede upon request.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rule amendments will not have any effect on most small businesses because businesses are prohibited from bringing their spent or waste batteries to household battery collections. The proposed rule amendments will only regulate batteries generated from households.

The only small businesses that would be affected by the proposed amendments would be those which operate collection programs for household batteries, or that reclaim collected household batteries. However, since the proposed rule amendments either reduce or maintain the current level of regulation, the Agency does not believe that there will be any adverse economic effect from the proposed amendments. The fact that the proposed rule amendments reduce certain requirements may be an economic benefit to certain businesses.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates 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, must submit the written request to Randy Hukriede.

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 K, see M.R.]

L. Household battery collection programs meeting the requirements of part 7045.0686.

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

7045.0020 DEFINITIONS.

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

Subp. 37b. **Household battery.** "Household battery" means a disposable or rechargeable dry cell, generated by a household and commonly used as a power source for household products. "Household battery" includes nickel-cadmium, alkaline, mercuric oxide, silver oxide, zinc oxide, zinc-air, lithium, and zinc-carbon batteries, but excludes lead-acid batteries.

[For text of subps 37b to 102, see M.R.]

Subp. 102a. **Waste household battery.** "Waste household battery" means a household battery which is discarded before use.

Subp. 102b. **Waste oil.** "Waste oil" means virgin oil that is discarded before use.

[For text of subps 103 to 109, see M.R.]

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.

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, including:

(1) collected household hazardous waste~~,~~ to the extent that the requirements of part 7045.0310 are met~~, and household waste~~; and

(2) collected spent or waste household batteries to the extent that the requirements of part 7045.0686 are met;

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

7045.0686 SPECIAL REQUIREMENTS FOR MANAGEMENT OF SPENT OR WASTE HOUSEHOLD BATTERIES.

Subpart 1. **Scope.** The requirements of this part apply to operators who collect, store, transport, or reclaim spent or waste household batteries as a part of a household battery management program.

A. "Household battery management program" means:

(1) a program established to accept or collect spent or waste household batteries;

(2) a program established by a resource recovery facility to segregate spent or waste household batteries from household waste; or

(3) a program established by a solid waste disposal facility to segregate spent or waste household batteries from household waste during processing activities.

B. Operators who collect, transport, or store spent or waste household batteries which are sent for recycling but who do not reclaim them are subject to regulation under subparts 2 and 3, but are not otherwise subject to regulation under parts 7045.0205 to 7045.1380, and chapter 7001 for such collection, transportation, and storage.

C. Operators who collect, transport, or store spent or waste household batteries which are not recycled are subject to regulation under subpart 3 and part 7045.0310.

D. Operators who collect, transport, store, and also reclaim spent or waste household batteries are subject to regulation under subparts 2 to 4.

Subp. 2. **Notification.** An operator who intends to establish or operate all or part of a household battery 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 battery management program. If household batteries are speculatively accumulated as defined in part 7045.0020, a permit is required under chapter 7001 instead of this notification.

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

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

B. the location of all household battery collection sites;

C. the duration and operating hours of the program;

D. the intended program service area;

E. the manner in which household batteries will be collected, stored, and disposed of or recycled;

F. the amount of time the operator intends to store household batteries at individual collection sites;

G. a description of the containers used to collect and store household batteries;

H. the name and address of all facilities which will dispose of or recycle the household batteries;

I. a description of how the operator will manage cracked or leaking household batteries;

J. a description of how the operator will clean up spills resulting from leaking household batteries; and

K. any other information necessary to describe all aspects of the program.

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. **Standards for storage.** Spent or waste household batteries must be stored according to items A to C.

A. Storage of spent or waste household batteries shall be in vented, corrosion resistant containers.

B. Storage of containers of spent or waste household batteries shall be subject to the requirements of part 7045.0526, subparts 2 to 6 and 9.

C. If the storage of spent or waste batteries meets the criteria of speculative accumulation as defined in part 7045.0020, the storage is also subject to the following requirements: parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

Subp. 4. **Standards for operators of facilities that store spent or waste household batteries before reclaiming.** The operators of facilities that store batteries before reclaiming them are subject to regulation under parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

INSTRUCTION TO REVISOR. Reletter Minnesota Rules, part 7045.0020, subparts 37b and 37c as subparts 37c and 37d respectively and correct internal references accordingly.

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 (MPCA) 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 *Minnesota Statutes* §§ 14.22 to 14.28 (1988). The MPCA's authority to adopt the rules is set forth in *Minnesota Statutes* § 116.07, subd. 4 and in *Minnesota Laws*, First Special Session, Chapter 1, Article 20, Section 19, subd. 4.k.

