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ADMINISTRATIVE  
HEARINGS

**Pollution Control Agency**

**Adopted Permanent Rules Relating to Beneficial Use of Solid Waste**

**7001.0020 SCOPE.**

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to items A to I.

A. An agency permit required for the storage, treatment, processing, transfer, intermediate disposal, or final disposal of solid waste. Part 7001.0040 applies to permits for solid waste transfer facilities, recycling facilities, refuse-derived fuel processing facilities, and compost facilities, except that the time period referred to in part 7001.0040, subparts 1 and 3, shall be 90 days instead of 180 days.

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

**7001.3050 PERMIT REQUIREMENTS.**

[For text of subpart 1, see M.R.]

Subp. 2. **Exclusions.** A solid waste management facility permit is not required:

A. for backyard compost sites as defined in part 7035.0300;

B. for demonstration/research projects authorized by part 7035.0450 unless the project is required to have a permit under federal law;

C. for beneficial use of solid waste done according to part 7035.2860;

D. for storage of a solid waste prior to its beneficial use when done according to parts 7035.2855 and 7035.2860;

E. for disposal of solid waste on the same property on which it was discovered, when a person has made a request to the commissioner for review, investigation, and oversight under Minnesota Statutes, section 115B.17, subdivision 14, and is conducting response actions in accordance with a plan approved by the commissioner under Minnesota Statutes, section 115B.175; or

1 F. when the commissioner has granted an exemption to allow operation without a  
2 permit to expedite the proper management of solid waste and to prevent, abate, or  
3 control pollution if the commissioner determines that such an exemption is necessary as  
4 an immediate response to an emergency. A permit application must be submitted  
5 within 90 days after such an exemption is granted.

6 [For text of subps 3 and 4, see M.R.]

7 **7035.0300 DEFINITIONS.**

8 [For text of subps 1 to 7, see M.R.]

9 Subp. 7a. **Beneficial use determination.** "Beneficial use determination" refers to  
10 standing or case-specific beneficial use determinations under part 7035.2860, subpart 4  
11 or 5, respectively.

12 Subp. 7b. **Bottom ash.** "Bottom ash" means the residues that remain in a combustion  
13 chamber after combustion. An owner or operator may include ash which is carried out  
14 of a combustion chamber by the flow of gases and captured by boiler tubes,  
15 economizers, or other equipment which captures particulate matter before gases enter  
16 air pollution control equipment.

17 [For text of subps 8 and 9, see M.R.]

18 Subp. 9a. **By-product lime.** "By-product lime" refers to waste liming materials that are  
19 produced when lime is used for processes such as treatment of drinking water,  
20 processing of sugar, acetylene production, and miscellaneous other processes.

21 [For text of subps 10 to 14, see M.R.]

22 Subp. 14a. **Coal combustion slag.** "Coal combustion slag" means the noncombustible  
23 coal residue collected in a water-filled hopper at the bottom of a cyclone-type furnace. It  
24 is characterized as glassy, angular-shaped particles with diameters ranging from  
25 one-tenth to ten millimeters in size.

26 [For text of subps 15 to 31, see M.R.]

1 Subp. 31a. **Demonstration/research project.** "Demonstration/research project" refers  
2 to a limited scale project designed to promote new methods of solid waste management.  
3 It is designed to obtain scientific or other information about a specific method for  
4 managing solid waste not currently available.

5 [For text of subps 32 to 87 62, see M.R.]

6 Subp. 62a. **Manufactured product.** "Manufactured product" means an item that  
7 through processing becomes chemically and physically stable and remains so during its  
8 intended use. Examples of manufactured products include wallboard, ceiling tile,  
9 plywood, lumber, office furniture, containers, and bricks. Items that are not considered  
10 manufactured products include materials used in bulk in direct contact with the  
11 environment such as flowable fill, lightweight fill, clean fill, and aggregate, and  
12 materials used in bulk that are intended to be chemically active such as agricultural soil  
13 amendments and fertilizers.

14 Subp. 62b. **Maximum leachable contaminant levels.** "Maximum leachable  
15 contaminant levels" means the numerical standards for the levels in leachate of  
16 substances listed in part 7035.2885, subpart 5. They are used to determine design and  
17 operational requirements which apply to a municipal solid waste combustor ash land  
18 disposal facility.

19 [For text of subps 63 to 87, see M.R.]

