

1.1 **Pollution Control Agency**

1.2 **Adopted Permanent Rules Relating to Hazardous Waste**

1.3 **7001.0150 TERMS AND CONDITIONS OF PERMITS.**

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

1.5 Subp. 2. **Special conditions.** Each draft and final permit must contain conditions  
1.6 necessary for the permittee to achieve compliance with applicable Minnesota or federal  
1.7 statutes or rules, including each of the applicable requirements in parts 7045.0450 to  
1.8 7045.0651 and 7045.1390, and any conditions that the agency determines to be necessary  
1.9 to protect human health and the environment. If applicable to the circumstances, the  
1.10 conditions must include:

1.11 [For text of items A to D, see M.R.]

1.12 Subp. 3. **General conditions.** Unless specifically exempted by statute or rule, each  
1.13 draft and final permit must include the following general conditions and the agency shall  
1.14 incorporate these conditions into all permits either expressly or by specific reference to  
1.15 this part:

1.16 [For text of items A to O, see M.R.]

1.17 P. Compliance with a RCRA permit during its term constitutes compliance,  
1.18 for purposes of enforcement, with subtitle C of RCRA except for those requirements  
1.19 not included in the permit which:

1.20 (1) become effective by statute;

1.21 (2) are adopted under part 7045.1390, restricting the placement of  
1.22 hazardous wastes in or on the land;

1.23 (3) are adopted under parts 7045.0450 to 7045.0551 regarding leak  
1.24 detection systems for new and replacement surface impoundment, waste pile, and landfill  
1.25 units, and lateral expansions of surface impoundment, waste pile, and landfill units. The

2.1 leak detection system requirements include double liners, construction quality assurance  
2.2 programs, monitoring, action leakage rates, and response action plans, and will be  
2.3 implemented through the procedures of part 7001.0730, minor permit modifications; or

2.4 (4) are adopted under parts 7045.0645, 7045.0647, and 7045.0648, limiting  
2.5 air emissions.

#### 2.6 **7001.0501 UNDERGROUND INJECTION.**

2.7 References to underground injection of waste throughout this chapter are subject  
2.8 to Minnesota statutes and rules prohibiting the discharge of waste or pollutants to the  
2.9 saturated or unsaturated zones.

#### 2.10 **7001.0520 PERMIT REQUIREMENTS.**

2.11 [For text of subps 1 to 3, see M.R.]

2.12 Subp. 4. **Termination of eligibility for permit by rule.** The eligibility of an owner  
2.13 or operator of an elementary neutralization unit, a pretreatment unit, a wastewater  
2.14 treatment unit, or a combustion waste facility to be permitted under this part is subject  
2.15 to termination by the agency after notice and opportunity for a contested case hearing  
2.16 or a public informational meeting if the agency makes any of the findings set forth in  
2.17 items A to D. An owner or operator whose eligibility to be permitted under this part has  
2.18 been terminated shall apply for and obtain an individual permit under these parts. The  
2.19 following findings constitute justification for the commissioner to commence proceedings  
2.20 to terminate eligibility:

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

2.22 D. that under the circumstances, in order to protect human health or the  
2.23 environment, the permitted facility should be subject to the requirements of parts  
2.24 7045.0450 to 7045.0551.

3.1 Subp. 5. **Closure by removal.** Owners or operators of surface impoundments,  
3.2 land treatment units, and waste piles closing by removal or decontamination under  
3.3 parts 7045.0552 to 7045.0651 must obtain a postclosure permit unless they can  
3.4 demonstrate to the agency that the closure met the requirements for closure by removal  
3.5 or decontamination in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536,  
3.6 subpart 8. The demonstration may be made in the following ways:

3.7 [For text of items A and B, see M.R.]

3.8 [For text of subps 6 and 7, see M.R.]

3.9 **7001.0550 CONTENTS OF PART A OF APPLICATION.**

3.10 Part A of the application must contain the following information:

3.11 [For text of items A to D, see M.R.]

3.12 E. a list of the waste designated under parts 7045.0102 to 7045.0155 as  
3.13 hazardous to be treated, stored, or disposed of by the applicant and an estimate of the  
3.14 quantity of each hazardous waste to be treated, stored, or disposed of annually by the  
3.15 applicant;

3.16 [For text of items F to J, see M.R.]

3.17 **7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF**  
3.18 **APPLICATION.**

3.19 Part B of the application must contain the following information:

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

3.21 B. Chemical and physical analyses of the hazardous wastes to be handled at  
3.22 the facility. At a minimum, these analyses must contain all the information that must  
3.23 be known to treat, store, or dispose of the wastes properly in accordance with parts  
3.24 7045.0450 to 7045.0551.

3.25 [For text of items C and D, see M.R.]

4.1 E. A copy of the general inspection schedule required by part 7045.0452,  
4.2 subpart 5, item B, including, if applicable, the information in parts 7045.0526, subpart  
4.3 5; 7045.0528, subpart 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0536,  
4.4 subpart 4; 7045.0538, subpart 5; 7045.0539, subpart 3; and 7045.0542, subpart 7; and  
4.5 the process vent and equipment leak standards in Code of Federal Regulations, title 40,  
4.6 sections 264.1033, 264.1052, 264.1053, 264.1058, as amended, and sections 264.1084,  
4.7 264.1085, 264.1086, and 264.1088, as incorporated in part 7045.0540.

4.8 [For text of items F to U, see M.R.]

4.9 V. For land disposal facilities, if a case-by-case extension has been approved by  
4.10 the United States Environmental Protection Agency, under Code of Federal Regulations,  
4.11 title 40, section 268.5, or a petition has been granted under part 7045.0075, subpart 9, a  
4.12 copy of the notice of approval for the extension or petition is required.

4.13 **7001.0570 PART B INFORMATION REQUIREMENTS FOR FACILITIES THAT**  
4.14 **STORE CONTAINERS OF HAZARDOUS WASTE.**

4.15 Except as otherwise provided in part 7045.0526, subpart 1, if the applicant proposes to  
4.16 store containers of hazardous waste, the applicant shall furnish the following information  
4.17 in addition to the information required by part 7001.0560:

4.18 [For text of items A to F, see M.R.]

4.19 G. Information on air emission controls as required in part 7001.0635.

4.20 **7001.0580 PART B INFORMATION REQUIREMENTS FOR STORAGE OR**  
4.21 **TREATMENT TANKS.**

4.22 Except as otherwise provided in part 7045.0528, subpart 1, if the applicant proposes  
4.23 to use tanks to store or treat hazardous waste, the applicant shall furnish the following  
4.24 information, in writing, in addition to the information required by part 7001.0560:

4.25 [For text of items A to H, see M.R.]

5.1 I. description of controls and practices to prevent spills and overflows, as  
5.2 required under part 7045.0528, subpart 6, item B;

5.3 J. for tank systems in which ignitable, reactive, or incompatible wastes are  
5.4 to be stored or treated, a description of how operating procedures and tank system and  
5.5 facility design will achieve compliance with the requirements of part 7045.0528, subparts  
5.6 10 and 11; and

5.7 K. information on air emission controls as required in part 7001.0635.

5.8 **7001.0590 PART B INFORMATION REQUIREMENTS FOR SURFACE**  
5.9 **IMPOUNDMENTS.**

5.10 Except as otherwise provided in part 7045.0532, subpart 1, if the applicant proposes  
5.11 to store, treat, or dispose of hazardous waste in surface impoundment facilities, the  
5.12 applicant shall submit detailed plans and specifications accompanied by an engineering  
5.13 report which collectively includes the following information in addition to the information  
5.14 required by part 7001.0560:

5.15 [For text of items A to J, see M.R.]

5.16 K. A waste management plan for hazardous waste F028 and treatment residues  
5.17 and soil contaminated with hazardous wastes F020, F021, F022, F023, F026, F027,  
5.18 and F028 listed under part 7045.0135, subpart 1a, item B, describing how the surface  
5.19 impoundment is or will be designed, constructed, operated, and maintained to meet the  
5.20 requirements of part 7045.0532, subpart 10. This plan must address the following items as  
5.21 specified in part 7045.0532, subpart 10:

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

5.23 [For text of items L and M, see M.R.]

5.24 N. Information on air emission controls as required in part 7001.0635.

5.25 **7001.0600 PART B INFORMATION REQUIREMENTS FOR WASTE PILES.**

6.1 Except as otherwise provided by part 7045.0534, subpart 1, if the applicant proposes  
6.2 to store or treat hazardous waste in waste piles, the applicant shall furnish the information  
6.3 required by items A to M in addition to the information required by part 7001.0560:

6.4 [For text of items A to K, see M.R.]

6.5 L. A waste management plan for hazardous waste F028 and treatment residues  
6.6 and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and  
6.7 F028 listed under part 7045.0135, subpart 1a, item B, describing how a waste pile that  
6.8 is not enclosed is or will be designed, constructed, operated, and maintained to meet the  
6.9 requirements of part 7045.0534, subpart 10. This submission must address the following  
6.10 items as specified in part 7045.0534, subpart 10:

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

6.12 [For text of item M, see M.R.]

6.13 **7001.0610 PART B INFORMATION REQUIREMENTS FOR LAND**  
6.14 **TREATMENT.**

6.15 Except as otherwise provided by part 7045.0536, subpart 1, if the applicant proposes  
6.16 to use land treatment to dispose of hazardous waste, the applicant shall furnish the  
6.17 information designated in items A to I in addition to the information required by part  
6.18 7001.0560:

6.19 [For text of items A to H, see M.R.]

6.20 I. A waste management plan for hazardous waste F028 and treatment residues  
6.21 and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027,  
6.22 and F028 listed under part 7045.0135, subpart 1a, item B, describing how a land  
6.23 treatment facility is or will be designed, constructed, operated, and maintained to meet the  
6.24 requirements of part 7045.0536, subpart 11. This plan must address the following items as  
6.25 specified in part 7045.0536, subpart 11:

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

7.2 **7001.0620 PART B INFORMATION REQUIREMENTS FOR LANDFILLS.**

7.3 Except as otherwise provided by part 7045.0538, subpart 1, if the applicant proposes  
7.4 to dispose of hazardous waste in a landfill, the applicant shall furnish the information  
7.5 designated in items A to L in addition to the information required by part 7001.0560:

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

7.7 J. A waste management plan for hazardous waste F028 and treatment residues  
7.8 and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and  
7.9 F028 listed under part 7045.0135, subpart 1a, item B, describing how a landfill is or  
7.10 will be designed, constructed, operated, and maintained to meet the requirements of part  
7.11 7045.0538, subpart 13. This plan must address the following items as specified in part  
7.12 7045.0538, subpart 13:

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

7.14 [For text of items K and L, see M.R.]

7.15 **7001.0630 PART B INFORMATION AND SPECIAL PROCEDURAL**  
7.16 **REQUIREMENTS FOR THERMAL TREATMENT FACILITIES.**

7.17 Except as provided in part 7045.0542, subpart 1, if the applicant proposes to treat  
7.18 or dispose of hazardous waste by using thermal treatment, the applicant shall fulfill the  
7.19 requirements of item A, B, or C in addition to the information requirements of part  
7.20 7001.0560, and the commissioner shall fulfill the requirements of item D:

7.21 [For text of items A and B, see M.R.]

7.22 C. The applicant shall perform an analysis of each waste or mixture of waste to  
7.23 be treated by using the analytical techniques set forth in the Environmental Protection  
7.24 Agency document SW-846, as incorporated in part 7045.0065, or by using techniques

8.1 found by the commissioner to be equivalent to them. The applicant shall submit all of  
8.2 the following information:

8.3 (1) The results of each waste analysis performed, including:

8.4 [For text of units (a) to (d), see M.R.]

8.5 (e) an approximate quantification of the hazardous constituents  
8.6 identified in the waste, within the precision specified by Environmental Protection Agency  
8.7 document SW-846, as incorporated in part 7045.0065;

8.8 [For text of units (f) and (g), see M.R.]

8.9 [For text of subitems (2) to (8), see M.R.]

8.10 [For text of item D, see M.R.]

8.11 **7001.0635 SPECIFIC PART B INFORMATION REQUIREMENTS FOR AIR**  
8.12 **EMISSION CONTROLS FOR TANKS, SURFACE IMPOUNDMENTS, AND**  
8.13 **CONTAINERS.**

8.14 Except as otherwise provided in part 7045.0450, owners and operators of tanks,  
8.15 surface impoundments, or containers that use air emission controls in accordance with  
8.16 the requirements of part 7045.0540 must provide the additional information described in  
8.17 items A to G.

8.18 A. Documentation for each floating roof cover installed on a tank subject to Code  
8.19 of Federal Regulations, title 40, section 264.1084(d)(1) or (d)(2), as incorporated in part  
8.20 7045.0540, that includes information prepared by the owner or operator or provided by the  
8.21 cover manufacturer or vendor describing the cover design, and certification by the owner  
8.22 or operator that the cover meets the applicable design specifications under Code of Federal  
8.23 Regulations, title 40, section 264.1084(e)(1) or (f)(1), as incorporated in part 7045.0540.

9.1 B. Identification of each container area subject to the requirements of part  
9.2 7045.0540 and certification by the owner or operator that the requirements of this part are  
9.3 met.



9.4 C. Documentation for each enclosure used to control air pollutant emissions  
9.5 from tanks or containers in accordance with the requirements of Code of Federal  
9.6 Regulations, title 40, section 264.1084(d)(5) or 264.1086(e)(1)(ii), as incorporated in part  
9.7 7045.0540, that includes records for the most recent set of calculations and measurements  
9.8 performed by the owner or operator to verify that the enclosure meets the criteria of a  
9.9 permanent total enclosure as specified in "Procedure T - Criteria for and Verification of a  
9.10 Permanent or Temporary Total Enclosure" under Code of Federal Regulations, title 40,  
9.11 section 52.741, Appendix B, as amended.

9.12 D. Documentation for each floating membrane cover installed on a surface  
9.13 impoundment in accordance with the requirements of Code of Federal Regulations, title  
9.14 40, section 264.1085(c), as incorporated in part 7045.0540, that includes information  
9.15 prepared by the owner or operator or provided by the cover manufacturer or vendor  
9.16 describing the cover design, and certification by the owner or operator that the cover meets  
9.17 the specifications under Code of Federal Regulations, title 40, section 264.1085(c)(1), as  
9.18 incorporated in part 7045.0540.

9.19 E. Documentation for each closed-vent system and control device installed  
9.20 in accordance with the requirements of Code of Federal Regulations, title 40, section  
9.21 264.1087, as incorporated in part 7045.0540, that includes design and performance  
9.22 information as specified in Code of Federal Regulations, title 40, section 270.24(c) and  
9.23 (d), as amended.

9.24 F. An emission monitoring plan for both Code of Federal Regulations, title 40,  
9.25 part 60, Appendix A, Method 21, as amended, and control device monitoring methods.  
9.26 This plan shall include the following information: monitoring points, monitoring methods  
10.1 for control devices, monitoring frequency, procedures for documenting exceedances, and  
10.2 procedures for mitigating noncompliances.

10.3 G. The schedule of implementation required under Code of Federal Regulations,  
10.4 title 40, section 265.1082, as incorporated in part 7045.0645, when an owner or operator  
10.5 of a facility subject to part 7045.0645 cannot comply with part 7045.0540 by the date  
10.6 of permit issuance.

10.7 **7001.0650 INTERIM STATUS.**

10.8 Subpart 1. **Qualifying for interim status.** Except as provided in subpart 2,  
10.9 during the period after the submission of Part A of a hazardous waste facility permit  
10.10 application to the Environmental Protection Agency or to the commissioner and before  
10.11 a final determination by the agency on the permit application, the owner or operator of  
10.12 an existing hazardous waste facility or a facility in existence on the effective date of  
10.13 statutory or regulatory amendments under the Resource Conservation and Recovery Act  
10.14 that render the facility subject to the requirement to have a hazardous waste facility permit  
10.15 shall be considered to be in compliance with the requirement to obtain a permit if the  
10.16 commissioner finds that the Environmental Protection Agency has granted the owner or  
10.17 operator interim status or if the commissioner finds:

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

10.19 B. that the owner or operator is in compliance with parts 7045.0552 to  
10.20 7045.0651;

10.21 [For text of items C and D, see M.R.]

10.22 [For text of subps 2 and 3, see M.R.]

10.23 Subp. 4. **Prohibitions.** During the interim status period, an owner or operator  
10.24 shall not:

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

11.1 D. alter a hazardous waste facility in a manner that amounts to a reconstruction  
11.2 of the facility. For the purpose of this part, reconstruction occurs when the capital

11.3 investment in the modification of the facility exceeds 50 percent of the capital cost of a  
11.4 comparable new hazardous waste facility. Reconstruction does not include changes made  
11.5 solely for the purpose of complying with the requirements of part 7045.0628, subpart 4,  
11.6 for tanks and ancillary equipment, or to treat or store in containers, tanks, or containment  
11.7 buildings hazardous wastes subject to the land disposal restrictions under part 7045.1390  
11.8 or RCRA section 3004, if the changes are made solely to comply with part 7045.1390  
11.9 or RCRA section 3004.

11.10 Subp. 5. **Changes during interim status.** Except as provided in item F, an owner or  
11.11 operator who has interim status may conduct the activities prescribed in items A to F.

11.12 [For text of items A and B, see M.R.]

11.13 C. The owner or operator may add new processes or change the processes  
11.14 for the treatment, storage, or disposal of hazardous waste if, before implementation of  
11.15 the addition or change, the owner or operator submits a revised Part A of the permit  
11.16 application and an explanation of the need for the addition, and if the commissioner  
11.17 approves the addition or change in writing. The commissioner shall approve the addition  
11.18 or change if the commissioner finds that:

11.19 [For text of subitem (1), see M.R.]

11.20 (2) the addition or change is necessary for the owner or operator to comply  
11.21 with federal, Minnesota, or local requirements, including the interim status standards in  
11.22 parts 7045.0552 to 7045.0651.

11.23 [For text of items D and E, see M.R.]

11.24 F. Except as specifically allowed under this item, changes listed under items A to  
11.25 E may not be made if they amount to reconstruction of the hazardous waste management  
12.1 facility. Reconstruction occurs when the capital investment in the changes to the facility  
12.2 exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste

12.3 management facility. If all other requirements are met, the following changes may be  
12.4 made even if they amount to reconstruction:

12.5 [For text of subitems (1) to (5), see M.R.]

12.6 (6) changes to treat or store, in tanks, containers, or containment buildings,  
12.7 hazardous wastes subject to land disposal restrictions imposed by part 7045.1390 or  
12.8 RCRA section 3004, provided that such changes are made solely for the purpose of  
12.9 complying with part 7045.1390 or RCRA section 3004.

12.10 Subp. 6. **Compliance with interim status standards.** During the interim status  
12.11 period the owner or operator shall comply with the interim status standards in parts  
12.12 7045.0552 to 7045.0651.

12.13 Subp. 7. **Termination of interim status.** Interim status terminates automatically  
12.14 when the agency has taken final administrative action on the permit application or when  
12.15 terminated by Code of Federal Regulations, title 40, section 270.73(c) to (g), as amended.  
12.16 The following constitute justification for the commissioner to commence proceedings to  
12.17 terminate interim status:

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

12.19 B. the commissioner finds that the owner or operator is in violation of any of the  
12.20 requirements of parts 7045.0552 to 7045.0651.

12.21 **7001.0690 EMERGENCY PERMITS.**

12.22 [For text of subps 1 to 5, see M.R.]

12.23 Subp. 6. **Requirements.** The emergency permit must incorporate, to the extent  
12.24 possible under the circumstances, all applicable requirements of parts 7001.0500 to  
12.25 7001.0730, 7045.0450 to 7045.0551, 7045.0652, and 7045.0655.

13.1 [For text of subps 7 and 8, see M.R.]

13.2 **7001.0700 HAZARDOUS WASTE THERMAL TREATMENT FACILITY**  
13.3 **PERMITS.**

13.4 [For text of subps 1 and 2, see M.R.]

13.5 Subp. 3. **Trial burn plan.** An applicant shall submit to the commissioner a trial  
13.6 burn plan with Part B of the permit application. The trial burn plan must include the  
13.7 following information:

13.8 A. the results of an analysis of each waste or mixture of wastes to be burned,  
13.9 that uses the analytical techniques set forth in the United States Environmental Protection  
13.10 Agency document SW-846 as incorporated in part 7045.0065 or that uses analytical  
13.11 techniques found by the commissioner to be equivalent to them. This analysis must  
13.12 include:

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

13.14 (5) an approximate quantification of the hazardous constituents identified in  
13.15 the waste, within the precision specified by Environmental Protection Agency publication  
13.16 SW-846, as incorporated in part 7045.0065;

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

13.18 [For text of subps 4 to 11, see M.R.]

13.19 **7001.0710 LAND TREATMENT DEMONSTRATION PERMITS.**

13.20 Subpart 1. **Letters of approval.** A person who desires to conduct controlled  
13.21 laboratory demonstrations of hazardous waste land treatment for the purpose of collecting  
13.22 preliminary data shall request a letter of approval from the agency.

13.23 The agency shall issue a letter of approval if the demonstration will be conducted  
13.24 under supervised conditions in a closed system capable of providing adequate protection  
13.25 to human health and the environment, and if the data obtained will not be used as the  
14.1 only basis for the issuance of a facility permit. The letter of approval must specify the

14.2 general conditions for conducting demonstrations, the duration of approval, and the  
14.3 specific waste types.

14.4 The letter of approval may only provide approval for controlled laboratory  
14.5 demonstrations of hazardous waste treatment and does not provide exemptions from  
14.6 the hazardous waste management and disposal requirements of chapter 7045. Materials  
14.7 resulting from the demonstration that meet the criteria of parts 7045.0102 to 7045.0155  
14.8 must be managed as hazardous waste.

14.9 [For text of subps 2 to 6, see M.R.]

14.10 **7001.0730 MODIFICATION OF PERMITS; REVOCATION AND REISSUANCE**  
14.11 **OF PERMITS.**

14.12 [For text of subps 1 to 3, see M.R.]

14.13 Subp. 4. **Minor modifications of permits.** In addition to the corrections or  
14.14 allowances listed in part 7001.0190, subparts 2 and 3, if the permittee consents, the  
14.15 commissioner may modify a permit to make the corrections or allowances listed below  
14.16 without following the procedures in parts 7001.0100 to 7001.0130:

14.17 [For text of items A to K, see M.R.]

14.18 L. to allow treatment of hazardous wastes not previously specified in the permit  
14.19 if the following conditions are met:

14.20 (1) the hazardous waste has been prohibited from one or more methods of  
14.21 land disposal under Code of Federal Regulations, title 40, sections 268.30 to 268.39, as  
14.22 incorporated in part 7045.1390, or RCRA section 3004;

14.23 (2) treatment is in accordance with Code of Federal Regulations, title 40,  
14.24 section 268.4, as incorporated in part 7045.1390, if applicable, and section 268.3, as  
14.25 incorporated in part 7045.1390, and applicable standards established under Code of  
15.1 Federal Regulations, title 40, sections 268.41 to 268.49, and 268.5, as incorporated in part

15.2 7045.1390, or, where no treatment standards have been established, treatment renders the  
15.3 waste no longer subject to the applicable prohibitions of Code of Federal Regulations, title  
15.4 40, section 268.32, as incorporated in part 7045.1390, or RCRA section 3004;

15.5 [For text of subitems (3) and (4), see M.R.]

15.6 M. to allow permitted facilities to change their operations to treat or store  
15.7 hazardous wastes subject to land disposal restrictions imposed by part 7045.1390 or  
15.8 RCRA section 3004, provided the treatment or storage occurs in containers or tanks  
15.9 and the permittee:

15.10 (1) requests a major permit modification under subparts 1 to 3;

15.11 (2) demonstrates in the request for a major permit modification that the  
15.12 treatment or storage is necessary to comply with the land disposal restrictions of part  
15.13 7045.1390 or RCRA section 3004; and

15.14 (3) ensures that the treatment or storage units comply with the applicable  
15.15 standards of parts 7045.0552 to 7045.0651 and 7045.1390 pending final administrative  
15.16 disposition of the major modification request. The authorization to make the changes  
15.17 conferred in this item terminates upon final administrative disposition of the permittee's  
15.18 major modification request under subparts 1 to 3 or termination of the permit under part  
15.19 7001.0180.

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

15.21 **7045.0020 DEFINITIONS.**

15.22 [For text of subps 1 to 9a, see M.R.]

15.23 Subp. 9b. **Combustible liquid.** "Combustible liquid" has the meaning given in Code  
15.24 of Federal Regulations, title 49, section 173.120, paragraph (b), as amended.

15.25 [For text of subps 9c to 11, see M.R.]

16.1 Subp. 11a. **Containment building.** "Containment building" means a hazardous  
16.2 waste management unit that is used to store or treat hazardous waste under the provisions  
16.3 of parts 7045.0550 and 7045.0649.

16.4 [For text of subps 12 to 22a, see M.R.]

16.5 Subp. 22b. **Excluded scrap metal.** "Excluded scrap metal" means processed scrap  
16.6 metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

16.7 Subp. 22c. **Existing drip pad.** "Existing drip pad" means a drip pad that:

16.8 A. is or was used to manage hazardous waste with the waste code of F032 and  
16.9 was constructed, or for which the owner or operator had a design and had entered into  
16.10 binding financial or other agreements for construction, before December 6, 1990; or

16.11 B. is used to manage hazardous waste with the waste code of F034 or F035 and  
16.12 was constructed, or for which the owner or operator had a design and had entered into  
16.13 binding financial or other agreements for construction, before July 25, 1994.

16.14 Subp. 22d. **Existing hazardous waste management facility or existing facility.**  
16.15 "Existing hazardous waste management facility" or "existing facility" means a facility  
16.16 which was in operation or for which construction commenced on or before November 19,  
16.17 1980. See subpart 10b for definition of "construction commenced."

16.18 [For text of subps 23 to 24a, see M.R.]

16.19 Subp. 24b. **Flammable liquid.** "Flammable liquid" has the meaning given in Code  
16.20 of Federal Regulations, title 49, section 173.120, as amended.

16.21 [For text of subps 25 to 30, see M.R.]

16.22 Subp. 31. **Generator.** "Generator" means any person, by site, whose act or process  
16.23 produces hazardous waste identified or listed in parts 7045.0102 to 7045.0155, or whose  
16.24 act first causes a hazardous waste to become subject to regulation. "Generator" means all



17.1 size generators including large quantity generators, small quantity generators, and very  
17.2 small quantity generators, unless specifically stated otherwise.

17.3 [For text of subps 32 to 37, see M.R.]

17.4 Subp. 37a. **Home scrap metal.** "Home scrap metal" means scrap metal as generated  
17.5 by steel mills, foundries, and refineries, such as turnings, cuttings, punchings, and borings.

17.6 Subp. 37b. **Household.** "Household" has the meaning given in Minnesota Statutes,  
17.7 section 115A.96, subdivision 1, paragraph (a).

17.8 Subp. 37c. **Household battery.** "Household battery" means a disposable or  
17.9 rechargeable dry cell, generated by a household and commonly used as a power source for  
17.10 household products. "Household battery" includes nickel-cadmium, alkaline, mercuric  
17.11 oxide, silver oxide, zinc oxide, zinc-air, lithium, and zinc-carbon batteries, but excludes  
17.12 lead-acid batteries.

17.13 Subp. 37d. **Household hazardous waste.** "Household hazardous waste" has the  
17.14 meaning given in Minnesota Statutes, section 115A.96, subdivision 1, paragraph (b).

17.15 Subp. 37e. **Household hazardous waste collection site or collection site.**  
17.16 "Household hazardous waste collection site" or "collection site" as used in part 7045.0310  
17.17 has the meaning established under Minnesota Statutes, section 115A.96, subdivision 1,  
17.18 paragraph (c).

17.19 Subp. 37f. **Household waste.** "Household waste" means any material including  
17.20 garbage, trash, and sanitary waste in septic tanks derived from households, including  
17.21 single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew  
17.22 quarters, campgrounds, picnic grounds, and day-use recreation areas.

17.23 [For text of subps 38 to 45, see M.R.]

17.24 Subp. 45a. [See repealer.]

17.25 [For text of subps 45b to 64a, see M.R.]

18.1 Subp. 65. **Partial closure.** "Partial closure" means the closure of a hazardous  
18.2 waste management unit in accordance with the applicable closure requirements  
18.3 of parts 7045.0450 to 7045.0651 at a facility that contains other active hazardous  
18.4 waste management units. For example, partial closure may include the closure of a  
18.5 tank, including its associated piping and containment systems, a landfill cell, surface  
18.6 impoundment, waste pile, or other hazardous waste management unit, while other units  
18.7 of the same facility continue to operate.

18.8 [For text of subps 66 to 69, see M.R.]

18.9 Subp. 70. **Pile.** "Pile" means any noncontainerized accumulation of solid, nonflowing  
18.10 hazardous waste that is used for treatment or storage and that is not a containment building.

18.11 [For text of subps 70a to 71, see M.R.]

18.12 Subp. 71a. **Polychlorinated biphenyls, PCB, or PCB's.** "Polychlorinated  
18.13 biphenyls, " "PCB," or "PCB's" have the meaning given "PCB" in Minnesota Statutes,  
18.14 section 116.36, subdivision 4.

18.15 Subp. 72. **Pretreatment unit.** "Pretreatment unit" means a device which:

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

18.17 B. receives and treats or stores an influent wastewater which is a hazardous  
18.18 waste as defined in parts 7045.0102 to 7045.0155; or generates and accumulates a  
18.19 wastewater treatment sludge which is a hazardous waste as defined in parts 7045.0102 to  
18.20 7045.0155; or treats or stores a wastewater treatment sludge which is a hazardous waste as  
18.21 defined in parts 7045.0102 to 7045.0155; and

18.22 C. meets the definition of "tank" as defined in subpart 90.

18.23 [For text of subp 72a, see M.R.]

18.24 Subp. 72b. **Processed scrap metal.** "Processed scrap metal" means scrap metal  
18.25 that has been manually or physically altered to either separate it into distinct materials

19.1 to enhance economic value or to improve the handling of materials. Processed scrap  
19.2 metal includes, but is not limited to, scrap metal that has been baled, shredded, sheared,  
19.3 chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted) and fines,  
19.4 drosses, and related materials that have been agglomerated. Shredded circuit boards being  
19.5 sent for recycling are not processed scrap metal. When recycled, shredded circuit boards  
19.6 are governed by part 7045.0125, subpart 4, item P.

19.7 Subp. 72c. **Prompt scrap metal.** "Prompt scrap metal" means scrap metal as  
19.8 generated by the metal working or fabrication industries and includes such scrap metal as  
19.9 turnings, cuttings, punchings, and borings. Prompt scrap metal is also known as industrial  
19.10 or new scrap metal.

19.11 [For text of subps 73 to 84, see M.R.]

19.12 Subp. 84a. **Sorbent or sorb.** "Sorbent" means a material that is used to soak up  
19.13 free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb  
19.14 or absorb, or both.

19.15 Subp. 84b. **Speculative accumulation.** "Speculative accumulation" means  
19.16 accumulation of a hazardous waste before it is recycled. Speculative accumulation does  
19.17 not include accumulation of a waste if there is a feasible method of recycling for the waste  
19.18 and at least 75 percent by volume or weight of the waste is recycled during a calendar  
19.19 year. The 75 percent requirement applies to each waste of the same type that is recycled in  
19.20 the same way.

19.21 Subp. 84c. **Spent material.** "Spent material" means a material that has been  
19.22 used and as a result of contamination can no longer serve the purpose for which it was  
19.23 produced without processing.

19.24 [For text of subps 85 to 98a, see M.R.]

20.1 Subp. 98b. **Underlying hazardous constituent.** "Underlying hazardous constituent"  
20.2 means any constituent listed in Code of Federal Regulations, title 40, section 268.48,  
20.3 Table UTS - Universal Treatment Standards, as incorporated in part 7045.1390, except  
20.4 fluoride, selenium, sulfides, vanadium, and zinc, which can reasonably be expected to be  
20.5 present at the point of generation of the hazardous waste at a concentration above the  
20.6 constituent-specific UTS treatment standards.

20.7 Subp. 98c. **Unfit for use tank system.** "Unfit for use tank system" means a tank  
20.8 system that has been determined through an integrity assessment or other inspection to  
20.9 be no longer capable of storing or treating hazardous waste without posing a threat of  
20.10 release of hazardous waste to the environment.

20.11 Subp. 98d. **Universal waste.** "Universal waste" has the meaning given at Code of  
20.12 Federal Regulations, title 40, section 273.9.

20.13 Subp. 98e. **Universal waste handler.** "Universal waste handler" has the meaning  
20.14 given at Code of Federal Regulations, title 40, section 273.9.

20.15 Subp. 98f. **Universal waste transporter.** "Universal waste transporter" has the  
20.16 meaning given at Code of Federal Regulations, title 40, section 273.9.

20.17 [For text of subps 99 to 102b, see M.R.]

20.18 Subp. 102c. **Wastewater.** "Wastewater" means waste that contains less than one  
20.19 percent by weight total organic carbon (TOC) and less than one percent by weight total  
20.20 suspended solids (TSS), with the following exceptions:

20.21 A. F001, F002, F003, F004, or F005 wastewaters are solvent-water mixtures  
20.22 that contain less than one percent by weight total organic carbon or less than one percent  
20.23 by weight total F001, F002, F003, F004, or F005 solvent constituents listed in Code of  
20.24 Federal Regulations, title 40, section 268.40, as incorporated in part 7045.1390;

20.25 [For text of items B and C, see M.R.]

21.1 Subp. 103. **Wastewater treatment unit.** "Wastewater treatment unit" means a  
21.2 device which:

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

21.4 B. receives and treats or stores an influent wastewater which is a hazardous  
21.5 waste as defined in parts 7045.0102 to 7045.0155; or generates and accumulates a  
21.6 wastewater treatment sludge which is a hazardous waste as defined in parts 7045.0102 to  
21.7 7045.0155; or treats or stores a wastewater treatment sludge which is a hazardous waste as  
21.8 defined in parts 7045.0102 to 7045.0155; and

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

21.10 [For text of subps 104 to 109, see M.R.]

21.11 **7045.0065 INCORPORATION AND AVAILABILITY OF REFERENCES.**

21.12 The documents referred to in this part are incorporated by reference. The documents  
21.13 are not subject to frequent change, unless otherwise noted, and are available online or  
21.14 through the Minitex interlibrary loan system, unless otherwise noted:

21.15 A. the implicit price deflator for gross domestic product from the Bureau of  
21.16 Economic Analysis, United States Department of Commerce. This document is subject  
21.17 to frequent change and is readily available at the Bureau of Economic Analysis Web  
21.18 site: [www.bea.gov](http://www.bea.gov);

21.19 B. the most recent edition of the Uniform Customs and Practice for Documentary  
21.20 Credits, published by the International Chamber of Commerce;

21.21 C. Standard Industrial Classification Manual issued by the Office of Management  
21.22 and Budget, Executive Office of the President of the United States (1987); and

21.23 D. the documents found in Code of Federal Regulations, title 40, section 260.11,  
21.24 as amended.

22.1 **7045.0071 UNDERGROUND INJECTION.**

22.2 References to underground injection of waste throughout this chapter are subject  
22.3 to Minnesota statutes and rules prohibiting the discharge of waste or pollutants to the  
22.4 saturated or unsaturated zones.

22.5 **7045.0075 PETITIONS.**

22.6 Subpart 1. **Petitions for equivalent testing or analytical methods.** Any person  
22.7 seeking to use a testing or analytical method other than those described in parts 7045.0102  
22.8 to 7045.0155 or 7045.0450 to 7045.0651 may petition under these provisions. The person  
22.9 must demonstrate to the satisfaction of the commissioner that the proposed method  
22.10 is equal to or superior to the corresponding method prescribed in parts 7045.0102 to  
22.11 7045.0155 or 7045.0450 to 7045.0651 in terms of its sensitivity, accuracy, precision, and  
22.12 reproducibility. Each petition must include:

22.13 [For text of items A to D, see M.R.]

22.14 E. comparative results obtained from using the proposed method with those  
22.15 obtained from using the relevant or corresponding methods prescribed in parts 7045.0102  
22.16 to 7045.0155 or 7045.0450 to 7045.0651;

22.17 [For text of items F and G, see M.R.]

22.18 Subp. 2. **Petitions to exclude a waste produced at a particular facility.** Petitions  
22.19 to exclude a waste produced at a particular facility are as follows:

22.20 [For text of items A to D, see M.R.]

22.21 E. If the waste is listed with code "T" in part 7045.0135, subitems (1) to (4)  
22.22 apply.

22.23 (1) The petitioner must demonstrate that the waste:

22.24 (a) does not contain the constituent or constituents in part 7045.0141  
22.25 that caused the agency to list the waste, using the appropriate test methods prescribed in

23.1 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication  
23.2 SW-846, incorporated by reference in part 7045.0065, item D; or

23.3 [For text of unit (b), see M.R.]

23.4 [For text of subitems (2) to (4), see M.R.]

23.5 [For text of items F to H, see M.R.]

23.6 Subp. 3. **Petition for reduced regulation of hazardous waste being speculatively**  
23.7 **accumulated or reclaimed prior to use.** The agency may, upon presentation of a  
23.8 petition for those purposes, reduce any of the requirements of chapter 7045 applicable to  
23.9 reclamation, reuse, or recycling. The agency shall apply the standards and criteria set forth  
23.10 below in determining whether to grant a petition to reduce the regulatory requirements for  
23.11 the following recycled hazardous wastes.

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

23.13 B. Any person seeking a reduction in regulation of hazardous wastes that are  
23.14 reclaimed and then reused as feedstock within the original production process in which the  
23.15 hazardous wastes were generated if the reclamation is an essential part of the production  
23.16 process may petition under these provisions. The agency's decision regarding the petition  
23.17 shall be based on the following standards and criteria:

23.18 [For text of subitems (1) to (8), see M.R.]

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

23.20 [For text of subp 4, see M.R.]

23.21 Subp. 5. **Petition for use of alternate manifest.** A person who meets the criteria  
23.22 in item A may submit a petition to the commissioner for approval of the use of an  
23.23 alternate manifest system as described in item B. The criteria the commissioner shall use  
23.24 in determining whether to approve the use of the alternate manifest system are provided  
23.25 in item C.

