

1 Pollution Control Agency

2

3 Adopted Permanent Rules Relating to Hazardous Waste; Closure,  
4 Post-closure, and Financial Assurance

5

6 Rules as Adopted

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8 7001.0190 PROCEDURE FOR MODIFICATION; REVOCATION AND REISSUANCE;  
9 AND REVOCATION WITHOUT REISSUANCE OF PERMITS.

10 Subpart 1. [Unchanged.]

11 Subp. 2. **Modification solely as to ownership or control.**

12 Upon obtaining the consent of the permittee, the agency shall  
13 consider a request to modify a permit as to the ownership or  
14 control of a permitted facility or activity without following  
15 the procedures in parts 7001.0100 to 7001.0130 if the agency  
16 finds that no other change in the permit is necessary. If the  
17 permit is a permit described in part 7001.0020, item A or B, the  
18 agency shall also find that the agency has received a binding  
19 written agreement between the permittee and the proposed  
20 transferee containing a specific date for transfer of permit  
21 responsibilities and allocation of liabilities between the  
22 permittee and the proposed transferee. Within 60 days of  
23 receipt of a complete written application for modification as to  
24 ownership and control, the director shall place the matter on  
25 the agenda for consideration by the agency. The agency shall  
26 not unreasonably withhold or unreasonably delay approval of the  
27 proposed permit modification. If the permit is a permit  
28 described in part 7001.0020, item B, the following additional  
29 requirements apply:

30 A. The new owner or operator shall submit a revised  
31 permit application to the director no later than 90 days before  
32 the scheduled change in ownership or control.

33 B. The previous owner or operator shall comply with  
34 the financial requirements of parts 7045.0498 to 7045.0524 until  
35 the new owner or operator has demonstrated compliance with the



1 requirements to the director. The new owner or operator must  
2 demonstrate compliance within 180 days after the date of the  
3 change in ownership or control of the facility. Upon  
4 demonstration of compliance to the director, the director shall  
5 notify the previous owner or operator in writing that the owner  
6 or operator is no longer required to comply with parts 7045.0498  
7 to 7045.0524.

8 Subp. 3. [Unchanged.]

9 Subp. 4. **Revocation without reissuance.** The director  
10 shall give notice to the permittee of a proposal to revoke a  
11 permit without reissuance. This notice must state that within  
12 30 days of the receipt of the notice the permittee may request a  
13 contested case hearing be held on the proposed action. If the  
14 permittee requests a contested case hearing, the agency shall  
15 hold the hearing in accordance with the rules of the Office of  
16 Administrative Hearings, parts 1400.5100 to 1400.8402.

17 7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF  
18 APPLICATION.

19 Part B of the application must contain the following  
20 information:

21 A. [Unchanged.]

22 B. Chemical and physical analyses of the hazardous  
23 wastes to be handled at the facility. At a minimum, these  
24 analyses must contain all information that is necessary to  
25 treat, store, or dispose of the wastes properly in accordance  
26 with parts 7045.0450 to 7045.0544.

27 C. to K. [Unchanged.]

28 L. A copy of the closure plan and, where applicable,  
29 the post-closure plan required by parts 7045.0486 and 7045.0490,  
30 including, if applicable, the specific information in parts  
31 7045.0526, subpart 9; 7045.0528, subpart 6; 7045.0532, subpart  
32 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538,  
33 subpart 7; and 7045.0542, subpart 8.

34 M. For disposal units that have been closed,  
35 documentation that a notice has been placed in the deed or

1 appropriate alternative instruments as required by part  
2 7045.0496.

3 N. The most recent closure cost estimate for the  
4 facility prepared in accordance with part 7045.0502 and a copy  
5 of the documentation required to demonstrate financial assurance  
6 under part 7045.0504. For a new facility, a copy of the  
7 required documentation may be submitted 60 days before the  
8 initial receipt of hazardous wastes, if that is later than the  
9 submission of the Part B.

10 O. If applicable, the most recent post-closure cost  
11 estimate for the facility prepared in accordance with part  
12 7045.0506 and a copy of the documentation required to  
13 demonstrate financial assurance under part 7045.0508. For a new  
14 facility, a copy of the required documentation may be submitted  
15 60 days before the initial receipt of hazardous wastes, if that  
16 is later than the submission of the Part B.

17 P. to U. [Unchanged.]

18 7001.0650 INTERIM STATUS.

19 Subpart 1. **Qualifying for interim status.** Except as  
20 provided in subpart 2, during the period after the submission of  
21 Part A of a hazardous waste facility permit application to the  
22 Environmental Protection Agency or to the director and before a  
23 final determination by the agency on the permit application, the  
24 owner or operator of an existing hazardous waste facility shall  
25 be considered to be in compliance with the requirement to obtain  
26 a permit if the director finds that the Environmental Protection  
27 Agency has granted the owner or operator interim status or if  
28 the director finds:

29 A. and B. [Unchanged.]

30 Subp. 2. **Failure to obtain interim status from EPA.**

31 Notwithstanding the provisions of subpart 1, an owner or  
32 operator of a hazardous waste facility who, before April 23,  
33 1984, was required to apply for and obtain interim status from  
34 the Environmental Protection Agency but who failed to obtain  
35 this interim status is not eligible to obtain interim status

1 from the agency for that facility.

2 Subp. 3. and 4. [Unchanged.]

3 Subp. 5. **Changes during interim status.** An owner or  
4 operator who has interim status may conduct the following  
5 activities as prescribed:

6 A. The owner or operator may treat, store, or dispose  
7 of hazardous wastes not previously specified in Part A of the  
8 application if the owner or operator submits a revised Part A of  
9 the permit application before commencement of the treatment,  
10 storage, or disposal.

11 B. The owner or operator may increase the design  
12 capacity of the facility if, before implementation of the  
13 increase, the owner or operator submits a revised Part A of the  
14 permit application and an explanation of the need for the  
15 change, and if the director approves the increase in writing.  
16 The director shall approve the change if the director finds that  
17 there is a lack of available treatment, storage, or disposal  
18 capacity at other permitted hazardous waste facilities.

19 C. The owner or operator may add new processes or  
20 change the processes for the treatment, storage, or disposal of  
21 hazardous waste if, before implementation of the addition or  
22 change, the owner or operator submits a revised Part A of the  
23 permit application and an explanation of the need for the  
24 addition, and if the director approves the addition or change in  
25 writing. The director shall approve the addition or change if  
26 the director finds that:

27 (1) [Unchanged.]

28 (2) the addition or change is necessary for the  
29 owner or operator to comply with federal, Minnesota, or local  
30 requirements, including the interim status standards in parts  
31 7045.0552 to 7045.0642.

32 D. Changes in the ownership or operational control of  
33 a facility may be made if the new owner or operator submits a  
34 revised Part A of the permit application not later than 90 days  
35 before the scheduled change. When a transfer of ownership or  
36 operational control of a facility occurs, the former owner or

1 operator shall comply with the requirements of parts 7045.0608  
2 to 7045.0624 that relate to financial requirements, until the  
3 new owner or operator has provided to the director a  
4 demonstration of compliance with parts 7045.0608 to 7045.0624.  
5 The new owner or operator must demonstrate compliance within six  
6 months. All other interim status duties must be transferred  
7 immediately upon the change of ownership or operational control  
8 of the facility. If the director finds that the new owner or  
9 operator has complied with parts 7045.0608 to 7045.0624, the  
10 director shall notify the former owner or operator in writing  
11 that the required demonstration by the new owner or operator has  
12 been made and the former owner or operator no longer needs to  
13 comply with parts 7045.0608 to 7045.0624 as of the date of the  
14 demonstration.

15 Subp. 6. **Compliance with interim status standards.** During  
16 the interim status period the owner or operator shall comply  
17 with the interim status standards in parts 7045.0552 to  
18 7045.0642.

19 Subp. 7. [Unchanged.]

20 7001.0730 MODIFICATION OF PERMITS; REVOCATION AND REISSUANCE OF  
21 PERMITS.

22 Subpart 1. to 3. [Unchanged.]

23 Subp. 4. **Minor modifications of permits.** In addition to  
24 the corrections or allowances listed in part 7001.0190, subparts  
25 2 and 3, if the permittee consents, the director may modify a  
26 permit to make the corrections or allowances listed below  
27 without following the procedures in parts 7001.0100 to 7001.0130:

28 A. to C. [Unchanged.]

29 D. to change the expected year of closure under part  
30 7045.0486, subpart 3, item F;

31 E. to change schedules for final closure under part  
32 7045.0486, subpart 3, item E;

33 F. to K. [Unchanged.]

34 Subp. 5. [Unchanged.]

35 7045.0020 DEFINITIONS.

1 Subpart 1. and 2. [Unchanged.]

2 Subp. 2a. **Active life.** "Active life" of a facility means  
3 the period from the initial receipt of hazardous waste at the  
4 facility until the director receives certification of final  
5 closure.

6 Subp. 3. to 24. [Unchanged.]

7 Subp. 24a. **Final closure.** "Final closure" means the  
8 closure of all hazardous waste management units at the facility  
9 in accordance with the approved facility closure plan and all  
10 applicable closure requirements.

11 Subp. 25. to 36. [Unchanged.]

12 Subp. 36a. **Hazardous waste management unit.** "Hazardous  
13 waste management unit" is a contiguous area of land on or in  
14 which hazardous waste is placed, or the largest area in which  
15 there is significant likelihood of mixing hazardous waste  
16 constituents in the same area. Examples of hazardous waste  
17 management units include a surface impoundment, a waste pile, a  
18 land treatment area, a landfill cell, an incinerator, a tank and  
19 its associated piping and underlying containment system, and a  
20 container storage area. A container alone does not constitute a  
21 unit; the unit includes containers and the land or pad upon  
22 which they are placed.

23 Subp. 37. to 64. [Unchanged.]

24 Subp. 65. **Partial closure.** "Partial closure" means the  
25 closure of a hazardous waste management unit in accordance with  
26 the applicable closure requirements of parts 7045.0450 to  
27 7045.0544 or 7045.0552 to 7045.0642 at a facility that contains  
28 other active hazardous waste management units. For example,  
29 partial closure may include the closure of a tank, including its  
30 associated piping and containment systems, a landfill cell,  
31 surface impoundment, waste pile, or other hazardous waste  
32 management unit, while other units of the same facility continue  
33 to operate.

34 Subp. 66. to 108. [Unchanged.]

35 7045.0486 CLOSURE.

1 Subpart 1. **Scope.** Except as part 7045.0450 provides  
2 otherwise, the provisions of subparts 2 to 6 and part 7045.0488  
3 apply to the owner or operator of a hazardous waste facility.

4 Subp. 2. **Closure performance standard.** The owner or  
5 operator shall close the facility in a manner minimizing the  
6 need for further maintenance. Closure procedures must result in  
7 controlling, minimizing, or eliminating, to the extent necessary  
8 to protect human health and the environment, post-closure escape  
9 of hazardous waste, hazardous constituents, leachate,  
10 contaminated run-off, or hazardous waste decomposition products  
11 to the ground or surface waters or to the atmosphere, in  
12 accordance with the closure requirements including, the  
13 requirements of parts 7045.0526, subpart 9; 7045.0528, subpart  
14 6; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536,  
15 subpart 8; 7045.0538, subpart 7; 7045.0542, subpart 8.

16 Subp. 3. **Submittal and contents of closure plan.** The  
17 owner or operator of a hazardous waste facility shall submit a  
18 closure plan with the permit application, and the closure plan  
19 must be approved by the agency as part of the permit issuance  
20 procedure. The approved closure plan shall become a condition  
21 of any permit. The agency's approval must ensure that the  
22 approved closure plan is consistent with subparts 2, 4, and 5,  
23 and part 7045.0488, and the applicable closure requirements of  
24 parts 7045.0526, subpart 9; 7045.0528, subpart 6; 7045.0532,  
25 subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8;  
26 7045.0538, subpart 7; and 7045.0542, subpart 8.

27 A copy of the approved closure plan and all revisions to  
28 the plan must be furnished to the director upon request,  
29 including request by mail, until final closure is completed and  
30 certified. The plan must identify steps necessary to completely  
31 or partially close the facility at any point during its intended  
32 operating life and to completely close the facility at the end  
33 of its intended operating life. The closure plan must at least  
34 include all of the following:

35 A. A description of how each hazardous waste  
36 management unit will be closed, and how the facility will be

1 finally closed. The description must identify the maximum  
2 extent of the operation which will be unclosed during the active  
3 life of the facility and how the requirements of subparts 2, 5,  
4 part 7045.0488, and the applicable closure requirements of parts  
5 7045.0526, subpart 9; 7045.0528, subpart 6; 7045.0532, subpart  
6 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538,  
7 subpart 7; and 7045.0542, subpart 8 will be met.

8           B. An estimate of the maximum inventory of hazardous  
9 wastes ever on-site over the active life of the facility and a  
10 detailed description of the methods to be used during partial  
11 closures and final closure, including, methods for removing,  
12 transporting, treating, storing, or disposing of all hazardous  
13 wastes, and identification of the type of off-site hazardous  
14 waste management units to be used, if applicable.

15           C. A detailed description of the steps needed to  
16 remove or decontaminate all hazardous waste residues and  
17 contaminated containment system components, facility equipment,  
18 structures, and soils during partial and final closure,  
19 including, procedures for cleaning equipment and removing  
20 contaminated soils, methods for sampling and testing surrounding  
21 soils, and criteria for determining the extent of  
22 decontamination required to satisfy the closure performance  
23 standard.

24           D. A detailed description of other activities  
25 necessary during the closure period to ensure that all partial  
26 closures and final closure satisfy the closure performance  
27 standards, including, ground water monitoring, leachate  
28 collection, and run-on and run-off control.

29           E. A schedule for closure of each hazardous waste  
30 management unit and for final closure of the facility. The  
31 schedule must include the total time required to close each  
32 hazardous waste management unit and the time required for  
33 intervening closure activities which will allow tracking of the  
34 progress of partial and final closure.

35           F. An estimate of the expected year of closure for  
36 facilities that use trust funds to establish financial assurance



1 under part 7045.0504 or 7045.0508 and that are expected to close  
2 before the expiration of the permit.

3 Subp. 4. **Amendment of plan.** The owner or operator must  
4 submit a written request to the director for a permit  
5 modification to authorize a change in operating plans, facility  
6 design, or the approved closure plan in accordance with the  
7 agency's permitting procedures in chapter 7001. The written  
8 request must include a copy of the closure plan amendments for  
9 approval. The owner or operator may request a permit  
10 modification to amend the closure plan at any time before  
11 notification of partial or final closure of the facility. The  
12 owner or operator shall request a permit modification to amend  
13 the plan whenever:

14 A. changes in operating plans or facility design  
15 affect the closure plan; or

16 B. there is a change in the expected year of closure  
17 for those facilities that use trust funds to establish financial  
18 assurance as provided in subpart 3; or

19 C. in conducting partial or final closure activities,  
20 unexpected events require a modification of the approved closure  
21 plan.

22 The director may request modifications to the plan under  
23 the conditions described in items A to C. The owner or operator  
24 must submit the modified plan within 60 days of the director's  
25 request, or within 30 days if the change in facility conditions  
26 occurs during partial or final closure. Any modifications  
27 requested by the director will be approved in accordance with  
28 the agency's permitting procedures in chapter 7001. The owner  
29 or operator must submit a written request for a permit  
30 modification including a copy of the amended closure plan for  
31 approval at least 60 days before the proposed change in facility  
32 design or operation, or no later than 60 days after an  
33 unexpected event has occurred which has affected the closure  
34 plan. If an unexpected event occurs during the partial or final  
35 closure period, the owner or operator must request a permit  
36 modification no later than 30 days after the unexpected event.