20 Subp. 87a. **Recyclable materials.** "Recyclable materials" refers to marketable materials  
21 that are separated from mixed municipal solid waste for the purpose of recycling,  
22 including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived  
23 fuel or other material that is destroyed by incineration is not a recyclable material. For  
24 purposes of part 7035.2860, recyclable materials also refers to marketable materials  
25 separated from industrial solid wastes and construction and demolition debris.  
26 Recyclable materials may also be referred to as secondary materials.

1 Subp. 87b. **Recycling.** "Recycling" means the process of collecting and preparing  
2 recyclable materials and reusing the materials in their original form or using them in  
3 manufacturing processes that do not cause the destruction of recyclable materials in a  
4 manner that precludes further use.

5 [For text of subps 88 to 96, see M.R.]

6 Subp. 96a. ~~**Secondary materials market.** "Secondary materials market" refers to the~~  
7 ~~sale, trade, or exchange of recyclable materials that are suitable for use in manufactured~~  
8 ~~products.~~

9 ~~Subp. 96b. **Segregated household hazardous waste.** "Segregated household~~  
10 ~~hazardous waste" means household hazardous waste that is separated from other solid~~  
11 ~~waste or arrives at a solid waste management facility separated from other solid waste.~~

12 [For text of subps 97 to 111a, see M.R.]

13 Subp. 111b. **Unadulterated wood.** "Unadulterated wood" means wood that does not  
14 contain contaminants present as a result of manufacturing or use of the wood. Examples  
15 of contaminants include, ~~but are not limited to,~~ paints, varnishes, stains, glues, resins, or  
16 chemicals used to prevent rotting.

17 [For text of subps 112 to 121, see M.R.]

#### 18 **7035.0350 SOLID WASTE MANAGEMENT HIERARCHY.**

19 The waste management goal of the state is to foster an integrated waste management  
20 system in a manner appropriate to the characteristics of the waste stream and thereby  
21 protect the state's land, air, water, and other natural resources and the public health.  
22 The agency supports the management of solid waste in accordance with the goals stated  
23 in Minnesota Statutes, section 115A.02, paragraph (a), which emphasize reducing  
24 toxicity and volume of wastes. In recognition that wastes may have value and should be  
25 viewed as a resource, the goal of solid waste management should be to use wastes for  
26 their highest and best value and to dispose of them only after other feasible options  
27 have been evaluated or for environmental protection.

1     **7035.0400 GENERAL REQUIREMENTS.**

2     Subpart 1. **General.** All solid waste must be stored, collected, transferred,  
3 transported, used, processed, and disposed of, or reclaimed in a manner consistent with  
4 requirements of parts 7035.0300 to 7035.2915, except that:

5     A. petroleum contaminated soil stored or land treated at a petroleum  
6 contaminated soil land treatment site must be managed under chapter 7037; and

7     B. the commissioner may grant an exemption from this chapter to expedite the  
8 proper management of solid waste and to prevent, abate, or control pollution if the  
9 commissioner determines that such an exemption is necessary as an immediate response  
10 to an emergency.

11     Subp. 2. **State and local responsibilities.** The agency is responsible for enforcement  
12 of this chapter and encourages cooperation of local units of government which may  
13 adopt this chapter for use in local laws, ordinances, or regulations. Local units of  
14 government may adopt additional restrictions in accordance with local solid waste  
15 plans or other authority.

16     **7035.0450 DEMONSTRATION/RESEARCH PROJECTS.**

17     Subpart 1. **General.** This part establishes regulatory oversight for  
18 demonstration/research projects. If a demonstration/research project receives approval  
19 under this part, the commissioner may, as part of that approval, allow noncompliance  
20 with permit and rule conditions on a temporary basis to allow collection of information  
21 and data. However, the commissioner shall not allow noncompliance with federal  
22 standards contained in Code of Federal Regulations, title 40, part 258, unless allowed  
23 under federal law and in accordance with procedures provided by federal law.  
24 Commissioner approval or completion of a demonstration/research project does not  
25 obligate the agency to change rules, grant variances, issue or change permit conditions,  
26 make beneficial use determinations, or take any other action.

