

1.1 **Pollution Control Agency**

1.2 **Proposed 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 ~~7045.0642~~ 7045.0651 and ~~7045.1300 to 7045.1380~~ 7045.1390, and any conditions that  
1.9 the agency determines to be necessary to protect human health and the environment. If  
1.10 applicable to the circumstances, the 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 ~~an~~ 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 ~~parts 7045.1300 to 7045.1380~~ part 7045.1390,  
1.22 restricting the placement of hazardous wastes in or on the land; ~~or~~

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 ~~7045.0452 to 7045.0544~~ 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 parts  
3.3 7045.0552 to ~~7045.0642~~ 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 ~~7045.0143~~ 7045.0155  
3.13 as hazardous to be treated, stored, or disposed of by the applicant and an estimate of  
3.14 the quantity of each hazardous waste to be treated, stored, or disposed of annually by  
3.15 the 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 the  
3.22 facility. At a minimum, these analyses must contain all the information that ~~is necessary~~  
3.23 must 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  
4.6 40, sections 264.1033, 264.1052, 264.1053, ~~and~~ 264.1058, as amended, and sections  
4.7 264.1084, 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  
4.10 ~~under part 7045.0075, subpart 8~~ by the United States Environmental Protection Agency,  
4.11 under Code of Federal Regulations, title 40, section 268.5, or a petition has been granted  
4.12 under part 7045.0075, subpart 9, a copy of the notice of approval for the extension or  
4.13 petition is required.

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

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

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

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

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

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

4.26 [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; ~~and~~

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, and  
5.18 F028 listed under part 7045.0135, subpart 2 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 2 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 2 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 2 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<sub>2</sub> as ~~refereneed~~ incorporated in part 7045.0065, or by using

8.1 techniques found by the commissioner to be equivalent to them. The applicant shall  
8.2 submit all of 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 ~~7045.0642~~ 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, for  
11.6 tanks and ancillary equipment, or to treat or store in containers ~~or~~, tanks, or containment  
11.7 buildings hazardous wastes subject to the land disposal restrictions under ~~parts 7045.1300~~  
11.8 ~~to 7045.1380~~ part 7045.1390 or RCRA section 3004, if the changes are made solely to  
11.9 comply with ~~parts 7045.1300 to 7045.1380~~ part 7045.1390 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 ~~7045.0642~~ 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 or containers, or containment  
12.7 buildings, hazardous wastes subject to land disposal restrictions imposed by ~~parts~~  
12.8 ~~7045.1300 to 7045.1380~~ part 7045.1390 or RCRA section 3004, provided that ~~the such~~  
12.9 changes are made solely for the purpose of complying with ~~parts 7045.1300 to 7045.1380~~  
12.10 part 7045.1390 or RCRA section 3004.

12.11 Subp. 6. **Compliance with interim status standards.** During the interim status  
12.12 period the owner or operator shall comply with the interim status standards in parts  
12.13 7045.0552 to ~~7045.0642~~ 7045.0651.

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

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

12.20 B. the commissioner finds that the owner or operator is in violation of any of the  
12.21 requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651.

12.22 **7001.0690 EMERGENCY PERMITS.**

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

13.1 Subp. 6. **Requirements.** The emergency permit must incorporate, to the extent  
13.2 possible under the circumstances, all applicable requirements of parts 7001.0500 to  
13.3 7001.0730, ~~7045.0452 to 7045.0544~~ 7045.0450 to 7045.0551, 7045.0652, and 7045.0655.

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

13.5 **7001.0700 HAZARDOUS WASTE THERMAL TREATMENT FACILITY**  
13.6 **PERMITS.**

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

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

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

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

13.17 (5) an approximate quantification of the hazardous constituents identified in  
13.18 the waste, within the precision specified by Environmental Protection Agency ~~document~~  
13.19 publication SW-846, as incorporated in part 7045.0065;

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

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

13.22 **7001.0710 LAND TREATMENT DEMONSTRATION PERMITS.**

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

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

14.8 general conditions for conducting demonstrations, the duration of approval, and the  
14.9 specific waste types.

14.10 The letter of approval may only provide approval for controlled laboratory  
14.11 demonstrations of hazardous waste treatment and does not provide exemptions from  
14.12 the hazardous waste management and disposal requirements of chapter 7045. Materials  
14.13 resulting from the demonstration that meet the criteria of parts 7045.0102 to ~~7045.0143~~  
14.14 7045.0155 must be managed as hazardous waste.

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

14.16 **7001.0730 MODIFICATION OF PERMITS; REVOCATION AND REISSUANCE**  
14.17 **OF PERMITS.**

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

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

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

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

15.1 (1) the hazardous waste has been prohibited from one or more methods of  
15.2 land disposal under ~~parts 7045.1320 to 7045.1330~~ Code of Federal Regulations, title 40,  
15.3 sections 268.30 to 268.39, as incorporated in part 7045.1390, or RCRA section 3004;

15.4 (2) treatment is in accordance with ~~part 7045.1310~~ Code of Federal  
15.5 Regulations, title 40, section 268.4, as incorporated in part 7045.1390, if applicable, and  
15.6 ~~part 7045.1305~~ section 268.3, as incorporated in part 7045.1390, and applicable standards  
15.7 established under ~~parts 7045.1355 to 7045.1360 and part 7045.0075, subpart 10~~ Code of

15.8 Federal Regulations, title 40, sections 268.41 to 268.49, and 268.5, as incorporated in part  
15.9 7045.1390, or, where no treatment standards have been established, treatment renders  
15.10 the waste no longer subject to the applicable prohibitions of ~~part 7045.1330~~ Code of  
15.11 Federal Regulations, title 40, section 268.32, as incorporated in part 7045.1390, or RCRA  
15.12 section 3004;

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

15.14 M. to allow permitted facilities to change their operations to treat or store  
15.15 hazardous wastes subject to land disposal restrictions imposed by ~~parts 7045.1300 to~~  
15.16 ~~7045.1380~~ part 7045.1390 or RCRA section 3004, provided the treatment or storage  
15.17 occurs in containers or tanks and the permittee:

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

15.19 (2) demonstrates in the request for a major permit modification that the  
15.20 treatment or storage is necessary to comply with the land disposal restrictions of ~~parts~~  
15.21 ~~7045.1300 to 7045.1380~~ part 7045.1390 or RCRA section 3004; and

15.22 (3) ensures that the treatment or storage units comply with the applicable  
15.23 standards of parts 7045.0552 to ~~7045.0642~~ 7045.0651 and ~~7045.1300 to 7045.1380~~  
15.24 7045.1390 pending final administrative disposition of the major modification request.  
15.25 The authorization to make the changes conferred in this item terminates upon final  
16.1 administrative disposition of the permittee's major modification request under subparts  
16.2 1 to 3 or termination of the permit under part 7001.0180.

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

#### 16.4 **7045.0020 DEFINITIONS.**

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

16.6 Subp. 9b. **Combustible liquid.** "Combustible liquid" has the meaning given in Code  
16.7 of Federal Regulations, title 49, section ~~173.115~~ 173.120, paragraph (b), as amended.

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

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

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

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

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

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

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

16.22 Subp. ~~22e.~~ 22d. **Existing hazardous waste management facility or existing**  
16.23 **facility.** "Existing hazardous waste management facility" or "existing facility" means  
17.1 a facility which was in operation or for which construction commenced on or before  
17.2 November 19, 1980. See subpart 10b for definition of "construction commenced."

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

17.4 Subp. 24b. **Flammable liquid.** "Flammable liquid" has the meaning given in Code  
17.5 of Federal Regulations, title 49, section ~~173.115~~ 173.120, as amended.

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

17.7 Subp. 31. **Generator.**"Generator" means any person, by site, whose act or process  
17.8 produces hazardous waste identified or listed in parts 7045.0102 to ~~7045.0143~~ 7045.0155,



17.9 or whose act first causes a hazardous waste to become subject to regulation. "Generator"  
17.10 means all size generators including large quantity generators, small quantity generators,  
17.11 and very small quantity generators, unless specifically stated otherwise.

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

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

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

17.17 Subp. ~~37b.~~ 37c. **Household battery.** "Household battery" means a disposable or  
17.18 rechargeable dry cell, generated by a household and commonly used as a power source for  
17.19 household products. "Household battery" includes nickel-cadmium, alkaline, mercuric  
17.20 oxide, silver oxide, zinc oxide, zinc-air, lithium, and zinc-carbon batteries, but excludes  
17.21 lead-acid batteries.

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

17.24 Subp. ~~37d.~~ 37e. **Household hazardous waste collection site or collection site.**  
17.25 "Household hazardous waste collection site" or "collection site" as used in part 7045.0310  
18.1 has the meaning established under Minnesota Statutes, section 115A.96, subdivision 1,  
18.2 paragraph (c).

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

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

18.8 Subp. 45a. [See repealer.]

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

18.10 Subp. 65. **Partial closure.** "Partial closure" means the closure of a hazardous  
18.11 waste management unit in accordance with the applicable closure requirements of parts  
18.12 7045.0450 to ~~7045.0642~~ 7045.0651 at a facility that contains other active hazardous  
18.13 waste management units. For example, partial closure may include the closure of a  
18.14 tank, including its associated piping and containment systems, a landfill cell, surface  
18.15 impoundment, waste pile, or other hazardous waste management unit, while other units  
18.16 of the same facility continue to operate.

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

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

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

18.21 Subp. 71a. **Polychlorinated biphenyls, PCB, or PCB's.** "Polychlorinated  
18.22 biphenyls," "PCB," or "PCB's" ~~are halogenated organic compounds defined~~ have the  
18.23 meaning given "PCB" in accordance with Code of Federal Regulations, title 40, section  
18.24 761.3, as amended Minnesota Statutes, section 116.36, subdivision 4.

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

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

19.2 B. receives and treats or stores an influent wastewater which is a hazardous waste  
19.3 as defined in parts 7045.0102 to ~~7045.0143~~ 7045.0155; or generates and accumulates a  
19.4 wastewater treatment sludge which is a hazardous waste as defined in parts 7045.0102  
19.5 to ~~7045.0143~~ 7045.0155; or treats or stores a wastewater treatment sludge which is a  
19.6 hazardous waste as defined in parts 7045.0102 to ~~7045.0143~~ 7045.0155; and

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

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



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

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

20.21 Subp. ~~98e.~~ **98d. Universal waste.** "Universal waste" has the meaning given at Code  
20.22 of Federal Regulations, title 40, section 273.9.

20.23 Subp. ~~98d.~~ **98e. Universal waste handler.** "Universal waste handler" has the  
20.24 meaning given at Code of Federal Regulations, title 40, section 273.9.

21.1 Subp. ~~98e.~~ **98f. Universal waste transporter.** "Universal waste transporter" has the  
21.2 meaning given at Code of Federal Regulations, title 40, section 273.9.

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

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

21.7 A. F001, F002, F003, F004, or F005 wastewaters are solvent-water mixtures that  
21.8 contain less than one percent by weight total organic carbon or less than one percent by  
21.9 weight total F001, F002, F003, F004, or F005 solvent constituents listed in ~~part 7045.1355~~  
21.10 Code of Federal Regulations, title 40, section 268.40, as incorporated in part 7045.1390;

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

21.12 Subp. 103. **Wastewater treatment unit.** "Wastewater treatment unit" means a  
21.13 device which:

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

21.15 B. receives and treats or stores an influent wastewater which is a hazardous waste  
21.16 as defined in parts 7045.0102 to ~~7045.0143~~ 7045.0155; or generates and accumulates a  
21.17 wastewater treatment sludge which is a hazardous waste as defined in parts 7045.0102  
21.18 to ~~7045.0143~~ 7045.0155; or treats or stores a wastewater treatment sludge which is a  
21.19 hazardous waste as defined in parts 7045.0102 to ~~7045.0143~~ 7045.0155; and

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

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

21.22 **7045.0065 INCORPORATION AND AVAILABILITY OF REFERENCES.**

21.23 The documents referred to in this ~~chapter may be obtained by contacting the~~  
21.24 ~~appropriate offices as listed in this part.~~ part are incorporated by reference. The documents  
22.1 are not subject to frequent change, unless otherwise noted, and are available online or  
22.2 through the Minitex interlibrary loan system, unless otherwise noted:

22.3 ~~A. standards of the American Society for Testing and Materials, in the Annual~~  
22.4 ~~Book of ASTM Standards, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959,~~  
22.5 ~~available at the Engineering Library of the University of Minnesota;~~

22.6 ~~B. Minnesota Uniform Fire Code, as incorporated by reference in part~~  
22.7 ~~7510.3510;~~

22.8 ~~C. A. the implicit price deflator for gross national domestic product in from the~~  
22.9 ~~Survey of Current Business, Bureau of Economic Analysis, United States Department of~~  
22.10 ~~Commerce, 110 4th Street South, Minneapolis, Minnesota 55401, available at the Saint~~  
22.11 ~~Paul Public Library. This document is subject to frequent change and is readily available~~  
22.12 at the Bureau of Economic Analysis Web site: [www.bea.gov](http://www.bea.gov);

22.13 ~~D. The Manual on Disposal of Refinery Wastes, volume 1, issued by the~~  
22.14 ~~American Petroleum Institute, (Washington, D.C., 1969), available at the state of~~  
22.15 ~~Minnesota Law Library;~~

22.16 ~~E. Methods for Chemical Analysis of Water and Wastes, publication number~~  
22.17 ~~600/4-79-020, March 1979, issued by the Environmental Monitoring and Support~~  
22.18 ~~Laboratory, 26 West St. Clair, Cincinnati, Ohio 45268, available at the state of Minnesota~~  
22.19 ~~Law Library;~~

22.20 ~~F. Standard TM-01-69 of the National Association of Corrosion Engineers, P.O.~~  
22.21 ~~Box 218340, Houston, Texas 77218, available at the state of Minnesota Law Library;~~

22.22 ~~G. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,~~  
22.23 ~~publication number SW 846 (Second Edition, 1982, as amended by Update I, April 1984,~~  
22.24 ~~and Update II, April 1985) of the Office of Solid Waste, United States Environmental~~  
22.25 ~~Protection Agency, 401 M Street S.W., Washington, D.C. 20460. The Second Edition~~  
23.1 ~~of SW-846 and Updates I and II available at the Minnesota Law Library and from the~~  
23.2 ~~National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161,~~  
23.3 ~~(703) 487-4600 as Document number PB 87-120-291;~~

23.4 ~~H. B. the most recent edition of the Uniform Customs and Practice for~~  
23.5 ~~Documentary Credits (Publication 290), 1975, published by the International Chamber~~  
23.6 ~~of Commerce Publishing Corporation, Incorporated, 156 5th Avenue, Suite 820, New~~  
23.7 ~~York, New York 10017; and~~

23.8 ~~I. C. Standard Industrial Classification Manual issued by the Office of~~  
23.9 ~~Management and Budget, Executive Office of the President of the United States, available~~  
23.10 ~~from the National Technical Information Service, 5285 Port Royal Road, Springfield,~~  
23.11 ~~Virginia 22161 (1987); and~~

23.12 ~~D. the documents found in Code of Federal Regulations, title 40, section 260.11,~~  
23.13 ~~as amended.~~

23.14 **7045.0071 UNDERGROUND INJECTION.**

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

23.18 **7045.0075 PETITIONS.**

23.19 Subpart 1. **Petitions for equivalent testing or analytical methods.** Any person  
23.20 seeking to use a testing or analytical method other than those described in parts 7045.0102  
23.21 to ~~7045.0143~~, 7045.0155 or 7045.0450 to ~~7045.0642~~ 7045.0651 may petition under these  
23.22 provisions. The person must demonstrate to the satisfaction of the commissioner that the  
23.23 proposed method is equal to or superior to the corresponding method prescribed in parts  
23.24 7045.0102 to ~~7045.0143~~, 7045.0155 or 7045.0450 to ~~7045.0642~~ 7045.0651 in terms of its  
23.25 sensitivity, accuracy, precision, and reproducibility. Each petition must include:

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

24.2 E. comparative results obtained from using the proposed method with those  
24.3 obtained from using the relevant or corresponding methods prescribed in parts ~~7045.0100~~  
24.4 7045.0102 to ~~7045.0143~~, 7045.0155 or 7045.0450 to ~~7045.0642~~ 7045.0651;

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

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

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

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

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

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

24.14 ~~Code of Federal Regulations, title 40, part 261, appendix III, as amended~~ "Test Methods  
24.15 for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846,  
24.16 incorporated by reference in part 7045.0065, item D; or

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

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

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

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

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

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

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

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

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

25.12 Subp. 5. **Petition for use of alternate manifest.** A person who meets the criteria  
25.13 in item A may submit a petition to the commissioner for approval of the use of an  
25.14 alternate manifest system as described in item B. The criteria the commissioner shall use



25.15 in determining whether to approve the use of the alternate manifest system are provided  
25.16 in item C.

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

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

25.21 (1) The alternate manifest system must include a manifest form to be  
25.22 used by the generator to notify the commissioner each time waste is transported under  
25.23 this subpart. The manifest form must include: a space for the generator's name, mailing  
25.24 address, telephone number, and identification number; a space for the transporter's  
25.25 name and identification number; a space for the name, address, telephone number, and  
26.1 identification number of the recycling facility; a space for the United States Department of  
26.2 Transportation shipping name, hazard class, ~~and~~ identification number, and packing group  
26.3 of the waste as specified in the United States Department of Transportation Code, title  
26.4 49, parts 171 to ~~179~~ 199; a space for the number and type of containers and total volume  
26.5 of the waste being shipped; a space for the waste identification number as specified in  
26.6 part 7045.0131, 7045.0135, or 7045.0137; a space for the signature of the generator or  
26.7 the generator's authorized representative affirming the correctness of the information; the  
26.8 mailing address of the commissioner; and a statement advising the generator to complete  
26.9 the form and submit it to the commissioner within five working days of transporting waste.

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

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

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

26.13 Subp. 8. [See repealer.]

26.14 Subp. 9. **Petitions to allow land disposal of a prohibited waste.** A person seeking  
26.15 an exemption from a prohibition for the disposal of a restricted hazardous waste in a  
26.16 particular unit or units must submit a petition to the agency and to the EPA demonstrating,  
26.17 to a reasonable degree of certainty, that there will be no migration of hazardous  
26.18 constituents from the disposal unit or injection zone for as long as the wastes remain  
26.19 hazardous. The demonstration to the EPA must include the provisions in Code of Federal  
26.20 Regulations, title 40, section 268.6. The demonstration to the agency must include an  
26.21 identification of the specific waste and the specific unit for which the demonstration will  
26.22 be made, a waste analysis to describe fully the chemical and physical characteristics of the  
26.23 subject waste, and a comprehensive characterization of the disposal unit site including an  
26.24 analysis of background air, soil, and water quality. The demonstration must also include  
26.25 a monitoring plan that detects migration at the earliest practicable time, and sufficient  
26.26 information to assure the commissioner that the owner or operator of a land disposal unit  
27.1 receiving restricted wastes will comply with other applicable federal, state, and local laws.  
27.2 The person seeking the exemption must also comply with items A to L.

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

27.4 D. If the owner or operator determines that there is migration of hazardous  
27.5 constituents from the unit, the owner or operator must immediately suspend receipt of  
27.6 prohibited waste at the unit and notify the commissioner in writing within ten days of the  
27.7 determination that a release has occurred. Within 60 days of receiving the notification,  
27.8 the commissioner shall determine whether the owner or operator can continue to receive  
27.9 prohibited waste in the unit and whether the variance is to be revoked. The commissioner  
27.10 shall also determine whether further examination of any migration is warranted under  
27.11 applicable provisions of parts 7045.0450 to ~~7045.0642~~ 7045.0651.

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

27.13 J. Before the agency's decision, the applicant must comply with all restrictions  
 27.14 on land disposal under ~~parts 7045.1300 to 7045.1380~~ part 7045.1390 when the effective  
 27.15 date for the waste has been reached.

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

27.17 Subp. 10. [See repealer.]

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

27.19 **7045.0090 ADOPTION AND INCORPORATION BY REFERENCE.**

27.20 Subpart 1. **Applicability.** Except as specified in subparts 2 and 3, the terms and  
 27.21 standards identified in subparts 1a to ~~1e~~ 1h apply whenever federal regulations are  
 27.22 ~~adopted or~~ incorporated by reference in this chapter whether or not this part is specifically  
 27.23 referenced. Terms used in incorporated Code of Federal Regulations, title 40, and defined  
 27.24 in part 7045.0020 or in Minnesota Statutes have the meaning given in part 7045.0020  
 27.25 or in Minnesota Statutes.

28.1 Subp. 1a. **General Specific terms.** ~~Terms defined in Minnesota Rules and Minnesota~~  
 28.2 ~~Statutes that are also defined in Code of Federal Regulations, title 40; The following terms~~  
 28.3 and phrases have the meaning given in ~~part 7045.0020 and the applicable Minnesota~~  
 28.4 ~~statute.~~

28.5 A. "EPA" and "agency" mean the Pollution Control Agency ~~and its~~  
 28.6 ~~commissioner.~~

28.7 B. "Generator" has the meaning given in ~~part 7045.0020.~~

28.8 C. "Hazardous waste" has the meaning given in ~~part 7045.0020.~~

28.9 ~~D.~~ B. "Regional administrator," "administrator," and "director" mean the  
 28.10 commissioner of the Pollution Control Agency.

28.11 E. C. "State," "authorized state," "approved state," or "approved program"  
28.12 means Minnesota.

28.13 F. ~~"Waste" has the meaning given in part 7045.0020.~~

28.14 D. "Generator," "hazardous waste," and "waste" have the meanings given  
28.15 in part 7045.0020.

28.16 Subp. 1b. **Hazardous waste management system general standards; Code of**  
28.17 **Federal Regulations, title 40, part 260.** References to the petition processes established  
28.18 in "Code of Federal Regulations, title 40, part 260, subpart C," or "Code of Federal  
28.19 Regulations, title 40, or Code of Federal Regulations, title 40, sections 260.20 to 260.41,"  
28.20 mean the petition processes established in part 7045.0075.

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

28.23 A. References to any section in "Code of Federal Regulations, title 40, part 261,  
28.24 subpart C," "subparts A to C, or to Code of Federal Regulations, title 40, sections 261.20  
29.1 261.1 to 261.24," or "characteristic hazardous waste" mean the characteristics established  
29.2 in part parts 7045.0102 to 7045.0131 or part 7045.0214, subpart 3.

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

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

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

29.10 Subp. 1d. **Standards applicable to generators of hazardous waste, Code of**  
29.11 **Federal Regulations, title 40, part 262.** References to Code of Federal Regulations, title

29.12 40, part 262, or to any section in Code of Federal Regulations, title 40, sections 262.10 to  
 29.13 262.70, mean parts 7045.0205 to 7045.0325.

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

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

29.20 A. References to "Code of Federal Regulations, title 40, part 264, subpart F,"  
 29.21 "~~Code~~ Code of Federal Regulations, title 40, sections 264.90 to 264.101," "~~Code~~ Code of  
 29.22 Federal Regulations, title 40, part 265, subpart F," or "Code of Federal Regulations, title  
 29.23 40, sections 265.90 to 265.94," mean the requirements of parts 7045.0484, 7045.0485,  
 29.24 7045.0590, and 7045.0592 relating to groundwater protection, monitoring, and corrective  
 29.25 action for releases.

30.1 B. References to "Code of Federal Regulations, title 40, part 264, subpart H,"  
 30.2 "~~Code~~ Code of Federal Regulations, title 40, sections 264.140 to 264.151," "~~Code~~ Code  
 30.3 of Federal Regulations, title 40, part 265, subpart H," or "Code of Federal Regulations,  
 30.4 title 40, sections 265.140 to 265.150," mean the financial assurance requirements of parts  
 30.5 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624.

30.6 C. References to "Code of Federal Regulations, title 40, part 264, subpart O,"  
 30.7 "~~Code~~ Code of Federal Regulations, title 40, sections 264.340 to 264.351," "~~Code~~ Code  
 30.8 of Federal Regulations, title 40, part 265, subpart O," or "Code of Federal Regulations,  
 30.9 title 40, sections 265.340 to 265.352," mean the thermal treatment standards of parts  
 30.10 7045.0542 and 7045.0640.

30.11 D. References to "Code of Federal Regulations, title 40, part 264, subpart N,"  
 30.12 "~~Code~~ Code of Federal Regulations, title 40, sections 264.300 to 264.317," "~~Code~~ Code

30.13 of Federal Regulations, title 40, part 265, subpart N," or "Code of Federal Regulations,  
30.14 title 40, sections 265.300 to 265.316," mean the landfill standards of parts 7045.0538  
30.15 and 7045.0638.

30.16 Subp. 1g. **Permit requirements; Code of Federal Regulations, title 40, part**  
30.17 **270.** References to "Code of Federal Regulations, title 40, part 270, subparts A to H,"  
30.18 "~~Code~~ Code of Federal Regulations, title 40, sections 270.1 to 270.230," or any other  
30.19 reference to a hazardous waste facility permit mean the hazardous waste facility permit  
30.20 requirements in parts 7001.0500 to 7001.0730.

30.21 Subp. 1h. **Other standards.**

30.22 A. References to Code of Federal Regulations, title 40, part 273, mean part  
30.23 7045.1400 (universal waste).

30.24 B. References to Code of Federal Regulations, title 40, part 279, mean parts  
30.25 7045.0692 to 7045.0990 (used oil).

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

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

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

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

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

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

31.14 **7045.0102 MIXTURES OF WASTES.**

31.15 Subpart 1. **Scope.** Except as provided in part 7045.0665, subpart 1, mixtures of  
31.16 wastes are ~~listed in subparts 2 and 3~~ identified in subpart 2.