1 Subp. 5. Notification of partial and final closure.

2 A. The owner or operator shall notify the director in  
3 writing at least:

4 (1) 60 days before the date the owner or operator  
5 expects to begin closure of a surface impoundment, waste pile,  
6 landfill, or land treatment unit, or final closure of a facility  
7 involving such a unit; or

8 (2) 45 days before the date the owner or operator  
9 expects to begin final closure of a facility with only tanks,  
10 container storage, or incinerator units remaining to be closed.

11 B. The date on which the owner or operator "expects  
12 to begin closure" is defined as follows:

13 (1) Where the owner or operator of a hazardous  
14 waste management unit anticipates receiving a volume of  
15 hazardous wastes the owner or operator knows will be the final  
16 volume, then the date on which the owner or operator "expects to  
17 begin closure" is 30 days after the date the final volume is  
18 anticipated to be received.

19 (2) Where the owner or operator of a hazardous  
20 waste management unit reasonably anticipates that the owner or  
21 operator will continue to receive hazardous wastes, then the  
22 date on which the owner or operator "expects to begin closure"  
23 is one year after the date the last volume of hazardous waste  
24 was received by the hazardous waste management unit. An owner  
25 or operator shall only be considered to "reasonably anticipate  
26 receiving additional volumes of hazardous waste" if the owner or  
27 operator in fact receives hazardous wastes within one year after  
28 the last volume was received. The director may approve an  
29 extension to this one-year limit if the owner or operator of a  
30 hazardous waste management unit can demonstrate to the director  
31 that the unit or facility has the capacity to receive additional  
32 hazardous wastes and he or she has taken, and will continue to  
33 take, all steps to prevent threats to human health and the  
34 environment, including compliance with all applicable permit  
35 requirements.

36 If the facility's permit or interim status is terminated,

1 or if the facility is otherwise ordered by judicial decree or  
2 compliance order to cease receiving hazardous waste or to close,  
3 then the requirement in this item does not apply. However, the  
4 owner or operator shall close the facility in accordance with  
5 established deadlines.

6 Subp. 6. **Removal of wastes and decontamination or**  
7 **dismantling of equipment.** Nothing in this part precludes the  
8 owner or operator from removing hazardous wastes and  
9 decontaminating or dismantling equipment in accordance with the  
10 approved closure plan at any time before or after notification  
11 of partial or final closure.

12 7045.0488 CLOSURE ACTIVITIES.

13 Subpart 1. **Time allowance to begin closure activities.**  
14 Within 90 days after receiving the final volume of hazardous  
15 waste at a hazardous waste management unit or facility, the  
16 owner or operator shall treat, remove from the unit or facility,  
17 or dispose of on-site all hazardous waste in accordance with the  
18 approved closure plan. The director may approve a longer period  
19 if the owner or operator demonstrates at least 30 days before  
20 expiration of the 90-day period, that the owner or operator has  
21 taken and will continue to take all steps to prevent threats to  
22 human health and the environment, including compliance with all  
23 permit requirements and:

24 A. the activities required to comply with the  
25 approved closure plan will, of necessity, take longer than 90  
26 days to complete; or

27 B. the hazardous waste management unit or facility  
28 has the capacity to receive additional hazardous waste, there is  
29 a reasonable likelihood that the owner or operator or another  
30 person will recommence operation of the unit or facility within  
31 one year, and closure of the unit or facility would be  
32 incompatible with continued operation of the site; and

33 C. the owner or operator complies with all applicable  
34 requirements for requesting a modification to the permit.

35 If the owner or operator of a facility required to maintain

1 financial assurance for closure, post-closure care, or  
2 corrective action fails to make a required payment or to  
3 substitute alternative financial assurance when required to do  
4 so, the director shall order the owner or operator to begin  
5 closure activities.

6 Subp. 2. **Time extension for closure activities.** The owner  
7 or operator shall complete partial and final closure activities  
8 in accordance with the approved closure plan and within 180 days  
9 after receiving the final volume of hazardous waste at the  
10 hazardous waste management unit or facility. The director may  
11 approve a longer closure period if the owner or operator  
12 demonstrates at least 30 days before expiration of the 180-day  
13 period that the owner or operator has taken and will continue to  
14 take all steps to prevent threats to human health and the  
15 environment from the unclosed but not operating hazardous waste  
16 management unit or facility, including compliance with all  
17 applicable permit requirements and:

18 A. the partial or final closure activities will, of  
19 necessity, take longer than 180 days to complete; or

20 B. the hazardous waste management unit or facility  
21 has capacity to receive additional hazardous waste, there is a  
22 reasonable likelihood the owner or operator or another person  
23 will recommence operation of the unit or facility within one  
24 year, and closure of the unit or facility would be incompatible  
25 with continued operation of the site; and

26 C. the owner or operator complies with all applicable  
27 requirements for requesting a modification to the permit.

28 If operation of the site is recommended, the director may  
29 defer completion of closure activities until the new operation  
30 is terminated.

31 Subp. 3. **Disposal or decontamination of equipment,**  
32 **structures, and soils.** During the partial and final closure  
33 periods, all contaminated facility equipment, structures, and  
34 soils must be properly disposed of or decontaminated unless  
35 otherwise specified in parts 7045.0532, subpart 7; 7045.0534,  
36 subpart 7; 7045.0536, subpart 8, and 7045.0538, subpart 7. By

1 removing any hazardous wastes or hazardous constituents during  
2 partial and final closure, the owner or operator may become a  
3 generator of hazardous waste and must handle that waste in  
4 accordance with all applicable requirements of parts 7045.0205  
5 to 7045.0304.

6 Subp. 4. **Certification of closure.** Within 60 days after  
7 each hazardous waste surface impoundment, waste pile, land  
8 treatment, and landfill unit is closed, and within 60 days after  
9 final closure is completed, the owner or operator shall submit  
10 to the director, by registered mail, certification by the owner  
11 or operator and by an independent registered professional  
12 engineer that the hazardous waste management unit or facility,  
13 as applicable, has been closed in accordance with the  
14 specifications in the approved closure plan.

15 Documentation supporting the independent registered  
16 professional engineer's certification must be furnished to the  
17 director upon request until the director releases the owner or  
18 operator from the financial assurance requirements for closure  
19 under part 7045.0504, subpart 10.

20 7045.0490 POST-CLOSURE.

21 Subpart 1. [Unchanged.]

22 Subp. 2. **Submittal of post-closure plan.** The owner or  
23 operator of a facility shall submit a post-closure plan with the  
24 permit application, and the plan must be approved by the agency  
25 as part of the permit issuance procedure. The approved  
26 post-closure plan will become a condition of any permit issued.

27 Owners or operators of surface impoundments and waste piles  
28 which are not otherwise required by part 7045.0532, subpart 7 or  
29 7045.0534, subpart 7 to prepare a post-closure plan, must submit  
30 a post-closure plan to the director within 90 days after the  
31 owner or operator or the director determines that the unit must  
32 be closed as a landfill and is subject to the post-closure care  
33 requirements of parts 7045.0490 to 7045.0496.

34 Subp. 3. **Post-closure plan; amendment of plan.** A copy of  
35 the approved plan and all revisions to the plan must be

1 furnished to the director upon request, including request by  
2 mail until final closure of the facility. After final closure  
3 has been certified, the person or office in item C must keep the  
4 approved post-closure plan during the remainder of the  
5 post-closure period. For each hazardous waste management unit  
6 subject to post-closure care requirements the plan must identify  
7 the activities which will be carried on after closure and the  
8 frequency of these activities, and it must include at least:

9 A. [Unchanged.]

10 B. a description of the planned maintenance  
11 activities and frequencies at which they will be performed to  
12 ensure the integrity of the cap and final cover or other  
13 containment systems according to parts 7045.0532 to 7045.0538,  
14 and the function of the facility monitoring equipment according  
15 to parts 7045.0484 and 7045.0532 to 7045.0538; and

16 C. the name, address, and telephone number of the  
17 person or office to contact about the disposal facility during  
18 the post-closure period. This person or office must keep an  
19 updated post-closure plan during the post-closure period.

20 The owner or operator may submit a written request for a  
21 permit modification to amend the post-closure plan at any time  
22 during the active life of the disposal facility or during the  
23 post-closure period in accordance with the agency's permitting  
24 procedures in chapter 7001. The owner or operator shall request  
25 a permit modification to amend the plan whenever changes in  
26 operating plans, or facility design, or events which occur  
27 during the active life of the facility including partial and  
28 final closures, or during the post-closure period affect the  
29 post-closure plan. He or she shall also amend the plan whenever  
30 there is a change in the expected year of final closure, if  
31 applicable. In addition, the director may request modifications  
32 to the post-closure plan under these conditions.

33 When a permit modification is requested during the active  
34 life of the facility to authorize a change in operating plans or  
35 facility design, modification of the post-closure plan must be  
36 requested at the same time. The owner or operator must submit a

1 written request for a permit modification at least 60 days  
2 before the proposed changes in operating plans or facility  
3 design, or no later than 60 days after the unexpected events  
4 which affect the post-closure plan occur. If the director  
5 requests modification of the post-closure plan, the owner or  
6 operator must submit the modified plan no later than 60 days  
7 after the director's request, or no later than 90 days if the  
8 unit is a surface impoundment or waste pile not previously  
9 required to prepare a contingent post-closure plan. Any  
10 modifications requested by the director will be approved,  
11 disapproved, or modified in accordance with the agency's  
12 permitting procedures in chapter 7001.

13 7045.0492 POST-CLOSURE CARE AND USE OF PROPERTY.

14 Subpart 1. Post-closure care requirements. Post-closure  
15 care requirements are as follows:

16 A. Post-closure care of each hazardous waste  
17 management unit subject to parts 7045.0490 to 7045.0496 must  
18 continue for 30 years after the date of completing closure of  
19 the unit and must consist of at least monitoring and reporting  
20 according to parts 7045.0484 and 7045.0532 to 7045.0538, and the  
21 maintenance of monitoring and waste containment systems,  
22 according to parts 7045.0484 and 7045.0532 to 7045.0538.

23 B. Any time preceding closure of a hazardous waste  
24 management unit subject to the post-closure care requirements or  
25 final closure, or at any time during the post-closure period for  
26 a particular unit, the director may reduce the post-closure care  
27 period in accordance with the agency's permit modification  
28 procedures in chapter 7001 for the hazardous waste management  
29 unit or facility, if all disposal units have been closed if it  
30 is found that the reduced period is sufficient to protect human  
31 health and the environment. This determination must be based on  
32 leachate or ground water monitoring results, waste  
33 characteristics, application of advanced technology, or  
34 alternative disposal, treatment, or reuse techniques indicating  
35 the hazardous waste management unit or facility is secure.

1 C. Before the time that the post-closure care period  
2 is due to expire, the director may extend the post-closure care  
3 period in accordance with the agency's permit modification  
4 procedures in chapter 7001 for the hazardous waste management  
5 unit or facility if it is found that the extended period is  
6 necessary to protect human health and the environment. This  
7 determination must be based on factors such as leachate or  
8 ground water monitoring results that indicate a potential for  
9 migration of hazardous waste at levels which may be harmful to  
10 human health and the environment.

11 D. All post-closure care activities must be in  
12 accordance with the approved post-closure plan.

13 Subp. 2. **Continuation of security requirements.** The  
14 director may require, at partial and final closure, continuation  
15 of any of the security requirements during part of or all of the  
16 post-closure period after the date of completing closure when  
17 hazardous wastes may remain exposed after completion of partial  
18 or final closure or when access by the public or domestic  
19 livestock may pose a hazard to human health.

20 Subp. 3. **Post-closure use of property.** Post-closure use  
21 of property on or in which hazardous wastes remain after partial  
22 or final closure shall never be allowed by the owner or operator  
23 to disturb the integrity of the final cover, liners, or any  
24 other components of any containment system or the function of  
25 the facility's monitoring systems, unless the owner or operator  
26 can demonstrate to the director either in the post-closure plan  
27 or by petition that the disturbance:

28 A. and B. [Unchanged.]

29 Subp. 4. **Certification of completion of post-closure**  
30 **care.** Within 60 days after completion of the established  
31 post-closure care period for each hazardous waste disposal unit,  
32 the owner or operator shall submit to the director, by  
33 registered mail, certification by the owner or operator and by  
34 an independent registered professional engineer that the  
35 post-closure care period for the hazardous waste disposal unit  
36 was performed in accordance with the approved post-closure



1 plan. Documentation supporting the independent registered  
2 professional engineer's certification must be furnished to the  
3 director upon request until the director releases the owner or  
4 operator from the financial assurance requirements for  
5 post-closure care under part 7045.0508, subpart 10.

6 7045.0494 NOTICE TO LOCAL LAND AUTHORITY.

7 Subpart 1. **Submission of survey plat.** No later than  
8 submission of the certification of closure of each hazardous  
9 waste disposal unit, the owner or operator shall submit to the  
10 local zoning authority or the authority with jurisdiction over  
11 local land use and to the director a survey plat indicating the  
12 location and dimensions of landfill cells or other disposal  
13 areas with respect to permanently surveyed bench marks. This  
14 plat must be prepared and certified by a professional land  
15 surveyor. The plat filed with the local zoning authority or  
16 authority with jurisdiction over local land use must contain a  
17 prominently displayed note which states the owner's or  
18 operator's obligation to restrict disturbance of the site as  
19 specified.

20 Subp. 2. **Post-closure notices.** Within 60 after  
21 certification of closure of each hazardous waste disposal unit,  
22 the owner or operator shall submit to the local zoning authority  
23 or the authority with jurisdiction over local land use and to  
24 the director a record of the type, location, and quantity of  
25 hazardous waste disposed of within each cell or other disposal  
26 unit of the facility. For hazardous wastes disposed of before  
27 January 12, 1981, the owner or operator shall comply with all  
28 requirements of Code of Federal Regulations, title 40, section  
29 264.119 (1983). The owner or operator shall identify the type,  
30 location, and quantity of the waste to the best of his or her  
31 knowledge and in accordance with any records he or she has  
32 kept. A change in the type, location, or quantity of hazardous  
33 waste disposed of within each cell or area of the facility that  
34 occurs after the survey plat and record of waste have been filed  
35 must be reported to the local zoning authority or the authority

1 with jurisdiction over local land use and to the director.

2 7045.0496 NOTICE IN DEED TO PROPERTY.

3 Subpart 1. Deed notation. Within 60 days of certification  
4 of closure of the first hazardous waste disposal unit and within  
5 60 days of certification of closure of the last hazardous waste  
6 disposal unit the owner or operator shall:

7 A. record, in accordance with state law, a notation  
8 on the deed to the facility property, or on some other  
9 instrument which is normally examined during title search, that  
10 will in perpetuity notify any potential purchaser of the  
11 property that:

12 (1) the land has been used to manage hazardous  
13 waste;

14 (2) the land use is restricted; and

15 (3) the survey plat and record of the type,  
16 location, and quantity of hazardous waste disposed of within  
17 each cell or other hazardous waste disposal unit of the facility  
18 required in part 7045.0494 have been filed with the local zoning  
19 authority or the authority with jurisdiction over local land use  
20 and with the director; and

21 B. submit a certification signed by the owner or  
22 operator that he or she has recorded the notation specified in  
23 this subpart, including a copy of the document in which the  
24 notation has been placed, to the director.