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

24.2 B. Upon approval, an alternate manifest system may be used in lieu of the  
24.3 manifest system described in parts 7045.0261 ~~and~~ to 7045.0265. The commissioner shall  
24.4 only approve alternate manifest systems meeting the following criteria:

24.5 (1) The alternate manifest system must include a manifest form to be  
24.6 used by the generator to notify the commissioner each time waste is transported under  
24.7 this subpart. The manifest form must include: a space for the generator's name, mailing  
24.8 address, telephone number, and identification number; a space for the transporter's  
24.9 name and identification number; a space for the name, address, telephone number, and  
24.10 identification number of the recycling facility; a space for the United States Department  
24.11 of Transportation shipping name, hazard class, identification number, and packing group  
24.12 of the waste as specified in the United States Department of Transportation Code, title  
24.13 49, parts 171 to 199; a space for the number and type of containers and total volume of  
24.14 the waste being shipped; a space for the waste identification number as specified in part  
24.15 7045.0131, 7045.0135, or 7045.0137; a space for the signature of the generator or the  
24.16 generator's authorized representative affirming the correctness of the information; the  
24.17 mailing address of the commissioner; and a statement advising the generator to complete  
24.18 the form and submit it to the commissioner within five working days of transporting waste.

24.19 [For text of subitems (2) and (3), see M.R.]

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

24.21 [For text of subps 6 and 7, see M.R.]

24.22 Subp. 8. [See repealer.]

24.23 Subp. 9. **Petitions to allow land disposal of a prohibited waste.** A person seeking  
24.24 an exemption from a prohibition for the disposal of a restricted hazardous waste in a  
24.25 particular unit or units must submit a petition to the agency and to the EPA demonstrating,



25.1 to a reasonable degree of certainty, that there will be no migration of hazardous  
25.2 constituents from the disposal unit or injection zone for as long as the wastes remain  
25.3 hazardous. The demonstration to the EPA must include the provisions in Code of Federal  
25.4 Regulations, title 40, section 268.6. The demonstration to the agency must include an  
25.5 identification of the specific waste and the specific unit for which the demonstration will  
25.6 be made, a waste analysis to describe fully the chemical and physical characteristics of the  
25.7 subject waste, and a comprehensive characterization of the disposal unit site including an  
25.8 analysis of background air, soil, and water quality. The demonstration must also include  
25.9 a monitoring plan that detects migration at the earliest practicable time, and sufficient  
25.10 information to assure the commissioner that the owner or operator of a land disposal unit  
25.11 receiving restricted wastes will comply with other applicable federal, state, and local laws.  
25.12 The person seeking the exemption must also comply with items A to L.

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

25.14 D. If the owner or operator determines that there is migration of hazardous  
25.15 constituents from the unit, the owner or operator must immediately suspend receipt of  
25.16 prohibited waste at the unit and notify the commissioner in writing within ten days of the  
25.17 determination that a release has occurred. Within 60 days of receiving the notification,  
25.18 the commissioner shall determine whether the owner or operator can continue to receive  
25.19 prohibited waste in the unit and whether the variance is to be revoked. The commissioner  
25.20 shall also determine whether further examination of any migration is warranted under  
25.21 applicable provisions of parts 7045.0450 to 7045.0651.

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

25.23 J. Before the agency's decision, the applicant must comply with all restrictions on  
25.24 land disposal under part 7045.1390 when the effective date for the waste has been reached.

25.25 [For text of items K and L, see M.R.]

25.26 Subp. 10. [See repealer.]

26.1 [For text of subps 11 and 12, see M.R.]

26.2 **7045.0090 ADOPTION AND INCORPORATION BY REFERENCE.**

26.3 Subpart 1. **Applicability.** Except as specified in subparts 2 and 3, the terms  
26.4 and standards identified in subparts 1a to 1h apply whenever federal regulations are  
26.5 incorporated by reference in this chapter whether or not this part is specifically referenced.  
26.6 Terms used in incorporated Code of Federal Regulations, title 40, and defined in part  
26.7 7045.0020 or in Minnesota Statutes have the meaning given in part 7045.0020 or in  
26.8 Minnesota Statutes.

26.9 Subp. 1a. **Specific terms.** The following terms and phrases have the meaning given.

26.10 A. "EPA" and "agency" mean the Pollution Control Agency.

26.11 B. "Regional administrator," "administrator," and "director" mean the  
26.12 commissioner of the Pollution Control Agency.

26.13 C. "State," "authorized state," "approved state," or "approved program" means  
26.14 Minnesota.

26.15 D. "Generator," "hazardous waste," and "waste" have the meanings given  
26.16 in part 7045.0020.

26.17 Subp. 1b. **Hazardous waste management system general standards; Code of**  
26.18 **Federal Regulations, title 40, part 260.** References to the petition processes established  
26.19 in Code of Federal Regulations, title 40, part 260, subpart C, or Code of Federal  
26.20 Regulations, title 40, sections 260.20 to 260.41, mean the petition processes established  
26.21 in part 7045.0075.

26.22 Subp. 1c. **Identification and listing standards; Code of Federal Regulations,**  
26.23 **title 40, part 261.**

27.1 A. References to any section in Code of Federal Regulations, title 40, part 261,  
27.2 subparts A to C, or to Code of Federal Regulations, title 40, sections 261.1 to 261.24,  
27.3 mean parts 7045.0102 to 7045.0131 or part 7045.0214, subpart 3.

27.4 B. References to Code of Federal Regulations, title 40, section 261.4, mean the  
27.5 exclusions listed in part 7045.0120.

27.6 C. References to Code of Federal Regulations, title 40, section 261.6, mean the  
27.7 use, reuse, recycling, and reclamation requirements of part 7045.0125.

27.8 D. References to any section in Code of Federal Regulations, title 40, part 261,  
27.9 subpart D, or to Code of Federal Regulations, title 40, sections 261.30 to 261.38, mean  
27.10 parts 7045.0135 to 7045.0145.

27.11 Subp. 1d. **Standards applicable to generators of hazardous waste, Code of**  
27.12 **Federal Regulations, title 40, part 262.** References to Code of Federal Regulations, title  
27.13 40, part 262, or to any section in Code of Federal Regulations, title 40, sections 262.10 to  
27.14 262.70, mean parts 7045.0205 to 7045.0325.

27.15 Subp. 1e. **Standards applicable to transporters of hazardous waste, Code of**  
27.16 **Federal Regulations, title 40, part 263.** References to any section in Code of Federal  
27.17 Regulations, title 40, sections 263.10 to 263.31, mean parts 7045.0351 to 7045.0397.

27.18 Subp. 1f. **Permitted and interim status standards for owners and operators**  
27.19 **of hazardous waste treatment, storage, and disposal facilities; Code of Federal**  
27.20 **Regulations, title 40, parts 264 and 265.**

27.21 A. References to Code of Federal Regulations, title 40, part 264, subpart F, Code  
27.22 of Federal Regulations, title 40, sections 264.90 to 264.101, Code of Federal Regulations,  
27.23 title 40, part 265, subpart F, or Code of Federal Regulations, title 40, sections 265.90 to  
27.24 265.94, mean the requirements of parts 7045.0484, 7045.0485, 7045.0590, and 7045.0592  
27.25 relating to groundwater protection, monitoring, and corrective action for releases.

28.1 B. References to Code of Federal Regulations, title 40, part 264, subpart H,  
28.2 Code of Federal Regulations, title 40, sections 264.140 to 264.151, Code of Federal  
28.3 Regulations, title 40, part 265, subpart H, or Code of Federal Regulations, title 40, sections  
28.4 265.140 to 265.150, mean the financial assurance requirements of parts 7045.0498 to  
28.5 7045.0524 and 7045.0608 to 7045.0624.

28.6 C. References to Code of Federal Regulations, title 40, part 264, subpart O, Code  
28.7 of Federal Regulations, title 40, sections 264.340 to 264.351, Code of Federal Regulations,  
28.8 title 40, part 265, subpart O, or Code of Federal Regulations, title 40, sections 265.340 to  
28.9 265.352, mean the thermal treatment standards of parts 7045.0542 and 7045.0640.

28.10 D. References to Code of Federal Regulations, title 40, part 264, subpart N,  
28.11 Code of Federal Regulations, title 40, sections 264.300 to 264.317, Code of Federal  
28.12 Regulations, title 40, part 265, subpart N, or Code of Federal Regulations, title 40, sections  
28.13 265.300 to 265.316, mean the landfill standards of parts 7045.0538 and 7045.0638.

28.14 Subp. 1g. **Permit requirements; Code of Federal Regulations, title 40, part 270.**  
28.15 References to Code of Federal Regulations, title 40, part 270, subparts A to H, Code  
28.16 of Federal Regulations, title 40, sections 270.1 to 270.230, or any other reference to a  
28.17 hazardous waste facility permit mean the hazardous waste facility permit requirements in  
28.18 parts 7001.0500 to 7001.0730.

28.19 Subp. 1h. **Other standards.**

28.20 A. References to Code of Federal Regulations, title 40, part 273, mean part  
28.21 7045.1400 (universal waste).

28.22 B. References to Code of Federal Regulations, title 40, part 279, mean parts  
28.23 7045.0692 to 7045.0990 (used oil).

29.1 C. References to underground injection of waste in any Code of Federal  
29.2 Regulations incorporated in this chapter are subject to Minnesota Statutes and rules  
29.3 prohibiting the discharge of waste or pollutants to the saturated or unsaturated zones.

29.4 D. References to Code of Federal Regulations, title 40, part 266, subpart C,  
29.5 mean part 7045.0665 (uses constituting disposal).

29.6 E. References to Code of Federal Regulations, title 40, part 266, subpart F, mean  
29.7 part 7045.0675 (precious metal recovery).

29.8 F. References to Code of Federal Regulations, title 40, part 266, subpart G, mean  
29.9 part 7045.0685 (spent lead-acid batteries being reclaimed).

29.10 [For text of subs 2 and 3, see M.R.]

29.11 Subp. 4. **Applicable law.** When federal regulations incorporated into this chapter  
29.12 cite additional federal regulations and when this chapter does not address whether the  
29.13 cited federal regulations or corresponding state rules apply, state rules shall apply.

#### 29.14 **7045.0102 MIXTURES OF WASTES.**

29.15 Subpart 1. **Scope.** Except as provided in part 7045.0665, subpart 1, mixtures of  
29.16 wastes are identified in subpart 2.

29.17 Subp. 2. **Mixtures of hazardous and nonhazardous wastes.** The mixing of a  
29.18 hazardous waste with a nonhazardous waste as described in this subpart constitutes  
29.19 treatment. Generators who mix hazardous and nonhazardous wastes on site must meet the  
29.20 requirements of part 7045.0211 for generators with on-site facilities. Mixtures excluded  
29.21 under part 7045.0075, subpart 2, are excluded from regulation. Wastes excluded under  
29.22 this subpart are subject to part 7045.1390, even if they no longer exhibit a characteristic at  
29.23 the point of land disposal.

29.24 A. A mixture is a hazardous waste if it contains a waste that is hazardous  
29.25 solely because it exhibits any of the characteristics of ignitability, corrosivity, oxidativity,

30.1 or reactivity identified in part 7045.0131, or contains a hazardous waste listed in part  
30.2 7045.0135 solely because of ignitability, corrosivity, or reactivity, and the resulting  
30.3 mixture exhibits any characteristic of a hazardous waste identified in part 7045.0131.

30.4 B. Except as provided in item D or E, a mixture is a hazardous waste if it  
30.5 contains a waste listed for toxicity in part 7045.0135.

30.6 C. Except as provided in item D, a mixture is a hazardous waste if it contains a  
30.7 waste that exhibits the characteristic of toxicity or lethality identified in part 7045.0131.

30.8 D. A mixture is a hazardous waste if it is a sewerage mixture of nonhazardous  
30.9 waste and any waste which is hazardous because it exhibits the characteristics of toxicity  
30.10 or lethality as defined in part 7045.0131 unless:

30.11 (1) prior to entering the sewer the resulting mixture no longer exhibits the  
30.12 characteristic of toxicity or lethality; and

30.13 (2) the sewerage of the mixture has been approved by the agency pursuant  
30.14 to parts 7045.0221 to 7045.0255.

30.15 This provision does not apply to those mixtures defined as nonhazardous under item E.

30.16 E. Except as otherwise provided in item A, B, or D, the following sewerage  
30.17 mixtures are not hazardous wastes if the generator can demonstrate that the mixture  
30.18 consists of wastewater, the discharge of which is subject to regulation under either section  
30.19 307(b) or 402 of the Clean Water Act, including wastewater at facilities which have  
30.20 eliminated the discharge of wastewater; and

30.21 (1) one or more of the following spent solvents listed in part 7045.0135,  
30.22 subpart 1a, item B: carbon tetrachloride, tetrachloroethylene, trichloroethylene; provided  
30.23 that the solvents are discharged into the wastewater stream as a result of normal  
30.24 manufacturing operations and provided further that the maximum total weekly usage of  
30.25 these solvents, other than the amounts that can be demonstrated not to be discharged to

31.1 wastewater, divided by the average weekly flow of wastewater into the headworks of  
31.2 the facility's wastewater treatment or pretreatment system does not exceed one part per  
31.3 million;

31.4 (2) one or more of the following spent solvents listed in part 7045.0135,  
31.5 subpart 1a, item B: methylene chloride, 1,1,1-trichloroethane, chlorobenzene,  
31.6 o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone,  
31.7 carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents; provided that  
31.8 the solvents are discharged into the wastewater stream as a result of normal manufacturing  
31.9 operations and provided further that the maximum total weekly usage of these solvents,  
31.10 other than the amounts that can be demonstrated not to be discharged to wastewater,  
31.11 divided by the average weekly flow of wastewater into the headworks of the facility's  
31.12 wastewater treatment or pretreatment system does not exceed 25 parts per million;

31.13 (3) heat exchanger bundle cleaning sludge from the petroleum refining  
31.14 industry, EPA Hazardous Waste No. K050 as listed in part 7045.0135, subpart 1a, item C;

31.15 (4) a discarded commercial chemical product, or chemical intermediate  
31.16 listed in part 7045.0135, subpart 1a, item D, arising from de minimis losses of these  
31.17 materials from manufacturing operations in which these materials are used as raw  
31.18 materials or are produced in the manufacturing process. De minimis losses include those  
31.19 from normal material handling operations (such as spills from the unloading or transfer of  
31.20 materials from bins or other containers or leaks from pipes, valves, or other devices used  
31.21 to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks  
31.22 from well-maintained pump packings and seals; sample purgings; relief device discharges;  
31.23 discharges from safety showers and rinsing and cleaning of personal safety equipment; and  
31.24 rinsate from empty containers or from containers that are rendered empty by that rinsing;

31.25 (5) wastewater resulting from laboratory operations containing toxic  
31.26 wastes listed in part 7045.0135, provided that the annualized average flow of laboratory

32.1 wastewater does not exceed one percent of total wastewater flow into the headworks  
32.2 of the facility's wastewater treatment or pretreatment system, or provided the waste's  
32.3 combined annualized average concentration does not exceed one part per million in the  
32.4 headworks of the facility's wastewater treatment or pretreatment facility. Toxic wastes  
32.5 used in laboratories that are demonstrated not to be discharged to wastewater are not to  
32.6 be included in this calculation;

32.7 (6) one or more of the following wastes listed in part 7045.0135, subpart  
32.8 1a, item C: wastewaters from the production of carbamates and carbamoyl oximes (EPA  
32.9 Hazardous Waste No. K157), provided that the maximum weekly usage of formaldehyde,  
32.10 methyl chloride, methylene chloride, and triethylamine, including all amounts that can not  
32.11 be demonstrated to be reacted in the process, destroyed through treatment, or is recovered  
32.12 (i.e., what is discharged or volatilized), divided by the average weekly flow of process  
32.13 wastewater prior to any dilutions into the headworks of the facility's wastewater treatment  
32.14 system does not exceed a total of five parts per million by weight; or

32.15 (7) wastewaters derived from the treatment of one or more of the following  
32.16 wastes listed in part 7045.0135, subpart 1a, item C: organic waste, including heavy ends,  
32.17 still bottoms, light ends, spent solvents, filtrates, and decantates, from the production of  
32.18 carbamates and carbamoyl oximes (EPA Hazardous Waste No. K156), provided that  
32.19 the maximum concentration of formaldehyde, methyl chloride, methylene chloride,  
32.20 and triethylamine prior to any dilutions into the headworks of the facility's wastewater  
32.21 treatment system does not exceed a total of five milligrams per liter.

32.22 For the purpose of this item, headworks refers to the influent plumbing of a privately  
32.23 owned national pollutant discharge elimination system, state disposal system, or  
32.24 pretreatment facility or to the facility's point of discharge to a municipal collection system  
32.25 when the treatment facility is a publicly owned wastewater treatment facility.



33.1 F. A mixture of used oil and a hazardous waste is a hazardous waste except  
33.2 as provided in part 7045.0800.

33.3 G. Any mixture of a waste from the extraction, beneficiation, and processing  
33.4 of ores and minerals excluded under part 7045.0120, subpart 1, item I, and any other  
33.5 waste exhibiting a characteristic of hazardous waste under part 7045.0131 is a hazardous  
33.6 waste only if:

33.7 [For text of subitems (1) and (2), see M.R.]

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

33.9 **7045.0120 EXEMPTIONS AND SPECIAL REQUIREMENTS.**

33.10 Subpart 1. **Exempt types of waste.** The following waste may be stored, labeled,  
33.11 transported, treated, processed, and disposed of without complying with the requirements  
33.12 of this chapter:

33.13 [For text of items A to H, see M.R.]

33.14 I. waste from the extraction, beneficiation, and processing of ores and minerals,  
33.15 including coal, phosphate rock, and overburden from the mining of uranium ore. For  
33.16 purposes of this item, beneficiation of ores and minerals is restricted to the following  
33.17 activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting;  
33.18 sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon  
33.19 dioxide; roasting, autoclaving, or chlorination in preparation for leaching (except  
33.20 where the roasting, autoclaving, or chlorination/leaching sequence produces a final or  
33.21 intermediate product that does not undergo further beneficiation or processing); gravity  
33.22 concentration; magnetic separation; electrostatic separation; flotation; ion exchange;  
33.23 solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat,  
33.24 tank, and in situ leaching. For the purposes of this item, waste from the processing of ores  
33.25 and minerals includes only the following wastes as generated:

- 34.1 (1) slag from primary copper processing;
- 34.2 (2) slag from primary lead processing;
- 34.3 (3) red and brown muds from bauxite refining;
- 34.4 (4) phosphogypsum from phosphoric acid production;
- 34.5 (5) slag from elemental phosphorus production;
- 34.6 (6) gasifier ash from coal gasification;
- 34.7 (7) process wastewater from coal gasification;
- 34.8 (8) calcium sulfate wastewater treatment plant sludge from primary copper
- 34.9 processing;
- 34.10 (9) slag tailings from primary copper processing;
- 34.11 (10) fluorogypsum from hydrofluoric acid production;
- 34.12 (11) process wastewater from hydrofluoric acid production;
- 34.13 (12) air pollution control dust or sludge from iron blast furnaces;
- 34.14 (13) iron blast furnace slag;
- 34.15 (14) treated residue from the roasting/leaching of chrome ore;
- 34.16 (15) process wastewater from primary magnesium processing by the
- 34.17 anhydrous process;
- 34.18 (16) process wastewater from phosphoric acid production;
- 34.19 (17) basic oxygen furnace and open hearth furnace air pollution control dust
- 34.20 or sludge from carbon steel production;
- 34.21 (18) basic oxygen furnace and open hearth furnace slag from carbon steel
- 34.22 production;

35.1 (19) chloride process waste solids from titanium tetrachloride production;  
35.2 and

35.3 (20) slag from primary zinc processing.

35.4 A residue derived from coprocessing mineral processing secondary materials with  
35.5 normal beneficiation raw materials or with normal mineral processing raw materials  
35.6 remains excluded under this subpart if the owner or operator processes at least 50 percent  
35.7 by weight normal beneficiation raw materials or normal mineral processing raw materials  
35.8 and legitimately reclaims the secondary mineral processing materials;

35.9 [For text of items J to S, see M.R.]

35.10 T. spent wood preserving solutions that have been reclaimed and reused for  
35.11 their original intended purpose, and wastewaters from the wood preserving process that  
35.12 have been reclaimed and are reused to treat wood if, prior to reuse, the wood preserving  
35.13 wastewaters and spent wood preserving solutions described in this item meet all of the  
35.14 following conditions:

35.15 (1) the wood preserving wastewaters and spent wood preserving solutions  
35.16 are reused on site at waterborne plants in the production process for their original intended  
35.17 purpose;

35.18 (2) prior to reuse, the wood preserving wastewaters and spent wood  
35.19 preserving solutions are managed to prevent release to land resources or waters of the state;

35.20 (3) any unit used to manage wood preserving wastewaters or spent wood  
35.21 preserving solutions prior to reuse can be visually or otherwise determined to prevent  
35.22 such releases;

35.23 (4) any drip pad used to manage the wood preserving wastewaters or spent  
35.24 wood preserving solutions prior to reuse complies with the standards governing drip  
35.25 pads in part 7045.0644; and

36.1 (5) prior to operating pursuant to this exclusion, the plant owner or operator  
36.2 submits to the commissioner a onetime notification stating that the plant intends to claim  
36.3 the exclusion, giving the date on which the plant intends to begin operating under the  
36.4 exclusion, and containing the following language: "I have read the applicable regulation  
36.5 establishing an exclusion for wood preserving wastewaters and spent wood preserving  
36.6 solutions and understand it requires me to comply at all times with the conditions set out  
36.7 in the regulation." The plant must maintain a copy of that document in its on-site records  
36.8 until closure of the facility. The exclusion applies only so long as the plant meets all of the  
36.9 conditions. If the plant goes out of compliance with any condition, the plant owner or  
36.10 operator may apply to the commissioner for reinstatement. Reinstatement is conditioned  
36.11 on the commissioner finding that the plant has returned to compliance with all conditions  
36.12 and that violations are not likely to recur;

36.13 [For text of item U, see M.R.]

36.14 V. used oil rerefining distillation bottoms that are used as feedstock to  
36.15 manufacture asphalt products;

36.16 W. sorbents, soil, and debris contaminated with petroleum fuel from spills and  
36.17 emergencies that are contained and reported in accordance with Minnesota Statutes,  
36.18 section 115.061, except for used oil spills and emergencies; or

36.19 X. spent materials, other than hazardous wastes listed in part 7045.0135,  
36.20 generated within the primary mineral processing industry from which minerals, acids,  
36.21 cyanide, water, or other values are recovered by mineral processing or by beneficiation,  
36.22 provided that:

36.23 (1) the spent material is legitimately recycled to recover minerals, acids,  
36.24 cyanide, water, or other values;

36.25 (2) the spent material is not accumulated speculatively;

37.1 (3) except as provided in subitem (4), the spent material is stored in tanks,  
37.2 containers, or buildings meeting the following minimum integrity standards: a building  
37.3 must be an engineered structure with a floor, walls, and a roof, all of which are made of  
37.4 nonearthen materials providing structural support (except smelter buildings may have  
37.5 partially earthen floors provided the spent material is stored on the nonearthen portion),  
37.6 and have a roof suitable for diverting rainwater away from the foundation; a tank must be  
37.7 freestanding, not be a surface impoundment, and be manufactured of a material suitable  
37.8 for containment of its contents; a container must be freestanding and be manufactured  
37.9 of a material suitable for containment of its contents. If tanks or containers contain any  
37.10 particulate that may be subject to wind dispersal, the owner or operator must operate  
37.11 these units in a manner that controls fugitive dust. Tanks, containers, and buildings must  
37.12 be designed, constructed, and operated to prevent releases to the environment of these  
37.13 materials;

37.14 (4) the commissioner may make a site-specific determination, upon  
37.15 application by the owner or operator and after public review and comment, that only  
37.16 solid mineral processing spent material may be placed on pads rather than in tanks,  
37.17 containers, or buildings. Solid mineral processing spent materials must not contain any  
37.18 free liquid. The commissioner must affirm that pads are designed, constructed, and  
37.19 operated to prevent releases of the spent material into the environment. Pads must provide  
37.20 the same degree of containment afforded by the tanks, containers, and buildings eligible  
37.21 for exclusion in subitem (3):

37.22 (a) the commissioner must also consider if storage on pads poses the  
37.23 potential for releases via groundwater, surface water, and air exposure pathways. Factors  
37.24 to be considered for assessing the groundwater, surface water, and air exposure pathways  
37.25 are the volume and physical and chemical properties of the spent material, including its  
37.26 potential for migration off the pad; the potential for human or environmental exposure  
37.27 to hazardous constituents migrating from the pad via each exposure pathway; and the

38.1 possibility and extent of harm to human and environmental receptors via each exposure  
38.2 pathway;

38.3 (b) pads must meet the following minimum standards: be designed of  
38.4 nonearthen material that is compatible with the chemical nature of the mineral processing  
38.5 spent material, be capable of withstanding physical stresses associated with placement and  
38.6 removal, have run-on/runoff controls, be operated in a manner that controls fugitive dust,  
38.7 and have integrity assurance through inspections and maintenance programs; and

38.8 (c) before making a determination under this subitem, the  
38.9 commissioner must provide notice and the opportunity for comment to all persons  
38.10 potentially interested in the determination in accordance with part 7001.0100, subpart 5;

38.11 (5) the owner or operator provides a notice to the commissioner, providing  
38.12 the following information: the types of materials to be recycled, the type and location of  
38.13 the storage units and recycling processes, and the annual quantities expected to be placed  
38.14 in land-based units. This notification must be updated when there is a change in the type  
38.15 of materials recycled or the location of the recycling process; and

38.16 (6) for purposes of this item, mineral processing spent materials must be  
38.17 the result of mineral processing and may not include any listed hazardous wastes. Listed  
38.18 hazardous wastes and characteristic hazardous wastes generated by nonmineral processing  
38.19 industries are not eligible for the exemption in this item.

38.20 Subp. 2. **Special requirements.** The following waste is exempt from the general  
38.21 requirements of this chapter if managed as specified:

38.22 A. waste collected as a result of a household hazardous waste management  
38.23 program under part 7045.0310;

38.24 B. spent or waste household batteries collected under part 7045.0686;

39.1 C. waste collected as a result of a very small quantity generator hazardous waste  
39.2 collection program under part 7045.0320;

39.3 D. feedstocks and by-products under part 7045.0125, subparts 5 and 6;

39.4 E. comparable fuels or comparable syngas fuels that meet the specifications and  
39.5 other requirements of Code of Federal Regulations, title 40, section 261.38, as amended,  
39.6 which is adopted and incorporated by reference;

39.7 F. universal waste managed under part 7045.1400; and

39.8 G. hazardous waste containing radioactive waste when it meets the eligibility  
39.9 criteria and conditions of Code of Federal Regulations, title 40, part 266, subpart N,  
39.10 Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation  
39.11 and Disposal, as amended. This exemption also pertains to:

39.12 (1) any mixture of a waste and an eligible radioactive mixed waste; and

39.13 (2) any waste generated from treating, storing, or disposing of an eligible  
39.14 radioactive mixed waste.

39.15 Waste exempted under this item must meet the eligibility criteria and specified  
39.16 conditions in Code of Federal Regulations, title 40, sections 266.225 and 266.230 (for  
39.17 storage and treatment), as amended, and 266.310 and 266.315 (for transportation and  
39.18 disposal), as amended. Waste that fails to satisfy these eligibility criteria and conditions  
39.19 is regulated as hazardous waste.

39.20 **7045.0121 TREATABILITY STUDY EXEMPTIONS.**

39.21 [For text of subps 1 and 2, see M.R.]

39.22 Subp. 3. **Facilities and sample handling.** A mobile treatment unit may qualify as  
39.23 a laboratory or testing facility subject to requirements of this subpart. Where a group  
39.24 of mobile treatment units are located at the same site, the limitations specified in this  
39.25 subpart apply to the entire group of mobile treatment units involved in treatability

40.1 studies collectively as if the group were one mobile treatment unit. Samples undergoing  
40.2 treatability studies and the laboratory or testing facility conducting the treatability studies,  
40.3 to the extent the facilities are engaged directly in treatability studies and are not otherwise  
40.4 subject to the Resource Conservation and Recovery Act requirements, United States Code,  
40.5 title 42, section 6901 et seq., as amended, are not subject to any requirements of Code of  
40.6 Federal Regulations, title 40, part 124, as amended; parts 7045.0102 to 7045.0685 except  
40.7 this part and applicable references; part 7045.1390; chapter 7001; or to the notification  
40.8 requirements of the Resource Conservation and Recovery Act, United States Code, title  
40.9 42, section 6930, as amended, providing that the conditions in items A to K are met.

40.10 [For text of items A to K, see M.R.]

40.11 **7045.0125 MANAGEMENT OF WASTE BY USE, REUSE, RECYCLING, AND**  
40.12 **RECLAMATION.**

40.13 [For text of subps 1 to 3a, see M.R.]

40.14 Subp. 4. **Management of specific hazardous wastes.** Management of the following  
40.15 wastes when recycled, is not subject to regulation under parts 7045.0205 to 7045.0695  
40.16 and 7045.1390:

40.17 [For text of items A and B, see M.R.]

40.18 C. scrap metal and excluded scrap metal;

40.19 [For text of items D and E, see M.R.]

40.20 F. EPA Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145,  
40.21 K147, and K148, and any wastes from the coke by-products processes that are hazardous  
40.22 only because they exhibit the toxicity characteristic, specified in part 7045.0131, subpart  
40.23 7, when, subsequent to generation, these materials are recycled to coke ovens, recycled to  
40.24 the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to  
40.25 the tar's sale or refining. This exclusion is conditioned on there being no land disposal of



41.1 the wastes from the point they are generated to the point they are recycled to coke ovens,  
41.2 tar recovery, or refining processes or mixed with coal tar;

41.3 [For text of items G to M, see M.R.]

41.4 N. recyclable fuel, if the following conditions are met:

41.5 (1) the recyclable fuel is immediately removed from the generation site by a  
41.6 transporter in compliance with all applicable Minnesota Department of Transportation  
41.7 requirements in Minnesota Statutes, sections 221.033 to 221.0355, and Code of Federal  
41.8 Regulations, title 49, parts 171 to 199;

41.9 [For text of subitems (2) to (4), see M.R.]

41.10 (5) if, because of a need to conduct waste analysis, recyclable fuel cannot  
41.11 be placed into the recycling process within 24 hours of receipt, the owner or operator of  
41.12 the fuel recycling facility shall contact the commissioner to request an extension of the  
41.13 storage time. A request for an extension can be for a single event or to address an ongoing  
41.14 need for additional time. A request for an extension must be submitted in writing to the  
41.15 commissioner and must include:

41.16 [For text of units (a) and (b), see M.R.]

41.17 (c) a description of how the waste will be managed during the storage  
41.18 period, including the measures that will be in place to prevent releases and how spills  
41.19 will be contained and cleaned up.

41.20 The commissioner's decision to approve holding the waste longer than 24 hours will  
41.21 be based on an evaluation of whether the owner or operator of the recycling facility can  
41.22 provide adequate protection of human health and the environment until the recyclable  
41.23 fuel is placed into the recycling process;

42.1 O. petroleum fuel filters if they are burned for energy recovery under subpart  
42.2 3a, or recycled as scrap metal under item C, and are managed during accumulation and  
42.3 transportation in accordance with the requirements of part 7045.0990, subparts 3 to 5; and

42.4 P. circuit boards or shredded circuit boards being recycled, provided that they  
42.5 are:

42.6 (1) stored in containers sufficient to prevent a release to the environment  
42.7 prior to recovery; and

42.8 (2) free of mercury switches, mercury relays, and nickel-cadmium batteries  
42.9 and lithium batteries.

42.10 **Subp. 5. Requirements for use of hazardous waste as feedstock.**

42.11 A. Except as provided in items B to D, hazardous wastes that are shown to be  
42.12 recycled by being used in a manner specified in subitems (1) to (3), are not subject to  
42.13 regulation under parts 7045.0205 to 7045.0990 and 7045.1390. This subpart does not  
42.14 apply to wastes being accumulated speculatively as defined in part 7045.0020, subpart  
42.15 84a, or being managed by use constituting disposal as regulated under part 7045.0665  
42.16 or burning for energy recovery, as regulated in part 7045.0692. Hazardous wastes are  
42.17 considered to be used as feedstock if they are:

42.18 [For text of subitems (1) to (3), see M.R.]

42.19 [For text of item B, see M.R.]

42.20 C. Transporters of hazardous wastes for use as feedstock must comply with all  
42.21 applicable requirements of Minnesota Statutes, sections 221.033 and 221.0341, and with  
42.22 221.0355 if applicable, and Code of Federal Regulations, title 49, parts 171 to 199, as  
42.23 amended.

42.24 [For text of item D, see M.R.]

42.25 **Subp. 6. Requirements for reclamation of specific hazardous waste.**

43.1 A. A by-product or a sludge that is hazardous only because it exhibits a  
43.2 characteristic of hazardous waste as defined in part 7045.0131 and is reclaimed is subject  
43.3 to only the following requirements:

43.4 (1) A generator of such a hazardous waste is subject to the requirements of  
43.5 subpart 5, item B.

43.6 (2) Transporters of such a hazardous waste must comply with all applicable  
43.7 requirements of Minnesota Statutes, sections 221.033 and 221.0341, and with 221.0355 if  
43.8 applicable, and Code of Federal Regulations, title 49, parts 171 to 199, as amended.

43.9 [For text of subitem (3), see M.R.]

43.10 [For text of item B, see M.R.]

43.11 [For text of subps 7 and 8, see M.R.]

43.12 Subp. 9. **Facility requirements.** Unless exempted specifically in this part or parts  
43.13 7045.0692 and 7045.0790 to 7045.0990, owners and operators of facilities that recycle  
43.14 hazardous waste are subject to the following requirements:

43.15 A. If the recyclable hazardous waste is stored before it is recycled, the owners  
43.16 or operators are subject to the requirements of parts 7045.0450 to 7045.0534, 7045.0540,  
43.17 ~~7045.0547, 7045.0548~~ 7045.0549, 7045.0551, 7045.0552 to 7045.0632, 7045.0645,  
43.18 7045.0647, 7045.0648, 7045.0652 to 7045.0686, and 7045.1390, and chapter 7001. The  
43.19 recycling process itself is exempt from regulation except as provided in item C.

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

43.21 [For text of subps 10 to 13, see M.R.]

43.22 **7045.0127 RESIDUES IN EMPTY CONTAINERS AND EMPTY INNER LINERS.**

43.23 Subpart 1. **Scope.** Any hazardous waste remaining in an empty container or an  
43.24 empty inner liner removed from an empty container, as defined in subparts 2 to 4 is not

44.1 subject to regulation under parts 7045.0102 to 7045.1030 and 7045.1390, or a hazardous  
44.2 waste facility permit. Any hazardous waste in a container or an inner liner removed from  
44.3 a container that is not empty, as defined in subparts 2 to 4, is subject to regulation under  
44.4 parts 7045.0102 to 7045.1030 and 7045.1390, and the agency's permitting procedures.

44.5 Subp. 2. **Empty containers or inner liners; definition.** A container or an inner  
44.6 liner removed from a container that has held any hazardous waste, except a waste that  
44.7 is a compressed gas or that is identified as an acute hazardous waste in part 7045.0135,  
44.8 subpart 1a, items B and C, and Code of Federal Regulations, title 40, section 261.33(e), as  
44.9 incorporated in part 7045.0135, is empty if:

44.10 [For text of items A to D, see M.R.]

44.11 Subp. 3. **Other empty containers or inner liners.** A container or inner liner that  
44.12 has held an acute hazardous waste identified in part 7045.0135, subpart 1a, items B and  
44.13 C, and Code of Federal Regulations, title 40, section 261.33(e), as incorporated in part  
44.14 7045.0135, is empty if:

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

44.16 [For text of subp 4, see M.R.]

#### 44.17 **7045.0131 CHARACTERISTICS OF HAZARDOUS WASTE.**

44.18 Subpart 1. **In general.** A waste which is not excluded from regulation as a hazardous  
44.19 waste under part 7045.0120 is a hazardous waste if it exhibits ignitability, corrosivity,  
44.20 reactivity, toxicity, lethality, or is an oxidizer, as described in subparts 2 to 7. A hazardous  
44.21 waste which is identified by a characteristic in this part is assigned every hazardous waste  
44.22 number that is applicable. This number must be used in complying with the notification  
44.23 requirements of section 3010 of the federal Resource Conservation and Recovery Act  
44.24 and all applicable record keeping and reporting requirements under parts 7045.0205 to  
44.25 7045.0651 and 7045.1390, and chapter 7001. For purposes of this part, the commissioner

45.1 shall consider a sample obtained using any of the applicable sampling methods specified  
45.2 in Code of Federal Regulations, title 40, part 261, Appendix I, as incorporated in part  
45.3 7045.0155, or Toxicity Characteristic Leaching Procedure, Method 1311 in "Test Methods  
45.4 for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846,  
45.5 incorporated by reference in part 7045.0065, item D, to be a representative sample.

45.6 Subp. 2. **Ignitability.** A waste exhibits the characteristic of ignitability if a  
45.7 representative sample of the waste has any of the following properties:

45.8 [For text of items A and B, see M.R.]

45.9 C. it is an ignitable compressed gas as defined in Code of Federal Regulations,  
45.10 title 49, section 173.115, as amended, and as determined by the test methods described  
45.11 in that regulation or equivalent test methods approved by the commissioner under part  
45.12 7045.0075, subpart 1.

45.13 A waste that exhibits the characteristic of ignitability has the hazardous waste number  
45.14 of D001.

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

45.16 Subp. 4. **Corrosivity.** A waste exhibits the characteristic of corrosivity if a  
45.17 representative sample of the waste has any of the following properties:

45.18 A. It is aqueous and has a pH less than or equal to 2.0 or greater than or equal to  
45.19 12.5, as determined by a pH meter using Method 9040C in "Test Methods for Evaluating  
45.20 Solid Waste, Physical/Chemical Methods," EPA publication SW-846, incorporated by  
45.21 reference in part 7045.0065, item D; or

45.22 B. It is liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm  
45.23 (0.250 inch) per year at a test temperature of 55 degrees Celsius (130 degrees Fahrenheit)  
45.24 as determined by the test method specified in National Association of Corrosion Engineers  
45.25 Standard TM-01-69 as standardized in "Test Methods for Evaluating Solid Waste,

46.1 Physical/Chemical Methods," EPA publication SW-846, incorporated by reference in  
46.2 part 7045.0065, item D.

46.3 A waste that exhibits the characteristic of corrosivity has the hazardous waste number  
46.4 of D002.

46.5 Subp. 5. **Reactivity.** A waste exhibits the characteristic of reactivity if a  
46.6 representative sample of the waste has any of the following properties:

46.7 [For text of items A to G, see M.R.]

46.8 H. it is a forbidden explosive as defined in Code of Federal Regulations, title 49,  
46.9 section 173.54, as amended, a Division 1.1 or 1.2 explosive as defined in Code of Federal  
46.10 Regulations, title 49, section 173.50, as amended, or a Division 1.2 or 1.3 explosive as  
46.11 defined in Code of Federal Regulations, title 49, section 173.50, as amended.

