

Department : Agriculture

STATE OF MINNESOTA
Office Memorandum

Date : April 9, 1992

To : Maryanne Hruby, Director
LCRAR

From : Carol Milligan *CM*
Agriculture Planning Division

Phone : 296-6906

Subject : **Rule Governing Waste Pesticide Collection**

As required by Minnesota Statutes, sections 14.131 and 14.23, attached is the Statement of Need and Reasonableness for the above-captioned rule. The Notice of Intent to Adopt and the rule will be published in the *State Register* on 4/27/92.

Attachment

The Legislative Commission to
Review Administrative Rules

APR 10 1992



of knowledge and skill
and of the character of the work

and of the nature of the work

and of the nature of the work

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

Statement of Need and Reasonableness

In the Matter of the Proposed Rule of the Department of Agriculture
Governing the Minnesota Waste Pesticide Collection Program

Introduction

The waste pesticide collection program is authorized by Minnesota Statute, section 18B.065. Collected waste pesticides are required to be managed according to the standards applicable to hazardous waste. Subdivision 2 provides authority for the commissioner of agriculture to obtain a United States Environmental Protection Agency hazardous waste identification number to manage the waste pesticides collected. Furthermore, the commissioner of agriculture may limit the type and quantity of waste pesticides accepted for collection and may assess pesticide end-users for portions of the costs incurred.

The subject of this rule making is the proposed adoption by the Minnesota Department of Agriculture (hereinafter "Department") of a rule governing the Minnesota Waste Pesticide Collection Program. Minnesota Statutes, section 18B.065, subd. 6, authorizes the commissioner to adopt rules to administer the program. The proposed rules define (1) a schedule by which program participants will be assessed for a portion of disposal costs and (2) cooperative agreements between the commissioner and cosponsors for administration of the waste pesticide collection program. Consultation with farm, industry, and environmental groups has led us to believe that the proposed rules may be adopted as noncontroversial in accordance with Minnesota Statutes, section 14.22 through 14.28.

The proposed rule provides that pesticide end-users classified as

very small- or small-quantity generators of hazardous waste may transport their own wastes to the collection site without hazardous waste manifests and without employing Department of Transportation licensed transporters (Minn. Rules pt. 7045.0261).

The proposed rule will govern the management of waste pesticide collection program administered by the Minnesota Department of Agriculture. The rule addresses assessment schedule and payment, cosponsor selection, and cooperative agreements. The Department will continue to encourage and facilitate the voluntary use of the program by farmers resulting in a environmentally safe alternative to disposing of unusable waste pesticides. The Department feels that the proposed rules are of assistance in ensuring the safe and efficient operation of these collection program.

Small Business Impact

The proposed rule will not have a negative impact on small businesses (ie. pesticide end-users/farmers). The proposed rule is designed to assist in the safe collection and disposal of waste pesticides, thus having a beneficial effect on businesses to which they apply. Recent studies (Waste Pesticide Collection Pilot Project-1989-L.Palmer) identified waste pesticides on 29 percent of the state's farms. A major factor contributing to this accumulation of unused pesticides on the farm was the complex and costly process to dispose of waste through the hazardous waste network.

The waste pesticide collection program provides a system to expedite the disposal of waste pesticides currently present at many farm locations. The Minnesota Department of Agriculture consulted with the Minnesota Department of Transportation, Pollution Control Agency, and the United States Environmental Protection Agency in establishing an acceptable program meeting applicable state and federal hazardous waste regulations.

Need for and Reasonableness of the Proposed Rule

1509.0010 AUTHORITY.

This part is necessary to define the authority and scope of the rule.

1509.0020 DEFINITIONS.

Subp. 1. Scope.

It is reasonable to define these terms specifically so that there is a common understanding of the subject of these rules.

Subp. 2. Collection Site.

The term will have the meaning given it in M.S. 18B.01, subd. 4a. This is reasonable because it makes the rules consistent with the statute.

