

# Agreement for the Operation of a Household Hazardous Waste Program

State of Minnesota  
Doc Type: Contract/Grant

SWIFT Contract Number:

AI:

Activity ID:

## A. COVERSHEET WITH SIGNATURES

1. ORGANIZATION INFORMATION	
Name	DAKOTA COUNTY HHW PROGRAM (HHW PROGRAM)
2. ORGANIZATION AUTHORIZED REPRESENTATIVE	
Name	
Address	
City, State, ZIP code	
Phone Number	
Email	
3. MPCA ("State") AUTHORIZED REPRESENTATIVE	
Name	Jennifer Volkman
Address	520 Lafayette Road North
City, State, ZIP code	St. Paul, MN 55155
Phone Number	651-757-2801
Email	jennifer.volkman@state.mn.us
4. ORGANIZATION SIGNATURE	
<p><b>SIGNATURE OF OFFICIAL WITH AUTHORITY TO SIGN:</b></p> <p>Counties have their own signature pages, insert here. MPCA does not sign "Grant" Agreements (these are similar to SCORE Grants)</p> <p>NAME _____</p> <p>SIGNED _____ DATE: _____</p> <p><b>I certify I have read the Agreement and will comply with all provisions including additional state, local, federal regulations and policies governing the funding that apply to my organization.</b></p>	

## B. RECITALS

1. WHEREAS, This Agreement is made under the State's authority of Minn. Stat. §§115A.96, 116.03 and 471.59, and under the HHW Program's authority of Minn. Stat. §§473.801 through 473.823, 471.59, and Minn. Stat. Ch. 400.
2. WHEREAS, The MPCA is required by Minn. Stat. §115A.96 to establish a statewide program to manage Household Hazardous Wastes ("HHW"). Minn. Stat. §115A.96, Subd. 3, provides that the statewide HHW Program may be provided directly by the MPCA or by contract with public or private entities.
3. WHEREAS, The HHW Program wishes to partner with the MPCA to provide a HHW program that furthers the goals of protecting the environment and the public health as articulated in the Waste Management Act and the HHW Program and Participating Counties Solid Waste Plans. The HHW Program will comply with the terms of this Agreement and all applicable Federal, State and local rules, regulations, ordinances and permit conditions and provide environmentally sound and safe management options for Program Wastes and encourage, to the extent feasible, reduction, reuse, recycling and safe storage and management of Program Wastes.
4. WHEREAS, The parties wish to allocate the risks and responsibilities resulting from operation of the HHW Program, and to incorporate the provisions of Minn. Stat. §115A.96, Subd. 7, into this Agreement.
5. NOW, THEREFORE, The parties, for valuable consideration received, make the following Agreement:

## C. AGREEMENT

### 1. Term of Agreement

- 1.1 **Effective date:**  
January 1, 2023, or the date the State obtains all required signatures, whichever is later.
- 1.2 **Expiration date:**  
December 31, 2027, or until all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3 **Survival of Terms.**  
The following Clauses survive the expiration or cancellation of this Agreement: Waste Acceptance and Management; Closure; State Audits, Government Data Practices; Liability and Indemnification, Governing Law, Jurisdiction, and Venue; and Data Disclosure.

### 2. Definitions

Terms as used in this Agreement shall have the following meanings:

- 2.1 **Agency's Authorized Transporter.** A transporter authorized to provide transportation or waste management services pursuant to a State Contract for transportation or management of Program Wastes as referred to in Minn. Stat. §115A.96, Subd. 7.
- 2.2 **Authorized Facility or Authorized Facilities.** A facility or facilities authorized by the State of Minnesota to store, blend, treat, reclaim, recycle, incinerate, or dispose of Program Waste in accordance with State Administration Contracts and this Agreement.
- 2.3 **Electronic Waste.** Devices containing complex circuitry, circuit boards and/or signal processing capabilities for processing and/or displaying information. Electronic waste may

include, but is not limited to, computers and computer peripherals and laboratory, communications, audio, video and office equipment.