46.12 A waste that exhibits the characteristic of reactivity has the hazardous waste number  
46.13 of D003.

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

46.15 Subp. 7. **Toxicity.** Toxicity is determined as follows:

46.16 A. A waste, except manufactured gas plant waste, exhibits the characteristic of  
46.17 toxicity if, using the Toxicity Characteristic Leaching Procedure, Method 1311 in "Test  
46.18 Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication  
46.19 SW-846, incorporated by reference in part 7045.0155, subpart 1, item B, the extract from  
46.20 a representative sample of the waste contains any of the contaminants listed in subpart 8 at  
46.21 a concentration equal to or greater than the respective contaminant values listed. Where  
46.22 the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering  
46.23 using the methodology outlined in Method 1311, is considered to be the extract for the  
46.24 purpose of this evaluation.

46.25 [For text of items B and C, see M.R.]

47.1 [For text of subp 8, see M.R.]

47.2 **7045.0133 EXEMPTION FROM REGULATION DUE TO LETHALITY.**

47.3 Subpart 1. **In general.** A generator's waste that exhibits the characteristics of  
47.4 lethality as described in part 7045.0131, subpart 6, may be exempted from regulation  
47.5 under parts 7045.0102 to 7045.1390 if the generator can demonstrate to the satisfaction of  
47.6 the agency that the waste is not capable of posing a present or potential hazard to human  
47.7 health and the environment if the waste were to be improperly treated, transported, stored,  
47.8 disposed, or managed under routine waste management methods.

47.9 Subp. 2. **Factors to be considered.** In demonstrating that a waste should be  
47.10 exempt from regulation under parts 7045.0102 to 7045.1390, the generator must present  
47.11 information related to the following factors:

47.12 [For text of items A to G, see M.R.]

47.13 **7045.0135 LISTS OF HAZARDOUS WASTES.**

47.14 Subpart 1. [See repealer.]

47.15 Subp. 1a. **Incorporation by reference of federal regulations.** The following lists of  
47.16 hazardous wastes found in Code of Federal Regulations, title 40, part 261, subpart D, as  
47.17 amended, are incorporated by reference:

47.18 A. section 261.30, general;

47.19 B. section 261.31, hazardous wastes from nonspecific sources;

47.20 C. section 261.32, hazardous wastes from specific sources;

47.21 D. section 261.33, discarded commercial chemical products, off-specification  
47.22 species, container residues, and spill residues thereof;

47.23 E. section 261.35, deletion of certain hazardous waste codes following  
47.24 equipment cleaning and replacement; and

48.1 F. section 261.38, comparable/syngas fuel exclusion.

48.2 Subp. 2. [See repealer.]

48.3 Subp. 2a. [See repealer.]

48.4 Subp. 2b. **Additions, modifications, or exceptions to incorporated provisions.**

48.5 A. Part 7045.0090, adoption and incorporation by reference, also applies.

48.6 B. The hazardous waste number in the "U" listing for paraldehyde in Code of  
48.7 Federal Regulations, title 40, section 261.33(f)/Table, should be U182.

48.8 C. In Code of Federal Regulations, title 40, section 261.38, Table 1, under  
48.9 "metals," in the listing for "cadmium, total," "ND" is the "composite value" and "1.2" is  
48.10 the "Concentration limit."

48.11 Subp. 3. [See repealer.]

48.12 Subp. 4. [See repealer.]

48.13 Subp. 5. **PCB wastes.** Requirements for PCB wastes are as follows:

48.14 A. For purposes of this subpart:

48.15 (1) "commercial storer of PCB waste" has the meaning given in Code of  
48.16 Federal Regulations, title 40, section 761.3, as amended;

48.17 (2) "PCB" means a substance that contains PCB's at a concentration of  
48.18 50 parts per million or greater;

48.19 (3) "PCB lighting ballast" means a device that electrically controls light  
48.20 fixtures and that contains a PCB small capacitor or potting material that contains PCB's;  
48.21 and

48.22 (4) "PCB small capacitor" means a capacitor that contains less than 1.36  
48.23 kilograms (3 pounds) of PCB dielectric fluid.



49.1 B. PCB materials or items are hazardous waste if and when they are discarded or  
49.2 stored prior to being discarded.

49.3 C. A generator of PCB wastes is subject to the requirements of Minnesota  
49.4 Statutes, section 116.07, subdivision 2b, and is exempt from the agency's hazardous waste  
49.5 requirements except for:

49.6 (1) the hazardous waste management requirements of part 7045.0208;

49.7 (2) the evaluation requirements of part 7045.0214;

49.8 (3) the licensing requirements of parts 7045.0225 to 7045.0250; and

49.9 (4) the fee requirements of chapter 7046, unless a generator demonstrates  
49.10 performance of a PCB phase-out agreement under Minnesota Statutes, section 116.07,  
49.11 subdivision 2b, paragraph (b).

49.12 D. In addition to the requirements of item C, a generator or commercial storer of  
49.13 PCB waste who generates or stores PCB ballasts or PCB small capacitors must comply  
49.14 with the requirements of part 7045.0566, subpart 2. A commercial storer of PCB waste  
49.15 storing only PCB ballasts and PCB small capacitors is not subject to the facility standards  
49.16 in parts 7045.0450 to 7045.0651, except for the requirements of part 7045.0566, subpart 2,  
49.17 or to the hazardous waste facility permit requirements in chapter 7001.

49.18 E. Thermal treatment of PCB wastes at concentrations less than 500 parts  
49.19 per million. High efficiency boilers as defined in Code of Federal Regulations, title 40,  
49.20 section 761.60(a), as amended, which are used for treatment of mineral oil dielectric fluid  
49.21 containing less than 500 ppm PCB, are exempt from the agency's hazardous waste facility  
49.22 permit requirements in chapter 7001 and parts 7045.0292 and 7045.0450 to 7045.0651,  
49.23 except for the following requirements:

49.24 (1) parts 7045.0526 and 7045.0528;

49.25 (2) parts 7045.0556 and 7045.0558;

50.1 (3) parts 7045.0564 to 7045.0588; and

50.2 (4) parts 7045.0594 and 7045.0596.

50.3 F. PCB wastes have the hazardous waste number of MN03.

50.4 **7045.0139 BASIS FOR LISTING HAZARDOUS WASTES.**

50.5 Subpart 1. **General.** The basis for listing hazardous waste is found in part 7045.0155,  
50.6 subpart 1, item D B, which incorporates Code of Federal Regulations, title 40, part 261,  
50.7 Appendix VII, Basis for Listing Hazardous Waste. Part 7045.0155, subpart 2, provides  
50.8 any applicable exceptions.

50.9 Subp. 2. [See repealer.]

50.10 **7045.0141 HAZARDOUS CONSTITUENTS.**

50.11 Subpart 1. **Scope.** The hazardous constituents list is found in part 7045.0155,  
50.12 subpart 1, item E C, which incorporates Code of Federal Regulations, title 40, part  
50.13 261, Appendix VIII, Hazardous Constituents. Part 7045.0155, subpart 2, provides any  
50.14 applicable exceptions.

50.15 Subp. 2. [See repealer.]

50.16 Subp. 3. [See repealer.]

50.17 Subp. 4. [See repealer.]

50.18 Subp. 5. [See repealer.]

50.19 Subp. 6. [See repealer.]

50.20 Subp. 7. [See repealer.]

50.21 Subp. 8. [See repealer.]

50.22 Subp. 9. [See repealer.]

50.23 Subp. 10. [See repealer.]

51.1 Subp. 11. [See repealer.]

51.2 Subp. 12. [See repealer.]

51.3 Subp. 13. [See repealer.]

51.4 Subp. 14. [See repealer.]

51.5 Subp. 15. [See repealer.]

51.6 Subp. 16. [See repealer.]

51.7 Subp. 17. [See repealer.]

51.8 Subp. 18. [See repealer.]

51.9 Subp. 19. [See repealer.]

51.10 Subp. 20. [See repealer.]

51.11 Subp. 21. [See repealer.]

51.12 Subp. 22. [See repealer.]

51.13 Subp. 23. [See repealer.]

51.14 **7045.0143 GROUNDWATER PROTECTION HAZARDOUS CONSTITUENTS**  
51.15 **LIST.**

51.16 Subpart 1. **Scope.** The groundwater protection hazardous constituents list is found in  
51.17 part 7045.0543, subpart 1, item D, which incorporates Code of Federal Regulations, title  
51.18 40, part 264, Appendix IX, Ground Water Monitoring List. Part 7045.0543, subpart 2,  
51.19 provides any applicable exceptions.

51.20 Subp. 2. [See repealer.]

51.21 Subp. 3. [See repealer.]

51.22 Subp. 4. [See repealer.]

51.23 Subp. 5. [See repealer.]

- 52.1 Subp. 6. [See repealer.]
- 52.2 Subp. 7. [See repealer.]
- 52.3 Subp. 9. [See repealer.]
- 52.4 Subp. 10. [See repealer.]
- 52.5 Subp. 12. [See repealer.]
- 52.6 Subp. 13. [See repealer.]
- 52.7 Subp. 14. [See repealer.]
- 52.8 Subp. 15. [See repealer.]
- 52.9 Subp. 17. [See repealer.]
- 52.10 Subp. 20. [See repealer.]
- 52.11 Subp. 21. [See repealer.]
- 52.12 Subp. 23. [See repealer.]
- 52.13 Subp. 25. [See repealer.]
- 52.14 Subp. 27. [See repealer.]

52.15 **7045.0155 APPENDICES TO IDENTIFICATION AND LISTING OF**  
52.16 **HAZARDOUS WASTE.**

52.17 Subpart 1. **Incorporation of federal regulations.** The following appendices found in  
52.18 Code of Federal Regulations, title 40, part 261, as amended, are incorporated by reference:

- 52.19 A. Appendix I, Representative Sampling Methods;
- 52.20 B. Appendix VII, Basis for Listing Hazardous Waste; and
- 52.21 C. Appendix VIII, Hazardous Constituents.

52.22 Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.**

53.1 A. Part 7045.0090, adoption and incorporation by reference, also applies.

53.2 B. The chemical abstracts name for physostigmine listed in Code of Federal  
53.3 Regulations, title 40, part 261, Appendix VIII, is "Pyrrolo [2,3-b]indol-5-o1."

53.4 C. The chemical abstracts number for potassium pentachlorophenate in Code of  
53.5 Federal Regulations, title 40, part 261, Appendix VIII, should be "7778-73-6."

53.6 **7045.0208 HAZARDOUS WASTE MANAGEMENT.**

53.7 Subpart 1. **Management by generator.** A generator must manage hazardous waste  
53.8 by using one of the methods described in items A to H, unless otherwise specifically  
53.9 exempted under this chapter.

53.10 A. A generator may treat or dispose of hazardous waste at an on-site facility as  
53.11 provided under part 7045.0211.

53.12 B. A generator may ensure delivery of hazardous waste to an off-site storage,  
53.13 treatment, or disposal facility. If located in the United States, the facility used must be  
53.14 permitted to accept hazardous waste under the agency's permitting procedures, have  
53.15 interim status under parts 7045.0552 to 7045.0651, or be authorized to manage hazardous  
53.16 waste by the Environmental Protection Agency or by a state with a hazardous waste  
53.17 management program authorized by the Environmental Protection Agency.

53.18 [For text of items C to G, see M.R.]

53.19 H. A generator may ensure delivery of PCB waste to a commercial storer of  
53.20 PCB waste, as defined in part 7045.0135, subpart 5.

53.21 [For text of subps 1a to 3, see M.R.]

53.22 Subp. 4. **Land disposal.** Hazardous wastes are subject to the requirements of part  
53.23 7045.1390.

53.24 **7045.0213 FARMERS; PESTICIDES.**

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

54.2 Subp. 2. **Special conditions.** A farmer who generates waste pesticides which are  
54.3 hazardous waste and who triple rinses each emptied pesticide container and disposes  
54.4 of the pesticide residues on the farmer's farm in a manner consistent with the disposal  
54.5 instructions on the pesticide label is not required with respect to those pesticides to comply  
54.6 with other standards in parts 7045.0205 to 7045.0320 or to comply with parts 7045.0450  
54.7 to 7045.1390, or to obtain a hazardous waste facility permit, provided that:

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

54.9 **7045.0214 EVALUATION OF WASTES.**

54.10 Subpart 1. **General requirement.** Any person who produces a waste within the state  
54.11 of Minnesota or any person who produces a waste outside the state of Minnesota that  
54.12 is managed within the state of Minnesota, must evaluate the waste to determine if it is  
54.13 hazardous within 60 days of initially generating the waste. The generation start date must  
54.14 be recorded and available for inspection. Waste that is not evaluated within 60 days of the  
54.15 generation start date must be managed as a hazardous waste and the person who produces  
54.16 the waste must be considered a generator until the waste is determined to be nonhazardous  
54.17 under parts 7045.0214 to 7045.0218. A material is determined to be a waste in accordance  
54.18 with the conditions specified under the definition of other waste material in part 7045.0020.  
54.19 Any waste evaluated and exempted under part 7045.0075 or 7045.0120 does not need to  
54.20 be reevaluated under this part. If the waste is determined to be hazardous, the generator  
54.21 must refer to parts 7045.0075, 7045.0450 to 7045.0990, 7045.1390, and 7045.1400 for  
54.22 possible exclusions or restrictions relating to management of the specific waste.

54.23 [For text of subp 2, see M.R.]

54.24 Subp. 3. **Wastes generated by treatment, storage, or disposal.** Wastes generated  
54.25 by treatment, storage, or disposal of hazardous waste are as follows:

55.1 A. Except as provided in items B to E, or in part 7045.0102, any waste  
55.2 generated from the treatment, storage, or disposal of hazardous waste, including any  
55.3 sludge, spill residue, ash, emission control dust or leachate, but not including precipitation  
55.4 runoff, is a hazardous waste if it meets the criteria of subpart 2 or if it is derived from a  
55.5 waste that is listed in part 7045.0135.

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

55.7 E. Nonwastewater residues, such as slag, resulting from high temperature metals  
55.8 recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as rotary  
55.9 kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth  
55.10 furnace/electric furnace combinations, or industrial furnaces that are blast furnaces or  
55.11 smelting, melting, and refining furnaces, including pyrometallurgical devices, such as  
55.12 cupolas, reverberator furnaces, sintering machines, roasters, or foundry furnaces, or that  
55.13 are other devices that the commissioner determines qualify for inclusion as an industrial  
55.14 furnace under part 7045.0020, subpart 43b, that are disposed in solid waste disposal units,  
55.15 provided that these residues meet the generic exclusion levels identified in the tables in  
55.16 this item for all constituents, and exhibit no characteristics of hazardous waste. Testing  
55.17 requirements must be incorporated in a facility's waste analysis plan or a generator's  
55.18 self-implementing waste analysis plan. At a minimum, composite samples of residues  
55.19 must be collected and analyzed quarterly and/or when the process or operation generating  
55.20 the waste changes. Persons claiming this exclusion in an enforcement action have the  
55.21 burden of proving by clear and convincing evidence that the material meets all of the  
55.22 exclusion requirements.

55.23 The generic exclusion levels for K061 and K062 nonwastewater HTMR residues are  
55.24 as follows:

55.25	Constituent	Maximum for any single composite sample (mg/l)
55.26	Antimony	0.10
56.1	Arsenic	0.50
56.2	Barium	7.6
56.3	Beryllium	0.010
56.4	Cadmium	0.050
56.5	Chromium (total)	0.33
56.6	Lead	0.15
56.7	Mercury	0.009
56.8	Nickel	1.0
56.9	Selenium	0.16
56.10	Silver	0.30
56.11	Thallium	0.020
56.12	Zinc	70

56.13 The generic exclusion levels for F006 nonwastewater HTMR residues are as follows:

56.14	Constituent	Maximum for any single composite sample (mg/l)
56.15	Antimony	0.10
56.16	Arsenic	0.50
56.17	Barium	7.6
56.18	Beryllium	0.010
56.19	Cadmium	0.050
56.20	Chromium (total)	0.33
56.21	Cyanide (total)	1.8 (mg/kg)
56.22	Lead	0.15
56.23	Mercury	0.009
56.24	Nickel	1.0
56.25	Selenium	0.16
56.26	Silver	0.30



56.27	Thallium	0.020
56.28	Zinc	70

57.1 For K061, K062, or F006 HTMR residues sent to solid waste disposal units, the  
57.2 treatment facility must prepare and send to the commissioner a onetime notification  
57.3 and certification certifying that the residues meet the generic exclusion levels for all  
57.4 constituents and do not exhibit any characteristics of hazardous waste. The notification  
57.5 and certification must also be kept in the facility's files. The notification and certification  
57.6 must be updated if the process or operation generating the waste changes or if the solid  
57.7 waste disposal unit receiving the waste changes. However, the treatment facility need only  
57.8 notify the commissioner on an annual basis if these changes occur. The notification and  
57.9 certification must be sent to the commissioner no later than December 31. The notification  
57.10 and certification must include the following information:

57.11 (1) the name and address of the solid waste disposal unit receiving the  
57.12 waste shipments;

57.13 (2) the EPA hazardous waste numbers and treatability groups at the initial  
57.14 point of generation; and

57.15 (3) the treatment standards applicable to the waste at the initial point  
57.16 of generation.

57.17 The certification must be signed by an authorized representative of the treatment  
57.18 facility and must state as follows: "I certify under penalty of law that the generic  
57.19 exclusion levels for all constituents have been met without impermissible dilution  
57.20 and that no characteristic of hazardous waste is exhibited. I am aware that there are  
57.21 significant penalties for submitting a false certification, including the possibility of fine  
57.22 and imprisonment."

57.23 **7045.0255 ONETIME DISPOSAL REQUIREMENTS.**

57.24 A person having hazardous waste subject to regulation under this chapter who is  
57.25 only a hazardous waste generator for the onetime disposal of hazardous waste which is  
57.26 not currently being produced, must comply with this chapter except as provided in items  
58.1 A to D. The exemptions in this part do not apply to generators that generate hazardous  
58.2 waste more than one time.

58.3 A. The generator is exempt from parts 7045.0225 to 7045.0250, license and  
58.4 license reporting.

58.5 B. A large quantity generator is exempt from part 7045.0292, subpart 1, but  
58.6 must instead comply with part 7045.0292, subpart 5, items A to F, and must meet the  
58.7 requirements of part 7045.0566, relating to preparedness and prevention, and Code of  
58.8 Federal Regulations, title 40, section 268.7(a)(5), as incorporated in part 7045.1390,  
58.9 relating to waste analysis for restricted wastes.

58.10 C. A small quantity generator is exempt from the requirements of part  
58.11 7045.0292, subpart 5, items G and H, but instead must meet the requirements of part  
58.12 7045.0566, relating to preparedness and prevention, and Code of Federal Regulations,  
58.13 title 40, section 268.7(a)(5), as incorporated in part 7045.1390, relating to waste analysis  
58.14 for restricted wastes.

58.15 D. A very small quantity generator is exempt from part 7045.0292, subpart 6,  
58.16 but instead must comply with part 7045.0292, subpart 5, items A to F, and must meet  
58.17 the requirements of part 7045.0566, relating to preparedness and prevention, and Code  
58.18 of Federal Regulations, title 40, section 268.7(a)(5), as incorporated in part 7045.1390,  
58.19 relating to waste analysis for restricted wastes.

58.20 **7045.0270 PRETRANSPORT REQUIREMENTS.**

58.21 Subpart 1. **Marking.** Before transporting or offering hazardous waste for  
58.22 transportation off-site, a generator must:

58.23 A. mark each package of hazardous waste in accordance with the applicable  
58.24 United States Department of Transportation regulations on hazardous materials under  
58.25 Code of Federal Regulations, title 49, part 172, subpart D, as amended; and

59.1 [For text of item B, see M.R.]

59.2 [For text of subps 2 and 3, see M.R.]

59.3 Subp. 4. **Packaging.** Before transporting hazardous waste or offering a hazardous  
59.4 waste for transportation off-site, a generator must package the waste in accordance with  
59.5 the applicable United States Department of Transportation regulations on packaging under  
59.6 Code of Federal Regulations, title 49, parts 173, 178, 179, and 180, as amended.

59.7 Subp. 5. **Labeling.** Before transporting or offering hazardous waste for  
59.8 transportation off-site, a generator must label each package in accordance with the  
59.9 applicable United States Department of Transportation regulations on hazardous materials  
59.10 under Code of Federal Regulations, title 49, part 172, subpart E, as amended.

59.11 [For text of subps 6 and 7, see M.R.]

59.12 **7045.0292 ACCUMULATION OF HAZARDOUS WASTE.**

59.13 Subpart 1. **Large quantity generator.** A large quantity generator may accumulate  
59.14 hazardous waste on site without a permit or without having interim status if:

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

59.16 B. the waste is placed as follows:

59.17 (1) in containers which meet the standards of part 7045.0270, subpart 4,  
59.18 and are managed in accordance with applicable requirements of parts 7045.0594, subpart  
59.19 2; 7045.0596, subpart 3; 7045.0626; 7045.0645; 7045.0647; and 7045.0648;

59.20 (2) in tanks provided the generator complies with the applicable  
59.21 requirements of parts 7045.0594, subpart 2; 7045.0596, subpart 3; 7045.0628; 7045.0645;  
59.22 7045.0647; and 7045.0648, except part 7045.0628, subparts 9, item C, and 12;

59.23 (3) for wood preserving operations on drip pads, provided the generator  
59.24 complies with parts 7045.0594, subpart 2; 7045.0596, subpart 3; and 7045.0644 and  
60.1 maintains records containing a description of procedures that will be followed to ensure  
60.2 that all wastes are removed from drip pads and associated collection systems at least once  
60.3 every 90 days, and maintains documentation of the quantities, dates, and times of each  
60.4 waste removal. Records relating to drip pads must be maintained at the licensed site and  
60.5 must be easily available for agency inspection;

60.6 [For text of items C to F, see M.R.]

60.7 G. the requirements of parts 7045.0558; 7045.0562, subparts 1 and 2;  
60.8 7045.0566 to 7045.0576; and Code of Federal Regulations, title 40, section 268.7(a)(5),  
60.9 as incorporated in part 7045.1390, are fulfilled regarding personnel training, ignitable,  
60.10 reactive, or incompatible waste, preparedness and prevention, contingency planning,  
60.11 and waste analysis for restricted wastes.

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

60.13 Subp. 5. **Small quantity generator.** A small quantity generator may accumulate up  
60.14 to 3,000 kilograms of hazardous waste that is not acute hazardous waste on site without a  
60.15 permit or without having interim status if:

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

60.17 B. the waste is placed in containers which meet the standards of part 7045.0270,  
60.18 subpart 4, and are managed in accordance with parts 7045.0594, subpart 2; 7045.0596,  
60.19 subpart 3; and 7045.0626, subparts 1 to 8; in tanks provided the generator complies with  
60.20 the requirements of parts 7045.0594, subpart 2; 7045.0596, subpart 3; and 7045.0629;

60.21 or for wood preserving operations on drip pads, provided the generator complies with  
60.22 parts 7045.0594, subpart 2; 7045.0596, subpart 3; and 7045.0644 and maintains records  
60.23 containing a description of procedures that will be followed to ensure that all wastes are  
60.24 removed from drip pads and associated collection systems at least once every 180 days,  
60.25 and maintains documentation of the quantities, dates, and times of each waste removal.  
61.1 These records relating to drip pads must be maintained at the licensed site and must be  
61.2 easily available for agency inspection;

61.3 [For text of items C to F, see M.R.]

61.4 G. the generator meets the requirements of parts 7045.0566, relating to  
61.5 preparedness and prevention; 7045.0568, relating to the arrangements with local  
61.6 authorities for emergencies; and Code of Federal Regulations, title 40, section 268.7(a)(5),  
61.7 as incorporated in part 7045.1390, relating to waste analysis for restricted wastes; and

61.8 [For text of item H, see M.R.]

61.9 Subp. 6. **Very small quantity generator.** A very small quantity generator may  
61.10 accumulate up to 1,000 kilograms of hazardous waste that is not acute hazardous waste on  
61.11 site without a permit or without having interim status if:

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

61.13 B. the waste is placed in containers which meet the standards of part 7045.0270,  
61.14 subpart 4, and are managed in accordance with parts 7045.0594, subpart 2; 7045.0596,  
61.15 subpart 3; and 7045.0626, subparts 1 to 8; in tanks provided the generator complies with  
61.16 the requirements of parts 7045.0594, subpart 2; 7045.0596, subpart 3; and 7045.0629;  
61.17 or for wood preserving operations on drip pads, provided the generator complies with  
61.18 parts 7045.0594, subpart 2; 7045.0596, subpart 3; and 7045.0644 and maintains records  
61.19 containing a description of procedures that will be followed to ensure that all wastes are  
61.20 removed from drip pads and associated collection systems at least once every 180 days,  
61.21 and maintains documentation of the quantities, dates, and times of each waste removal.

61.22 These records relating to drip pads must be maintained at the licensed site and must be  
61.23 easily available for agency inspection;

61.24 [For text of items C to H, see M.R.]

62.1 Subp. 7. **Acute hazardous waste accumulation.** A small quantity generator or a  
62.2 very small quantity generator who generates acute hazardous waste that is not exempt  
62.3 under subpart 8 must comply with items A and B:

62.4 A. A generator may accumulate acute hazardous waste on site indefinitely in  
62.5 quantities equal to or less than one kilogram of acute hazardous waste and equal to or less  
62.6 than 100 kilograms of residue, contaminated soil, water, or other debris resulting from  
62.7 cleaning up spilled acute hazardous waste. The generator must comply with subpart 5,  
62.8 items B to H.

62.9 B. A generator who accumulates on site more than one kilogram of acute  
62.10 hazardous waste, or more than 100 kilograms of residue, contaminated soil, water, or  
62.11 other debris resulting from cleaning up spilled acute hazardous waste must comply with  
62.12 subpart 1.

62.13 Subp. 8. **Satellite accumulation.** Items A to D apply to all generators of hazardous  
62.14 waste.

62.15 A. A generator may, without a permit or interim status and without complying  
62.16 with subparts 1 to 7, accumulate as much as 55 gallons of hazardous waste or one quart of  
62.17 acute hazardous waste listed in part 7045.0135, subpart 1a, items B to D, per waste stream  
62.18 per each point of generation provided the generator complies with items B to D.

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

62.20 [For text of subps 9 and 10, see M.R.]

62.21 Subp. 11. **Accumulation requiring a permit.** A large quantity generator who  
62.22 accumulates hazardous waste for more than 90 days, or a small quantity generator who

62.23 accumulates more than 3,000 kilograms of hazardous waste at any time, is an operator  
62.24 of a storage facility and is subject to the requirements of parts 7045.0450 to 7045.0651  
63.1 and the agency's permitting procedures in chapter 7001 unless the generator has been  
63.2 granted a time extension under subpart 10.

63.3 [For text of subp 12, see M.R.]

63.4 **7045.0294 RECORD KEEPING.**

63.5 [For text of subps 1 to 3, see M.R.]

63.6 Subp. 3a. **Training records.** A generator must keep training records required under  
63.7 part 7045.0292, subparts 1, item G, and 5, item H, subitem (3), on current personnel until  
63.8 closure of the licensed site. Training records on former employees must be kept for at  
63.9 least three years from the date of the employee's termination. Personnel training records  
63.10 may accompany personnel transferred within the same company.

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

63.12 **7045.0300 ADDITIONAL REPORTING.**

63.13 The commissioner, when necessary to determine compliance with the requirements of  
63.14 this chapter, may require generators to furnish additional reports concerning the quantities  
63.15 and disposition of waste identified or listed in parts 7045.0102 to 7045.0155.

63.16 **7045.0302 INTERNATIONAL SHIPMENTS; SPECIAL CONDITIONS.**

63.17 [For text of subps 1 and 1a, see M.R.]

63.18 Subp. 2. **Notification.** When shipping hazardous waste outside the state of  
63.19 Minnesota to a foreign country the primary exporter must notify the commissioner and the  
63.20 EPA of an intended export before the waste is scheduled to leave the United States. A  
63.21 complete notification should be submitted 60 days before the initial shipment is intended  
63.22 to be shipped off site. This notification may cover export activities extending over a  
63.23 12-month or lesser period.

64.1 The notification must be sent to the commissioner at 520 Lafayette Road, Saint Paul,  
64.2 Minnesota 55155-4194, and to the Office of Enforcement and Compliance Assurance,  
64.3 Office of Federal Activities, International Compliance Assurance Division (2254A),  
64.4 Environmental Protection Agency, 1200 Pennsylvania Avenue N.W., Washington, DC  
64.5 20460. Hand-delivered notifications must be sent to the Office of Enforcement and  
64.6 Compliance Assurance, Office of Federal Activities, International Compliance Assurance  
64.7 Division (2254A), Environmental Protection Agency, Ariel Rios Building, 12th Street  
64.8 and Pennsylvania Avenue N.W., Washington, DC 20460. In both cases, the following  
64.9 must be prominently displayed on the front of the envelope: "Attention: Notification  
64.10 of Intent to Export."

64.11 The primary exporter must provide the commissioner and the EPA with written  
64.12 renotification of any changes to the notification, except for changes to the telephone  
64.13 number, decreases in the quantity indicated in item B, subitem (3), and changes in the  
64.14 means of transport in item B, subitem (5). The waste shall not be shipped until the  
64.15 primary exporter receives an EPA Acknowledgment of Consent reflecting the receiving  
64.16 country's consent to the changes.

64.17 The notification must be in writing, signed by the primary exporter, and include  
64.18 the following information:

64.19 A. name, mailing address, telephone number, and identification number of  
64.20 the primary exporter; and

64.21 B. by consignee, for each hazardous waste type:

64.22 (1) a description of the hazardous waste and the EPA hazardous waste  
64.23 number (from Code of Federal Regulations, title 40, part 261, subpart C or D, as  
64.24 amended), United States Department of Transportation proper shipping name, hazard  
64.25 class, identification number (UN/NA), and packing group for each hazardous waste as  
64.26 identified in Code of Federal Regulations, title 49, parts 171 to 177, as amended;



65.1 [For text of subitems (2) to (9), see M.R.]

65.2 [For text of subps 3 to 7, see M.R.]

65.3 **7045.0365 TRANSFER FACILITY REQUIREMENTS.**

65.4 Subpart 1. **Applicability.** A transporter who stores manifested shipments of  
65.5 hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4,  
65.6 at a transfer facility for a period of ten days or fewer is not subject to regulation under  
65.7 parts 7045.0450 to 7045.0651 and 7045.1390, and a hazardous waste facility permit  
65.8 with respect to the storage of those wastes. The owner or operator must notify the  
65.9 commissioner in writing of his or her activity.

65.10 [For text of subps 2 and 3, see M.R.]

65.11 **7045.0371 TRANSPORTATION OF HAZARDOUS WASTE.**

65.12 Hazardous waste shall be transported in accordance with all applicable requirements  
65.13 of Minnesota Statutes, sections 221.033 and 221.0341, and with 221.0355 if applicable,  
65.14 and Code of Federal Regulations, title 49, parts 171 to 199, as amended.

65.15 **7045.0395 HAZARDOUS WASTE DISCHARGES.**

65.16 [For text of subps 1 to 4, see M.R.]

65.17 Subp. 5. **Reporting.** Any air, rail, highway, or water transporter who has discharged  
65.18 hazardous waste must:

65.19 A. report in writing as required by Code of Federal Regulations, title 49,  
65.20 section 171.16, as amended, to the Information Systems Manager, PHH-63, Pipeline  
65.21 and Hazardous Materials Safety Administration, Department of Transportation,  
65.22 Washington, D.C. 20590-0001, or submit an electronic hazardous materials incident  
65.23 report to the Information Systems Manager, DHM-63, Pipeline and Hazardous Materials  
66.1 Safety Administration, Department of Transportation, Washington, D.C. 20590-0001  
66.2 at <http://hazmat.dot.gov>;

66.3 [For text of items B and C, see M.R.]

66.4 **7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.**

66.5 Subpart 1. **General requirements.**

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

66.7 D. Parts 7045.0450 to 7045.0551 apply to the owners and operators of all  
66.8 facilities that treat, store, or dispose of hazardous waste referred to in part 7045.1390.

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

66.10 Subp. 2. **Relationship to interim status standards.** A facility owner or operator  
66.11 who has fully complied with the requirements for interim status under part 7045.0554  
66.12 shall comply with parts 7045.0552 to 7045.0651 in lieu of parts 7045.0450 to 7045.0551  
66.13 until final administrative disposition of the permit application is made. The treatment,  
66.14 storage, or disposal of hazardous waste is prohibited except in accordance with a permit  
66.15 and except for the extent to which parts 7045.0552 to 7045.0651 provide for the continued  
66.16 operation of an existing facility which meets certain conditions until final administrative  
66.17 disposition of the owner's or operator's permit application is made, except as provided  
66.18 under parts 7045.0485, 7045.0545, and 7045.0546.

66.19 Subp. 3. **Exemptions.** The requirements of parts 7045.0450 to 7045.0551 do not  
66.20 apply to the following specific waste management units, facilities, or activities, although  
66.21 all other waste management activities of the owner or operator may be regulated:

66.22 [For text of items A to D, see M.R.]

66.23 E. an elementary neutralization unit, a pretreatment unit, or a wastewater  
66.24 treatment unit, but only if the unit does not receive hazardous waste from generators other  
66.25 than the owner or operator of the unit, provided that if the owner or operator is diluting  
67.1 hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined  
67.2 in Code of Federal Regulations, title 40, section 268.40, Table of Treatment Standards

67.3 for Hazardous Wastes, as incorporated in part 7045.1390) or reactive (D003) waste to  
67.4 remove the characteristic before land disposal, the owner or operator must comply with  
67.5 part 7045.0456, subpart 2;

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

67.7 J. (1) except as provided in subitem (2), treatment or containment activities  
67.8 during immediate response to any of the following situations: a discharge of a hazardous  
67.9 waste, an imminent and substantial threat of a discharge of hazardous waste, or a discharge  
67.10 of a material which, when discharged, becomes a hazardous waste;

67.11 [For text of subitem (2), see M.R.]

67.12 (3) a person who is covered by subitem (1) and who continues or initiates  
67.13 hazardous waste treatment or containment activities after the immediate response is over  
67.14 is subject to all applicable requirements of parts 7045.0450 to 7045.0551 and the agency's  
67.15 permitting procedures for those activities;

67.16 K. treatment of hazardous waste by a generator in the generator's accumulation  
67.17 tanks or containers in accordance with part 7045.0292. If the treatment involves  
67.18 evaporation of aqueous waste or polymerization of polyester or other chemical fixation  
67.19 treatment processes in open containers, the generator is exempt from parts 7045.0450 to  
67.20 7045.0551, but before beginning the treatment process must submit to the commissioner  
67.21 the information required under part 7045.0539, subpart 2, items A to C, that is relevant to  
67.22 the treatment activity and must be notified by the commissioner that the treatment activity  
67.23 is approved. The commissioner shall approve the treatment activity if the commissioner  
67.24 finds that the treatment activity will not endanger human health and the environment; or

67.25 [For text of item L, see M.R.]

68.1 **7045.0452 GENERAL FACILITY STANDARDS.**

68.2 [For text of subps 1 to 4, see M.R.]

68.3 Subp. 5. **General inspection requirements.** General inspection requirements  
68.4 include the following:

68.5 [For text of items A and B, see M.R.]

68.6 C. The frequency of inspection may vary for the items on the schedule. However,  
68.7 the frequency must be based on the rate of possible deterioration of the equipment and the  
68.8 probability of an environmental or human health incident if the deterioration, malfunction,  
68.9 or any operator error goes undetected between inspections. Areas subject to spills, such as  
68.10 loading and unloading areas, must be inspected daily when in use. At a minimum, the  
68.11 inspection schedule must include the terms and frequencies called for in parts 7045.0526,  
68.12 subpart 5; 7045.0528, subparts 4 and 7; 7045.0532, subpart 5; 7045.0534, subpart 6;  
68.13 7045.0536, subpart 6; 7045.0538, subpart 5; 7045.0539, subpart 3; and 7045.0542,  
68.14 subpart 7; and the process vent, equipment leak, and tank, surface impoundment, and  
68.15 container standards in Code of Federal Regulations, title 40, sections 264.1033, 264.1052,  
68.16 264.1053, 264.1058, as amended, and sections 264.1083 to 264.1089, as incorporated in  
68.17 part 7045.0540, where applicable. The inspection schedule must be submitted with the  
68.18 permit application. The commissioner shall evaluate the schedule along with the rest of  
68.19 the application to ensure that it adequately protects human health and the environment. As  
68.20 part of this review, the commissioner may modify or amend the schedule as necessary.

68.21 [For text of items D and E, see M.R.]

68.22 **7045.0458 WASTE ANALYSIS REQUIREMENTS.**

68.23 Subpart 1. **Waste analysis.** Waste analysis procedures are listed in items A to D.

68.24 A. Before an owner or operator treats, stores, or disposes of any hazardous  
68.25 waste, or nonhazardous waste if applicable under part 7045.0488, subpart 2a, the owner  
69.1 or operator shall obtain a detailed chemical and physical analysis of a representative  
69.2 sample of the waste. This analysis must contain all the information which must be known  
69.3 in order to treat, store, or dispose of the waste in accordance with the requirements of

69.4 parts 7045.0450 to 7045.0551 and 7045.1390, or with the conditions of a permit issued  
69.5 under the agency's permitting procedures.

69.6 B. The analysis may include data developed under parts 7045.0102 to 7045.0155  
69.7 and existing published or documented data on the hazardous waste or on hazardous waste  
69.8 generated from similar processes, including data obtained from the generator.

69.9 [For text of items C and D, see M.R.]

69.10 Subp. 2. **Waste analysis plan.** The owner or operator shall develop and follow a  
69.11 written waste analysis plan which describes the procedures that will be used to comply with  
69.12 subpart 1. The owner or operator shall keep this plan at the facility. The plan must specify:

69.13 [For text of items A to E, see M.R.]