All persons have until 4:30 p.m. on November 26, 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.

Any person may make a written request for a public hearing on the proposed 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 must 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 MPCA 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 MPCA and do not result in a substantial change in the proposed rules as noticed.

The proposed rules, if adopted, will govern household hazardous waste management plans for solid waste disposal facilities and treatment procedures for collected household hazardous waste. 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 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 may have a negative impact on small businesses. The businesses impacted will be solid waste management facilities. As a result of the proposed rules, facility operators will have to purchase educational materials and train staff in some aspects of household hazardous waste management.

Facility operators are not required to separate household hazardous waste from the other solid waste. However, if household hazardous waste is separated or arrives separately at a solid waste management facility, the facility operator will have to pay for the cost of disposal of the household hazardous waste.

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.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Governing the Management of Household Batteries, Minn. Rules Chs. 7001 and 7045

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO ADOPT RULE WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Randy Hukriede, being duly sworn on oath deposes and says:

1. That he is the person named in the Notice of Intent to Adopt Rule Without A Public Hearing (15 SR 948-951, October 22, 1990) as the person to receive comments on the Minnesota Pollution Control Agency's intent to adopt the proposed rule concerning the above-entitled matter.

2. That the comment period set forth in the notice terminated at 4:30 p.m. on November 26, 1990.

3. That during the public comment period, there were no written comments received by the the Minnesota Pollution Control Agency regarding the above-entitled matter.

Randy Hukriede

Subscribed and sworn to before me this 31 day of December, 1990.

Marilyn J. Wegwart
Notary Public

MARILYN J. WEGWART
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 4-19-96

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Barbara Lindsey Sims, do hereby certify that I am the Deputy 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 18th day of December, 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 hereby approves and adopts the attached amendments to the Minnesota Pollution Control Agency's rules governing standards for the management of collection sites for household batteries, Minn. Rules pts. 7001.0520, 7045.0020, 7045.0120 and 7045.0686, pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116.12, subd. 1 (1990).
>
> BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Deputy Commissioner is authorized to make any form changes to the rules 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 (1990).
>
> BE IT FURTHER RESOLVED, that the Minnesota Pollution Control Agency adopts the Findings of Fact, Conclusions, and Order Adopting Rule Amendments and that the Deputy Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Minnesota Pollution Control Agency and 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 19 day of December 1990.

Barbara Lindsey Sims

BARBARA LINDSEY SIMS
Deputy Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Collection of Household Batteries, Minn. Rules Pts. 7001.0520, 7045.0020, 7045.0120 and 7045.0686

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 18th day of December, 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. Notice of the MPCA's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on October 22, 1990 (15 SR 948-951), 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 October 16, 1990.

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

3. All persons were given the opportunity to submit comments on the rule amendments for 36 days after notice of proposed rulemaking. The 36 day comment period, as set out in the notice, expired on November 26, 1990.

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

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

6. During the comment period the MPCA received no written comment letters.

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule amendments 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 the rule amendments without a public hearing.

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

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 7001.0520, 7045.0020, 7045.0120 and 7045.0686 governing the collection of household batteries are adopted pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4 (1990).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: 12-19-90

(9)

for Barbara Lindsay Sims
Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Collection of Household Batteries, Minn. Rules Pts. 7001.0520, 7045.0020, 7045.0120 and 7045.0686

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 18th day of December, 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. Notice of the MPCA's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on October 22, 1990 (15 SR 948-951), 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 October 16, 1990.

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

3. All persons were given the opportunity to submit comments on the rule amendments for 36 days after notice of proposed rulemaking. The 36 day comment period, as set out in the notice, expired on November 26, 1990.

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

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

6. During the comment period the MPCA received no written comment letters.

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule amendments 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 the rule amendments without a public hearing.

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

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 7001.0520, 7045.0020, 7045.0120 and 7045.0686 governing the collection of household batteries are adopted pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4 (1990).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: 12-19-90

for Barbara Lindsay Sims
Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management of Household Batteries, Minnesota Rules Chapters 7001 and 7045

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Randy Hukriede, being duly sworn says:

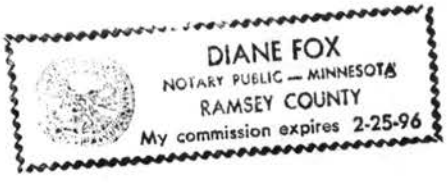
1. That he is the person named in the Notice of Intent to Adopt Rules Without a Public Hearing (15 SR 948-951, October 22, 1990) as the person to receive requests for notification of submission of rule adopted without a public hearing to the Attorney General concerning the above-entitled matter.