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

31.24 A. A mixture is a hazardous waste if it is ~~a mixture of nonhazardous waste and~~  
31.25 ~~any waste which is hazardous solely because it exhibits the characteristic of ignitability,~~  
32.1 ~~corrosivity, oxidativity, or reactivity as described in part 7045.0131, unless the resulting~~  
32.2 ~~mixture does not exhibit any of the characteristics of hazardous waste as defined in~~  
32.3 ~~part 7045.0131~~ contains a waste that is hazardous solely because it exhibits any of the  
32.4 characteristics of ignitability, corrosivity, oxidativity, or reactivity identified in part  
32.5 7045.0131, or contains a hazardous waste listed in part 7045.0135 solely because of  
32.6 ignitability, corrosivity, or reactivity, and the resulting mixture exhibits any characteristic  
32.7 of a hazardous waste identified in part 7045.0131.

32.8 B. Except as provided in item D or E, a mixture is a hazardous waste if it is a  
32.9 mixture of nonhazardous waste and any waste listed in part 7045.0135 solely because of  
32.10 ignitability, corrosivity, or reactivity, unless: contains a waste listed for toxicity in part  
32.11 7045.0135.

32.12 ~~(1) the resulting mixture does not exhibit any of the characteristics of~~  
32.13 ~~hazardous waste as defined in part 7045.0131;~~

32.14 ~~(2) the resulting mixture has been excluded from regulation pursuant to part~~  
32.15 ~~7045.0075, subpart 2; or~~

32.16 ~~(3) the nonhazardous waste is exempt from regulation under part 7045.0120,~~  
32.17 ~~item I, and the resultant mixture no longer exhibits any characteristic of hazardous waste~~  
32.18 ~~as defined in part 7045.0131 for which the hazardous waste listed in part 7045.0135~~  
32.19 ~~was listed.~~

32.20 C. Except as provided in item D, a mixture is a hazardous waste if it is a  
32.21 ~~nonsewered mixture of nonhazardous waste and any waste listed in part 7045.0135~~  
32.22 ~~(other than wastes listed solely because of ignitability, corrosivity, or reactivity) or any~~  
32.23 ~~waste which is hazardous because it exhibits the characteristics of toxicity or lethality~~  
32.24 ~~as identified in part 7045.0131 unless the resulting mixture has been excluded from~~  
32.25 ~~regulation pursuant to part 7045.0075, subpart 2~~ contains a waste that exhibits the  
32.26 characteristic of toxicity or lethality identified in part 7045.0131.

33.1 D. A mixture is a hazardous waste if it is a sewered mixture of nonhazardous  
33.2 waste and any waste which is hazardous because it exhibits the characteristics of toxicity  
33.3 or lethality as defined in part 7045.0131 unless:

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

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

33.8 This provision does not apply to those mixtures defined as nonhazardous under item  
33.9 F E.



33.10 E. ~~Except as provided in item F, a mixture is a hazardous waste if it is a sewered~~  
33.11 ~~mixture of nonhazardous waste and any waste listed in part 7045.0135 (other than wastes~~  
33.12 ~~listed solely because of ignitability, corrosivity, or reactivity) unless the resulting mixture~~  
33.13 ~~has been excluded from regulation under part 7045.0075, subpart 2.~~

33.14 F. ~~E. Except as otherwise provided in item A, B, or D, the following sewered~~  
33.15 ~~mixtures of nonhazardous wastes and hazardous wastes listed in part 7045.0135~~ Except as  
33.16 otherwise provided in item A, B, or D, the following sewered mixtures are not hazardous  
33.17 wastes if the generator can demonstrate that the mixture consists of wastewater, the  
33.18 discharge of which is subject to regulation under ~~the Federal Water Pollution Control Act~~  
33.19 ~~Amendments of 1972, United States Code, title 33, section 1317(b) or 1342, as amended~~  
33.20 either section 307(b) or 402 of the Clean Water Act, including wastewater at facilities  
33.21 which have eliminated the discharge of wastewater; and

33.22 (1) one or more of the following spent solvents listed in part 7045.0135,  
33.23 subpart 1a, item B: carbon tetrachloride, tetrachloroethylene, trichloroethylene; provided  
33.24 that the solvents are discharged into the wastewater stream as a result of normal  
33.25 manufacturing operations and provided further that the maximum total weekly usage of  
33.26 these solvents, other than the amounts that can be demonstrated not to be discharged to  
34.1 wastewater, divided by the average weekly flow of wastewater into the headworks of  
34.2 the facility's wastewater treatment or pretreatment system does not exceed one part per  
34.3 million;

34.4 (2) one or more of the following spent solvents listed in part 7045.0135,  
34.5 subpart 1a, item B: methylene chloride, 1,1,1-trichloroethane, chlorobenzene,  
34.6 o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone,  
34.7 carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents; provided that  
34.8 the solvents are discharged into the wastewater stream as a result of normal manufacturing  
34.9 operations and provided further that the maximum total weekly usage of these solvents,

34.10 other than the amounts that can be demonstrated not to be discharged to wastewater,  
34.11 divided by the average weekly flow of wastewater into the headworks of the facility's  
34.12 wastewater treatment or pretreatment system does not exceed 25 parts per million;

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

34.15 (4) a discarded commercial chemical product, or chemical intermediate  
34.16 listed in part 7045.0135, subpart 1a, item D, arising from de minimis losses of these  
34.17 materials from manufacturing operations in which these materials are used as raw  
34.18 materials or are produced in the manufacturing process. De minimis losses include those  
34.19 from normal material handling operations (such as spills from the unloading or transfer  
34.20 of materials from bins or other containers or leaks from pipes, valves, or other devices  
34.21 used to transfer materials); minor leaks of process equipment, storage tanks or containers;  
34.22 leaks from well-maintained pump packings and seals; sample purgings; relief device  
34.23 discharges; discharges from safety showers and rinsing and cleaning of personal safety  
34.24 equipment; and ~~rinsing~~ rinsate from empty containers or from containers that are rendered  
34.25 empty by that rinsing; ~~or~~

35.1 (5) wastewater resulting from laboratory operations containing toxic  
35.2 wastes listed in part 7045.0135, provided that the annualized average flow of laboratory  
35.3 wastewater does not exceed one percent of total wastewater flow into the headworks  
35.4 of the facility's wastewater treatment or pretreatment system, or provided the waste's  
35.5 combined annualized average concentration does not exceed one part per million in the  
35.6 headworks of the facility's wastewater treatment or pretreatment facility. Toxic wastes  
35.7 used in laboratories that are demonstrated not to be discharged to wastewater are not to  
35.8 be included in this calculation;

35.9 (6) one or more of the following wastes listed in part 7045.0135, subpart  
35.10 1a, item C: wastewaters from the production of carbamates and carbamoyl oximes (EPA

35.11 Hazardous Waste No. K157), provided that the maximum weekly usage of formaldehyde,  
35.12 methyl chloride, methylene chloride, and triethylamine, including all amounts that can not  
35.13 be demonstrated to be reacted in the process, destroyed through treatment, or is recovered  
35.14 (i.e., what is discharged or volatilized), divided by the average weekly flow of process  
35.15 wastewater prior to any dilutions into the headworks of the facility's wastewater treatment  
35.16 system does not exceed a total of five parts per million by weight; or

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

35.24 G. For the purpose of this part item, headworks refers to the influent plumbing of  
35.25 a privately owned national pollutant discharge elimination system, state disposal system,  
36.1 or pretreatment facility or to the facility's point of discharge to a municipal collection  
36.2 system when the treatment facility is a publicly owned wastewater treatment facility.

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

36.5 H. G. Any mixture of a waste from the extraction, beneficiation, and processing  
36.6 of ores and minerals excluded under part 7045.0120, subpart 1, item I, and any other  
36.7 waste exhibiting a characteristic of hazardous waste under part 7045.0131 is a hazardous  
36.8 waste only if:

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

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

36.11 **7045.0120 EXEMPTIONS AND SPECIAL REQUIREMENTS.**

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

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

36.16 I. waste from the extraction, beneficiation, and processing of ores and minerals,  
 36.17 including coal, ~~and including~~ phosphate rock, and overburden from the mining of uranium  
 36.18 ore. For purposes of this item, beneficiation of ores and minerals is restricted to the  
 36.19 following activities: crushing; grinding; washing; dissolution; crystallization; filtration;  
 36.20 sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or  
 36.21 carbon dioxide; roasting, autoclaving, or chlorination in preparation for leaching (except  
 36.22 where the roasting, autoclaving, or chlorination/leaching sequence produces a final or  
 36.23 intermediate product that does not undergo further beneficiation or processing); gravity  
 36.24 concentration; magnetic separation; electrostatic separation; flotation; ion exchange;  
 36.25 solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat,  
 37.1 tank, and in situ leaching. For the purposes of this item, waste from the processing of ores  
 37.2 and minerals includes only the following wastes as generated:

37.3 (1) slag from primary copper processing;

37.4 (2) slag from primary lead processing;

37.5 (3) red and brown muds from bauxite refining;

37.6 (4) phosphogypsum from phosphoric acid production;

37.7 ~~(2)~~(5) slag from elemental phosphorus production;

37.8 ~~(3)~~(6) gasifier ash from coal gasification;

37.9 ~~(4)~~(7) process wastewater from coal gasification;

- 37.10 (8) calcium sulfate wastewater treatment plant sludge from primary copper  
37.11 processing;
- 37.12 ~~(5)~~(9) slag tailings from primary copper processing;
- 37.13 ~~(6)~~(10) fluorogypsum from hydrofluoric acid production;
- 37.14 (11) process wastewater from hydrofluoric acid production;
- 37.15 (12) air pollution control dust or sludge from iron blast furnaces;
- 37.16 ~~(7)~~(13) iron blast furnace slag;
- 37.17 ~~(8)~~(14) treated residue from the roasting/leaching of chrome ore; ~~and~~
- 37.18 (15) process wastewater from primary magnesium processing by the  
37.19 anhydrous process;
- 37.20 (16) process wastewater from phosphoric acid production;
- 37.21 (17) basic oxygen furnace and open hearth furnace air pollution control dust  
37.22 or sludge from carbon steel production;
- 38.1 ~~(9)~~(18) basic oxygen furnace and open hearth furnace slag from carbon  
38.2 steel production;
- 38.3 (19) chloride process waste solids from titanium tetrachloride production;  
38.4 and
- 38.5 (20) slag from primary zinc processing.
- 38.6 A residue derived from coprocessing mineral processing secondary materials with  
38.7 normal beneficiation raw materials or with normal mineral processing raw materials  
38.8 remains excluded under this subpart if the owner or operator processes at least 50 percent  
38.9 by weight normal beneficiation raw materials or normal mineral processing raw materials  
38.10 and legitimately reclaims the secondary mineral processing materials;
- 38.11 [For text of items J to S, see M.R.]

38.12 T. spent wood preserving solutions that have been reclaimed and reused for  
38.13 their original intended purpose, and wastewaters from the wood preserving process that  
38.14 have been reclaimed and are reused to treat wood; if, prior to reuse, the wood preserving  
38.15 wastewaters and spent wood preserving solutions described in this item meet all of the  
38.16 following conditions:

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

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

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

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

39.4 (5) prior to operating pursuant to this exclusion, the plant owner or operator  
39.5 submits to the commissioner a onetime notification stating that the plant intends to claim  
39.6 the exclusion, giving the date on which the plant intends to begin operating under the  
39.7 exclusion, and containing the following language: "I have read the applicable regulation  
39.8 establishing an exclusion for wood preserving wastewaters and spent wood preserving  
39.9 solutions and understand it requires me to comply at all times with the conditions set out  
39.10 in the regulation." The plant must maintain a copy of that document in its on-site records  
39.11 until closure of the facility. The exclusion applies only so long as the plant meets all of the  
39.12 conditions. If the plant goes out of compliance with any condition, the plant owner or  
39.13 operator may apply to the commissioner for reinstatement. Reinstatement is conditioned

39.14 on the commissioner finding that the plant has returned to compliance with all conditions  
39.15 and that violations are not likely to recur;

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

39.17 V. used oil rerefining distillation bottoms that are used as feedstock to  
39.18 manufacture asphalt products; ~~or~~

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

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

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

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

40.4 (3) except as provided in subitem (4), the spent material is stored in tanks,  
40.5 containers, or buildings meeting the following minimum integrity standards: a building  
40.6 must be an engineered structure with a floor, walls, and a roof, all of which are made of  
40.7 nonearthen materials providing structural support (except smelter buildings may have  
40.8 partially earthen floors provided the spent material is stored on the nonearthen portion),  
40.9 and have a roof suitable for diverting rainwater away from the foundation; a tank must be  
40.10 freestanding, not be a surface impoundment, and be manufactured of a material suitable  
40.11 for containment of its contents; a container must be freestanding and be manufactured  
40.12 of a material suitable for containment of its contents. If tanks or containers contain any  
40.13 particulate that may be subject to wind dispersal, the owner or operator must operate

40.14 these units in a manner that controls fugitive dust. Tanks, containers, and buildings must  
40.15 be designed, constructed, and operated to prevent releases to the environment of these  
40.16 materials;

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

40.25 (a) the commissioner must also consider if storage on pads poses the  
40.26 potential for releases via groundwater, surface water, and air exposure pathways. Factors  
41.1 to be considered for assessing the groundwater, surface water, and air exposure pathways  
41.2 are the volume and physical and chemical properties of the spent material, including its  
41.3 potential for migration off the pad; the potential for human or environmental exposure  
41.4 to hazardous constituents migrating from the pad via each exposure pathway; and the  
41.5 possibility and extent of harm to human and environmental receptors via each exposure  
41.6 pathway;

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



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

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

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

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

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

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

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

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

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

42.10 F. universal waste managed under part 7045.1400-; and

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

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

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

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

42.23 **7045.0121 TREATABILITY STUDY EXEMPTIONS.**

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

43.1 Subp. 3. **Facilities and sample handling.** A mobile treatment unit may qualify as  
43.2 a laboratory or testing facility subject to requirements of this subpart. Where a group  
43.3 of mobile treatment units are located at the same site, the limitations specified in this  
43.4 subpart apply to the entire group of mobile treatment units involved in treatability  
43.5 studies collectively as if the group were one mobile treatment unit. Samples undergoing  
43.6 treatability studies and the laboratory or testing facility conducting the treatability studies,  
43.7 to the extent the facilities are engaged directly in treatability studies and are not otherwise  
43.8 subject to the Resource Conservation and Recovery Act requirements, United States  
43.9 Code, title 42, section 6901 et seq., as amended, are not subject to any requirements of  
43.10 Code of Federal Regulations, title 40, part 124, as amended; parts 7045.0102 to 7045.0685  
43.11 except this part and applicable references; ~~parts 7023.9000 to 7023.9050; 7045.1300~~  
43.12 ~~to 7045.1380~~ part 7045.1390; chapter 7001; or to the notification requirements of the

43.13 Resource Conservation and Recovery Act, United States Code, title 42, section 6930, as  
43.14 amended, providing that the conditions in items A to K are met.

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

43.16 **7045.0125 MANAGEMENT OF WASTE BY USE, REUSE, RECYCLING, AND**  
43.17 **RECLAMATION.**

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

43.19 Subp. 4. **Management of specific hazardous wastes.** Management of the following  
43.20 wastes when recycled, is not subject to regulation under parts 7045.0205 to 7045.0695  
43.21 and ~~7045.1300 to 7045.1380~~ 7045.1390:

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

43.23 C. scrap metal and excluded scrap metal;

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

44.1 F. ~~coke and coal tar from the iron and steel industry that contain EPA Hazardous~~  
44.2 ~~Waste No. K087 listed under part 7045.0135, subpart 3, item Q, subitem (2), (decanter~~  
44.3 ~~tank tar sludge from coking operations) from the iron and steel production process~~ EPA  
44.4 Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148,  
44.5 and any wastes from the coke by-products processes that are hazardous only because they  
44.6 exhibit the toxicity characteristic, specified in part 7045.0131, subpart 7, when, subsequent  
44.7 to generation, these materials are recycled to coke ovens, recycled to the tar recovery  
44.8 process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or  
44.9 refining. This exclusion is conditioned on there being no land disposal of the wastes from  
44.10 the point they are generated to the point they are recycled to coke ovens, tar recovery, or  
44.11 refining processes or mixed with coal tar;

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

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

44.14 (1) the recyclable fuel is immediately removed from the generation site by a  
44.15 transporter in compliance with all applicable Minnesota Department of Transportation  
44.16 requirements in Minnesota Statutes, sections 221.033 to ~~221.035~~ 221.0355, and Code of  
44.17 Federal Regulations, title 49, parts 171 to ~~179~~ 199;

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

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

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

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

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

45.8 O. petroleum fuel filters if they are burned for energy recovery under subpart  
45.9 3a, or recycled as scrap metal under item C, and are managed during accumulation and  
45.10 transportation ~~according to~~ in accordance with the requirements of part 7045.0990,  
45.11 subparts 3 to 5; and

45.12 P. circuit boards or shredded circuit boards being recycled, provided that they  
45.13 are:

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

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

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

45.19 A. Except as provided in items B to D, hazardous wastes that are shown to be  
45.20 recycled by being used in a manner specified in subitems (1) to (3), are not subject to  
45.21 regulation under parts 7045.0205 to 7045.0990 and ~~7045.1300 to 7045.1380~~ 7045.1390.  
45.22 This subpart does not apply to wastes being accumulated speculatively as defined in part  
45.23 7045.0020, subpart 84a, or being managed by use constituting disposal as regulated under  
45.24 part 7045.0665 or burning for energy recovery, as regulated in part 7045.0692. Hazardous  
45.25 wastes are considered to be used as feedstock if they are:

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

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

46.3 C. Transporters of hazardous wastes for use as feedstock must comply with all  
46.4 applicable requirements of Minnesota Statutes, sections 221.033 and ~~221.034~~ 221.0341,  
46.5 and with ~~221.035~~ 221.0355 if applicable, and Code of Federal Regulations, title 49, parts  
46.6 171 to ~~179~~ 199, as amended.

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

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

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

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

46.14 (2) Transporters of such a hazardous waste must comply with all applicable  
 46.15 requirements of Minnesota Statutes, sections 221.033 and ~~221.034~~ 221.0341, and with  
 46.16 ~~221.035~~ 221.0355 if applicable, and Code of Federal Regulations, title 49, parts 171  
 46.17 to ~~179~~ 199, as amended.

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

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

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

46.21 Subp. 9. **Facility requirements.** Unless exempted specifically in this part or parts  
 46.22 7045.0692 and 7045.0790 to 7045.0990, owners ~~or~~ and operators of facilities ~~which~~ that  
 46.23 recycle hazardous waste are subject to the following requirements:

47.1 A. If the recyclable hazardous waste is stored before it is recycled, the owners  
 47.2 or operators are subject to the requirements of parts 7045.0450 to 7045.0534, 7045.0540,  
 47.3 7045.0547, 7045.0548, 7045.0552 to 7045.0632, 7045.0645, 7045.0647, 7045.0648,  
 47.4 7045.0652 to 7045.0686, and ~~7045.1300 to 7045.1380~~ 7045.1390, and chapter 7001. The  
 47.5 recycling process itself is exempt from regulation except as provided in item C.

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

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

47.8 **7045.0127 RESIDUES IN EMPTY CONTAINERS AND EMPTY INNER LINERS.**

47.9 Subpart 1. **Scope.** Any hazardous waste remaining in an empty container or an  
 47.10 empty inner liner removed from an empty container, as defined in subparts 2 to 4 is not  
 47.11 subject to regulation under parts 7045.0102 to 7045.1030 and ~~7045.1300 to 7045.1380~~  
 47.12 7045.1390, or a hazardous waste facility permit. Any hazardous waste in a container or an  
 47.13 inner liner removed from a container that is not empty, as defined in subparts 2 to 4, is  
 47.14 subject to regulation under parts 7045.0102 to 7045.1030 and ~~7045.1300 to 7045.1380~~  
 47.15 7045.1390, and the agency's permitting procedures.

47.16 Subp. 2. **Empty containers or inner liners; definition.** A container or an inner liner  
47.17 removed from a container that has held any hazardous waste, except a waste that is a  
47.18 compressed gas or that is identified as an acute hazardous waste in part 7045.0135, subpart  
47.19 ~~2, 3, or 4, item E~~ 1a, items B and C, and Code of Federal Regulations, title 40, section  
47.20 261.33(e), as incorporated in part 7045.0135, is empty if:

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

47.22 Subp. 3. **Other empty containers or inner liners.** A container or inner liner that  
47.23 has held an acute hazardous waste identified in part 7045.0135, subpart ~~2, 3, or 4, item~~  
47.24 E 1a, items B and C, and Code of Federal Regulations, title 40, section 261.33(e), as  
47.25 incorporated in part 7045.0135, is empty if:

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

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

### 48.3 **7045.0131 CHARACTERISTICS OF HAZARDOUS WASTE.**

48.4 Subpart 1. **In general.** A waste which is not excluded from regulation as a hazardous  
48.5 waste under part 7045.0120 is a hazardous waste if it exhibits ignitability, corrosivity,  
48.6 reactivity, toxicity, lethality, or is an oxidizer, as described in subparts 2 to 7. A hazardous  
48.7 waste which is identified by a characteristic in this part is assigned every hazardous waste  
48.8 number that is applicable. This number must be used in complying with the notification  
48.9 requirements of section 3010 of the federal Resource Conservation and Recovery Act  
48.10 and all applicable record keeping and reporting requirements under parts ~~7023.9000~~  
48.11 ~~to 7023.9050, 7045.0205 to 7045.0642 and 7045.1300~~ 7045.0651 and 7045.1390, and  
48.12 chapter 7001. For purposes of this part, the commissioner shall consider a sample obtained  
48.13 using any of the applicable sampling methods specified in Code of Federal Regulations,  
48.14 title 40, part ~~260~~ 261, Appendix I ~~or part 261, Appendix H,~~ as amended incorporated in part  
48.15 7045.0155, or Toxicity Characteristic Leaching Procedure, Method 1311 in "Test Methods

48.16 for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846,  
48.17 incorporated by reference in part 7045.0065, item D, to be a representative sample.

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

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

48.21 C. it is an ignitable compressed gas as defined in Code of Federal Regulations,  
48.22 title 49, section ~~173.300~~ 173.115, as amended, and as determined by the test methods  
48.23 described in that regulation or equivalent test methods approved by the commissioner  
48.24 under part 7045.0075, subpart 1.

48.25 A waste that exhibits the characteristic of ignitability has the hazardous waste number  
48.26 of D001.

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

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

49.4 A. It is aqueous and has a pH less than or equal to 2.0 or greater than or equal  
49.5 to 12.5, as determined by a pH meter using either the test method Method 9040C in the  
49.6 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods issued by the  
49.7 United States Environmental Protection Agency," EPA publication number SW-846 (First  
49.8 Edition, 1980 as updated by Revisions A (August 1980), B (July 1981), and C (February  
49.9 1982) or Second Edition, 1982) also described in Methods for Chemical Analysis of Water  
49.10 and Waste issued by the Environmental Monitoring and Support Laboratory, publication  
49.11 number 600/7-79-020 (March 1979), or an equivalent test method approved by the  
49.12 commissioner under the procedures set forth in part 7045.0075, subpart 1, incorporated  
49.13 by reference in part 7045.0065, item D; or



49.14 B. It is liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm  
49.15 (0.250 inch) per year at a test temperature of 55 degrees Celsius (130 degrees Fahrenheit)  
49.16 as determined by the test method specified in National Association of Corrosion Engineers  
49.17 Standard TM-01-69 as standardized in "Test Methods for Evaluating Solid Waste,  
49.18 Physical/Chemical Methods," issued by the United States Environmental Protection  
49.19 Agency, EPA publication number SW-846 (First Edition, 1980 as updated by Revisions  
49.20 A (August 1980), B (July 1981), and C (February 1982) or Second Edition, 1982) or an  
49.21 equivalent test method approved by the commissioner under the procedures set forth in  
49.22 part 7045.0075, subpart 1, incorporated by reference in part 7045.0065, item D.

49.23 A waste that exhibits the characteristic of corrosivity has the hazardous waste number  
49.24 of D002.

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

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

50.2 H. it is a forbidden explosive as defined in Code of Federal Regulations, title 49,  
50.3 section ~~173.51~~ 173.54, as amended, a ~~Class A~~ Division 1.1 or 1.2 explosive as defined in  
50.4 Code of Federal Regulations, title 49, section ~~173.53~~ 173.50, as amended, or a ~~Class B~~  
50.5 Division 1.2 or 1.3 explosive as defined in Code of Federal Regulations, title 49, section  
50.6 ~~173.88~~ 173.50, as amended.

50.7 A waste that exhibits the characteristic of reactivity has the hazardous waste number  
50.8 of D003.

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

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

50.11 A. A waste, except manufactured gas plant waste, exhibits the characteristic of  
50.12 toxicity if, using the test methods described in Code of Federal Regulations, title 40, part  
50.13 261, appendix H, as amended, or equivalent methods approved by the commissioner under

50.14 ~~the procedures in part 7045.0075, subpart 1~~ Toxicity Characteristic Leaching Procedure,  
50.15 Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,"  
50.16 EPA publication SW-846, incorporated by reference in part 7045.0155, subpart 1, item B,  
50.17 the extract from a representative sample of the waste contains any of the contaminants  
50.18 listed in subpart 8 at a concentration equal to or greater than the respective ~~value given~~  
50.19 ~~in that table~~ contaminant values listed. Where the waste contains less than 0.5 percent  
50.20 filterable solids, the waste itself, after filtering using the methodology outlined in Method  
50.21 1311, is considered to be the extract for the purpose of this evaluation.

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

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

50.24 **7045.0133 EXEMPTION FROM REGULATION DUE TO LETHALITY.**

51.1 Subpart 1. **In general.** A generator's waste that exhibits the characteristics of  
51.2 lethality as described in part 7045.0131, subpart 6, may be exempted from regulation  
51.3 under parts 7045.0102 to ~~7045.1380~~ 7045.1390 if the generator can demonstrate to the  
51.4 satisfaction of the agency that the waste is not capable of posing a present or potential  
51.5 hazard to human health and the environment if the waste were to be improperly treated,  
51.6 transported, stored, disposed, or managed under routine waste management methods.