1 Subp. 2. **Information submittal.** A proposal for a demonstration/research project  
2 must be submitted to the agency for review and receive written approval prior to its  
3 initiation. At a minimum, the following items must be addressed in any proposal  
4 submitted for review and approval:

5 A. detailed descriptions of the solid waste, the manner in which it is generated,  
6 and the solid waste management technology or process to be evaluated;

7 B. results of appropriate chemical and physical characterization of the solid waste  
8 done in accordance with part 7035.2861;

9 C. goals and objectives of the demonstration/research project;

10 D. scope of the demonstration/research project including length of time from the  
11 beginning of the project to completion, location, and quantity of solid waste involved;

12 E. an outline of information that will be contained in a final report prepared at the  
13 end of the demonstration/research project;

14 F. review of literature related to the project;

15 G. experimental design;

16 H. proposed monitoring;

17 I. evaluation of possible environmental impacts from the demonstration/research  
18 project and a description of safeguards proposed to protect human health and the  
19 environment during the project and after its completion;

20 J. verification that local units of government have been notified in writing of the  
21 intent to carry out the demonstration/research project within their jurisdiction and have  
22 been provided information on whom to contact at the agency to provide comments on  
23 the project if desired;

24 ~~K. a listing of potentially affected or interested parties that have been notified~~  
25 ~~about the proposed demonstration/research project and a description of the method~~

1 ~~used for notification. These parties must receive information on whom they can contact~~  
2 ~~at the agency to provide comments on the project if desired~~ verification that residents  
3 within a one-mile radius of the demonstration/research project have been notified prior  
4 to submitting the proposal to the agency. The verification must consist of a copy of a  
5 notice placed in the local paper or a copy of any letter mailed to these residents. The  
6 notice or letter must include a brief description of the demonstration/research project  
7 and information on how to contact the agency to provide input or comments on the  
8 project; and

9 L. when applicable, information required by Code of Federal Regulations, title 40,  
10 part 258, for a research, development, and demonstration permit.

11 Subp. 3. **Agency actions and approval.** Upon completing review of the proposal, the  
12 agency shall accept or reject the proposal based on the ~~projects~~ project's potential to  
13 impact human health and the environment and whether the project will result in  
14 development of useful information related to solid waste management. The agency shall  
15 give priority to proposals that have the potential to prevent pollution or that reduce or  
16 utilize solid wastes.

17 Upon agency approval of a demonstration/research project, the agency shall take one  
18 of the following actions:

19 A. issue a permit in accordance with chapters 7001 and 7035 and Code of Federal  
20 Regulations, title 40, part 258; or

21 B. prepare an agreement that must be signed by the proposer before the project  
22 may be initiated. The agreement must contain requirements including, ~~but not limited~~  
23 ~~to,~~ the following items:

24 (1) length of time the activity can take place;

25 (2) maximum quantities of solid waste involved;

26 (3) incorporation of proposal elements by reference; and

1 (4) any other requirements the agency determines are necessary to ensure that  
2 the demonstration/research project does not cause harm to human health or the  
3 environment.

4 The signed agreement is legally binding and provides the agency with the authority  
5 to enforce its conditions. Violations of the agreement may result in termination of the  
6 agreement and possible enforcement action.

7 Subp. 4. **Termination.** A demonstration/research project or agreement may be  
8 terminated by actions of the agency or the parties responsible for the project.

9 A. The agency may terminate a signed agreement for one of the following reasons:

10 (1) the agency discovers that terms of the agreement are not being met;

11 (2) the agency determines that the project is not generating useful information;

12 or

13 (3) there is evidence that allowing the project to continue would pose risks to  
14 human health or the environment.

15 B. If the demonstration/research project is terminated by the parties responsible  
16 for conducting the project prior to its completion for any reason, the agency must be  
17 notified in writing immediately.

18 C. If an agreement is terminated, the project must be discontinued until a solid  
19 waste permit or variance from the solid waste management rules is obtained.

20 Subp. 5. **Reporting.** Within six months after completion of the  
21 demonstration/research project, the final report as outlined in subpart 2, item E, must  
22 be submitted to the agency. In addition, more frequent reporting may be specified as a  
23 condition of an agreement or permit and must be submitted in accordance with the  
24 signed agreement or permit.

25 **7035.2535 GENERAL SOLID WASTE MANAGEMENT FACILITY REQUIREMENTS.**



1 Subpart 1. **Unacceptable wastes.** The owner or operator of a solid waste management  
2 facility must not accept the following wastes for treatment, storage, processing, or  
3 disposal:

4 [For text of item A, see M.R.]

5 B. sewage sludge, septic tank pumpings, sewage sludge compost, or sewage unless  
6 treated to meet the Class B pathogen reduction standards of chapter 7041;

7 C. infectious wastes, unless approved by the agency;

8 ~~C.~~ D. used oil, except as provided in subpart 5, item B;

9 ~~D.~~ E. radioactive waste;

10 ~~E.~~ F. wastes containing free liquids; or

11 ~~F.~~ G. free liquids.