69.14 F. where applicable, the methods that will be used to meet the additional  
69.15 waste analysis requirements for specific waste management methods as specified in  
69.16 parts 7045.0456; 7045.0538, subpart 10; 7045.0542, subpart 2; and Code of Federal  
69.17 Regulations, title 40, section 268.7, as incorporated in part 7045.1390; and the process  
69.18 vent, equipment leak, and tank, surface impoundment, and container test methods and  
69.19 procedures in Code of Federal Regulations, title 40, sections 264.1034(d), 264.1063(d), as  
69.20 amended, and section 264.1083, as incorporated in part 7045.0540;

69.21 G. for off-site facilities, the waste analysis plan must also specify the procedures  
69.22 that will be used to inspect and, if necessary, analyze each movement of hazardous waste  
69.23 received at the facility to ensure that it matches the identity of the waste designated on the  
69.24 accompanying manifest or shipping paper. The plan must describe:

70.1 (1) the procedures that will be used to determine the identity of each  
70.2 movement of waste managed at the facility;

70.3 (2) the sampling method that will be used to obtain a representative sample  
70.4 of the waste to be identified, if the identification method includes sampling. The waste  
70.5 analysis plan must be submitted with the permit application; and

70.6 (3) the procedure that the owner or operator of an off-site landfill receiving  
70.7 containerized hazardous waste will use to determine whether a hazardous waste generator  
70.8 or treater has added a biodegradable sorbent to the waste in the container;

70.9 H. for surface impoundments exempted from the land disposal restrictions under  
70.10 Code of Federal Regulations, title 40, section 268.4, as incorporated in part 7045.1390,  
70.11 the procedures and schedules for:

70.12 (1) the sampling of impoundment contents;

70.13 (2) the analysis of test data; and

70.14 (3) the annual removal of residues which are not delisted under part  
70.15 7045.0075, subpart 2, or which exhibit a characteristic of hazardous waste under part  
70.16 7045.0131, and either do not meet the treatment standards of Code of Federal Regulations,  
70.17 title 40, sections 268.40 to 268.42, as incorporated in part 7045.1390, or, where no  
70.18 treatment standards have been established, such residues are prohibited from land disposal  
70.19 under Code of Federal Regulations, title 40, sections 268.30 to 268.35, as incorporated in  
70.20 part 7045.1390, or RCRA section 3004(d); and

70.21 I. for owners and operators seeking an exemption to the air emission standards  
70.22 of part 7045.0540 in accordance with Code of Federal Regulations, title 40, section  
70.23 264.1082, as incorporated in part 7045.0540:

71.1 (1) if direct measurement is used for the waste determination, the  
71.2 procedures and schedules for waste sampling and analysis and the results of the analysis  
71.3 of test data to verify the exemption; and

71.4 (2) if knowledge of the waste is used for the waste determination, any  
71.5 information prepared by the facility owner or operator or by the generator of the hazardous  
71.6 waste, if the waste is received from off site, that is used as the basis for knowledge of  
71.7 the waste.

71.8 **7045.0478 OPERATING RECORD.**

71.9 [For text of subps 1 and 2, see M.R.]

71.10 Subp. 3. **Record information.** The information in items A to T must be recorded, as  
71.11 it becomes available, and maintained in the operating record until closure of the facility.

71.12 [For text of items A and B, see M.R.]

71.13 C. A description and the quantity of each hazardous waste received, and the  
71.14 method and date of treatment, storage, or disposal at the facility in accordance with the  
71.15 record-keeping instructions in Code of Federal Regulations, title 40, part 264, Appendix I,  
71.16 as incorporated in part 7045.0543.

71.17 [For text of item D, see M.R.]

71.18 E. Records and results of waste analyses and waste determinations performed  
71.19 as specified in parts 7045.0456; 7045.0458; 7045.0538, subpart 10; and 7045.0542,  
71.20 subpart 2, and Code of Federal Regulations, title 40, sections 264.1034 and 264.1063, as  
71.21 amended, and sections 264.1083, 268.4(a), and 268.7, as incorporated in part 7045.0540  
71.22 or 7045.1390; and the process vent and equipment leak test methods and procedures in  
71.23 Code of Federal Regulations, title 40, sections 264.1034 and 264.1063, as amended.

71.24 [For text of items F and G, see M.R.]

72.1 H. Monitoring, testing, or analytical data and corrective action where required  
72.2 by parts 7045.0461; 7045.0484; 7045.0528, subparts 2, 4, and 7; 7045.0532, subparts  
72.3 4a, 4b, and 5; 7045.0534, subparts 4a, 5, 5a, and 6; 7045.0536, subparts 5, 6, and 8;  
72.4 7045.0538, subparts 4a, 5, 5a, and 6; 7045.0539, subpart 3; and 7045.0542, subpart 7;

72.5 and the process vent, equipment leak, and tank, surface impoundment, and container test  
72.6 methods and procedures and record keeping requirements in Code of Federal Regulations,  
72.7 title 40, sections 264.1034(c) to (f), 264.1035, 264.1063(d) to (i), and 264.1064, as  
72.8 amended, and sections 264.1082 to 264.1090, as incorporated in part 7045.0540.

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

72.10 L. The certification in item K signed by the owner or operator of the facility  
72.11 or an authorized representative.

72.12 M. Records of the quantities and date of placement for each shipment of  
72.13 hazardous waste placed in land disposal units under an extension to the effective date  
72.14 of any land disposal restriction granted by the United States Environmental Protection  
72.15 Agency under Code of Federal Regulations, title 40, section 268.5, a petition under part  
72.16 7045.0075, subpart 9, or a certification under Code of Federal Regulations, title 40,  
72.17 section 268.8, as incorporated in part 7045.1390, and the applicable notice required of a  
72.18 generator under Code of Federal Regulations, title 40, section 268.7(a), as incorporated  
72.19 in part 7045.1390.

72.20 N. For an off-site treatment facility, a copy of the notice, and the certification and  
72.21 demonstration, if applicable, required of the generator or the owner under Code of Federal  
72.22 Regulations, title 40, section 268.7(a)(1) or 268.8, as incorporated in part 7045.1390.

72.23 O. For an on-site treatment facility, the information contained in the notice,  
72.24 except the manifest number, and the certification and demonstration, if applicable,  
72.25 required of the generator or owner or operator under Code of Federal Regulations, title 40,  
72.26 section 268.7(a)(1) or 268.8, as incorporated in part 7045.1390.

73.1 P. For an off-site land disposal facility, a copy of the notice, and the certification  
73.2 and demonstration, if applicable, required of the generator or the owner or operator of a  
73.3 treatment facility under Code of Federal Regulations, title 40, sections 268.7 and 268.8, as  
73.4 incorporated in part 7045.1390, whichever is applicable.



73.5 Q. For an on-site land disposal facility, the information contained in the notice  
73.6 required of the generator or owner or operator of a treatment facility under Code of  
73.7 Federal Regulations, title 40, section 268.7, as incorporated in part 7045.1390, except for  
73.8 the manifest number, and the certification and demonstration, if applicable, required under  
73.9 Code of Federal Regulations, title 40, section 268.8, as incorporated in part 7045.1390,  
73.10 whichever is applicable.

73.11 R. For an off-site storage facility, a copy of the notice, and the certification and  
73.12 demonstration if applicable, required of the generator or the owner or operator under Code  
73.13 of Federal Regulations, title 40, section 268.7 or 268.8, as incorporated in part 7045.1390.

73.14 S. For an on-site storage facility, the information contained in the notice, except  
73.15 the manifest number, and the certification and demonstration if applicable, required of the  
73.16 generator or the owner or operator under Code of Federal Regulations, title 40, section  
73.17 268.7 or 268.8, as incorporated in part 7045.1390.

73.18 [For text of item T, see M.R.]

73.19 **7045.0482 REQUIRED REPORTS.**

73.20 [For text of subps 1 to 3, see M.R.]

73.21 Subp. 4. **Additional reports.** In addition to submitting the manifest discrepancy  
73.22 report described in part 7045.0476, subpart 3, and the annual reports and the unmanifested  
73.23 waste reports described in subparts 2 and 3, the owner or operator shall also report to  
73.24 the commissioner:

73.25 [For text of items A and B, see M.R.]

74.1 C. as otherwise required by parts 7045.0484, 7045.0532 to 7045.0538; and the  
74.2 process vent, equipment leak, and tank, surface impoundment, and container standards in  
74.3 parts 7045.0540, ~~7045.0547~~ 7045.0549, and ~~7045.0548~~ 7045.0551.

74.4 **7045.0484 GROUNDWATER PROTECTION.**

74.5 Subpart 1. **Scope.** This part applies as follows:

74.6 A. Except as provided in item B, the requirements of this part apply to owners  
74.7 or operators of facilities that treat, store, or dispose of hazardous waste. The owner or  
74.8 operator must comply with the requirements in subitems (1) to (3) for all wastes or waste  
74.9 constituents contained in solid or hazardous waste management units at the facility  
74.10 regardless of the time the waste was placed in such units:

74.11 (1) all solid waste management units must comply with part 7045.0485;

74.12 (2) a surface impoundment, waste pile, land treatment unit, landfill, or  
74.13 containment building that is required under Code of Federal Regulations, title 40, section  
74.14 264.1102, as incorporated in part 7045.0550, to meet the requirements of a landfill, that  
74.15 receives hazardous waste after July 26, 1982, is a regulated unit and must comply with  
74.16 the requirements of subparts 2 to 14 for detecting, characterizing, and responding to  
74.17 releases; and

74.18 (3) the financial responsibility requirements of part 7045.0485 apply to  
74.19 regulated units.

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

74.21 [For text of subps 2 to 14, see M.R.]

74.22 **7045.0486 CLOSURE.**

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

75.1 Subp. 2. **Closure performance standard.** The owner or operator shall close the  
75.2 facility in a manner minimizing the need for further maintenance. Closure procedures  
75.3 must result in controlling, minimizing, or eliminating, to the extent necessary to protect  
75.4 human health and the environment, postclosure escape of hazardous waste, hazardous  
75.5 constituents, leachate, contaminated runoff, or hazardous waste decomposition products

75.6 to the ground or surface waters or to the atmosphere, in accordance with the closure  
75.7 requirements, including the requirements of parts 7045.0526, subpart 9; 7045.0528,  
75.8 subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538,  
75.9 subpart 7; 7045.0539, subparts 2 to 4; and 7045.0542, subpart 8; and Code of Federal  
75.10 Regulations, title 40, section 264.1102, as incorporated in part 7045.0550.

75.11 Subp. 3. **Submittal and contents of closure plan.** The owner or operator of a  
75.12 hazardous waste facility shall submit a closure plan with the permit application, and the  
75.13 closure plan must be approved by the agency as part of the permit issuance procedure.  
75.14 The approved closure plan shall become a condition of any permit. The agency's approval  
75.15 must ensure that the approved closure plan is consistent with subparts 2, 4, and 5; parts  
75.16 7045.0484, groundwater protection, and 7045.0488, closure activities; and the applicable  
75.17 closure requirements of parts 7045.0526, subpart 9; 7045.0528, subpart 9; 7045.0532,  
75.18 subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539,  
75.19 subpart 2; 7045.0542, subpart 8; and Code of Federal Regulations, title 40, section  
75.20 264.1102, as incorporated in part 7045.0550.

75.21 A copy of the approved closure plan and all revisions to the plan must be furnished to  
75.22 the commissioner upon request, including request by mail, until final closure is completed  
75.23 and certified. The plan must identify steps necessary to completely or partially close  
75.24 the facility at any point during its intended operating life and to completely close the  
75.25 facility at the end of its intended operating life. The closure plan must at least include  
75.26 all of the following:

75.27 [For text of items A to F, see M.R.]

76.1 [For text of subps 4 to 6, see M.R.]

76.2 **7045.0490 POSTCLOSURE.**

76.3 Subpart 1. **Scope.** Except as otherwise provided in part 7045.0450, the provisions of  
76.4 subparts 2, 3, and parts 7045.0492 to 7045.0496 apply to:

- 76.5 A. the owner or operator of a hazardous waste disposal facility;
- 76.6 B. the owner or operator of a waste pile or surface impoundment that is required  
76.7 by part 7045.0532, subpart 7, or 7045.0534, subpart 7, to have a postclosure plan;
- 76.8 C. the owner or operator of tank systems that are required under part 7045.0528,  
76.9 subpart 9, to meet the requirements for landfills; and
- 76.10 D. the owner or operator of containment buildings that are required under Code  
76.11 of Federal Regulations, title 40, section 264.1102, as incorporated in part 7045.0550, to  
76.12 meet the requirement for landfills.

76.13 [For text of subps 2 and 3, see M.R.]

76.14 **7045.0498 FINANCIAL REQUIREMENTS.**

76.15 Subpart 1. **Scope.** Parts 7045.0502, 7045.0504, and 7045.0518 to 7045.0524 apply to  
76.16 owners and operators of all hazardous waste facilities, except as provided otherwise in  
76.17 this part or in part 7045.0450, subpart 3.

76.18 Parts 7045.0506 and 7045.0508 apply only to owners and operators of:

- 76.19 A. disposal facilities;
- 76.20 B. waste piles, and surface impoundments from which the owner or operator  
76.21 intends to remove the wastes at closure, to the extent that he or she is required to  
76.22 develop a contingent closure and postclosure care plan in parts 7045.0532, subpart 7;  
76.23 and 7045.0534, subpart 7;
- 77.1 C. tank systems that are required under part 7045.0528, subpart 9, to meet  
77.2 the requirements for landfills; and
- 77.3 D. containment buildings that are required under Code of Federal Regulations,  
77.4 title 40, section 264.1102, as incorporated in part 7045.0550, to meet the requirements for  
77.5 landfills.

77.6 Parts 7045.0512 to 7045.0516 apply only to owners and operators of facilities that  
77.7 treat, store, or dispose of hazardous waste in surface impoundments, waste piles, land  
77.8 treatment units, landfills, or containment buildings that are required under Code of Federal  
77.9 Regulations, title 40, section 264.1102, as incorporated in part 7045.0550, to meet the  
77.10 requirements of landfills.

77.11 The state and the federal government are exempt from the requirements of parts  
77.12 7045.0498 to 7045.0524.

77.13 [For text of subp 2, see M.R.]

77.14 **7045.0502 COST ESTIMATE FOR FACILITY CLOSURE.**

77.15 Subpart 1. **Cost estimate requirements.** The owner or operator shall have a detailed  
77.16 written estimate, in current dollars, of the cost of closing the facility in accordance with  
77.17 parts 7045.0486 and 7045.0488 and applicable closure requirements in parts 7045.0526,  
77.18 subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538,  
77.19 subpart 7; 7045.0539, subparts 2 to 4; and 7045.0542, subpart 8; and Code of Federal  
77.20 Regulations, title 40, section 264.1102, as incorporated in part 7045.0550. The closure  
77.21 cost estimate must equal the cost of final closure at the point in the facility's active life  
77.22 when the extent and manner of its operation would make closure the most expensive, as  
77.23 indicated by its closure plan. The closure cost shall be estimated as follows:

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

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

78.1 **7045.0504 FINANCIAL ASSURANCE FOR FACILITY CLOSURE.**

78.2 [For text of subps 1 to 3, see M.R.]

78.3 Subp. 4. **Surety bond guaranteeing performance of closure.** The following apply  
78.4 to surety bonds that guarantee performance of closure:

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

78.6 B. The wording of the surety bond must be identical to the wording specified in  
78.7 part 7045.0524, subpart 3.

78.8 [For text of items C to J, see M.R.]

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

78.10 Subp. 7. **Financial test and corporate guarantee for closure.** The financial test and  
78.11 corporate guarantee for closure is as follows:

78.12 [For text of items A to K, see M.R.]

78.13 L. An owner or operator may meet the requirements of this part by obtaining a  
78.14 written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be  
78.15 the parent corporation of the owner or operator. The guarantor must meet the requirements  
78.16 for owners or operators in items A to J, and must comply with the terms of the corporate  
78.17 guarantee. The wording of the corporate guarantee must be identical to the wording  
78.18 specified in part 7045.0524, subpart 8. The certified copy of the corporate guarantee  
78.19 must accompany the items sent to the commissioner as specified in item E. The terms of  
78.20 the corporate guarantee must provide that:

78.21 [For text of subitems (1) and (2), see M.R.]

78.22 (3) If the owner or operator fails to provide alternate financial assurance  
78.23 as specified in this part and obtain the written approval of alternate assurance from  
78.24 the commissioner within 90 days after receipt by both the owner or operator and the  
79.1 commissioner of a notice of cancellation of the corporate guarantee from the guarantor,  
79.2 the guarantor must provide alternative financial assurance in the name of the owner or  
79.3 operator.

79.4 [For text of subps 8 to 10, see M.R.]

79.5 **7045.0508 FINANCIAL ASSURANCE FOR POSTCLOSURE CARE.**

79.6 [For text of subps 1 to 6, see M.R.]

79.7 Subp. 7. **Financial test and corporate guarantee for postclosure care.** The  
79.8 financial test and corporate guarantee for postclosure care is as follows:

79.9 [For text of items A to L, see M.R.]

79.10 M. An owner or operator may meet the requirements for this part by obtaining a  
79.11 written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be  
79.12 the parent corporation of the owner or operator. The guarantor must meet the requirements  
79.13 for owners or operators in items A to K, and must comply with the terms of the corporate  
79.14 guarantee. The wording of the corporate guarantee must be identical to the wording  
79.15 specified in part 7045.0524, subpart 8. A certified copy of the corporate guarantee must  
79.16 accompany the items sent to the commissioner as specified in item E. The terms of the  
79.17 corporate guarantee must provide that:

79.18 (1) If the owner or operator fails to perform postclosure care of a facility  
79.19 covered by the corporate guarantee in accordance with the postclosure plan and other  
79.20 permit requirements whenever required to do so, the guarantor must do so or establish a  
79.21 trust fund as specified in subpart 2 in the name of the owner or operator.

79.22 [For text of subitem (2), see M.R.]

79.23 (3) If the owner or operator fails to provide alternate financial assurance  
79.24 as specified in this part and to obtain the written approval of alternate assurance from  
79.25 the commissioner within 90 days after receipt by both the owner or operator and the  
80.1 commissioner of a notice of cancellation of the corporate guarantee from the guarantor, the  
80.2 guarantor must provide alternate financial assurance in the name of the owner or operator.

80.3 [For text of subps 8 to 10, see M.R.]

80.4 **7045.0514 FINANCIAL ASSURANCE FOR CORRECTIVE ACTION.**

80.5 [For text of subps 1 to 6, see M.R.]

80.6 Subp. 7. **Financial test and corporate guarantee for corrective action.** The  
80.7 financial test and corporate guarantee for corrective action is as follows:

80.8 [For text of items A to K, see M.R.]

80.9 L. An owner or operator may meet the requirements of this part by obtaining a  
80.10 written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be  
80.11 the parent corporation of the owner or operator. The guarantor must meet the requirements  
80.12 for owners or operators in items A to J and must comply with the terms of the corporate  
80.13 guarantee. The wording of the corporate guarantee must be identical to the wording  
80.14 specified in part 7045.0524, subpart 8. A certified copy of the corporate guarantee must  
80.15 accompany the items sent to the commissioner as specified in item E. The terms of the  
80.16 corporate guarantee must provide that:

80.17 [For text of subitems (1) and (2), see M.R.]

80.18 (3) If the owner or operator fails to provide alternate financial assurance  
80.19 as specified in this part and to obtain the written approval of alternate assurance from  
80.20 the commissioner within 90 days after receipt by both the owner or operator and the  
80.21 commissioner of a notice of cancellation of the corporate guarantee from the guarantor,  
80.22 the guarantor must provide alternative financial assurance in the name of the owner or  
80.23 operator.

80.24 [For text of subps 8 to 10, see M.R.]

## 81.1 **7045.0518 LIABILITY REQUIREMENTS.**

81.2 Subpart 1. **Coverage for sudden accidental occurrences.** An owner or operator of  
81.3 a hazardous waste treatment, storage, or disposal facility, or a group of facilities, shall  
81.4 demonstrate financial responsibility for bodily injury and property damage to third parties  
81.5 caused by sudden accidental occurrences arising from operations of the facility or group  
81.6 of facilities. The owner or operator shall have and maintain liability coverage for sudden



81.7 accidental occurrences in the amount of at least \$1,000,000 per occurrence with an annual  
81.8 aggregate of at least \$2,000,000, exclusive of legal defense costs. This liability coverage  
81.9 may be demonstrated in one of the following ways:

81.10 [For text of items A and B, see M.R.]

81.11 C. An owner or operator may meet the requirements of this part by obtaining a  
81.12 letter of credit for liability coverage as specified in subpart 8.

81.13 D. An owner or operator may meet the requirements of this part by obtaining a  
81.14 trust fund for liability coverage as specified in subpart 9.

81.15 E. An owner or operator may demonstrate the required liability coverage  
81.16 through the use of combinations of insurance, financial test, corporate guarantee, letter  
81.17 of credit, and trust fund, except that the owner or operator may not combine a financial  
81.18 test covering part of the liability coverage requirement with a corporate guarantee unless  
81.19 the financial statement of the owner or operator is not consolidated with the financial  
81.20 statement of the guarantor. The amounts of coverage demonstrated must total at least  
81.21 the minimum amounts required by this part. If the owner or operator demonstrates the  
81.22 required coverage through the use of a combination of financial assurances under this  
81.23 item, the owner or operator shall specify at least one such assurance as "primary" coverage  
81.24 and shall specify other assurance as "excess" coverage.

81.25 F. An owner or operator shall notify the commissioner in writing within 30  
81.26 days whenever:

82.1 (1) a claim results in a reduction in the amount of financial assurance for  
82.2 liability coverage provided by a financial instrument authorized in items A to E;

82.3 (2) a certification of valid claim for bodily injury or property damages  
82.4 caused by a sudden or nonsudden accidental occurrence arising from the operation of a

82.5 hazardous waste treatment, storage, or disposal facility is entered between the owner or  
82.6 operator and third-party claimant for liability coverage under items A to E; or

82.7 (3) a final court order establishing a judgment for bodily injury or property  
82.8 damage caused by a sudden or nonsudden accidental occurrence arising from the operation  
82.9 of a hazardous waste treatment, storage, or disposal facility is issued against the owner  
82.10 or operator or an instrument that is providing financial assurance for liability coverage  
82.11 under items A to E.

82.12 Subp. 2. **Coverage for nonsudden accidental occurrences.** An owner or operator  
82.13 of a surface impoundment, landfill, land treatment facility, or disposal miscellaneous unit  
82.14 that is used to manage hazardous waste, or a group of such facilities, must demonstrate  
82.15 financial responsibility for bodily injury and property damage to third parties caused by  
82.16 nonsudden accidental occurrences arising from operations of the facility or group of  
82.17 facilities. The owner or operator must have and maintain liability coverage for nonsudden  
82.18 accidental occurrences in the amount of at least \$3,000,000 per occurrence with an  
82.19 annual aggregate of at least \$6,000,000, exclusive of legal defense costs. An owner  
82.20 or operator who must meet the requirements of this part may combine the required  
82.21 per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a  
82.22 single per-occurrence level, and combine the required annual aggregate coverage levels  
82.23 for sudden and nonsudden accidental occurrences into a single annual aggregate level.  
82.24 Owners or operators who combine coverage levels for sudden and nonsudden accidental  
82.25 occurrences must maintain liability coverage in the amount of at least \$4,000,000 per  
83.1 occurrence and \$8,000,000 annual aggregate. This liability coverage may be demonstrated  
83.2 in one of the following ways:

83.3 [For text of items A and B, see M.R.]

83.4 C. An owner or operator may meet the requirements of this part by obtaining a  
83.5 letter of credit for liability coverage as specified in subpart 8.

83.6 D. An owner or operator may meet the requirements of this part by obtaining a  
83.7 trust fund for liability coverage as specified in subpart 9.

83.8 E. An owner or operator may demonstrate the required liability coverage  
83.9 through the use of combinations of insurance, financial test, corporate guarantee, letter  
83.10 of credit, and trust fund, except that the owner or operator may not combine a financial  
83.11 test covering part of the liability coverage requirement with a corporate guarantee unless  
83.12 the financial statement of the owner or operator is not consolidated with the financial  
83.13 statement of the guarantor. The amounts of coverage demonstrated must total at least the  
83.14 minimum amount required by this part. If the owner or operator demonstrates the required  
83.15 coverage through the use of a combination of financial assurances under this item, the  
83.16 owner or operator shall specify at least one such assurance as "primary" coverage and shall  
83.17 specify other assurance as "excess" coverage.

83.18 F. An owner or operator must notify the commissioner in writing within 30  
83.19 days whenever:

83.20 (1) a claim results in a reduction in the amount of financial assurance for  
83.21 liability coverage provided by a financial instrument authorized in items A to E;

83.22 (2) a certification of valid claim for bodily injury or property damage caused  
83.23 by a sudden or nonsudden accidental occurrence arising from the operation of a hazardous  
83.24 waste treatment, storage, or disposal facility is entered between the owner or operator and  
83.25 third-party claimant for liability coverage under items A to E; or

84.1 (3) a final court order establishing a judgment for bodily injury or property  
84.2 damage caused by a sudden or nonsudden accidental occurrence arising from the operation  
84.3 of a hazardous waste treatment, storage, or disposal facility is issued against the owner  
84.4 or operator or an instrument that is providing financial assurance for liability coverage  
84.5 under items A to E.

84.6 [For text of subps 3 to 5, see M.R.]

84.7 Subp. 6. **Financial test for liability coverage.** The financial test for liability  
84.8 coverage is as follows:

84.9 [For text of items A to G, see M.R.]

84.10 H. If the owner or operator no longer meets the requirements of item A, the  
84.11 owner or operator shall obtain insurance, a letter of credit, a trust fund, or a corporate  
84.12 guarantee for the entire amount of required liability coverage as specified in this part.  
84.13 Evidence of liability coverage must be submitted to the commissioner within 90 days after  
84.14 the end of the fiscal year for which the year-end financial data show that the owner or  
84.15 operator no longer meets the test requirements.

84.16 [For text of item I, see M.R.]

84.17 Subp. 7. **Corporate guarantee for liability coverage.** The corporate guarantee for  
84.18 liability coverage is as follows:

84.19 A. Subject to item B, an owner or operator may meet the requirements of  
84.20 this part by obtaining a written corporate guarantee. The guarantor must be the parent  
84.21 corporation of the owner or operator. The guarantor must meet the requirements for  
84.22 owners or operators in subpart 6. The wording of the corporate guarantee must be  
84.23 identical to the wording specified in part 7045.0524, subpart 8a. The corporate guarantee  
84.24 must be signed by two corporate officers of the parent corporation. A corporate resolution  
84.25 authorizing the parent corporation to provide the corporate guarantee for the subsidiary  
85.1 must be attached to the corporate guarantee. A certified copy of the corporate guarantee  
85.2 must accompany the items sent to the commissioner as specified in subpart 6, item E. The  
85.3 terms of the corporate guarantee must provide that:

85.4 [For text of subitems (1) and (2), see M.R.]

85.5 B. A corporate guarantee may be used to satisfy the requirements of this part  
85.6 only if:

85.7 (1) in the case of corporations incorporated in the United States, the attorney  
85.8 general or insurance commissioner of the state in which the guarantor is incorporated  
85.9 and of each state in which a facility covered by the corporate guarantee is located has  
85.10 submitted a written statement to the commissioner and the United States Environmental  
85.11 Protection Agency that a corporate guarantee executed as described in this part and part  
85.12 7045.0524, subpart 8a, is a legally valid and enforceable obligation in that state; and

85.13 (2) in the case of corporations incorporated outside the United States, the  
85.14 non-United States corporation has identified a registered agent for service of process in  
85.15 each state in which a facility covered by the corporate guarantee is located and in the  
85.16 state in which it has its principal place of business, and the attorney general or insurance  
85.17 commissioner of each state in which a facility covered by the corporate guarantee is located  
85.18 and the state in which the guarantor corporation has its principal place of business, has  
85.19 submitted a written statement to the commissioner and to the United States Environmental  
85.20 Protection Agency that a corporate guarantee executed as described in this part and part  
85.21 7045.0524, subpart 8a, is a legally valid and enforceable obligation in that state.

85.22 **Subp. 8. Letter of credit for liability coverage.**

85.23 A. An owner or operator may satisfy the requirements of this part by obtaining  
85.24 an irrevocable standby letter of credit that conforms to the requirements of this subpart  
85.25 and submitting a copy of the letter of credit to the commissioner.

86.1 B. The financial institution issuing the letter of credit must be an entity that has  
86.2 the authority to issue letters of credit and whose letter of credit operations are regulated  
86.3 and examined by a federal or state agency.

86.4 C. The wording of the letter of credit must be identical to the wording in part  
86.5 7045.0524, subpart 11.

86.6 D. An owner or operator who uses a letter of credit to satisfy the requirements of  
86.7 this part may also establish a standby trust fund. Under the terms of a letter of credit, all

86.8 amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the  
86.9 issuing institution into the standby trust in accordance with instructions from the trustee.  
86.10 The trustee of the standby trust fund must be an entity that has the authority to act as a  
86.11 trustee and whose trust operations are regulated and examined by a federal or state agency.

86.12 E. The wording of the standby trust fund must be identical to the wording in  
86.13 part 7045.0524, subpart 13.

86.14 Subp. 9. **Trust fund for liability coverage.**

86.15 A. An owner or operator may satisfy the requirements of this part by establishing  
86.16 a trust fund that conforms to the requirements of this subpart and submitting an originally  
86.17 signed duplicate of the trust agreement to the commissioner.

86.18 B. The trustee must be an entity that has the authority to act as a trustee and  
86.19 whose trust operations are regulated and examined by a federal or state agency.

86.20 C. The trust fund for liability coverage must be funded for the full amount of the  
86.21 liability coverage to be provided by the trust fund before it may be relied upon to satisfy the  
86.22 requirements of this part. If at any time after the trust fund is created the amount of funds  
86.23 in the trust fund is reduced below the full amount of the liability coverage to be provided,  
86.24 the owner or operator, by the anniversary date of the establishment of the fund, must either  
86.25 add sufficient funds to the trust fund to cause its value to equal the full amount of liability  
87.1 coverage to be provided or obtain other financial assurance as specified in this part to cover  
87.2 the difference. For purposes of this item, "the full amount of the liability coverage to be  
87.3 provided" means the amount of coverage for sudden or nonsudden occurrences required  
87.4 to be provided by the owner or operator under this part, less the amount of financial  
87.5 assurance for liability coverage that is being provided by other financial assurance  
87.6 mechanisms being used to demonstrate financial assurance by the owner or operator.

87.7 D. The wording of the trust fund must be identical to the wording in part  
87.8 7045.0524, subpart ~~13~~ 12.

87.9 **7045.0524 WORDING OF INSTRUMENTS.**

87.10 [For text of subps 1 to 5, see M.R.]

87.11 Subp. 6. **Letter from chief financial officer for corrective action, closure, and/or**  
87.12 **postclosure care.** A letter from the chief financial officer as specified in part 7045.0504,  
87.13 subpart 7; 7045.0508, subpart 7; 7045.0514, subpart 7; 7045.0612, subpart 6; or  
87.14 7045.0616, subpart 6 must be worded as specified in this subpart, except that instructions  
87.15 in brackets must be replaced with the relevant information and the brackets deleted.

87.16 LETTER FROM CHIEF FINANCIAL OFFICER FOR CORRECTIVE ACTION,  
87.17 CLOSURE, AND/OR POSTCLOSURE CARE

87.18 [Agency Commissioner]

87.19 Minnesota Pollution Control Agency

87.20 I am the chief financial officer of [name and address of firm]. This letter is in support  
87.21 of this firm's use of the financial test to demonstrate financial assurance for corrective  
87.22 action, closure, or postclosure costs, as specified in Minnesota Rules, parts 7045.0498 to  
87.23 7045.0524 and 7045.0608 to 7045.0624.

87.24 [Fill out the following five paragraphs regarding facilities and associated cost  
87.25 estimates. If your firm has no facilities that belong in a particular paragraph, write "None"  
87.26 in the space indicated. For each facility, include its identification number, name, address,  
88.1 and current corrective action, closure, and/or postclosure cost estimates. Identify each cost  
88.2 estimate as to whether it is for corrective action, closure, or postclosure care.]

88.3 1. This firm is the owner or operator of the following facilities for which financial  
88.4 assurance for corrective action, closure, or postclosure care is demonstrated through the  
88.5 financial test specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608  
88.6 to 7045.0624. The current corrective action, closure, and/or postclosure cost estimates  
88.7 covered by the test are shown for each facility: \_\_\_\_\_.

88.8 2. This firm guarantees, through the corporate guarantee specified in Minnesota  
88.9 Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624, the corrective action,

88.10 closure, or postclosure care of the following facilities owned or operated by subsidiaries  
88.11 of this firm. The current cost estimates for the corrective action, closure, or postclosure  
88.12 care so guaranteed are shown for each facility: \_\_\_\_\_.

88.13 3. In states other than Minnesota, this firm, as owner or operator or guarantor, is  
88.14 demonstrating financial assurance for the corrective action, closure, or postclosure care  
88.15 of the following facilities either to the United States Environmental Protection Agency  
88.16 through the use of the financial test specified in Code of Federal Regulations, title 40,  
88.17 parts 264 or 265, subpart H, as amended, or to an authorized state through the use of a test  
88.18 equivalent or substantially equivalent to the specified financial test. The current corrective  
88.19 action, closure, and/or postclosure cost estimates covered by such a test are shown for  
88.20 each facility: \_\_\_\_\_.

88.21 4. This firm is the owner or operator of the following hazardous waste management  
88.22 facilities for which financial assurance for corrective action, if required, closure, or  
88.23 if a disposal facility, postclosure care, is not demonstrated either to the United States  
88.24 Environmental Protection Agency or a state through the financial test or any other financial  
88.25 assurance mechanism specified in Code of Federal Regulations, title 40, parts 264 or 265,  
88.26 subpart H, as amended, or equivalent or substantially equivalent state mechanisms. The  
89.1 current corrective action, closure, and/or postclosure cost estimates not covered by such  
89.2 financial assurance are shown for each facility: \_\_\_\_\_.

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

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



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

89.13 [Fill in Alternative I if the criteria of Minnesota Rules, part 7045.0504, subpart 7, item  
 89.14 B; 7045.0508, subpart 7, item B; 7045.0514, subpart 7, item B; 7045.0612, subpart 6, item  
 89.15 B; 7045.0616, subpart 6, item B are used. Fill in Alternative II if the criteria of Minnesota  
 89.16 Rules, part 7045.0504, subpart 7, item C; 7045.0508, subpart 7, item C; 7045.0514, subpart  
 89.17 7, item C; or 7045.0612, subpart 6, item C; or 7045.0616, subpart 6, item C are used.]

89.18 ALTERNATIVE I

89.19 1. Sum of current corrective action, closure, and postclosure cost estimate  
 89.20 [total of all cost estimates shown in the five paragraphs above] \$ \_\_\_\_\_

89.21 \*2. Total liabilities [if any portion of the corrective actions, closure, or  
 89.22 postclosure cost estimates is included in total liabilities, you may  
 89.23 deduct the amount of that portion from this line and add that amount  
 89.24 to lines 3 and 4] \$ \_\_\_\_\_

89.25 \*3. Tangible net worth \$ \_\_\_\_\_

89.26 \*4. Net worth \$ \_\_\_\_\_

89.27 \*5. Current assets \$ \_\_\_\_\_

89.28 \*6. Current liabilities \$ \_\_\_\_\_

89.29 7. Net working capital [line 5 minus line 6] \$ \_\_\_\_\_

90.1 \*8. The sum of net income plus depreciation, depletion, and amortization \$ \_\_\_\_\_

90.2 \*9. Total assets in United States (required only if less than 90 percent of  
 90.3 firm's assets are located in United States) \$ \_\_\_\_\_

90.4 YES NO

90.5 10. Is line 3 at least \$10,000,000? \_\_\_\_\_

90.6 11. Is line 3 at least 6 times line 1? \_\_\_\_\_

90.7 12. Is line 7 at least 6 times line 1? \_\_\_\_\_

90.8 \*13. Are at least 90 percent of firm's assets located in the United States?  
 90.9 If not, complete line 14 \_\_\_\_\_

90.10 14. Is line 9 at least 6 times line 1? \_\_\_\_\_

- 90.11 15. Is line 2 divided by line 4 less than 2.0? \_\_\_\_\_
- 90.12 16. Is line 8 divided by line 2 greater than 0.1? \_\_\_\_\_
- 90.13 17. Is line 5 divided by line 6 greater than 1.5? \_\_\_\_\_

ALTERNATIVE II

- 90.15 1. Sum of current corrective action, closure, and postclosure cost  
90.16 estimates [total of all cost estimates shown in the five paragraphs  
90.17 above] \$ \_\_\_\_\_
- 90.18 2. Current bond rating of most recent issuance of this firm and name  
90.19 of rating service \_\_\_\_\_
- 90.20 3. Date of issuance of bond \_\_\_\_\_
- 90.21 4. Date of maturity of bond \_\_\_\_\_
- 90.22 \*5. Tangible net worth [if any portion of the corrective action, closure, and  
90.23 postclosure costs estimates is included in "total liabilities" on your  
90.24 firm's financial statements, you may add the amount of that portion  
90.25 to this line] \$ \_\_\_\_\_
- 90.26 \*6. Total assets in United States (required only if less than 90 percent of  
90.27 firm's assets are located in United States) \$ \_\_\_\_\_

YES NO

- 90.29 7. Is line 5 at least \$10,000,000? \_\_\_\_\_
- 90.30 8. Is line 5 at least 6 times line 1? \_\_\_\_\_
- 91.1 \*9. Are at least 90 percent of firm's assets located in United States? If  
91.2 not, complete line 10 \_\_\_\_\_
- 91.3 10. Is line 6 at least 6 times line 1? \_\_\_\_\_

91.4 I hereby certify that the wording of this letter is identical to the wording specified  
91.5 in Minnesota Rules, part 7045.0524, subpart 6, as such rules were constituted on the  
91.6 date shown immediately below.

91.7 [SIGNATURE]

91.8 [NAME]

91.9 [TITLE]

91.10 [DATE]

91.11 [For text of subp 7, see M.R.]

91.12 Subp. 8. **Corporate guarantee for corrective action, closure, or postclosure care.**

91.13 A corporate guarantee as specified in part 7045.0504, subpart 7; 7045.0508, subpart 7;  
91.14 7045.0514, subpart 7; 7045.0612, subpart 6; or 7045.0616, subpart 6 must be worded as  
91.15 specified in this subpart, except that instructions in brackets must be replaced with the  
91.16 relevant information and the brackets deleted.

91.17 CORPORATE GUARANTEE FOR CORRECTIVE ACTION, CLOSURE, OR  
91.18 POSTCLOSURE CARE

91.19 Guarantee made this [date] by [name of guaranteeing entity], a business corporation  
91.20 organized under the laws of the state of [insert name of state], herein referred to as  
91.21 guarantor, to the Minnesota Pollution Control Agency (Agency), obligee, on behalf of  
91.22 our subsidiary [owner or operator] of [business address].

91.23 Recitals

91.24 1. Guarantor meets or exceeds the financial test criteria and agrees to comply  
91.25 with the reporting requirements for guarantors as specified in Minnesota Rules, parts  
91.26 7045.0504, subpart 7; 7045.0508, subpart 7; 7045.0514, subpart 7; 7045.0612, subpart 6;  
91.27 and 7045.0616, subpart 6.

92.1 2. [Owner or operator] owns or operates the following hazardous waste management  
92.2 facility(ies) covered by this guarantee: [List for each facility: identification number,  
92.3 name, and address. Indicate for each whether guarantee is for corrective action, closure,  
92.4 postclosure care, or a combination of the three.]