25 Subp. 2. Changes to the deed. If at any time the owner or  
26 operator or a subsequent owner or operator of the land upon  
27 which a hazardous waste disposal unit is located wishes to  
28 remove the hazardous wastes and hazardous waste residues, the  
29 liner, if any, or contaminated underlying and surrounding soil,  
30 he or she must request a permit modification to amend the  
31 post-closure plan in accordance with the agency's permitting  
32 procedures in chapter 7001. The owner or operator must  
33 demonstrate that the removal of hazardous wastes will satisfy  
34 the criteria of part 7045.0492, subpart 3. If the owner or  
35 operator is granted approval to conduct removal activities, he

1 or she may request that the director approve either:

2 A. removal of the notation on the deed to the  
3 facility property or other instrument normally examined during  
4 title search; or

5 B. addition of a notation to the deed or instrument  
6 indicating the removal of the hazardous waste.

7 By removing hazardous waste and hazardous waste residue,  
8 the liner, if any, and the contaminated soil, the owner or  
9 operator becomes a generator of hazardous waste and shall manage  
10 it in accordance with all applicable requirements of this  
11 chapter.

12 7045.0498 FINANCIAL REQUIREMENTS.

13 Subpart 1. [Unchanged.]

14 Subp. 2. **Definitions.** The following definitions apply:

15 A. When used in parts 7045.0498 to 7045.0524, the  
16 following terms have the meanings given.

17 (1) "Closure plan" means the plan for closure  
18 prepared in accordance with part 7045.0486.

19 (2) "Corrective action plan" means the plan for  
20 corrective action prepared in accordance with part 7045.0484,  
21 subparts 2, item D, and 14.

22 (3) and (4) [Unchanged.]

23 (5) "Current plugging and abandonment cost  
24 estimate for class I underground injection control (UIC)  
25 facilities" means the most recent of the estimates prepared in  
26 accordance with Code of Federal Regulations, title 40, section  
27 144.62 (a), (b), and (c).

28 (6) "Current post-closure cost estimate" means  
29 the most recent of the estimates prepared in accordance with  
30 part 7045.0506, subparts 1, 2, and 3.

31 (7) "Parent corporation" means a corporation  
32 which directly owns at least 50 percent of the voting stock of  
33 the corporation which is the facility owner or operator; the  
34 later corporation is deemed a "subsidiary" of the parent  
35 corporation.

1 (8) "Post-closure plan" means the plan for  
2 post-closure care prepared according to parts 7045.0490 to  
3 7045.0496.

4 B. The following terms are used in the specifications  
5 for the financial tests for corrective action, closure,  
6 post-closure care, and liability coverage. The following  
7 definitions are intended to assist in the understanding of parts  
8 7045.0498 to 7045.0524 and are not intended to limit the  
9 meanings of terms in a way that conflicts with generally  
10 accepted accounting practices:

11 (1) to (8) [Unchanged.]

12 C. In the liability insurance requirements the terms  
13 "bodily injury" and "property damage" have the meanings given  
14 these terms by applicable state law. However, these terms do  
15 not include liabilities which, consistent with standard industry  
16 practices, are excluded from coverage in liability policies for  
17 bodily injury and property damage. The agency intends the  
18 meanings of other terms used in the liability insurance  
19 requirements to be consistent with their common meanings within  
20 the insurance industry. The following definitions of several of  
21 the terms are intended to assist in the understanding of parts  
22 7045.0498 to 7045.0524 and are not intended to limit their  
23 meanings in a way that conflicts with general insurance industry  
24 usage:

25 (1) to (4) [Unchanged.]

26 7045.0502 COST ESTIMATE FOR FACILITY CLOSURE.

27 Subpart 1. Cost estimate requirements. The owner or  
28 operator shall have a detailed written estimate, in current  
29 dollars, of the cost of closing the facility in accordance with  
30 parts 7045.0486 and 7045.0488 and applicable closure  
31 requirements in parts 7045.0526, subpart 9; 7045.0528, subpart  
32 6; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536,  
33 subpart 8; 7045.0538, subpart 7; and 7045.0542, subpart 8. The  
34 closure cost estimate must equal the cost of final closure at  
35 the point in the facility's active life when the extent and

1 manner of its operation would make closure the most expensive,  
2 as indicated by its closure plan. The closure cost shall be  
3 estimated as follows:

4           A. The closure cost estimate must be based on the  
5 costs to the owner or operator of hiring a third party to close  
6 the facility. A third party is a party who is neither a parent  
7 nor a subsidiary of the owner or operator. The owner or  
8 operator may use costs for on-site disposal if the operator can  
9 demonstrate that on-site disposal capacity will exist at all  
10 times through the life of the facility.

11           B. The closure cost estimate may not incorporate any  
12 salvage value that may be realized with the sale of hazardous  
13 wastes, facility structures or equipment, land, or other assets  
14 associated with the facility at the time of partial or final  
15 closure.

16           C. The owner or operator may not incorporate a zero  
17 cost for hazardous wastes that might have economic value.

18           Subp. 2. **Yearly update of cost estimate.** During the  
19 active life of the facility, the owner or operator shall adjust  
20 the closure cost estimate for inflation within 60 days before  
21 each anniversary of the date on which the financial instruments  
22 used to comply with part 7045.0504 were established. Owners and  
23 operators using the financial test or corporate guarantee must  
24 adjust the closure cost estimate for inflation within 30 days  
25 after the close of the firm's fiscal year and before submission  
26 of updated information to the director as specified in part  
27 7045.0504, subpart 7, item E. The adjustment must be made as  
28 specified in items A and B using an inflation factor derived  
29 from the annual Implicit Price Deflator for Gross National  
30 Product as found in the Survey of Current Business issued by the  
31 United States Department of Commerce. The inflation factor is  
32 the result of dividing the latest published annual deflator by  
33 the deflator for the previous year. Adjustments must be made as  
34 follows:

35           A. and B. [Unchanged.]

36           Subp. 3. **Cost estimate revisions.** During the active life

1 of the facility, the owner or operator shall revise the closure  
2 cost estimate within 30 days after the director approves the  
3 request to modify the closure plan, if the change in the closure  
4 plan increases the cost of closure. The revised closure cost  
5 estimate must be adjusted for inflation as specified in subpart  
6 2.

7 Subp. 4. **Record retention.** The owner or operator shall  
8 supply the following to the director upon request, including  
9 request by mail until final closure is completed: the latest  
10 closure cost estimate prepared in accordance with subparts 2 and  
11 3 and, when this estimate has been adjusted in accordance with  
12 subpart 2, the latest adjusted closure cost estimate.

13 7045.0504 FINANCIAL ASSURANCE FOR FACILITY CLOSURE.

14 Subpart 1. [Unchanged.]

15 Subp. 2. **Closure trust fund.** The following apply to  
16 closure trust funds:

17 A. to J. [Unchanged.]

18 K. After beginning partial or final closure, an  
19 owner, operator, or other person authorized to perform closure  
20 may request reimbursement for partial or final closure  
21 expenditures by submitting itemized bills to the director. The  
22 owner or operator may request reimbursement for partial closure  
23 expenditures only if sufficient funds remain in the trust fund  
24 to cover the maximum costs of closing the facility over its  
25 remaining operating life. Within 60 days after receiving bills  
26 for partial or final closure activities, the director shall  
27 determine whether the partial or final closure expenditures are  
28 in accordance with the closure plan or otherwise justified, and  
29 if so, the director shall instruct the trustee to make  
30 reimbursement in amounts as the director specifies in writing.  
31 If the director has reason to believe that the maximum cost of  
32 closure over the remaining operating life of the facility will  
33 be significantly greater than the value of the trust fund, the  
34 director may withhold reimbursement of the amounts as deemed  
35 prudent until it is determined, in accordance with subpart 10,

1 that the owner or operator is no longer required to maintain  
 2 financial assurance for final closure of the facility. If the  
 3 director withholds reimbursement, the director shall provide the  
 4 owner or operator with a detailed written statement of reasons.

5 L. The director shall agree to termination of the  
 6 trust if:

7 (1) an owner or operator substitutes alternate  
 8 financial assurance as specified in this part; or

9 (2) the director releases the owner or operator  
 10 from the requirements of this part in accordance with subpart 10.

11 Subp. 3. **Surety bond guaranteeing payment into a closure**  
 12 **trust fund.** The following apply to surety bonds that guarantee  
 13 payment into a closure trust fund:

14 A. to C. [Unchanged.]

15 D. The bond must guarantee that the owner or operator  
 16 will:

17 (1) [Unchanged.]

18 (2) fund the standby trust fund in an amount  
 19 equal to the penal sum within 15 days after an order to begin  
 20 final closure is issued by the director, the agency, or court of  
 21 competent jurisdiction; or

22 (3) [Unchanged.]

23 E. to I. [Unchanged.]

24 Subp. 4. **Surety bond guaranteeing performance of closure.**

25 The following apply to surety bonds that guarantee performance  
 26 of closure:

27 A. to D. [Unchanged.]

28 E. Under the terms of the bond, the surety becomes  
 29 liable on the bond obligation when the owner or operator fails  
 30 to perform as guaranteed by the bond. Following a ~~final~~  
 31 determination by the director that the owner or operator has  
 32 failed to perform final closure in accordance with the closure  
 33 plan and other permit requirements when required to do so, under  
 34 the terms of the bond the surety shall perform final closure in  
 35 accordance with the closure plan and other permit requirements  
 36 or will deposit the amount of the penal sum into the standby

1 trust fund.

2 F. to H. [Unchanged.]

3 I. The owner or operator may cancel the bond if the  
4 director has given prior written consent. The director shall  
5 provide such written consent if:

6 (1) an owner or operator substitutes alternate  
7 financial assurance as specified in this part; or

8 (2) the director releases the owner or operator  
9 from the requirements of this part in accordance with subpart 10.

10 J. The surety will not be liable for deficiencies in  
11 the performance of closure by the owner or operator after the  
12 director releases the owner or operator from the requirements of  
13 this part in accordance with subpart 10.

14 Subp. 5. Closure letter of credit. The following apply to  
15 closure letters of credit:

16 A. to I. [Unchanged.]

17 J. The director shall return the letter of credit to  
18 the issuing institution for termination if:

19 (1) an owner or operator substitutes alternate  
20 financial assurance as specified in this part; or

21 (2) the director releases the owner or operator  
22 from the requirements of this part in accordance with subpart 10.

23 Subp. 6. Closure insurance. The following apply to  
24 closure insurance:

25 A. to D. [Unchanged.]

26 E. After beginning partial or final closure, an  
27 owner, operator, or other person authorized to perform closure  
28 may request reimbursement for closure expenditures by submitting  
29 itemized bills to the director. The owner or operator may  
30 request reimbursements for partial closure only if the remaining  
31 value of the policy is sufficient to cover the maximum costs of  
32 closing the facility over its operating life. Within 60 days  
33 after receiving bills for closure activities, the director shall  
34 determine whether the closure expenditures are in accordance  
35 with the closure plan or otherwise justified, and if so, the  
36 director shall instruct the insurer to make reimbursement in



1 amounts as the director specifies in writing. If the director  
2 has reason to believe that the maximum cost of closure over the  
3 remaining life of the facility will be significantly greater  
4 than the face amount of the policy, the director may withhold  
5 reimbursement of amounts as deemed prudent until it is  
6 determined, in accordance with subpart 10, that the owner or  
7 operator is no longer required to maintain financial assurance  
8 for closure of the facility. If the director withholds  
9 reimbursement, the director shall provide the owner or operator  
10 with a detailed written statement of reasons.

11 F. to I. [Unchanged.]

12 J. The director shall give written consent to the  
13 owner or operator to terminate the insurance policy if:

14 (1) an owner or operator substitutes alternate  
15 financial assurance as specified in this part; or

16 (2) the director releases the owner or operator  
17 from the requirements of this part in accordance with subpart 10.

18 **Subp. 7. Financial test and corporate guarantee for**  
19 **closure.** The financial test and corporate guarantee for closure  
20 is as follows:

21 A. [Unchanged.]

22 B. The owner or operator shall have:

23 (1) [Unchanged.]

24 (2) net working capital and tangible net worth  
25 each at least six times the sum of the current closure and  
26 post-closure cost estimates and the current plugging and  
27 abandonment cost estimate for class I underground injection  
28 control (UIC) facilities, if applicable;

29 (3) tangible net worth of at least \$10,000,000;

30 and

31 (4) assets in the United States amounting to at  
32 least 90 percent of the owner's or operator's total assets or at  
33 least six times the sum of the current closure and post-closure  
34 cost estimates and the current plugging and abandonment cost  
35 estimate for class I underground injection control (UIC)  
36 facilities, if applicable.

1 C. The owner or operator shall have:

2 (1) a current rating for the most recent bond  
3 issuance of AAA, AA, A, or BBB as issued by Standard and Poor's  
4 or Aaa, Aa, A, or Baa as issued by Moody's;

5 (2) tangible net worth at least six times the sum  
6 of the current closure and post-closure cost estimates and the  
7 current plugging and abandonment cost estimate for class I  
8 underground injection control (UIC) facilities, if applicable;

9 (3) tangible net worth of at least \$10,000,000;  
10 and

11 (4) assets located in the United States amounting  
12 to at least 90 percent of the owner's or operator's total assets  
13 or at least six times the sum of the current closure and  
14 post-closure cost estimates and the current plugging and  
15 abandonment cost estimate for class I underground injection  
16 control (UIC) facilities, if applicable.

17 D. The phrase "current closure and post-closure cost  
18 estimates" as used in items A to C refers to the cost estimates  
19 required to be shown in paragraphs 1 to 4 of the letter from the  
20 owner's or operator's chief financial officer as specified in  
21 part 7045.0524, subpart 6. The phrase "current plugging and  
22 abandonment cost estimate" as used in items A to C means the  
23 cost estimates required to be shown in paragraphs 1 to 4 of the  
24 letter from the owner's or operator's chief financial officer as  
25 specified in Code of Federal Regulations, title 40, section  
26 144.70(f).

27 E. to J. [Unchanged.]

28 K. The owner or operator is no longer required to  
29 submit the items specified in item E if:

30 (1) an owner or operator substitutes alternate  
31 financial assurance as specified in this part; or

32 (2) the director releases the owner or operator  
33 from the requirements of this part in accordance with subpart 10.

34 L. [Unchanged.]

35 Subp. 8. and 9. [Unchanged.]

36 Subp. 10. Release of owner or operator from requirements

1 of this part. Within 60 days after receiving certifications  
2 from the owner or operator and an independent registered  
3 professional engineer that final closure has been accomplished  
4 in accordance with the closure plan, the director shall notify  
5 the owner or operator in writing that he or she is no longer  
6 required by this part to maintain financial assurance for  
7 closure of the particular facility, unless the director has  
8 reason to believe that closure has not been in accordance with  
9 the closure plan. The director shall provide the owner or  
10 operator a detailed written statement of any reason to believe  
11 that closure has not been in accordance with the approved  
12 closure plan.

13 7045.0506 COST ESTIMATE FOR POST-CLOSURE CARE.