- 2.4 Hazardous Waste.** Waste as defined in Minn. Stat. §116.06, Subd. 11.
- 2.5 Household.** Household as defined in Minn. Stat. §115A.96, Subd. 1(a).
- 2.6 Household Hazardous Waste (HHW).** Waste as defined in Minn. Stat. §115A.96, Subd. 1(b).
- 2.7 HHW Program.** The Program operated by the HHW Program and the MPCA, pursuant to this Agreement, which shall include the following major elements: (1) an HHW Education and Waste Reduction Program; and (2) a Management Facility or Facilities.
- 2.8 Management Facility.** A permanent, temporary, mobile, or event collection site that accepts Program Wastes for proper collection, management and storage.
- 2.9 Optional Program Wastes.** Wastes that a Household Hazardous Waste (HHW) Program is not required to collect; and which may be comingled with other HHW if collected.
- 2.10 Product Stewardship Program.** A product-centered approach to environmental protection that calls on those in the product life cycle - manufacturers, retailers, users, and disposers - to share responsibility for reducing the environmental impacts of products.
- 2.11 Reciprocal Use Agreements.** Formal agreements entered into by the HHW Program allowing use of a Management Facility for Program Waste generated outside the Service Area.
- 2.12 Service Area.** The area included within the boundaries of the HHW Program, which includes, [list] counties.
- 2.13 State Contract.** Contracts entered into by the State of Minnesota that are made available for the management of Program Wastes generated by HHW Programs in accordance with the State's Cooperative Purchasing Venture established pursuant to Minn. Stat. §16C.03, subdivision 10. These include: H-69(5) Hazardous Waste Management; H-79(5) Fluorescent Lamp, Lamp Ballast and Mercury Containing Materials and Residuals Transportation and Management; H-90(5) Used Electronic and Electronic Component Recycling and Management; Waste Disposal; W-192(5) Infectious (Biomedical); and H-94(5) Used Oil, Filter, Absorbent and Antifreeze Management.
- 2.14 State Contractor Services.** Waste management services performed in accordance with a state contract listed in 2.16 for HHW Program. Waste management services include supplying materials, receiving and sorting Program Wastes, packaging, repackaging, consulting, training, sampling, analysis, treatment, transportation, storage, recycling, processing and disposal.
- 2.15 State's Authorized Transporter.** Has the same meaning as the "Agency's Authorized Transporter."
- 2.16 Very Small Quantity Generator or VSQG.** A Hazardous Waste generator who is classified as a VSQG in accordance with Minn. Rules Part 7045.0206, subp. 4.

### 3. Annual Reporting for HHW Programs

The County shall enter calendar year participation, financial, and waste stream data for its HHW and VSQG Programs into the Agency's HHW and VSQG Report Database (Database) at least annually. Database access will be provided by the State's Authorized Representative (SAR) by December 15 of each year.

Annual data entry shall be completed by April 1 of each year. Upon completion of HHW Program data entry, the County's Authorized Representative shall notify the SAR that data entry is complete. The SAR may review the data and may require the County to make corrections to the data if errors are found.

The MPCA shall compile and prepare reports on the statewide HHW Program, including the information received from the County, by September 1 of each year. Reports will be available to the public in accordance with Clause 14 of this Agreement. The MPCA shall provide the County's Authorized Representative with a copy of any reports it prepares for the legislature that includes data submitted by the County.

If the MPCA enters into income agreements with a 3<sup>rd</sup> party funding entity or determines that a portion of any grants or additional appropriations received by the MPCA should be provided to the HHW Program to fund work that is completed by the HHW Program, the HHW Program shall be reimbursed per this Agreement, or other allocation formula developed to distribute additional money, at the sole discretion of the MPCA.

#### **4. Reciprocal Use Agreements**

The HHW Program may enter into Reciprocal Use Agreements with other Minnesota counties or governmental entities to allow the use of its Management Facilities. The HHW Program may enter into a Reciprocal Use Agreement with a county or governmental entity either within or outside of the State of Minnesota provided the following information is maintained separately by the HHW Program: County or entity name, the number of participants using the facility and the waste volumes collected. The HHW Program may also accept waste from another HHW Program without a formal agreement.