51.7 Subp. 2. **Factors to be considered.** In demonstrating that a waste should be exempt  
51.8 from regulation under parts 7045.0102 to ~~7045.1380~~ 7045.1390, the generator must  
51.9 present information related to the following factors:

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

51.11 **7045.0135 LISTS OF HAZARDOUS WASTES.**

51.12 Subpart 1. [See repealer.]

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

51.16 A. section 261.30, general;

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

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

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

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

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

51.24 Subp. 2. [See repealer.]

52.1 Subp. 2a. [See repealer.]

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

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

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

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

52.9 Subp. 3. [See repealer.]

52.10 Subp. 4. [See repealer.]

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

52.12 A. For the purposes of this part, ~~"PCB" means the class of organic compounds~~  
52.13 ~~known as polychlorinated biphenyls at a concentration of 50 parts per million or greater~~  
52.14 ~~and includes any of several compounds produced by replacing one or more hydrogen~~  
52.15 ~~atoms on the biphenyl molecule with chlorine. "PCB" does not include chlorinated~~  
52.16 ~~biphenyl compounds that have functional groups attached other than chlorine. subpart:~~

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

52.19 (2) "PCB" means a substance that contains PCB's at a concentration of  
52.20 50 parts per million or greater;

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

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

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

53.5 C. A generator of PCB wastes ~~who stores on-site prior to disposal~~ is subject to  
53.6 the requirements of Minnesota Statutes, section 116.07, subdivision 2b, and is exempt  
53.7 from the agency's hazardous waste storage facility permit requirements and parts  
53.8 7045.0292 and 7045.0450 to 7045.0642 for the storage of those wastes except for the  
53.9 following requirements:

53.10 (1) ~~the storage standards described in Code of Federal Regulations, title 40,~~  
53.11 ~~section 761.65, as amended; and~~

53.12 (2) ~~the requirements applicable to the generator based on generator size~~  
53.13 ~~of part 7045.0292, subpart 1, 5, or 6, regarding proper labeling, personnel training,~~

53.14 ~~preparedness, prevention, and contingency planning. However, PCB items in use or~~  
53.15 ~~in storage prior to disposal that are labeled as PCBs according to Code of Federal~~  
53.16 ~~Regulations, title 40, sections 761.40, 761.45, and 761.65, as amended, are not subject to~~  
53.17 ~~the hazardous waste labeling requirements of part 7045.0292.~~

- 53.18 (1) the hazardous waste management requirements of part 7045.0208;  
53.19 (2) the evaluation requirements of part 7045.0214;  
53.20 (3) the licensing requirements of parts 7045.0225 to 7045.0250; and  
53.21 (4) the fee requirements of chapter 7046, unless a generator demonstrates  
53.22 performance of a PCB phase-out agreement under Minnesota Statutes, section 116.07,  
53.23 subdivision 2b, paragraph (b).

53.24 D. ~~PCB wastes may be transported without a hazardous waste manifest if~~  
53.25 ~~transportation is via the owner's own vehicle and if that transportation is between the~~  
54.1 ~~owner's facilities or premises. In addition to the requirements of item C, a generator or~~  
54.2 ~~commercial storer of PCB waste who generates or stores PCB ballasts or PCB small~~  
54.3 ~~capacitors must comply with the requirements of part 7045.0566, subpart 2. A commercial~~  
54.4 ~~storer of PCB waste storing only PCB ballasts and PCB small capacitors is not subject~~  
54.5 ~~to the facility standards in parts 7045.0450 to 7045.0651, except for the requirements~~  
54.6 ~~of part 7045.0566, subpart 2, or to the hazardous waste facility permit requirements in~~  
54.7 ~~chapter 7001.~~

54.8 E. Thermal treatment of PCB wastes at concentrations less than 500 parts  
54.9 per million. High efficiency boilers as defined in Code of Federal Regulations, title 40,  
54.10 section 761.60(a), as amended, which are used for treatment of mineral oil dielectric fluid  
54.11 containing less than 500 ppm PCB, are exempt from the agency's hazardous waste facility  
54.12 permit requirements in chapter 7001 and parts ~~7023.9000 to 7023.9050, 7045.0292, and~~  
54.13 ~~7045.0450 to 7045.0642 for storage and treatment of those wastes~~ 7045.0651, except  
54.14 for the following requirements:

- 54.15 (1) parts 7045.0526 and 7045.0528;
- 54.16 (2) parts 7045.0556 and 7045.0558;
- 54.17 (3) parts 7045.0564 to 7045.0588; and
- 54.18 (4) parts 7045.0594 and 7045.0596.

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

54.20 **7045.0139 BASIS FOR LISTING HAZARDOUS WASTES.**

54.21 Subpart 1. **General.** ~~The tables in subpart 2 list the constituents which caused the~~  
54.22 ~~agency to list wastes as hazardous in part 7045.0135, subparts 2 and 3. The notation~~  
54.23 ~~"N.A." indicates the waste is hazardous because it fails the test for the characteristics of~~  
54.24 ~~ignitability, corrosivity, reactivity, or toxicity, and the listing of a chemical name is not~~  
54.25 ~~applicable. The basis for listing hazardous waste is found in part 7045.0155, subpart 1,~~  
55.1 ~~item D, which incorporates Code of Federal Regulations, title 40, part 261, Appendix VII,~~  
55.2 ~~Basis for Listing Hazardous Waste. Part 7045.0155, subpart 2, provides any applicable~~  
55.3 ~~exceptions.~~

55.4 Subp. 2. [See repealer.]

55.5 **7045.0141 HAZARDOUS CONSTITUENTS.**

55.6 Subpart 1. **Scope.** ~~Hazardous constituents and their corresponding Chemical~~  
55.7 ~~Abstract Service registry numbers and hazardous waste numbers, if available, are listed in~~  
55.8 ~~subparts 2 to 22. The hazardous constituents list is found in part 7045.0155, subpart 1,~~  
55.9 ~~item E, which incorporates Code of Federal Regulations, title 40, part 261, Appendix VIII,~~  
55.10 ~~Hazardous Constituents. Part 7045.0155, subpart 2, provides any applicable exceptions.~~

55.11 Subp. 2. [See repealer.]

55.12 Subp. 3. [See repealer.]

55.13 Subp. 4. [See repealer.]

- 55.14 Subp. 5. [See repealer.]
- 55.15 Subp. 6. [See repealer.]
- 55.16 Subp. 7. [See repealer.]
- 55.17 Subp. 8. [See repealer.]
- 55.18 Subp. 9. [See repealer.]
- 55.19 Subp. 10. [See repealer.]
- 55.20 Subp. 11. [See repealer.]
- 55.21 Subp. 12. [See repealer.]
- 55.22 Subp. 13. [See repealer.]
- 55.23 Subp. 14. [See repealer.]
- 56.1 Subp. 15. [See repealer.]
- 56.2 Subp. 16. [See repealer.]
- 56.3 Subp. 17. [See repealer.]
- 56.4 Subp. 18. [See repealer.]
- 56.5 Subp. 19. [See repealer.]
- 56.6 Subp. 20. [See repealer.]
- 56.7 Subp. 21. [See repealer.]
- 56.8 Subp. 22. [See repealer.]
- 56.9 Subp. 23. [See repealer.]

56.10 **7045.0143 GROUNDWATER PROTECTION HAZARDOUS CONSTITUENTS**  
56.11 **LIST.**

56.12 Subpart 1. **Scope.** For the purposes of the groundwater protection requirements in  
56.13 parts ~~7001.0640, subpart 1, item D, subitem (2); and 7045.0484, subparts 12, item G,~~  
56.14 ~~subitem (2), and 13, item E,~~ the hazardous constituents are listed with their corresponding  
56.15 Chemical Abstract Service registry numbers in subparts 2 to 27. Where "total" is entered  
56.16 for the Chemical Abstract Service registry number, all species in the groundwater that  
56.17 ~~contain this element are included.~~ The groundwater protection hazardous constituents  
56.18 list is found in part 7045.0543, subpart 1, item D, which incorporates Code of Federal  
56.19 Regulations, title 40, part 264, Appendix IX, Ground Water Monitoring List. Part  
56.20 7045.0543, subpart 2, provides any applicable exceptions.

56.21 Subp. 2. [See repealer.]

56.22 Subp. 3. [See repealer.]

56.23 Subp. 4. [See repealer.]

56.24 Subp. 5. [See repealer.]

57.1 Subp. 6. [See repealer.]

57.2 Subp. 7. [See repealer.]

57.3 Subp. 9. [See repealer.]

57.4 Subp. 10. [See repealer.]

57.5 Subp. 12. [See repealer.]

57.6 Subp. 13. [See repealer.]

57.7 Subp. 14. [See repealer.]

57.8 Subp. 15. [See repealer.]

57.9 Subp. 17. [See repealer.]



57.10 Subp. 20. [See repealer.]

57.11 Subp. 21. [See repealer.]

57.12 Subp. 23. [See repealer.]

57.13 Subp. 25. [See repealer.]

57.14 Subp. 27. [See repealer.]

57.15 **7045.0155 APPENDICES TO IDENTIFICATION AND LISTING OF**  
57.16 **HAZARDOUS WASTE.**

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

57.19 A. Appendix I, Representative Sampling Methods;

57.20 B. Appendix VII, Basis for Listing Hazardous Waste; and

57.21 C. Appendix VIII, Hazardous Constituents.

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

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

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

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

58.6 **7045.0208 HAZARDOUS WASTE MANAGEMENT.**

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

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

58.12 B. A generator may ensure delivery of hazardous waste to an off-site storage,  
58.13 treatment, or disposal facility. If located in the United States, the facility used must be  
58.14 permitted to accept hazardous waste under the agency's permitting procedures, have  
58.15 interim status under parts 7045.0552 to ~~7045.0642~~ 7045.0651, or be authorized to manage  
58.16 hazardous waste by the Environmental Protection Agency or by a state with a hazardous  
58.17 waste management program authorized by the Environmental Protection Agency.

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

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

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

58.22 Subp. 4. **Land disposal.** ~~Except as specified in part 7045.1300, subparts 2 and 3,~~  
58.23 Hazardous wastes are subject to the requirements of ~~parts 7045.1300 to 7045.1380~~ part  
58.24 7045.1390.

59.1 **7045.0213 FARMERS; PESTICIDES.**

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

59.3 Subp. 2. **Special conditions.** A farmer who generates waste pesticides which are  
59.4 hazardous waste and who triple rinses each emptied pesticide container and disposes  
59.5 of the pesticide residues on the farmer's farm in a manner consistent with the disposal  
59.6 instructions on the pesticide label is not required with respect to those pesticides to comply  
59.7 with other standards in parts 7045.0205 to 7045.0320 or to comply with parts 7045.0450  
59.8 to ~~7045.1380~~ 7045.1390, or to obtain a hazardous waste facility permit, provided that:

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

59.10 **7045.0214 EVALUATION OF WASTES.**

59.11 Subpart 1. **General requirement.** Any person who produces a waste within the  
59.12 state of Minnesota or any person who produces a waste outside the state of Minnesota  
59.13 that is managed within the state of Minnesota, must evaluate the waste to determine if it  
59.14 is hazardous within 60 days of initially generating the waste. The generation start date  
59.15 must be recorded and available for inspection. Waste that is not evaluated within 60 days  
59.16 of the generation start date must be managed as a hazardous waste and the person who  
59.17 produces the waste must be considered a generator until the waste is determined to be  
59.18 nonhazardous under parts 7045.0214 to 7045.0218. A material is determined to be a waste  
59.19 in accordance with the conditions specified under the definition of other waste material in  
59.20 part 7045.0020. Any waste evaluated and exempted under part 7045.0075 or 7045.0120  
59.21 does not need to be reevaluated under this part. If the waste is determined to be hazardous,  
59.22 the generator must refer to parts 7045.0075, 7045.0450 to ~~7045.0685~~ 7045.0990, and  
59.23 ~~7045.1300 to 7045.1380~~ 7045.1390, and 7045.1400 for possible exclusions or restrictions  
59.24 relating to management of the specific waste.

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

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

60.3 A. Except as provided in items B to E, or in part 7045.0102, any waste  
60.4 generated from the treatment, storage, or disposal of hazardous waste, including any  
60.5 sludge, spill residue, ash, emission control dust or leachate, but not including precipitation  
60.6 ~~run-off~~ runoff, is a hazardous waste if it meets the criteria of subpart 2 or if it is derived  
60.7 from a waste that is listed in part 7045.0135.

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

60.9 E. Nonwastewater residues, such as slag, resulting from high temperature  
60.10 metals recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as

60.11 rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary  
 60.12 hearth furnace/electric furnace combinations, or industrial furnaces, ~~as defined in that are~~  
 60.13 blast furnaces or smelting, melting, and refining furnaces, including pyrometallurgical  
 60.14 devices, such as cupolas, reverberator furnaces, sintering machines, roasters, or foundry  
 60.15 furnaces, or that are other devices that the commissioner determines qualify for inclusion  
 60.16 as an industrial furnace under part 7045.0020, subpart 43b, that are disposed of in solid  
 60.17 waste disposal units, provided that these residues meet the generic exclusion levels  
 60.18 identified below in the tables in this item for all constituents, and exhibit no characteristics  
 60.19 of hazardous waste. Testing requirements must be incorporated in a facility's waste  
 60.20 analysis plan or a generator's self-implementing waste analysis plan. At a minimum,  
 60.21 composite samples of residues must be collected and analyzed quarterly and/or when the  
 60.22 process or operation generating the waste changes. Persons claiming this exclusion in an  
 60.23 enforcement action have the burden of proving by clear and convincing evidence that the  
 60.24 material meets all of the exclusion requirements.  
 60.25 The generic exclusion levels are for K061 and K062 nonwastewater HTMR residues  
 60.26 are as follows:

61.1	Constituent	Maximum for any single composite sample (mg/l)
61.2	Antimony	<del>0.063</del> <u>0.10</u>
61.3	Arsenic	<del>0.055</del> <u>0.50</u>
61.4	Barium	<del>6.3</del> <u>7.6</u>
61.5	Beryllium	<del>0.0063</del> <u>0.010</u>
61.6	Cadmium	<del>0.032</del> <u>0.050</u>
61.7	Chromium (total)	0.33
61.8	Lead	<del>0.095</del> <u>0.15</u>
61.9	Mercury	0.009
61.10	Nickel	<del>0.63</del> <u>1.0</u>
61.11	Selenium	0.16
61.12	Silver	0.30

61.13	Thallium	<del>0.013</del> <u>0.020</u>
61.14	<del>Vanadium</del>	<del>1.26</del>
61.15	<u>Zinc</u>	<u>70</u>

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

61.17	<u>Constituent</u>	<u>Maximum for any single composite sample (mg/l)</u>
61.18	<u>Antimony</u>	<u>0.10</u>
61.19	<u>Arsenic</u>	<u>0.50</u>
61.20	<u>Barium</u>	<u>7.6</u>
61.21	<u>Beryllium</u>	<u>0.010</u>
61.22	<u>Cadmium</u>	<u>0.050</u>
61.23	<u>Chromium (total)</u>	<u>0.33</u>
61.24	<u>Cyanide (total)</u>	<u>1.8 (mg/kg)</u>
61.25	<u>Lead</u>	<u>0.15</u>
61.26	<u>Mercury</u>	<u>0.009</u>
61.27	<u>Nickel</u>	<u>1.0</u>
61.28	<u>Selenium</u>	<u>0.16</u>
62.1	<u>Silver</u>	<u>0.30</u>
62.2	<u>Thallium</u>	<u>0.020</u>
62.3	<u>Zinc</u>	<u>70</u>

62.4 For each shipment of K061 high temperature metals recovery, K062, or F006 HTMR  
62.5 residues sent to a solid waste disposal ~~unit that meets~~ units, the treatment facility must  
62.6 prepare and send to the commissioner a onetime notification and certification certifying  
62.7 that the residues meet the generic exclusion levels for all constituents, and does do not  
62.8 exhibit any characteristic, a characteristics of hazardous waste. The notification and  
62.9 certification must also be kept in the facility's files. The notification and certification must  
62.10 be updated if the process or operation generating the waste changes or if the solid waste  
62.11 disposal unit receiving the waste changes. However, the treatment facility need only  
62.12 notify the commissioner on an annual basis if these changes occur. The notification and

62.13 certification must be sent to the commissioner no later than December 31. The notification  
62.14 and certification must include the following information:

62.15 (1) the name and address of the solid waste disposal unit receiving the  
62.16 waste ~~shipment~~ shipments;

62.17 (2) the EPA hazardous waste ~~number~~ numbers and treatability ~~group~~ groups  
62.18 at the initial point of generation; and

62.19 (3) the treatment standards applicable to the waste at the initial point  
62.20 of generation.

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

63.1 **7045.0255 ~~ONE-TIME~~ ONETIME DISPOSAL REQUIREMENTS.**

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

63.7 A. The generator is exempt from parts 7045.0225 to 7045.0250, license and  
63.8 license reporting.

63.9 B. A large quantity generator is exempt from part 7045.0292, subpart 1, but  
63.10 must instead comply with part 7045.0292, subpart 5, items A to F, and must meet the  
63.11 requirements of part 7045.0566, relating to preparedness and prevention, and ~~part~~

63.12 ~~7045.1315, subpart 1, item D~~ Code of Federal Regulations, title 40, section 268.7(a)(5),  
63.13 as incorporated in part 7045.1390, relating to waste analysis for restricted wastes.

63.14 C. A small quantity generator is exempt from the requirements of part  
63.15 7045.0292, subpart 5, items G and H, but instead must meet the requirements of part  
63.16 7045.0566, relating to preparedness and prevention, and ~~part 7045.1315, subpart 1, item~~  
63.17 ~~D~~ Code of Federal Regulations, title 40, section 268.7(a)(5), as incorporated in part  
63.18 7045.1390, relating to waste analysis for restricted wastes.

63.19 D. A very small quantity generator is exempt from part 7045.0292, subpart 6,  
63.20 but instead must comply with part 7045.0292, subpart 5, items A to F, and must meet  
63.21 the requirements of part 7045.0566, relating to preparedness and prevention, and ~~part~~  
63.22 ~~7045.1315, subpart 1, item D~~ Code of Federal Regulations, title 40, section 268.7(a)(5),  
63.23 as incorporated in part 7045.1390, relating to waste analysis for restricted wastes.

63.24 **7045.0270 PRETRANSPORT REQUIREMENTS.**

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

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

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

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

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

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

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

64.15 **7045.0292 ACCUMULATION OF HAZARDOUS WASTE.**

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

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

64.19 B. the waste is placed as follows:

64.20 (1) in containers which meet the standards of part 7045.0270, subpart 4,  
64.21 and are managed in accordance with applicable requirements of parts 7045.0594, subpart  
64.22 2<sub>;</sub> 7045.0596, subpart 3<sub>;</sub> and<sub>;</sub> 7045.0626; 7045.0645; 7045.0647; and 7045.0648;

64.23 (2) in tanks provided the generator complies with the applicable  
64.24 requirements of parts 7045.0594, subpart 2<sub>;</sub> 7045.0596, subpart 3<sub>;</sub> and<sub>;</sub> 7045.0628;  
65.1 7045.0645; 7045.0647; and 7045.0648, except part 7045.0628, ~~subpart~~ subparts 9, item C,  
65.2 and ~~subpart 12; or~~

65.3 (3) for wood preserving operations on drip pads, provided the generator  
65.4 complies with parts 7045.0594, subpart 2<sub>;</sub> 7045.0596, subpart 3<sub>;</sub> and 7045.0644 and  
65.5 maintains records containing a description of procedures that will be followed to ensure  
65.6 that all wastes are removed from drip pads and associated collection systems at least once  
65.7 every 90 days, and maintains documentation of the quantities, dates, and times of each  
65.8 waste removal. ~~These~~ Records relating to drip pads must be maintained at the licensed  
65.9 site and must be easily available for agency inspection;

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



65.11 G. the requirements of parts 7045.0558; 7045.0562, subparts 1 and 2; 7045.0566  
65.12 to 7045.0576; and ~~7045.1315, subpart 1, item D~~ Code of Federal Regulations, title 40,  
65.13 section 268.7(a)(5), as incorporated in part 7045.1390, are fulfilled regarding personnel  
65.14 training, ignitable, reactive, or incompatible waste, preparedness and prevention,  
65.15 contingency planning, and waste analysis for restricted wastes.

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

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

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

65.21 B. the waste is placed in containers which meet the standards of part 7045.0270,  
65.22 subpart 4, and are managed in accordance with parts 7045.0594, subpart 2<sub>2</sub>; 7045.0596,  
65.23 subpart 3<sub>2</sub>; and 7045.0626, subparts 1 to 8; in tanks provided the generator complies with  
65.24 the requirements of parts 7045.0594, subpart 2<sub>2</sub>; 7045.0596, subpart 3<sub>2</sub>; and 7045.0629; or  
65.25 for wood preserving operations on drip pads, provided the generator complies with parts  
66.1 7045.0594, subpart 2<sub>2</sub>; 7045.0596, subpart 3<sub>2</sub>; and 7045.0644 and maintains records  
66.2 containing a description of procedures that will be followed to ensure that all wastes are  
66.3 removed from drip pads and associated collection systems at least once every 180 days,  
66.4 and maintains documentation of the quantities, dates, and times of each waste removal.  
66.5 These records relating to drip pads must be maintained at the licensed site and must be  
66.6 easily available for agency inspection;

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

66.8 G. the generator meets the requirements of parts 7045.0566, relating to  
66.9 preparedness and prevention; 7045.0568, relating to the arrangements with local  
66.10 authorities for emergencies; and ~~7045.1315, subpart 1, item D~~ Code of Federal

66.11 Regulations, title 40, section 268.7(a)(5), as incorporated in part 7045.1390, relating to  
66.12 waste analysis for restricted wastes; and

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

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

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

66.18 B. the waste is placed in containers which meet the standards of part 7045.0270,  
66.19 subpart 4, and are managed in accordance with parts 7045.0594, subpart 2<sub>2</sub>; 7045.0596,  
66.20 subpart 3<sub>2</sub>; and 7045.0626, subparts 1 to 8; in tanks provided the generator complies with  
66.21 the requirements of parts 7045.0594, subpart 2<sub>2</sub>; 7045.0596, subpart 3<sub>2</sub>; and 7045.0629;  
66.22 or for wood preserving operations on drip pads, provided the generator complies with  
66.23 parts 7045.0594, subpart 2<sub>2</sub>; 7045.0596, subpart 3<sub>2</sub>; and 7045.0644 and maintains records  
66.24 containing a description of procedures that will be followed to ensure that all wastes are  
66.25 removed from drip pads and associated collection systems at least once every 180 days,  
66.26 and maintains documentation of the quantities, dates, and times of each waste removal.  
67.1 These records relating to drip pads must be maintained at the licensed site and must be  
67.2 easily available for agency inspection;

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

67.4 Subp. 7. **Acute hazardous waste accumulation.** A small quantity generator or a  
67.5 very small quantity generator who generates acute hazardous waste ~~may accumulate that~~  
67.6 ~~waste on site indefinitely until one kilogram of acute hazardous waste or 100 kilograms~~  
67.7 ~~of residue, contaminated soil, water, or other debris resulting from the cleanup of a spill~~  
67.8 ~~of an acute hazardous waste into or on any land or water, is accumulated. From the date~~  
67.9 ~~the applicable limit is reached, the entire quantity of waste must be treated on site in~~  
67.10 ~~compliance with part 7045.0211 or shipped off site in compliance with part 7045.0208~~

67.11 ~~within 90 days. A generator accumulating wastes under this subpart must meet the~~  
67.12 ~~requirements in items A and B. that is not exempt under subpart 8 must comply with~~  
67.13 ~~items A and B:~~

67.14 A. ~~For the period preceding the accumulation start date, A generator may~~  
67.15 ~~accumulate acute hazardous waste on site indefinitely in quantities equal to or less than~~  
67.16 ~~one kilogram of acute hazardous waste and equal to or less than 100 kilograms of~~  
67.17 ~~residue, contaminated soil, water, or other debris resulting from cleaning up spilled acute~~  
67.18 ~~hazardous waste.~~ The generator must comply with subpart 5, items B to H.

67.19 B. ~~For the period following the accumulation start date, the generator A~~  
67.20 ~~generator who accumulates on site more than one kilogram of acute hazardous waste, or~~  
67.21 ~~more than 100 kilograms of residue, contaminated soil, water, or other debris resulting~~  
67.22 ~~from cleaning up spilled acute hazardous waste~~ must comply with subpart 1.

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

67.25 A. A generator may, without a permit or interim status and without complying  
67.26 with subparts 1 to 7, accumulate as much as 55 gallons of hazardous waste or one quart of  
68.1 acute hazardous waste listed in part 7045.0135, ~~subparts 2 and 4, item E~~ subpart 1a, items  
68.2 B to D, per waste stream per each point of generation provided the generator complies  
68.3 with items B to D.

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

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

68.6 Subp. 11. **Accumulation requiring a permit.** A large quantity generator who  
68.7 accumulates hazardous waste for more than 90 days, or a small quantity generator who  
68.8 accumulates more than 3,000 kilograms of hazardous waste at any time, is an operator  
68.9 of a storage facility and is subject to the requirements of parts 7045.0450 to 7045.0642

68.10 7045.0651 and the agency's permitting procedures in chapter 7001 ~~and parts 7023.9000 to~~  
68.11 ~~7023.9050~~ unless the generator has been granted a time extension under subpart 10.

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

68.13 **7045.0294 RECORD KEEPING.**

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

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

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

68.21 **7045.0300 ADDITIONAL REPORTING.**

68.22 The commissioner, when necessary to determine compliance with the requirements of  
68.23 this chapter, may require generators to furnish additional reports concerning the quantities  
68.24 and disposition of waste identified or listed in parts ~~7045.0100~~ 7045.0102 to ~~7045.0143~~  
68.25 7045.0155.

69.1 **7045.0302 INTERNATIONAL SHIPMENTS; SPECIAL CONDITIONS.**

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

69.3 Subp. 2. **Notification.** When shipping hazardous waste outside the state of  
69.4 Minnesota to a foreign country the primary exporter must notify the commissioner and the  
69.5 EPA of an intended export before the waste is scheduled to leave the United States. A  
69.6 complete notification should be submitted 60 days before the initial shipment is intended  
69.7 to be shipped off site. This notification may cover export activities extending over a  
69.8 12-month or lesser period.