14 Subpart 1. Cost estimate requirements. The owner or  
15 operator of a facility subject to post-closure monitoring or  
16 maintenance requirements shall have a written estimate, in  
17 current dollars, of the annual cost of post-closure monitoring  
18 and maintenance of the facility in accordance with the  
19 applicable post-closure requirements in parts 7045.0490 to  
20 7045.0496; 7045.0532, subpart 7; 7045.0534, subpart 7;  
21 7045.0536, subpart 8; and 7045.0538, subpart 7. The  
22 post-closure cost estimate is calculated by multiplying the  
23 annual post-closure cost estimate by the number of years of  
24 post-closure care required under part 7045.0492. The  
25 post-closure cost estimate must be based on the costs to the  
26 owner or operator of hiring a third party to conduct  
27 post-closure care activities. A third party is neither a parent  
28 nor a subsidiary of the owner or operator.

29 Subp. 2. Yearly update of cost estimate. During the  
30 active life of the facility, the owner or operator shall adjust  
31 the post-closure cost estimate for inflation within 60 days  
32 before each anniversary of the date on which the financial  
33 instruments used to comply with part 7045.0508 were  
34 established. For owners or operators using the financial test  
35 or corporate guarantee, the post-closure cost estimate must be

1 adjusted for inflation within 30 days after the close of the  
2 firm's fiscal year and before the submission of updated  
3 information to the director as specified in part 7045.0506,  
4 subpart 7, item E. The adjustment must be made as specified in  
5 items A and B using an inflation factor derived from the annual  
6 Implicit Price Deflator for Gross National Product as found in  
7 the Survey of Current Business issued by the United States  
8 Department of Commerce. The inflation factor is the result of  
9 dividing the latest published annual deflator by the deflator  
10 for the previous year. Adjustments are made as follows:

11           A. and B. [Unchanged.]

12           Subp. 3. **Cost estimate revisions.** The owner or operator  
13 shall revise the post-closure cost estimate within 30 days after  
14 the director has approved the request to modify the post-closure  
15 plan, if the change in the post-closure plan increases the cost  
16 of post-closure care. The revised post-closure cost estimate  
17 must be adjusted for inflation as specified in subpart 2.

18           Subp. 4. **Record retention.** The owner or operator shall  
19 furnish the following to the director upon request, including  
20 request by mail: the latest post-closure cost estimate prepared  
21 in accordance with subparts 1 and 3 and, when this estimate has  
22 been adjusted in accordance with subpart 2, the latest adjusted  
23 post-closure cost estimate.

24 7045.0508 FINANCIAL ASSURANCE FOR POST-CLOSURE CARE.

25           Subpart 1. **In general.** The owner or operator of a  
26 hazardous waste management unit subject to post-closure  
27 monitoring or maintenance requirements shall establish financial  
28 assurance for post-closure care of the facility 60 days before  
29 the initial receipt of hazardous waste or the effective date of  
30 the regulation, whichever is later. The owner or operator shall  
31 choose from the options specified in subparts 2 to 7.

32           Subp. 2. **Post-closure trust fund.** The following apply to  
33 post-closure trust funds:

34           A. to K. [Unchanged.]

35           L. An owner or operator or any other person

1 authorized to perform post-closure care may request  
2 reimbursement for post-closure expenditures by submitting  
3 itemized bills to the director. Within 60 days after receiving  
4 bills for post-closure activities, the director shall determine  
5 whether the post-closure activities are in accordance with the  
6 post-closure plan or otherwise justified, and if so, the  
7 director shall instruct the trustee to make reimbursement in  
8 amounts as the director specifies in writing. If the director  
9 does not instruct the trustee to make reimbursement, the  
10 director shall provide the owner or operator with a detailed  
11 written statement of reasons.

12 M. [Unchanged.]

13 Subp. 3. **Surety bond guaranteeing payment into**  
14 **post-closure trust fund.** The following apply to surety bonds  
15 that guarantee payment into post-closure trust funds:

16 A. to C. [Unchanged.]

17 D. The bond must guarantee that the owner or operator  
18 will:

19 (1) [Unchanged.]

20 (2) fund the standby trust fund in an amount  
21 equal to the penal sum within 15 days after an order to begin  
22 final closure is issued by the director, the agency, or a court  
23 of competent jurisdiction; or

24 (3) [Unchanged.]

25 E. to I. [Unchanged.]

26 Subp. 4. and 5. [Unchanged.]

27 Subp. 6. **Post-closure insurance.** The following apply to  
28 post-closure insurance:

29 A. to D. [Unchanged.]

30 E. An owner or operator or any other person

31 authorized to perform post-closure care may request  
32 reimbursement for post-closure expenditures by submitting  
33 itemized bills to the director. Within 60 days after receiving  
34 bills for post-closure activities, the director shall determine  
35 whether the post-closure expenditures are in accordance with the  
36 post-closure plan or otherwise justified, and if so, the

1 director shall instruct the insurer to make reimbursement in  
2 amounts as the director specifies in writing. If the director  
3 does not instruct the insurer to make reimbursement, the  
4 director shall provide the owner or operator with a detailed  
5 written statement of reasons.

6 F. to K. [Unchanged.]

7 Subp. 7. **Financial test and corporate guarantee for**  
8 **post-closure care.** The financial test and corporate guarantee  
9 for post-closure care is as follows:

10 A. [Unchanged.]

11 B. The owner or operator must have:

12 (1) [Unchanged.]

13 (2) net working capital and tangible net worth  
14 each at least six times the sum of the current closure and  
15 post-closure cost estimates and the current plugging and  
16 abandonment cost estimate for class I underground injection  
17 control (UIC) facilities, if applicable;

18 (3) [Unchanged.]

19 (4) assets in the United States amounting to at  
20 least 90 percent of the owner's or operator's total assets or at  
21 least six times the sum of the current closure and post-closure  
22 cost estimates and the current plugging and abandonment cost  
23 estimate for class I underground injection control (UIC)  
24 facilities, if applicable.

25 C. The owner or operator shall have:

26 (1) a current rating for the most recent bond  
27 issuance of AAA, AA, A, or BBB as issued by Standard and Poor's  
28 or Aaa, Aa, A, or Baa as issued by Moody's;

29 (2) tangible net worth at least six times the sum  
30 of the current closure and post-closure cost estimates and the  
31 current plugging and abandonment cost estimate for class I  
32 underground injection control (UIC) facilities, if applicable;

33 (3) tangible net worth of at least \$10,000,000;

34 and

35 (4) assets located in the United States amounting  
36 to at least 90 percent of the owner's or operator's total assets

1 or at least six times the sum of the current closure and  
2 post-closure cost estimates and the current plugging and  
3 abandonment cost estimate for class I underground injection  
4 control (UIC) facilities, if applicable.

5 D. The phrase "current closure and post-closure cost  
6 estimates" as used in items A to C refers to the cost estimates  
7 required to be shown in paragraphs 1 to 4 of the letter from the  
8 owner's or operator's chief financial officer as specified in  
9 part 7045.0524, subpart 6. The phrase "current plugging and  
10 abandonment cost estimates" as used in items A to C means the  
11 cost estimates required to be shown in paragraphs 1 to 4 of the  
12 letter from the owner's or operator's chief financial officer as  
13 specified in Code of Federal Regulations, title 40, section  
14 144.70(f).

15 E. to M. [Unchanged.]

16 Subp. 8. and 9. [Unchanged.]

17 Subp. 10. **Release of owner or operator from requirements**  
18 **of this part.** Within 60 days after receiving certification from  
19 the owner or operator and an independent registered professional  
20 engineer that all post-closure care requirements have been  
21 completed for a hazardous waste disposal unit in accordance with  
22 the post-closure plan, the agency will, at the request of the  
23 owner or operator, notify the owner or operator in writing that  
24 the owner or operator is no longer required by this part to  
25 maintain financial assurance for post-closure care of that unit,  
26 unless the agency has reason to believe that post-closure care  
27 has not been in accordance with the approved post-closure plan.  
28 The agency shall provide the owner or operator with a detailed  
29 written statement of any reason to believe that post-closure  
30 care has not been in accordance with the approved post-closure  
31 plan.

32 7045.0518 LIABILITY REQUIREMENTS.

33 Subpart 1. to 4. [Unchanged.]

34 Subp. 5. **Period of coverage.** An owner or operator shall  
35 continuously provide liability coverage for a facility as

1 required by this part until certifications of closure of the  
 2 facility, as specified in part 7045.0488, are received by the  
 3 director. Within 60 days after receiving the certifications  
 4 from the owner or operator and an independent registered  
 5 professional engineer, the director shall notify the owner or  
 6 operator in writing that he or she is no longer required by this  
 7 part to maintain liability coverage for that facility, unless  
 8 the director has reason to believe that closure has not been in  
 9 accordance with the approved closure plan.

10 Subp. 6. [Unchanged.]

11 7045.0524 WORDING OF INSTRUMENTS.

12 Subpart 1. to 5. [Unchanged.]

13 Subp. 6. Letter from chief financial officer for  
 14 corrective action, closure, and/or post-closure care. A letter  
 15 from the chief financial officer as specified in part 7045.0504,  
 16 subpart 7; 7045.0508, subpart 7; 7045.0514, subpart 7;  
 17 7045.0612, subpart 6; or 7045.0616, subpart 6 must be worded as  
 18 specified in this subpart, except that instructions in brackets  
 19 must be replaced with the relevant information and the brackets  
 20 deleted.

21 LETTER FROM CHIEF FINANCIAL OFFICER FOR CORRECTIVE

22 ACTION, CLOSURE, AND/OR POST-CLOSURE CARE

23 [Agency Director]

24 Minnesota Pollution Control Agency

25 I am the chief financial officer of [name and address of  
 26 firm]. This letter is in support of this firm's use of the  
 27 financial test to demonstrate financial assurance, as specified  
 28 in Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608  
 29 to 7045.0624.

30 [Fill out the following five paragraphs regarding  
 31 facilities and associated cost estimates. If your firm has no  
 32 facilities that belong in a particular paragraph, write "None"  
 33 in the space indicated. For each facility, include its  
 34 identification number, name, address, and current corrective  
 35 action, closure, and/or post-closure cost estimates. Identify



1 each cost estimate as to whether it is for corrective action,  
2 closure, or post-closure care.]

3 1. This firm is the owner or operator of the following  
4 facilities for which financial assurance for corrective action,  
5 closure, or post-closure care is demonstrated through the  
6 financial test specified in Minnesota Rules, parts 7045.0498 to  
7 7045.0524 and 7045.0608 to 7045.0624. The current corrective  
8 action, closure, and/or post-closure cost estimates covered by  
9 the text are shown for each facility: \_\_\_\_\_.

10 2. This firm guarantees, through the corporate guarantee  
11 specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and  
12 7045.0608 to 7045.0624, the corrective action, closure, or  
13 post-closure care of the following facilities owned or operated  
14 by subsidiaries of this firm. The current cost estimates for  
15 the corrective action, closure, or post-closure care so  
16 guaranteed are shown for each facility: \_\_\_\_\_.

17 3. In states other than Minnesota, this firm, as owner or  
18 operator or guarantor, is demonstrating financial assurance for  
19 the corrective action, closure, or post-closure care of the  
20 following facilities either to the United States Environmental  
21 Protection Agency through the use of the financial test  
22 specified in Code of Federal Regulations, title 40, parts 264 or  
23 265, subpart H, or to an authorized state through the use of a  
24 test equivalent or substantially equivalent to the specified  
25 financial test. The current corrective action, closure, and/or  
26 post-closure cost estimates covered by such a test are shown for  
27 each facility: \_\_\_\_\_.

28 4. This firm is the owner or operator of the following  
29 hazardous waste management facilities for which financial  
30 assurance for corrective action, if required, closure, or if a  
31 disposal facility, post-closure care, is not demonstrated either  
32 to the United States Environmental Protection Agency or a state  
33 through the financial test or any other financial assurance  
34 mechanism specified in Code of Federal Regulations, title 40,  
35 parts 264 or 265, subpart H, or equivalent or substantially  
36 equivalent state mechanisms. The current corrective action,

1 closure, and/or post-closure cost estimates not covered by such  
2 financial assurance are shown for each facility: \_\_\_\_\_.

3 5. This firm is the owner or operator of the following  
4 underground injection control (UIC) facilities for which  
5 financial assurance for plugging and abandonment is required  
6 under Code of Federal Regulations, title 40, part 144. The  
7 current closure cost estimates as required by Code of Federal  
8 Regulations, title 40, section 144.62 are shown for each  
9 facility.

10 This firm [insert "is required" or "is not required"] to  
11 file a Form 10K with the Securities and Exchange Commission  
12 (SEC) for the latest fiscal year.

13 The fiscal year of this firm ends on [month, day]. The  
14 figures for the following items marked with an asterisk are  
15 derived from this firm's independently audited, year-end  
16 financial statements for the latest completed fiscal year, ended  
17 [date].

18 [Fill in Alternative I if the criteria of Minnesota Rules,  
19 part 7045.0504, subpart 7, item B; 7045.0508, subpart 7, item B;  
20 7045.0514, subpart 7, item B; 7045.0612, subpart 6, item B;  
21 7045.0616, subpart 6, item B are used. Fill in Alternative II  
22 if the criteria of Minnesota Rules, part 7045.0504, subpart 7,  
23 item C; 7045.0508, subpart 7, item C; 7045.0514, subpart 7, item  
24 C; or 7045.0612, subpart 6, item C; or 7045.0616, subpart 6,  
25 item C are used.]

26 ALTERNATIVE I

- 27 1. Sum of current corrective action, closure, and  
28 post-closure cost estimate [total of all cost  
29 estimates shown in the five paragraphs above] \$ \_\_\_\_\_
- 30 \*2. Total liabilities [if any portion of the  
31 corrective action, closure, or post-closure  
32 cost estimates is included in total liabilities,  
33 you may deduct the amount of that portion from  
34 this line and add that amount to lines 3 and 4]. \$ \_\_\_\_\_
- 35 \*3. Tangible net worth \$ \_\_\_\_\_
- 36 \*4. Net worth \$ \_\_\_\_\_
- 37 \*5. Current assets \$ \_\_\_\_\_
- 38 \*6. Current liabilities \$ \_\_\_\_\_
- 39 7. Net working capital [line 5 minus line 6] \$ \_\_\_\_\_
- 40 \*8. The sum of net income plus depreciation,  
41 depletion, and amortization \$ \_\_\_\_\_
- 42 \*9. Total assets in U.S. (required only if less than  
43 90 percent of firm's assets are located in U.S.) \$ \_\_\_\_\_
- 44 YES NO
- 45 10. Is line 3 at least \$10,000,000? \_\_\_\_\_

- 1 11. Is line 3 at least 6 times line 1? \_\_\_\_\_
- 2 12. Is line 7 at least 6 times line 1? \_\_\_\_\_
- 3 \*13. Are at least 90 percent of firm's assets located \_\_\_\_\_
- 4 in the U.S.? If not, complete line 14 \_\_\_\_\_
- 5 14. Is line 9 at least 6 times line 1? \_\_\_\_\_
- 6 15. Is line 2 divided by line 4 less than 2.0? \_\_\_\_\_
- 7 16. Is line 8 divided by line 2 greater than 0.1? \_\_\_\_\_
- 8 17. Is line 5 divided by line 6 greater than 1.5? \_\_\_\_\_
- 9

ALTERNATIVE II

- 10 1. Sum of current corrective action, closure, and
- 11 post-closure cost estimates [total of all cost
- 12 estimates shown in the four paragraphs above \$ \_\_\_\_\_
- 13 2. Current bond rating of most recent issuance of
- 14 this firm and name of rating service \_\_\_\_\_
- 15 3. Date of issuance of bond \_\_\_\_\_
- 16 4. Date of maturity of bond \_\_\_\_\_
- 17 \*5. Tangible net worth [if any portion of the
- 18 corrective action, closure, and post-closure
- 19 cost estimates is included in "total liabilities"
- 20 on your firm's financial statements, you may add
- 21 the amount of that portion to this line] \$ \_\_\_\_\_
- 22 \*6. Total assets in U.S. (required only if less than
- 23 90 percent of firm's assets are located in U.S.) \$ \_\_\_\_\_
- 24 YES NO
- 25 7. Is line 5 at least \$10,000,000? \_\_\_\_\_
- 26 8. Is line 5 at least 6 times line 1? \_\_\_\_\_
- 27 \*9. Are at least 90 percent of firm's assets located \_\_\_\_\_
- 28 in U.S.? If not, complete line 10 \_\_\_\_\_
- 29 10. Is line 6 at least 6 times line 1? \_\_\_\_\_
- 30 I hereby certify that the wording of this letter is

31 identical to the wording specified in Minnesota Rules, part  
32 7045.0524, subpart 6, as such rules were constituted on the date  
33 shown immediately below.

