

Land Policy Forum – Program Management Decision

Termination of the Special Waste Pilot Project

Waste/Hazardous Waste #8.02, December 2004

Background

The Special Waste Pilot Project was implemented by the Minnesota Pollution Control Agency in September, 1993, to manage certain wastes that were generated by many companies. The wastes, although often hazardous, did not pose harm to human health or the environment provided they were managed correctly.

To facilitate and ensure proper management, the Special Waste Pilot Project (Project) offered reduced record-keeping and reporting requirements. The Project was intended as an interim measure until federal Universal Waste Rules were promulgated.

The Environmental Protection Agency has promulgated Universal Waste Rules; Minnesota is in the process of formally adopting them. Until they are adopted in Minnesota, this program management decision allows the Minnesota Pollution Control Agency to regulate as if the Universal Waste Rules were already adopted in Minnesota.

Mercury-containing Devices

Mercury-containing devices, such as thermometers, barometers, etc., were regulated under the Project, but have not yet been addressed by the federal Universal Waste Rules. This decision also allows the Minnesota Pollution Control Agency to currently manage these devices under the Universal Waste Rules until the time the Environmental Protection Agency finalizes its proposal to add them to the list of universal wastes. Minnesota Pollution Control Agency staff believes that, in the case of mercury-containing devices, it is reasonable to continue to manage them outside of full RCRA regulation and, by policy, allow them to be regulated the same as other universal wastes.



MINNESOTA POLLUTION CONTROL AGENCY PROGRAM MANAGEMENT DECISION MEMO

ISSUE: Termination of the Special Waste Pilot Project and implementation of the Universal Waste Rules prior to adoption

EFFECTIVE DATE: 6-24-2004

DECISION

The MPCA will cease to implement the Special Waste Pilot Project (SWPP) requirements and will apply universal waste requirements to the wastes currently identified under the federal regulations (lamps, batteries, thermostats and pesticides) and also to mercury-containing devices that are pending EPA adoption.

RELEVANT STATUTES AND RULES

- 7045.1400 (pending)
- 40 CFR 273

REASON THAT A DECISION IS BEING REQUESTED FROM THE LAND POLICY FORUM

When the SWPP was formally adopted by the MPCA Board in September, 1993, it was for a term of two years. The termination date was informally extended by MPCA management to 1999. The MPCA staff, regulated parties, and metropolitan counties have continued, to a limited extent, to rely on the requirements of the SWPP as an alternative to full hazardous waste regulation. However, there are a number of inconsistencies in how the SWPP has been implemented and the wastes to which it applies. The SWPP documents continue to be posted on the MPCA website (factsheets #s 2.20, 2.21, 2.22 and 2.23) as if they were still officially in effect, and this is causing confusion among staff and regulated parties. The universal waste rules will not become effective until February 2005.

Staff is asking the Land Policy Forum to officially terminate the SWPP and by policy, allow the implementation of the Universal Waste rules prior to adoption.

Additionally, staff is asking the Land Policy Forum to, by policy, extend universal waste regulation to a category of wastes not yet addressed by the federal universal waste rules; mercury-containing devices. Mercury-containing devices (thermometers, barometers, etc) were formerly regulated under the SWPP and EPA has proposed to add them to the list of universal wastes, although has not finalized that proposal. The MPCA intends to adopt federal additions or changes to the universal waste rules as they become effective in the future. Staff believe that in the case of mercury-containing devices, it is reasonable to continue to manage them outside of full RCRA regulation and, by policy, allow them to be regulated the same as other universal wastes.

RATIONALE FOR DECISION

The SWPP is obsolete; the MPCA is no longer issuing licenses, requiring financial assurance or enforcing some of the specific accumulation requirements. Further, the SWPP is frequently and incorrectly cited as being applicable to the management of electronic wastes. The universal waste rules, which will adopt the federal universal waste regulations by reference, will become effective in Minnesota in February 2005. The state rules will provide alternative regulation for lamps, batteries, pesticides and thermostats, and at some future date are also expected to address the management of mercury-containing devices. Staff anticipates little challenge to the MPCA's intention to adopt the federal universal waste rules by reference. It seems reasonable to terminate the obsolete SWPP and begin implementing the universal waste rules as soon as possible.

The alternatives are this proposal are 1) to terminate the SWPP and enforce full RCRA regulation on these types of waste or 2) to continue to keep the SWPP in effect until the universal waste rules are adopted. It is unrealistic to expect the regulated community to meet full RCRA requirements until the adoption of the universal waste rules. Continuing to operate under the SWPP will extend the period of confusion among staff and the regulated community. The MPCA is not consistently implementing the SWPP requirements and it is difficult to convey to the regulated community what their obligations are regarding the management of universal wastes.

The universal waste rules represent a reduction in regulation for specific hazardous wastes and even a reduction in regulation from the previous requirements of the SWPP. The MPCA has been regulating these types of wastes by policy for many years. The implementation of this policy "bridge" will not adversely affect the regulated community but will allow the MPCA to more accurately communicate the requirements that apply.

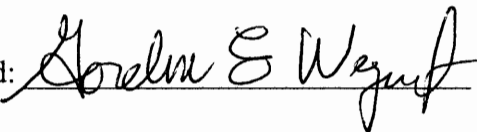
IMPLEMENTATION

The SWPP documents should be removed from the website. New factsheets to address specific wastes should be added as they are developed.

The program lead or supervisors should notify MPCA staff of the change and the appropriate cites to the federal universal waste rules. Metropolitan County hazardous waste program staff should also be notified of the change. It may be necessary to meet with the county program staff to coordinate the management of universal waste in the metropolitan area. In some cases the counties will want to amend their ordinances, in others, they will continue to implement the SWPP.

APPROVAL

I have reviewed this management decision and I concur.

Signed:  Signed: 6/18/04

Date: 1/18/04

Gordie Wegwart
Assistant Commissioner

Date: 6/24/04

Leo Raudys
*Manager, Regional Environmental
Management Division*

Signed: [Signature]

Date: 6/18/04

David Thornton
*Section Manager
Policy Planning and Operations Section
Majors and Remediation Division*

Signed: [Signature]

Date: 6/18/04

Mike Tibbetts
*Section Manager
Water and Land Facilities
Majors and Remediation Division*

Signed: [Signature]

Date: 6/18/04

Dave Richfield
*Supervisor, Land Policy Unit
Policy Planning and Operations Section
Majors and Remediation Division*

Signed: [Signature]

Date: 6/18/04

Jim Warner
*Manager
Majors and Remediation Division*