69.9 The notification must be sent to the commissioner at 520 Lafayette Road, Saint Paul,  
69.10 Minnesota 55155-4194, and to the Office of Enforcement and Compliance Assurance,  
69.11 Office of Federal Activities, International Compliance Assurance Division (2254A),  
69.12 Environmental Protection Agency, 1200 Pennsylvania Avenue N.W., Washington, DC  
69.13 20460. Hand-delivered notifications must be sent to the Office of Enforcement and  
69.14 Compliance Assurance, Office of Federal Activities, International Compliance Assurance  
69.15 Division (2254A), Environmental Protection Agency, Ariel Rios Building, 12th Street  
69.16 and Pennsylvania Avenue N.W., Washington, DC 20460. In both cases, the following  
69.17 must be prominently displayed on the front of the envelope: "Attention: Notification  
69.18 of Intent to Export."

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

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

70.1 A. name, mailing address, telephone number, and identification number of  
70.2 the primary exporter; and

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

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

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

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

70.11 **7045.0365 TRANSFER FACILITY REQUIREMENTS.**

70.12 Subpart 1. **Applicability.** A transporter who stores manifested shipments of  
70.13 hazardous waste in containers meeting the requirements of part 7045.0270, subpart 4,  
70.14 at a transfer facility for a period of ten days or fewer is not subject to regulation under  
70.15 parts 7045.0450 to ~~7045.0642~~ 7045.0651 and ~~7045.1300 to 7045.1380~~ 7045.1390, and a  
70.16 hazardous waste facility permit with respect to the storage of those wastes. The owner or  
70.17 operator must notify the commissioner in writing of his or her activity.

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

70.19 **7045.0371 TRANSPORTATION OF HAZARDOUS WASTE.**

70.20 Hazardous waste shall be transported in accordance with all applicable requirements  
70.21 of Minnesota Statutes, sections 221.033 and ~~221.034~~ 221.0341, and with ~~221.035~~ 221.0355  
70.22 if applicable, and Code of Federal Regulations, title 49, parts 171 to ~~179~~ 199, as amended.

70.23 **7045.0395 HAZARDOUS WASTE DISCHARGES.**

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

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

71.3 A. report in writing as required by Code of Federal Regulations, title 49, section  
71.4 171.16, as amended, to the ~~Director, Office of Hazardous Materials Regulations, Materials~~  
71.5 ~~Transportation Bureau~~ Information Systems Manager, PHH-63, Pipeline and Hazardous  
71.6 Materials Safety Administration, Department of Transportation, Washington, D.C.  
71.7 20590-0001, or submit an electronic hazardous materials incident report to the Information  
71.8 Systems Manager, DHM-63, Pipeline and Hazardous Materials Safety Administration,  
71.9 Department of Transportation, Washington, D.C. 20590-0001 at <http://hazmat.dot.gov>;

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

71.11 **7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.**

71.12 Subpart 1. **General requirements.**

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

71.14 D. Parts 7045.0450 to 7045.0551 apply to the owners and operators of all  
71.15 facilities that treat, store, or dispose of hazardous waste referred to in ~~parts 7045.1300 to~~  
71.16 ~~7045.1380~~ part 7045.1390.

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

71.18 Subp. 2. **Relationship to interim status standards.** A facility owner or operator  
71.19 who has fully complied with the requirements for interim status under part 7045.0554  
71.20 shall comply with parts 7045.0552 to ~~7045.0642~~ 7045.0651 in lieu of parts 7045.0450 to  
71.21 7045.0551 until final administrative disposition of the permit application is made. The  
71.22 treatment, storage, or disposal of hazardous waste is prohibited except in accordance with  
71.23 a permit and except for the extent to which parts 7045.0552 to ~~7045.0642~~ 7045.0651  
71.24 provide for the continued operation of an existing facility which meets certain conditions  
72.1 until final administrative disposition of the owner's or operator's permit application is  
72.2 made, except as provided under parts 7045.0485, 7045.0545, and 7045.0546.

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

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

72.7 E. an elementary neutralization unit, a pretreatment unit, or a wastewater  
72.8 treatment unit, but only if the unit does not receive hazardous waste from generators other  
72.9 than the owner or operator of the unit, provided that if the owner or operator is diluting  
72.10 hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined

72.11 in Code of Federal Regulations, title 40, section 268.40, Table of Treatment Standards  
72.12 for Hazardous Wastes, as incorporated in part 7045.1390) or reactive (D003) waste to  
72.13 remove the characteristic before land disposal, the owner or operator must comply with  
72.14 part 7045.0456, subpart 2;

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

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

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

72.21 (3) a person who is covered by subitem (1) and who continues or initiates  
72.22 hazardous waste treatment or containment activities after the immediate response is over  
72.23 is subject to all applicable requirements of parts 7045.0450 to ~~7045.0544~~ 7045.0551 and  
72.24 the agency's permitting procedures for those activities;

73.1 K. treatment of hazardous waste by a generator in the generator's accumulation  
73.2 tanks or containers in accordance with part 7045.0292. If the treatment involves  
73.3 evaporation of aqueous waste or polymerization of polyester or other chemical fixation  
73.4 treatment processes in open containers, the generator is exempt from parts 7045.0450 to  
73.5 ~~7045.0544~~ 7045.0551, but before beginning the treatment process must submit to the  
73.6 commissioner the information required under part 7045.0539, subpart 2, items A to C,  
73.7 that is relevant to the treatment activity and must be notified by the commissioner that  
73.8 the treatment activity is approved. The commissioner shall approve the treatment activity  
73.9 if the commissioner finds that the treatment activity will not endanger human health  
73.10 and the environment; or

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



73.12 **7045.0452 GENERAL FACILITY STANDARDS.**

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

73.14 Subp. 5. **General inspection requirements.** General inspection requirements  
73.15 include the following:

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

73.17 C. The frequency of inspection may vary for the items on the schedule.  
73.18 However, ~~it must~~ the frequency must be based on the rate of possible deterioration of  
73.19 the equipment and the probability of an environmental or human health incident if  
73.20 the deterioration ~~or malfunctions,~~ malfunction, or any operator error goes undetected  
73.21 between inspections. Areas subject to spills, such as loading and unloading areas, must  
73.22 be inspected daily when in use. At a minimum, the inspection schedule must include  
73.23 the terms and frequencies called for in parts 7045.0526, subpart 5; 7045.0528, subparts  
73.24 4 and 7; 7045.0532, subpart 5; 7045.0534, subpart 6; 7045.0536, subpart 6; 7045.0538,  
73.25 subpart 5; 7045.0539, subpart 3; and 7045.0542, subpart 7; and the process vent ~~and,~~  
73.26 equipment leak, and tank, surface impoundment, and container standards in Code of  
74.1 Federal Regulations, title 40, sections 264.1033, 264.1052, 264.1053, ~~and~~ 264.1058, as  
74.2 amended, and sections 264.1083 to 264.1089, as incorporated in part 7045.0540, where  
74.3 applicable. The inspection schedule must be submitted with the permit application. The  
74.4 commissioner shall evaluate the schedule along with the rest of the application to ensure  
74.5 that it adequately protects human health and the environment. As part of this review, the  
74.6 commissioner may modify or amend the schedule as necessary.

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

74.8 **7045.0458 WASTE ANALYSIS REQUIREMENTS.**

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

74.10 A. Before an owner or operator treats, stores, or disposes of any hazardous  
74.11 waste, or nonhazardous waste if applicable under part 7045.0488, subpart 2a, the owner or  
74.12 operator shall obtain a detailed chemical and physical analysis of a representative sample  
74.13 of the waste. This analysis must contain all the information which must be known in  
74.14 order to treat, store, or dispose of the waste in accordance with the requirements of parts  
74.15 7045.0450 to 7045.0551 and ~~7045.1300 to 7045.1380~~ 7045.1390, or with the conditions  
74.16 of a permit issued under the agency's permitting procedures.

74.17 B. The analysis may include data developed under parts 7045.0102 to  
74.18 ~~7045.0143~~ 7045.0155 and existing published or documented data on the hazardous waste  
74.19 or on hazardous waste generated from similar processes, including data obtained from  
74.20 the generator.

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

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

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

75.1 F. where applicable, the methods that will be used to meet the additional  
75.2 waste analysis requirements for specific waste management methods as specified in  
75.3 parts 7045.0456; 7045.0538, subpart 10; 7045.0542, subpart 2; and ~~7045.1315~~ Code of  
75.4 Federal Regulations, title 40, section 268.7, as incorporated in part 7045.1390; and the  
75.5 process vent ~~and~~, equipment leak, and tank, surface impoundment, and container test  
75.6 methods and procedures in Code of Federal Regulations, title 40, sections 264.1034(d)  
75.7 ~~and~~, 264.1063(d), as amended, and section 264.1083, as incorporated in part 7045.0540;

75.8 G. for off-site facilities, the waste analysis plan must also specify the procedures  
75.9 ~~which~~ that will be used to inspect and, if necessary, analyze each movement of hazardous

75.10 waste received at the facility to ensure that it matches the identity of the waste designated  
75.11 on the accompanying manifest or shipping paper. The plan must describe:

75.12 (1) the procedures ~~which~~ that will be used to determine the identity of each  
75.13 movement of waste managed at the facility; ~~and~~

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

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

75.20 H. for surface impoundments exempted from the land disposal restrictions under  
75.21 ~~part 7045.1310~~ Code of Federal Regulations, title 40, section 268.4, as incorporated in  
75.22 part 7045.1390, the procedures and schedules for:

75.23 (1) the sampling of impoundment contents;

75.24 (2) the analysis of test data; and

76.1 (3) the annual removal of residues which are not delisted under part  
76.2 7045.0075, subpart 2, or which exhibit a characteristic of hazardous waste under part  
76.3 7045.0131, and either do not meet the treatment standards of ~~parts 7045.1350 to 7045.1360~~  
76.4 Code of Federal Regulations, title 40, sections 268.40 to 268.42, as incorporated in  
76.5 part 7045.1390, or, where no treatment standards have been established, such residues  
76.6 are prohibited from land disposal under ~~parts 7045.1320 to 7045.1333~~ Code of Federal  
76.7 Regulations, title 40, sections 268.30 to 268.35, as incorporated in part 7045.1390, or  
76.8 RCRA section 3004(d); and

76.9 I. for owners and operators seeking an exemption to the air emission standards  
76.10 of part 7045.0540 in accordance with Code of Federal Regulations, title 40, section  
76.11 264.1082, as incorporated in part 7045.0540:

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

76.15 (2) if knowledge of the waste is used for the waste determination, any  
76.16 information prepared by the facility owner or operator or by the generator of the hazardous  
76.17 waste, if the waste is received from off site, that is used as the basis for knowledge of  
76.18 the waste.

76.19 **7045.0478 OPERATING RECORD.**

76.20 [For text of subs 1 and 2, see M.R.]

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

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

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

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

77.4 E. Records and results of waste analyses and waste determinations performed  
77.5 as specified in parts 7045.0456<sub>2</sub>; 7045.0458<sub>2</sub>; 7045.0538, subpart 10<sub>2</sub>; and 7045.0542,  
77.6 subpart 2, ~~7045.1310, and 7045.1315~~ and Code of Federal Regulations, title 40, sections  
77.7 264.1034 and 264.1063, as amended, and sections 264.1083, 268.4(a), and 268.7, as  
77.8 incorporated in part 7045.0540 or 7045.1390; and the process vent and equipment leak

77.9 test methods and procedures in Code of Federal Regulations, title 40, sections 264.1034  
77.10 and 264.1063, as amended.

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

77.12 H. Monitoring, testing, or analytical data and corrective action where required  
77.13 by parts 7045.0461; 7045.0484; 7045.0528, subparts 2, 4, and 7; 7045.0532, subparts  
77.14 4a, 4b, and 5; 7045.0534, subparts 4a, 5, 5a, and 6; 7045.0536, subparts 5, 6, and 8;  
77.15 7045.0538, subparts 4a, 5, 5a, and 6; 7045.0539, subpart 3; and 7045.0542, subpart 7; and  
77.16 the process vent ~~and~~, equipment leak, and tank, surface impoundment, and container test  
77.17 methods and procedures and record keeping requirements in Code of Federal Regulations,  
77.18 title 40, sections 264.1034(c) to (f), 264.1035, 264.1063(d) to (i), and 264.1064, as  
77.19 amended, and sections 264.1082 to 264.1090, as incorporated in part 7045.0540.

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

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

77.23 M. Records of the quantities and date of placement for each shipment of  
77.24 hazardous waste placed in land disposal units under an extension to the effective date of  
77.25 any land disposal restriction granted ~~under part 7045.0075, subpart 8~~ by the United States  
78.1 Environmental Protection Agency under Code of Federal Regulations, title 40, section  
78.2 268.5, a petition under part 7045.0075, subpart 9, or a certification under Code of Federal  
78.3 Regulations, title 40, section 268.8, as ~~amended~~ incorporated in part 7045.1390, and the  
78.4 applicable notice required of a generator under ~~part 7045.1315, subpart 1~~ Code of Federal  
78.5 Regulations, title 40, section 268.7(a), as incorporated in part 7045.1390.

78.6 N. For an off-site treatment facility, a copy of the notice, and the certification  
78.7 and demonstration, if applicable, required of the generator or the owner under Code of  
78.8 Federal Regulations, title 40, section 268.7(a)(1) or 268.8, as ~~amended, or part 7045.1315,~~  
78.9 ~~subpart 1, item A~~ incorporated in part 7045.1390.

78.10 O. For an on-site treatment facility, the information contained in the notice,  
78.11 except the manifest number, and the certification and demonstration, if applicable,  
78.12 required of the generator or owner or operator under Code of Federal Regulations, title  
78.13 40, section 268.7(a)(1) or 268.8, as amended, or part 7045.1315, subpart 1, item A  
78.14 incorporated in part 7045.1390.

78.15 P. For an off-site land disposal facility, a copy of the notice, and the certification  
78.16 and demonstration, if applicable, required of the generator or the owner or operator of  
78.17 a treatment facility under Code of Federal Regulations, title 40, ~~section~~ sections 268.7  
78.18 and 268.8, as amended, and part 7045.1315 incorporated in part 7045.1390, whichever  
78.19 is applicable.

78.20 Q. For an on-site land disposal facility, the information contained in the  
78.21 notice required of the generator or owner or operator of a treatment facility under ~~part~~  
78.22 ~~7045.1315~~ Code of Federal Regulations, title 40, section 268.7, as incorporated in part  
78.23 7045.1390, except for the manifest number, and the certification and demonstration,  
78.24 if applicable, required under Code of Federal Regulations, title 40, section 268.8, as  
78.25 ~~amended~~ incorporated in part 7045.1390, whichever is applicable.

79.1 R. For an off-site storage facility, a copy of the notice, and the certification and  
79.2 demonstration if applicable, required of the generator or the owner or operator under Code  
79.3 of Federal Regulations, title 40, section 268.7 or 268.8, as ~~amended, or part 7045.1315~~  
79.4 incorporated in part 7045.1390.

79.5 S. For an on-site storage facility, the information contained in the notice, except  
79.6 the manifest number, and the certification and demonstration if applicable, required of the  
79.7 generator or the owner or operator under Code of Federal Regulations, title 40, section  
79.8 268.7 or 268.8, as ~~amended, or part 7045.1315~~ incorporated in part 7045.1390.

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

79.10 **7045.0482 REQUIRED REPORTS.**79.11 [For text of subps 1 to 3, see M.R.]

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

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

79.17 C. as otherwise required by parts 7045.0484, 7045.0532 to 7045.0538; and the  
79.18 process vent ~~and~~<sub>2</sub> equipment leak, and tank, surface impoundment, and container standards  
79.19 in Code of Federal Regulations, title 40, part 264, subparts AA and BB, as amended  
79.20 parts 7045.0540, 7045.0547, and 7045.0548.

79.21 **7045.0484 GROUNDWATER PROTECTION.**79.22 Subpart 1. **Scope.** This part applies as follows:

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

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

80.5 (2) a surface impoundment, waste pile, land treatment unit, ~~or~~ landfill, or  
80.6 containment building that is required under Code of Federal Regulations, title 40, section  
80.7 264.1102, as incorporated in part 7045.0550, to meet the requirements of a landfill, that  
80.8 receives hazardous waste after July 26, 1982, is a regulated unit and must comply with  
80.9 the requirements of subparts 2 to 14 for detecting, characterizing, and responding to  
80.10 releases; and

80.11 (3) the financial responsibility requirements of part 7045.0485 apply to  
80.12 regulated units.

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

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

80.15 **7045.0486 CLOSURE.**

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

80.17 Subp. 2. **Closure performance standard.** The owner or operator shall close the  
80.18 facility in a manner minimizing the need for further maintenance. Closure procedures  
80.19 must result in controlling, minimizing, or eliminating, to the extent necessary to protect  
80.20 human health and the environment, postclosure escape of hazardous waste, hazardous  
80.21 constituents, leachate, contaminated runoff, or hazardous waste decomposition products  
80.22 to the ground or surface waters or to the atmosphere, in accordance with the closure  
80.23 requirements, including the requirements of parts 7045.0526, subpart 9; 7045.0528,  
80.24 subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538,  
81.1 subpart 7; 7045.0539, subparts 2 to 4; and 7045.0542, subpart 8; and Code of Federal  
81.2 Regulations, title 40, section 264.1102, as incorporated in part 7045.0550.

81.3 Subp. 3. **Submittal and contents of closure plan.** The owner or operator of a  
81.4 hazardous waste facility shall submit a closure plan with the permit application, and the  
81.5 closure plan must be approved by the agency as part of the permit issuance procedure.  
81.6 The approved closure plan shall become a condition of any permit. The agency's approval  
81.7 must ensure that the approved closure plan is consistent with subparts 2, 4, and 5, ~~and~~  
81.8 ~~part;~~ parts 7045.0484, groundwater protection, and 7045.0488, closure activities; and the  
81.9 applicable closure requirements of parts 7045.0526, subpart 9; 7045.0528, subpart 9;  
81.10 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7;  
81.11 7045.0539, subpart 2; and 7045.0542, subpart 8; and Code of Federal Regulations, title  
81.12 40, section 264.1102, as incorporated in part 7045.0550.



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

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

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

81.21 **7045.0490 POSTCLOSURE.**

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

81.24 A. the owner or operator of a hazardous waste disposal facility;

82.1 B. the owner or operator of a waste pile or surface impoundment that is required  
82.2 by part 7045.0532, subpart 7, or 7045.0534, subpart 7, to have a postclosure plan; ~~and~~

82.3 C. the owner or operator of tank systems that are required under part 7045.0528,  
82.4 subpart 9, to meet the requirements for landfills; and

82.5 D. the owner or operator of containment buildings that are required under Code  
82.6 of Federal Regulations, title 40, section 264.1102, as incorporated in part 7045.0550, to  
82.7 meet the requirement for landfills.

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

82.9 **7045.0498 FINANCIAL REQUIREMENTS.**

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

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

82.14 A. disposal facilities;

82.15 B. waste piles, and surface impoundments from which the owner or operator  
82.16 intends to remove the wastes at closure, to the extent that he or she is required to  
82.17 develop a contingent closure and postclosure care plan in parts 7045.0532, subpart 7; and  
82.18 7045.0534, subpart 7; ~~and~~

82.19 C. tank systems that are required under part 7045.0528, subpart 9, to meet  
82.20 the requirements for landfills; and

82.21 D. containment buildings that are required under Code of Federal Regulations,  
82.22 title 40, section 264.1102, as incorporated in part 7045.0550, to meet the requirements for  
82.23 landfills.

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

83.4 The state and the federal government are exempt from the requirements of parts  
83.5 7045.0498 to 7045.0524.

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

83.7 **7045.0502 COST ESTIMATE FOR FACILITY CLOSURE.**

83.8 Subpart 1. **Cost estimate requirements.** The owner or operator shall have a detailed  
83.9 written estimate, in current dollars, of the cost of closing the facility in accordance with  
83.10 parts 7045.0486 and 7045.0488 and applicable closure requirements in parts 7045.0526,  
83.11 subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538,  
83.12 subpart 7; 7045.0539, subparts 2 to 4; and 7045.0542, subpart 8; and Code of Federal

83.13 Regulations, title 40, section 264.1102, as incorporated in part 7045.0550. The closure  
83.14 cost estimate must equal the cost of final closure at the point in the facility's active life  
83.15 when the extent and manner of its operation would make closure the most expensive, as  
83.16 indicated by its closure plan. The closure cost shall be estimated as follows:

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

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

83.19 **7045.0504 FINANCIAL ASSURANCE FOR FACILITY CLOSURE.**

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

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

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

84.1 B. The wording of the surety bond must be identical to the wording specified  
84.2 in part 7045.0524, subpart ~~2~~ 3.

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

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

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

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

84.8 L. An owner or operator may meet the requirements of this part by obtaining a  
84.9 written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be  
84.10 the parent corporation of the owner or operator. The guarantor must meet the requirements  
84.11 for owners or operators in items A to J, and must comply with the terms of the corporate  
84.12 guarantee. The wording of the corporate guarantee must be identical to the wording  
84.13 specified in part 7045.0524, subpart 8. The certified copy of the corporate guarantee

84.14 must accompany the items sent to the commissioner as specified in item E. The terms of  
84.15 the corporate guarantee must provide that:

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

84.17 (3) If the owner or operator fails to provide alternate financial assurance  
84.18 as specified in this part and obtain the written approval of alternate assurance from  
84.19 the commissioner within 90 days after receipt by both the owner or operator and the  
84.20 commissioner of a notice of cancellation of the corporate guarantee from the guarantor,  
84.21 the guarantor ~~shall~~ must provide alternative financial assurance in the name of the owner  
84.22 or operator.

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

84.24 **7045.0508 FINANCIAL ASSURANCE FOR POSTCLOSURE CARE.**

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

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

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

85.4 M. An owner or operator may meet the requirements ~~of~~ for this part by obtaining  
85.5 a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must  
85.6 be the parent corporation of the owner or operator. The guarantor ~~shall~~ must meet the  
85.7 requirements for owners or operators in items A to K, and ~~shall~~ must comply with the  
85.8 terms of the corporate guarantee. The wording of the corporate guarantee ~~shall~~ must be  
85.9 identical to the wording specified in part 7045.0524, subpart 8. A certified copy of the  
85.10 corporate guarantee must accompany the items sent to the commissioner as specified in  
85.11 item E. The terms of the corporate guarantee must provide that:

85.12 (1) If the owner or operator fails to perform postclosure care of a facility  
85.13 covered by the corporate guarantee in accordance with the postclosure plan and other

85.14 permit requirements whenever required to do so, the guarantor ~~shall~~ must do so or  
85.15 establish a trust fund as specified in subpart 2 in the name of the owner or operator.

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

85.17 (3) If the owner or operator fails to provide alternate financial assurance  
85.18 as specified in this part and to obtain the written approval of alternate assurance from  
85.19 the commissioner within 90 days after receipt by both the owner or operator and the  
85.20 commissioner of a notice of cancellation of the corporate guarantee from the guarantor,  
85.21 the guarantor ~~shall~~ must provide alternate financial assurance in the name of the owner or  
85.22 operator.

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

85.24 **7045.0514 FINANCIAL ASSURANCE FOR CORRECTIVE ACTION.**

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

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

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

86.4 L. An owner or operator may meet the requirements of this part by obtaining a  
86.5 written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be  
86.6 the parent corporation of the owner or operator. The guarantor must meet the requirements  
86.7 for owners or operators in items A to J and must comply with the terms of the corporate  
86.8 guarantee. The wording of the corporate guarantee must be identical to the wording  
86.9 specified in part 7045.0524, subpart 8. A certified copy of the corporate guarantee must  
86.10 accompany the items sent to the commissioner as specified in item E. The terms of the  
86.11 corporate guarantee must provide that:

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

86.13 (3) If the owner or operator fails to provide alternate financial assurance  
86.14 as specified in this part and to obtain the written approval of alternate assurance from  
86.15 the commissioner within 90 days after receipt by both the owner or operator and the  
86.16 commissioner of a notice of cancellation of the corporate guarantee from the guarantor,  
86.17 the guarantor ~~will~~ must provide alternative financial assurance in the name of the owner or  
86.18 operator.

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

86.20 **7045.0518 LIABILITY REQUIREMENTS.**

86.21 Subpart 1. **Coverage for sudden accidental occurrences.** An owner or operator of  
86.22 a hazardous waste treatment, storage, or disposal facility, or a group of facilities, shall  
86.23 demonstrate financial responsibility for bodily injury and property damage to third parties  
86.24 caused by sudden accidental occurrences arising from operations of the facility or group  
86.25 of facilities. The owner or operator shall have and maintain liability coverage for sudden  
87.1 accidental occurrences in the amount of at least \$1,000,000 per occurrence with an annual  
87.2 aggregate of at least \$2,000,000, exclusive of legal defense costs. This liability coverage  
87.3 may be demonstrated in one of the following ways:

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

87.5 C. An owner or operator may ~~demonstrate the required liability coverage~~  
87.6 ~~through use of the financial test, insurance, the corporate guarantee, a combination of the~~  
87.7 ~~financial test and insurance, or a combination of the corporate guarantee and insurance, as~~  
87.8 ~~these mechanisms are specified in this part. The amounts of coverage demonstrated must~~  
87.9 ~~total at least the minimum amounts required by subpart 1~~ meet the requirements of this  
87.10 part by obtaining a letter of credit for liability coverage as specified in subpart 8.

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

87.13 E. An owner or operator may demonstrate the required liability coverage  
87.14 through the use of combinations of insurance, financial test, corporate guarantee, letter  
87.15 of credit, and trust fund, except that the owner or operator may not combine a financial  
87.16 test covering part of the liability coverage requirement with a corporate guarantee unless  
87.17 the financial statement of the owner or operator is not consolidated with the financial  
87.18 statement of the guarantor. The amounts of coverage demonstrated must total at least  
87.19 the minimum amounts required by this part. If the owner or operator demonstrates the  
87.20 required coverage through the use of a combination of financial assurances under this  
87.21 item, the owner or operator shall specify at least one such assurance as "primary" coverage  
87.22 and shall specify other assurance as "excess" coverage.