34 [SIGNATURE]  
35 [NAME]  
36 [TITLE]  
37 [DATE]

38 Subp. 7. Letter from chief financial officer for liability  
39 coverage. A letter from the chief financial officer as  
40 specified in part 7045.0518, subpart 6 or 7045.0620, subpart 5  
41 must be worded as specified in this subpart, except that  
42 instructions in brackets must be replaced with the relevant  
43 information and the brackets deleted.

44 LETTER FROM CHIEF FINANCIAL OFFICER  
45 FOR LIABILITY COVERAGE OR LIABILITY COVERAGE,  
46 CORRECTIVE ACTION, CLOSURE, AND/OR POST-CLOSURE CARE

47 [Agency Director]  
48 Minnesota Pollution Control Agency

49 I am the chief financial officer of [owner's or operator's  
50 name and address]. This letter is in support of the use of the

1 financial test to demonstrate financial responsibility for  
 2 liability coverage [insert "and corrective action, closure,  
 3 and/or post-closure care" if applicable] as specified in  
 4 Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to  
 5 7045.0624.

6 [Fill out the following paragraph regarding facilities and  
 7 liability coverage. For each facility, include its  
 8 identification number, name, and address.]

9 The owner or operator identified above is the owner or  
 10 operator of the following facilities for which liability  
 11 coverage is being demonstrated through the financial test  
 12 specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and  
 13 7045.0608 to 7045.0624:

14 \_\_\_\_\_ .

15 [If you are using the financial test to demonstrate  
 16 coverage of both liability and corrective action, closure, and  
 17 post-closure care, fill in the following five paragraphs  
 18 regarding facilities and associated corrective action, closure,  
 19 and post-closure cost estimates. If there are no facilities  
 20 that belong in a particular paragraph, write "None" in the space  
 21 indicated. For each facility, include its identification  
 22 number, name, address, and current corrective action, closure,  
 23 and/or post-closure cost estimates. Identify each cost estimate  
 24 as to whether it is for corrective action, closure, or  
 25 post-closure care.]

26 1. The owner or operator identified above owns or operates  
 27 the following facilities for which financial assurance for  
 28 corrective action, closure, or post-closure care is demonstrated  
 29 through the financial test specified in Minnesota Rules, parts  
 30 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624. The current  
 31 corrective action, closure, and/or post-closure cost estimates  
 32 covered by the test are shown for each facility:

33 \_\_\_\_\_ .

34 2. The owner or operator identified above guarantees,  
 35 through the corporate guarantee specified in Minnesota Rules,  
 36 part 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624, the

1 corrective action, closure, and post-closure care of the  
2 following facilities owned or operated by its subsidiaries. The  
3 current cost estimates for the corrective action, closure, or  
4 post-closure care so guaranteed are shown for each facility:

5 \_\_\_\_\_.

6 3. In states other than Minnesota, this owner or operator  
7 is demonstrating financial assurance for the corrective action,  
8 closure, or post-closure care of the following facilities either  
9 to the United States Environmental Protection Agency through the  
10 use of the financial test specified in Code of Federal  
11 Regulations, title 40, parts 264 or 265, subpart H, or to an  
12 authorized state through the use of a test equivalent or  
13 substantially equivalent to the specified financial test. The  
14 current corrective action, closure, and/or post-closure cost  
15 estimates covered by such a test are shown for each facility:

16 \_\_\_\_\_.

17 4. The owner or operator identified above owns or operates  
18 the following hazardous waste management facilities for which  
19 financial assurance for corrective action, if required, closure,  
20 or, if a disposal facility, post-closure care, is not  
21 demonstrated either to the United States Environmental  
22 Protection Agency, or a state through the financial test or any  
23 other financial assurance mechanism specified in Code of Federal  
24 Regulations, title 40, parts 264 or 265, subpart H, or  
25 equivalent or substantially equivalent state mechanisms. The  
26 current corrective action, closure, and/or post-closure cost  
27 estimates not covered by such financial assurance are shown for  
28 each facility: \_\_\_\_\_.

29 5. The owner or operator identified above owns or operates  
30 the following underground injection control (UIC) facilities for  
31 which financial assurance for plugging and abandonment is  
32 required under Code of Federal Regulations, title 40, part 144.  
33 The current closure cost estimates as required by Code of  
34 Federal Regulations, title 40, section 144.62 are shown for each  
35 facility:

36 \_\_\_\_\_.

1 This owner or operator [insert "is required" or "is not  
2 required"] to file a Form 10K with the Securities and Exchange  
3 Commission (SEC) for the latest fiscal year.

4 The fiscal year of this owner or operator ends on [month,  
5 day]. The figures for the following items marked with an  
6 asterisk are derived from this owner's or operator's  
7 independently audited, year-end financial statements for the  
8 latest completed fiscal year, ended [date].

9 [Fill in Part A if you are using the financial test to  
10 demonstrate coverage only for the liability requirements.]

11 Part A. Liability Coverage for Accidental Occurrences.

12 [Fill in Alternative I if the criteria of Minnesota Rules,  
13 part 7045.0518, subpart 6, item B or 7045.0620, subpart 5, item  
14 B are used. Fill in Alternative II if the criteria of Minnesota  
15 Rules, part 7045.0518, subpart 6, item C or 7045.0620, subpart  
16 5, item C are used.]

17 ALTERNATIVE I

- 18 1. Amount of annual aggregate liability coverage to  
19 be demonstrated \$ \_\_\_\_\_
- 20 \*2. Current assets \$ \_\_\_\_\_
- 21 \*3. Current liabilities \$ \_\_\_\_\_
- 22 4. Net working capital (line 2 minus line 3) \$ \_\_\_\_\_
- 23 \*5. Tangible net worth \$ \_\_\_\_\_
- 24 \*6. If less than 90 percent of assets are located in  
25 the U.S., give total U.S. assets \$ \_\_\_\_\_
- 26 YES NO
- 27 7. Is line 5 at least \$10,000,000? \_\_\_\_\_
- 28 8. Is line 4 at least 6 times line 1? \_\_\_\_\_
- 29 9. Is line 5 at least 6 times line 1? \_\_\_\_\_
- 30 \*10. Are at least 90 percent of assets located in  
31 the U.S.? If not, complete line 11 \_\_\_\_\_
- 32 11. Is line 6 at least 6 times line 1? \_\_\_\_\_
- 33 \_\_\_\_\_

33 ALTERNATIVE II

- 34 1. Amount of annual aggregate liability coverage  
35 to be demonstrated \$ \_\_\_\_\_
- 36 2. Current bond rating of most recent issuance and  
37 name of rating service \_\_\_\_\_
- 38 3. Date of issuance of bond \_\_\_\_\_
- 39 4. Date of maturity of bond \_\_\_\_\_
- 40 \*5. Tangible net worth \$ \_\_\_\_\_
- 41 \*6. Total assets in U.S. (required only if less than  
42 90 percent of assets located in the U.S.) \$ \_\_\_\_\_
- 43 YES NO
- 44 7. Is line 5 at least \$10,000,000? \_\_\_\_\_
- 45 8. Is line 5 at least 6 times line 1? \_\_\_\_\_
- 46 \*9. Are at least 90 percent of assets located in  
47 the U.S.? If not, complete line 10 \_\_\_\_\_
- 48 10. Is line 6 at least 6 times line 1? \_\_\_\_\_
- 49 \_\_\_\_\_

49 Part B. Corrective Action, Closure, or Post-Closure Care and  
50 Liability Coverage.

51 [Fill in Alternative I if the criteria of Minnesota Rules,

1 parts 7045.0504, subpart 7, item B; 7045.0508, subpart 7, item  
 2 B; 7045.0514, subpart 7, item B; and 7045.0518, subpart 6, item  
 3 B are used or if the criteria of Minnesota Rules, parts  
 4 7045.0612, subpart 6, item B or 7045.0616, subpart 6, item B;  
 5 and 7045.0620, subpart 5, item B are used. Fill in Alternative  
 6 II if the criteria of Minnesota Rules, parts 7045.0504, subpart  
 7 7, item C; 7045.0508, subpart 7, item C; 7045.0514, subpart 7,  
 8 item C; and 7045.0518, subpart 6, item C are used or if the  
 9 criteria of Minnesota Rules, parts 7045.0612, subpart 6, item C;  
 10 7045.0616, subpart 6, item C; and 7045.0620, subpart 5, item C  
 11 are used.]

12 ALTERNATIVE I

- 13 1. Sum of current corrective action, closure, and  
 14 post-closure cost estimates (total of all cost  
 15 estimates listed above) \$ \_\_\_\_\_
- 16 2. Amount of annual aggregate liability coverage  
 17 to be demonstrated \$ \_\_\_\_\_
- 18 3. Sum of lines 1 and 2 \$ \_\_\_\_\_
- 19 \*4. Total liabilities (if any portion of your current  
 20 corrective action, closure, or post-closure cost  
 21 estimates is included in your total liabilities,  
 22 you may deduct that portion from this line and  
 23 add that amount to lines 5 and 6) \$ \_\_\_\_\_
- 24 \*5. Tangible net worth \$ \_\_\_\_\_
- 25 \*6. Net worth \$ \_\_\_\_\_
- 26 \*7. Current assets \$ \_\_\_\_\_
- 27 \*8. Current liabilities \$ \_\_\_\_\_
- 28 9. Net working capital (line 7 minus line 8) \$ \_\_\_\_\_
- 29 \*10. The sum of net income plus depreciation,  
 30 depletion, and amortization \$ \_\_\_\_\_
- 31 \*11. Total assets in U.S. (required only if less than  
 32 90 percent of assets are located in the U.S.) \$ \_\_\_\_\_
- 33 YES NO
- 34 12. Is line 5 at least \$10,000,000? \_\_\_\_\_
- 35 13. Is line 5 at least 6 times line 3? \_\_\_\_\_
- 36 14. Is line 9 at least 6 times line 3? \_\_\_\_\_
- 37 \*15. Are at least 90 percent of assets located  
 38 in the U.S.? If not, complete line 16 \_\_\_\_\_
- 39 16. Is line 11 at least 6 times line 3? \_\_\_\_\_
- 40 17. Is line 4 divided by line 6 less than 2.0? \_\_\_\_\_
- 41 18. Is line 10 divided by line 4 greater than  
 42 0.1? \_\_\_\_\_
- 43 19. Is line 7 divided by line 8 greater than  
 44 1.5? \_\_\_\_\_
- 45 \_\_\_\_\_

ALTERNATIVE II

- 46 1. Sum of current corrective action, closure, and  
 47 post-closure cost estimates (total of all cost  
 48 estimates listed above) \$ \_\_\_\_\_
- 49 2. Amount of annual aggregate liability coverage  
 50 to be demonstrated \$ \_\_\_\_\_
- 51 3. Sum of lines 1 and 2 \$ \_\_\_\_\_
- 52 4. Current bond rating of most recent issuance and  
 53 name of rating service \_\_\_\_\_
- 54 5. Date of issuance of bond \_\_\_\_\_
- 55 6. Date of maturity of bond \_\_\_\_\_
- 56 \*7. Tangible net worth (if any portion of the current  
 57 corrective action, closure, or post-closure cost  
 58 estimates is included in "total liabilities" on

1 your financial statements you may add that portion  
 2 to this line) \$ \_\_\_\_\_  
 3 \*8. Total assets in the U.S. (required only if less  
 4 than 90 percent of assets are located in the  
 5 U.S.) \$ \_\_\_\_\_  
 6 YES NO  
 7 9. Is line 7 at least \$10,000,000? \_\_\_\_\_  
 8 10. Is line 7 at least 6 times line 3? \_\_\_\_\_  
 9 \*11. Are at least 90 percent of assets located in  
 10 the U.S.? If not, complete line 12 \_\_\_\_\_  
 11 12. Is line 8 at least 6 times line 3? \_\_\_\_\_  
 12 I hereby certify that the wording of this letter is

13 identical to the wording specified in Minnesota Rules, part  
 14 7045.0524, subpart 7, as the rules were constituted on the date  
 15 shown immediately below.

16 [SIGNATURE]

17 [NAME]

18 [TITLE]

19 [DATE]

20 Subp. 8. to 10. [Unchanged.]

21 7045.0594 CLOSURE.

22 Subpart 1. [Unchanged.]

23 Subp. 2. **Closure performance standard.** The owner or  
 24 operator shall close the facility in a manner minimizing the  
 25 need for further maintenance. Closure procedures must result in  
 26 controlling, minimizing, or eliminating, to the extent necessary  
 27 to protect human health and the environment, post-closure escape  
 28 of hazardous waste, hazardous constituents, leachate,  
 29 contaminated run-off, or hazardous waste decomposition products  
 30 to the ground or surface waters or to the atmosphere, in  
 31 accordance with all closure requirements including the  
 32 requirements of parts 7045.0628, subpart 5; 7045.0630, subpart  
 33 6; 7045.0632, subpart 7; 7045.0634, subpart 6; 7045.0638,  
 34 subpart 4; ~~7045.0634~~ 7045.0640, subpart 5; and 7045.0642,  
 35 subpart 5.