92.5 3. "Closure plans" and "postclosure plans" as used below refer to the plans  
92.6 maintained as required by Minnesota Rules, parts 7045.0486 to 7045.0494 and 7045.0594  
92.7 to 7045.0606 for the closure and postclosure care of facilities as identified above.

92.8 "Corrective action plans" as used below refers to the plans maintained as required by  
92.9 Minnesota Rules, part 7045.0484, subpart 2, item D; and subpart 14 for corrective action  
92.10 for the facilities as identified above.

92.11 4. For value received from [owner or operator], guarantor guarantees to the Agency  
92.12 that in the event that [owner or operator] fails to perform [insert "corrective action,"  
92.13 "closure," "postclosure care," or any combination of the three] of the above facility(ies)  
92.14 in accordance with the corrective action, closure, or postclosure plans and other permit  
92.15 or interim status requirements whenever required to do so, the guarantor shall do so or  
92.16 establish a trust fund as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 or  
92.17 7045.0608 to 7045.0624 as applicable, in the name of [owner or operator] in the amount  
92.18 of the current corrective action, closure, or postclosure cost estimates as specified in  
92.19 Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624.

92.20 5. Guarantor agrees that if, at the end of any fiscal year before termination of this  
92.21 guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within  
92.22 90 days, by certified mail, notice to the Agency Commissioner and to [owner or operator]  
92.23 that he or she intends to provide alternate financial assurance as specified in Minnesota  
92.24 Rules, parts 7045.0498 to 7045.0524 or 7045.0608 to 7045.0624, as applicable, in the  
92.25 name of [owner or operator]. Within 120 days after the end of such fiscal year, the  
92.26 guarantor shall establish financial assurance unless [owner or operator] has done so.

93.1 6. The guarantor agrees to notify the Agency Commissioner by certified mail of a  
93.2 voluntary or involuntary proceeding under United States Code, title 11, Bankruptcy,  
93.3 as amended, naming guarantor as debtor, within ten days after commencement of the  
93.4 proceeding.

93.5 7. Guarantor agrees that within 30 days after being notified by the Agency  
93.6 Commissioner of a determination that guarantor no longer meets the financial test criteria  
93.7 or that he or she is disallowed from continuing as a guarantor of corrective action, closure,  
93.8 or postclosure care, the guarantor shall establish alternate financial assurance as specified  
93.9 in Minnesota Rules, parts 7045.0498 to 7045.0524 or 7045.0608 to 7045.0624, as  
93.10 applicable, in the name of [owner or operator] unless [owner or operator] has done so.

93.11 8. Guarantor agrees to remain bound under this guarantee notwithstanding any or  
93.12 all of the following: amendment or modification of the corrective action, closure or  
93.13 postclosure plan, amendment or modification of the permit, the extension or reduction  
93.14 of the time of performance of corrective action, closure, postclosure, or any other  
93.15 modification or alteration of an obligation of the owner or operator pursuant to Minnesota  
93.16 Rules, parts 7045.0450 to 7045.0651.

93.17 9. Guarantor agrees to remain bound under this guarantee for so long as [owner or  
93.18 operator] must comply with the applicable financial assurance requirements of Minnesota  
93.19 Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624 for the above listed  
93.20 facilities, except that guarantor may cancel this guarantee by sending notice by certified  
93.21 mail to the Agency Commissioner and to [owner or operator], the cancellation to become  
93.22 effective no earlier than 120 days after receipt of notice by both the Agency Commissioner  
93.23 and [owner or operator], as evidenced by the return receipts.

93.24 10. Guarantor agrees that if [owner or operator] fails to provide alternate financial  
93.25 assurance as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 or 7045.0608 to  
93.26 7045.0624, as applicable, and obtain written approval of such assurance from the Agency  
93.27 Commissioner within 90 days after a notice of cancellation by the guarantor is received  
94.1 by the Agency Commissioner from guarantor, guarantor shall provide alternate financial  
94.2 assurance in the name of [owner or operator].

94.3 11. Guarantor expressly waives notice of acceptance of this guarantee by the Agency  
94.4 or by [owner or operator]. Guarantor also expressly waives notice of amendments or  
94.5 modifications of the corrective action, closure, and/or postclosure plan and of amendments  
94.6 or modifications of the facility permit(s).

94.7 I hereby certify that the wording of this guarantee is identical to the wording specified  
94.8 in Minnesota Rules, part 7045.0524, subpart 8, as such rules were constituted on the  
94.9 date first above written.

94.10 Effective date: \_\_\_\_\_

- 94.11 [NAME OF GUARANTOR]
- 94.12 [AUTHORIZED SIGNATURE FOR GUARANTOR]
- 94.13 [NAME OF PERSON SIGNING]
- 94.14 [TITLE OF PERSON SIGNING]
- 94.15 [SIGNATURE OF WITNESS OR NOTARY]

94.16 Subp. 8a. **Corporate guarantee for liability coverage.** A corporate guarantee  
 94.17 as specified in part 7045.0518, subpart 7, or 7045.0620, subpart 6, must be worded  
 94.18 as follows, except that instructions in brackets are to be replaced with the relevant  
 94.19 information and the brackets deleted:

94.20 **CORPORATE GUARANTEE FOR LIABILITY COVERAGE**

94.21 Guarantee made this [date] by [name of guaranteeing entity], a business corporation  
 94.22 organized under the laws of [if incorporated within the United States, insert "the State of  
 94.23 \_\_\_\_\_" and insert name of state; if incorporated outside the United States,  
 94.24 insert the name of the country in which incorporated, the principal place of business within  
 94.25 the United States, and the name and address of the registered agent in the state of the  
 94.26 principal place of business], referred to in this guarantee as the guarantor. This guarantee  
 94.27 is made on behalf of our subsidiary [owner or operator] of [business address], to any and  
 95.1 all third parties who have sustained or may sustain bodily injury or property damage  
 95.2 caused by [sudden and/or nonsudden] accidental occurrences arising from operation of  
 95.3 the facility(ies) covered by this guarantee.

95.4 **Recitals**

95.5 1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the  
 95.6 reporting requirements for guarantors as specified in Minnesota Rules, parts 7045.0518,  
 95.7 subpart 7, and 7045.0620, subpart 6.

95.8 2. [Owner or operator] owns or operates the following hazardous waste management  
 95.9 facility(ies) covered by this guarantee: [List for each facility: Identification Number,  
 95.10 name, and address; and if guarantor is incorporated outside the United States, list the name

95.11 and address of the guarantor's registered agent in each state.] This corporate guarantee  
95.12 satisfies RCRA third party liability requirements for [insert "sudden" or "nonsudden" or  
95.13 "both sudden and nonsudden"] accidental occurrences in above named owner or operator  
95.14 facilities for coverage in the amount of [insert dollar amount] for each occurrence and  
95.15 [insert dollar amount] annual aggregate.

95.16 3. For value received from [owner or operator], guarantor guarantees to any and all  
95.17 third parties who have sustained or may sustain bodily injury or property damage caused  
95.18 by [sudden and/or nonsudden] accidental occurrences arising from operations of the  
95.19 facility(ies) covered by this guarantee that in the event that [owner or operator] fails  
95.20 to satisfy a judgment or award based on a determination of liability for bodily injury  
95.21 or property damage to third parties caused by [sudden and/or nonsudden] accidental  
95.22 occurrences, arising from the operation of the above named facilities, or fails to pay  
95.23 an amount agreed to in settlement of a claim arising from or alleged to arise from such  
95.24 injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement  
95.25 agreement(s), up to the limits of coverage identified above.

95.26 4. Such obligation does not apply to any of the following:

96.1 (a) Bodily injury or property damage for which [insert owner or operator]  
96.2 is obligated to pay damages by reason of the assumption of liability in a contract or  
96.3 agreement. This exclusion does not apply to liability for damages that [insert owner or  
96.4 operator] would be obligated to pay in the absence of the contract or agreement.

96.5 (b) Any obligation of [insert owner or operator] under a workers' compensation,  
96.6 disability benefits, or unemployment compensation law, or any similar law.

96.7 (c) Bodily injury to:

96.8 (1) an employee of [insert owner or operator] arising from, and in the course  
96.9 of, employment by [insert owner or operator]; or

96.10 (2) the spouse, child, parent, brother, or sister of that employee as a  
96.11 consequence of, or arising from, and in the course of employment by [insert owner or  
96.12 operator]. This exclusion applies:

96.13 (A) whether [insert owner or operator] may be liable as an employer or  
96.14 in any other capacity; and

96.15 (B) to any obligation to share damages with or repay another person who  
96.16 must pay damages because of the injury to persons identified in paragraphs (1) and (2).

96.17 (d) Bodily injury or property damage arising out of the ownership, maintenance,  
96.18 use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

96.19 (e) Property damage to:

96.20 (1) any property owned, rented, or occupied by [insert owner or operator];

96.21 (2) premises that are sold, given away, or abandoned by [insert owner or  
96.22 operator] if the property damage arises out of any part of those premises;

96.23 (3) property loaned to [insert owner or operator];

96.24 (4) personal property in the care, custody, or control of [insert owner or  
96.25 operator]; or

96.26 (5) that particular part of real property on which [insert owner or operator]  
96.27 or any contractors or subcontractors working directly or indirectly on behalf of [insert  
97.1 owner or operator] are performing operations, if the property damage arises out of these  
97.2 operations.

97.3 5. Guarantor agrees that if, at the end of any fiscal year before termination of this  
97.4 guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within  
97.5 90 days, by certified mail, notice to the commissioner and to [owner or operator] that  
97.6 (s)he intends to provide alternate liability coverage as specified in Minnesota Rules, parts  
97.7 7045.0518 and 7045.0620, as applicable, in the name of [owner or operator]. Within 120  
97.8 days after the end of that fiscal year, the guarantor shall establish the liability coverage  
97.9 unless [owner or operator] has done so.



97.10 6. The guarantor agrees to notify the commissioner by certified mail of a voluntary  
97.11 or involuntary proceeding under Title 11 (bankruptcy), United States Code, as amended,  
97.12 naming guarantor as debtor, within ten days after commencement of the proceeding.

97.13 7. Guarantor agrees that within 30 days after being notified by the commissioner of  
97.14 a determination that guarantor no longer meets the financial test criteria or that (s)he is  
97.15 disallowed from continuing as a guarantor, (s)he shall establish alternate liability coverage  
97.16 as specified in Minnesota Rules, part 7045.0518 or 7045.0620 in the name of [owner or  
97.17 operator], unless [owner or operator] has done so.

97.18 8. Guarantor reserves the right to modify this agreement to take into account  
97.19 amendment or modification of the liability requirements established by Minnesota  
97.20 Rules, parts 7045.0518 and 7045.0620, but the modification becomes effective only if  
97.21 the commissioner does not disapprove the modification within 30 days of receipt of  
97.22 notification of the modification.

97.23 9. Guarantor agrees to remain bound under this guarantee for so long as [owner  
97.24 or operator] must comply with the applicable requirements of Minnesota Rules, parts  
97.25 7045.0518 and 7045.0620 for the above listed facility(ies), except as provided in  
97.26 paragraph 10 of this agreement.

98.1 10. Guarantor may terminate this guarantee by sending notice by certified mail to the  
98.2 commissioner and to [owner or operator] but this guarantee may not be terminated unless  
98.3 and until [owner or operator] obtains, and the commissioner approves alternate liability  
98.4 coverage complying with Minnesota Rules, parts 7045.0518 and/or 7045.0620.

98.5 11. Guarantor hereby expressly waives notice of acceptance of this guarantee by  
98.6 any party.

98.7 12. Guarantor agrees that this guarantee is in addition to and does not affect any other  
98.8 responsibility or liability of the guarantor with respect to the covered facilities.

98.9 13. The guarantor shall satisfy a third-party liability claim only on receipt of one of  
98.10 the following documents:

98.11 (a) Certification from the principal and the third-party claimant(s) that the liability  
 98.12 claim should be paid. The certification must be worded as follows, except that instructions  
 98.13 in brackets are to be replaced with the relevant information and the brackets deleted:

98.14 Certification of Valid Claim

98.15 The undersigned, as parties [insert principal] and [insert name and address of  
 98.16 third-party claimant(s)], hereby certify that the claim of bodily injury and/or property  
 98.17 damage caused by a [sudden or nonsudden] accidental occurrence arising from operating  
 98.18 [principal's hazardous waste treatment, storage, or disposal facility] should be paid in  
 98.19 the amount of \$.....

98.20 [Signatures]

98.21 Principal

98.22 (Notary) Date

98.23 [Signatures]

98.24 Claimant(s)

98.25 (Notary) Date

99.1 (b) A valid final court order establishing a judgment against the principal for  
 99.2 bodily injury or property damage caused by sudden or nonsudden accidental occurrences  
 99.3 arising from the operation of the principal's facility or group of facilities.

99.4 14. In the event of combination of this guarantee with another mechanism to meet  
 99.5 liability requirements, this guarantee will be considered [insert "primary" or "excess"]  
 99.6 coverage.

99.7 I hereby certify that the wording of the guarantee is identical to the wording specified  
 99.8 in Minnesota Rules, part 7045.0524, subpart 8a.

99.9 Effective date: \_\_\_\_\_

99.10 [Name of guarantor]

99.11 [Authorized signatures for guarantor]

99.12 [Names of persons signing]

99.13 [Titles of persons signing (Two corporate officers must sign for parent corporation.)]

99.14 Corporate resolution attached [(Attach resolution adopted by parent corporation

99.15 authorizing parent corporation to provide the corporate guarantee for subsidiary)]

99.16 Signature of witness or notary:

99.17 \_\_\_\_\_

99.18 [For text of subps 9 and 10, see M.R.]

99.19 Subp. 11. **Letter of credit for liability coverage.** A letter of credit, as specified in  
99.20 part 7045.0518, subpart 8, or 7045.0620, subpart 7, must be worded as follows, except  
99.21 that instructions in brackets are to be replaced with the relevant information and the  
99.22 brackets deleted:

99.23 IRREVOCABLE STANDBY LETTER OF CREDIT

99.24 [Name and Address of Issuing Institution]

99.25 [Agency Commissioner]

99.26 Minnesota Pollution Control Agency

100.1 Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit  
100.2 No. ... in the favor of ["any and all third-party liability claimants" or insert name of  
100.3 trustee of the standby trust fund], at the request and for the account of [owner or operator's  
100.4 name and address] for third-party liability awards or settlements of \_\_\_\_\_ [insert  
100.5 dollar amount of the letter of credit] per occurrence and the annual aggregate amount  
100.6 of \_\_\_\_\_ [insert dollar amount of the letter of credit] for sudden accidental  
100.7 occurrences and/or for third-party liability awards or settlements of \_\_\_\_\_ [insert  
100.8 dollar amount of the letter of credit] per occurrence and the annual aggregate amount  
100.9 of \_\_\_\_\_ [insert dollar amount of the letter of credit] for nonsudden accidental  
100.10 occurrences available on presentation of a sight draft bearing reference to this letter of  
100.11 credit No. ..., and [insert the following language if the letter of credit is being used without  
100.12 a standby trust fund:

100.13 "(1) a signed certificate reading as follows:

100.14

## CERTIFICATE OF VALID CLAIM

100.15 The undersigned, as parties [insert principal] and [insert name and address of third  
100.16 party claimant(s)], hereby certify that the claim of bodily injury and/or property damage  
100.17 caused by a [sudden or nonsudden] accidental occurrence arising from operations of  
100.18 [principal's] hazardous waste treatment, storage, or disposal facility should be paid in the  
100.19 amount of \$..... We hereby certify that the claim does not apply to any of the following:

100.20 (a) Bodily injury or property damage for which [insert principal] is obligated  
100.21 to pay damages by reason of the assumption of liability in a contract or agreement. This  
100.22 exclusion does not apply to liability for damages that [insert principal] would be obligated  
100.23 to pay in the absence of the contract or agreement.

100.24 (b) Any obligation of [insert principal] under a workers' compensation, disability  
100.25 benefits or unemployment compensation law or any similar law.

100.26 (c) Bodily injury to:

101.1 (1) an employee of [insert principal] arising from, and in the course of,  
101.2 employment by [insert principal]; or

101.3 (2) the spouse, child, parent, brother, or sister of that employee as a  
101.4 consequence of, or arising from, and in the course of employment by [insert principal].

101.5 This exclusion applies:

101.6 (A) whether [insert principal] may be liable as an employer or in any  
101.7 other capacity; and

101.8 (B) to any obligation to share damages with or repay another person who  
101.9 must pay damages because of the injury to persons identified in paragraphs (1) and (2).

101.10 (d) Bodily injury or property damage arising out of the ownership, maintenance,  
101.11 use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

101.12 (e) Property damage to:

101.13 (1) any property owned, rented, or occupied by [insert principal];

101.14 (2) premises that are sold, given away, or abandoned by [insert principal] if  
101.15 the property damage arises out of any part of those premises;  
101.16 (3) property loaned to [insert principal];  
101.17 (4) personal property in the care, custody, or control of [insert principal]; or  
101.18 (5) that particular part of real property on which [insert principal] or any  
101.19 contractors or subcontractors working directly or indirectly on behalf of [insert principal]  
101.20 are performing operations, if the property damage arises out of these operations.

101.21 [Signatures]

101.22 Grantor

101.23 [Signatures]

101.24 Claimant(s)

101.25 ; or

102.1 (2) a valid final court order establishing a judgment against the Grantor for bodily  
102.2 injury or property damage caused by sudden or nonsudden accidental occurrences arising  
102.3 from the operation of the Grantor's facility or group of facilities.

102.4 This letter of credit is effective as of [date] and shall expire on [date at least one year  
102.5 later], but such expiration date shall be automatically extended for a period of [at least one  
102.6 year] on [date] and on each successive expiration date, unless, at least 120 days before  
102.7 the current expiration date, we notify you, the commissioner, and [owner's or operator's  
102.8 name] by certified mail that we have decided not to extend this letter of credit beyond the  
102.9 current expiration date.

102.10 Whenever this letter of credit is drawn on under and in compliance with the terms of  
102.11 this credit, we shall duly honor such draft upon presentation to us.

102.12 [Insert the following language if a standby trust fund is not being used: "In the event  
102.13 that this letter of credit is used in combination with another mechanism for liability  
102.14 coverage, this letter of credit shall be considered [insert "primary" or "excess" coverage."]

102.15 We certify that the wording of this letter of credit is identical to the wording specified  
 102.16 in Minnesota Rules, part 7045.0524, subpart 11, as such rule was constituted on the date  
 102.17 shown immediately below. [Signature(s) and title(s) of official(s) of issuing institution]  
 102.18 [Date].

102.19 This credit is subject to [insert "the most recent edition of the Uniform Customs  
 102.20 and Practice for Documentary Credits, published and copyrighted by the International  
 102.21 Chamber of Commerce," or "the Uniform Commercial Code"].

102.22 Subp. 12. **Trust agreement for liability coverage.**

102.23 A. A trust agreement, as specified in part 7045.0518, subpart ~~10~~ 9, or 7045.0620,  
 102.24 subpart 9 8, must be worded as follows, except that instructions in brackets are to be  
 102.25 replaced with the relevant information and the brackets deleted:

102.26 TRUST AGREEMENT

103.1 Trust Agreement, the "Agreement," entered into as of [date] by and between [name of  
 103.2 the owner or operator] a [name of State] [insert "corporation," "partnership," "association,"  
 103.3 or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated  
 103.4 in the State of \_\_\_\_\_" or "a national bank"], the "trustee."

103.5 Whereas, the Minnesota Pollution Control Agency (Agency), an agency of the state  
 103.6 of Minnesota, has established certain rules applicable to the Grantor, requiring that an  
 103.7 owner or operator of a hazardous waste management facility or group of facilities must  
 103.8 demonstrate financial responsibility for bodily injury and property damage to third parties  
 103.9 caused by sudden accidental and/or nonsudden accidental occurrences arising from  
 103.10 operations of the facility or group of facilities.

103.11 Whereas, the Grantor has elected to establish a trust to assure all or part of such  
 103.12 financial responsibility for the facilities identified herein.

103.13 Whereas, the Grantor, acting through its duly authorized officers, has selected the  
 103.14 Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

103.15 Now, therefore, the Grantor and the Trustee agree as follows:

103.16 **Section 1. Definitions.** As used in this Agreement:

103.17 (a) The term "Grantor" means the owner or operator who enters into this  
103.18 Agreement and any successors or assigns of the Grantor.

103.19 (b) The term "Trustee" means the Trustee who enters into this Agreement and  
103.20 any successor Trustee.

103.21 **Section 2. Identification of Facilities.** This agreement pertains to the facilities  
103.22 identified on attached schedule A [on Schedule A, for each facility list the EPA  
103.23 Identification Number, name, and address of the facility(ies) and the amount of liability  
103.24 coverage, or portions thereof, if more than one instrument affords combined coverage as  
103.25 demonstrated by this Agreement].

103.26 **Section 3. Establishment of Fund.** The Grantor and the Trustee hereby establish a  
103.27 trust fund, hereinafter the "Fund," for the benefit of any and all third parties injured or  
104.1 damaged by [sudden and/or nonsudden] accidental occurrences arising from operation  
104.2 of the facility(ies) covered by this guarantee, in the amounts of \_\_\_\_\_ [insert  
104.3 dollar amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of the  
104.4 fund] annual aggregate for sudden accidental occurrences and \_\_\_\_\_ [insert dollar  
104.5 amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of the fund]  
104.6 annual aggregate for nonsudden occurrences, except that the Fund is not established for  
104.7 the benefit of third parties for the following:

104.8 (a) Bodily injury or property damage for which [insert Grantor] is obligated to  
104.9 pay damages by reason of the assumption of liability in a contract or agreement. This  
104.10 exclusion does not apply to liability for damages that [insert Grantor] would be obligated  
104.11 to pay in the absence of the contract or agreement.

104.12 (b) Any obligation of [insert Grantor] under a workers' compensation, disability  
104.13 benefits, or unemployment compensation law or any similar law.

104.14 (c) Bodily injury to:

104.15 (1) an employee of [insert Grantor] arising from, and in the course of,  
104.16 employment by [insert Grantor]; or

104.17 (2) the spouse, child, parent, brother, or sister of that employee as a  
104.18 consequence of, or arising from, and in the course of employment by [insert Grantor].

104.19 This exclusion applies:

104.20 (A) whether [insert Grantor] may be liable as an employer or in any  
104.21 other capacity; and

104.22 (B) to any obligation to share damages with or repay another person who  
104.23 must pay damages because of the injury to persons identified in paragraphs (1) and (2).

104.24 (d) Bodily injury or property damage arising out of the ownership, maintenance,  
104.25 use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

104.26 (e) Property damage to:

104.27 (1) any property owned, rented, or occupied by [insert Grantor];

105.1 (2) premises that are sold, given away, or abandoned by [insert Grantor] if  
105.2 the property damage arises out of any part of those premises;

105.3 (3) property loaned to [insert Grantor];

105.4 (4) personal property in the care, custody, or control of [insert Grantor]; or

105.5 (5) that particular part of real property on which [insert Grantor] or any  
105.6 contractors or subcontractors working directly or indirectly on behalf of [insert Grantor]  
105.7 are performing operations, if the property damage arises out of these operations.

105.8 In the event of combination with another mechanism for liability coverage, the fund  
105.9 shall be considered [insert "primary" or "excess"] coverage.

105.10 The Fund is established initially as consisting of the property, which is acceptable  
105.11 to the Trustee, described in Schedule B attached hereto. Such property and any other  
105.12 property subsequently transferred to the Trustee is referred to as the Fund, together  
105.13 with all earnings and profits thereon, less any payments or distributions made by the  
105.14 Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST,



105.15 as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any  
105.16 responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any  
105.17 payments necessary to discharge any liabilities of the Grantor established by the Agency.

105.18 **Section 4. Payment for Bodily Injury or Property Damage.** The Trustee shall  
105.19 satisfy a third party liability claim by making payments from the Fund only upon receipt  
105.20 of one of the following documents:

105.21 (a) Certification from the Grantor and the third party claimant(s) that the liability  
105.22 claim should be paid. The certification must be worded as follows, except that instructions  
105.23 in brackets are to be replaced with the relevant information and the brackets deleted:

105.24 CERTIFICATION OF VALID CLAIM

105.25 The undersigned, as parties [insert Grantor] and [insert name and address of  
105.26 third party claimant(s)], hereby certify that the claim of bodily injury and/or property  
105.27 damage caused by a [sudden or nonsudden] accidental occurrence arising from operating  
106.1 [Grantor's] hazardous waste treatment, storage, or disposal facility should be paid in the  
106.2 amount of \$[.....].

106.3 [Signatures]

106.4 Grantor

106.5 [Signatures]

106.6 Claimant(s)

106.7 (b) A valid final court order establishing a judgment against the Grantor for  
106.8 bodily injury or property damage caused by sudden or nonsudden accidental occurrences  
106.9 arising from the operation of the Grantor's facility or group of facilities.

106.10 **Section 5. Payments Comprising the Fund.** Payments made to the Trustee for the  
106.11 Fund shall consist of cash or securities acceptable to the Trustee.

106.12 **Section 6. Trustee Management.** The Trustee shall invest and reinvest the principal  
106.13 and income, in accordance with general investment policies and guidelines which the  
106.14 Grantor may communicate in writing to the Trustee from time to time, subject, however, to

106.15 the provisions of this section. In investing, reinvesting, exchanging, selling, and managing  
106.16 the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the  
106.17 interest of the beneficiary and with the care, skill, prudence, and diligence under the  
106.18 circumstance then prevailing which persons of prudence, acting in a like capacity and  
106.19 familiar with such matters, would use in the conduct of an enterprise of a like character  
106.20 and with like aims; except that:

106.21 (a) securities or other obligations of the Grantor, or any other owner or operator  
106.22 of the facilities, or any of their affiliates as defined in the Investment Company Act of  
106.23 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held unless they are  
106.24 securities or other obligations of the Federal or State government;

106.25 (b) the Trustee is authorized to invest the Fund in time or demand deposits of the  
106.26 Trustee, to the extent insured by an agency of the Federal or State government; and

107.1 (c) the Trustee is authorized to hold cash awaiting investment or distribution  
107.2 uninvested for a reasonable time and without liability for the payment of interest thereon.

107.3 **Section 7. Commingling and Investment.** The Trustee is expressly authorized in  
107.4 its discretion:

107.5 (a) to transfer from time to time any or all of the assets of the Fund to any  
107.6 common commingled, or collective trust fund created by the Trustee in which the fund is  
107.7 eligible to participate, subject to all of the provisions thereof, to be commingled with the  
107.8 assets of other trusts participating therein; and

107.9 (b) to purchase shares in any investment company registered under the  
107.10 Investment Company Act of 1940, 15 U.S.C. 81a-1 et seq., including one which may be  
107.11 created, managed, underwritten, or to which investment advice is rendered or the shares of  
107.12 which are sold by the Trustee. The Trustee may vote such shares in its discretion.

107.13 **Section 8. Express Powers of Trustee.** Without in any way limiting the powers and  
107.14 discretions conferred upon the Trustee by the other provisions of this Agreement or by  
107.15 law, the Trustee is expressly authorized and empowered:

107.16 (a) to sell, exchange, convey, transfer, or otherwise dispose of any property held  
107.17 by it, by public or private sale. No person dealing with the Trustee shall be bound to see  
107.18 to the application of the purchase money or to inquire into the validity or expediency of  
107.19 any such sale or other disposition;

107.20 (b) to make, execute, acknowledge, and deliver any and all documents of transfer  
107.21 and conveyance and any and all other instruments that may be necessary or appropriate to  
107.22 carry out the powers herein granted;

107.23 (c) to register any securities held in the Fund in its own name or in the name of a  
107.24 nominee and to hold any security in bearer form or in book entry, or to combine certificates  
107.25 representing such securities with certificates of the same issue held by the Trustee in other  
107.26 fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified  
107.27 central depository even though, when so deposited, such securities may be merged and  
108.1 held in bulk in the name of the nominee of such depository with other securities deposited  
108.2 therein by another person, or to deposit or arrange for the deposit of any securities issued  
108.3 by the United States Government, or any agency or instrumentality thereof, with a Federal  
108.4 Reserve bank, but the books and records of the Trustee shall at all times show that all such  
108.5 securities are part of the Fund;

108.6 (d) to deposit any cash in the Fund in interest-bearing accounts maintained or  
108.7 savings certificates issued by the Trustee, in its separate corporate capacity, or in any  
108.8 other banking institution affiliated with the Trustee, to the extent insured by an agency  
108.9 of the Federal or State government; and

108.10 (e) to compromise or otherwise adjust all claims in favor of or against the Fund.

108.11 **Section 9. Taxes and Expenses.** All taxes of any kind that may be assessed or levied  
108.12 against or in respect of the Fund and all brokerage commissions incurred by the Fund shall  
108.13 be paid from the Fund. All other expenses incurred by the Trustee in connection with the  
108.14 administration of this Trust, including fees for legal services rendered to the Trustee, the

108.15 compensation of the Trustee to the extent not paid directly by the Grantor, and all other  
108.16 proper charges and disbursements of the Trustee shall be paid from the Fund.

108.17 **Section 10. Annual Valuations.** The Trustee shall annually, at least 30 days prior  
108.18 to the anniversary date of establishment of the Fund, furnish to the Grantor and to the  
108.19 Agency Commissioner a statement confirming the value of the Trust. Any securities in the  
108.20 Fund shall be valued at market value as of no more than 60 days prior to the anniversary  
108.21 date of establishment of the Fund. The failure of the Grantor to object in writing to the  
108.22 Trustee within 90 days after the statement has been furnished to the Grantor and the  
108.23 Agency Commissioner shall constitute a conclusively binding assent by the Grantor  
108.24 barring the Grantor from asserting any claim or liability against the Trustee with respect to  
108.25 matters disclosed in the statement.

108.26 **Section 11. Advice of Counsel.** The Trustee may from time to time consult with  
108.27 counsel, who may be counsel to the Grantor with respect to any question arising as to the  
109.1 construction of this Agreement or any action to be taken hereunder. The Trustee shall be  
109.2 fully protected, to the extent permitted by law, in acting upon the advice of counsel.

109.3 **Section 12. Trustee Compensation.** The Trustee shall be entitled to reasonable  
109.4 compensation for its services as agreed upon in writing from time to time with the Grantor.

109.5 **Section 13. Successor Trustee.** The Trustee may resign or the Grantor may replace  
109.6 the Trustee, but such resignation or replacement shall not be effective until the Grantor has  
109.7 appointed a successor trustee and this successor accepts the appointment. The successor  
109.8 trustee shall have the same powers and duties as those conferred upon the Trustee  
109.9 hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall  
109.10 assign, transfer, and pay over to the successor trustee the funds and properties then  
109.11 constituting the Fund. If for any reason the Grantor cannot or does not act in the event of  
109.12 the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction  
109.13 for the appointment of a successor trustee or for instructions. The successor trustee shall  
109.14 specify the date on which it assumes administration of the trust in a writing sent to the

109.15 Grantor, the Agency Commissioner, and the present Trustee by certified mail ten days  
109.16 before such change becomes effective. Any expenses incurred by the Trustee as a result of  
109.17 any of the acts contemplated by this section shall be paid as provided in Section 9.

109.18 **Section 14. Instructions to the Trustee.** All orders, requests, and instructions by the  
109.19 Grantor to the Trustee shall be in writing, signed by such persons as are designated in the  
109.20 attached Exhibit A or such other designees as the Grantor may designate by amendments  
109.21 to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance  
109.22 with the Grantor's orders, requests, and instructions. All orders, requests, and instructions  
109.23 by the Agency Commissioner to the Trustee shall be in writing, signed by the Agency  
109.24 Commissioner, or the Commissioner's designees, and the Trustee shall act and shall be  
109.25 fully protected in acting in accordance with such orders, requests, and instructions. The  
109.26 Trustee shall have the right to assume, in the absence of written notice to the contrary,  
109.27 that no event constituting a change or a termination of the authority of any person to act  
110.1 on behalf of the Grantor or the Agency hereunder has occurred. The Trustee shall have  
110.2 no duty to act in the absence of such orders, requests, and instructions from the Grantor  
110.3 and/or the Agency, except as provided for herein.

110.4 **Section 15. Notice of Nonpayment.** If a payment for bodily injury or property  
110.5 damage is made under Section 4 of this trust, the Trustee shall notify the Grantor of such  
110.6 payment and the amount(s) thereof within five (5) working days. The Grantor shall, on  
110.7 or before the anniversary date of the establishment of the Fund following such notice,  
110.8 either make payments to the Trustee in amounts sufficient to cause the trust to return to  
110.9 its value immediately prior to the payment of claims under Section 4, or shall provide  
110.10 written proof to the Trustee that other financial assurance for liability coverage has been  
110.11 obtained equaling the amount necessary to return the trust to its value prior to the payment  
110.12 of claims. If the Grantor does not either make payments to the Trustee or provide the  
110.13 Trustee with such proof, the Trustee shall within ten working days after the anniversary

110.14 date of the establishment of the Fund provide a written notice of nonpayment to the  
110.15 Agency Commissioner.

110.16 **Section 16. Amendment of Agreement.** This Agreement may be amended by an  
110.17 instrument in writing executed by the Grantor, the Trustee, and the Agency Commissioner,  
110.18 or by the Trustee and the Agency Commissioner if the Grantor ceases to exist.

110.19 **Section 17. Irrevocability and Termination.** Subject to the right of the parties to  
110.20 amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall  
110.21 continue until terminated at the written agreement of the Grantor, the Trustee, and the  
110.22 Agency Commissioner, or by the Trustee and the Agency Commissioner, if the Grantor  
110.23 ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust  
110.24 administration expenses, shall be delivered to the Grantor.

110.25 The Agency Commissioner will agree to termination of the Trust when the owner or  
110.26 operator substitutes alternate financial assurance as specified in this section.

111.1 **Section 18. Immunity and Indemnification.** The Trustee shall not incur personal  
111.2 liability of any nature in connection with any act or omission, made in good faith, in  
111.3 the administration of this Trust, or in carrying out any directions by the Grantor or the  
111.4 Agency Commissioner issued in accordance with this Agreement. The Trustee shall be  
111.5 indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and  
111.6 against any personal liability to which the Trustee may be subjected by reason of any act  
111.7 or conduct in its official capacity, including all expenses reasonably incurred in its defense  
111.8 in the event the Grantor fails to provide such defense.

111.9 **Section 19. Choice of Law.** This Agreement shall be administered, construed, and  
111.10 enforced according to the laws of the State of Minnesota.

111.11 **Section 20. Interpretation.** As used in Agreement, words in the singular include  
111.12 the plural and words in the plural include the singular. The descriptive headings for each  
111.13 section of this Agreement shall not affect the interpretation or the legal efficacy of this  
111.14 Agreement.

111.15 In Witness Whereof the parties have caused this Agreement to be executed by their  
 111.16 respective officers duly authorized and their corporate seals to be hereunto affixed and  
 111.17 attested as of the date first above written. The parties below certify that the wording of this  
 111.18 Agreement is identical to the wording specified in part 7045.0524, subpart 12, as such  
 111.19 regulations were constituted on the date first above written.

111.20 [Signature of Grantor]

111.21 [Title]

111.22 Attest:

111.23 [Title]

111.24 [Seal]

111.25 [Signature of Trustee]

111.26 Attest:

111.27 [Title]

112.1 [Seal]

112.2 B. The following is an example of the certification of acknowledgment which  
 112.3 must accompany the trust agreement for a trust fund as specified in parts 7045.0518,  
 112.4 subpart ~~10~~ 9, or 7045.0620, subpart ~~9~~ 8.

112.5 State of \_\_\_\_\_

112.6 County of \_\_\_\_\_

112.7 On this [date], before me personally came [owner or operator] to me known, who,  
 112.8 being by me duly sworn, did depose and say that she/he resides at [address], that she/he  
 112.9 is [title] of [corporation], the corporation described in and which executed the above  
 112.10 instrument; that she/he knows the seal of said corporation; that the seal affixed to such  
 112.11 instrument is such corporate seal; that it was so affixed by order of the Board of Directors  
 112.12 of said corporation, and that she/he signed her/his name thereto by like order.

112.13 [Signature of Notary Public]

112.14 Subp. 13. **Standby trust agreement for liability coverage.**

112.15 A. A standby trust agreement, as specified in part 7045.0518, subpart 8, or  
112.16 7045.0620, subpart 7, must be worded as follows, except that instructions in brackets are  
112.17 to be replaced with the relevant information and the brackets deleted:

112.18 **STANDBY TRUST AGREEMENT**

112.19 Trust Agreement, the "Agreement," entered into as of [date] by and between [name  
112.20 of the owner or operator] a [name of a State] [insert "corporation," "partnership,"  
112.21 "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert,  
112.22 "incorporated in the State of \_\_\_\_\_" or "a national bank"], the "trustee."

112.23 Whereas, the Minnesota Pollution Control Agency (Agency), an agency of the State  
112.24 of Minnesota, has established certain regulations applicable to the Grantor, requiring that  
112.25 an owner or operator of a hazardous waste management facility or group of facilities  
112.26 must demonstrate financial responsibility for bodily injury and property damage to third  
113.1 parties caused by sudden accidental and/or nonsudden accidental occurrences arising from  
113.2 operations of the facility or group of facilities.

113.3 Whereas, the Grantor has elected to establish a standby trust into which the proceeds  
113.4 from a letter of credit may be deposited to assure all or part of such financial responsibility  
113.5 for the facilities identified herein.

113.6 Whereas, the Grantor, acting through its duly authorized officers, has selected the  
113.7 Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

113.8 Now, therefore, the Grantor and the Trustee agree as follows:

113.9 **Section 1. Definitions.** As used in this Agreement:

113.10 (a) The term Grantor means the owner or operator who enters into this Agreement  
113.11 and any successors or assigns of the Grantor.

113.12 (b) The term Trustee means the Trustee who enters into this Agreement and any  
113.13 successor Trustee.

113.14 **Section 2. Identification of Facilities.** This Agreement pertains to the facilities  
113.15 identified on attached Schedule A [on Schedule A, for each facility list the identification



113.16 number, name, and address of the facility(ies) and the amount of liability coverage, or  
113.17 portions thereof, if more than one instrument affords combined coverage as demonstrated  
113.18 by this Agreement].