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

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

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

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

88.10 **Subp. 2. Coverage for nonsudden accidental occurrences.** An owner or operator  
88.11 of a surface impoundment, landfill, land treatment facility, or disposal miscellaneous  
88.12 disposal unit ~~which~~ that is used to manage hazardous waste, or a group of such facilities,

88.13 ~~shall~~ must demonstrate financial responsibility for bodily injury and property damage to  
88.14 third parties caused by nonsudden accidental occurrences arising from operations of the  
88.15 facility or group of facilities. The owner or operator ~~shall~~ must have and maintain liability  
88.16 coverage for nonsudden accidental occurrences in the amount of at least \$3,000,000 per  
88.17 occurrence with an annual aggregate of at least \$6,000,000, exclusive of legal defense  
88.18 costs. An owner or operator who must meet the requirements of this part may combine  
88.19 the required per-occurrence coverage levels for sudden and nonsudden accidental  
88.20 occurrences into a single per-occurrence level, and combine the required annual aggregate  
88.21 coverage levels for sudden and nonsudden accidental occurrences into a single annual  
88.22 aggregate level. Owners or operators who combine coverage levels for sudden and  
88.23 nonsudden accidental occurrences must maintain liability coverage in the amount of at  
88.24 least \$4,000,000 per occurrence and \$8,000,000 annual aggregate. This liability coverage  
88.25 may be demonstrated in one of the following ways:

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

89.1 C. An owner or operator may ~~demonstrate the required liability coverage~~  
89.2 ~~through use of the financial test, insurance, the corporate guarantee, a combination of the~~  
89.3 ~~financial test and insurance, or a combination of the corporate guarantee and insurance,~~  
89.4 ~~as these mechanisms are specified in this part. The amounts of coverage must total at~~  
89.5 ~~least the minimum amounts required by subpart 2~~ meet the requirements of this part by  
89.6 obtaining a letter of credit for liability coverage as specified in subpart 8.

89.7 ~~D. For existing facilities, the required liability coverage for nonsudden~~  
89.8 ~~accidental occurrences must be demonstrated by the dates listed below. The total sales~~  
89.9 ~~or revenues of the owner or operator in all lines of business, in the fiscal year preceding~~  
89.10 ~~July 16, 1984 will determine which of the dates applies. If the owner and operator of a~~  
89.11 ~~facility are two different parties, or if there is more than one owner or operator, the sales or~~



89.12 revenues of the owner or operator with the largest sales or revenues will determine the  
89.13 date by which the coverage must be demonstrated. The dates are as follows:

89.14 (1) for an owner or operator with sales or revenues totaling \$10,000,000  
89.15 or more, six months after July 16, 1984;

89.16 (2) for an owner or operator with sales or revenues greater than \$5,000,000  
89.17 but less than \$10,000,000, 18 months after July 16, 1984;

89.18 (3) for all other owners or operators, 30 months after July 16, 1984;

89.19 (4) for an owner or operator subject to the requirements of Code of  
89.20 Federal Regulations, title 40, section 264.147 (1983) on the date he or she is required to  
89.21 demonstrate coverage under Code of Federal Regulations, title 40, section 264.147 (1983)  
89.22 or on July 16, 1984, whichever is later.

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

90.1 E. An owner or operator may demonstrate the required liability coverage  
90.2 through the use of combinations of insurance, financial test, corporate guarantee, letter  
90.3 of credit, and trust fund, except that the owner or operator may not combine a financial  
90.4 test covering part of the liability coverage requirement with a corporate guarantee unless  
90.5 the financial statement of the owner or operator is not consolidated with the financial  
90.6 statement of the guarantor. The amounts of coverage demonstrated must total at least the  
90.7 minimum amount required by this part. If the owner or operator demonstrates the required  
90.8 coverage through the use of a combination of financial assurances under this item, the  
90.9 owner or operator shall specify at least one such assurance as "primary" coverage and shall  
90.10 specify other assurance as "excess" coverage.

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

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

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

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

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

90.25 Subp. 6. **Financial test for liability coverage.** The financial test for liability  
90.26 coverage is as follows:

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

91.2 H. If the owner or operator no longer meets the requirements of item A, ~~he~~  
91.3 ~~or she~~ the owner or operator shall obtain insurance, a letter of credit, a trust fund, or a  
91.4 corporate guarantee for the entire amount of required liability coverage as specified in  
91.5 this part. Evidence of ~~insurance~~ liability coverage must be submitted to the commissioner  
91.6 within 90 days after the end of the fiscal year for which the year-end financial data show  
91.7 that the owner or operator no longer meets the test requirements.

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

91.9 Subp. 7. **Corporate guarantee for liability coverage.** The corporate guarantee for  
91.10 liability coverage is as follows:

91.11 A. Subject to item B, an owner or operator may meet the requirements of  
91.12 this part by obtaining a written corporate guarantee. The guarantor must be the parent  
91.13 corporation of the owner or operator. The guarantor must meet the requirements for  
91.14 owners or operators in subpart 6. The wording of the corporate guarantee must be  
91.15 identical to the wording specified in part 7045.0524, subpart 8a. The corporate guarantee  
91.16 must be signed by two corporate officers of the parent corporation. A corporate resolution  
91.17 authorizing the parent corporation to provide the corporate guarantee for the subsidiary  
91.18 must be attached to the corporate guarantee. A certified copy of the corporate guarantee  
91.19 must accompany the items sent to the commissioner as ~~provided~~ specified in subpart 6,  
91.20 item E. The terms of the corporate guarantee must provide that:

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

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

91.24 (1) in the case of corporations incorporated in the United States, the attorney  
91.25 general or insurance commissioner of the state in which the guarantor is incorporated  
92.1 and of each state in which a facility covered by the corporate guarantee is located has  
92.2 submitted a written statement to the commissioner and the United States Environmental  
92.3 Protection Agency that a corporate guarantee executed as described in this part and part  
92.4 7045.0524, subpart 8a, is a legally valid and enforceable obligation in that state; and

92.5 (2) in the case of corporations incorporated outside the United States, the  
92.6 non-United States corporation has identified a registered agent for service of process in  
92.7 each state in which a facility covered by the corporate guarantee is located and in the  
92.8 state in which it has its principal place of business, and the attorney general or insurance  
92.9 commissioner of each state in which a facility covered by the corporate guarantee is located  
92.10 and the state in which the guarantor corporation has its principal place of business, has  
92.11 submitted a written statement to the commissioner and to the United States Environmental

92.12 Protection Agency that a corporate guarantee executed as described in this part and part  
92.13 7045.0524, subpart 8a, is a legally valid and enforceable obligation in that state.

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

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

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

92.21 C. The wording of the letter of credit must be identical to the wording in part  
92.22 7045.0524, subpart 11.

92.23 D. An owner or operator who uses a letter of credit to satisfy the requirements of  
92.24 this part may also establish a standby trust fund. Under the terms of a letter of credit, all  
92.25 amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the  
92.26 issuing institution into the standby trust in accordance with instructions from the trustee.  
93.1 The trustee of the standby trust fund must be an entity that has the authority to act as a  
93.2 trustee and whose trust operations are regulated and examined by a federal or state agency.

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

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

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

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

93.11 C. The trust fund for liability coverage must be funded for the full amount of the  
 93.12 liability coverage to be provided by the trust fund before it may be relied upon to satisfy the  
 93.13 requirements of this part. If at any time after the trust fund is created the amount of funds  
 93.14 in the trust fund is reduced below the full amount of the liability coverage to be provided,  
 93.15 the owner or operator, by the anniversary date of the establishment of the fund, must either  
 93.16 add sufficient funds to the trust fund to cause its value to equal the full amount of liability  
 93.17 coverage to be provided or obtain other financial assurance as specified in this part to cover  
 93.18 the difference. For purposes of this item, "the full amount of the liability coverage to be  
 93.19 provided" means the amount of coverage for sudden or nonsudden occurrences required to  
 93.20 be provided by the owner or operator under this part, less the amount of financial assurance  
 93.21 for liability coverage that is being provided by other financial assurance mechanisms being  
 93.22 used to demonstrate financial assurance by the owner or operator.

93.23 D. The wording of the trust fund must be identical to the wording in part  
 93.24 7045.0524, subpart 13.

93.25 **7045.0524 WORDING OF INSTRUMENTS.**

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

94.2 Subp. 6. **Letter from chief financial officer for corrective action, closure, and/or**  
 94.3 **postclosure care.** A letter from the chief financial officer as specified in part 7045.0504,  
 94.4 subpart 7; 7045.0508, subpart 7; 7045.0514, subpart 7; 7045.0612, subpart 6; or  
 94.5 7045.0616, subpart 6 must be worded as specified in this subpart, except that instructions  
 94.6 in brackets must be replaced with the relevant information and the brackets deleted.

94.7 LETTER FROM CHIEF FINANCIAL OFFICER FOR CORRECTIVE ACTION,  
 94.8 CLOSURE, AND/OR POSTCLOSURE CARE

94.9 [Agency Commissioner]

94.10 Minnesota Pollution Control Agency

94.11 I am the chief financial officer of [name and address of firm]. This letter is in support  
 94.12 of this firm's use of the financial test to demonstrate financial assurance for corrective  
 94.13 action, closure, or postclosure costs, as specified in Minnesota Rules, parts 7045.0498 to  
 94.14 7045.0524 and 7045.0608 to 7045.0624.

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

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

94.25 2. This firm guarantees, through the corporate guarantee specified in Minnesota  
 94.26 Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624, the corrective action,  
 94.27 closure, or postclosure care of the following facilities owned or operated by subsidiaries  
 95.1 of this firm. The current cost estimates for the corrective action, closure, or postclosure  
 95.2 care so guaranteed are shown for each facility: \_\_\_\_\_.

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

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

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

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

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

96.4 [Fill in Alternative I if the criteria of Minnesota Rules, part 7045.0504, subpart 7, item  
96.5 B; 7045.0508, subpart 7, item B; 7045.0514, subpart 7, item B; 7045.0612, subpart 6, item  
96.6 B; 7045.0616, subpart 6, item B are used. Fill in Alternative II if the criteria of Minnesota  
96.7 Rules, part 7045.0504, subpart 7, item C; 7045.0508, subpart 7, item C; 7045.0514, subpart  
96.8 7, item C; or 7045.0612, subpart 6, item C; or 7045.0616, subpart 6, item C are used.]

96.9

#### ALTERNATIVE I

- 96.10 1. Sum of current corrective action, closure, and postclosure cost
- 96.11 estimate [total of all cost estimates shown in the five paragraphs
- 96.12 above] \$ \_\_\_\_\_
- 96.13 \*2. Total liabilities [if any portion of the corrective actions, closure, or
- 96.14 postclosure cost estimates is included in total liabilities, you may
- 96.15 deduct the amount of that portion from this line and add that amount
- 96.16 to lines 3 and 4] \$ \_\_\_\_\_
- 96.17 \*3. Tangible net worth \$ \_\_\_\_\_
- 96.18 \*4. Net worth \$ \_\_\_\_\_
- 96.19 \*5. Current assets \$ \_\_\_\_\_
- 96.20 \*6. Current liabilities \$ \_\_\_\_\_
- 96.21 7. Net working capital [line 5 minus line 6] \$ \_\_\_\_\_
- 96.22 \*8. The sum of net income plus depreciation, depletion, and amortization \$ \_\_\_\_\_
- 96.23 \*9. Total assets in United States (required only if less than 90 percent of
- 96.24 firm's assets are located in United States) \$ \_\_\_\_\_

- | 96.25 |   | YES | NO  |
|-------|---|-----|-----|
| 96.26 | 10. Is line 3 at least \$10,000,000?  | ___ | ___ |
| 96.27 | 11. Is line 3 at least 6 times line 1?                                      | ___ | ___ |
| 96.28 | 12. Is line 7 at least 6 times line 1?                                      | ___ | ___ |
| 96.29 | *13. Are at least 90 percent of firm's assets located in the United States? |     |     |
| 96.30 | If not, complete line 14  | ___ | ___ |
| 97.1  | 14. Is line 9 at least 6 times line 1?                                      | ___ | ___ |
| 97.2  | 15. Is line 2 divided by line 4 less than 2.0?                              | ___ | ___ |
| 97.3  | 16. Is line 8 divided by line 2 greater than 0.1?                           | ___ | ___ |
| 97.4  | 17. Is line 5 divided by line 6 greater than 1.5?                           | ___ | ___ |

ALTERNATIVE II

- 97.6 1. Sum of current corrective action, closure, and postclosure cost
- 97.7 estimates [total of all cost estimates shown in the five paragraphs
- 97.8 above] \$ \_\_\_\_\_
- 97.9 2. Current bond rating of most recent issuance of this firm and name
- 97.10 of rating service \_\_\_\_\_
- 97.11 3. Date of issuance of bond \_\_\_\_\_



- 97.12 4. Date of maturity of bond \_\_\_\_\_
- 97.13 \*5. Tangible net worth [if any portion of the corrective action, closure,
- 97.14 and postclosure costs estimates is included in "total liabilities" on
- 97.15 your firm's financial statements, you may add the amount of that
- 97.16 portion to this line] \$ \_\_\_\_\_
- 97.17 \*6. Total assets in United States (required only if less than 90 percent of
- 97.18 firm's assets are located in United States) \$ \_\_\_\_\_
  
- 97.19 YES NO
- 97.20 7. Is line 5 at least \$10,000,000? \_\_\_\_\_
- 97.21 8. Is line 5 at least 6 times line 1? \_\_\_\_\_
- 97.22 \*9. Are at least 90 percent of firm's assets located in United States?
- 97.23 If not, complete line 10 \_\_\_\_\_
- 97.24 10. Is line 6 at least 6 times line 1? \_\_\_\_\_

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

97.28 [SIGNATURE]

97.29 [NAME]

97.30 [TITLE]

98.1 [DATE]

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

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

98.4 A corporate guarantee as specified in part 7045.0504, subpart 7; 7045.0508, subpart 7;  
 98.5 7045.0514, subpart 7; 7045.0612, subpart 6; or 7045.0616, subpart 6 must be worded as  
 98.6 specified in this subpart, except that instructions in brackets must be replaced with the  
 98.7 relevant information and the brackets deleted.

98.8 **CORPORATE GUARANTEE FOR CORRECTIVE ACTION, CLOSURE, OR**  
 98.9 **POSTCLOSURE CARE**

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

98.14 Recitals

98.15 1. Guarantor meets or exceeds the financial test criteria and agrees to comply  
98.16 with the reporting requirements for guarantors as specified in Minnesota Rules, parts  
98.17 7045.0504, subpart 7; 7045.0508, subpart 7; 7045.0514, subpart 7; 7045.0612, subpart 6;  
98.18 and 7045.0616, subpart 6.

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

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

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

99.3 4. For value received from [owner or operator], guarantor guarantees to the Agency  
99.4 that in the event that [owner or operator] fails to perform [insert "corrective action,"  
99.5 "closure," "postclosure care," or any combination of the three] of the above facility(ies)  
99.6 in accordance with the corrective action, closure, or postclosure plans and other permit  
99.7 or interim status requirements whenever required to do so, the guarantor shall do so or  
99.8 establish a trust fund as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 or  
99.9 7045.0608 to 7045.0624 as applicable, in the name of [owner or operator] in the amount

99.10 of the current corrective action, closure, or postclosure cost estimates as specified in  
99.11 Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624.

99.12 5. Guarantor agrees that if, at the end of any fiscal year before termination of this  
99.13 guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within  
99.14 90 days, by certified mail, notice to the Agency Commissioner and to [owner or operator]  
99.15 that he or she intends to provide alternate financial assurance as specified in Minnesota  
99.16 Rules, parts 7045.0498 to 7045.0524 or 7045.0608 to 7045.0624, as applicable, in the  
99.17 name of [owner or operator]. Within 120 days after the end of such fiscal year, the  
99.18 guarantor shall establish financial assurance unless [owner or operator] has done so.

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

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

100.3 8. Guarantor agrees to remain bound under this guarantee notwithstanding any or  
100.4 all of the following: amendment or modification of the corrective action, closure or  
100.5 postclosure plan, amendment or modification of the permit, the extension or reduction  
100.6 of the time of performance of corrective action, closure, postclosure, or any other  
100.7 modification or alteration of an obligation of the owner or operator pursuant to Minnesota  
100.8 Rules, parts 7045.0450 to ~~7045.0642~~ 7045.0651.

100.9 9. Guarantor agrees to remain bound under this guarantee for so long as [owner or  
100.10 operator] must comply with the applicable financial assurance requirements of Minnesota

100.11 Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624 for the above listed  
 100.12 facilities, except that guarantor may cancel this guarantee by sending notice by certified  
 100.13 mail to the Agency Commissioner and to [owner or operator], the cancellation to become  
 100.14 effective no earlier than 120 days after receipt of notice by both the Agency Commissioner  
 100.15 and [owner or operator], as evidenced by the return receipts.

100.16 10. Guarantor agrees that if [owner or operator] fails to provide alternate financial  
 100.17 assurance as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 or 7045.0608 to  
 100.18 7045.0624, as applicable, and obtain written approval of such assurance from the Agency  
 100.19 Commissioner within 90 days after a notice of cancellation by the guarantor is received  
 100.20 by the Agency Commissioner from guarantor, guarantor shall provide alternate financial  
 100.21 assurance in the name of [owner or operator].

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

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

101.4 Effective date: \_\_\_\_\_

101.5 [NAME OF GUARANTOR]

101.6 [AUTHORIZED SIGNATURE FOR GUARANTOR]

101.7 [NAME OF PERSON SIGNING]

101.8 [TITLE OF PERSON SIGNING]

101.9 [SIGNATURE OF WITNESS OR NOTARY]

101.10 Subp. 8a. **Corporate guarantee for liability coverage.** A corporate guarantee  
 101.11 as specified in part 7045.0518, subpart 7, or 7045.0620, subpart 6, must be worded

101.12 as follows, except that instructions in brackets are to be replaced with the relevant  
101.13 information and the brackets deleted:

101.14 **CORPORATE GUARANTEE FOR LIABILITY COVERAGE**

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

101.25 **Recitals**

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

102.4 2. [Owner or operator] owns or operates the following hazardous waste management  
102.5 facility(ies) covered by this guarantee: [List for each facility: Identification Number,  
102.6 name, and address; and if guarantor is incorporated outside the United States, list the name  
102.7 and address of the guarantor's registered agent in each state.] This corporate guarantee  
102.8 satisfies RCRA third party liability requirements for [insert "sudden" or "nonsudden" or  
102.9 "both sudden and nonsudden"] accidental occurrences in above named owner or operator  
102.10 facilities for coverage in the amount of [insert dollar amount] for each occurrence and  
102.11 [insert dollar amount] annual aggregate.

102.12 3. For value received from [owner or operator], guarantor guarantees to any and all  
102.13 third parties who have sustained or may sustain bodily injury or property damage caused

102.14 by [sudden and/or nonsudden] accidental occurrences arising from operations of the  
102.15 facility(ies) covered by this guarantee that in the event that [owner or operator] fails  
102.16 to satisfy a judgment or award based on a determination of liability for bodily injury  
102.17 or property damage to third parties caused by [sudden and/or nonsudden] accidental  
102.18 occurrences, arising from the operation of the above named facilities, or fails to pay  
102.19 an amount agreed to in settlement of a claim arising from or alleged to arise from such  
102.20 injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement  
102.21 agreement(s), up to the limits of coverage identified above.

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

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

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

103.3 (c) Bodily injury to:

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

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

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

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

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

103.15 (e) Property damage to:

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

103.17 (2) premises that are sold, given away, or abandoned by [insert owner or

103.18 operator] if the property damage arises out of any part of those premises;

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

103.20 (4) personal property in the care, custody, or control of [insert owner or

103.21 operator]; or

103.22 (5) that particular part of real property on which [insert owner or operator] or any

103.23 contractors or subcontractors working directly or indirectly on behalf of [insert owner or

103.24 operator] are performing operations, if the property damage arises out of these operations.

104.1 5. Guarantor agrees that if, at the end of any fiscal year before termination of this  
104.2 guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within  
104.3 90 days, by certified mail, notice to the commissioner and to [owner or operator] that  
104.4 (s)he intends to provide alternate liability coverage as specified in Minnesota Rules, parts  
104.5 7045.0518 and 7045.0620, as applicable, in the name of [owner or operator]. Within 120  
104.6 days after the end of that fiscal year, the guarantor shall establish the liability coverage  
104.7 unless [owner or operator] has done so.

104.8 ~~5.~~ 6. The guarantor agrees to notify the commissioner by certified mail of a voluntary  
104.9 or involuntary proceeding under Title 11 (bankruptcy), United States Code, as amended,  
104.10 naming guarantor as debtor, within ten days after commencement of the proceeding.

104.11 ~~6.~~ 7. Guarantor agrees that within 30 days after being notified by the commissioner of  
104.12 a determination that guarantor no longer meets the financial test criteria or that (s)he is  
104.13 disallowed from continuing as a guarantor, (s)he shall establish alternate liability coverage  
104.14 as specified in Minnesota Rules, part 7045.0518 or 7045.0620 in the name of [owner or  
104.15 operator], unless [owner or operator] has done so.

104.16 ~~7.~~ 8. Guarantor reserves the right to modify this agreement to take into account  
104.17 amendment or modification of the liability requirements established by Minnesota  
104.18 Rules, parts 7045.0518 and 7045.0620, but the modification becomes effective only if  
104.19 the commissioner does not disapprove the modification within 30 days of receipt of  
104.20 notification of the modification.

104.21 ~~8.~~ 9. Guarantor agrees to remain bound under this guarantee for so long as [owner  
104.22 or operator] must comply with the applicable requirements of Minnesota Rules, parts  
104.23 7045.0518 and 7045.0620 for the above listed facility(ies), except as provided in  
104.24 paragraph ~~9~~ 10 of this agreement.

104.25 ~~9.~~ 10. Guarantor may terminate this guarantee by sending notice by certified mail to  
104.26 the commissioner and to [owner or operator] but this guarantee may not be terminated  
105.1 unless and until [owner or operator] obtains, and the commissioner approves alternate  
105.2 liability coverage complying with Minnesota Rules, parts 7045.0518 and/or 7045.0620.

105.3 ~~10.~~ 11. Guarantor hereby expressly waives notice of acceptance of this guarantee  
105.4 by any party.

105.5 ~~11.~~ 12. Guarantor agrees that this guarantee is in addition to and does not affect any  
105.6 other responsibility or liability of the guarantor with respect to the covered facilities.

105.7 ~~12.~~ Exclusions

105.8 ~~This corporate guarantee does not apply to:~~

105.9 ~~A. Bodily injury or property damage for which the owner or operator is obliged to~~  
105.10 ~~pay damages by reason of the assumption of liability in a contract or agreement. This~~  
105.11 ~~exclusion does not apply to liability for damages that the owner or operator would be~~  
105.12 ~~obligated to pay in the absence of the contract or agreement.~~

105.13 ~~B. Any obligation of the owner or operator under a workers' compensation, disability~~  
105.14 ~~benefits, or unemployment compensation law or any similar law.~~

105.15 ~~C. Bodily injury to:~~



105.16 ~~(1) an employee of the owner or operator arising from, and in the course of,~~  
 105.17 ~~employment by the owner or operator; or~~

105.18 ~~(2) the spouse, child, parent, brother, or sister of that employee as a consequence of,~~  
 105.19 ~~or arising from, and in the course of, employment by the owner or operator.~~

105.20 ~~This exclusion applies whether the owner or operator is liable as an employer or in~~  
 105.21 ~~any other capacity. This exclusion also applies to any obligation to share damages with or~~  
 105.22 ~~repay another person who must pay damages because of the injury to persons identified~~  
 105.23 ~~in item C.~~

105.24 ~~D. Bodily injury or property damage arising out of the ownership, maintenance, use,~~  
 105.25 ~~or entrustment to others of any aircraft, motor vehicle, or watercraft.~~

105.26 ~~E. Property damage to:~~

105.27 ~~(1) any property owned, rented, or occupied by the owner or operator;~~

106.1 ~~(2) premises that are sold, given away, or abandoned by the owner or operator if the~~  
 106.2 ~~property damage arises out of any part of those premises;~~

106.3 ~~(3) property loaned to the owner or operator;~~

106.4 ~~(4) personal property in the care, custody, or control of the owner or operator; and~~

106.5 ~~(5) that particular part of real property on which the owner or operator or any~~  
 106.6 ~~contractors or subcontractors working directly or indirectly on behalf of the owner or~~  
 106.7 ~~operator are performing operations, if the property damage arises out of these operations.~~

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

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

106.13 Certification of Valid Claim

106.14 The undersigned, as parties [insert principal] and [insert name and address of  
 106.15 third-party claimant(s)], hereby certify that the claim of bodily injury and/or property

106.16 damage caused by a [sudden or nonsudden] accidental occurrence arising from operating  
 106.17 [principal's hazardous waste treatment, storage, or disposal facility] should be paid in  
 106.18 the amount of \$.....