36 Subp. 3. **Submittal of closure plan.** The closure plans  
 37 must be submitted as follows:

38 A. A copy of the written closure plan and all  
 39 revisions to the plan must be furnished to the director upon  
 40 request, including request by mail until final closure is  
 41 completed and certified. For facilities without approved



1 closure plans, the plan must also be provided to the director as  
2 requested, during site inspections on the day of the  
3 inspection. The plan must identify steps necessary to perform  
4 partial and/or final closure of the facility at any point during  
5 its active life. The closure plan must include:

6 (1) A description of how each hazardous waste  
7 management unit will be closed, if applicable, and how the  
8 facility will be finally closed, in accordance with subpart 2.  
9 The description must identify the maximum extent of the  
10 operation which will be unclosed during the active life of the  
11 facility and how the requirements of subpart 2, part 7045.0596,  
12 and the applicable closure requirements of parts 7045.0626,  
13 subpart 8; 7045.0628, subpart 5; 7045.0630, subpart 6;  
14 7045.0632, subpart 7; 7045.0634, subpart 6; 7045.0638, subpart  
15 4; 7045.0640, subpart 5; 7045.0642, subpart 5; and 7045.0655,  
16 subpart 6, will be met;

17 (2) An estimate of the maximum inventory of  
18 wastes in storage and in treatment at any time during the active  
19 life of the facility and a detailed description of the methods  
20 to be used during partial and final closure, including methods  
21 for removing, transporting, treating, storing, or disposing of  
22 all hazardous waste, and identification of off-site hazardous  
23 waste management units to be used, if applicable;

24 (3) A detailed description of the steps needed to  
25 remove or decontaminate all hazardous waste residues and  
26 contaminated containment system components, facility equipment,  
27 structures and soils during partial or final closure. The  
28 description must include procedures for cleaning equipment and  
29 removing contaminated soils, methods for sampling and testing  
30 surrounding soils, and criteria for determining the extent of  
31 decontamination necessary to satisfy the closure performance  
32 standard;

33 (4) A detailed description of other activities  
34 necessary during the partial and final closure period to ensure  
35 that all partial closures and final closure satisfy the closure  
36 performance standards, including ground water monitoring,

1 leachate collection, and run-on and run-off control;

2 (5) An estimate of the expected year of final  
3 closure for facilities that use trust funds to demonstrate  
4 financial assurance under parts 7045.0612, subpart 2, and  
5 7045.0616, subpart 2, and whose remaining operating life is less  
6 than 20 years, and for facilities without approved closure  
7 plans; and

8 (6) A schedule for closure of each hazardous  
9 waste management unit and for final closure of the facility.  
10 The schedule must include the total time required to close each  
11 hazardous waste management unit and the time required for  
12 intervening closure activities which will allow tracking of the  
13 progress of partial or final closure.

14 B. The owner or operator may amend the closure plan  
15 at any time before notification of partial or final closure of  
16 the facility. An owner or operator with an approved closure  
17 plan must submit a written request to the director to authorize  
18 a change to the approved closure plan. The written request must  
19 include a copy of the amended closure plan for approval by the  
20 director. The owner or operator shall amend the plan whenever:

21 (1) changes in operating plans or facility design  
22 affect the closure plan; or

23 (2) there is a change in the expected year of  
24 closure , if applicable; or

25 (3) unexpected events occur during partial or  
26 final closure activities which require a modification to the  
27 closure plan; or

28 (4) the director requests modifications to the  
29 plan under the conditions described in subitems (1) to (3). An  
30 owner or operator with an approved closure plan must submit the  
31 modified plan to the director within 60 days after the  
32 director's request, or within 30 days if an unexpected event  
33 occurs during partial or final closure. A modification to the  
34 plan will be approved in accordance with the procedures in item  
35 F unless the modification meets the criteria of a minor  
36 modification in parts 7001.0190, subparts 2 and 3; and

1 7001.0730, subpart 4.

2 The owner or operator must amend the plan at least 60 days  
3 before the proposed change in facility design or operation, or  
4 no later than 60 days after an unexpected event has occurred  
5 which has affected the closure plan. If an unexpected event  
6 occurs during the partial or final closure period, the owner or  
7 operator must amend the closure plan no later than 30 days after  
8 the unexpected event. An owner or operator with an approved  
9 closure plan must submit the amended closure plan in accordance  
10 with the deadlines specified above. A modification to the plan  
11 will be approved in accordance with the procedures in item F  
12 unless the modification meets the criteria of a minor  
13 modification in parts 7001.0190, subparts 2 and 3; and  
14 7001.0730, subpart 4. These provisions also apply to owners or  
15 operators of surface impoundments and waste piles who intended  
16 to remove all hazardous wastes at closure in accordance with  
17 parts 7045.0630, subpart 6; and 7045.0632, subpart 7, but are  
18 required to close as landfills under part 7045.0638, subpart 4.

19 C. The owner or operator of a hazardous waste  
20 facility having interim status shall submit a closure plan to  
21 the director at least 180 days before the date he or she expects  
22 to begin closure of the first surface impoundment, waste pile,  
23 land treatment, or landfill unit, or final facility closure if  
24 it involves such a unit, whichever is earlier. The owner or  
25 operator shall submit a closure plan to the director at least 45  
26 days before the date he or she expects to begin final closure of  
27 a facility with only tanks, container storage, or incinerator  
28 units. The owner or operator shall submit the closure plan no  
29 later than 15 days after:

30 (1) termination of interim status, except when a  
31 permit is issued simultaneously with termination of interim  
32 status; or

33 (2) issuance of a judicial decree or agency order  
34 to cease receiving wastes or close.

35 D. Owners or operators with approved closure plans  
36 must notify the director in writing at least:

1           (1) 60 days before the date he or she expects to  
2 begin closure of a surface impoundment, waste pile, landfill, or  
3 land treatment unit, or final closure of a facility involving  
4 such a unit; or

5           (2) 45 days before the date he or she expects to  
6 begin final closure of a facility with only tanks, container  
7 storage, or incinerator units.

8           E. The date on which the owner or operator "expects  
9 to begin closure" is defined as follows:

10           (1) Where the owner or operator of a hazardous  
11 waste management unit anticipates receiving a volume of  
12 hazardous wastes the owner or operator knows will be the final  
13 volume, then the date on which the owner or operator "expects to  
14 begin closure" is 30 days after the date the final volume is  
15 anticipated to be received.

16           (2) Where the owner or operator of a hazardous  
17 waste management unit reasonably anticipates that the owner or  
18 operator will continue to receive hazardous wastes, then the  
19 date on which the owner or operator "expects to begin closure"  
20 is one year after the date on which the last volume of hazardous  
21 waste was received by the hazardous waste management unit. An  
22 owner or operator shall only be considered to "reasonably  
23 anticipate receiving additional hazardous waste" if the owner or  
24 operator in fact receives additional hazardous wastes within one  
25 year after the last volume was received. If the owner or  
26 operator can demonstrate to the director that the unit or  
27 facility has the capacity to receive additional hazardous wastes  
28 and the owner or operator has taken and will continue to take  
29 all steps to prevent threats to human health and the  
30 environment, including compliance with all interim status  
31 requirements, the director may approve an extension to this  
32 one-year limit.

33           F. The director shall provide the owner or operator  
34 and the public, through a newspaper notice, the opportunity to  
35 submit written comments, to request modifications, or to request  
36 a public information meeting on the closure plan within 30 days

1 of the date of the notice. In response to a request or at the  
2 director's discretion, the director shall hold a public  
3 information meeting whenever a meeting might clarify one or more  
4 issues concerning the closure plan. The director shall approve,  
5 modify, or disapprove closure plans for facilities having  
6 interim status within 90 days of receipt of the plan. If the  
7 director does not approve the plan, the director shall provide  
8 the owner or operator with a detailed written statement of  
9 reasons for the refusal. The owner or operator shall submit a  
10 modified or new plan for approval within 30 days. The director  
11 shall approve or modify this plan. If the director modifies the  
12 plan, this modified plan becomes the approved closure plan. A  
13 copy of the modified plan shall be mailed to the owner or  
14 operator.

15       **Subp. 4. Removal of wastes and decontamination or**  
16 **dismantling of equipment.** Nothing in this part shall preclude  
17 the owner or operator from removing hazardous wastes and  
18 decontaminating or dismantling equipment in accordance with the  
19 approved partial or final closure plan at any time before or  
20 after notification of partial or final closure.

21 7045.0596 CLOSURE ACTIVITIES.

22       **Subpart 1. Time allowance to begin closure activities.**  
23 Within 90 days after receiving the final volume of hazardous  
24 waste at a hazardous waste management unit or facility, or  
25 within 90 days after approval of the closure plan, whichever is  
26 later, the owner or operator shall treat, remove from the unit  
27 or facility, or dispose on-site all hazardous waste in  
28 accordance with the approved closure plan. The director may  
29 approve a longer period if the owner or operator demonstrates at  
30 least 30 days before expiration of the 90-day period, that he or  
31 she has taken and will continue to take all steps to prevent  
32 threats to human health and the environment, including  
33 compliance with all applicable interim status requirements, and:

34       A. the activities required to comply with the  
35 approved closure plan will, of necessity, take longer than 90

1 days to complete; or

2           B. the hazardous waste management unit or facility  
3 has the capacity to receive additional hazardous waste, there is  
4 a reasonable likelihood that the owner or operator or another  
5 person will recommence operation of the hazardous waste  
6 management unit or facility within one year, and closure of the  
7 unit or facility would be incompatible with continued operation  
8 of the site.

9           If the owner or operator of a facility required to maintain  
10 financial assurance for closure, post-closure care, or  
11 corrective action fails to make any required payment or to  
12 substitute alternative financial assurance when required to do  
13 so, the director shall order the owner or operator to begin  
14 closure activities.

15           Subp. 2. **Time extension for closure activities.** The owner  
16 or operator shall complete partial or final closure activities  
17 in accordance with the approved closure plan and within 180 days  
18 after receiving the final volume of hazardous waste at the  
19 hazardous waste management unit or facility, or 180 days after  
20 approval of the closure plan if that is later. The director may  
21 approve a longer closure period if the owner or operator  
22 demonstrates at least 30 days before expiration of the 180-day  
23 period that he or she has taken and will continue to take all  
24 steps to prevent threats to human health and the environment  
25 from the unclosed but not operating hazardous waste management  
26 unit or facility, including all applicable interim status  
27 requirements, and:

28           A. the partial or final closure activities will, of  
29 necessity, take longer than 180 days to complete; or

30           B. the hazardous waste management unit or facility  
31 has capacity to receive additional hazardous waste, there is a  
32 reasonable likelihood that the owner or operator or another  
33 person will recommence operation of the unit or facility within  
34 one year, and closure of the unit or facility would be  
35 incompatible with continued operation of the site.

36           If operation of the site is recommended, the director may

1 defer completion of partial or final closure activities until  
2 the new operation is terminated.

3       Subp. 3. **Disposal or decontamination of equipment,**  
4 **structures, and soils.** During the partial and final closure  
5 periods, all contaminated facility equipment, structures, and  
6 soils must be properly disposed of or decontaminated, unless  
7 otherwise specified in part 7045.0630, subpart 6; 7045.0632,  
8 subpart 7; 7045.0634, subpart 6; or 7045.0638, subpart 4. By  
9 removing any hazardous wastes or hazardous constituents during  
10 partial or final closure, the owner or operator may become a  
11 generator of hazardous waste and must handle that waste in  
12 accordance with all applicable requirements of parts 7045.0205  
13 to 7045.0304.

14       Subp. 4. **Certification of closure.** Within 60 days after  
15 closure is completed for each hazardous waste surface  
16 impoundment, waste pile, land treatment, and landfill unit and  
17 within 60 days after final closure is completed, the owner or  
18 operator shall submit to the director, by registered mail,  
19 certification by the owner or operator and by an independent  
20 registered professional engineer that the hazardous waste  
21 management unit or facility, as applicable, has been closed in  
22 accordance with the specifications in the approved closure  
23 plan. Documentation supporting the independent registered  
24 professional engineer's certification must be furnished to the  
25 director upon request until he or she releases the owner or  
26 operator from the financial assurance requirements for closure  
27 under part 7045.0612, subpart 9.

28 7045.0600 POST-CLOSURE.

29       Subpart 1. [Unchanged.]

30       Subp. 2. **Submittal of post-closure plan.** The post-closure  
31 plan must be submitted as follows:

32       A. The owner or operator of a disposal facility shall  
33 have a written post-closure plan. A copy of the most current  
34 plan must be furnished to the director upon request, including  
35 request by mail, until the post-closure care period begins. For

1 facilities without approved post-closure plans, it must also be  
2 provided to the director as requested, during site inspections,  
3 on the day of inspection. For each hazardous waste management  
4 unit subject to post-closure care requirements, the plan must  
5 identify the activities which will be carried on after closure  
6 of the unit and the frequency of these activities, and it must  
7 include:

8 (1) a description of the planned ground water  
9 monitoring activities and frequencies at which they will be  
10 performed;

11 (2) a description of the planned monitoring  
12 activities, and frequencies at which they will be performed to  
13 comply with parts 7045.0630, 7045.0632, 7045.0634, and 7045.0638  
14 during the post-closure care period;

15 (3) a description of the planned maintenance  
16 activities and frequencies at which they will be performed to  
17 ensure the integrity of the cap and final cover or other  
18 containment structures, where applicable, and the function of  
19 the facility monitoring equipment; and

20 (4) the name, address, and telephone number of  
21 the person or office to contact about the hazardous waste  
22 disposal unit or facility during the post-closure period. After  
23 final closure has been certified, this person or office must  
24 keep an updated post-closure plan during the post-closure period.

25 B. The owner or operator may amend the post-closure  
26 plan at any time during the active life of the disposal facility  
27 or during the post-closure period. An owner or operator with an  
28 approved post-closure plan must submit a written request to the  
29 director to authorize a change in the approved plan. The owner  
30 or operator shall amend the plan whenever the following  
31 conditions affect the post-closure plan:

32 (1) changes in operating plans or facility  
33 design; or

34 (2) unexpected events occur during the active  
35 life of the facility, including partial and final closure, or  
36 during the post-closure period; or



1           (3) there is a change in the expected year of  
2 closure, if applicable.

3           A request for modification of the post-closure plan must be  
4 made to the director at least 60 days before the proposed  
5 changes in operating plans or facility design, or no later than  
6 60 days after the events which affect the post-closure plan  
7 occur. This request must include the revised post-closure plan  
8 and indicate the reasons for modifying the plan. The request  
9 must be made in accordance with subpart 3 and the director shall  
10 take actions required in subpart 3. A modification to the plan  
11 will be approved in accordance with item D unless the  
12 modification meets the criteria of a minor modification in parts  
13 7001.0190, subparts 2 and 3; and 7001.0730, subpart 4. The  
14 director may request modifications to the post-closure plan  
15 under the conditions described in subitems (1) to (3). An owner  
16 or operator with an approved post-closure plan must submit the  
17 modified plan no later than 60 days after the director's  
18 request. If an owner or operator of a surface impoundment or a  
19 waste pile who intended to remove all hazardous wastes at  
20 closure in accordance with part 7045.0630, subpart 6; or  
21 7045.0632, subpart 7, is required to close as a landfill in  
22 accordance with part 7045.0638, subpart 4. The owner or  
23 operator must submit a post-closure plan within 90 days after  
24 the owner or operator or director determines that the unit must  
25 be closed as a landfill.

26           C. The owner or operator of a facility with hazardous  
27 waste management units subject to post-closure requirements  
28 shall submit the post-closure plan to the director at least 180  
29 days before the date he or she expects to begin closure of the  
30 first hazardous waste disposal unit. The date on which the  
31 owner or operator "expects to begin closure" is defined as  
32 follows:

33           (1) Where the owner or operator of a hazardous  
34 waste management unit anticipates receiving a volume of  
35 hazardous wastes the owner or operator knows will be the final  
36 volume, then the date on which the owner or operator "expects to

1 begin closure" is 30 days after the date the final volume is  
2 anticipated to be received.