113.19 **Section 3. Establishment of Fund.** The Grantor and the Trustee hereby establish a  
113.20 standby trust fund, hereafter the "Fund," for the benefit of any and all third parties injured  
113.21 or damaged by [sudden and/or nonsudden] accidental occurrences arising from operation  
113.22 of the facility(ies) covered by this guarantee, in the amounts of \_\_\_\_\_ [insert  
113.23 dollar amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of  
113.24 the fund] annual aggregate for sudden accidental occurrences and \_\_\_\_\_ [insert  
113.25 dollar amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of the  
113.26 fund] annual aggregate for nonsudden occurrences, except that the Fund is not established  
113.27 for the benefit of third parties for the following:

114.1 (a) Bodily injury or property damage for which [insert Grantor] is obligated to  
114.2 pay damages by reason of the assumption of liability in a contract or agreement. This  
114.3 exclusion does not apply to liability for damages that [insert Grantor] would be obligated  
114.4 to pay in the absence of the contract or agreement.

114.5 (b) Any obligation of [insert Grantor] under a workers' compensation, disability  
114.6 benefits, or unemployment compensation law or any similar law.

114.7 (c) Bodily injury to:

114.8 (1) an employee ~~or~~ of [insert Grantor] arising from, and in the course of,  
114.9 employment by [insert Grantor]; or

114.10 (2) the spouse, child, parent, brother, or sister of that employee as a  
114.11 consequence of, or arising from, and in the course of employment by [insert Grantor].

114.12 This exclusion applies:

114.13 (A) whether [insert Grantor] may be liable as an employer or in any  
114.14 other capacity; and

114.15 (B) to any obligation to share damages with or repay another person who  
114.16 must pay damages because of the injury to persons identified in paragraphs (1) and (2).

114.17 (d) Bodily injury or property damage arising out of the ownership, maintenance,  
114.18 use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

114.19 (e) Property damage to:

114.20 (1) any property owned, rented, or occupied by [insert Grantor];

114.21 (2) premises that are sold, given away, or abandoned by [insert Grantor] if  
114.22 the property damage arises out of any part of those premises;

114.23 (3) property loaned by [insert Grantor];

114.24 (4) personal property in the care, custody, or control of [insert Grantor]; or

114.25 (5) that particular part of real property on which [insert Grantor] or any  
114.26 contractors or subcontractors working directly or indirectly on behalf of [insert Grantor]  
114.27 are performing operations, if the property damage arises out of these operations.

115.1 In the event of combination with another mechanism for liability coverage, the fund  
115.2 shall be considered [insert "primary" or "excess"] coverage.

115.3 The Fund is established initially as consisting of the proceeds of the letter of credit  
115.4 deposited into the Fund. Such proceeds and any other property subsequently transferred to  
115.5 the Trustee is referred to as the Fund, together with all earnings and profits thereon, less  
115.6 any payments or distributions made by the Trustee pursuant to this Agreement. The Fund  
115.7 shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be  
115.8 responsible nor shall it undertake any responsibility for the amount or adequacy of, nor  
115.9 any duty to collect from the Grantor, any payments necessary to discharge any liabilities  
115.10 of the Grantor established by the Agency.

115.11 **Section 4. Payment for Bodily Injury or Property Damage.** The Trustee shall  
115.12 satisfy a third-party liability claim by drawing on the letter of credit described in Schedule  
115.13 B and by making payments from the Fund only upon receipt of one of the following  
115.14 documents:

115.15 (a) Certification from the Grantor and the third-party claimant(s) that the liability  
115.16 claim should be paid. The certification must be worded as follows, except that instructions  
115.17 in brackets are to be replaced with the relevant information and the brackets deleted:  
115.18 ~~The Trustee shall satisfy a third-party liability claim by drawing on the letter of credit~~  
115.19 ~~described in Schedule B and by making payments from the Fund only upon receipt of~~  
115.20 ~~one of the following documents:~~

115.21 CERTIFICATION OF VALID CLAIM

115.22 The undersigned, as parties [insert Grantor] and [insert name and address of  
115.23 third party claimant(s)], hereby certify that the claim of bodily injury and/or property  
115.24 damage caused by a [sudden or nonsudden] accidental occurrence arising from operating  
115.25 [Grantor's] hazardous waste treatment, storage, or disposal facility should be paid in the  
115.26 amount of \$[\_\_\_\_\_].

115.27 [Signature] Grantor

116.1 [Signature(s)] Claimant(s)

116.2 (b) A valid final court order establishing a judgment against the Grantor for  
116.3 bodily injury or property damage caused by sudden or nonsudden accidental occurrences  
116.4 arising from the operation of the Grantor's facility or group of facilities.

116.5 **Section 5. Payments Comprising the Fund.** Payments made to the Trustee for the  
116.6 Fund shall consist of the proceeds from the letter of credit drawn upon by the Trustee in  
116.7 accordance with the requirements of Minnesota Rules, part 7045.0524, subpart 11, and  
116.8 Section 4 of this Agreement.

116.9 **Section 6. Trustee Management.** The Trustee shall invest and reinvest the principal  
116.10 and income, in accordance with general investment policies and guidelines which the  
116.11 Grantor may communicate in writing to the Trustee from time to time, subject, however,  
116.12 to the provisions of this Section. In investing, reinvesting, exchanging, selling, and  
116.13 managing the Fund, the Trustee shall discharge the trustee's duties with respect to the  
116.14 trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and

116.15 diligence under the circumstances then prevailing which persons of prudence, acting in a  
116.16 like capacity and familiar with such matters, would use in the conduct of an enterprise of a  
116.17 like character and with like aims; except that:

116.18           (a) securities or other obligations of the Grantor, or any other owner or operator  
116.19 of the facilities, or any of their affiliates as defined in the Investment Company Act of  
116.20 1940, as amended, United States Code, title 15, section 80a-2(a), shall not be acquired or  
116.21 held, unless they are securities or other obligations of the Federal or State government;

116.22           (b) the Trustee is authorized to invest the Fund in time or demand deposits of the  
116.23 Trustee, to the extent insured by an agency of the Federal or a State government; and

116.24           (c) the Trustee is authorized to hold cash awaiting investment or distribution  
116.25 uninvested for a reasonable time and without liability for the payment of interest thereon.

116.26       **Section 7. Commingling and Investment.** The Trustee is expressly authorized in  
116.27 its discretion:

117.1           (a) to transfer from time to time any or all of the assets of the Fund to any  
117.2 common, commingled, or collective trust fund created by the trustee in which the Fund is  
117.3 eligible to participate, subject to all of the provisions thereof, to be commingled with the  
117.4 assets of other trusts participating therein; and

117.5           (b) to purchase shares in any investment company registered under the  
117.6 Investment Company Act of 1940, United States Code, title 15, section 80a-1 et seq.,  
117.7 including one which may be created, managed, underwritten, or to which investment  
117.8 advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote  
117.9 such shares in its discretion.

117.10       **Section 8. Express Powers of Trustee.** Without in any way limiting the powers and  
117.11 discretions conferred upon the Trustee by the other provisions of the Agreement or by  
117.12 law, the Trustee is expressly authorized and empowered:

117.13           (a) to sell, exchange, convey, transfer, or otherwise dispose of any property held  
117.14 by it, by public or private sale. No person dealing with the Trustee shall be bound to see

117.15 to the application of the purchase money or to inquire into the validity or expediency of  
117.16 any such sale or other disposition;

117.17 (b) to make, execute, acknowledge, and deliver any and all documents of transfer  
117.18 and conveyance and any and all other instruments that may be necessary or appropriate to  
117.19 carry out the powers herein granted;

117.20 (c) to register any securities held in the Fund in its own name or in the name of a  
117.21 nominee and to hold any security in bearer form or in book entry, or to combine certificates  
117.22 representing such securities with certificates of the same issue held by the Trustee in other  
117.23 fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified  
117.24 central depository even though, when so deposited, such securities may be merged and  
117.25 held in bulk in the name of the nominee of such depository with other securities deposited  
117.26 therein by another person, or to deposit or arrange for the deposit of any securities issued  
117.27 by the United States Government, or any agency or instrumentality thereof, with a Federal  
118.1 Reserve Bank, but the books and records of the Trustee shall at all times show that all such  
118.2 securities are part of the Fund;

118.3 (d) to deposit any cash in the Fund in interest-bearing accounts maintained or  
118.4 savings certificates issued by the Trustee, in its separate corporate capacity, or in any  
118.5 other banking institution affiliated with the Trustee, to the extent insured by an agency  
118.6 of the Federal or State government; and

118.7 (e) to compromise or otherwise adjust all claims in favor of or against the Fund.

118.8 **Section 9. Taxes and Expenses.** All taxes of any kind that may be assessed or levied  
118.9 against or in respect of the Fund and all brokerage commissions incurred by the Fund shall  
118.10 be paid from the Fund. All other expenses incurred by the Trustee in connection with the  
118.11 administration of this Trust, including fees for legal services rendered to the Trustee, the  
118.12 compensation of the Trustee to the extent not paid directly by the Grantor, and all other  
118.13 proper charges and disbursements to the Trustee shall be paid from the Fund.

118.14       **Section 10. Advice of Counsel.** The Trustee may from time to time consult with  
118.15 counsel, who may be counsel to the Grantor, with respect to any question arising as to the  
118.16 construction of this Agreement or any action to be taken hereunder. The Trustee shall be  
118.17 fully protected, to the extent permitted by law, in acting upon the advice of counsel.

118.18       **Section 11. Trustee Compensation.** The Trustee shall be entitled to reasonable  
118.19 compensation for its services as agreed upon in writing from time to time with the Grantor.

118.20       **Section 12. Successor Trustee.** The Trustee may ~~reside~~ resign or the Grantor may  
118.21 replace the Trustee, but such resignation or replacement shall not be effective until the  
118.22 Grantor has appointed a successor trustee and this successor accepts the appointment. The  
118.23 successor trustee shall have the same powers and duties as those conferred upon the  
118.24 Trustee hereunder. Upon the successor trustee's acceptance of the appointment; the Trustee  
118.25 shall assign, transfer, and pay over to the successor trustee the funds and properties then  
118.26 constituting the Fund. If for any reason the Grantor cannot or does not act in the event of  
118.27 the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction  
119.1 for the appointment of a successor trustee or for instructions. The successor trustee shall  
119.2 specify the date on which it assumes administration of the trust in a writing sent to the  
119.3 Grantor, the Agency Commissioner and the present Trustee by certified mail ten days  
119.4 before such change becomes effective. Any expenses incurred by the Trustee as a result of  
119.5 any of the acts contemplated by this Section shall be paid as provided in Section 9.

119.6       **Section 13. Instructions to the Trustee.** All orders, requests, certifications of valid  
119.7 claims, and instructions to the Trustee shall be in writing, signed by such persons as are  
119.8 designated in the attached Exhibit A or such other designees as the Grantor may designate  
119.9 by amendments to Exhibit A. The Trustee shall be fully protected in acting without inquiry  
119.10 in accordance with the Grantor's orders, requests, and instructions. The Trustee shall  
119.11 have the right to assume, in the absence of written notice to the contrary, that no event  
119.12 constituting a change or a termination of the authority of any person to act on behalf of the  
119.13 Grantor or the Agency Commissioner hereunder has occurred. The Trustee shall have

119.14 no duty to act in the absence of such orders, requests, and instructions from the Grantor  
119.15 and/or the Agency, except as provided for herein.

119.16 **Section 14. Amendment of Agreement.** This Agreement may be amended by an  
119.17 instrument in writing executed by the Grantor, the Trustee, and the Agency Commissioner,  
119.18 or by the Trustee and the Agency Commissioner if the Grantor ceases to exist.

119.19 **Section 15. Irrevocability and Termination.** Subject to the right of the parties to  
119.20 amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall  
119.21 continue until terminated at the written agreement of the Grantor, the Trustee, and the  
119.22 Agency Commissioner, or by the Trustee and the Agency Commissioner, if the Grantor  
119.23 ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust  
119.24 administration expenses, shall be paid to the Grantor.

119.25 The Agency Commissioner will agree to termination of the Trust when the owner or  
119.26 operator substitutes alternative financial assurance as specified in this section.

120.1 **Section 16. Immunity and Indemnification.** The Trustee shall not incur personal  
120.2 liability of any nature in connection with any act or omission, made in good faith, in the  
120.3 administration of this Trust, or in carrying out any directions by the Grantor and the  
120.4 Agency Commissioner issued in accordance with this Agreement. The Trustee shall be  
120.5 indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and  
120.6 against any personal liability to which the Trustee may be subjected by reason of any act  
120.7 or conduct in its official capacity, including all expenses reasonably incurred in its defense  
120.8 in the event the Grantor fails to provide such defense.

120.9 **Section 17. Choice of Law.** This Agreement shall be administered, construed, and  
120.10 enforced in accordance with the laws of the State of Minnesota.

120.11 **Section 18. Interpretation.** As used in this Agreement, words in the singular  
120.12 include the plural and words in the plural include the singular. The descriptive headings  
120.13 for each Section of this Agreement shall not affect the interpretation of the legal efficacy  
120.14 of this Agreement.

120.15 In Witness Whereof, the parties have caused this Agreement to be executed by their  
 120.16 respective officers duly authorized and their corporate seals to be hereunto affixed and  
 120.17 attested as of the date first above written. The parties below certify that the wording of  
 120.18 this Agreement is identical to the wording specified in Minnesota Rules, part 7045.0524,  
 120.19 subpart 13, as such rule was constituted on the date first above written.

120.20 [Signature of Grantor]

120.21 [Title]

120.22 Attest:

120.23 [Title]

120.24 [Seal]

120.25 [Signature of Trustee]

120.26 Attest:

120.27 [Title]

121.1 [Seal]

121.2 B. The following is an example of the certification of acknowledgment which  
 121.3 must accompany the trust agreement for a standby trust fund as specified in parts  
 121.4 7045.0518, subpart 8, or 7045.0620, subpart 7.

121.5 State of \_\_\_\_\_

121.6 County of \_\_\_\_\_

121.7 On this [date], before me personally came [owner or operator] to me known, who,  
 121.8 being by me duly sworn, did depose and say that she/he resides at [address], that she/he  
 121.9 is [title] of [corporation], the corporation described in and which executed the above  
 121.10 instrument; that she/he knows the seal of said corporation; that the seal affixed to such  
 121.11 instrument is such corporate seal; that it was so affixed by order of the Board of Directors  
 121.12 of said corporation, and that she/he signed her/his name thereto by like order.

121.13 [Signature of Notary Public]



121.14 **7045.0526 USE AND MANAGEMENT OF CONTAINERS.**

121.15 Subpart 1. **Scope.** This part applies to owners and operators of all hazardous waste  
121.16 facilities that store containers of hazardous waste, except as part 7045.0450 provides  
121.17 otherwise. Under part 7045.0127 and Code of Federal Regulations, title 40, section 261.33  
121.18 (c), as incorporated in part 7045.0135, if a hazardous waste is emptied from a container,  
121.19 the residue remaining in the container is not considered a hazardous waste if the container  
121.20 is empty, as defined in part 7045.0127. In that event, management of the container is  
121.21 exempt from the requirements of this part.

121.22 [For text of subps 2 to 5, see M.R.]

121.23 Subp. 6. **Containment.** Requirements for containment systems are as described in  
121.24 items A to E.

121.25 [For text of items A and B, see M.R.]

122.1 C. Spilled or leaked waste and accumulated precipitation must be removed from  
122.2 the sump or collection area in as timely a manner as is necessary to prevent overflow of  
122.3 the collection system. If the collected material is a hazardous waste as defined in parts  
122.4 7045.0102 to 7045.0155, it must be managed as a hazardous waste in accordance with  
122.5 parts 7045.0205 to 7045.1030. If the collected material is discharged through a point  
122.6 source to waters of the United States, it is subject to the requirements of section 402 of the  
122.7 federal Clean Water Act, ~~United States Code, title 33, section 1342,~~ as amended.

122.8 [For text of item D, see M.R.]

122.9 E. Storage areas that store containers holding wastes F020, F021, F022, F023,  
122.10 F026, F027, and F028 from part 7045.0135, subpart 1a, item B, that do not contain free  
122.11 liquids must have a containment system defined by item A.

122.12 Subp. 7. **Special requirements for ignitable or reactive waste.** Containers holding  
122.13 ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's

122.14 property line when physically possible based on the dimensions of the property. When  
122.15 it is not physically possible to place containers at least 50 feet from the property line,  
122.16 based on the dimensions of the property, the ignitable or reactive waste must be placed at  
122.17 least as far as the specified minimum distance from property line found in the Minnesota  
122.18 State Fire Code, chapter 7510. Nothing in this subpart shall relieve the facility owner or  
122.19 operator from the obligation to comply with any local, state, or federal law governing  
122.20 storage of these wastes.

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

122.22 Subp. 10. **Air emission standards.** The owner or operator must manage all  
122.23 hazardous waste placed in a container in accordance with parts 7045.0540, ~~7045.0547~~  
122.24 7045.0549, and ~~7045.0548~~ 7045.0551.

122.25 **7045.0528 TANK SYSTEMS.**

123.1 Subpart 1. **Scope.** This part applies to owners and operators of facilities that use  
123.2 tank systems, including tank systems, sumps, and other such collection devices or systems  
123.3 used in conjunction with drip pads, as defined in part 7045.0020 and regulated under part  
123.4 7045.0541, to treat or store hazardous waste, except as part 7045.0450, and items A  
123.5 and B provide otherwise.

123.6 A. Tank systems that are used to store or treat hazardous waste that contains no  
123.7 free liquids and are situated inside a building with an impermeable floor are exempted from  
123.8 the requirements in subpart 4. To demonstrate the absence or presence of free liquids in the  
123.9 stored or treated waste, the following test must be used: Method 9095 (Paint Filter Liquids  
123.10 Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical  
123.11 Methods," EPA publication SW-846, incorporated in part 7045.0065, item D.

123.12 [For text of item B, see M.R.]

123.13 [For text of subps 2 to 9, see M.R.]

123.14 Subp. 10. **Special requirements for ignitable or reactive waste.** Ignitable or  
123.15 reactive waste must not be placed in a tank unless:

123.16 [For text of items A and B, see M.R.]

123.17 C. the tank is used solely for emergencies.

123.18 The owner or operator of a facility that treats or stores ignitable or reactive waste in  
123.19 a tank shall comply with the requirements for the maintenance of protective distances  
123.20 between the waste management area and any public ways, streets, alleys, or an adjoining  
123.21 property line that can be built upon, as required in the buffer zone requirements for  
123.22 tanks contained in the Minnesota State Fire Code, chapter 7510. As required by part  
123.23 7045.0458, the waste analysis plan must include analyses needed to comply with these  
123.24 special requirements for ignitable or reactive waste. Additional requirements for ignitable  
123.25 and reactive wastes are contained in part 7045.0456, subpart 1. Part 7045.0456, subpart 3  
123.26 also requires waste analysis, trial tests, or other documentation to ensure compliance with  
124.1 part 7045.0456, subpart 2. As required by part 7045.0478, the owner or operator shall  
124.2 place the results of each waste analysis and trial test, and any documented information, in  
124.3 the operating record of the facility.

124.4 [For text of subp 11, see M.R.]

124.5 Subp. 12. **Air emission standards.** The owner or operator of a facility must manage  
124.6 all hazardous waste placed in a tank in accordance with parts 7045.0540, ~~7045.0547~~  
124.7 7045.0549, and ~~7045.0548~~ 7045.0551.

124.8 **7045.0532 SURFACE IMPOUNDMENTS.**

124.9 [For text of subps 1 to 6, see M.R.]

124.10 Subp. 7. **Closure and postclosure care.** The requirements of closure and postclosure  
124.11 care are as follows:

124.12 A. At closure, the owner or operator shall:

124.13 (1) remove or decontaminate all waste residues, contaminated containment  
124.14 system components including liners, contaminated subsoils, and structures and equipment  
124.15 contaminated with waste and leachate, and manage them as hazardous waste unless they  
124.16 are shown to not be hazardous in accordance with parts 7045.0102 to 7045.0155; or

124.17 [For text of subitem (2), see M.R.]

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

124.19 Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or  
124.20 reactive waste must not be placed in a surface impoundment, unless the waste and  
124.21 impoundment satisfy all applicable requirements of part 7045.1390, and:

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

124.23 Subp. 9. **Special requirements for incompatible wastes.** Incompatible wastes, or  
124.24 incompatible wastes and materials, must not be placed in the same surface impoundment  
125.1 unless compliance with part 7045.0456, subpart 2 is maintained. For examples of  
125.2 potentially incompatible wastes, or incompatible waste and materials, see part 7045.0543,  
125.3 subpart 1, item C.

125.4 Subp. 10. **Special requirements for hazardous wastes F020, F021, F022, F023,**  
125.5 **F026, F027, and F028.** The following requirements apply to the hazardous wastes  
125.6 indicated:

125.7 A. Hazardous waste F020, F021, F022, F023, F026, and F027 listed under part  
125.8 7045.0135, subpart 1a, item B, must not be placed in a surface impoundment.

125.9 B. Hazardous waste F028 and treatment residues and soils contaminated with  
125.10 hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part  
125.11 7045.0135, subpart 1a, item B, must not be placed in surface impoundments unless the  
125.12 owner or operator operates the surface impoundment in accordance with all applicable

125.13 requirements of this part and in accordance with a management plan that is approved by  
125.14 the commissioner considering the following factors:

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

125.16 C. The commissioner shall impose additional design, operating, and monitoring  
125.17 requirements if the commissioner finds that additional requirements are necessary for  
125.18 surface impoundments used to treat, store, or dispose of hazardous waste F028 and  
125.19 treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023,  
125.20 F026, F027, and F028 listed under part 7045.0135, subpart 1a, item B, in order to reduce  
125.21 the possibility of migration of these wastes to ground water, surface water, or air so as to  
125.22 protect human health and the environment.

125.23 Subp. 11. **Air emission standards.** The owner or operator must manage all  
125.24 hazardous waste placed in a surface impoundment in accordance with parts 7045.0540  
125.25 and ~~7045.0548~~ 7045.0551.

126.1 **7045.0534 WASTE PILES.**

126.2 [For text of subps 1 to 6, see M.R.]

126.3 Subp. 7. **Closure and postclosure care.** Closure and postclosure requirements  
126.4 are as follows:

126.5 A. At closure, the owner or operator shall remove or decontaminate all waste  
126.6 residues, contaminated containment system components including liners, contaminated  
126.7 subsoils, and structures and equipment contaminated with waste and leachate; and manage  
126.8 them as hazardous waste unless they are shown to not be hazardous in accordance with  
126.9 parts 7045.0102 to ~~7054.0150~~ 7045.0155.

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

126.11 Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or  
126.12 reactive waste must not be placed in a waste pile unless the waste and waste pile satisfy all  
126.13 applicable requirements of part 7045.1390, and:

126.14 [For text of items A and B, see M.R.]

126.15 [For text of subp 9, see M.R.]

126.16 Subp. 10. **Special requirements for hazardous wastes F020, F021, F022, F023,**  
126.17 **F026, F027, and F028.** The following requirements apply to the hazardous wastes  
126.18 indicated:

126.19 A. Hazardous waste F020, F021, F022, F023, F026, and F027 listed under part  
126.20 7045.0135, subpart 1a, item B, must not be placed in a surface impoundment.

126.21 B. Hazardous waste F028 and treatment residues and soils contaminated with  
126.22 hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part  
126.23 7045.0135, subpart 1a, item B, must not be placed in surface impoundments unless the  
126.24 owner or operator operates the surface impoundment in accordance with all applicable  
127.1 requirements of this part and in accordance with a management plan that is approved by  
127.2 the commissioner considering the following factors:

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

127.4 C. The commissioner shall impose additional design, operating, and monitoring  
127.5 requirements if the commissioner finds that additional requirements are necessary for  
127.6 surface impoundments used to treat, store, or dispose of hazardous waste F028 and  
127.7 treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023,  
127.8 F026, F027, and F028 listed under part 7045.0135, subpart 1a, item B, in order to reduce  
127.9 the possibility of migration of these wastes to ground water, surface water, or air so as to  
127.10 protect human health and the environment.

127.11 **7045.0536 LAND TREATMENT.**

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

127.13 Subp. 9. **Ignitable or reactive waste.** The owner or operator shall not apply  
127.14 ignitable or reactive waste to the treatment zone unless the waste and the treatment zone  
127.15 meet all applicable requirements of part 7045.1390, and:

127.16 [For text of items A and B, see M.R.]

127.17 [For text of subp 10, see M.R.]

127.18 Subp. 11. **Special requirements for hazardous wastes F020, F021, F022, F023,**  
127.19 **F026, F027, and F028.** The following requirements apply to the hazardous wastes  
127.20 indicated:

127.21 A. Hazardous wastes F020, F021, F022, F023, F026, and F027 listed under part  
127.22 7045.0135, subpart 1a, item B, must not be placed in a land treatment unit.

127.23 B. Hazardous waste F028 and treatment residues and soils contaminated with  
127.24 hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part  
127.25 7045.0135, subpart 1a, item B, must not be managed at land treatment units unless the  
128.1 owner or operator operates the land treatment unit in accordance with all applicable  
128.2 requirements of this part and in accordance with a management plan that is approved by  
128.3 the commissioner considering the following factors:

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

128.5 C. The commissioner shall impose additional design, operating, and monitoring  
128.6 requirements if the commissioner finds that the additional requirements are necessary for  
128.7 land treatment facilities used to treat or dispose of hazardous waste F028 and treatment  
128.8 residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026,  
128.9 F027, and F028 listed under part 7045.0135, subpart 1a, item B, in order to reduce the

128.10 possibility of migration of these wastes to ground water, surface water, or air so as to  
128.11 protect human health and the environment.

128.12 **7045.0538 LANDFILLS.**

128.13 [For text of subps 1 to 6, see M.R.]

128.14 Subp. 7. **Closure and postclosure care.** Closure and postclosure care requirements  
128.15 are as follows:

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

128.17 B. After final closure, the owner or operator shall comply with all postclosure  
128.18 requirements contained in parts 7045.0488 to 7045.0494 including maintenance and  
128.19 monitoring throughout the postclosure care period specified in the permit under part  
128.20 7045.0488. The owner or operator shall:

128.21 [For text of subitems (1) to (3), see M.R.]

128.22 (4) maintain and monitor the leak detection system in accordance with  
128.23 subparts 3, item C, subitems (3), unit (d), and (4); and 5, item C, and comply with all other  
128.24 applicable leak detection system requirements of parts 7045.0450 to 7045.0551 governing  
128.25 facility standards;

129.1 [For text of subitems (5) to (8), see M.R.]

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

129.3 Subp. 8. **Special requirements for ignitable or reactive waste.** Special  
129.4 requirements for ignitable or reactive waste are as follows:

129.5 A. Except as provided in item B and subpart 12, ignitable or reactive waste must  
129.6 not be placed in a landfill, unless the waste and landfill meet all applicable requirements  
129.7 of part 7045.1390, and the resulting waste, mixture, or dissolution of material no longer



129.8 meets the definition of ignitable or reactive waste under part 7045.0131, subpart 2 or 5,  
129.9 and compliance with part 7045.0456, subpart 2 is maintained.

129.10 B. Except for prohibited wastes which remain subject to treatment standards  
129.11 in Code of Federal Regulations, title 40, sections 268.40 to 268.42, as incorporated in  
129.12 part 7045.1390, ignitable wastes in containers may be landfilled without meeting the  
129.13 requirements of item A, provided that the wastes are disposed of in such a way that  
129.14 they are protected from any material or conditions which may cause them to ignite.  
129.15 At a minimum, ignitable wastes must be disposed of in nonleaking containers which  
129.16 are carefully handled and placed so as to avoid heat, sparks, rupture, or any other  
129.17 condition that might cause ignition of the wastes; must be covered daily with soil or other  
129.18 noncombustible material to minimize the potential for ignition of the wastes; and must not  
129.19 be disposed of in cells that contain or will contain other wastes which may generate heat  
129.20 sufficient to cause ignition of the waste.

129.21 [For text of subp 9, see M.R.]

129.22 Subp. 10. **Special requirements for liquid waste.** Special requirements for liquid  
129.23 waste are as follows:

130.1 A. The placement in any landfill of bulk or noncontainerized liquid hazardous  
130.2 waste or waste containing free liquids, whether or not sorbents have been added, is  
130.3 prohibited.

130.4 B. Containers holding free liquids must not be placed in a landfill unless:

130.5 (1) all free-standing liquid has been removed by decanting, or other  
130.6 methods; has been mixed with sorbent or solidified so that freestanding liquid is no longer  
130.7 observed; or has been otherwise eliminated;

130.8 (2) the container is very small, such as an ampoule; or

130.9 (3) the container is a laboratory pack as defined in subpart 12 and is  
130.10 disposed of in accordance with subpart 12.

130.11 C. To demonstrate the absence or presence of free liquids in either a  
130.12 containerized or a bulk waste, the following test must be used: Method 9095 (Paint Filter  
130.13 Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical  
130.14 Methods," EPA publication SW-846, incorporated in part 7045.0065, item D.

130.15 D. Sorbents used to treat free liquids to be disposed of in landfills must be  
130.16 nonbiodegradable. Nonbiodegradable sorbents are materials listed or described in subitem  
130.17 (1) or materials that pass one of the tests in subitem (2).

130.18 (1) Nonbiodegradable sorbents:

130.19 (a) inorganic minerals, other inorganic materials, and elemental  
130.20 carbon (for example, aluminosilicates, clays, smectites, Fuller's earth, bentonite,  
130.21 calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite),  
130.22 vermiculites, and zeolites; calcium carbonate (organic free limestone); oxides/hydroxides,  
130.23 alumina, lime, silica (sand), and diatomaceous earth; perlite (volcanic glass); expanded  
130.24 volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; and activated  
130.25 charcoal/activated carbon);

131.1 (b) high molecular weight synthetic polymers (for example,  
131.2 polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene,  
131.3 polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber,  
131.4 cross-linked allylstyrene, and tertiary butyl copolymers). This does not include polymers  
131.5 derived from biological material or polymers specifically designed to be degradable; or

131.6 (c) mixtures of these nonbiodegradable materials.

131.7 (2) Tests for nonbiodegradable sorbents must use the following methods.  
131.8 The methods and tests in this subitem are incorporated by reference, are not subject to  
131.9 frequent change, and are available through the Minitex interlibrary loan system:

131.10 (a) the sorbent material is determined to be nonbiodegradable under  
131.11 ASTM Method G21-70 (1984a), Standard Practice for Determining Resistance of  
131.12 Synthetic Polymer Materials to Fungi;

131.13 (b) the sorbent material is determined to be nonbiodegradable under  
131.14 ASTM Method G22-76 (1984b), Standard Practice for Determining Resistance of Plastics  
131.15 to Bacteria; or

131.16 (c) the sorbent material is determined to be nonbiodegradable under  
131.17 OECD test 301B: CO<sub>2</sub> Evolution (Modified Sturm Test).

131.18 [For text of subp 11, see M.R.]

131.19 Subp. 12. **Disposal of small containers of hazardous waste in overpacked drums.**  
131.20 Small containers of hazardous waste in overpacked drums, or laboratory packs, may be  
131.21 placed in a landfill if the requirements of items A to F are met:

131.22 A. Hazardous waste must be packaged in nonleaking inside containers. The  
131.23 inside containers must be of a design and constructed of a material that will not react  
131.24 dangerously with, be decomposed by, or be ignited by the contained waste. Inside  
131.25 containers must be tightly and securely sealed. The inside containers must be of the  
132.1 size and type authorized in the United States Department of Transportation hazardous  
132.2 materials regulations under Code of Federal Regulations, title 49, parts 173, 178, 179, and  
132.3 180, as amended, if those regulations specify a particular inside container for the waste.

132.4 B. The inside containers must be overpacked in a removable head metal shipping  
132.5 container as specified in the United States Department of Transportation regulations under  
132.6 Code of Federal Regulations, title 49, section 173.12 and parts 178, 179, and 180, as

132.7 amended. The inside containers must be surrounded by, at a minimum, a sufficient  
132.8 quantity of chemically compatible sorbent material, determined to be nonbiodegradable  
132.9 in accordance with subpart 10, item D, to completely sorb all of the liquid contents of  
132.10 the inside containers. The gross weight of the complete package must not exceed 205  
132.11 kilograms (452 pounds). The metal outer container must be full after it has been packed  
132.12 with inside containers and sorbent materials.

132.13 C. The sorbent material used must not be capable of reacting dangerously  
132.14 with, being decomposed by, or being ignited by the contents of the inside containers, in  
132.15 accordance with part 7045.0456, subpart 2.

132.16 [For text of items D and E, see M.R.]

132.17 F. The disposal is in compliance with part 7045.1390. Persons who incinerate  
132.18 lab packs in accordance with Code of Federal Regulations, title 40, section 268.42, as  
132.19 incorporated in part 7045.1390, may use fiber drums in place of metal outer containers.  
132.20 The fiber drums must meet United States Department of Transportation specifications in  
132.21 Code of Federal Regulations, title 49, section 173.12, as amended, and be overpacked in  
132.22 accordance with item B.

132.23 Subp. 13. **Special requirements for hazardous wastes F020, F021, F022, F023,**  
132.24 **F026, F027, and F028.** The following requirements apply to the hazardous wastes  
132.25 indicated:

133.1 A. Hazardous wastes F020, F021, F022, F023, F026, and F027 listed under part  
133.2 7045.0135, subpart 1a, item B, must not be placed in a landfill.

133.3 B. Hazardous waste F028 and treatment residues and soils contaminated with  
133.4 hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part  
133.5 7045.0135, subpart 1a, item B, must not be managed at landfills unless the owner or  
133.6 operator operates the landfill in accordance with all applicable requirements of this

133.7 part and in accordance with a management plan that is approved by the commissioner  
133.8 considering the following factors:

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

133.10 C. The commissioner shall impose additional design, operating, and monitoring  
133.11 requirements if the commissioner finds that the additional requirements are necessary  
133.12 for landfills used to dispose of hazardous waste F028 and treatment residues and soil  
133.13 contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028  
133.14 listed under part 7045.0135, subpart 1a, item B, in order to reduce the possibility of  
133.15 migration of these wastes to ground water, surface water, or air so as to protect human  
133.16 health and the environment.

133.17 **7045.0539 MISCELLANEOUS UNITS.**

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

133.19 Subp. 2. **Environmental performance standards.** A miscellaneous unit must  
133.20 be located, designed, constructed, operated, maintained, and closed in a manner that  
133.21 will ensure protection of human health and the environment. Permits for miscellaneous  
133.22 units are to contain the terms and provisions necessary to protect human health and  
133.23 the environment, including, but not limited to, as appropriate, design and operating  
133.24 requirements, detection and monitoring requirements, and requirements for responses to  
133.25 releases of hazardous waste or hazardous constituents from the unit. Permit terms and  
133.26 provisions shall include those requirements of parts 7045.0526 to 7045.0542, ~~7045.0547~~  
134.1 7045.0549, and ~~7045.0548~~ 7045.0551, and chapter 7001 that are appropriate for the  
134.2 miscellaneous unit being permitted. Protection of human health and the environment  
134.3 includes, but is not limited to:

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

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

134.6 **7045.0540 AIR EMISSION STANDARDS FOR TANKS, SURFACE**  
134.7 **IMPOUNDMENTS, AND CONTAINERS.**

134.8 Subpart 1. **Incorporation of federal regulations.** The owners and operators of  
134.9 facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments,  
134.10 or containers must comply with Code of Federal Regulations, title 40, part 264, subpart  
134.11 CC, air emission standards for tanks, surface impoundments, and containers, sections  
134.12 264.1080 to 264.1090, as amended, which are incorporated by reference subject to the  
134.13 exceptions in subpart 2.

134.14 Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.**

134.15 A. The agency does not incorporate the following Code of Federal Regulations,  
134.16 title 40, part 264, subpart CC provisions, as amended:

134.17 (1) Code of Federal Regulations, title 40, section 264.1080(d) to (g),  
134.18 governing specific exclusions; and

134.19 (2) Code of Federal Regulations, title 40, section 264.1082(c)(4)(ii),  
134.20 governing authority that EPA cannot delegate to states.

134.21 B. Part 7045.0090, adoption and incorporation by reference, also applies.

134.22 **7045.0542 THERMAL TREATMENT.**

134.23 [For text of subs 1 to 3, see M.R.]

135.1 Subp. 4. **Performance standards.** A thermal treatment facility thermally treating  
135.2 hazardous waste must be designed, constructed, and maintained so that, when operated in  
135.3 accordance with operating requirements specified under subpart 6 it will comply with all  
135.4 federal and state air quality rules and regulations and will meet the performance standards  
135.5 of items A to E, whichever are applicable:

135.6 [For text of items A to D, see M.R.]

135.7 E. A thermal treatment facility thermally treating hazardous wastes F020,  
135.8 F021, F022, F023, F026, and F027 listed under part 7045.0135, subpart 1a, item B,  
135.9 must achieve a destruction and removal efficiency ("DRE") of 99.9999 percent for each  
135.10 principal organic hazardous constituent designated in its permit. This performance must  
135.11 be demonstrated on principal organic hazardous constituents that are more difficult to  
135.12 incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE  
135.13 is determined for each principal organic hazardous constituent from the equation in item  
135.14 A. In addition, the owner or operator of the thermal treatment facility must notify the  
135.15 commissioner of the intent to burn waste F020, F021, F022, F023, F026, or F027.

135.16 [For text of subps 5 to 9, see M.R.]

135.17 **7045.0543 APPENDICES TO FACILITY STANDARDS.**

135.18 Subpart 1. **Incorporation of federal regulations.** The following appendices found in  
135.19 Code of Federal Regulations, title 40, part 264, as amended, are incorporated by reference:

135.20 A. Appendix I, Recordkeeping Instructions;

135.21 B. Appendix IV, Cochran's Approximation to the Behrens-Fisher Students'  
135.22 T-test;

135.23 C. Appendix V, Examples of Potentially Incompatible Waste; and

135.24 D. Appendix IX, Ground Water Monitoring List.

136.1 Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.**

136.2 Part 7045.0090, adoption and incorporation by reference, also applies.

136.3 **7045.0544 COCHRAN'S APPROXIMATION TO THE BEHRENS-FISHER**  
136.4 **STUDENTS' T-TEST.**

136.5 Subpart 1. **In general.** Part 7045.0543, subpart 1, item B, incorporates this test  
136.6 by reference.

136.7 Subp. 2. [See repealer.]

136.8 Subp. 3. [See repealer.]

136.9 **7045.0550 CONTAINMENT BUILDINGS.**

136.10 Subpart 1. **Incorporation of federal regulations.** The owners and operators of  
136.11 facilities that store or treat hazardous waste in containment buildings must comply with  
136.12 Code of Federal Regulations, title 40, part 264, subpart DD, Containment Buildings,  
136.13 sections 264.1100 to 264.1110, as amended, which is incorporated by reference subject to  
136.14 the exceptions in subpart 2.