106.19 [Signatures]

106.20 Principal

106.21 (Notary) Date

106.22 [Signatures]

106.23 Claimant(s)

106.24 (Notary) Date

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

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

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

107.6 Effective date: \_\_\_\_\_

107.7 [Name of guarantor]

107.8 [Authorized signatures for guarantor]

107.9 [Names of persons signing]

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

107.11 Corporate resolution attached [(Attach resolution adopted by parent corporation  
 107.12 authorizing parent corporation to provide the corporate guarantee for subsidiary)]

107.13 Signature of witness or notary:

107.14 \_\_\_\_\_

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

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

107.20 IRREVOCABLE STANDBY LETTER OF CREDIT

107.21 [Name and Address of Issuing Institution]

107.22 [Agency Commissioner]

107.23 Minnesota Pollution Control Agency

107.24 Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit  
 107.25 No. ... in the favor of ["any and all third-party liability claimants" or insert name of  
 107.26 trustee of the standby trust fund], at the request and for the account of [owner or operator's  
 107.27 name and address] for third-party liability awards or settlements of \_\_\_\_\_ [insert  
 108.1 dollar amount of the letter of credit] per occurrence and the annual aggregate amount  
 108.2 of \_\_\_\_\_ [insert dollar amount of the letter of credit] for sudden accidental  
 108.3 occurrences and/or for third-party liability awards or settlements of \_\_\_\_\_ [insert  
 108.4 dollar amount of the letter of credit] per occurrence and the annual aggregate amount  
 108.5 of \_\_\_\_\_ [insert dollar amount of the letter of credit] for nonsudden accidental  
 108.6 occurrences available on presentation of a sight draft bearing reference to this letter of  
 108.7 credit No. ..., and [insert the following language if the letter of credit is being used without  
 108.8 a standby trust fund:

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

108.10 CERTIFICATE OF VALID CLAIM

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

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

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

108.22 (c) Bodily injury to:

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

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

108.27 This exclusion applies:

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

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

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

109.7 (e) Property damage to:

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

109.9 (2) premises that are sold, given away, or abandoned by [insert principal] if the  
109.10 property damage arises out of any part of those premises;

109.11 (3) property loaned to [insert principal];

109.12 (4) personal property in the care, custody, or control of [insert principal]; or

109.13 (5) that particular part of real property on which [insert principal] or any  
109.14 contractors or subcontractors working directly or indirectly on behalf of [insert principal]  
109.15 are performing operations, if the property damage arises out of these operations.

109.16 [Signatures]

109.17 Grantor

109.18 [Signatures]

109.19 Claimant(s)

109.20 ; or

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

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

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

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

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

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

110.16 Subp. 12. **Trust agreement for liability coverage.**

110.17 A. A trust agreement, as specified in part 7045.0518, subpart 10, or 7045.0620,  
110.18 subpart 9, must be worded as follows, except that instructions in brackets are to be  
110.19 replaced with the relevant information and the brackets deleted:

110.20 TRUST AGREEMENT

110.21 Trust Agreement, the "Agreement," entered into as of [date] by and between [name of  
110.22 the owner or operator] a [name of State] [insert "corporation," "partnership," "association,"  
110.23 or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated  
110.24 in the State of \_\_\_\_\_ " or "a national bank"], the "trustee."

110.25 Whereas, the Minnesota Pollution Control Agency (Agency), an agency of the state  
110.26 of Minnesota, has established certain rules applicable to the Grantor, requiring that an  
110.27 owner or operator of a hazardous waste management facility or group of facilities must  
111.1 demonstrate financial responsibility for bodily injury and property damage to third parties  
111.2 caused by sudden accidental and/or nonsudden accidental occurrences arising from  
111.3 operations of the facility or group of facilities.

111.4 Whereas, the Grantor has elected to establish a trust to assure all or part of such  
111.5 financial responsibility for the facilities identified herein.

111.6 Whereas, the Grantor, acting through its duly authorized officers, has selected the  
111.7 Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

111.8 Now, therefore, the Grantor and the Trustee agree as follows:

111.9 **Section 1. Definitions.** As used in this Agreement:

111.10 (a) The term "Grantor" means the owner or operator who enters into this Agreement  
111.11 and any successors or assigns of the Grantor.

111.12 (b) The term "Trustee" means the Trustee who enters into this Agreement and any  
111.13 successor Trustee.

111.14 **Section 2. Identification of Facilities.** This agreement pertains to the facilities  
111.15 identified on attached schedule A [on Schedule A, for each facility list the EPA  
111.16 Identification Number, name, and address of the facility(ies) and the amount of liability  
111.17 coverage, or portions thereof, if more than one instrument affords combined coverage as  
111.18 demonstrated by this Agreement].

111.19 **Section 3. Establishment of Fund.** The Grantor and the Trustee hereby establish a  
111.20 trust fund, hereinafter the "Fund," for the benefit of any and all third parties injured or  
111.21 damaged by [sudden and/or nonsudden] accidental occurrences arising from operation  
111.22 of the facility(ies) covered by this guarantee, in the amounts of \_\_\_\_\_ [insert  
111.23 dollar amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of the  
111.24 fund] annual aggregate for sudden accidental occurrences and \_\_\_\_\_ [insert dollar  
111.25 amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of the fund]  
111.26 annual aggregate for nonsudden occurrences, except that the Fund is not established for  
111.27 the benefit of third parties for the following:

112.1 (a) Bodily injury or property damage for which [insert Grantor] is obligated to  
112.2 pay damages by reason of the assumption of liability in a contract or agreement. This  
112.3 exclusion does not apply to liability for damages that [insert Grantor] would be obligated  
112.4 to pay in the absence of the contract or agreement.

112.5 (b) Any obligation of [insert Grantor] under a workers' compensation, disability  
112.6 benefits, or unemployment compensation law or any similar law.

112.7 (c) Bodily injury to:

112.8 (1) an employee of [insert Grantor] arising from, and in the course of,  
112.9 employment by [insert Grantor]; or

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

112.12 This exclusion applies:

112.13 (A) whether [insert Grantor] may be liable as an employer or in any other  
112.14 capacity; and

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

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

112.19 (e) Property damage to:

112.20 (1) any property owned, rented, or occupied by [insert Grantor];

112.21 (2) premises that are sold, given away, or abandoned by [insert Grantor] if the  
112.22 property damage arises out of any part of those premises;

112.23 (3) property loaned to [insert Grantor];

112.24 (4) personal property in the care, custody, or control of [insert Grantor]; or

113.1 (5) that particular part of real property on which [insert Grantor] or any  
113.2 contractors or subcontractors working directly or indirectly on behalf of [insert Grantor]  
113.3 are performing operations, if the property damage arises out of these operations.

113.4 In the event of combination with another mechanism for liability coverage, the fund  
113.5 shall be considered [insert "primary" or "excess"] coverage.

113.6 The Fund is established initially as consisting of the property, which is acceptable  
113.7 to the Trustee, described in Schedule B attached hereto. Such property and any other  
113.8 property subsequently transferred to the Trustee is referred to as the Fund, together  
113.9 with all earnings and profits thereon, less any payments or distributions made by the  
113.10 Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST,  
113.11 as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any  
113.12 responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any  
113.13 payments necessary to discharge any liabilities of the Grantor established by the Agency.



113.14 **Section 4. Payment for Bodily Injury or Property Damage.** The Trustee shall  
113.15 satisfy a third party liability claim by making payments from the Fund only upon receipt  
113.16 of one of the following documents:

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

113.20 CERTIFICATION OF VALID CLAIM

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

113.26 [Signatures]

113.27 Grantor

114.1 [Signatures]

114.2 Claimant(s)

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

114.6 **Section 5. Payments Comprising the Fund.** Payments made to the Trustee for the  
114.7 Fund shall consist of cash or securities acceptable to the Trustee.

114.8 **Section 6. Trustee Management.** The Trustee shall invest and reinvest the principal  
114.9 and income, in accordance with general investment policies and guidelines which the  
114.10 Grantor may communicate in writing to the Trustee from time to time, subject, however, to  
114.11 the provisions of this section. In investing, reinvesting, exchanging, selling, and managing  
114.12 the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the  
114.13 interest of the beneficiary and with the care, skill, prudence, and diligence under the

114.14 circumstance then prevailing which persons of prudence, acting in a like capacity and  
114.15 familiar with such matters, would use in the conduct of an enterprise of a like character  
114.16 and with like aims; except that:

114.17 (a) securities or other obligations of the Grantor, or any other owner or operator of  
114.18 the facilities, or any of their affiliates as defined in the Investment Company Act of 1940,  
114.19 as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held unless they are securities  
114.20 or other obligations of the Federal or State government;

114.21 (b) the Trustee is authorized to invest the Fund in time or demand deposits of the  
114.22 Trustee, to the extent insured by an agency of the Federal or State government; and

114.23 (c) the Trustee is authorized to hold cash awaiting investment or distribution  
114.24 uninvested for a reasonable time and without liability for the payment of interest thereon.

114.25 **Section 7. Commingling and Investment.** The Trustee is expressly authorized in  
114.26 its discretion:

115.1 (a) to transfer from time to time any or all of the assets of the Fund to any common  
115.2 commingled, or collective trust fund created by the Trustee in which the fund is eligible  
115.3 to participate, subject to all of the provisions thereof, to be commingled with the assets  
115.4 of other trusts participating therein; and

115.5 (b) to purchase shares in any investment company registered under the Investment  
115.6 Company Act of 1940, 15 U.S.C. 81a-1 et seq., including one which may be created,  
115.7 managed, underwritten, or to which investment advice is rendered or the shares of which  
115.8 are sold by the Trustee. The Trustee may vote such shares in its discretion.

115.9 **Section 8. Express Powers of Trustee.** Without in any way limiting the powers and  
115.10 discretions conferred upon the Trustee by the other provisions of this Agreement or by  
115.11 law, the Trustee is expressly authorized and empowered:

115.12 (a) to sell, exchange, convey, transfer, or otherwise dispose of any property held by  
115.13 it, by public or private sale. No person dealing with the Trustee shall be bound to see to

115.14 the application of the purchase money or to inquire into the validity or expediency of  
115.15 any such sale or other disposition;

115.16 (b) to make, execute, acknowledge, and deliver any and all documents of transfer  
115.17 and conveyance and any and all other instruments that may be necessary or appropriate to  
115.18 carry out the powers herein granted;

115.19 (c) to register any securities held in the Fund in its own name or in the name of a  
115.20 nominee and to hold any security in bearer form or in book entry, or to combine certificates  
115.21 representing such securities with certificates of the same issue held by the Trustee in other  
115.22 fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified  
115.23 central depository even though, when so deposited, such securities may be merged and  
115.24 held in bulk in the name of the nominee of such depository with other securities deposited  
115.25 therein by another person, or to deposit or arrange for the deposit of any securities issued  
115.26 by the United States Government, or any agency or instrumentality thereof, with a Federal  
116.1 Reserve bank, but the books and records of the Trustee shall at all times show that all such  
116.2 securities are part of the Fund;

116.3 (d) to deposit any cash in the Fund in interest-bearing accounts maintained or savings  
116.4 certificates issued by the Trustee, in its separate corporate capacity, or in any other banking  
116.5 institution affiliated with the Trustee, to the extent insured by an agency of the Federal  
116.6 or State government; and

116.7 (e) to compromise or otherwise adjust all claims in favor of or against the Fund.

116.8 **Section 9. Taxes and Expenses.** All taxes of any kind that may be assessed or levied  
116.9 against or in respect of the Fund and all brokerage commissions incurred by the Fund shall  
116.10 be paid from the Fund. All other expenses incurred by the Trustee in connection with the  
116.11 administration of this Trust, including fees for legal services rendered to the Trustee, the  
116.12 compensation of the Trustee to the extent not paid directly by the Grantor, and all other  
116.13 proper charges and disbursements of the Trustee shall be paid from the Fund.

116.14 **Section 10. Annual Valuations.** The Trustee shall annually, at least 30 days prior  
116.15 to the anniversary date of establishment of the Fund, furnish to the Grantor and to the  
116.16 Agency Commissioner a statement confirming the value of the Trust. Any securities in the  
116.17 Fund shall be valued at market value as of no more than 60 days prior to the anniversary  
116.18 date of establishment of the Fund. The failure of the Grantor to object in writing to the  
116.19 Trustee within 90 days after the statement has been furnished to the Grantor and the  
116.20 Agency Commissioner shall constitute a conclusively binding assent by the Grantor  
116.21 barring the Grantor from asserting any claim or liability against the Trustee with respect to  
116.22 matters disclosed in the statement.

116.23 **Section 11. Advice of Counsel.** The Trustee may from time to time consult with  
116.24 counsel, who may be counsel to the Grantor with respect to any question arising as to the  
116.25 construction of this Agreement or any action to be taken hereunder. The Trustee shall be  
116.26 fully protected, to the extent permitted by law, in acting upon the advice of counsel.

117.1 **Section 12. Trustee Compensation.** The Trustee shall be entitled to reasonable  
117.2 compensation for its services as agreed upon in writing from time to time with the Grantor.

117.3 **Section 13. Successor Trustee.** The Trustee may resign or the Grantor may replace  
117.4 the Trustee, but such resignation or replacement shall not be effective until the Grantor has  
117.5 appointed a successor trustee and this successor accepts the appointment. The successor  
117.6 trustee shall have the same powers and duties as those conferred upon the Trustee  
117.7 hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall  
117.8 assign, transfer, and pay over to the successor trustee the funds and properties then  
117.9 constituting the Fund. If for any reason the Grantor cannot or does not act in the event of  
117.10 the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction  
117.11 for the appointment of a successor trustee or for instructions. The successor trustee shall  
117.12 specify the date on which it assumes administration of the trust in a writing sent to the  
117.13 Grantor, the Agency Commissioner, and the present Trustee by certified mail ten days

117.14 before such change becomes effective. Any expenses incurred by the Trustee as a result of  
117.15 any of the acts contemplated by this section shall be paid as provided in Section 9.

117.16 **Section 14. Instructions to the Trustee.** All orders, requests, and instructions by the  
117.17 Grantor to the Trustee shall be in writing, signed by such persons as are designated in the  
117.18 attached Exhibit A or such other designees as the Grantor may designate by amendments  
117.19 to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance  
117.20 with the Grantor's orders, requests, and instructions. All orders, requests, and instructions  
117.21 by the Agency Commissioner to the Trustee shall be in writing, signed by the Agency  
117.22 Commissioner, or the Commissioner's designees, and the Trustee shall act and shall be  
117.23 fully protected in acting in accordance with such orders, requests, and instructions. The  
117.24 Trustee shall have the right to assume, in the absence of written notice to the contrary,  
117.25 that no event constituting a change or a termination of the authority of any person to act  
117.26 on behalf of the Grantor or the Agency hereunder has occurred. The Trustee shall have  
118.1 no duty to act in the absence of such orders, requests, and instructions from the Grantor  
118.2 and/or the Agency, except as provided for herein.

118.3 **Section 15. Notice of Nonpayment.** If a payment for bodily injury or property  
118.4 damage is made under Section 4 of this trust, the Trustee shall notify the Grantor of such  
118.5 payment and the amount(s) thereof within five (5) working days. The Grantor shall, on  
118.6 or before the anniversary date of the establishment of the Fund following such notice,  
118.7 either make payments to the Trustee in amounts sufficient to cause the trust to return to  
118.8 its value immediately prior to the payment of claims under Section 4, or shall provide  
118.9 written proof to the Trustee that other financial assurance for liability coverage has been  
118.10 obtained equaling the amount necessary to return the trust to its value prior to the payment  
118.11 of claims. If the Grantor does not either make payments to the Trustee or provide the  
118.12 Trustee with such proof, the Trustee shall within ten working days after the anniversary  
118.13 date of the establishment of the Fund provide a written notice of nonpayment to the  
118.14 Agency Commissioner.

118.15 **Section 16. Amendment of Agreement.** This Agreement may be amended by an  
118.16 instrument in writing executed by the Grantor, the Trustee, and the Agency Commissioner,  
118.17 or by the Trustee and the Agency Commissioner if the Grantor ceases to exist.

118.18 **Section 17. Irrevocability and Termination.** Subject to the right of the parties to  
118.19 amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall  
118.20 continue until terminated at the written agreement of the Grantor, the Trustee, and the  
118.21 Agency Commissioner, or by the Trustee and the Agency Commissioner, if the Grantor  
118.22 ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust  
118.23 administration expenses, shall be delivered to the Grantor.

118.24 The Agency Commissioner will agree to termination of the Trust when the owner or  
118.25 operator substitutes alternate financial assurance as specified in this section.

118.26 **Section 18. Immunity and Indemnification.** The Trustee shall not incur personal  
118.27 liability of any nature in connection with any act or omission, made in good faith, in  
119.1 the administration of this Trust, or in carrying out any directions by the Grantor or the  
119.2 Agency Commissioner issued in accordance with this Agreement. The Trustee shall be  
119.3 indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and  
119.4 against any personal liability to which the Trustee may be subjected by reason of any act  
119.5 or conduct in its official capacity, including all expenses reasonably incurred in its defense  
119.6 in the event the Grantor fails to provide such defense.

119.7 **Section 19. Choice of Law.** This Agreement shall be administered, construed, and  
119.8 enforced according to the laws of the State of Minnesota.

119.9 **Section 20. Interpretation.** As used in Agreement, words in the singular include  
119.10 the plural and words in the plural include the singular. The descriptive headings for each  
119.11 section of this Agreement shall not affect the interpretation or the legal efficacy of this  
119.12 Agreement.

119.13 In Witness Whereof the parties have caused this Agreement to be executed by their  
119.14 respective officers duly authorized and their corporate seals to be hereunto affixed and

119.15 attested as of the date first above written. The parties below certify that the wording of this  
 119.16 Agreement is identical to the wording specified in part 7045.0524, subpart 12, as such  
 119.17 regulations were constituted on the date first above written.

119.18 [Signature of Grantor]

119.19 [Title]

119.20 Attest:

119.21 [Title]

119.22 [Seal]

119.23 [Signature of Trustee]

119.24 Attest:

119.25 [Title]

119.26 [Seal]

120.1 B. The following is an example of the certification of acknowledgment which  
 120.2 must accompany the trust agreement for a trust fund as specified in parts 7045.0518,  
 120.3 subpart 10, or 7045.0620, subpart 9.

120.4 State of \_\_\_\_\_

120.5 County of \_\_\_\_\_

120.6 On this [date], before me personally came [owner or operator] to me known, who,  
 120.7 being by me duly sworn, did depose and say that she/he resides at [address], that she/he  
 120.8 is [title] of [corporation], the corporation described in and which executed the above  
 120.9 instrument; that she/he knows the seal of said corporation; that the seal affixed to such  
 120.10 instrument is such corporate seal; that it was so affixed by order of the Board of Directors  
 120.11 of said corporation, and that she/he signed her/his name thereto by like order.

120.12 [Signature of Notary Public]

120.13 Subp. 13. **Standby trust agreement for liability coverage.**

120.14 A. A standby trust agreement, as specified in part 7045.0518, subpart 8, or  
120.15 7045.0620, subpart 7, must be worded as follows, except that instructions in brackets are  
120.16 to be replaced with the relevant information and the brackets deleted:

120.17 STANDBY TRUST AGREEMENT

120.18 Trust Agreement, the "Agreement," entered into as of [date] by and between [name  
120.19 of the owner or operator] a [name of a State] [insert "corporation," "partnership,"  
120.20 "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert,  
120.21 "incorporated in the State of \_\_\_\_\_ " or "a national bank"], the "trustee."

120.22 Whereas, the Minnesota Pollution Control Agency (Agency), an agency of the State  
120.23 of Minnesota, has established certain regulations applicable to the Grantor, requiring that  
120.24 an owner or operator of a hazardous waste management facility or group of facilities  
120.25 must demonstrate financial responsibility for bodily injury and property damage to third  
120.26 parties caused by sudden accidental and/or nonsudden accidental occurrences arising from  
120.27 operations of the facility or group of facilities.

121.1 Whereas, the Grantor has elected to establish a standby trust into which the proceeds  
121.2 from a letter of credit may be deposited to assure all or part of such financial responsibility  
121.3 for the facilities identified herein.

121.4 Whereas, the Grantor, acting through its duly authorized officers, has selected the  
121.5 Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

121.6 Now, therefore, the Grantor and the Trustee agree as follows:

121.7 **Section 1. Definitions.** As used in this Agreement:

121.8 (a) The term Grantor means the owner or operator who enters into this Agreement  
121.9 and any successors or assigns of the Grantor.

121.10 (b) The term Trustee means the Trustee who enters into this Agreement and any  
121.11 successor Trustee.

121.12 **Section 2. Identification of Facilities.** This Agreement pertains to the facilities  
121.13 identified on attached Schedule A [on Schedule A, for each facility list the identification



121.14 number, name, and address of the facility(ies) and the amount of liability coverage, or  
121.15 portions thereof, if more than one instrument affords combined coverage as demonstrated  
121.16 by this Agreement].

121.17 **Section 3. Establishment of Fund.** The Grantor and the Trustee hereby establish a  
121.18 standby trust fund, hereafter the "Fund," for the benefit of any and all third parties injured  
121.19 or damaged by [sudden and/or nonsudden] accidental occurrences arising from operation  
121.20 of the facility(ies) covered by this guarantee, in the amounts of \_\_\_\_\_ [insert  
121.21 dollar amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of  
121.22 the fund] annual aggregate for sudden accidental occurrences and \_\_\_\_\_ [insert  
121.23 dollar amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of the  
121.24 fund] annual aggregate for nonsudden occurrences, except that the Fund is not established  
121.25 for the benefit of third parties for the following:

121.26 (a) Bodily injury or property damage for which [insert Grantor] is obligated to  
121.27 pay damages by reason of the assumption of liability in a contract or agreement. This  
122.1 exclusion does not apply to liability for damages that [insert Grantor] would be obligated  
122.2 to pay in the absence of the contract or agreement.

122.3 (b) Any obligation of [insert Grantor] under a workers' compensation, disability  
122.4 benefits, or unemployment compensation law or any similar law.

122.5 (c) Bodily injury to:

122.6 (1) an employee or [insert Grantor] arising from, and in the course of,  
122.7 employment by [insert Grantor]; or

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

122.10 This exclusion applies:

122.11 (A) whether [insert Grantor] may be liable as an employer or in any other  
122.12 capacity; and

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

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

122.17 (e) Property damage to:

122.18 (1) any property owned, rented, or occupied by [insert Grantor];

122.19 (2) premises that are sold, given away, or abandoned by [insert Grantor] if the  
 122.20 property damage arises out of any part of those premises;

122.21 (3) property loaned [insert Grantor];

122.22 (4) personal property in the care, custody, or control of [insert Grantor]; or

122.23 (5) that particular part of real property on which [insert Grantor] or any  
 122.24 contractors or subcontractors working directly or indirectly on behalf of [insert Grantor]  
 122.25 are performing operations, if the property damage arises out of these operations.

123.1 In the event of combination with another mechanism for liability coverage, the fund  
 123.2 shall be considered [insert "primary" or "excess"] coverage.

123.3 The Fund is established initially as consisting of the proceeds of the letter of credit  
 123.4 deposited into the Fund. Such proceeds and any other property subsequently transferred to  
 123.5 the Trustee is referred to as the Fund, together with all earnings and profits thereon, less  
 123.6 any payments or distributions made by the Trustee pursuant to this Agreement. The Fund  
 123.7 shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be  
 123.8 responsible nor shall it undertake any responsibility for the amount or adequacy of, nor  
 123.9 any duty to collect from the Grantor, any payments necessary to discharge any liabilities  
 123.10 of the Grantor established by the Agency.

123.11 **Section 4. Payment for Bodily Injury or Property Damage.** The Trustee shall  
 123.12 satisfy a third-party liability claim by drawing on the letter of credit described in Schedule

123.13 B and by making payments from the Fund only upon receipt of one of the following  
 123.14 documents:

123.15 (a) Certification from the Grantor and the third-party claimant(s) that the liability  
 123.16 claim should be paid. The certification must be worded as follows, except that instructions  
 123.17 in brackets are to be replaced with the relevant information and the brackets deleted:  
 123.18 The Trustee shall satisfy a third-party liability claim by drawing on the letter of credit  
 123.19 described in Schedule B and by making payments from the Fund only upon receipt of  
 123.20 one of the following documents:

123.21 CERTIFICATION OF VALID CLAIM

123.22 The undersigned, as parties [insert Grantor] and [insert name and address of  
 123.23 third party claimant(s)], hereby certify that the claim of bodily injury and/or property  
 123.24 damage caused by a [sudden or nonsudden] accidental occurrence arising from operating  
 123.25 [Grantor's] hazardous waste treatment, storage, or disposal facility should be paid in the  
 123.26 amount of \$[\_\_\_\_\_].

123.27 [Signature] Grantor

124.1 [Signature(s)] Claimant(s)

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

124.5 **Section 5. Payments Comprising the Fund.** Payments made to the Trustee for the  
 124.6 Fund shall consist of the proceeds from the letter of credit drawn upon by the Trustee in  
 124.7 accordance with the requirements of Minnesota Rules, part 7045.0524, subpart 11, and  
 124.8 Section 4 of this Agreement.

124.9 **Section 6. Trustee Management.** The Trustee shall invest and reinvest the principal  
 124.10 and income, in accordance with general investment policies and guidelines which the  
 124.11 Grantor may communicate in writing to the Trustee from time to time, subject, however,  
 124.12 to the provisions of this Section. In investing, reinvesting, exchanging, selling, and

124.13 managing the Fund, the Trustee shall discharge the trustee's duties with respect to the  
124.14 trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and  
124.15 diligence under the circumstances then prevailing which persons of prudence, acting in a  
124.16 like capacity and familiar with such matters, would use in the conduct of an enterprise of a  
124.17 like character and with like aims; except that:

124.18 (a) securities or other obligations of the Grantor, or any other owner or operator of  
124.19 the facilities, or any of their affiliates as defined in the Investment Company Act of 1940,  
124.20 as amended, United States Code, title 15, section 80a-2(a), shall not be acquired or held,  
124.21 unless they are securities or other obligations of the Federal or State government;

124.22 (b) the Trustee is authorized to invest the Fund in time or demand deposits of the  
124.23 Trustee, to the extent insured by an agency of the Federal or a State government; and

124.24 (c) the Trustee is authorized to hold cash awaiting investment or distribution  
124.25 uninvested for a reasonable time and without liability for the payment of interest thereon.

124.26 **Section 7. Commingling and Investment.** The Trustee is expressly authorized in  
124.27 its discretion:

125.1 (a) to transfer from time to time any or all of the assets of the Fund to any common,  
125.2 commingled, or collective trust fund created by the trustee in which the Fund is eligible  
125.3 to participate, subject to all of the provisions thereof, to be commingled with the assets  
125.4 of other trusts participating therein; and

125.5 (b) to purchase shares in any investment company registered under the Investment  
125.6 Company Act of 1940, United States Code, title 15, section 80a-1 et seq., including one  
125.7 which may be created, managed, underwritten, or to which investment advice is rendered  
125.8 or the shares of which are sold by the Trustee. The Trustee may vote such shares in its  
125.9 discretion.