12 [For text of subps 2 to 4, see M.R.]

13 Subp. 5. **Industrial solid waste management.** All industrial solid waste delivered to a  
14 solid waste management facility must be managed by the owner or operator to protect  
15 human health and the environment. The industrial solid waste management plan  
16 required under part 7001.3300 must address items A to C, except that the industrial  
17 solid waste management plan for a municipal solid waste combustor ash land disposal  
18 facility need not comply with items B and C.

19 [For text of items A to C, see M.R.]

20 D. The owner or operator need not address the following wastes in the plan:

21 [For text of subitems (1) to (4), see M.R.]

22 (5) dewatered sewage sludge that meets the Class B pathogen reduction  
23 standards in part 7041.1300, subpart 3;

24 [For text of subitems (6) to (8), see M.R.]

25 [For text of item E, see M.R.]

1 [For text of subp 6, see M.R.]

2 **7035.2855 SOLID WASTE STORAGE STANDARDS.**

3 Subpart 1. **Scope.** The requirements of subparts 2 to 6 apply to owners and operators  
4 of facilities that store solid waste, except as part 7035.2525, subpart 2, provides or as  
5 otherwise provided in this subpart.

6 A. Owners and operators of facilities that store solid waste prior to its beneficial  
7 use in accordance with part 7035.2860 must meet the standards in subparts 2, 6, and 7  
8 and are exempt from subparts 3, 4, and 5. If any portion of the solid waste stored at a  
9 given location is not beneficially used the storage standards in subparts 2 to 6 apply.  
10 Solid wastes stored in Minnesota prior to beneficial use in another state that are not the  
11 subject of a beneficial use determination under part 7035.2860, subpart 4 or 5, must  
12 submit the following information to the agency prior to use of the storage facility using  
13 the beneficial use criteria:

14 (1) information required by part 7035.2860, subpart 5, items A, B, and H; and

15 (2) verification that the standards for beneficial use in the state where the  
16 beneficial use is occurring are being met and the name, address, and telephone number  
17 of that state's contact person.

18 B. Facilities that store only waste tires are exempt from this part.

19 C. The owner or operator of a facility where solid waste is stored inside or within a  
20 structure so that neither runoff nor leachate is generated and no liquid wastes or wastes  
21 with free liquids are added to the storage area, is not subject to subparts 3 and 4, or part  
22 7035.2565 if:

23 (1) the storage area is protected from surface water run-on by the structure or in  
24 some other manner;

25 (2) the storage area is designed and operated to control dispersion of the waste  
26 by wind by means other than wetting; and

1 (3) the solid waste will not generate leachate or gases through decomposition or  
2 other reactions.

3 D. Owners and operators of facilities permitted for the processing of construction  
4 debris and demolition debris for the primary purpose of extracting recoverable portions  
5 of the waste stream for beneficial use and recycling must meet the storage standards in  
6 subparts 2, 6, and 7. These facilities are exempt from the standards in subparts 3, 4, and  
7 5 provided that the materials that cannot be accepted for disposal at a demolition debris  
8 land disposal facility such as asbestos, caulk tubes, waste paint, waste solvents, glues,  
9 tars, adhesives, and mixed municipal solid waste are removed from the waste within 48  
10 hours of delivery to the facility.

11 Subp. 2. **Locational requirements.** Locational requirements are as follows:

12 A. The locational standards in part 7035.2555 must be met.

13 B. The storage area must not be located in an area characterized by karst features,  
14 including sinkholes, caves, and disappearing streams.

15 C. The storage area, including any underlying liner, must be located entirely above  
16 the high water table.

17 [For text of subp 3, see M.R.]

18 Subp. 4. **Inspection of liners.** Requirements for the inspection of liners are as follows:

19 [For text of item A, see M.R.]

20 B. The waste in the storage area must be removed at least annually. When the  
21 waste is removed, the liner must be inspected for deterioration, cracks, or other  
22 conditions that may result in leaks. The frequency of inspection must be specified in the  
23 inspection schedule required in part 7035.2535, subpart 4, and must be based on the  
24 potential for the liner and base to crack or otherwise deteriorate under conditions of  
25 operation, such as waste type, rainfall, loading rates, and subsurface stability. The  
26 inspection must include a view of the liner for failures due to puncture, cracking,

1 tearing, or other physical damage from equipment used to place waste in or on the pile  
2 or to clean and expose the liner surface for inspection.