#### **5. Education and Waste Reduction Program**

The HHW Program shall operate an education and waste reduction program in accordance with Minn. Stat. §115A.96, Subd. 6(a). The MPCA shall make education and waste reduction materials it develops available to the HHW Program.

#### **6. HHW Program Operations and Training**

- 6.1 Training.** The MPCA and the HHW Program will jointly develop a training program covering facility safety, waste packing and transportation requirements that may be accessed by HHW Program staff and contracted staff. The training program may contain information from other entities that partner with Counties in managing Program Wastes.
- 6.2 Standard Operating Procedures.** The MPCA shall work with the HHW Program to develop and make available generic standard operating procedures. The HHW Program shall develop Management Facility specific standard operating procedures based on the generic standards and make them available to the HHW Program. The Management Facility specific standards shall not be less restrictive than the generic standards.

#### **7. Waste Acceptance and Management**

- 7.1** The HHW Program shall provide for the operation of Management Facilities in accordance with this Agreement and all applicable federal and state rules, regulations, standards, and permit requirements. If a Management Facility is privately owned or operated, the HHW Program shall require the private owner or operator to meet the conditions and requirements set forth in this Agreement.
- 7.2** The HHW Program shall collect, store or otherwise manage HHW and may collect, store or otherwise manage Optional Program Wastes listed in Clause 7.3 below upon obtaining all applicable governmental approvals. The HHW Program may manage any waste listed below and commingle said wastes with HHW and manage said wastes under the ID Number

acquired by the MPCA. The MPCA shall complete the "Notification of Regulated Waste Activity" form and acquire the ID Number solely in the name of the MPCA for each Management Facility that requires an ID Number. The ID Number shall be used for transportation and disposal of all Program Wastes collected at a Management Facility. The HHW Program may also choose to obtain or retain its own ID Numbers for its Management Facilities.

**7.3** Optional Program Wastes which may be accepted and commingled with HHW and which may be shipped under the MPCA's ID number include:

- (a) HHW generated outside the Service Area and which is accepted in accordance with Minn. Rules Part 7045.0310, subp. 6;
- (b) Hazardous wastes generated by a VSQG;
- (c) Abandoned wastes that the HHW Program agrees to manage;
- (d) Federal Universal Waste, defined in the CFR, title 40, section 273.9, and in Minn. Rules Part 7045.1400 including: fluorescent or high-intensity discharge lamps, mercury-containing devices, pesticides, and batteries; and any additional waste streams added to the Federal Universal Waste list that are adopted by the MPCA during the term of this Agreement; and
- (e) Electronic Waste.

**7.4** At the expiration of this Agreement, or at the time of cancellation of this Agreement by either party, the HHW Program and its contractor shall cease to use the ID Number acquired by the MPCA. If Hazardous Waste will no longer be manifested from the Management Facility, the MPCA will deactivate the ID number. If the HHW Program plans to continue to manifest Hazardous Waste from a Management Facility the HHW Program shall, within 7 days of cancellation or non-renewal, submit a "Subsequent Notification" form to the entity authorized to assign ID Numbers. The HHW Program shall provide, to the SAR, documentation confirming that the number has been reassigned within 30 days of expiration or cancellation of this Agreement.

**7.5** Nothing in this Agreement is intended to preclude the collection, management, or storage of waste which is not Program Wastes at the Management Facility, provided that the HHW Program neither commingles the waste with Program Wastes nor uses the MPCA's ID number when shipping said waste.

## **8. Manifest Signature**

The HHW Program shall provide written documentation to the MPCA demonstrating that its staff and its contractor's staff have been certified by their employer to sign manifests in accordance with Department of Transportation (DOT) regulations CFR Title 49, §172.704. The HHW Program shall also provide documentation to the MPCA demonstrating that its staff and its contractor's staff have been trained and certified to sign manifests in accordance with applicable Hazardous Waste regulations. Documentation shall be in the form of a letter from the employer to the SAR that confirms that staff are certified and trained and shall be signed by the HHW Program's Representative. Documentation shall be maintained in accordance with Clause 14 of this Agreement. HHW Program and contractor staff shall not sign manifests prior to submitting documentation to the MPCA. Waste shipped on a manifest signed by HHW Program or contractor

staff for which documentation has not been submitted prior to signature shall not be covered by the indemnification provided in Clause 17 of this Agreement.