125.10 **Section 8. Express Powers of Trustee.** Without in any way limiting the powers and  
125.11 discretions conferred upon the Trustee by the other provisions of the Agreement or by  
125.12 law, the Trustee is expressly authorized and empowered:

125.13 (a) to sell, exchange, convey, transfer, or otherwise dispose of any property held by  
125.14 it, by public or private sale. No person dealing with the Trustee shall be bound to see to  
125.15 the application of the purchase money or to inquire into the validity or expediency of  
125.16 any such sale or other disposition;

125.17 (b) to make, execute, acknowledge, and deliver any and all documents of transfer  
125.18 and conveyance and any and all other instruments that may be necessary or appropriate to  
125.19 carry out the powers herein granted;

125.20 (c) to register any securities held in the Fund in its own name or in the name of a  
125.21 nominee and to hold any security in bearer form or in book entry, or to combine certificates  
125.22 representing such securities with certificates of the same issue held by the Trustee in other  
125.23 fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified  
125.24 central depository even though, when so deposited, such securities may be merged and  
125.25 held in bulk in the name of the nominee of such depository with other securities deposited  
125.26 therein by another person, or to deposit or arrange for the deposit of any securities issued  
125.27 by the United States Government, or any agency or instrumentality thereof, with a Federal  
126.1 Reserve Bank, but the books and records of the Trustee shall at all times show that all such  
126.2 securities are part of the Fund;

126.3 (d) to deposit any cash in the Fund in interest-bearing accounts maintained or savings  
126.4 certificates issued by the Trustee, in its separate corporate capacity, or in any other banking  
126.5 institution affiliated with the Trustee, to the extent insured by an agency of the Federal  
126.6 or State government; and

126.7 (e) to compromise or otherwise adjust all claims in favor of or against the Fund.

126.8 **Section 9. Taxes and Expenses.** All taxes of any kind that may be assessed or levied  
126.9 against or in respect of the Fund and all brokerage commissions incurred by the Fund shall  
126.10 be paid from the Fund. All other expenses incurred by the Trustee in connection with the  
126.11 administration of this Trust, including fees for legal services rendered to the Trustee, the

126.12 compensation of the Trustee to the extent not paid directly by the Grantor, and all other  
126.13 proper charges and disbursements to the Trustee shall be paid from the Fund.

126.14 **Section 10. Advice of Counsel.** The Trustee may from time to time consult with  
126.15 counsel, who may be counsel to the Grantor, with respect to any question arising as to the  
126.16 construction of this Agreement or any action to be taken hereunder. The Trustee shall be  
126.17 fully protected, to the extent permitted by law, in acting upon the advice of counsel.

126.18 **Section 11. Trustee Compensation.** The Trustee shall be entitled to reasonable  
126.19 compensation for its services as agreed upon in writing from time to time with the Grantor.

126.20 **Section 12. Successor Trustee.** The Trustee may resign or the Grantor may replace  
126.21 the Trustee, but such resignation or replacement shall not be effective until the Grantor has  
126.22 appointed a successor trustee and this successor accepts the appointment. The successor  
126.23 trustee shall have the same powers and duties as those conferred upon the Trustee  
126.24 hereunder. Upon the successor trustee's acceptance of the appointment; the Trustee shall  
126.25 assign, transfer, and pay over to the successor trustee the funds and properties then  
126.26 constituting the Fund. If for any reason the Grantor cannot or does not act in the event of  
126.27 the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction  
127.1 for the appointment of a successor trustee or for instructions. The successor trustee shall  
127.2 specify the date on which it assumes administration of the trust in a writing sent to the  
127.3 Grantor, the Agency Commissioner and the present Trustee by certified mail ten days  
127.4 before such change becomes effective. Any expenses incurred by the Trustee as a result of  
127.5 any of the acts contemplated by this Section shall be paid as provided in Section 9.

127.6 **Section 13. Instructions to the Trustee.** All orders, requests, certifications of valid  
127.7 claims, and instructions to the Trustee shall be in writing, signed by such persons as are  
127.8 designated in the attached Exhibit A or such other designees as the Grantor may designate  
127.9 by amendments to Exhibit A. The Trustee shall be fully protected in acting without inquiry  
127.10 in accordance with the Grantor's orders, requests, and instructions. The Trustee shall  
127.11 have the right to assume, in the absence of written notice to the contrary, that no event

127.12 constituting a change or a termination of the authority of any person to act on behalf of the  
127.13 Grantor or the Agency Commissioner hereunder has occurred. The Trustee shall have  
127.14 no duty to act in the absence of such orders, requests, and instructions from the Grantor  
127.15 and/or the Agency, except as provided for herein.

127.16 **Section 14. Amendment of Agreement.** This Agreement may be amended by an  
127.17 instrument in writing executed by the Grantor, the Trustee, and the Agency Commissioner,  
127.18 or by the Trustee and the Agency Commissioner if the Grantor ceases to exist.

127.19 **Section 15. Irrevocability and Termination.** Subject to the right of the parties to  
127.20 amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall  
127.21 continue until terminated at the written agreement of the Grantor, the Trustee, and the  
127.22 Agency Commissioner, or by the Trustee and the Agency Commissioner, if the Grantor  
127.23 ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust  
127.24 administration expenses, shall be paid to the Grantor.

127.25 The Agency Commissioner will agree to termination of the Trust when the owner or  
127.26 operator substitutes alternative financial assurance as specified in this section.

128.1 **Section 16. Immunity and Indemnification.** The Trustee shall not incur personal  
128.2 liability of any nature in connection with any act or omission, made in good faith, in the  
128.3 administration of this Trust, or in carrying out any directions by the Grantor and the  
128.4 Agency Commissioner issued in accordance with this Agreement. The Trustee shall be  
128.5 indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and  
128.6 against any personal liability to which the Trustee may be subjected by reason of any act  
128.7 or conduct in its official capacity, including all expenses reasonably incurred in its defense  
128.8 in the event the Grantor fails to provide such defense.

128.9 **Section 17. Choice of Law.** This Agreement shall be administered, construed, and  
128.10 enforced in accordance with the laws of the State of Minnesota.

128.11 **Section 18. Interpretation.** As used in this Agreement, words in the singular  
128.12 include the plural and words in the plural include the singular. The descriptive headings

128.13 for each Section of this Agreement shall not affect the interpretation of the legal efficacy  
 128.14 of this Agreement.

128.15 In Witness Whereof, the parties have caused this Agreement to be executed by their  
 128.16 respective officers duly authorized and their corporate seals to be hereunto affixed and  
 128.17 attested as of the date first above written. The parties below certify that the wording of  
 128.18 this Agreement is identical to the wording specified in Minnesota Rules, part 7045.0524,  
 128.19 subpart 13, as such rule was constituted on the date first above written.

128.20 [Signature of Grantor]

128.21 [Title]

128.22 Attest:

128.23 [Title]

128.24 [Seal]

128.25 [Signature of Trustee]

128.26 Attest:

128.27 [Title]

129.1 [Seal]

129.2 B. The following is an example of the certification of acknowledgment which  
 129.3 must accompany the trust agreement for a standby trust fund as specified in parts  
 129.4 7045.0518, subpart 8, or 7045.0620, subpart 7.

129.5 State of \_\_\_\_\_

129.6 County of \_\_\_\_\_

129.7 On this [date], before me personally came [owner or operator] to me known, who,  
 129.8 being by me duly sworn, did depose and say that she/he resides at [address], that she/he  
 129.9 is [title] of [corporation], the corporation described in and which executed the above  
 129.10 instrument; that she/he knows the seal of said corporation; that the seal affixed to such  
 129.11 instrument is such corporate seal; that it was so affixed by order of the Board of Directors  
 129.12 of said corporation, and that she/he signed her/his name thereto by like order.



129.13 [Signature of Notary Public]

129.14 **7045.0526 USE AND MANAGEMENT OF CONTAINERS.**

129.15 Subpart 1. **Scope.** This part applies to owners and operators of all hazardous waste  
129.16 facilities that store containers of hazardous waste, except as part 7045.0450 provides  
129.17 otherwise. Under ~~parts part~~ part 7045.0127 and 7045.0135, subpart 4, item C Code of Federal  
129.18 Regulations, title 40, section 261.33(c), as incorporated in part 7045.0135, if a hazardous  
129.19 waste is emptied from a container, the residue remaining in the container is not considered  
129.20 a hazardous waste if the container is empty, as defined in part 7045.0127. In that event,  
129.21 management of the container is exempt from the requirements of this part.

129.22 [For text of subps 2 to 5, see M.R.]

129.23 Subp. 6. **Containment.** Requirements for containment systems are as described in  
129.24 items A to E.

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

130.1 C. Spilled or leaked waste and accumulated precipitation must be removed from  
130.2 the sump or collection area in as timely a manner as is necessary to prevent overflow of  
130.3 the collection system. If the collected material is a hazardous waste as defined in parts  
130.4 7045.0102 to ~~7045.0143~~ 7045.0155, it must be managed as a hazardous waste ~~according~~  
130.5 ~~to all applicable requirements of~~ in accordance with parts 7045.0205 to 7045.1030. If the  
130.6 collected material is discharged through a point source to waters of the United States, it is  
130.7 subject to the requirements of section 402 of the federal Clean Water Pollution Control  
130.8 ~~Act Amendments of 1972~~, United States Code, title 33, section 1342, as amended.

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

130.10 E. Storage areas that store containers holding wastes F020, F021, F022, F023,  
130.11 F026, F027, and F028 from part 7045.0135, subpart ~~2~~ 1a, item B, that do not contain free  
130.12 liquids must have a containment system defined by item A.

130.13 Subp. 7. **Special requirements for ignitable or reactive waste.** Containers holding  
130.14 ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's  
130.15 property line when physically possible based on the dimensions of the property. When it is  
130.16 not physically possible to place containers at least 50 feet from the property line, based on  
130.17 the dimensions of the property, the ignitable or reactive waste must be placed at least as  
130.18 far as the specified minimum distance from property line found in ~~Table Number 79.503-F~~  
130.19 ~~of the Minnesota Uniform State Fire Code as incorporated by reference in part 7510.3510,~~  
130.20 chapter 7510. Nothing in this subpart shall relieve the facility owner or operator from the  
130.21 obligation to comply with any local, state, or federal law governing storage of these wastes.

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

130.23 Subp. 10. **Air emission standards.** The owner or operator must manage all  
130.24 hazardous waste placed in a container in accordance with parts 7045.0540, 7045.0547,  
130.25 and 7045.0548.

130.26 **7045.0528 TANK SYSTEMS.**

131.1 Subpart 1. **Scope.** This part applies to owners and operators of facilities that use  
131.2 tank systems, including tank systems, sumps, and other such collection devices or systems  
131.3 used in conjunction with drip pads, as defined in part 7045.0020 and regulated under part  
131.4 7045.0541, to treat or store hazardous waste, except as part 7045.0450, and items A  
131.5 and B provide otherwise.

131.6 A. Tank systems that are used to store or treat hazardous waste that contains no  
131.7 free liquids and are situated inside a building with an impermeable floor are exempted  
131.8 from the requirements in subpart 4. To demonstrate the absence or presence of free liquids  
131.9 in the stored or treated waste, ~~EPA~~ the following test must be used: Method 9095 (Paint  
131.10 Filter Liquids Test) as described in "Test Methods for Evaluating Solid ~~Wastes~~ Waste,  
131.11 Physical/Chemical Methods," (EPA publication No. SW-846 ) ~~must be used,~~ incorporated  
131.12 in part 7045.0065, item D.

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

131.14 [For text of subps 2 to 9, see M.R.]

131.15 Subp. 10. **Special requirements for ignitable or reactive waste.** Ignitable or  
131.16 reactive waste must not be placed in a tank unless:

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

131.18 C. the tank is used solely for emergencies.

131.19 The owner or operator of a facility that treats or stores ignitable or reactive waste in  
131.20 a tank shall comply with the requirements for the maintenance of protective distances  
131.21 between the waste management area and any public ways, streets, alleys, or an adjoining  
131.22 property line that can be built upon, as required in the buffer zone requirements for tanks  
131.23 contained in ~~article 79~~ of the Minnesota Uniform State Fire Code, ~~as incorporated by~~  
131.24 ~~reference in part 7510.3510~~ chapter 7510. As required by part 7045.0458, the waste  
131.25 analysis plan must include analyses needed to comply with these special requirements  
131.26 for ignitable or reactive waste. Additional requirements for ignitable and reactive wastes  
132.1 are contained in part 7045.0456, subpart 1. Part 7045.0456, subpart 3 also requires waste  
132.2 analysis, trial tests, or other documentation to ensure compliance with part 7045.0456,  
132.3 subpart 2. As required by part 7045.0478, the owner or operator shall place the results  
132.4 of each waste analysis and trial test, and any documented information, in the operating  
132.5 record of the facility.

132.6 [For text of subp 11, see M.R.]

132.7 Subp. 12. **Air emission standards.** The owner or operator of a facility must manage  
132.8 all hazardous waste placed in a tank in accordance with parts 7045.0540, 7045.0547,  
132.9 and 7045.0548.

132.10 **7045.0532 SURFACE IMPOUNDMENTS.**

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

132.12 Subp. 7. **Closure and postclosure care.** The requirements of closure and postclosure  
132.13 care are as follows:

132.14 A. At closure, the owner or operator shall:

132.15 (1) remove or decontaminate all waste residues, contaminated containment  
132.16 system components including liners, contaminated subsoils, and structures and equipment  
132.17 contaminated with waste and leachate, and manage them as hazardous waste unless  
132.18 they are shown to not be hazardous ~~according to~~ in accordance with parts 7045.0102 to  
132.19 ~~7045.0143~~ 7045.0155; or

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

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

132.22 Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or reactive  
132.23 waste must not be placed in a surface impoundment, unless the waste and impoundment  
132.24 satisfy all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and:

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

133.2 Subp. 9. **Special requirements for incompatible wastes.** Incompatible wastes, or  
133.3 incompatible wastes and materials, must not be placed in the same surface impoundment  
133.4 unless compliance with part 7045.0456, subpart 2 is maintained. For examples of  
133.5 potentially incompatible wastes, or incompatible waste and materials, see part 7045.0543,  
133.6 subpart 1, item C.

133.7 Subp. 10. **Special requirements for hazardous wastes F020, F021, F022, F023,**  
133.8 **F026, F027, and F028.** The following requirements apply to the hazardous wastes  
133.9 indicated:

133.10 A. Hazardous waste F020, F021, F022, F023, F026, and F027 listed under part  
133.11 7045.0135, subpart 2 1a, item B, must not be placed in a surface impoundment.

133.12 B. Hazardous waste F028 and treatment residues and soils contaminated with  
133.13 hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part  
133.14 7045.0135, subpart 2 1a, item B, must not be placed in surface impoundments unless the  
133.15 owner or operator operates the surface impoundment in accordance with all applicable  
133.16 requirements of this part and in accordance with a management plan that is approved by  
133.17 the commissioner considering the following factors:

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

133.19 C. The commissioner shall impose additional design, operating, and monitoring  
133.20 requirements if the commissioner finds that additional requirements are necessary for  
133.21 surface impoundments used to treat, store, or dispose of hazardous waste F028 and  
133.22 treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023,  
133.23 F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, in order to reduce  
133.24 the possibility of migration of these wastes to ground water, surface water, or air so as to  
133.25 protect human health and the environment.

134.1 Subp. 11. **Air emission standards.** The owner or operator must manage all  
134.2 hazardous waste placed in a surface impoundment in accordance with parts 7045.0540  
134.3 and 7045.0548.

134.4 **7045.0534 WASTE PILES.**

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

134.6 Subp. 7. **Closure and postclosure care.** Closure and postclosure requirements  
134.7 are as follows:

134.8 A. At closure, the owner or operator shall remove or decontaminate all waste  
134.9 residues, contaminated containment system components including liners, contaminated  
134.10 subsoils, and structures and equipment contaminated with waste and leachate; and manage

134.11 them as hazardous waste unless they are shown to not be hazardous ~~according to~~ in  
134.12 accordance with parts 7045.0102 to ~~7045.0143~~ 7054.0150.

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

134.14 Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or  
134.15 reactive waste must not be placed in a waste pile unless the waste and waste pile satisfy all  
134.16 applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and:

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

134.18 [For text of subp 9, see M.R.]

134.19 Subp. 10. **Special requirements for hazardous wastes F020, F021, F022, F023,**  
134.20 **F026, F027, and F028.** The following requirements apply to the hazardous wastes  
134.21 indicated:

134.22 A. Hazardous waste F020, F021, F022, F023, F026, and F027 listed under part  
134.23 7045.0135, subpart ~~2~~ 1a, item B, must not be placed in a surface impoundment.

135.1 B. Hazardous waste F028 and treatment residues and soils contaminated with  
135.2 hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part  
135.3 7045.0135, subpart ~~2~~ 1a, item B, must not be placed in surface impoundments unless the  
135.4 owner or operator operates the surface impoundment in accordance with all applicable  
135.5 requirements of this part and in accordance with a management plan that is approved by  
135.6 the commissioner considering the following factors:

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

135.8 C. The commissioner shall impose additional design, operating, and monitoring  
135.9 requirements if the commissioner finds that additional requirements are necessary for  
135.10 surface impoundments used to treat, store, or dispose of hazardous waste F028 and  
135.11 treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023,  
135.12 F026, F027, and F028 listed under part 7045.0135, subpart ~~2~~ 1a, item B, in order to reduce

135.13 the possibility of migration of these wastes to ground water, surface water, or air so as to  
135.14 protect human health and the environment.

135.15 **7045.0536 LAND TREATMENT.**

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

135.17 Subp. 9. **Ignitable or reactive waste.** The owner or operator shall not apply  
135.18 ignitable or reactive waste to the treatment zone unless the waste and the treatment zone  
135.19 meet all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and:

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

135.21 [For text of subp 10, see M.R.]

135.22 Subp. 11. **Special requirements for hazardous wastes F020, F021, F022, F023,**  
135.23 **F026, F027, and F028.** The following requirements apply to the hazardous wastes  
135.24 indicated:

136.1 A. Hazardous wastes F020, F021, F022, F023, F026, and F027 listed under part  
136.2 7045.0135, subpart 2 1a, item B, must not be placed in a land treatment unit.

136.3 B. Hazardous waste F028 and treatment residues and soils contaminated with  
136.4 hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part  
136.5 7045.0135, subpart 2 1a, item B, must not be managed at land treatment units unless  
136.6 the owner or operator operates the land treatment unit in accordance with all applicable  
136.7 requirements of this part and in accordance with a management plan that is approved by  
136.8 the commissioner considering the following factors:

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

136.10 C. The commissioner shall impose additional design, operating, and monitoring  
136.11 requirements if the commissioner finds that the additional requirements are necessary for  
136.12 land treatment facilities used to treat or dispose of hazardous waste F028 and treatment  
136.13 residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026,

136.14 F027, and F028 listed under part 7045.0135, subpart ~~2~~ 1a, item B, in order to reduce the  
136.15 possibility of migration of these wastes to ground water, surface water, or air so as to  
136.16 protect human health and the environment.

136.17 **7045.0538 LANDFILLS.**

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

136.19 Subp. 7. **Closure and postclosure care.** Closure and postclosure care requirements  
136.20 are as follows:

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

136.22 B. After final closure, the owner or operator shall comply with all postclosure  
136.23 requirements contained in parts 7045.0488 to 7045.0494 including maintenance and  
136.24 monitoring throughout the postclosure care period specified in the permit under part  
136.25 7045.0488. The owner or operator shall:

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

137.2 (4) maintain and monitor the leak detection system in accordance with  
137.3 subparts 3, item C, subitems (3), unit (d), and (4); and 5, item C, and comply with all other  
137.4 applicable leak detection system requirements of ~~this part~~ parts 7045.0450 to 7045.0551  
137.5 governing facility standards;

137.6 [For text of subitems (5) to (8), see M.R.]

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

137.8 Subp. 8. **Special requirements for ignitable or reactive waste.** Special  
137.9 requirements for ignitable or reactive waste are as follows:

137.10 A. Except as provided in item B and subpart 12, ignitable or reactive waste must  
137.11 not be placed in a landfill, unless the waste and landfill meet all applicable requirements  
137.12 of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and the resulting waste, mixture, or



137.13 dissolution of material no longer meets the definition of ignitable or reactive waste  
137.14 under part 7045.0131, subpart 2 or 5, and compliance with part 7045.0456, subpart 2  
137.15 is maintained.

137.16 B. Except for prohibited wastes which remain subject to treatment standards in  
137.17 ~~parts 7045.1350 to 7045.1360~~ Code of Federal Regulations, title 40, sections 268.40 to  
137.18 268.42, as incorporated in part 7045.1390, ignitable wastes in containers may be landfilled  
137.19 without meeting the requirements of item A, provided that the wastes are disposed of in  
137.20 such a way that they are protected from any material or conditions which may cause them  
137.21 to ignite. At a minimum, ignitable wastes must be disposed of in nonleaking containers  
137.22 which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other  
137.23 condition that might cause ignition of the wastes; must be covered daily with soil or other  
137.24 noncombustible material to minimize the potential for ignition of the wastes; and must not  
137.25 be disposed of in cells that contain or will contain other wastes which may generate heat  
137.26 sufficient to cause ignition of the waste.

138.1 [For text of subp 9, see M.R.]

138.2 Subp. 10. **Special requirements for liquid waste.** Special requirements for liquid  
138.3 waste are as follows:

138.4 A. The placement in any landfill of bulk or noncontainerized liquid hazardous  
138.5 waste or waste containing free liquids, whether or not ~~absorbents~~ sorbents have been  
138.6 added, is prohibited.

138.7 B. Containers holding free liquids must not be placed in a landfill unless:

138.8 (1) all free-standing liquid has been removed by decanting, or other  
138.9 methods; has been mixed with ~~absorbent~~ sorbent or solidified so that freestanding liquid  
138.10 is no longer observed; or has been otherwise eliminated;

138.11 (2) the container is very small, such as an ~~ampule~~ ampoule; or

138.12 (3) the container is a laboratory pack as defined in subpart 12 and is  
138.13 disposed of in accordance with subpart 12.

138.14 C. To demonstrate the presence or absence or presence of free liquids in  
138.15 either a containerized or a bulk waste, the following test must be demonstrated using the  
138.16 Paint Filter Liquids Test, used: Method 9095 (Paint Filter Liquids Test) as described in  
138.17 "Test Methods for Evaluating Solid Wastes Waste, Physical/Chemical Methods," EPA  
138.18 publication number SW\_846, incorporated in part 7045.0065, item D.

138.19 D. Sorbents used to treat free liquids to be disposed of in landfills must be  
138.20 nonbiodegradable. Nonbiodegradable sorbents are materials listed or described in subitem  
138.21 (1) or materials that pass one of the tests in subitem (2).

138.22 (1) Nonbiodegradable sorbents:

138.23 (a) inorganic minerals, other inorganic materials, and elemental  
138.24 carbon (for example, aluminosilicates, clays, smectites, Fuller's earth, bentonite,  
138.25 calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite),  
139.1 vermiculites, and zeolites; calcium carbonate (organic free limestone); oxides/hydroxides,  
139.2 alumina, lime, silica (sand), and diatomaceous earth; perlite (volcanic glass); expanded  
139.3 volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; and activated  
139.4 charcoal/activated carbon);

139.5 (b) high molecular weight synthetic polymers (for example,  
139.6 polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene,  
139.7 polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber,  
139.8 cross-linked allylstyrene, and tertiary butyl copolymers). This does not include polymers  
139.9 derived from biological material or polymers specifically designed to be degradable; or

139.10 (c) mixtures of these nonbiodegradable materials.

139.11 (2) Tests for nonbiodegradable sorbents must use the following methods.  
139.12 The methods and tests in this subitem are incorporated by reference, are not subject to  
139.13 frequent change, and are available through the Minitex interlibrary loan system:

139.14 (a) the sorbent material is determined to be nonbiodegradable under  
139.15 ASTM Method G21-70 (1984a), Standard Practice for Determining Resistance of  
139.16 Synthetic Polymer Materials to Fungi;

139.17 (b) the sorbent material is determined to be nonbiodegradable under  
139.18 ASTM Method G22-76 (1984b), Standard Practice for Determining Resistance of Plastics  
139.19 to Bacteria; or

139.20 (c) the sorbent material is determined to be nonbiodegradable under  
139.21 OECD test 301B: CO<sub>2</sub> Evolution (Modified Sturm Test).

139.22 [For text of subp 11, see M.R.]

139.23 **Subp. 12. Disposal of small containers of hazardous waste in overpacked drums.**  
139.24 Small containers of hazardous waste in overpacked drums, or laboratory packs, may be  
139.25 placed in a landfill if the requirements of items A to F are met:

140.1 A. Hazardous waste must be packaged in nonleaking inside containers. The  
140.2 inside containers must be of a design and constructed of a material that will not react  
140.3 dangerously with, be decomposed by, or be ignited by the contained waste. Inside  
140.4 containers must be tightly and securely sealed. The inside containers must be of the size  
140.5 and type ~~specified~~ authorized in the United States Department of Transportation hazardous  
140.6 materials regulations under Code of Federal Regulations, title 49, parts 173, 178, ~~and~~  
140.7 179, and 180, as amended, if those regulations specify a particular inside container for  
140.8 the waste.