Subp. 3. Commissioner.

The term will have the meaning given it in M.S. 18B.01, Subd. 6. This is reasonable because it makes the rules consistent with the statute.

Subp. 4. Container.

The definition has been modified from the meaning given it in M.S. 18B.01, Subd. 6a. The change is for clarification to more fully characterize container types accepted for disposal.

Subp. 5. Cosponsor.

The term is necessary to clearly identify entities eligible for consideration to assist the commissioner in administering waste pesticide collection activities.

Subp. 6. Pesticide end-user.

The term will have the meaning given it in M.S. 18B.01, Subd. 19a. This is reasonable because it makes the rules consistent with the statute.

Subp. 7. Pesticide formulation.

The term is necessary to identify an admissible substance held within a container that is eligible for disposal through the waste pesticide collection program.

Subp. 8. Waste pesticide.

The definition has been modified and expanded from the meaning given in M.S. 18B.01, Subd. 31a. The change is for clarification to distinguish criteria for accepting waste pesticide products. Materials identified as not eligible will not be accepted for disposal through this program.

1509.0030

Subp. 1. Assessment schedule.

This subpart is necessary to ensure efficient and effective use of resources by the Department and provide reasonable access to the waste pesticide collection program with a limited funding source. Assessments for portions of the disposal cost make the program accessible to as many pesticide end-users as possible. Without the assessment schedule, it is possible that one or two pesticide end-user could possess sufficient quantities to negate participation by twenty to forty pesticide end-users with average waste pesticide quantities.

The assessment schedule illustrates who will be assessed and at what amount. The assessment amount is based on the current hazardous pesticide waste packing, transportation and disposal service contract. Subpart 1.A. provides for assessment of participating governments or their representative at 125 percent of the disposal cost. The additional 25% over the actual disposal cost (100 percent) will reimburse the Department for expenses to operate and administer the collection program. Subpart 1.B. assessment schedule encourages participation by offering a substantially reduced disposal cost to pesticide end-users voluntarily disposing of their waste pesticide through this

collection program. The assessment schedule establishes a pesticide end-user's minimum cost for disposal of waste pesticide. All assessment schedule rate adjustments will be based on the current hazardous pesticide waste packing, transportation and disposal service contract. The assessment for participants will increase proportionate to the Department's cost for disposal of the waste pesticide collected.

The assessment schedule is reasonable because it provides a process for the pesticide end-user and the department to share the disposal cost. The two year pilot project records and one year permanent program operation show that 70% of the participants will transport 150 pounds or less and will pay no disposal cost. Twenty two percent will pay disposal costs of \$1 per pound at a maximum of \$150.

Subp. 2. Payment.

This subpart is necessary to provide a reasonable mechanism for the Department to recover a portion of the disposal cost. The invoice will be based on the quantity of waste received at the collection from individual pesticide end-users at the rate described in subp. 1.

1509.0040

Subp. 1. Cosponsor selection.

This subpart is necessary to establish a standard criteria for evaluating and comparing qualifications of potential sponsors applying to work with the Department in conducting a waste pesticide program. The standard criteria will permit fair review and equal consideration of each applicant based on similar information. It is anticipated that the number of applicants will far exceed the number of waste pesticide collection projects the Department will be able to fund in any given year.

Subp. 2. Cooperative agreements.

This subpart is necessary to initiate a formal agreement between

the Department and cosponsors. Conducting a successful waste pesticide collection requires commitment from all sponsors involved. The formal agreement will explicitly define in writing the roles and responsibilities of involved parties.

1509.0050

This section is necessary to direct all assessments collected under this rule be deposited in the waste pesticide account. The revenue generated as a result of collected assessments will pay for a portion of costs incurred to implement the waste pesticide collection program. Minnesota Statute, section 18B.065 establishes the waste pesticide collection account and requires all assessments collected to be deposited in the state treasury and credited to the waste pesticide account. Money in the account is appropriated to the commissioner to pay for costs incurred to implement the waste pesticide collection program.