The HHW Program shall submit signed manifest copies to regulatory agencies in accordance with applicable manifesting regulations and shall retain copies of manifests as specified in Clause 14 of this Agreement. The HHW Program shall notify the SAR if manifest copies are not received from the transporter or receiving facility in accordance with Minn. Rules Parts 7045.0351 through 7045.0397. If a Management Facility is privately operated, the HHW Program shall include a provision in its contract with the private operator that requires the operator to notify the SAR if manifest copies are not received from the transporter or receiving facility in accordance with Minn. Rules Parts 7045.0351 through 7045.0397.

#### **9. Approval to Store Waste More than 90 Days or Receive Waste from another Management Facility**

In accordance with Minn. Rules Part 7045.0310, subp. 6, the HHW Program may request in writing, approval to store Program Wastes for more than 90 days or to accept Program Wastes from other Management Facilities. The HHW Program shall not store Program Wastes for more than 90 days and/or accept Program Wastes from other Management Facilities until written approval has been received.

#### **10. Alternative Management of Program Wastes**

In accordance with Minn. Rules Part 7045.0310, subp. 7, the HHW Program may request in writing MPCA approval to treat Program Wastes onsite or manage Program Wastes at a facility not regulated pursuant to Minn. Rules Parts 7045.0208, subp. 1, or 7045.0310 (alternative management facility). The HHW Program shall not treat Program Wastes onsite or deliver Program Wastes to an alternative management facility until written approval is received from the MPCA. Requests for treating waste on-site should be submitted to the SAR.

#### **11. State Contractor Services**

- 11.1** The MPCA, through its State Administration Contracts, shall provide for the management, transportation and disposal of Program Wastes from the time that the Program Wastes come into the possession of a State's HHW Transporter. The MPCA shall manage all risks associated with the management, transportation and disposal of Program Wastes, from the time that Program Wastes come into possession of the State's HHW Transporter, and any time thereafter, to avoid liability to the HHW Program and any Participating Counties to the extent allowed by law. Said management, transportation and disposal shall be in accordance with all applicable rules, regulations, standards, permit requirements, and this Agreement.
- 11.2** The MPCA shall make available to the HHW Program, State Contractor Services and shall require the State's HHW Transporter to meet the conditions and requirements set forth in the State Administration Contracts and this Agreement. Except as may be provided in other agreements between the parties, the HHW Program shall pay for the cost of State Contractor Services in accordance with the terms of the Contracts with the State's HHW Transporter. The MPCA shall consult with the counties in the procurement of State Contractor Services and in the development of the terms and conditions of the State Administration Contracts.
- 11.3** The MPCA shall help ensure that Contracts developed by State of Minnesota for Program Waste management contain language that extends all contract provisions to members of the Department of Administration's Cooperative Purchasing Venture (CPV). All local units of government and solid waste districts are eligible to join the CPV.

- 11.4** The MPCA shall investigate and resolve matters related to the failure of the State's HHW Transporters to perform services in accordance with the terms of the State Administration Contracts listed in Clause 2.13. The MPCA shall notify the HHW Program when it receives notice of a release to the environment by the State's Authorized Transporter.
- 11.5** The provisions of Clause 17 of this Agreement shall apply to Program Wastes collected pursuant to this Agreement that are transported by the State's Authorized Transporter. Use of the State's Authorized Transporter shall constitute use of the Agency's Authorized Transporter within the meaning of Minn. Stat. §115A.96, Subd. 7. Additionally, the HHW Program shall be deemed to be using the State's Authorized Transporter if the HHW Program contracts directly with the State's Authorized Transporter and wholly incorporates the terms of a State Administration Contract for State Contractor Services.
- 11.6** The HHW Program is encouraged, but not required, to use State Contractor Services for the operation of a Management Facility. If the HHW Program chooses to use a transporter other than the State's Authorized Transporter for the management of Program Wastes, the provisions of Clause 17 of this Agreement shall not apply to such Program Wastes.
- 11.7** The SAR shall provide information to the HHW Program regarding the location of the State Administration Contracts so that the HHW Program can readily access State Administration Contracts for transportation and disposal.