3 (2) Where the owner or operator of a hazardous  
4 waste management unit reasonably anticipates that the owner or  
5 operator will continue to receive hazardous wastes, then the  
6 date on which the owner or operator "expects to begin closure"  
7 is one year after the date the last volume of hazardous waste  
8 was received by the hazardous waste management unit. An owner  
9 or operator shall only be considered to "reasonably anticipate  
10 receiving additional volumes of hazardous waste" if the owner or  
11 operator in fact receives additional hazardous wastes within one  
12 year after the last volume was received.

13 The owner or operator also shall submit the plan to the  
14 director no later than 15 days after: termination of interim  
15 status, except when a permit is issued to the facility  
16 simultaneously with termination of interim status; or issuance  
17 of a judicial decree or agency order to cease receiving waste or  
18 close.

19 D. The director shall provide the owner or operator  
20 and the public, through a newspaper notice, the opportunity to  
21 submit written comments, to request modification, or to request  
22 a public information meeting on the post-closure plan or  
23 substantive amendments to the post-closure plan within 30 days  
24 of the date of the notice. In response to a request or at his  
25 or her own discretion, the director shall hold a public  
26 information meeting whenever a meeting might clarify one or more  
27 issues concerning the post-closure plan. The director shall  
28 approve, modify, or disapprove post-closure plans for facilities  
29 having interim status within 90 days of the receipt of the  
30 plan. If the director does not approve the plan, he or she  
31 shall provide the owner or operator with a detailed written  
32 statement of reasons for the refusal, and the owner or operator  
33 shall submit a modified or new plan for approval within 30 days  
34 after receiving this written statement. The director shall  
35 approve or modify this plan in writing within 60 days. If the  
36 director modifies the plan, this modified plan becomes the

1 approved post-closure plan. A copy of the modified plan and a  
2 detailed statement of reasons for the modifications shall be  
3 mailed to the owner or operator. The director shall ensure that  
4 the approved post-closure plan is consistent with part 7045.0602.

5 Subp. 3. **Modification of post-closure period.** The  
6 post-closure period may be modified during the post-closure care  
7 period as described in items A and B:

8 A. The owner or operator or any member of the public  
9 may petition the director to extend or reduce the post-closure  
10 care period applicable to a hazardous waste management unit or  
11 facility or alter the requirements of the post-closure care  
12 period based on cause.

13 (1) The petition must include evidence  
14 demonstrating that the secure nature of the hazardous waste  
15 management unit or facility makes the post-closure care  
16 requirements unnecessary or supports reduction of the  
17 post-closure care period specified in the current post-closure  
18 plan, or that the requested extension in the post-closure care  
19 period or alteration of post-closure care requirements is  
20 necessary to prevent threats to human health and the  
21 environment. Areas which must be considered in demonstrating  
22 the secure nature of the facility include leachate or ground  
23 water monitoring results, characteristics of the waste,  
24 application of advanced technology; or alternative disposal,  
25 treatment, or reuse techniques that indicate the facility is  
26 secure.

27 (2) [Unchanged.]

28 B. The director may decide to modify the post-closure  
29 plan if necessary to prevent threats to human health and the  
30 environment. Extension or reduction of the post-closure care  
31 period or alteration of the requirements of the post-closure  
32 care period may be proposed based on cause.

33 The director shall provide the owner or operator and the  
34 public, through a newspaper notice, the opportunity to submit  
35 written comments or request a public information meeting within  
36 30 days of the date of the notice. The director shall in

1 response to a request or at his or her own discretion hold a  
2 public information meeting whenever a meeting might clarify one  
3 or more issues concerning the post-closure plan. After  
4 considering the comments, a final determination shall be issued.

5 The director shall base the final determination upon the  
6 criteria outlined in item A, subitem (1). A modification of the  
7 post-closure plan may include, when appropriate, the temporary  
8 suspension rather than permanent deletion of one or more  
9 post-closure care requirements. At the end of the specified  
10 period of suspension, the director shall determine whether the  
11 requirements should be permanently discontinued or reinstated to  
12 prevent threats to human health and the environment.

13 7045.0602 POST-CLOSURE CARE AND USE OF PROPERTY.

14 Subpart 1. **Post-closure care requirements.** Post-closure  
15 care for each hazardous waste management unit subject to these  
16 requirements must continue for 30 years after the date of  
17 completing closure of the unit and must consist of at least  
18 ground water monitoring and reporting and the maintenance of  
19 monitoring and waste containment systems in accordance with  
20 parts 7045.0630, 7045.0632, 7045.0634, and 7045.0638, as  
21 applicable.

22 The director may reduce the post-closure care period to  
23 less than 30 years for the hazardous waste management unit or  
24 facility, if all disposal units have been closed, if it is found  
25 that the reduced period is sufficient to protect human health  
26 and the environment. This determination must be based on  
27 leachate or ground water monitoring results, waste  
28 characteristics, application of advanced technology, or  
29 alternative disposal, treatment, or reuse techniques indicating  
30 the hazardous waste management unit or facility is secure.

31 Before the time that the post-closure care period is due to  
32 expire, the director may extend the post-closure care period  
33 applicable to the hazardous waste management unit or facility,  
34 if it is found that the extended period is necessary to protect  
35 human health and the environment. This determination must be

1 based on leachate or groundwater monitoring results which  
2 indicate a potential for migration of wastes at levels which may  
3 be harmful to the environment.

4 All post-closure care activities must be in accordance with  
5 the provisions of the approved post-closure plan.

6 Subp. 2. **Continuation of security requirements.** The  
7 director may require, at partial or final closure, continuation  
8 of any of the security requirements during part of or all of the  
9 post-closure period after the date of completing closure when  
10 wastes may remain exposed after completion of closure or when  
11 access by the public or domestic livestock may pose a hazard to  
12 human health.

13 Subp. 3. [Unchanged.]

14 Subp. 4. **Certification of completion of post-closure**  
15 **care.** Within 60 days after completion of the established  
16 post-closure care period for each hazardous waste disposal unit,  
17 the owner or operator shall submit to the director, by  
18 registered mail, certification that the post-closure care period  
19 for the hazardous waste disposal unit was performed in  
20 accordance with the approved post-closure plan. The  
21 certification must be signed by the owner or operator and an  
22 independent registered professional engineer. Documentation  
23 supporting the independent registered professional engineer's  
24 certification must be furnished to the director upon request  
25 until the director releases the owner or operator from the  
26 financial assurance requirements for post-closure care under  
27 part 7045.0616, subpart 9.

28 7045.0604 NOTICE TO LOCAL LAND AUTHORITY.

29 Subpart 1. **Submission of survey plat.** No later than the  
30 certification of closure of each hazardous waste disposal unit  
31 is submitted to the director, the owner or operator shall submit  
32 to the local zoning authority or the authority with jurisdiction  
33 over local land use and to the director a survey plat indicating  
34 the location and dimensions of landfill cells or other disposal  
35 areas with respect to permanently surveyed bench marks. This

1 plat must be prepared and certified by a professional land  
2 surveyor. The plat filed with the local zoning authority or  
3 authority with jurisdiction over local land use must contain a  
4 prominently displayed note which states the owner's or  
5 operator's obligation to restrict disturbance of the site as  
6 specified.

7 Subp. 2. Post-closure notices. Within 60 days after  
8 closure is certified for each hazardous waste disposal unit, in  
9 addition, the owner or operator shall submit to the local zoning  
10 authority or the authority with jurisdiction over local land use  
11 and to the director a record of the type, location, and quantity  
12 of hazardous waste disposed of within each cell or area of the  
13 facility. For hazardous waste disposed of before January 12,  
14 1981, the owner or operator shall identify the type, location,  
15 and quantity of the waste to the best of his or her knowledge  
16 and in accordance with any records kept. Any changes in the  
17 type, location, or quantity of hazardous waste disposed of  
18 within each cell or area of the facility that occur after the  
19 survey plat and record of waste have been filed must be reported  
20 to the local zoning authority or the authority with jurisdiction  
21 over local land use and to the director.

22 7045.0606 NOTICE IN DEED TO PROPERTY.

23 Subpart 1. Deed notation. Within 60 days after closure of  
24 the first hazardous waste disposal unit is certified and within  
25 60 days after closure of the last hazardous waste disposal unit  
26 is certified, the owner or operator of the property on which a  
27 disposal unit is located shall:

28 A. record, in accordance with state law, a notation  
29 on the deed to the facility property, or on another instrument  
30 which is normally examined during title search, that will in  
31 perpetuity notify any potential purchaser of the property that:

32 (1) the land has been used to manage hazardous  
33 waste;

34 (2) the land use is restricted; and

35 (3) the survey plat and record of the type,

1 location, and quantity of hazardous waste disposed of within  
2 each cell or other hazardous waste disposal unit of the facility  
3 required in part 7045.0604 have been filed with the local zoning  
4 authority or the authority with jurisdiction over local land use  
5 and with the director; and

6 B. submit a certification signed by the owner or  
7 operator that he or she has recorded the notation specified in  
8 this subpart, including a copy of the document in which the  
9 notation has been placed, to the director.

10 Subp. 2. **Changes to deed.** If at any time the owner or  
11 operator or any subsequent owner of the land upon which a  
12 hazardous waste facility was located intends to remove the  
13 hazardous waste and hazardous waste residues, the liner, if any,  
14 and all contaminated underlying and surrounding soil, the owner  
15 or operator must request a modification to the approved  
16 post-closure plan in accordance with part 7045.0600, subpart 2,  
17 item B. The owner or operator must demonstrate that the removal  
18 of hazardous wastes will satisfy the criteria of part 7045.0602,  
19 subpart 3. If the owner or operator is granted approval to  
20 conduct removal activities, he or she may request that the  
21 director approve either:

22 A. removal of the notation on the deed to the  
23 facility property or other instrument normally examined during  
24 title search; or

25 B. addition of a notation to the deed or instrument  
26 indicating the removal of the hazardous waste.

27 By removing hazardous waste and hazardous waste residue;  
28 the liner, if any; and the contaminated soil, the owner or  
29 operator, unless he or she can demonstrate that any waste  
30 removed is not a hazardous waste, becomes a generator of  
31 hazardous waste and shall manage it in accordance with all  
32 applicable requirements of this chapter.

33 7045.0608 FINANCIAL REQUIREMENTS.

34 Subpart 1. [Unchanged.]

35 Subp. 2. **Definitions.** Definitions are as follows:

1           A. When used in parts 7045.0608 to 7045.0624, the  
2 following terms have the meanings given.

3           (1) "Closure plan" means the plan for closure  
4 prepared in accordance with part 7045.0594.

5           (2) "Current closure cost estimate" means the  
6 most recent of the estimates prepared in accordance with part  
7 7045.0610, subparts 1, 2, and 3.

8           (3) "Current plugging and abandonment cost  
9 estimate for class I underground injection control (UIC)  
10 facilities" means the most recent of the estimates prepared in  
11 accordance with Code of Federal Regulations, title 40, section  
12 144.62(a), (b), and (c).

13           (4) "Current post-closure cost estimate" means  
14 the most recent of the estimates prepared in accordance with  
15 part 7045.0614, subparts 1, 2, and 3.

16           (5) "Parent corporation" means a corporation  
17 which directly owns at least 50 percent of the voting stock of  
18 the corporation which is the facility owner or operator; the  
19 latter corporation is deemed a "subsidiary" of the parent  
20 corporation.

21           (6) "Post-closure plan" means the plan for  
22 post-closure care prepared in accordance with parts 7045.0600 to  
23 7045.0606.

24           B. and C. [Unchanged.]

25 7045.0610 COST ESTIMATE FOR FACILITY CLOSURE.

26           Subpart 1. **Cost estimate requirements.** The owner or  
27 operator shall prepare a detailed written estimate, in current  
28 dollars, of the cost of closing the facility in accordance with  
29 the closure plan in part 7045.0594 and applicable closure  
30 requirements in parts 7045.0626, subpart 8; 7045.0628, subpart  
31 5; 7045.0630, subpart 6; 7045.0632, subpart 7; 7045.0634,  
32 subpart 6; 7045.0638, subpart 4; 7045.0640, subpart 5; and  
33 7045.0642, subpart 5. The closure cost estimate must equal the  
34 cost of closure at the point in the facility's operating life  
35 when the extent and manner of its operation would make closure



1 the most expensive, as indicated by its closure plan. The  
2 closure cost shall be estimated as follows:

3           A. The closure cost estimate may be based on the  
4 costs to the owner or operator of hiring a third party to close  
5 the facility. A third party is a party who is neither a parent  
6 nor a subsidiary of the owner or operator. The owner or  
7 operator may use costs for on-site disposal if it can be  
8 demonstrated that on-site disposal capacity will exist at all  
9 times through the life of the facility.

10           B. The closure cost estimate may not incorporate any  
11 salvage value that may be realized with the scale of hazardous  
12 wastes, facility structures or equipment, land, or other assets  
13 associated with the facility at the time of partial or final  
14 closure.

15           C. The owner or operator may not incorporate a zero  
16 cost for hazardous wastes that might have economic value.

17           Subp. 2. **Yearly update of cost estimate.** During the  
18 active life of the facility, the owner or operator shall adjust  
19 the closure cost estimate for inflation within 60 days before  
20 each anniversary of the date on which the financial instruments  
21 used to comply with part 7045.0612 were established. Owners and  
22 operators using the financial test or corporate guarantee shall  
23 adjust the closure cost estimate for inflation within 30 days  
24 after the close of the firm's fiscal year and before submission  
25 of updated information to the director as specified in part  
26 7045.0504, subpart 7, item E. The adjustment must be made as  
27 specified in items A and B using an inflation factor derived  
28 from the annual Implicit Price Deflator for Gross National  
29 Product as found in the Survey of Current Business issued by the  
30 United States Department of Commerce. The inflation factor is  
31 the result of dividing the latest published annual deflator by  
32 the deflator for the previous year.

33           Adjustments must be made as follows:

34           A. and B. [Unchanged.]

35           Subp. 3. **Cost estimate revisions.** The owner or operator  
36 shall revise the closure cost estimate within 30 days after a

1 change in the closure plan increases the cost of closure, or  
2 within 30 days after the director has approved the request to  
3 modify the plan, for facilities with approved closure plans.  
4 The revised closure cost estimate must be adjusted for inflation  
5 as specified in subpart 2.

6 Subp. 4. **Record retention.** The owner or operator shall  
7 supply the following to the director upon request, including  
8 request by mail until closure is completed: the latest closure  
9 cost estimate prepared in accordance with subparts 1 and 3 and,  
10 when this estimate has been adjusted in accordance with subpart  
11 2, the latest adjusted closure cost estimate.

12 7045.0612 FINANCIAL ASSURANCE FOR FACILITY CLOSURE.

13 Subpart 1. [Unchanged.]

14 Subp. 2. **Closure trust fund.** Requirements for closure  
15 trust funds are as follows:

16 A. to K. [Unchanged.]

17 L. After beginning partial or final closure, an owner  
18 or operator or any other person authorized to perform partial or  
19 final closure may request reimbursement for partial or final  
20 closure expenditures by submitting itemized bills to the  
21 director. The owner or operator may request reimbursements for  
22 partial closure only if sufficient funds remain in the trust  
23 fund to cover the maximum costs of closing the facility over its  
24 remaining operating life. Within 60 days after receiving bills  
25 for partial or final closure activities, the director shall  
26 determine whether the partial or final closure expenditures  
27 comply with the closure plan or are otherwise justified, and if  
28 so, the director shall instruct the trustee to make  
29 reimbursement in amounts as the director specifies in writing.  
30 If the director has reason to believe that the maximum cost of  
31 closure will be significantly greater than the value of the  
32 trust fund, the director may withhold reimbursement of the  
33 amounts as deemed prudent until it is determined, under subpart  
34 9, that the owner or operator is no longer required to maintain  
35 financial assurance for final closure of the facility. If the

1 director withholds reimbursement, the director shall provide the  
2 owner or operator with a detailed written statement of reasons.