Department of Finance
FEE REVIEW

DRAFT

(Proposed Fee)

Date Prepared: 03/27/92

Department/Agency: AGRICULTURE, DEPARTMENT OF Budget Activity: AGRONOMY SERVICES

Fee Name: WASTE PESTICIDE COLLECTION PROGRAM

Legal Citation: M.S. 18B.065 Fee Set By: Law Agency

Purpose of Fee:
 To provide partial funding of the Waste Pesticide Collection Program through assessment of participating pesticide end-users for a portion of the disposal cost.

Dedicated Non-Dedicated Revenue Code: 300,990

APID: 30111:00-20 Fund: 20 Accumulated Difference Thru 1988: -0- Dollars in Thousands (137,522 = 138)

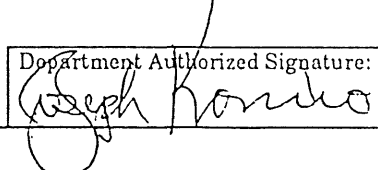
Fiscal Year:	Actual F.Y. 89	Actual F.Y. 90	Actual F.Y. 91	Requested F.Y. 92	Requested F.Y. 93
Actual/Anticipated Receipts					34
Less Actual/Anticipated Costs					34
Current Difference					0
Accumulated Difference					0
Number Paying Fee					
Present Fee	NEW FEE - SEE ATTACHED				
Date Fee Last Changed					

Remarks:

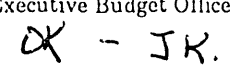
To assess for a portion of the cost incurred in operating the program in accordance with M.S. 18B.065 Subd. 2(b).

Projections

- 1) Collection of 58,000 pounds of waste pesticides.
- 2) 530 participants.
- 3) The weight and distribution of the poundage collected and the number of participants is based on the experience gained over the previous two years.

Department Authorized Signature:


Finance Department Recommendation:

Executive Budget Officer Signature:


Department of Finance
FEE REVIEW - Details of Cost

DRAFT

Date Prepared: 03/27/92

(Proposed Fee)

Department/Agency: AGRICULTURE, DEPARTMENT OF Budget Activity: AGRONOMY SERVICES

Fee Name: WASTE PESTICIDE COLLECTION PROGRAM

Detailed Listing of Items Included as Costs on Fee Review Form FI-00194-07 Dollars in Thousands (137,522 = 138)

Fiscal Year:	Actual F.Y. 89	Actual F.Y. 90	Estimated F.Y. 91	Requested F.Y.92	Requested F.Y. 93
Agency Direct Expenditures					32
Salary Increase	XXXXXXXXXXXX	XXXXXXXXXXXX	XXXXXXXXXXXX		0
Attorney General					2
Statewide Indirect					0
Agency Indirect					0
Totals: must agree with cost on Fee Review Form					34

Remarks:

Department of Finance
FEE REVIEW - Attachment

DRAFT

Date Prepared: 03/27/92

(Proposed Fee)

Department/Agency: AGRICULTURE, DEPARTMENT OF Budget Activity: AGRONOMY SERVICES

Fee Name: WASTE PESTICIDE COLLECTION PROGRAM

Remarks:

Assessment Schedule

<u>Proposed Fee</u>	<u>Assessment Rate</u>	<u>Estimated Amt. Collected</u>
a) Local units of government	125% of the disposal price but not less than \$7.00 per pound	\$350.00
b) 1 - 150 lbs.	\$0 per pound	-0-
c) 151-300 lbs.	15% of disposal price but not less than \$1.00 per pound	\$6,960.00
d) 301-1000 lbs.	50% of disposal price but not less than \$3.00 per pound	\$11,100.00
e) 1001- 2200 lbs.	100% of disposal price but not less than \$6.00 per pound	\$15,710.00

Note: 2,200 pounds is the maximum that can be collected under the proposed rules.