136.15 Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.**

136.16 Part 7045.0090, adoption and incorporation by reference, also applies.

136.17 **7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.**

136.18 Subpart 1. **General requirements.** Parts 7045.0552 to 7045.0651 establish  
136.19 minimum standards for the management of hazardous waste during the period of interim  
136.20 status and until certification of final closure or, if the facility is subject to postclosure  
136.21 requirements, until postclosure responsibilities are fulfilled. Except as provided in Code  
136.22 of Federal Regulations, title 40, section 265.1080(b), as incorporated in part 7045.0645,  
136.23 the standards in parts 7045.0552 to 7045.0651, and the standards for the corrective action  
136.24 management units in part 7045.0545, temporary units in part 7045.0546, and staging piles  
136.25 in part 7045.0547, apply to: (1) owners and operators of facilities that treat, store, or  
137.1 dispose of hazardous waste who have fully complied with the requirements for interim  
137.2 status under chapter 7001 and section 3005(e) of the federal Resource Conservation and  
137.3 Recovery Act (RCRA) until either a permit is issued under chapter 7001 and section 3005  
137.4 of RCRA or until applicable interim status closure and postclosure responsibilities are  
137.5 fulfilled and (2) those owners and operators of facilities in existence on November 19,  
137.6 1980, who have failed to provide timely notification as required by section 3010(a) of  
137.7 RCRA or failed to file Part A of the permit application in chapter 7001. These standards,  
137.8 and those in parts 7045.0545 to 7045.0547, apply to owners and operators of existing



137.9 facilities who have fully complied with the requirements for state or federal interim  
137.10 status until a permit is issued or until applicable interim status closure and postclosure  
137.11 responsibilities are fulfilled, and those who have failed to achieve state or federal interim  
137.12 status.

137.13 Parts 7045.0552 to 7045.0651 apply to the owners and operators of all facilities that  
137.14 treat, store, or dispose of hazardous waste referred to in part 7045.1390, land disposal  
137.15 restrictions, and those restrictions are considered material conditions or requirements of  
137.16 parts 7045.0552 to 7045.0651, interim status standards.

137.17 Subp. 1a. **Applicability for owners and operators of facilities not regulated as**  
137.18 **hazardous waste facilities by federal regulation.** Owners and operators of hazardous  
137.19 waste facilities that are not federally regulated as hazardous waste facilities that are,  
137.20 for example, regulated as facilities by state rule only, are subject to the applicable  
137.21 requirements of parts 7045.0552 to 7045.0651 on the effective date of any rules that  
137.22 make the facility subject to regulation. The facility shall submit a Part B application for a  
137.23 hazardous waste facility permit to the commissioner within one year of the effective date  
137.24 of any rules that first make the facility subject to the requirement to obtain a hazardous  
137.25 waste facility permit.

137.26 [For text of subp 2, see M.R.]

138.1 Subp. 3. **Exemptions.** The requirements of parts 7045.0552 to 7045.0651 do not  
138.2 apply to the following specific waste management units, facilities, or activities, although  
138.3 all other waste management activities of the owner or operator may be regulated:

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

138.5 B. a facility managing recyclable hazardous wastes subject to regulation under  
138.6 part 7045.0125, 7045.0665, 7045.0675, or 7045.0685; however, this exemption does not  
138.7 apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 makes the requirements  
138.8 of parts 7045.0552 to 7045.0651 applicable by cross-reference;

138.9 [For text of items C to E, see M.R.]

138.10 F. an elementary neutralization unit, a pretreatment unit, or a wastewater  
138.11 treatment unit, if the unit does not receive hazardous waste from generators other than  
138.12 the owner or operator of the unit, provided that if the owner or operator is diluting  
138.13 hazardous ignitable (D001) wastes (other than the D001 high TOC subcategory defined  
138.14 in Code of Federal Regulations, title 40, section 268.40, Table of Treatment Standards  
138.15 for Hazardous Wastes, as incorporated in part 7045.1390), or reactive (D003) waste, to  
138.16 remove the characteristic before land disposal, the owner or operator must comply with  
138.17 part 7045.0562, subpart 2;

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

138.19 J. (1) except as provided in subitem (2), treatment or containment activities  
138.20 during immediate response to any of the following situations: a discharge of a hazardous  
138.21 waste, an imminent and substantial threat of a discharge of a hazardous waste, or a  
138.22 discharge of a material which, when discharged, becomes a hazardous waste;

138.23 (2) a facility otherwise regulated by parts 7045.0552 to 7045.0651 shall  
138.24 comply with all applicable requirements of parts 7045.0395, 7045.0397, 7045.0558,  
138.25 and 7045.0566 to 7045.0576; or

139.1 (3) a person who is covered by subitem (1) and who continues or initiates  
139.2 hazardous waste treatment or containment activities after the immediate response is over  
139.3 is subject to all applicable requirements of parts 7045.0552 to 7045.0651 and the agency's  
139.4 permitting procedures for those activities;

139.5 K. treatment of hazardous waste by the generator in the generator's accumulation  
139.6 tanks or containers in accordance with part 7045.0292. If the treatment involves  
139.7 evaporation of aqueous waste or polymerization of polyester or other chemical fixation  
139.8 treatment processes in open containers, the generator is exempt from parts 7045.0552 to  
139.9 7045.0651, but before beginning the treatment process must submit to the commissioner

139.10 the information required under part 7045.0539, subpart 2, items A to C, that is relevant to  
139.11 the treatment activity and must be notified by the commissioner that the treatment activity  
139.12 is approved. The commissioner shall approve the treatment activity if the commissioner  
139.13 finds that the treatment activity will not endanger human health and the environment; or

139.14 [For text of item L, see M.R.]

139.15 Subp. 4. **Restrictions.** Hazardous wastes F020, F021, F022, F023, F026, F027, and  
139.16 F028 listed under part 7045.0135, subpart 1a, item B, must not be managed at facilities  
139.17 governed by interim status unless:

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

139.19 **7045.0556 GENERAL FACILITY STANDARDS.**

139.20 [For text of subs 1 and 2, see M.R.]

139.21 Subp. 3. **Required notices.** Notices are required in the following situations:

139.22 [For text of items A and B, see M.R.]

139.23 C. Before transferring ownership or operation of a facility during its operating  
139.24 life, or of a disposal facility during the postclosure care period, the owner or operator shall  
139.25 notify the new owner or operator in writing of the requirements of parts 7045.0552 to  
140.1 7045.0651. An owner's or operator's failure to notify the new owner or operator of these  
140.2 requirements does not relieve the new owner or operator of the obligation to comply  
140.3 with all applicable requirements.

140.4 [For text of item D, see M.R.]

140.5 Subp. 4. **Security.** Security measures include the following:

140.6 A. The owner or operator shall prevent the unknowing entry, and minimize the  
140.7 possibility for the unauthorized entry, of persons or livestock onto the active portion of  
140.8 the facility, unless:

140.9 [For text of subitem (1), see M.R.]

140.10 (2) disturbance of the waste or equipment, by the unknowing or  
140.11 unauthorized entry of persons or livestock onto the active portion of a facility, will not  
140.12 cause a violation of the requirements of parts 7045.0552 to 7045.0651.

140.13 [For text of items B and C, see M.R.]

140.14 Subp. 5. **General inspection requirements.** General inspection requirements are  
140.15 listed in items A to E.

140.16 [For text of items A and B, see M.R.]

140.17 C. The frequency of inspection may vary for the items on the schedule.  
140.18 However, the frequency must be based on the rate of possible deterioration of the  
140.19 equipment and the probability of an environmental or human health incident if the  
140.20 deterioration, malfunction, or any operator error goes undetected between inspections.  
140.21 Areas subject to spills, such as loading and unloading areas, must be inspected daily when  
140.22 in use. At a minimum, the inspection schedule must include the terms and frequencies  
140.23 called for in parts 7045.0626, subpart 5; 7045.0628, subparts 4 and 7; 7045.0630, subpart  
140.24 5; 7045.0632, subpart 9; 7045.0634, subpart 4; 7045.0638, subpart 2c; 7045.0640, subpart  
140.25 4; and 7045.0642, subpart 4; and the process vent, equipment leak, and tank, surface  
141.1 impoundment, and container standards in Code of Federal Regulations, title 40, sections  
141.2 265.1033, 265.1052, 265.1053, and 265.1058, as amended, and sections 265.1084 to  
141.3 265.1090(b), as incorporated in part 7045.0645.

141.4 [For text of items D and E, see M.R.]

141.5 [For text of subps 6 to 8, see M.R.]

141.6 **7045.0564 WASTE ANALYSIS REQUIREMENTS.**

141.7 Subpart 1. **Waste analysis.** The analysis must comply with the requirements in  
141.8 items A to D.



142.9 hazardous waste received at the facility to ensure that it matches the identity of the waste  
142.10 designated on the accompanying manifest or shipping paper. The plan must describe:

142.11 (1) the procedures that will be used to determine the identity of each  
142.12 movement of waste managed at the facility;

142.13 (2) the sampling method that will be used to obtain a representative sample  
142.14 of the waste to be identified, if the identification method includes sampling; and

142.15 (3) the procedures that the owner or operator of an off-site landfill receiving  
142.16 containerized hazardous waste will use to determine whether a hazardous waste generator  
142.17 or treater has added a biodegradable sorbent to the waste in the container.

142.18 H. For surface impoundments exempted from the land disposal restrictions  
142.19 under Code of Federal Regulations, title 40, section 268.4, as incorporated in part  
142.20 7045.1390, the procedures and schedule for:

142.21 (1) the sampling of impoundment contents;

142.22 (2) the analysis of test data; and

142.23 (3) the annual removal of residues which are not delisted under part  
142.24 7045.0075, subpart 2, or which exhibit a characteristic of hazardous waste under part  
142.25 7045.0131, and either do not meet applicable treatment standards of Code of Federal  
143.1 Regulations, title 40, sections 268.40 to 268.42, as incorporated in part 7045.1390, or,  
143.2 where no treatment standards have been established, such residues are prohibited from  
143.3 land disposal under Code of Federal Regulations, title 40, sections 268.30 to 268.35, as  
143.4 incorporated in part 7045.1390, or RCRA section 3004(d).

143.5 I. For owners and operators seeking an exemption to the air emission standards  
143.6 in part 7045.0540 in accordance with Code of Federal Regulations, title 40, section  
143.7 265.1083, as incorporated in part 7045.0645:

143.8 (1) if direct measurement is used for the waste determination, the  
143.9 procedures and schedules for waste sampling and analysis and the results of the analysis  
143.10 of test data to verify the exemption; and

143.11 (2) if knowledge of the waste is used for the waste determination, any  
143.12 information prepared by the facility owner or operator or by the generator of the hazardous  
143.13 waste, if the waste is received from off site, that is used as the basis for knowledge of  
143.14 the waste.

143.15 **7045.0584 OPERATING RECORD.**

143.16 [For text of subps 1 and 2, see M.R.]

143.17 Subp. 3. **Record information.** The following information must be recorded, as it  
143.18 becomes available, and maintained in the operating record until closure of the facility:

143.19 [For text of items A and B, see M.R.]

143.20 C. A description and the quantity of each hazardous waste received, and the  
143.21 method and date of treatment, storage, or disposal at the facility in accordance with the  
143.22 record-keeping instructions in Code of Federal Regulations, title 40, part 265, Appendix I,  
143.23 as incorporated in part 7045.0643.

143.24 [For text of item D, see M.R.]

144.1 E. Records and results of waste analyses, waste determinations, and trial tests  
144.2 performed as specified in parts 7045.0564; 7045.0628, subpart 12; 7045.0630, subpart 4;  
144.3 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2;  
144.4 and 7045.0642, subpart 3; Code of Federal Regulations, title 40, sections 268.4(a) and  
144.5 268.7, as incorporated in part 7045.1390; and the process vent, equipment leak, and tank,  
144.6 surface impoundment, and container test methods and procedures in Code of Federal  
144.7 Regulations, title 40, sections 265.1034 and 265.1063, as amended, and section 265.1084,  
144.8 as incorporated in part 7045.0645.

144.9 [For text of items F and G, see M.R.]

144.10 H. Monitoring, testing, or analytical data, and corrective action where required  
144.11 by parts 7045.0556, subpart 8; 7045.0590, subparts 1, 6, 7, and 8; 7045.0592, subparts  
144.12 1 and 7; 7045.0628, subparts 2, 4, and 7; 7045.0630, subparts 2a, 3, and 5; 7045.0632,  
144.13 subparts 4b, 8, and 9; 7045.0634, subparts 4 and 6, item D, subitem (1); 7045.0636;  
144.14 7045.0638, subparts 2a, 2b, and 2c; and 7045.0640, subpart 4, and the process vent,  
144.15 equipment leak, and tank, surface impoundment, and container test methods and  
144.16 procedures and record keeping requirements in Code of Federal Regulations, title 40,  
144.17 sections 265.1034(c) to (f), 265.1035, 265.1063(d) to (i), and 265.1064, as amended,  
144.18 and sections 265.1083 to 265.1090, as incorporated in part 7045.0645. As required by  
144.19 parts 7045.0590, subparts 6 and 7; and 7045.0592, subpart 7, monitoring data at disposal  
144.20 facilities must be kept throughout the postclosure period.

144.21 [For text of item I, see M.R.]

144.22 J. Records of the quantities and date of placement of each shipment of hazardous  
144.23 waste placed in land disposal units under an extension to the effective date of any land  
144.24 disposal restriction granted by the United States Environmental Protection Agency under  
144.25 Code of Federal Regulations, title 40, section 268.5, monitoring data required pursuant to  
144.26 a petition under part 7045.0075, subpart 9, or a certificate and demonstration under Code  
145.1 of Federal Regulations, title 40, section 268.8, as incorporated in part 7045.1390, and  
145.2 the notice required by a generator under Code of Federal Regulations, title 40, section  
145.3 268.7(a)(3), as incorporated in part 7045.1390.

145.4 K. For an off-site treatment facility, the notice, and the certification and  
145.5 demonstration, if applicable, required by a generator or the owner or operator under Code  
145.6 of Federal Regulations, title 40, sections 268.7(a)(1) and 268.8, as incorporated in part  
145.7 7045.1390.



145.8 L. For an on-site treatment facility, the information contained in the notice and  
145.9 the certification and demonstration, if applicable, required by a generator or the owner or  
145.10 operator under Code of Federal Regulations, title 40, sections 268.7(a)(1) and 268.8, as  
145.11 incorporated in part 7045.1390, except for the manifest number required under Code of  
145.12 Federal Regulations, title 40, section 268.7(a)(1)(i), as incorporated in part 7045.1390.

145.13 M. For an off-site land disposal facility, the notice, certification and  
145.14 demonstration, if applicable, required by the generator, owner or operator of a treatment  
145.15 facility under Code of Federal Regulations, title 40, section 268.7(b)(1)(2) or 268.8,  
145.16 as incorporated in part 7045.1390, for the facility or Code of Federal Regulations, title  
145.17 40, section 268.7(a)(3), as incorporated in part 7045.1390, for the generator, whichever  
145.18 is applicable.

145.19 N. For an on-site land disposal facility, the information contained in the notice  
145.20 and the certification and demonstration, if applicable, required by a generator or the  
145.21 owner or operator under Code of Federal Regulations, title 40, section 268.7 or 268.8, as  
145.22 incorporated in part 7045.1390, except for the manifest number, whichever is applicable.

145.23 O. For an off-site storage facility, a copy of the notice, and the certification and  
145.24 demonstration if applicable, required by the generator or the owner or operator under Code  
145.25 of Federal Regulations, title 40, section 268.7 or 268.8, as incorporated in part 7045.1390.

146.1 P. For an on-site storage facility, the information contained in the notice, except  
146.2 the manifest number, and the certification and demonstration if applicable, required by  
146.3 the generator or the owner or operator of a treatment facility under Code of Federal  
146.4 Regulations, title 40, section 268.7 or 268.8, as incorporated in part 7045.1390.

146.5 **7045.0586 RETENTION AND DISPOSITION OF RECORDS.**

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

146.7 Subp. 2. **Retention of records.** The retention period for all records required under  
146.8 parts 7045.0552 to 7045.0651 is three years and is extended automatically during the  
146.9 course of any unresolved enforcement action regarding the facility.

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

146.11 **7045.0588 REQUIRED REPORTS.**

146.12 [For text of subps 1 to 3, see M.R.]

146.13 Subp. 4. **Additional reports.** In addition to submitting the manifest discrepancy  
146.14 report described in part 7045.0582, subpart 3, and the annual report and the unmanifested  
146.15 waste reports described in subparts 2 and 3, the owner or operator shall also report to the  
146.16 commissioner and the Environmental Protection Agency Region V Administrator:

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

146.18 D. as otherwise required by the process vent, equipment leak, and tank, surface  
146.19 impoundment, and container emission standards in parts 7045.0645, 7045.0647, and  
146.20 7045.0648.

146.21 **7045.0594 CLOSURE.**

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

146.23 Subp. 2. **Closure performance standard.** The owner or operator shall close the  
146.24 facility in a manner minimizing the need for further maintenance. Closure procedures  
147.1 must result in controlling, minimizing, or eliminating, to the extent necessary to protect  
147.2 human health and the environment, postclosure escape of hazardous waste, hazardous  
147.3 constituents, leachate, contaminated runoff, or hazardous waste decomposition products  
147.4 to the ground or surface waters or to the atmosphere, in accordance with all closure  
147.5 requirements including the requirements of parts 7045.0628, subpart 9; 7045.0630,  
147.6 subpart 6; 7045.0632, subpart 7; 7045.0634, subpart 6; 7045.0638, subpart 4; 7045.0640,

147.7 subpart 5; and 7045.0642, subpart 5; and Code of Federal Regulations, title 40, section  
147.8 265.1102, as incorporated in part 7045.0649.

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

147.10 A. A copy of the written closure plan and all revisions to the plan must be  
147.11 furnished to the commissioner upon request, including request by mail until final closure is  
147.12 completed and certified. For facilities without approved closure plans, the plan must also  
147.13 be provided to the commissioner as requested, during site inspections on the day of the  
147.14 inspection. The plan must identify steps necessary to perform partial and/or final closure  
147.15 of the facility at any point during its active life. The closure plan must include:

147.16 (1) A description of how each hazardous waste management unit will  
147.17 be closed, if applicable, and how the facility will be finally closed, in accordance with  
147.18 subpart 2. The description must identify the maximum extent of the operation which  
147.19 will be unclosed during the active life of the facility and how the facility will meet the  
147.20 requirements of parts 7045.0590; 7045.0592; 7045.0594; 7045.0596; 7045.0626, subpart  
147.21 8; 7045.0628, subpart 9; 7045.0630, subpart 6; 7045.0632, subpart 7; 7045.0634, subpart  
147.22 6; 7045.0638, subpart 4; 7045.0640, subpart 5; 7045.0642, subpart 5; and 7045.0655,  
147.23 subpart 6, and Code of Federal Regulations, title 40, section 265.1102, as incorporated  
147.24 in part 7045.0649;

147.25 [For text of subitems (2) to (6), see M.R.]

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

148.1 [For text of subp 4, see M.R.]

148.2 **7045.0596 CLOSURE ACTIVITIES.**

148.3 [For text of subps 1 and 2, see M.R.]

148.4 Subp. 2a. **Conditions for receiving nonhazardous waste.** The commissioner shall  
148.5 allow an owner or operator to receive only nonhazardous waste in a landfill, land treatment,  
148.6 or surface impoundment unit after the final receipt of hazardous waste at that unit if:

148.7 A. the owner or operator submits an amended Part B application, or a Part B  
148.8 application, if not previously required, and demonstrates that:

148.9 [For text of subitems (1) and (2), see M.R.]

148.10 (3) the nonhazardous waste will not be incompatible with any remaining  
148.11 wastes in the unit, or with the facility design and operating requirements of the unit or  
148.12 facility under parts 7045.0552 to 7045.0651;

148.13 [For text of subitems (4) and (5), see M.R.]

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

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

148.16 **7045.0600 POSTCLOSURE.**

148.17 Subpart 1. **Scope.** This part and parts 7045.0602 to 7045.0606 apply to the owners  
148.18 and operators of all hazardous waste disposal facilities, including surface impoundments  
148.19 and waste piles from which the owner or operator intends to remove the wastes at closure,  
148.20 to the extent that the owner or operator is required to provide postclosure care in part  
148.21 7045.0630, subpart 6, or 7045.0632, subpart 7; tank systems that are required under part  
148.22 7045.0628, subpart 9, to meet the requirements for landfills; and containment buildings  
148.23 that are required under Code of Federal Regulations, title 40, section 265.1102, as  
149.1 incorporated in part 7045.0649, to meet the requirement for landfills, except as provided  
149.2 otherwise in part 7045.0552.

149.3 Subp. 2. **Submittal of postclosure plan.** The postclosure plan must be submitted  
149.4 as follows:

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

149.6 D. The commissioner shall provide the owner or operator and the public,  
149.7 through a newspaper notice, the opportunity to submit written comments, to request  
149.8 modification, or to request a public information meeting on the postclosure plan or  
149.9 substantive amendments to the postclosure plan within 30 days of the date of the notice. In  
149.10 response to a request or at his or her own discretion, the commissioner shall hold a public  
149.11 information meeting whenever a meeting might clarify one or more issues concerning  
149.12 the postclosure plan. The commissioner shall approve, modify, or disapprove postclosure  
149.13 plans for facilities having interim status within 90 days of the receipt of the plan. If the  
149.14 commissioner does not approve the plan, he or she shall provide the owner or operator  
149.15 with a detailed written statement of reasons for the refusal, and the owner or operator shall  
149.16 submit a modified or new plan for approval within 30 days after receiving this written  
149.17 statement. The commissioner shall approve or modify this plan in writing within 60  
149.18 days. If the commissioner modifies the plan, this modified plan becomes the approved  
149.19 postclosure plan. A copy of the modified plan and a detailed statement of reasons for the  
149.20 modifications shall be mailed to the owner or operator. The commissioner shall ensure  
149.21 that the approved postclosure plan is consistent with this part and with the postclosure care  
149.22 and use of property requirements in parts 7045.0602, 7045.0604, and 7045.0606.

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

149.24 **7045.0608 FINANCIAL REQUIREMENTS.**

150.1 Subpart 1. **Scope.** The requirements of parts 7045.0610, 7045.0612, and 7045.0620  
150.2 to 7045.0624 apply to owners and operators of hazardous waste facilities except as  
150.3 provided otherwise in this part or in part 7045.0552.

150.4 The requirements of parts 7045.0614 to 7045.0618 apply only to owners and  
150.5 operators of disposal facilities; tank systems that are required under part 7045.0628,  
150.6 subpart 9, to meet the requirements for landfills; and containment buildings that are

150.7 required under Code of Federal Regulations, title 40, section 265.1102, as incorporated  
150.8 in part 7045.0649, to meet the requirements for landfills.

150.9 The state and the federal government are exempt from the requirements of parts  
150.10 7045.0608 to 7045.0624.

150.11 [For text of subp 2, see M.R.]

150.12 **7045.0610 COST ESTIMATE FOR FACILITY CLOSURE.**

150.13 Subpart 1. **Cost estimate requirements.** The owner or operator shall prepare a  
150.14 detailed written estimate, in current dollars, of the cost of closing the facility in accordance  
150.15 with the closure plan in part 7045.0594 and applicable closure requirements in parts  
150.16 7045.0626, subpart 8; 7045.0630, subpart 6; 7045.0632, subpart 7; 7045.0634, subpart  
150.17 6; 7045.0638, subpart 4; 7045.0640, subpart 5; and 7045.0642, subpart 5; and Code of  
150.18 Federal Regulations, title 40, section 265.1102, as incorporated in part 7045.0649. The  
150.19 closure cost estimate must equal the cost of closure at the point in the facility's operating  
150.20 life when the extent and manner of its operation would make closure the most expensive,  
150.21 as indicated by its closure plan. The closure cost shall be estimated as follows:

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

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

150.24 **7045.0612 FINANCIAL ASSURANCE FOR FACILITY CLOSURE.**

150.25 [For text of subps 1 to 5, see M.R.]

151.1 Subp. 6. **Financial test and corporate guarantee for closure.** The financial test and  
151.2 corporate guarantee for closure is as follows:

151.3 [For text of items A to K, see M.R.]

151.4 L. An owner or operator may meet the requirements of this part by obtaining a  
151.5 written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be  
151.6 the parent corporation of the owner or operator. The guarantor must meet the requirements

151.7 for owner or operator in items A to J; and must comply with the terms of the corporate  
151.8 guarantee. The wording of the corporate guarantee must be identical to the wording  
151.9 specified in part 7045.0524, subpart 8. A certified copy of the corporate guarantee must  
151.10 accompany the items sent to the commissioner as specified in item E. The terms of the  
151.11 corporate guarantee must provide that:

151.12 [For text of subitems (1) to (3), see M.R.]

151.13 [For text of subps 7 to 9, see M.R.]

151.14 **7045.0616 FINANCIAL ASSURANCE FOR POSTCLOSURE CARE.**

151.15 [For text of subps 1 to 5, see M.R.]

151.16 Subp. 6. **Financial test and corporate guarantee for postclosure care.** The  
151.17 following is the financial test and corporate guarantee for postclosure care:

151.18 [For text of items A to L, see M.R.]

151.19 M. An owner or operator may meet the requirements of this part by obtaining a  
151.20 written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be  
151.21 the parent corporation of the owner or operator. The guarantor must meet the requirements  
151.22 for owners or operators in items A to K, and must comply with the terms of the corporate  
151.23 guarantee. The wording of the corporate guarantee must be identical to the wording  
151.24 specified in part 7045.0524, subpart 8. A certified copy of the corporate guarantee must  
152.1 accompany the items sent to the commissioner as specified in item E. The terms of the  
152.2 corporate guarantee must provide that:

152.3 [For text of subitems (1) to (3), see M.R.]

152.4 [For text of subps 7 to 9, see M.R.]

152.5 **7045.0620 LIABILITY REQUIREMENTS.**

152.6 Subpart 1. **Coverage for sudden accidental occurrences.** An owner or operator of  
152.7 a hazardous waste treatment, storage, or disposal facility, or a group of such facilities,  
152.8 must demonstrate financial responsibility for bodily injury and property damage to third  
152.9 parties caused by sudden accidental occurrences arising from operations of the facility or  
152.10 group of facilities. The owner or operator must have and maintain liability coverage for  
152.11 sudden accidental occurrences in the amount of at least \$1,000,000 per occurrence with an  
152.12 annual aggregate of at least \$2,000,000, exclusive of legal defense costs. This liability  
152.13 coverage may be demonstrated as specified in items A to F E:

152.14 A. An owner or operator may demonstrate the required liability coverage by  
152.15 having liability insurance as specified in subitems (1) and (2):

152.16 (1) Each insurance policy must be amended by attachment of the hazardous  
152.17 waste facility liability endorsement or evidenced by a certificate of liability insurance. The  
152.18 wording of the endorsement must be identical to the wording specified in part 7045.0524,  
152.19 subpart 9. The wording of the certificate of insurance must be identical to the wording  
152.20 specified in part 7045.0524, subpart 10. The owner or operator must submit a signed  
152.21 duplicate original of the endorsement or the certificate of insurance to the commissioner.  
152.22 If requested by the commissioner, the owner or operator shall provide a signed duplicate  
152.23 original of the insurance policy.

153.1 (2) Each insurance policy must be issued by an insurer which is licensed to  
153.2 transact the business of insurance or eligible to provide insurance as an excess or surplus  
153.3 lines insurer in one or more states.

153.4 B. An owner or operator may meet the requirements of this part by passing a  
153.5 financial test or using the corporate guarantee for liability coverage as specified in subparts  
153.6 5 and 6.



153.7 C. An owner or operator may meet the requirements of this part by obtaining a  
153.8 letter of credit for liability coverage as specified in subpart 7.

153.9 D. An owner or operator may meet the requirements of this part by obtaining a  
153.10 trust fund for liability coverage as specified in subpart 8.

153.11 E. An owner or operator may demonstrate the required liability coverage  
153.12 through the use of combinations of insurance, financial test, corporate guarantee, letter of  
153.13 credit, and trust fund, except that the owner or operator may not combine a financial test  
153.14 covering part of the liability coverage requirement with a guarantee unless the financial  
153.15 statement of the owner or operator is not consolidated with the financial statement of  
153.16 the guarantor. The amounts of coverage demonstrated must total at least the minimum  
153.17 amounts required by this part. If the owner or operator demonstrates the required coverage  
153.18 through the use of a combination of financial assurances under this item, the owner or  
153.19 operator must specify at least one such assurance as "primary" coverage and must specify  
153.20 other assurance as "excess" coverage.

153.21 F. An owner or operator must notify the commissioner in writing within 30  
153.22 days whenever:

153.23 (1) a claim results in a reduction in the amount of financial assurance for  
153.24 liability coverage provided by a financial instrument authorized in items A to E;

154.1 (2) a certification of valid claim for bodily injury or property damage caused  
154.2 by a sudden or nonsudden accidental occurrence arising from the operation of a hazardous  
154.3 waste treatment, storage, or disposal facility is entered between the owner or operator and  
154.4 third-party claimant for liability coverage under items A to E; or

154.5 (3) a final court order establishing a judgment for bodily injury or property  
154.6 damage caused by a sudden or nonsudden accidental occurrence arising from the operation  
154.7 of a hazardous waste treatment, storage, or disposal facility is issued against the owner

154.8 or operator or an instrument that is providing financial assurance for liability coverage  
154.9 under items A to E.

154.10 Subp. 2. **Coverage for nonsudden accidental occurrences.** An owner or operator  
154.11 of a surface impoundment, landfill, or land treatment facility which is used to manage  
154.12 hazardous waste, or a group of such facilities, must demonstrate financial responsibility  
154.13 for bodily injury and property damage to third parties caused by nonsudden accidental  
154.14 occurrences arising from operations of the facility or group of facilities. The owner or  
154.15 operator must have and maintain liability coverage for nonsudden accidental occurrences  
154.16 in the amount of at least \$3,000,000 per occurrence with an annual aggregate of at least  
154.17 \$6,000,000, exclusive of legal defense costs. An owner or operator who must meet the  
154.18 requirements of this part may combine the required per-occurrence coverage levels  
154.19 for sudden and nonsudden accidental occurrences into a single per-occurrence level,  
154.20 and combine the required annual aggregate coverage levels for sudden and nonsudden  
154.21 accidental occurrences into a single annual aggregate level. Owners or operators who  
154.22 combine coverage levels for sudden and nonsudden accidental occurrences must maintain  
154.23 liability coverage in the amount of at least \$4,000,000 per occurrence and \$8,000,000  
154.24 annual aggregate. This liability coverage may be demonstrated as specified in items  
154.25 A to ~~F~~ E:

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

155.1 B. An owner or operator may meet the requirements of this part by passing a  
155.2 financial test or using the corporate guarantee for liability coverage as specified in subparts  
155.3 5 and 6.

155.4 C. An owner or operator may meet the requirements of this part by obtaining a  
155.5 letter of credit for liability coverage as specified in subpart 7.

155.6 D. An owner or operator may meet the requirements of this part by obtaining a  
155.7 trust fund for liability coverage as specified in subpart 8.

155.8 E. An owner or operator may demonstrate the required liability coverage  
155.9 through use of combinations of insurance, financial test, corporate guarantee, letter of  
155.10 credit, and trust fund, except that the owner or operator may not combine a financial test  
155.11 covering part of the liability coverage requirement with a guarantee unless the financial  
155.12 statement of the owner or operator is not consolidated with the financial statement of  
155.13 the guarantor. The amounts of coverage demonstrated must total at least the minimum  
155.14 amounts required by this part. If the owner or operator demonstrates the required coverage  
155.15 through the use of a combination of financial assurances under this item, the owner or  
155.16 operator shall specify at least one such assurance as "primary" coverage and shall specify  
155.17 other assurance as "excess" coverage.

155.18 F. An owner or operator shall notify the commissioner in writing within 30  
155.19 days whenever:

155.20 (1) a claim results in a reduction in the amount of financial assurance for  
155.21 liability coverage provided by a financial instrument authorized in items A to E;

155.22 (2) a certification of valid claim for bodily injury or property damage caused  
155.23 by a sudden or nonsudden accidental occurrence arising from the operation of a hazardous  
155.24 waste treatment, storage, or disposal facility is entered between the owner or operator and  
155.25 third-party claimant for liability coverage under items A to E; or

156.1 (3) a final court order establishing a judgment for bodily injury or property  
156.2 damage caused by a sudden or nonsudden accidental occurrence arising from the operation  
156.3 of a hazardous waste treatment, storage, or disposal facility is issued against the owner  
156.4 or operator or an instrument that is providing financial assurance for liability coverage  
156.5 under items A to E.

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

156.7 Subp. 5. **Financial test for liability coverage.** The financial test for liability  
156.8 coverage is as follows:

156.9 [For text of items A to G, see M.R.]

156.10 H. If the owner or operator no longer meets the requirements of item A, he or  
156.11 she must obtain insurance, a letter of credit, a trust fund, or a corporate guarantee for  
156.12 the entire amount of required liability coverage as specified in this part. Evidence of  
156.13 liability coverage must be submitted to the commissioner within 90 days after the end of  
156.14 the fiscal year for which the year-end financial data show that the owner or operator no  
156.15 longer meets the test requirements.

156.16 [For text of item I, see M.R.]

156.17 Subp. 6. **Corporate guarantee for liability coverage.** The corporate guarantee for  
156.18 liability coverage is as follows:

156.19 A. Subject to item B, an owner or operator may meet the requirements of  
156.20 this part by obtaining a written corporate guarantee. The guarantor must be the parent  
156.21 corporation of the owner or operator. The guarantor must meet the requirements for  
156.22 owners or operators in subpart 5. The wording of the corporate guarantee must be identical  
156.23 to the wording specified in part 7045.0524, subpart 8a. The guarantee must be signed by  
156.24 two corporate officers of the parent corporation. A corporate resolution authorizing the  
156.25 parent corporation to provide the corporate guarantee for the subsidiary must be attached  
157.1 to the guarantee. A certified copy of the corporate guarantee must accompany the items  
157.2 sent to the commissioner as specified in subpart 5, item E. The terms of the corporate  
157.3 guarantee must provide that:

157.4 [For text of subitems (1) and (2), see M.R.]

157.5 [For text of item B, see M.R.]

157.6 Subp. 7. **Letter of credit for liability coverage.**

157.7           A. An owner or operator may satisfy the requirements of this part by obtaining  
157.8 an irrevocable standby letter of credit that conforms to the requirements of this subpart  
157.9 and submitting a copy of the letter of credit to the commissioner.

157.10           B. The financial institution issuing the letter of credit must be an entity that has  
157.11 the authority to issue letters of credit and whose letter of credit operations are regulated  
157.12 and examined by a federal or state agency.

157.13           C. The wording of the letter of credit must be identical to the wording in part  
157.14 7045.0524, subpart 11.

157.15           D. An owner or operator who uses a letter of credit to satisfy the requirements of  
157.16 this part may also establish a standby trust fund. Under the terms of a letter of credit, all  
157.17 amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the  
157.18 issuing institution into the standby trust in accordance with instructions from the trustee.  
157.19 The trustee of the standby trust fund must be an entity that has the authority to act as a  
157.20 trustee and whose trust operations are regulated and examined by a federal or state agency.

157.21           E. The wording of the standby trust fund must be identical to the wording in  
157.22 part 7045.0524, subpart 13.

157.23           Subp. 8. **Trust fund for liability coverage.**

158.1           A. An owner or operator may satisfy the requirements of this part by establishing  
158.2 a trust fund that conforms to the requirements of this subpart and submitting an originally  
158.3 signed duplicate of the trust agreement to the commissioner.

158.4           B. The trustee must be an entity that has the authority to act as a trustee and  
158.5 whose trust operations are regulated and examined by a federal or state agency.

158.6           C. The trust fund for liability coverage must be funded for the full amount of the  
158.7 liability coverage to be provided by the trust fund before it may be relied upon to satisfy the  
158.8 requirements of this part. If at any time after the trust fund is created, the amount of funds

158.9 in the trust fund is reduced below the full amount of the liability coverage to be provided,  
158.10 the owner or operator, by the anniversary date of the establishment of the fund, must either  
158.11 add sufficient funds to the trust fund to cause its value to equal the full amount of liability  
158.12 coverage to be provided or obtain other financial assurance as specified in this part to cover  
158.13 the difference. For purposes of this subpart, "the full amount of the liability coverage to be  
158.14 provided" means the amount of coverage for sudden or nonsudden occurrences required to  
158.15 be provided by the owner or operator by this part, less the amount of financial assurance  
158.16 for liability coverage that is being provided by other financial assurance mechanisms being  
158.17 used to demonstrate financial assurance by the owner or operator.

158.18 D. The wording of the trust fund must be identical to the wording in part  
158.19 7045.0524, subpart ~~13~~ 12.

158.20 **7045.0626 USE AND MANAGEMENT OF CONTAINERS.**

158.21 Subpart 1. **Scope.** This part applies to owners and operators of hazardous waste  
158.22 facilities that store containers of hazardous waste, except as part 7045.0552 provides  
158.23 otherwise. Under part 7045.0127, subparts 2 to 4, and Code of Federal Regulations, title  
158.24 40, section 261.33(c), as incorporated in part 7045.0135, if a hazardous waste is emptied  
158.25 from a container, the residue remaining in the container is not considered a hazardous  
159.1 waste if the container is empty, as defined in part 7045.0127, subparts 2 to 4. In that event,  
159.2 management of the container is exempt from the requirements of this part.

159.3 [For text of subps 2 to 6, see M.R.]

159.4 Subp. 7. **Special requirements for ignitable or reactive waste.** Containers holding  
159.5 ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's  
159.6 property line, when physically possible based on the dimensions of the property. When  
159.7 it is not physically possible to place containers at least 50 feet from the property line,  
159.8 based on the dimensions of the property, the ignitable or reactive waste must be placed at  
159.9 least as far as the specified minimum distance from property line found in the Minnesota

159.10 State Fire Code, chapter 7510. Nothing in this subpart shall relieve the facility owner or  
159.11 operator from the obligation to comply with any local, state, or federal law governing  
159.12 storage of these wastes.

159.13 [For text of subp 8, see M.R.]

159.14 Subp. 9. **Air emission standards.** The owner or operator must manage all hazardous  
159.15 waste placed in a container in accordance with the applicable requirements of parts  
159.16 7045.0645, 7045.0647, and 7045.0648.

159.17 **7045.0628 TANK SYSTEMS.**

159.18 Subpart 1. **Scope.** This part applies to owners and operators of facilities that use tank  
159.19 systems, including tank systems, sumps, and other such collection devices or systems used  
159.20 in conjunction with drip pads, as defined in part 7045.0020 and regulated under part  
159.21 7045.0644, to treat or store hazardous waste, except as items A and B and part 7045.0552  
159.22 provide otherwise.