3 [For text of item C, see M.R.]

4 [For text of subps 5 and 6, see M.R.]

5 Subp. 7. **Storage of solid waste prior to beneficial use.** Owners or operators of  
6 facilities used for solid waste storage prior to its beneficial use must comply with the  
7 requirements in items A to F.

8 A. Prior to operation of a storage facility, owners and operators must obtain a  
9 written certification from an engineer licensed in Minnesota stating that the storage  
10 facility is designed and constructed to meet the requirements of this part. A copy of this  
11 certification must be maintained on file by the owner or operator and made available to  
12 the agency upon request.

13 B. Prior to operation of a storage facility, the owner or operator of the facility must  
14 evaluate the potential for migration of contaminants into adjacent subsurface soil,  
15 groundwater, or surface water from the stored solid waste. This evaluation must take  
16 into consideration the characteristics of the solid waste, the quantity of solid waste to be  
17 stored, and the length of time the solid waste will be stored. Based on this evaluation,  
18 the owner or operator of the facility must design, construct, and operate the storage  
19 facility to meet the requirements in subitems (1) to (3):

20 (1) Migration of contaminants into the adjacent subsurface soil, groundwater, or  
21 surface water at any time during the active life, or the closure period, of the facility must  
22 be prevented.

23 (2) Run-on and runoff of stormwater must be controlled. The owner or operator  
24 must implement management practices designed to control run-on and runoff of  
25 stormwater from the storage area. In cases where solid waste will be stored  
26 continuously or intermittently at the same location, the owner or operator must design,

1 construct, operate, and maintain a stormwater management system capable of collecting  
2 and controlling the volume of contaminated stormwater resulting from a 24-hour,  
3 25-year storm unless otherwise directed by the agency.

4 (3) Collection and holding facilities, such as tanks or basins, associated with the  
5 run-on and runoff control systems must be managed to maintain the design capacity of  
6 the system. Disposal of wastes and wastewaters generated from these facilities must be  
7 managed appropriately.

8 C. The maximum quantity of solid waste stored at any one location at any given  
9 time is limited to a reasonable quantity based on the type of waste and its end use. A  
10 reasonable quantity is the amount of solid waste needed for completion of the projects  
11 for which it is being accumulated. Records must be kept that verify that the quantity of  
12 solid waste stored at any one location does not result in accumulation of solid waste in  
13 quantities that exceed its use.

14 D. The solid waste must not be stored at any one location for more than three years  
15 without being processed or utilized.

16 E. If the storage area contains any particulate matter that may be subject to wind  
17 dispersion, the owner or operator must cover or otherwise manage the waste to control  
18 wind dispersion.

19 F. Nuisance conditions resulting from the storage of solid waste must be controlled  
20 and managed by the facility owner or operator.

#### 21 **7035.2860 BENEFICIAL USE OF SOLID WASTE.**

22 Subpart 1. **Applicability.** This part establishes a procedure for determining when use  
23 of a material classified as a solid waste is a beneficial use. The uses listed in subpart 4 as  
24 standing beneficial use determinations have been reviewed and determined to be  
25 beneficial uses of solid waste by the agency. All other proposed uses of solid wastes  
26 must obtain case-specific beneficial use determinations in accordance with the  
27 procedures in subpart 5. The following exemptions are provided:

1        A. Beneficial uses authorized to occur by an agency permit or legally binding  
2 document issued prior to the effective date of these rules are exempt from this part.  
3 Upon expiration of the authorization, the procedure for obtaining a case-specific  
4 beneficial use determination in subpart 5 must be followed.

5        B. Recyclable materials recycled in accordance with part 7035.2845 and Minnesota  
6 Statutes, section 115A.03, subdivision 25, are exempt from this part.

7        C. Recyclable materials that are not exempt under item B are exempt from the  
8 requirement to obtain a case-specific beneficial use determination under subpart 5 when  
9 they are incorporated into a manufactured product as defined by part 7035.0300,  
10 subpart 62a.

11        D. Composts that are used in accordance with the standards contained in part  
12 7035.2836 are exempt from this part.

13        Subp. 2. **Beneficial use standards.** To constitute a beneficial use under this part, the  
14 following standards must be met:

15            A. the solid waste must not be stored in anticipation of speculative future markets;

16            B. the solid waste must be adequately characterized in accordance with part  
17 7035.2861;

18            C. the solid waste must be an effective substitute for an analogous material or a  
19 necessary ingredient in a new product;

20            D. the use of the solid waste does not adversely impact human health or the  
21 environment; and

22            E. the solid waste must not be used in quantities that exceed accepted engineering  
23 or commercial standards. Excess use of solid waste is not authorized by this part and is  
24 considered disposal.