3 M. The director shall agree to termination of the  
4 trust if:

5 (1) an owner or operator substitutes alternate  
6 financial assurance as specified in this part; or

7 (2) the director releases the owner or operator  
8 from the requirements of this part in accordance with subpart 9.

9 Subp. 3. **Surety bond guaranteeing payment into a closure**  
10 **trust fund.** Requirements for surety bonds that guarantee  
11 payment into a closure trust fund are as follows:

12 A. to C. [Unchanged.]

13 D. The bond must guarantee that the owner or operator  
14 will:

15 (1) fund the standby trust fund in an amount  
16 equal to the penal sum of the bond before the beginning of final  
17 closure of the facility;

18 (2) fund the standby trust fund in an amount  
19 equal to the penal sum within 15 days after an order to begin  
20 final closure is issued by the director, the agency, or a court  
21 of competent jurisdiction; or

22 (3) [Unchanged.]

23 E. to I. [Unchanged.]

24 Subp. 4. **Closure letter of credit.** Requirements for  
25 closure letters of credit are as follows:

26 A. to I. [Unchanged.]

27 J. The director shall return the letter of credit to  
28 the issuing institution for termination if:

29 (1) an owner or operator substitutes alternate  
30 financial assurance as specified in this part; or

31 (2) the director releases the owner or operator  
32 from the requirements of this part in accordance with subpart 9.

33 Subp. 5. **Closure insurance.** Requirements for closure  
34 insurance are as follows:

35 A. to D. [Unchanged.]

36 E. After beginning partial or final closure, an owner

1 or operator, or other person authorized to perform closure, may  
2 request reimbursement for closure expenditures by submitting  
3 itemized bills to the director. The owner or operator may  
4 request reimbursements for partial closure only if the remaining  
5 value of the policy is sufficient to cover the maximum costs of  
6 closing the facility over its operating life. Within 60 days  
7 after receiving bills for closure activities, the director shall  
8 determine whether the closure expenditures are in accordance  
9 with the closure plan or otherwise justified, and if so, the  
10 director shall instruct the insurer to make reimbursement in the  
11 amounts the director specifies in writing. If the director has  
12 reason to believe that the maximum cost of closure will be  
13 significantly greater than the face amount of the policy, the  
14 director may withhold reimbursement of the amounts deemed  
15 prudent until it is determined in accordance with subpart 9 that  
16 the owner or operator is no longer required to maintain  
17 financial assurance for closure of the facility. If the  
18 director withholds reimbursement, the director shall provide the  
19 owner or operator with a detailed written statement of reasons.

20 F. to I. [Unchanged.]

21 J. The director shall give written consent to the  
22 owner or operator to terminate the insurance policy if:

23 (1) an owner or operator substitutes alternate  
24 financial assurance as specified in this part; or

25 (2) the director releases the owner or operator  
26 from the requirements of this part in accordance with subpart 9.

27 **Subp. 6. Financial test and corporate guarantee for**  
28 **closure.** The financial test and corporate guarantee for closure  
29 is as follows:

30 A. [Unchanged.]

31 B. The owner or operator shall have:

32 (1) [Unchanged.]

33 (2) net working capital and tangible net worth  
34 each at least six times the sum of the current closure and  
35 post-closure cost estimates and the current plugging and  
36 abandonment cost estimate for class I underground injection

1 control (UIC) facilities, if applicable;

2 (3) tangible net worth of at least \$10,000,000;

3 and

4 (4) assets in the United States amounting to at  
5 least 90 percent of his or her total assets or at least six  
6 times the sum of the current closure and post-closure cost  
7 estimates and the current plugging and abandonment cost estimate  
8 for class I underground injection control (UIC) facilities, if  
9 applicable.

10 C. The owner or operator shall have:

11 (1) a current rating for his or her most recent  
12 bond issuance of AAA, AA, A, or BBB as issued by Standard and  
13 Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

14 (2) tangible net worth at least six times the sum  
15 of the current closure and post-closure cost estimates and the  
16 current plugging and abandonment cost estimate for class I  
17 underground injection control (UIC) facilities, if applicable;

18 (3) tangible net worth of at least \$10,000,000;  
19 and

20 (4) assets located in the United States amounting  
21 to at least 90 percent of his or her total assets or at least  
22 six times the sum of the current closure and post-closure cost  
23 estimates and the current plugging and abandonment cost estimate  
24 for class I underground injection control (UIC) facilities, if  
25 applicable.

26 D. The phrase "current closure and post-closure cost  
27 estimates" as used in items A to C refers to the cost estimates  
28 required to be shown in paragraphs 1 to 4 of the letter from the  
29 owner's or operator's chief financial officer, as specified in  
30 part 7045.0524, subpart 6. The phrase "current plugging and  
31 abandonment cost estimate" as used in items A to C means the  
32 cost estimates required to be shown in paragraphs 1 to 4 of the  
33 letter from the owner's or operator's chief financial officer as  
34 specified in Code of Federal Regulations, title 40, section  
35 144.70(f).

36 E. to J. [Unchanged.]

1 K. The owner or operator is no longer required to  
2 submit the items specified in item E if:

3 (1) an owner or operator substitutes alternate  
4 financial assurance as specified in this part; or

5 (2) the director releases the owner or operator  
6 from the requirements of this part in accordance with subpart 9.

7 L. [Unchanged.]

8 Subp. 7. and 8. [Unchanged.]

9 Subp. 9. **Release of the owner or operator from**  
10 **requirements of this part.** Within 60 days after receiving  
11 certifications from the owner or operator and an independent  
12 registered professional engineer that final closure has been  
13 accomplished in accordance with the closure plan, the director  
14 shall notify the owner or operator in writing that he or she is  
15 no longer required by this part to maintain financial assurance  
16 for final closure of the particular facility, unless the agency  
17 has reason to believe that closure has not been in accordance  
18 with the closure plan. The director shall provide the owner or  
19 operator a detailed written statement of any reason to believe  
20 that closure has not been in accordance with the approved  
21 closure plan.

22 7045.0614 COST ESTIMATE FOR POST-CLOSURE CARE.

23 Subpart 1. **Cost estimate requirements.** The owner or  
24 operator of a disposal facility shall prepare a written  
25 estimate, in current dollars, of the annual cost of post-closure  
26 monitoring and maintenance of the facility in accordance with  
27 the applicable post-closure requirements in parts 7045.0600 to  
28 7045.0606; 7045.0630, subpart 6; 7045.0632, subpart 7;  
29 7045.0634, subpart 6; and 7045.0638, subpart 4. The  
30 post-closure cost estimate is calculated by multiplying the  
31 annual post-closure cost estimate by the number of years of  
32 post-closure care required under part 7045.0602. The  
33 post-closure cost estimate must be based on the costs to the  
34 owner or operator of hiring a third party to conduct  
35 post-closure care activities. A third party is neither a parent

1 nor a subsidiary of the owner or operator.

2       Subp. 2. **Yearly update of cost estimate.** During the  
3 active life of the facility, the owner or operator shall adjust  
4 the post-closure cost estimate for inflation within 60 days  
5 before each anniversary of the date on which the financial  
6 instruments used to comply with part 7045.0616 were  
7 established. For owners or operators using the financial test  
8 or corporate guarantee, the post-closure cost estimate must be  
9 adjusted for inflation within 30 days after the close of the  
10 firm's fiscal year and before the submission of updated  
11 information to the director as specified in part 7045.0616,  
12 subpart 6, item E. The adjustment must be made as specified in  
13 items A and B using an inflation factor derived from the annual  
14 Implicit Price Deflator for Gross National Product as found in  
15 the "Survey of Current Business" issued by the United States  
16 Department of Commerce. The inflation factor is the result of  
17 dividing the latest published annual deflator by the deflator of  
18 the previous year. Adjustments must be made as follows:

19           A. The first adjustment is made by multiplying the  
20 post-closure cost estimate by the inflation factor. The result  
21 is the adjusted post-closure cost estimate.

22           B. Subsequent adjustments are made by multiplying the  
23 latest adjusted post-closure cost estimate by the latest  
24 inflation factor.

25       Subp. 3. **Cost estimate revisions.** The owner or operator  
26 shall revise the post-closure cost estimate during the active  
27 life of the facility within 30 days after a change in the  
28 post-closure plan increases the cost of post-closure care, or  
29 within 30 days after the director has an approved request to  
30 modify the plan, for facilities with approved post-closure  
31 plan. The revised post-closure cost estimate must be adjusted  
32 for inflation as specified in subpart 2.

33       Subp. 4. **Record retention.** The owner or operator shall  
34 furnish the following to the director upon request, including  
35 request by mail: the latest post-closure cost estimate prepared  
36 in accordance with subparts 1 and 3 and, when this estimate has

1 been adjusted in accordance with subpart 2, the latest adjusted  
2 post-closure cost estimate.

3 7045.0616 FINANCIAL ASSURANCE FOR POST-CLOSURE CARE.

4 Subpart 1. In general. An owner or operator of a disposal  
5 facility shall establish financial assurance for post-closure  
6 care of the facility 60 days before the initial receipt of  
7 hazardous waste or the effective date of the regulation,  
8 whichever is later. The owner or operator shall choose from the  
9 options specified in subparts 2 to 6.

10 Subp. 2. Post-closure trust fund. Requirements of a  
11 post-closure trust fund are as follows:

12 A. to L. [Unchanged.]

13 M. An owner or operator or other person authorized to  
14 perform post-closure care may request reimbursement for  
15 post-closure expenditures by submitting itemized bills to the  
16 director. Within 60 days after receiving bills for post-closure  
17 activities, the director shall determine whether the  
18 post-closure expenditures are in accordance with the  
19 post-closure plan or otherwise justified, and if so, the  
20 director shall instruct the trustee to make reimbursement in the  
21 amounts the director specifies in writing. If the director does  
22 not instruct the trustee to make reimbursement, the director  
23 shall provide the owner or operator with a detailed written  
24 statement of reasons.

25 N. [Unchanged.]

26 Subp. 3. Surety bond guaranteeing payment into a  
27 post-closure trust fund. The following are requirements for  
28 surety bonds that guarantee payment into a post-closure trust  
29 fund:

30 A. to C. [Unchanged.]

31 D. The bond must guarantee that the owner or operator  
32 will:

33 (1) [Unchanged.]

34 (2) fund the standby trust fund in an amount  
35 equal to the penal sum within 15 days after an order to begin



1 final closure is issued by the director, the agency, or a court  
2 of competent jurisdiction; or

3 (3) [Unchanged.]

4 E. to I. [Unchanged.]

5 Subp. 4. [Unchanged.]

6 Subp. 5. **Post-closure insurance.** The following  
7 requirements apply to post-closure insurance:

8 A. to D. [Unchanged.]

9 E. An owner or operator or other person authorized to  
10 perform post-closure care may request reimbursement for  
11 post-closure expenditures by submitting itemized bills to the  
12 director. Within 60 days after receiving bills for post-closure  
13 activities, the director shall determine whether the  
14 post-closure expenditures are in accordance with the  
15 post-closure plan or otherwise justified, and if so, he or she  
16 shall instruct the insurer to make reimbursement in the amounts  
17 the director specifies in writing. If the director does not  
18 instruct the insurer to make reimbursement, the director shall  
19 provide the owner or operator with a detailed written statement  
20 of reasons.

21 F. to K. [Unchanged.]

22 Subp. 6. **Financial test and corporate guarantee for**  
23 **post-closure care.** The following is the financial test and  
24 corporate guarantee for post-closure care:

25 A. [Unchanged.]

26 B. The owner or operator shall have:

27 (1) [Unchanged.]

28 (2) net working capital and tangible net worth  
29 each at least six times the sum of the current closure and  
30 post-closure cost estimates and the current plugging and  
31 abandonment cost estimate for class I underground injection  
32 control (UIC) facilities, if applicable;

33 (3) [Unchanged.]

34 (4) assets in the United States amounting to at  
35 least 90 percent of his or her total assets or at least six  
36 times the sum of the current closure and post-closure cost

1 estimates and the current plugging and abandonment cost estimate  
2 for class I underground injection control (UIC) facilities, if  
3 applicable.

4 C. The owner or operator shall have:

5 (1) a current rating for his or her most recent  
6 bond issuance of AAA, AA, A, or BBB as issued by Standard and  
7 Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

8 (2) tangible net worth at least six times the sum  
9 of the current closure and post-closure cost estimates and the  
10 current plugging and abandonment cost estimate for class I  
11 underground injection control (UIC) facilities, if applicable;

12 (3) [Unchanged.]

13 (4) assets located in the United States amounting  
14 to at least 90 percent of his or her total assets or at least  
15 six times the sum of the current closure and post-closure cost  
16 estimates and the current plugging and abandonment cost estimate  
17 for class I underground injection control (UIC) facilities, if  
18 applicable.

19 D. The phrase "current closure and post-closure cost  
20 estimates" as used in items A to C, refers to the cost estimates  
21 required to be shown in paragraphs 1 to 4 of the letter from the  
22 owner's or operator's chief financial officer, as specified in  
23 part 7045.0524, subpart 6. The phrase "current plugging and  
24 abandonment cost estimates" as used in items A to C means the  
25 cost estimates required to be shown in paragraphs 1 to 4 of the  
26 letter from the owner's or operator's chief financial officer as  
27 specified in Code of Federal Regulations, title 40, section  
28 144.70(f).

29 E. to M. [Unchanged.]

30 Subp. 7. and 8. [Unchanged.]

31 Subp. 9. Release of the owner or operator from the  
32 requirements of this part. Within 60 days after receiving  
33 certification from the owner or operator and an independent  
34 registered professional engineer that the post-closure care  
35 requirements have been completed for a hazardous waste disposal  
36 unit in accordance with the post-closure plan, the agency shall,

1 at the request of the owner or operator, notify him or her in  
2 writing that he or she is no longer required by this part to  
3 maintain financial assurance for post-closure care of that unit,  
4 unless the agency has reason to believe that post-closure care  
5 has not been in accordance with the approved post-closure plan.  
6 The agency shall provide the owner or operator with a detailed  
7 written statement of any reason to believe that post-closure  
8 care has not been in accordance with the approved post-closure  
9 plan.

10 7045.0620 LIABILITY REQUIREMENTS.

11 Subpart 1. to 3. [Unchanged.]

12 Subp. 4. **Period of coverage.** An owner or operator shall  
13 continuously provide liability coverage for a facility as  
14 required by this part, until certifications of closure of the  
15 facility, as specified in part 7045.0596, are received by the  
16 director. Within 60 days after receiving such certifications  
17 from the owner or operator and an independent registered  
18 professional engineer, the director shall notify the owner or  
19 operator in writing that he or she is no longer required by this  
20 part to maintain liability coverage for that facility, unless  
21 the director has reason to believe that closure has not been in  
22 accordance with the approved closure plan.

23 Subp. 5. [Unchanged.]