159.23 A. Tank systems that are used to store or treat hazardous waste containing no free  
159.24 liquids and that are located inside a building with an impermeable floor are exempt from  
159.25 the requirements of subpart 4. To demonstrate the absence or presence of free liquids in the  
160.1 stored or treated waste, the following test must be used: Method 9095 (Paint Filter Liquids  
160.2 Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical  
160.3 Methods," EPA publication SW-846, incorporated by reference in part 7045.0065, item D.

160.4 [For text of item B, see M.R.]

160.5 [For text of subps 2 to 9, see M.R.]

160.6 Subp. 10. **Special requirements for ignitable or reactive waste.** Ignitable or  
160.7 reactive waste must not be placed in a tank unless:

160.8 [For text of items A and B, see M.R.]

160.9 C. the tank is used solely for emergencies.

160.10 The owner or operator of a facility which treats or stores ignitable or reactive waste  
160.11 in a tank shall comply with the requirements for the maintenance of protective distances  
160.12 between the waste management area and any public ways, streets, alleys, or an adjoining  
160.13 property line that can be built upon, as required in the buffer zone requirements for tanks,  
160.14 contained in the Minnesota State Fire Code, chapter 7510.

160.15 [For text of subps 11 and 12, see M.R.]

160.16 Subp. 13. **Air emission standards.** The owner or operator of a facility must manage  
160.17 all hazardous waste placed in a tank in accordance with parts 7045.0645, 7045.0647,  
160.18 and 7045.0648.

160.19 **7045.0629 REQUIREMENTS FOR SMALL QUANTITY AND VERY SMALL**  
160.20 **QUANTITY GENERATORS THAT ACCUMULATE HAZARDOUS WASTE IN**  
160.21 **TANKS.**

160.22 [For text of subps 1 to 4, see M.R.]

160.23 Subp. 5. **Ignitable and reactive wastes.** Generators regulated under this part must  
160.24 comply with the following special requirements for ignitable or reactive waste:

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

161.1 B. The owner or operator of a facility which treats or stores ignitable or reactive  
161.2 waste in covered tanks must comply with the buffer zone requirements for tanks contained  
161.3 in the Minnesota State Fire Code, chapter 7510.

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

161.5 **7045.0630 SURFACE IMPOUNDMENTS.**

161.6 [For text of subps 1 and 1a, see M.R.]

161.7 Subp. 2. **General operating requirements.**

161.8 A. A surface impoundment must maintain enough freeboard to prevent any  
161.9 overtopping of the dike by overfilling, wave action or a storm. There must be at least



161.10 60 centimeters (two feet) of freeboard. Any point source discharge from a surface  
161.11 impoundment to waters of the United States is subject to the requirements of the Federal  
161.12 Water Pollution Control Act Amendments of 1972, United States Code, title 33, section  
161.13 1342, as amended. Spills may be subject to the Federal Water Pollution Control Act  
161.14 Amendments of 1972, United States Code, title 33, section 1312, as amended.

161.15 B. Surface impoundments that are newly subject to RCRA section 3005(j)(1)  
161.16 due to the promulgation of additional listings or characteristics for the identification of  
161.17 hazardous waste must be in compliance with subpart 1a not later than 48 months after the  
161.18 promulgation of the additional listing or characteristic. This compliance period shall not  
161.19 be cut short as the result of the promulgation of land disposal prohibitions under Code of  
161.20 Federal Regulations, title 40, part 268, as amended, or the granting of an extension to the  
161.21 effective date of a prohibition pursuant to Code of Federal Regulations, title 40, section  
161.22 268.5, as incorporated in part 7045.1390, within this 48-month period.

161.23 [For text of subps 2a to 5, see M.R.]

161.24 Subp. 6. **Closure and postclosure care.** The requirements of closure and postclosure  
161.25 care are as follows:

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

162.2 B. If the owner or operator removes or decontaminates all the impoundment  
162.3 materials described in item A, the impoundment is not further subject to the requirements  
162.4 of parts 7045.0552 to 7045.0651. At closure and throughout the operating period,  
162.5 unless the owner or operator can demonstrate that any waste removed from the surface  
162.6 impoundment is not a hazardous waste, he or she becomes a generator of hazardous waste  
162.7 and must manage it in accordance with all applicable requirements of parts 7045.0205 to  
162.8 7045.0397 and 7045.0552 to 7045.0651.

162.9 [For text of items C and D, see M.R.]

162.10 Subp. 7. **Special requirements for ignitable or reactive wastes.** Ignitable or  
162.11 reactive waste must not be placed in a surface impoundment unless the waste and the  
162.12 impoundment satisfy all applicable requirements of part 7045.1390, and:

162.13 [For text of items A and B, see M.R.]

162.14 Subp. 8. **Special requirements for incompatible wastes.** Incompatible waste, or  
162.15 incompatible wastes and materials, must not be placed in the same surface impoundment  
162.16 unless part 7045.0562, subpart 2, is followed. For examples of potentially incompatible  
162.17 wastes, or incompatible waste and materials, see part 7045.0643, subpart 1, item D.

162.18 Subp. 9. **Air emission standards.** The owner or operator must manage all  
162.19 hazardous waste placed in a surface impoundment in accordance with parts 7045.0645  
162.20 and 7045.0648.

162.21 **7045.0632 WASTE PILES.**

162.22 [For text of subps 1 to 4b, see M.R.]

162.23 Subp. 5. **Special requirements for ignitable or reactive waste.** Ignitable or  
162.24 reactive waste must not be placed in a pile unless the waste and pile satisfy all applicable  
162.25 requirements of part 7045.1390:

163.1 [For text of items A and B, see M.R.]

163.2 [For text of subps 6 to 9, see M.R.]

163.3 **7045.0634 LAND TREATMENT.**

163.4 [For text of subps 1 to 6, see M.R.]

163.5 Subp. 7. **Special requirements for ignitable or reactive waste.** Ignitable or  
163.6 reactive wastes must not be land treated, unless the waste and treatment zone meet all  
163.7 applicable requirements of part 7045.1390, and the waste is immediately incorporated  
163.8 into the soil so that the resulting waste, mixture, or dissolution of material no longer

163.9 meets the definition of ignitable or reactive waste under parts 7045.0131, subpart 2 or 5;  
163.10 and 7045.0562, subpart 2 is complied with.

163.11 [For text of subp 8, see M.R.]

163.12 **7045.0638 LANDFILLS.**

163.13 [For text of subps 1 to 3, see M.R.]

163.14 Subp. 4. **Closure and postclosure.** Closure and postclosure requirements are  
163.15 as follows:

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

163.17 B. After final closure, the owner or operator shall comply with all postclosure  
163.18 requirements contained in parts 7045.0600 to 7045.0606 including maintenance and  
163.19 monitoring throughout the postclosure care period. The owner or operator must:

163.20 [For text of subitem (1), see M.R.]

163.21 (2) maintain and monitor the leak detection system in accordance with  
163.22 part 7045.0538, subparts 3, item C, subitems (3), unit (d), and (4); and 2c, item B, and  
163.23 comply with all other applicable leak detection system requirements of parts 7045.0552  
163.24 to 7045.0651 governing interim status facility standards;

164.1 [For text of subitems (3) to (5), see M.R.]

164.2 Subp. 5. **Special requirements for ignitable or reactive waste.** Special  
164.3 requirements for ignitable or reactive waste are as follows:

164.4 A. Except as provided in item B, and subparts 7 and 9, ignitable or reactive  
164.5 waste must not be placed in a landfill unless the waste and landfill meet all applicable  
164.6 requirements of part 7045.1390, and the resulting waste, mixture, or dissolution of  
164.7 material no longer meets the definition of ignitable or reactive waste under part 7045.0131,  
164.8 subpart 2 or 5, and compliance with part 7045.0562, subpart 2, is maintained.



165.9 C. Sorbents used to treat free liquids to be disposed of in landfills must be  
165.10 nonbiodegradable. Nonbiodegradable sorbents are materials listed or described in subitem  
165.11 (1) or materials that pass one of the tests in subitem (2).

165.12 (1) Nonbiodegradable sorbents:

165.13 (a) inorganic minerals, other inorganic materials, and elemental  
165.14 carbon (for example, aluminosilicates, clays, smectites, Fuller's earth, bentonite,  
165.15 calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite),  
165.16 vermiculites, and zeolites; calcium carbonate (organic free limestone); oxides/hydroxides,  
165.17 alumina, lime, silica (sand), and diatomaceous earth; perlite (volcanic glass); expanded  
165.18 volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; and activated  
165.19 charcoal/activated carbon);

165.20 (b) high molecular weight synthetic polymers (for example,  
165.21 polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene,  
165.22 polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber,  
165.23 cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers  
165.24 derived from biological material or polymers specifically designed to be degradable; or

165.25 (c) mixtures of these nonbiodegradable materials.

166.1 (2) Tests for nonbiodegradable sorbents must use the following methods.  
166.2 The methods are incorporated by reference under part 7045.0538, subpart 10, item D,  
166.3 subitem (2):

166.4 (a) the sorbent material is determined to be nonbiodegradable under  
166.5 ASTM Method G21-70 (1984a), Standard Practice for Determining Resistance of  
166.6 Synthetic Polymer Material to Fungi;

166.7 (b) the sorbent material is determined to be nonbiodegradable under  
166.8 ASTM Method G22-76 (1984b), Standard Practice for Determining Resistance of Plastics  
166.9 to Bacteria; or

166.10 (c) the sorbent material is determined to be nonbiodegradable under  
166.11 OECD test 301B: [CO<sub>2</sub> Evolution (Modified Sturm Test)].

166.12 [For text of subp 8, see M.R.]

166.13 Subp. 9. **Special requirements for disposal of laboratory packs.** Small containers  
166.14 of hazardous waste in overpacked drums, or laboratory packs, may be placed in a landfill  
166.15 if the requirements of items A to F are met:

166.16 A. Hazardous waste must be packaged in nonleaking inside containers. The  
166.17 inside containers must be of a design and constructed of a material that will not react  
166.18 dangerously with, be decomposed by, or be ignited by the waste held therein. Inside  
166.19 containers must be tightly and securely sealed. The inside containers must be of the  
166.20 size and type authorized in the United States Department of Transportation hazardous  
166.21 materials regulations under Code of Federal Regulations, title 49, parts 173, 178, 179, and  
166.22 180, as amended, if those regulations specify a particular inside container for the waste.

166.23 B. The inside containers must be overpacked in a removable head metal shipping  
166.24 container as specified in United States Department of Transportation regulations under  
166.25 Code of Federal Regulations, title 49, section 173.12 and parts 178, 179, and 180, as  
167.1 amended. The inside containers must be surrounded by a sufficient quantity of chemically  
167.2 compatible sorbent material, determined to be nonbiodegradable in accordance with  
167.3 subpart 7, item C, to completely sorb all of the liquid contents of the inside containers.  
167.4 The gross weight of the complete package must not exceed 205 kilograms (452 pounds).  
167.5 The metal outer container must be full after it has been packed with inside containers  
167.6 and sorbent material.

167.7 C. The sorbent material used must not be capable of reacting dangerously  
167.8 with, being decomposed by, or being ignited by the contents of the inside containers, in  
167.9 accordance with part 7045.0562, subpart 2.

167.10 [For text of items D and E, see M.R.]

167.11 F. The disposal complies with part 7045.1390. Persons who incinerate lab  
167.12 packs in accordance with Code of Federal Regulations, title 40, section 268.42(c)(1), as  
167.13 incorporated in part 7045.1390, may use fiber drums in place of metal outer containers.  
167.14 The fiber drums must meet the United States Department of Transportation specifications  
167.15 in Code of Federal Regulation, title 49, section 173.12, as amended, and be overpacked in  
167.16 accordance with item B.

167.17 **7045.0643 APPENDICES TO INTERIM STATUS FACILITY STANDARDS.**

167.18 Subpart 1. **Incorporation of federal regulations.** The following appendices found in  
167.19 Code of Federal Regulations, title 40, part 265, as amended, are incorporated by reference:

167.20 A. Appendix I, Recordkeeping Instructions;

167.21 B. Appendix III, EPA Interim Primary Drinking Water Standards;

167.22 C. Appendix IV, Tests for Significance;

167.23 D. Appendix V, Examples of Potentially Incompatible Waste; and

167.24 E. Appendix VI, Compounds with Henry's Law Constant Less Than 0.1 Y/X.

168.1 Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.**Part  
168.2 7045.0090, adoption and incorporation by reference, also applies.

168.3 **7045.0645 AIR EMISSION STANDARDS FOR TANKS, SURFACE**  
168.4 **IMPOUNDMENTS, AND CONTAINERS.**

168.5 Subpart 1. **Incorporation of federal regulations.** The owners and operators of  
168.6 interim status facilities that treat, store, or dispose of hazardous waste in tanks, surface

168.7 impoundments, or containers must comply with Code of Federal Regulations, title 40, part  
168.8 265, subpart CC, air emission standards for tanks, surface impoundments, and containers,  
168.9 sections 265.1080 to 265.1091, as amended, which are incorporated by reference subject  
168.10 to the exceptions in subpart 2.

168.11 Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.**

168.12 A. The agency does not incorporate the following Code of Federal Regulations,  
168.13 title 40, part 265, subpart CC, provisions, as amended:

168.14 (1) Code of Federal Regulations, title 40, section 265.1080(d) to (g),  
168.15 governing specific exclusions; and

168.16 (2) Code of Federal Regulations, title 40, section 265.1083(c)(4)(ii),  
168.17 governing authority that EPA cannot delegate to states.

168.18 B. Part 7045.0090, adoption and incorporation by reference, also applies.

168.19 **7045.0649 CONTAINMENT BUILDINGS.**

168.20 Subpart 1. **Incorporation of federal regulations.** The owners and operators of  
168.21 interim status facilities that store or treat hazardous waste in containment buildings must  
168.22 comply with Code of Federal Regulations, title 40, part 265, subpart DD, Containment  
168.23 Buildings, sections 265.1100 to 265.1110, as amended, which are incorporated by  
168.24 reference subject to the exceptions in subpart 2.

169.1 Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.**

169.2 Part 7045.0090, adoption and incorporation by reference, also applies.

169.3 **7045.0652 FACILITIES GOVERNED BY FACILITY STANDARDS.**

169.4 Subpart 1. **General requirements.** Parts 7045.0652 and 7045.0655 apply in lieu of  
169.5 parts 7045.0450 to 7045.0651 to the owner or operator of the following types of units or  
169.6 facilities:



169.7 [For text of items A to D, see M.R.]

169.8 [For text of subp 2, see M.R.]

169.9 **7045.0655 GENERAL FACILITY STANDARDS.**

169.10 [For text of subps 1 to 5, see M.R.]

169.11 Subp. 6. **Closure.** At closure, the owner or operator of an elementary neutralization  
169.12 unit, pretreatment unit, or wastewater treatment unit shall remove all hazardous waste and  
169.13 hazardous waste residues from the unit.

169.14 At closure, the owner or operator of a combustion waste facility shall analyze the  
169.15 waste present in the facility in accordance with parts 7045.0102 to 7045.0155 and shall  
169.16 submit the waste analysis results and proposed closure methods to the commissioner.  
169.17 Based on the waste analysis and proposed closure methods, the agency shall determine  
169.18 which closure standards from parts 7045.0450 to 7045.0551, if any, apply to the facility.

169.19 [For text of subp 7, see M.R.]

169.20 **7045.0665 HAZARDOUS WASTES USED IN A MANNER CONSTITUTING**  
169.21 **DISPOSAL.**

169.22 Subpart 1. **Scope.** This part applies to hazardous wastes that are used in a manner  
169.23 constituting disposal.

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

170.1 B. Hazardous wastes are not used in a manner constituting disposal if:

170.2 [For text of subitems (1) and (2), see M.R.]

170.3 (3) the products meet the applicable treatment standards in Code of Federal  
170.4 Regulations, title 40, sections 268.40 to 268.49, as incorporated in part 7045.1390, or, if  
170.5 no treatment standards have been established, meet the applicable prohibition levels in  
170.6 Code of Federal Regulations, title 40, section 268.32, as incorporated in part 7045.1390,

170.7 or RCRA section 3004(d) where no treatment standards have been established, for each  
170.8 hazardous waste that they contain.

170.9 C. Antiskid/deicing uses of slags, which are generated from high temperature  
170.10 metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a  
170.11 manner constituting disposal are not covered by the exemption in item B and remain  
170.12 subject to regulation.

170.13 D. Fertilizers that contain recyclable materials are not subject to regulation  
170.14 provided that:

170.15 (1) they are zinc fertilizers that meet the requirements in Code of Federal  
170.16 Regulations, title 40, section 261.4(a)(21), as amended; or

170.17 (2) they meet the applicable treatment standards in Code of Federal  
170.18 Regulations, title 40, sections 268.40 to 268.49, as incorporated in part 7045.1390, for  
170.19 each hazardous waste that they contain.

170.20 [For text of subps 1a to 3, see M.R.]

170.21 Subp. 4. **Standards applicable to facilities managing wastes that are to be used**  
170.22 **in a manner that constitutes disposal.** Facilities managing wastes in a manner that  
170.23 constitutes disposal are subject to the following requirements:

170.24 A. owners or operators of facilities that store recyclable wastes that are to be  
170.25 used in a manner that constitutes disposal, but who are not the ultimate users of the wastes  
171.1 are subject to all applicable provisions of parts 7045.0450 to 7045.0551, and 7045.0552 to  
171.2 7045.0651, and chapter 7001; and

171.3 B. owners or operators of facilities that use recyclable wastes that are to be  
171.4 used in a manner that constitutes disposal are subject to all applicable provisions of parts  
171.5 7045.0450 to 7045.0551, 7045.0552 to 7045.0651, and 7045.1390 and chapter 7001.

171.6 **7045.0686 SPECIAL REQUIREMENTS FOR MANAGEMENT OF SPENT OR**  
171.7 **WASTE HOUSEHOLD BATTERIES.**

171.8 Subpart 1. **Scope.** The requirements of this part apply to operators who collect, store,  
171.9 transport, or reclaim spent or waste household batteries as a part of a household battery  
171.10 management program.

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

171.12 B. Operators who collect, transport, or store spent or waste household batteries  
171.13 which are sent for recycling but who do not reclaim them are subject to regulation under  
171.14 subparts 2 and 3, but are not otherwise subject to regulation under parts 7045.0205 to  
171.15 7045.1390, and chapter 7001 for such collection, transportation, and storage.

171.16 [For text of items C and D, see M.R.]

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

171.18 **7045.0692 HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY.**

171.19 [For text of subps 1 to 4, see M.R.]

171.20 Subp. 5. **Standards applicable to marketers of hazardous waste fuel.** Marketers  
171.21 are subject to the requirements in items A to F.

171.22 [For text of items A and B, see M.R.]

171.23 C. If a marketer is a generator, or becomes a generator by initiating a shipment  
171.24 of hazardous waste fuel, the marketer must comply with parts 7045.0205 to 7045.0320.  
172.1 If the marketer operates a facility, the marketer must comply with parts 7045.0450 to  
172.2 7045.0551. If the marketer is operating a facility under interim status, the marketer must  
172.3 comply with parts 7045.0552 to 7045.0651. If the marketer stores hazardous waste, the  
172.4 marketer must comply with the agency's permitting procedures in chapter 7001 for storage  
172.5 of hazardous waste.

172.6 [For text of items D and E, see M.R.]

172.7 F. In addition to the applicable record keeping requirements of parts 7045.0205  
172.8 to 7045.0320, 7045.0450 to 7045.0551, and 7045.0552 to 7045.0651, a marketer must  
172.9 keep a copy of each certification notice received or sent for three years from the date the  
172.10 marketer last engaged in a hazardous waste fuel marketing transaction with the person  
172.11 who sent or received the certification notice.

172.12 Subp. 6. **Standards applicable to burners of hazardous waste fuel.** Owners and  
172.13 operators of industrial furnaces and boilers identified in subpart 2, item B, that burn  
172.14 hazardous fuel are subject to the requirements in items A to F.

172.15 [For text of items A to D, see M.R.]

172.16 E. Generators who accumulate waste for longer than the time periods in item D,  
172.17 and burners who receive waste from off-site and store it, must comply with the following  
172.18 requirements:

172.19 (1) the agency's permitting procedures in chapter 7001 for hazardous waste  
172.20 storage facilities, parts 7045.0205 to 7045.0536, 7045.0544, 7045.0552 to 7045.0632,  
172.21 7045.1000 to 7045.1030, and 7045.1390; and

172.22 [For text of subitem (2), see M.R.]

172.23 [For text of item F, see M.R.]

172.24 **7045.0800 MIXTURES OF USED OIL AND HAZARDOUS WASTE.**

172.25 [For text of subps 1 and 2, see M.R.]

173.1 Subp. 3. **Rebuttable presumption of mixing.** Except as provided in items A  
173.2 to C, used oil containing more than 1,000 ppm total halogens is presumed to have  
173.3 been mixed with a halogenated hazardous waste listed in part 7045.0135, and thus is  
173.4 subject to regulation as a listed hazardous waste. Persons may rebut this presumption by  
173.5 demonstrating that the used oil does not contain hazardous waste. Demonstration must  
173.6 either involve applying knowledge of the source of halogens or the use of an analytical

173.7 method from Environmental Protection Agency document SW-846, as incorporated by  
173.8 reference in part 7045.0065, item D, to show that the used oil does not contain greater than  
173.9 100 ppm of any individual halogenated hazardous constituent listed in part 7045.0139.

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

173.11 Subp. 4. **Characteristic waste.** Mixtures of used oil and hazardous waste that solely  
173.12 exhibits one or more of the hazardous waste characteristics identified in part 7045.0131  
173.13 and mixtures of used oil and hazardous waste that is listed in part 7045.0135 solely  
173.14 because it exhibits one or more of the characteristics of hazardous waste identified in part  
173.15 7045.0131 are subject to:

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

173.17 B. except as provided in item C, regulation as used oil under parts 7045.0790 to  
173.18 7045.0990 and regulation under the land disposal restrictions of part 7045.1390, if the  
173.19 resultant mixture does not exhibit any characteristic of hazardous waste identified in  
173.20 part 7045.0131; or

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

173.22 **7045.0805 WASTE CONTAINING OR CONTAMINATED WITH USED OIL.**

173.23 A. Waste contaminated with used oil that is destined for disposal is subject to  
173.24 evaluation under parts 7045.0102 to 7045.0155 to determine if it is hazardous waste, and  
174.1 the appropriate solid or hazardous waste management standards based on the results of the  
174.2 evaluation, unless the waste is:

174.3 [For text of subitems (1) and (2), see M.R.]

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

174.5 **7045.0855 STANDARDS FOR USED OIL GENERATORS.**

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



175.7 tanks, contaminated containment system components, contaminated soils, and structures  
175.8 and equipment contaminated with used oil and manage them as hazardous waste unless  
175.9 the materials are not hazardous waste under parts 7045.0102 to 7045.0155.

175.10 B. Owners and operators who store used oil in containers must, at closure,  
175.11 remove containers holding used oils or residues of used oil from the site. The owner or  
175.12 operator must remove or decontaminate used oil residues, contaminated containment  
175.13 system components, contaminated soils, and structures and equipment contaminated with  
175.14 used oil, and manage them as hazardous waste unless the materials are not hazardous  
175.15 waste under parts 7045.0102 to 7045.0155.

175.16 [For text of subp 7, see M.R.]

175.17 **7045.0865 STANDARDS FOR USED OIL TRANSPORTERS AND TRANSFER**  
175.18 **FACILITIES.**

175.19 [For text of subps 1 to 6, see M.R.]

175.20 Subp. 7. **Used oil discharges.**

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

175.22 D. An air, rail, highway, or water transporter who has discharged used oil  
175.23 must give notice, if required by Code of Federal Regulations, title 49, section 171.15,  
175.24 as amended, to the National Response Center (800) 424-8802, and report in writing  
175.25 as required by Code of Federal Regulations, title 49, section 171.16, as amended, to  
176.1 the Information Systems Manager, PHH-63, Pipeline and Hazardous Materials Safety  
176.2 Administration, Department of Transportation, Washington, D.C. 20590-0001, or submit  
176.3 an electronic hazardous materials incident report to the Information Systems Manager,  
176.4 DHM-63, Pipeline and Hazardous Materials Safety Administration, Department of  
176.5 Transportation, Washington, D.C. 20590-0001 at <http://hazmat.dot.gov>.

176.6 [For text of subp 8, see M.R.]

176.7 Subp. 9. **Used oil storage at transfer facilities.** This subpart applies to used oil  
176.8 transfer facilities where used oil is stored for more than 24 hours and no more than 35  
176.9 days. Transfer facilities where used oil is stored for more than 35 days are subject to  
176.10 regulation under part 7045.0875.

176.11 A. Used oil transporters shall comply with all applicable spill prevention,  
176.12 control, and countermeasures requirements of Code of Federal Regulations, title 40,  
176.13 part 112, as amended, in addition to the requirements of this part. Used oil transporters  
176.14 shall also comply with the underground storage tank standards of chapter 7150 for used  
176.15 oil stored in underground tanks, whether or not the used oil exhibits any characteristic of  
176.16 hazardous waste, in addition to the requirements of this part.

176.17 B. Used oil transporters who store used oil in aboveground tanks are subject to  
176.18 chapter 7151, in addition to the requirements of this part. Used oil transporters who store  
176.19 at least 10,000 gallons of used oil at one time are subject to the requirements of Minnesota  
176.20 Statutes, chapter 115E, to prepare and maintain a discharge prevention and response plan,  
176.21 in addition to the requirements of this part. All used oil transporters shall comply with  
176.22 the storage and use requirements of the Minnesota State Fire Code, chapter 7510, in  
176.23 addition to the requirements of this part.

176.24 C. Used oil transporters shall not store used oil in units other than containers  
176.25 or tanks and shall ensure that the following requirements for containers and tanks are  
176.26 met. Containers and tanks used to store used oil at transfer facilities must be in good  
177.1 condition, not leaking, and closed. Containers must be equipped with a secondary  
177.2 containment system consisting of dikes, berms, or retaining walls and a floor that covers  
177.3 the entire area within the dikes, berms, or retaining walls, or an equivalent secondary  
177.4 containment system. The entire containment system, including walls and floors, must be  
177.5 sufficiently impervious to used oil to prevent any used oil released into the containment  
177.6 system from migrating out of the system to the soil, groundwater, or surface water.



177.7 Containers, aboveground tanks, and fill pipes of underground tanks used to store used oil  
177.8 at transfer facilities must be marked with the words "Used Oil." Aboveground tanks used  
177.9 to store used oil at transfer facilities may also be subject to the secondary containment  
177.10 requirements and other requirements in chapter 7151.

177.11 [For text of item D, see M.R.]

177.12 [For text of subps 10 to 12, see M.R.]

177.13 **Subp. 13. Closure.**

177.14 A. Owners and operators who store or process used oil in aboveground  
177.15 tanks must, at closure of the tank system, remove or decontaminate residues in tanks,  
177.16 contaminated containment system components, contaminated soils, and structures and  
177.17 equipment contaminated with used oil and manage them as hazardous waste unless the  
177.18 materials are not hazardous waste under parts 7045.0102 to 7045.0155. If the owner  
177.19 or operator demonstrates that not all contaminated soils can be practicably removed or  
177.20 decontaminated as required in this item, then the owner or operator must close the tank  
177.21 system and perform postclosure care in accordance with the closure and postclosure care  
177.22 requirements of part 7045.0638, subpart 4, that apply to hazardous waste landfills.

177.23 B. Owners and operators who store used oil in containers must, at closure,  
177.24 remove containers holding used oils or residues of used oil from the site. The owner or  
177.25 operator must remove or decontaminate used oil residues, contaminated containment  
177.26 system components, contaminated soils, and structures and equipment contaminated with  
178.1 used oil, and manage them as hazardous waste unless the materials are not hazardous  
178.2 waste under parts 7045.0102 to 7045.0155.

178.3 [For text of subp 14, see M.R.]

178.4 **7045.0875 STANDARDS FOR USED OIL PROCESSORS AND REREFINERS.**

178.5 [For text of subps 1 to 4, see M.R.]

178.6       **Subp. 5. Used oil storage and management.**

178.7           A. Used oil processors/rerefiners shall comply with all applicable spill  
178.8 prevention, control, and countermeasures requirements of Code of Federal Regulations,  
178.9 title 40, part 112, as amended, in addition to the requirements of this part. Used oil  
178.10 processors/rerefiners shall also comply with the underground storage tank standards of  
178.11 chapter 7150 for used oil stored in underground tanks, whether or not the used oil exhibits  
178.12 any characteristic of hazardous waste, in addition to the requirements of this part.

178.13           B. Used oil processors/rerefiners who store used oil in aboveground tanks  
178.14 are subject to chapter 7151, in addition to the requirements of this part. Used oil  
178.15 processors/rerefiners who store at least 10,000 gallons of used oil at one time are subject to  
178.16 the requirements of Minnesota Statutes, chapter 115E, to prepare and maintain a discharge  
178.17 prevention and response plan, in addition to the requirements of this part. All used oil  
178.18 processors/rerefiners shall comply with the storage and use requirements of the Minnesota  
178.19 State Fire Code, chapter 7510, in addition to the requirements of this part.

178.20           C. Used oil processors/rerefiners shall not store used oil in units other than  
178.21 containers or tanks and shall ensure that the following requirements for containers and  
178.22 tanks are met. Containers and tanks used to store used oil at processing/rerefining facilities  
178.23 must be in good condition, not leaking, and closed. Containers must be equipped with a  
178.24 secondary containment system. The secondary containment system must consist of, at a  
178.25 minimum, dikes, berms, or retaining walls, and a floor which covers the entire area within  
179.1 the dike, berm, or retaining wall. An equivalent secondary containment system may be  
179.2 used for containers. The entire containment system, including walls and floor, must be  
179.3 sufficiently impervious to used oil to prevent any used oil released into the containment  
179.4 system from migrating out of the system to the soil, groundwater, or surface water.  
179.5 Containers, aboveground tanks, and fill pipes of underground tanks used to store used oil  
179.6 at transfer facilities must be marked with the words "Used Oil." Aboveground tanks used

179.7 to store used oil at transfer facilities may also be subject to the secondary containment  
179.8 requirements and other requirements in chapter 7151.

179.9 [For text of item D, see M.R.]

179.10 E. Closure:

179.11 (1) Owners and operators who store or process used oil in aboveground  
179.12 tanks must, at closure of the tank system, remove or decontaminate residues in tanks,  
179.13 contaminated containment system components, contaminated soils, and structures and  
179.14 equipment contaminated with used oil, and manage them as hazardous waste unless the  
179.15 materials are not hazardous waste under parts 7045.0102 to 7045.0155. If the owner  
179.16 or operator demonstrates that not all contaminated soils can be practicably removed or  
179.17 decontaminated as required in this subitem, then the owner or operator must close the tank  
179.18 system and perform postclosure care in accordance with the closure and postclosure care  
179.19 requirements of part 7045.0638, subpart 4, that apply to hazardous waste landfills.

179.20 (2) Owners and operators who store used oil in containers must, at closure,  
179.21 remove containers holding used oils or residues of used oil from the site. The owner or  
179.22 operator must remove or decontaminate used oil residues, contaminated containment  
179.23 system components, contaminated soils, and structures and equipment contaminated with  
179.24 used oil, and manage them as hazardous waste unless the materials are not hazardous  
179.25 waste under parts 7045.0102 to 7045.0155.

179.26 [For text of subps 6 to 11, see M.R.]

180.1 **7045.0885 STANDARDS FOR USED OIL BURNERS WHO BURN**  
180.2 **OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY.**

180.3 [For text of subps 1 to 5, see M.R.]

180.4 Subp. 6. **Used oil storage.**

180.5           A. Applicability of federal storage regulations. Used oil burners must comply  
180.6 with all applicable spill prevention, control, and countermeasures requirements of Code of  
180.7 Federal Regulations, title 40, part 112, as amended, in addition to the requirements of this  
180.8 subpart. Used oil burners must comply with the underground storage tank standards of  
180.9 chapter 7150 for used oil stored in underground tanks, whether or not the used oil exhibits  
180.10 any characteristic of hazardous waste, in addition to the requirements of this part.

180.11           B. Used oil burners who store used oil in aboveground tanks are subject to  
180.12 chapter 7151, in addition to the requirements of this subpart. Used oil burners who store at  
180.13 least 10,000 gallons of used oil at one time are subject to the requirements of Minnesota  
180.14 Statutes, chapter 115E, to prepare and maintain a discharge prevention and response plan,  
180.15 in addition to the requirements of this part. All used oil burners shall comply with the  
180.16 storage and use requirements of the Minnesota State Fire Code, chapter 7510, in addition  
180.17 to the requirements of this part.

180.18           C. Used oil burners shall not store used oil in units other than containers or  
180.19 tanks and must ensure that the following requirements for containers and tanks are met.  
180.20 Containers and tanks used to store used oil at burning facilities must be in good condition,  
180.21 not leaking, and closed. Containers must be equipped with a secondary containment  
180.22 system. The secondary containment system must consist of, at a minimum, dikes, berms,  
180.23 or retaining walls, and a floor which covers the entire area within the dike, berm, or  
180.24 retaining wall. An equivalent secondary containment system may be used for containers.  
180.25 The entire containment system, including walls and floor, must be sufficiently impervious  
180.26 to used oil to prevent any used oil released into the containment system from migrating  
181.1 out of the system to the soil, groundwater, or surface water. Containers, aboveground  
181.2 tanks, and fill pipes of underground tanks used to store used oil at transfer facilities  
181.3 must be marked with the words "Used Oil." Aboveground tanks used to store used oil  
181.4 at burning facilities may also be subject to the secondary containment requirements and  
181.5 other requirements in chapter 7151.

181.6 [For text of item D, see M.R.]

181.7 [For text of subps 7 to 9, see M.R.]

181.8 Subp. 10. **Closure.**

181.9 A. Owners and operators who store or process used oil in aboveground  
181.10 tanks must, at closure of the tank system, remove or decontaminate residues in tanks,  
181.11 contaminated containment system components, contaminated soils, and structures and  
181.12 equipment contaminated with used oil, and manage them as hazardous waste unless the  
181.13 materials are not hazardous waste under parts 7045.0102 to 7045.0155. If the owner  
181.14 or operator demonstrates that not all contaminated soils can be practicably removed or  
181.15 decontaminated as required in this item, then the owner or operator must close the tank  
181.16 system and perform postclosure care in accordance with the closure and postclosure care  
181.17 requirements of part 7045.0638, subpart 4, that apply to hazardous waste landfills.

181.18 B. Owners and operators who store used oil in containers must, at closure,  
181.19 remove containers holding [used oils or residues of used oil from the site. The owner or  
181.20 operator must remove or decontaminate used oil residues, contaminated containment  
181.21 system components, contaminated soils, and structures and equipment contaminated with  
181.22 used oil, and manage them as hazardous waste unless the materials are not hazardous  
181.23 waste under parts 7045.0102 to 7045.0155.

181.24 [For text of subp 11, see M.R.]

181.25 **7045.1390 LAND DISPOSAL RESTRICTIONS.**

182.1 Subpart 1. **Incorporation of federal land disposal restrictions.** Code of Federal  
182.2 Regulations, title 40, part 268, as amended, land disposal restrictions, is incorporated by  
182.3 reference, except as provided in subparts 2 to 5.

182.4 Subp. 2. **General additions, modifications, or exceptions to incorporation of**  
182.5 **regulations.**

182.6 A. Part 7045.0090, adoption and incorporation by reference, also applies.

182.7 B. The agency does not incorporate the definitions of debris or hazardous debris  
182.8 in Code of Federal Regulations, title 40, section 268.2, or the regulations related to debris  
182.9 and hazardous debris throughout Code of Federal Regulations, title 40, part 268, including  
182.10 the treatment standards for hazardous debris in section 268.45. Wastes that would be  
182.11 federally regulated as debris or hazardous debris are regulated as hazardous waste.

182.12 Subp. 3. **Exceptions or additions to Code of Federal Regulations, title 40,**  
182.13 **subpart A.**

182.14 A. The agency does not incorporate Code of Federal Regulations, title 40,  
182.15 section 268.1(c)(3), allowing disposal into an injection well.

182.16 B. References to "EPA" in Code of Federal Regulations, title 40, sections  
182.17 268.1(e)(3) and 268.2(j) mean the federal Environmental Protection Agency.

182.18 C. The agency does not incorporate the definitions found in Code of Federal  
182.19 Regulations, title 40, section 268.2, paragraph a, c, d, e, f, g, or h.

182.20 D. References in Code of Federal Regulations, title 40, section 268.7(a)(9)(iii),  
182.21 to D001 to D043 do not include D009.

182.22 E. The agency does not incorporate Code of Federal Regulations, title 40,  
182.23 section 268.5, governing procedures for case-by-case extensions to an effective date.  
182.24 That section is administered by the EPA.

183.1 F. The agency does not incorporate Code of Federal Regulations, title 40, section  
183.2 268.6, governing petitions to allow land disposal of a waste prohibited under subpart C.  
183.3 Part 7045.0075, subpart 9, applies.

183.4 G. The agency does not incorporate Code of Federal Regulations, title  
183.5 40, section 268.4(a)(3)(ii) and (iii), relating to waivers or modifications of surface  
183.6 impoundment requirements.

183.7 Subp. 4. **Exceptions or additions to Code of Federal Regulations, title 40,**  
183.8 **subpart B.** The agency does not incorporate the EPA schedule in Code of Federal  
183.9 Regulations, title 40, section 268.13, for wastes identified or listed after November 8,  
183.10 1984. That section is administered by the Environmental Protection Agency.

183.11 Subp. 5. **Exceptions or additions to Code of Federal Regulations, title 40,**  
183.12 **subpart D.**

183.13 A. The agency does not incorporate Code of Federal Regulations, title 40,  
183.14 section 268.42(b), governing the demonstration of an alternative treatment method. That  
183.15 section is administered by the EPA.

183.16 B. The agency does not incorporate Code of Federal Regulations, title 40,  
183.17 section 268.44, paragraphs (a) to (g) or (o), governing variance from a treatment standard  
183.18 and wastes excluded in various states. That section is administered by the EPA.

183.19 **REPEALER.** Minnesota Rules, parts 7045.0020, subpart 45a; 7045.0075, subparts 8 and  
183.20 10; 7045.0135, subparts 1, 2, 2a, 3, and 4; 7045.0139, subpart 2; 7045.0141, subparts 2,  
183.21 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23; 7045.0143,  
183.22 subparts 2, 3, 4, 5, 6, 7, 9, 10, 12, 13, 14, 15, 17, 20, 21, 23, 25, and 27; 7045.0544,  
183.23 subparts 2 and 3; 7045.1300; 7045.1305; 7045.1309; 7045.1310; 7045.1315; 7045.1320;  
183.24 7045.1325; 7045.1330; 7045.1333; 7045.1334; 7045.1335; 7045.1339; 7045.1350;  
183.25 7045.1355; 7045.1358; 7045.1360; and 7045.1380, are repealed.