25        Subp. 3. ~~Solid waste cessation~~ Regulatory exemption. Unless specified otherwise by

1 the agency in a beneficial use determination or permit, a material remains a solid waste  
2 until ~~the solid waste is placed in commerce or~~ it is incorporated into a manufactured  
3 product for sale or distribution. ~~Until the time solid waste cessation occurs the material~~  
4 ~~must be managed as a solid waste in accordance with this chapter.~~ or utilized in  
5 accordance with a standing or a case-specific beneficial use determination. Until the  
6 time this regulatory exemption occurs, the material must be stored in compliance with  
7 part 7035.2855 and managed as a solid waste in accordance with this chapter.

8 Subp. 4. **Standing beneficial use determinations.** A standing beneficial use  
9 determination means that the generator or end user of a material can do so in  
10 accordance with this subpart without contacting the agency. Only those specific solid  
11 wastes and the uses designated in items A to P Q have been given standing beneficial  
12 use determinations. Any other uses of the solid waste are not authorized and must  
13 follow the procedure outlined in subpart 5.

14 A. Unadulterated wood, wood chips, bark, or sawdust when these materials are  
15 ~~placed in commerce for service~~ used as mulch, landscaping, animal bedding, erosion  
16 control, wood fuel production, a bulking agent at a compost facility operated in  
17 compliance with part 7035.2836, or as a substitute for wood.

18 B. Unadulterated newspaper and newsprint ~~utilized~~ when used as animal  
19 bedding, insulation, or as a substitute for paper products.

20 C. Uncontaminated glass when used as a sandblast agent.

21 D. Unusable latex paints, characterized as high solid content, off-specification  
22 colors, sour, frozen, or poor quality, when used to produce processed latex pigment for  
23 use as an additive for the production of ASTM-specified specialty cement.

24 E. Reclaimed glass and porcelain fixtures when ~~utilized~~ used as a substitute for  
25 conventional aggregate or subgrade applications in accordance with Minnesota  
26 Department of Transportation Standard Specifications for Construction 2000 Edition,  
27 3138.2 A2.

1 F. Crumb rubber when used in asphalt paving or applications where it is used as a  
2 substitute for rubber or similar elastic material.

3 G. Tire shreds when used as lightweight fill in the construction of public roads in  
4 accordance with Minnesota Statutes, section 115A.912, subdivision 4.

5 H. Tire chips when used as a substitute for conventional aggregate in construction  
6 applications when the ratio of this substitution is no greater than one to one by volume.  
7 This does not include use of tire chips as general construction fill or clean fill.

8 I. Uncontaminated recognizable concrete, recycled concrete and concrete products,  
9 and brick ~~placed in commerce~~ when used for service as a substitute for conventional  
10 aggregate.

11 J. Salvaged bituminous when ~~utilized~~ used as a substitute for conventional  
12 aggregate in accordance with Minnesota Department of Transportation Standard  
13 Specifications for Construction 2000 Edition, 3138.2 A2.

14 K. Coal combustion slag ~~placed in commerce for use~~ when used as a component in  
15 manufactured products such as roofing shingles, ceiling tiles, or asphalt products.

16 L. Coal combustion slag ~~placed in commerce for use~~ when used as a sand blast  
17 abrasive.

18 M. Coal combustion fly ash as defined by ASTM C 618 ~~placed in commerce for use~~  
19 when used as a pozzolan or cement replacement in the formation of high-strength  
20 concrete.

21 N. Coal combustion fly ash or coal combustion gas scrubbing by-products when  
22 used as an ingredient for production of aggregate that will be used in concrete or  
23 concrete products. This does not include use in flowable fill.

24 O. Foundry sand when used as a feed material for the manufacture of Portland  
25 cement.



1           P. Uncontaminated by-product limes when ~~utilized~~ used as agricultural liming  
2 materials and distributed in accordance with chapter 1508 and Minnesota Statutes,  
3 sections 18C.531 to 18C.575. Application rates for by-product limes must be based on  
4 the lime recommendations of the University of Minnesota Extension Service and cannot  
5 cause the soil pH to exceed 7.1 after application. Site-specific application rates for  
6 by-product lime must be determined by an individual that has a background and  
7 understanding of crop nutrient management such as a crop consultant or University of  
8 Minnesota Extension Specialist. Recommended rates for lime can be obtained from the  
9 University of Minnesota Extension Service publication "Fertilizer Recommendations for  
10 Agronomic Crops in Minnesota" BU-06240-S, and the Minnesota Department of  
11 Agriculture publication "Ag-Lime Recommendations in Pounds ENP per acre" available  
12 on their Web site at <http://www.mda.state.mn.us/lime>.