## **12. Closure**

The HHW Program is responsible for proper closure of a Management Facility in accordance with all applicable rules and regulations and Clause 7.4 of this Agreement.

## **13. Product Stewardship**

- 13.1** The MPCA and the HHW Program shall inform each other of projects and opportunities related to Product Stewardship and Extended Producer Responsibility initiatives that include wastes collected by the HHW Program.
- 13.2** The MPCA will support HHW Program participation by reviewing initiatives and assisting in the resolution of issues that arise with implementation of product stewardship initiatives.

## **14. Government Data Practices**

The HHW Program and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State or HHW Program under this Agreement, as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the HHW Program under the Agreement. The civil remedies of Minn. Stat. §13.08 apply to the release of the data referred to in this Clause by either the HHW Program or the State. If the HHW Program receives a request to release the data referred to in this Clause, the HHW Program must immediately notify the State.

## **15. Dispute Resolution**

In the event of a dispute between the parties arising out of this Agreement, either due to alleged non-compliance with the terms, or a disagreement regarding the terms, the parties agree to engage in good faith negotiation to resolve the dispute before resorting to legal process. Negotiation may include mediation or arbitration through third parties if both parties agree. Nothing communicated during the course of negotiation, mediation or arbitration may be used against either party in legal process if the dispute is not resolved.

## **16. Assignment, Amendments, Waiver, and Contract Complete**

- 16.1 Assignment.** The HHW Program may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of the State and a fully executed assignment agreement, executed and approved by the authorized parties or their successors.
- 16.2 Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the authorized parties or their successors.
- 16.3 Waiver.** If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to enforce it.
- 16.4 No Waiver.** Nothing in this Agreement is intended to waive or limit the provisions of the Tort Claims Acts, Minn. Stat. §3.736, or Minn. Stat. Ch. 466, or any other law, legislative or judicial, which limits governmental liability.
- 16.5 Contract Complete.** This Agreement contains all negotiations and agreements between the State and the HHW Program. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

## **17. Liability and Indemnification**

It is the intent of the parties that any liability which may arise as a result of activities contemplated by this Agreement be governed according to the following provisions:

- 17.1 Liability to third persons.** The parties intend that any claims or causes of action by third persons are subject to the limitations upon liability provided by law. Further, nothing in this Agreement is intended to create a cause of action with respect to any third person.
- 17.2 State Indemnification.** The HHW Program and the State acknowledge and agree that the HHW Program and any Participating Counties are indemnified by the State as provided for in Minn. Stat. §115A.96, Subd. 7. In the event that Minn. Stat. §115A.96, Subd. 7, is inapplicable to a specific situation, then the State and the HHW Program agree to be responsible for their own acts and omissions subject to the provisions, limitations, and exclusions of their respective Tort Claims Acts - Minn. Stat. §3.736 for the State and Minn. Stat. Ch. 466 for the HHW Program.

## **18. State Audits**

Under Minn. Stat. § 16C.05, subd. 5, the HHW Program's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State, the State Auditor, or Legislative Auditor, as appropriate, for a minimum of six years from the expiration or termination of this Agreement.

## **19. Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this agreement. Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

## **20. Termination**

The State may terminate this Agreement at any time, with or without cause, upon 180 days written notice to the HHW Program. The HHW Program may terminate this Agreement, with or without cause, by providing written notification to the State's Authorized Representative at least 180 days prior to the date of cancellation.

## **21. Termination for Insufficient Funding**

The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the HHW Program. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the HHW Program will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the HHW Program notice of the lack of funding within a reasonable time of the State's receiving that notice.

## **22. Workers Compensation**

The HHW Program certifies that it is in compliance with [Minn. Stat. §176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. The HHW Program's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

## **23. Data Disclosure**

Under [Minn. Stat. § 270C.65](#), Subd. 3, and other applicable law, the HHW Program consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the HHW Program to file state tax returns and pay delinquent state tax liabilities, if any.