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

Randy Hukriede

Subscribed and sworn to before me this 18 day of December 1990.

Diane Fox
Notary Public



STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule
Governing the Management of
Household Batteries,
Minn. Rules Chs. 7001 and 7045

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

ALAN R. MITCHELL
Special Assistant
Attorney General

January 18, 1991

Pollution Control Agency

Proposed Permanent Rules Relating to Household Battery Collection

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 K, see M.R.]

L. Household battery collection programs meeting the requirements of part 7045.0686.

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

7045.0020 DEFINITIONS.

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

Subp. 37b. **Household battery.** "Household battery" means a disposable or rechargeable dry cell, generated by a household and commonly used as a power source for household products. "Household battery" includes nickel-cadmium, alkaline, mercuric oxide, silver oxide, zinc oxide, zinc-air, lithium, and zinc-carbon batteries, but excludes lead-acid batteries.

[For text of subps 37b to 102, see M.R.]

Subp. 102a. **Waste household battery.** "Waste household battery" means a household battery which is discarded before use.

Subp. 102b. **Waste oil.** "Waste oil" means virgin oil that is discarded before use.

[For text of subps 103 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, including:

Approved by Revisor CMR/Dmm

(1) collected household hazardous waste~~,~~ to the extent that the requirements of part 7045.0310 are met~~,-and household-waste~~; and

(2) collected spent or waste household batteries to the extent that the requirements of part 7045.0686 are met;

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

7045.0686 SPECIAL REQUIREMENTS FOR MANAGEMENT OF SPENT OR WASTE HOUSEHOLD BATTERIES.

Subpart 1. **Scope.** The requirements of this part apply to operators who collect, store, transport, or reclaim spent or waste household batteries as a part of a household battery management program.

A. "Household battery management program" means:

(1) a program established to accept or collect spent or waste household batteries;

(2) a program established by a resource recovery facility to segregate spent or waste household batteries from household waste; or

(3) a program established by a solid waste disposal facility to segregate spent or waste household batteries from household waste during processing activities.

B. Operators who collect, transport, or store spent or waste household batteries which are sent for recycling but who do not reclaim them are subject to regulation under subparts 2 and 3, but are not otherwise subject to regulation under parts 7045.0205 to 7045.1380, and chapter 7001 for such collection, transportation, and storage.

C. Operators who collect, transport, or store spent or waste household batteries which are not recycled are subject to regulation under subpart 3 and part 7045.0310.

D. Operators who collect, transport, store, and also reclaim spent or waste household batteries are subject to regulation under subparts 2 to 4.

Subp. 2. **Notification.** An operator who intends to establish or operate all or part of a household battery

Approved by Revisor _____

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 battery management program. If household batteries are speculatively accumulated as defined in part 7045.0020, a permit is required under chapter 7001 instead of this notification.

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

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

B. the location of all household battery collection sites;

C. the duration and operating hours of the program;

D. the intended program service area;

E. the manner in which household batteries will be collected, stored, and disposed of or recycled;

F. the amount of time the operator intends to store household batteries at individual collection sites;

G. a description of the containers used to collect and store household batteries;

H. the name and address of all facilities which will dispose of or recycle the household batteries;

I. a description of how the operator will manage cracked or leaking household batteries;

J. a description of how the operator will clean up spills resulting from leaking household batteries; and

K. any other information necessary to describe all aspects of the program.

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. **Standards for storage.** Spent or waste household batteries must be stored according to items A to C.

A. Storage of spent or waste household batteries

Approved
by Revisor _____

shall be in vented, corrosion resistant containers.

B. Storage of containers of spent or waste household batteries shall be subject to the requirements of part 7045.0526, subparts 2 to 6 and 9.

C. If the storage of spent or waste batteries meets the criteria of speculative accumulation as defined in part 7045.0020, the storage is also subject to the following requirements: parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

Subp. 4. **Standards for operators of facilities that store spent or waste household batteries before reclaiming.** The operators of facilities that store batteries before reclaiming them are subject to regulation under parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

INSTRUCTION TO REVISOR. Reletter Minnesota Rules, part 7045.0020, subparts 37b and 37c as subparts 37c and 37d respectively and correct internal references accordingly.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Household Battery Collection

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapters 7001 and 7045

The attached rules are approved for publication in the State Register

CMR / Gmm

Carla M. Riehle
Assistant Revisor