13           ~~Q.~~ Q. Manufactured shingle scrap and ground tear-off shingle scrap when used in  
14 asphalt pavement or road subbases.

15           ~~P.~~ ~~Recyclable materials that are used in the secondary materials market. This does~~  
16 ~~not include uses of recyclable materials as construction fill, clean fill, or manufactured~~  
17 ~~fill.~~

18           **Subp. 5. Case-specific beneficial use determinations.** For uses of a solid waste not  
19 identified in subpart 4, the agency shall make a case-by-case determination on whether  
20 the proposed management option for the specific solid waste is a beneficial use. This  
21 determination must be based on information submitted in accordance with this subpart.  
22 In cases where the information required by this subpart is not available, a  
23 demonstration/research project designed to provide the missing information may be  
24 proposed in accordance with part 7035.0450. Unless otherwise directed by the agency,  
25 proposals must include the following information at a minimum:

26           A. a description of the solid waste, manner in which it is generated, quantity  
27 generated, quantity to be utilized, and its proposed end use;

1 B. results of chemical and physical characterization of the solid waste done in  
2 accordance with part 7035.2861;

3 C. an evaluation of the human health and environmental impacts the proposed use  
4 may have and a comparison of these impacts with those from other management  
5 alternatives for the solid waste;

6 D. verification that the end product complies with industry standards and  
7 specifications for its intended use and a comparison of the chemical and physical  
8 characteristics of the solid waste proposed for use with the material it will replace;

9 E. a description of the routine sampling and analysis that will be conducted of the  
10 solid waste to ensure that the information submitted for review is representative and the  
11 solid waste has consistent characteristics. The description must include the procedure  
12 and frequency of sampling and analysis, parameters to be analyzed, analysis methods,  
13 and laboratory reporting limits to be used;

14 F. a copy of a contract to purchase or use the proposed product or other  
15 documentation proving that a market for the proposed product or use exists;

16 G. a detailed description of how and where the product will be distributed. This  
17 should also include a detailed description of how the solid waste will be managed from  
18 the time it is generated until the time it will be utilized and the management practices  
19 that will be in place to ensure that human health and the environment are protected;

20 H. the following information related to the management of solid waste stored prior  
21 to its use:

22 (1) a complete description of the types of storage to be used prior to beneficial  
23 use; and

24 (2) a description of how the solid waste will be managed to meet the  
25 requirements in part 7035.2855;

1 I. a description of any wastes that will need to be managed as a result of  
2 beneficially using the solid waste;

3 J. verification that local units of government with authority to regulate the  
4 proposed process or use of the solid waste have received a copy of this application and  
5 have been provided information on who to contact at the agency to provide comments  
6 on the proposed beneficial use activity; and

7 ~~K. identification of potentially affected or interested parties, so the agency can~~  
8 ~~determine a proposal for notification of interested or affected parties. The agency shall~~  
9 ~~review this proposal and make a determination on the appropriate notification~~  
10 ~~procedures.~~

11 Subp. 6. **Agency actions.** Upon completing review of the information submitted  
12 under subpart 5, the commissioner will take one of the following actions:

13 A. request additional information for evaluation of the proposal;

14 B. notify the proposer in writing, that a beneficial use determination has been  
15 made and the commissioner agrees the proposed use of the solid waste is beneficial. If  
16 the determination is conditional, the notification must include the conditions; or

17 C. deny the request for a case-specific beneficial use determination.

18 If the request is denied, the proposer must obtain a permit or variance before the  
19 solid waste can be managed in the manner proposed. If a permit is required, the type of  
20 permit issued may be a state disposal system or a solid waste management facility  
21 permit depending on the type of environmental concerns that need to be addressed by  
22 the permit.

23 Subp. 7. **Reporting requirements.** Proposers that have applied for and received  
24 case-specific beneficial use determinations according to subpart 5 must submit a report  
25 to the county in which the solid waste is generated annually by January 31. The report  
26 must contain a description of the type and quantity of solid waste beneficially used

1 during the time period from January 1 to December 31 of the previous year. The  
2 Minnesota Office of Environmental Assistance will provide a format for submitting this  
3 report.

4 Subp. 8. **Modification of a beneficial use determination.** The commissioner may  
5 modify conditions attached to any beneficial use determination made under subpart 5 if  
6 the commissioner finds, on the basis of new information, that new conditions are  
7 necessary to protect human health and the environment.

8 Subp. 9. **Revocation of a beneficial use determination.** The commissioner may  
9 revoke any beneficial use determination made under subpart 5 if the commissioner  
10 finds, on the basis of new information, the standards in subpart 2 are not being met. If  
11 the commissioner revokes a beneficial use determination, use of the solid waste can only  
12 continue if authorized by a permit and/or a variance is obtained. The commissioner  
13 shall provide a reasonable amount of time for the proposer to apply for a permit or  
14 variance or to terminate the regulated activity.

15 Subp. 10. **Public information.** The agency shall post all case-specific beneficial use  
16 determinations made by the agency on its Web site.

17 **7035.2861 CHARACTERIZING SOLID WASTES FOR**  
18 **DEMONSTRATION/RESEARCH PROJECTS AND FOR BENEFICIAL USE.**

19 Subpart 1. **Scope.** This part sets out the procedures for characterization of a solid  
20 waste. The agency shall use the results from characterization of a solid waste when  
21 evaluating demonstration/research projects and beneficial use proposals.

22 Subp. 2. **Characterization procedures.** Unless otherwise directed by the agency, a  
23 person seeking to characterize a solid waste must follow the steps in items A through C.

24 A. The solid waste must be evaluated to determine if it is hazardous as provided in  
25 part 7045.0214. If the waste is determined to be hazardous, no further characterization is  
26 necessary because under this chapter no demonstration/research project or beneficial  
27 use determination will apply to hazardous waste.

1 B. A list of potential chemical constituents present in the solid waste must be  
2 developed by evaluation of the processes at the facility that resulted in production of the  
3 waste; and review of material safety data sheets, ingredient labels, and other pertinent  
4 information.

5 C. The solid waste must be analyzed in accordance with the methods provided in  
6 subpart 3, to provide the following information on its chemical and physical properties:

7 (1) potential chemical constituents identified in item B; and

8 (2) physical properties that affect the use or management of the solid waste.

9 Subp. 3. **Methods of analysis.** The analysis methods used for characterization must  
10 be consistent with the management option or beneficial use being proposed. In most  
11 cases, total compositional analysis is needed. Depending on how the solid waste will be  
12 managed prior to its beneficial use, leaching procedures may also be required.  
13 Approved methods of analysis are found in Test Methods for Evaluating Solid Waste,  
14 Physical/Chemical Methods, EPA Publication SW-846. Equivalent analytical methods  
15 may be allowed with commissioner approval.

16 **7035.2862 INCORPORATIONS BY REFERENCE.**

17 The documents in items A to D are incorporated by reference for purposes of parts  
18 7035.2860 and 7035.2861. They are not subject to frequent change.

19 A. The Minnesota Department of Transportation Standard Specifications for  
20 Construction (2000 edition). It is published by the Minnesota Department of  
21 Transportation, and is available at the following Web site:  
22 [www.dot.state.mn.us/tecsup/spec/index.html](http://www.dot.state.mn.us/tecsup/spec/index.html).

23 B. American Society for Testing and Materials (ASTM) Method C618-01. These  
24 methods are published annually in the Annual Book of ASTM Standards: part C618-01:  
25 Standard Specification for Coal Fly Ash and Raw or Calcined Natural Pozzolan for Use  
26 as a Mineral Admixture in Concrete, 2002 edition. This publication is available through  
27 the Minitex interlibrary loan system.

1 C. University of Minnesota Extension Service Publication: "Fertilizer  
2 Recommendations for Agronomic Crops in Minnesota" BU-06240-S, Revised 2001. It is  
3 available from the following Web site: [www.extension.umn.edu](http://www.extension.umn.edu). Copies can be  
4 purchased at University of Minnesota Extension Service Distribution Center, 405 Coffey  
5 Hall, 1420 Eckles Avenue, St. Paul, MN 55108 or can be ordered by e-mail:  
6 [order@extension.umn.edu](mailto:order@extension.umn.edu) or telephone: (800) 876-8636.

7 D. Minnesota Department of Agriculture publication "Ag-Lime Recommendations  
8 in Pounds ENP per acre" is available on the department's Web site at  
9 [www.mda.state.mn.us/lime](http://www.mda.state.mn.us/lime).