140.9 B. The inside containers must be overpacked in ~~an open~~ a removable head  
140.10 metal shipping container as specified in the United States Department of Transportation

140.11 regulations under Code of Federal Regulations, title 49, section 173.12 and parts 178 and,  
140.12 179, and 180, as amended, ~~of no more than 415-liter (110-gallon) capacity and.~~ The  
140.13 inside containers must be surrounded by, at a minimum, a sufficient quantity of ~~absorbent~~  
140.14 chemically compatible sorbent material, determined to be nonbiodegradable in accordance  
140.15 with subpart 10, item D, to completely ~~absorb~~ sorb all of the liquid contents of the inside  
140.16 containers. The gross weight of the complete package must not exceed 205 kilograms  
140.17 (452 pounds). The metal outer container must be full after ~~packing~~ it has been packed  
140.18 with inside containers and ~~absorbent~~ sorbent materials.

140.19 C. The ~~absorbent~~ sorbent material used must not be capable of reacting  
140.20 dangerously with, being decomposed by, or being ignited by the contents of the inside  
140.21 containers, in accordance with part 7045.0456, subpart 2.

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

140.23 F. The disposal is in compliance with ~~parts 7045.1300 to 7045.1380~~ part  
140.24 7045.1390. Persons who incinerate lab packs ~~according to part 7045.1360~~ in accordance  
140.25 with Code of Federal Regulations, title 40, section 268.42, as incorporated in part  
140.26 7045.1390, may use fiber drums in place of metal outer containers. The fiber drums  
141.1 must meet United States Department of Transportation specifications in Code of Federal  
141.2 Regulations, title 49, section 173.12, as amended, and be overpacked ~~according to the~~  
141.3 requirements in accordance with item B.

141.4 Subp. 13. **Special requirements for hazardous wastes F020, F021, F022, F023,**  
141.5 **F026, F027, and F028.** The following requirements apply to the hazardous wastes  
141.6 indicated:

141.7 A. Hazardous wastes F020, F021, F022, F023, F026, and F027 listed under part  
141.8 7045.0135, subpart ~~2~~ 1a, item B, must not be placed in a landfill.

141.9 B. Hazardous waste F028 and treatment residues and soils contaminated with  
141.10 hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part

141.11 7045.0135, subpart 2 1a, item B, must not be managed at landfills unless the owner or  
141.12 operator operates the landfill in accordance with all applicable requirements of this  
141.13 part and in accordance with a management plan that is approved by the commissioner  
141.14 considering the following factors:

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

141.16 C. The commissioner shall impose additional design, operating, and monitoring  
141.17 requirements if the commissioner finds that the additional requirements are necessary  
141.18 for landfills used to dispose of hazardous waste F028 and treatment residues and soil  
141.19 contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028  
141.20 listed under part 7045.0135, subpart 2 1a, item B, in order to reduce the possibility of  
141.21 migration of these wastes to ground water, surface water, or air so as to protect human  
141.22 health and the environment.

141.23 **7045.0539 MISCELLANEOUS UNITS.**

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

142.1 Subp. 2. **Environmental performance standards.** A miscellaneous unit must  
142.2 be located, designed, constructed, operated, maintained, and closed in a manner that  
142.3 will ensure protection of human health and the environment. Permits for miscellaneous  
142.4 units are to contain the terms and provisions necessary to protect human health and  
142.5 the environment, including, but not limited to, as appropriate, design and operating  
142.6 requirements, detection and monitoring requirements, and requirements for responses to  
142.7 releases of hazardous waste or hazardous constituents from the unit. Permit terms and  
142.8 provisions shall include those requirements of parts ~~7023.9000 to 7023.9050~~, 7045.0526  
142.9 to 7045.0542, 7045.0547, and 7045.0548, and chapter 7001 that are appropriate for the  
142.10 miscellaneous unit being permitted. Protection of human health and the environment  
142.11 includes, but is not limited to:

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

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

142.14 **7045.0540 AIR EMISSION STANDARDS FOR TANKS, SURFACE**  
142.15 **IMPOUNDMENTS, AND CONTAINERS.**

142.16 Subpart 1. **Incorporation of federal regulations.** The owners and operators of  
142.17 facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments,  
142.18 or containers must comply with Code of Federal Regulations, title 40, part 264, subpart  
142.19 CC, air emission standards for tanks, surface impoundments, and containers, sections  
142.20 264.1080 to 264.1090, as amended, which are incorporated by reference subject to the  
142.21 exceptions in subpart 2.

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

142.23 A. The agency does not incorporate the following Code of Federal Regulations,  
142.24 title 40, part 264, subpart CC provisions, as amended:

142.25 (1) Code of Federal Regulations, title 40, section 264.1080(d) to (g),  
142.26 governing specific exclusions; and

143.1 (2) Code of Federal Regulations, title 40, section 264.1082(c)(4)(ii),  
143.2 governing authority that EPA cannot delegate to states.

143.3 B. Part 7045.0090, adoption and incorporation by reference, also applies.

143.4 **7045.0542 THERMAL TREATMENT.**

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

143.6 Subp. 4. **Performance standards.** A thermal treatment facility thermally treating  
143.7 hazardous waste must be designed, constructed, and maintained so that, when operated in  
143.8 accordance with operating requirements specified under subpart 6 it will comply with all  
143.9 federal and state air quality rules and regulations and will meet the performance standards  
143.10 of items A to E, whichever are applicable:

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

143.12 E. A thermal treatment facility thermally treating hazardous wastes F020,  
143.13 F021, F022, F023, F026, and F027 listed under part 7045.0135, subpart 2 1a, item B,  
143.14 must achieve a destruction and removal efficiency ("DRE") of 99.9999 percent for each  
143.15 principal organic hazardous constituent designated in its permit. This performance must  
143.16 be demonstrated on principal organic hazardous constituents that are more difficult to  
143.17 incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE  
143.18 is determined for each principal organic hazardous constituent from the equation in item  
143.19 A. In addition, the owner or operator of the thermal treatment facility must notify the  
143.20 commissioner of the intent to burn waste F020, F021, F022, F023, F026, or F027.

143.21 [For text of subps 5 to 9, see M.R.]

143.22 **7045.0543 APPENDICES TO FACILITY STANDARDS.**

143.23 Subpart 1. **Incorporation of federal regulations.** The following appendices found in  
143.24 Code of Federal Regulations, title 40, part 264, as amended, are incorporated by reference:

144.1 A. Appendix I, Recordkeeping Instructions;

144.2 B. Appendix IV, Cochran's Approximation to the Behrens-Fisher Students'

144.3 T-test;

144.4 C. Appendix V, Examples of Potentially Incompatible Waste; and

144.5 D. Appendix IX, Ground Water Monitoring List.

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

144.7 Part 7045.0090, adoption and incorporation by reference, also applies.

144.8 **7045.0544 COCHRAN'S APPROXIMATION TO THE BEHRENS-FISHER**  
144.9 **STUDENTS' T-TEST.**

144.10 ~~Subpart 1. **In general.** Subpart 2 describes Cochran's approximation to the~~  
144.11 ~~Behrens-Fisher Students' t-test. Subpart 3 presents the standard t-tables at the 0.05 level of~~  
144.12 ~~significance. Part 7045.0543, subpart 1, item B, incorporates this test by reference.~~

144.13 Subp. 2. [See repealer.]

144.14 Subp. 3. [See repealer.]

144.15 **7045.0550 CONTAINMENT BUILDINGS.**

144.16 Subpart 1. **Incorporation of federal regulations.** The owners and operators of  
144.17 facilities that store or treat hazardous waste in containment buildings must comply with  
144.18 Code of Federal Regulations, title 40, part 264, subpart DD, Containment Buildings,  
144.19 sections 264.1100 to 264.1110, as amended, which is incorporated by reference subject to  
144.20 the exceptions in subpart 2.

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

144.22 Part 7045.0090, adoption and incorporation by reference, also applies.

144.23 **7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.**

145.1 Subpart 1. **General requirements.** Parts 7045.0552 to ~~7045.0642~~ 7045.0651  
145.2 establish minimum standards for the management of hazardous waste during the period  
145.3 of interim status and until certification of final closure or, if the facility is subject to  
145.4 postclosure requirements, until postclosure responsibilities are fulfilled. Except as  
145.5 provided in Code of Federal Regulations, title 40, section 265.1080(b), as incorporated  
145.6 in part 7045.0645, the standards in parts 7045.0552 to 7045.0651, and the standards  
145.7 for the corrective action management units in part 7045.0545, temporary units in part  
145.8 7045.0546, and staging piles in part 7045.0547, apply to: (1) owners and operators of  
145.9 facilities that treat, store, or dispose of hazardous waste who have fully complied with  
145.10 the requirements for interim status under chapter 7001 and section 3005(e) of the federal  
145.11 Resource Conservation and Recovery Act (RCRA) until either a permit is issued under  
145.12 chapter 7001 and section 3005 of RCRA or until applicable interim status closure and  
145.13 postclosure responsibilities are fulfilled and (2) those owners and operators of facilities  
145.14 in existence on November 19, 1980, who have failed to provide timely notification as  
145.15 required by section 3010(a) of RCRA or failed to file Part A of the permit application in



145.16 chapter 7001. These standards, and those in parts 7045.0545 to 7045.0547, apply to  
145.17 owners and operators of existing facilities who have fully complied with the requirements  
145.18 for state or federal interim status until a permit is issued or until applicable interim status  
145.19 closure and postclosure responsibilities are fulfilled, and those who have failed to achieve  
145.20 state or federal interim status.

145.21 Parts 7045.0552 to ~~7045.0642~~ 7045.0651 apply to the owners and operators of all  
145.22 facilities that treat, store, or dispose of hazardous waste referred to in ~~parts 7045.1300 to~~  
145.23 ~~7045.1380~~ part 7045.1390, land disposal restrictions, and those restrictions are considered  
145.24 material conditions or requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651, interim  
145.25 status standards.

145.26 Subp. 1a. **Applicability for owners and operators of facilities not regulated as**  
145.27 **hazardous waste facilities by federal regulation.** Owners and operators of hazardous  
146.1 waste facilities that are not federally regulated as hazardous waste facilities that are,  
146.2 for example, regulated as facilities by state rule only, are subject to the applicable  
146.3 requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651 on the effective date of any  
146.4 rules that make the facility subject to regulation. The facility shall submit a Part B  
146.5 application for a hazardous waste facility permit to the commissioner within one year of  
146.6 the effective date of any rules that first make the facility subject to the requirement to  
146.7 obtain a hazardous waste facility permit.

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

146.9 Subp. 3. **Exemptions.** The requirements of parts 7045.0552 to ~~7045.0648~~ 7045.0651  
146.10 do not apply to the following specific waste management units, facilities, or activities,  
146.11 although all other waste management activities of the owner or operator may be regulated:

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

146.13 B. a facility managing recyclable hazardous wastes subject to regulation under  
146.14 part 7045.0125, 7045.0665, 7045.0675, or 7045.0685; however, this exemption does not

146.15 apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 makes the requirements  
146.16 of parts 7045.0552 to ~~7045.0648~~ 7045.0651 applicable by cross-reference;

146.17 [For text of items C to E, see M.R.]

146.18 F. an elementary neutralization unit, a pretreatment unit, or a wastewater  
146.19 treatment unit, if the unit does not receive hazardous waste from generators other than  
146.20 the owner or operator of the unit, provided that if the owner or operator is diluting  
146.21 hazardous ignitable (D001) wastes (other than the D001 high TOC subcategory defined  
146.22 in Code of Federal Regulations, title 40, section 268.40, Table of Treatment Standards  
146.23 for Hazardous Wastes, as incorporated in part 7045.1390), or reactive (D003) waste, to  
146.24 remove the characteristic before land disposal, the owner or operator must comply with  
146.25 part 7045.0562, subpart 2;

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

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

147.6 (2) a facility otherwise regulated by parts 7045.0552 to ~~7045.0642~~  
147.7 7045.0651 shall comply with all applicable requirements of parts 7045.0395, 7045.0397,  
147.8 7045.0558, and 7045.0566 to 7045.0576; or

147.9 (3) a person who is covered by subitem (1) and who continues or initiates  
147.10 hazardous waste treatment or containment activities after the immediate response is over  
147.11 is subject to all applicable requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651 and  
147.12 the agency's permitting procedures for those activities;

147.13 K. treatment of hazardous waste by the generator in the generator's  
147.14 accumulation tanks or containers in accordance with part 7045.0292. If the treatment

147.15 involves evaporation of aqueous waste or polymerization of polyester or other chemical  
147.16 fixation treatment processes in open containers, the generator is exempt from parts  
147.17 7045.0552 to ~~7045.0642~~ 7045.0651, but before beginning the treatment process must  
147.18 submit to the commissioner the information required under part 7045.0539, subpart  
147.19 2, items A to C, that is relevant to the treatment activity and must be notified by the  
147.20 commissioner that the treatment activity is approved. The commissioner shall approve the  
147.21 treatment activity if the commissioner finds that the treatment activity will not endanger  
147.22 human health and the environment; or

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

147.24 Subp. 4. **Restrictions.** Hazardous wastes F020, F021, F022, F023, F026, F027, and  
147.25 F028 listed under part 7045.0135, subpart 2 1a, item B, must not be managed at facilities  
147.26 governed by interim status unless:

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

148.2 **7045.0556 GENERAL FACILITY STANDARDS.**

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

148.4 Subp. 3. **Required notices.** Notices are required in the following situations:

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

148.6 C. Before transferring ownership or operation of a facility during its operating  
148.7 life, or of a disposal facility during the postclosure care period, the owner or operator shall  
148.8 notify the new owner or operator in writing of the requirements of parts 7045.0552 to  
148.9 ~~7045.0642~~ 7045.0651. An owner's or operator's failure to notify the new owner or operator  
148.10 of these requirements does not relieve the new owner or operator of the obligation to  
148.11 comply with all applicable requirements.

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

148.13 Subp. 4. **Security.** Security measures include the following:

148.14 A. The owner or operator shall prevent the unknowing entry, and minimize the  
148.15 possibility for the unauthorized entry, of persons or livestock onto the active portion of  
148.16 the facility, unless:

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

148.18 (2) disturbance of the waste or equipment, by the unknowing or  
148.19 unauthorized entry of persons or livestock onto the active portion of a facility, will not  
148.20 cause a violation of the requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651.

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

148.22 Subp. 5. **General inspection requirements.** General inspection requirements are  
148.23 listed in items A to E.

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

149.1 C. The frequency of inspection may vary for the items on the schedule.  
149.2 However, ~~it~~ the frequency must be based on the rate of possible deterioration of the  
149.3 equipment and the probability of an environmental or human health incident if the  
149.4 deterioration ~~or~~, malfunction, or any operator error goes undetected between inspections.  
149.5 Areas subject to spills, such as loading and unloading areas, must be inspected daily when  
149.6 in use. At a minimum, the inspection schedule must include the terms and frequencies  
149.7 called for in parts 7045.0626, subpart 5; 7045.0628, subparts 4 and 7; 7045.0630, subpart  
149.8 5; 7045.0632, subpart 9; 7045.0634, subpart 4; 7045.0638, subpart 2c; 7045.0640, subpart  
149.9 4; and 7045.0642, subpart 4; and the process vent ~~and~~, equipment leak, and tank,  
149.10 surface impoundment, and container standards in Code of Federal Regulations, title 40,  
149.11 sections ~~264.1033, 264.1052, 264.1053, and 264.1058~~ 265.1033, 265.1052, 265.1053,  
149.12 and 265.1058, as amended, and sections 265.1084 to 265.1090(b), as incorporated in  
149.13 part 7045.0645.

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

149.15 [For text of subps 6 to 8, see M.R.]

149.16 **7045.0564 WASTE ANALYSIS REQUIREMENTS.**

149.17 Subpart 1. **Waste analysis.** The analysis must comply with the requirements in  
149.18 items A to D.

149.19 A. Before an owner or operator treats, stores, or disposes of any hazardous  
149.20 waste, or nonhazardous waste if applicable under part 7045.0596, subpart 2a, the owner or  
149.21 operator shall obtain a detailed chemical and physical analysis of a representative sample  
149.22 of the waste. This analysis must contain all the information which must be known in  
149.23 order to treat, store, or dispose of the waste in accordance with the requirements of parts  
149.24 7045.0552 to ~~7045.0642~~ 7045.0651 and ~~7045.1300 to 7045.1380~~ 7045.1390.

149.25 B. The analysis may include data developed under parts 7045.0102 to ~~7045.0143~~  
149.26 7045.0155, and existing published or documented data on the hazardous waste or on  
150.1 hazardous waste generated from similar processes, including data obtained from the  
150.2 generator.

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

150.4 Subp. 2. **Waste analysis plan.** The owner or operator shall develop and follow a  
150.5 written waste analysis plan which describes the procedures the owner or operator will  
150.6 carry out to comply with subpart 1. The owner or operator shall keep this plan at the  
150.7 facility. The plan must specify:

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

150.9 F. Where applicable, the methods that will be used to meet the additional  
150.10 waste analysis requirements for specific waste management methods as specified in parts  
150.11 7045.0628, subpart 12; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3;  
150.12 7045.0638, subpart 7; 7045.0640, subpart 2; and 7045.0642, subpart 3; and 7045.1315  
150.13 Code of Federal Regulations, title 40, section 268.7, as incorporated in part 7045.1390;

150.14 and the process vent ~~and~~, equipment leak, and tank, surface impoundment, and container  
150.15 test methods and procedures in Code of Federal Regulations, title 40, sections ~~264.1034(d)~~  
150.16 ~~and 264.1063(d)~~ 265.1034(d) and 265.1063(d), as amended, and section 265.1084, as  
150.17 incorporated in part 7045.0645.

150.18 G. For off-site facilities, the waste analysis plan must also specify the  
150.19 procedures ~~which~~ that will be used to inspect and, if necessary, analyze each movement of  
150.20 hazardous waste received at the facility to ensure that it matches the identity of the waste  
150.21 designated on the accompanying manifest or shipping paper. The plan must describe:

150.22 (1) the procedures ~~which~~ that will be used to determine the identity of each  
150.23 movement of waste managed at the facility; ~~and~~

150.24 (2) the sampling method ~~which~~ that will be used to obtain a representative  
150.25 sample of the waste to be identified, if the identification method includes sampling; and

151.1 (3) the procedures that the owner or operator of an off-site landfill receiving  
151.2 containerized hazardous waste will use to determine whether a hazardous waste generator  
151.3 or treater has added a biodegradable sorbent to the waste in the container.

151.4 H. For surface impoundments exempted from the land disposal restrictions  
151.5 under ~~part 7045.1310~~ Code of Federal Regulations, title 40, section 268.4, as incorporated  
151.6 in part 7045.1390, the procedures and schedule for:

151.7 (1) the sampling of impoundment contents;

151.8 (2) the analysis of test data; and

151.9 (3) the annual removal of residues which are not delisted under part  
151.10 7045.0075, subpart 2, or which exhibit a characteristic of hazardous waste under part  
151.11 7045.0131, and either do not meet applicable treatment standards of ~~parts 7045.1350~~  
151.12 ~~to 7045.1360~~ Code of Federal Regulations, title 40, sections 268.40 to 268.42, as  
151.13 incorporated in part 7045.1390, or, where no treatment standards have been established,

151.14 such residues are prohibited from land disposal under ~~parts 7045.1320 to 7045.1333~~  
151.15 Code of Federal Regulations, title 40, sections 268.30 to 268.35, as incorporated in part  
151.16 7045.1390, or RCRA section 3004(d).

151.17 I. For owners and operators seeking an exemption to the air emission standards  
151.18 in part 7045.0540 in accordance with Code of Federal Regulations, title 40, section  
151.19 265.1083, as incorporated in part 7045.0645:

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

151.23 (2) if knowledge of the waste is used for the waste determination, any  
151.24 information prepared by the facility owner or operator or by the generator of the hazardous  
152.1 waste, if the waste is received from off site, that is used as the basis for knowledge of  
152.2 the waste.

152.3 **7045.0584 OPERATING RECORD.**

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

152.5 Subp. 3. **Record information.** The following information must be recorded, as it  
152.6 becomes available, and maintained in the operating record until closure of the facility:

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

152.8 C. A description and the quantity of each hazardous waste received, and the  
152.9 method and date of treatment, storage, or disposal at the facility in accordance with the  
152.10 record-keeping instructions in Code of Federal Regulations, title 40, part 265, Appendix I,  
152.11 as incorporated in part 7045.0643.

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

152.13 E. Records and results of waste analyses, waste determinations, and trial tests  
152.14 performed as specified in parts 7045.0564; 7045.0628, subpart 12; 7045.0630, subpart 4;

152.15 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart  
152.16 2; and 7045.0642, subpart 3; ~~7045.1310; and 7045.1315~~ Code of Federal Regulations,  
152.17 title 40, sections 268.4(a) and 268.7, as incorporated in part 7045.1390; and the process  
152.18 vent ~~and,~~ equipment leak, and tank, surface impoundment, and container test methods  
152.19 and procedures in Code of Federal Regulations, title 40, sections ~~264.1034 and 264.1063~~  
152.20 265.1034 and 265.1063, as amended, and section 265.1084, as incorporated in part  
152.21 7045.0645.

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

152.23 H. Monitoring, testing, or analytical data, and corrective action where required  
152.24 by parts 7045.0556, subpart 8; 7045.0590, subparts 1, 6, 7, and 8; 7045.0592, subparts  
152.25 1 and 7; 7045.0628, subparts 2, 4, and 7; 7045.0630, subparts 2a, 3, and 5; 7045.0632,  
153.1 subparts 4b, 8, and 9; 7045.0634, subparts 4 and 6, item D, subitem (1); 7045.0636;  
153.2 7045.0638, subparts 2a, 2b, and 2c; and 7045.0640, subpart 4, and the process vent  
153.3 ~~and,~~ equipment leak, and tank, surface impoundment, and container test methods and  
153.4 procedures and record keeping requirements in Code of Federal Regulations, title 40,  
153.5 sections ~~264.1034~~ 265.1034(c) to (f), ~~264.1035, 264.1063~~ 265.1035, 265.1063(d) to (i),  
153.6 and ~~264.1064~~ 265.1064, as amended, and sections 265.1083 to 265.1090, as incorporated  
153.7 in part 7045.0645. As required by parts 7045.0590, subparts 6 and 7; and 7045.0592,  
153.8 subpart 7, monitoring data at disposal facilities must be kept throughout the postclosure  
153.9 period.

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

153.11 J. Records of the quantities and date of placement of each shipment of hazardous  
153.12 waste placed in land disposal units under an extension to the effective date of any land  
153.13 disposal restriction granted ~~under part 7045.0075, subpart 8 or 9,~~ by the United States  
153.14 Environmental Protection Agency under Code of Federal Regulations, title 40, section  
153.15 268.5, monitoring data required pursuant to a petition under part 7045.0075, subpart 9,



153.16 or a certificate and demonstration under Code of Federal Regulations, title 40, section  
153.17 268.8, as ~~amended~~ incorporated in part 7045.1390, and the notice required by a generator  
153.18 under ~~part 7045.1315, subpart 1, item C~~ Code of Federal Regulations, title 40, section  
153.19 268.7(a)(3), as incorporated in part 7045.1390.

153.20 K. For an off-site treatment facility, the notice, and the certification and  
153.21 demonstration, if applicable, required by a generator or the owner or operator under Code  
153.22 of Federal Regulations, title 40, ~~section~~ sections 268.7(a)(1) and 268.8, as ~~amended~~, and  
153.23 ~~part 7045.1315, subpart 1, item A~~ incorporated in part 7045.1390.

153.24 L. For an on-site treatment facility, the information contained in the notice and  
153.25 the certification and demonstration, if applicable, required by a generator or the owner  
153.26 or operator under Code of Federal Regulations, title 40, ~~section~~ sections 268.7(a)(1) and  
154.1 268.8, as ~~amended~~, and ~~part 7045.1315, subpart 1, item A~~ incorporated in part 7045.1390,  
154.2 except for the manifest number required under ~~part 7045.1315, subpart 1, item A, subitem~~  
154.3 ~~(3)~~ Code of Federal Regulations, title 40, section 268.7(a)(1)(i), as incorporated in part  
154.4 7045.1390.

154.5 M. For an off-site land disposal facility, the notice, certification and  
154.6 demonstration, if applicable, required by the generator, owner or operator of a treatment  
154.7 facility under Code of Federal Regulations, title 40, section 268.7(b)(1)(2) or 268.8, as  
154.8 ~~amended~~, or ~~part 7045.1315, subpart 2, items A and B~~ incorporated in part 7045.1390,  
154.9 for the facility or ~~part 7045.1315, subpart 1, item B~~ Code of Federal Regulations, title  
154.10 40, section 268.7(a)(3), as incorporated in part 7045.1390, for the generator, whichever  
154.11 is applicable.

154.12 N. For an on-site land disposal facility, the information contained in the notice  
154.13 and the certification and demonstration, if applicable, required by a generator or the  
154.14 owner or operator under Code of Federal Regulations, title 40, section 268.7 or 268.8,

154.15 as amended incorporated in part 7045.1390, ~~or part 7045.1315~~ except for the manifest  
154.16 number, whichever is applicable.

154.17 O. For an off-site storage facility, a copy of the notice, and the certification and  
154.18 demonstration if applicable, required by the generator or the owner or operator under Code  
154.19 of Federal Regulations, title 40, section 268.7 or 268.8, as amended, ~~or part 7045.1315~~  
154.20 incorporated in part 7045.1390.

154.21 P. For an on-site storage facility, the information contained in the notice, except  
154.22 the manifest number, and the certification and demonstration if applicable, required by  
154.23 the generator or the owner or operator of a treatment facility under Code of Federal  
154.24 Regulations, title 40, section 268.7 or 268.8, as amended, ~~or part 7045.1315~~ incorporated  
154.25 in part 7045.1390.

154.26 **7045.0586 RETENTION AND DISPOSITION OF RECORDS.**

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

155.2 Subp. 2. **Retention of records.** The retention period for all records required under  
155.3 parts 7045.0552 to ~~7045.0642~~ 7045.0651 is three years and is extended automatically  
155.4 during the course of any unresolved enforcement action regarding the facility.

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

155.6 **7045.0588 REQUIRED REPORTS.**

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

155.8 Subp. 4. **Additional reports.** In addition to submitting the manifest discrepancy  
155.9 report described in part 7045.0582, subpart 3, and the annual report and the unmanifested  
155.10 waste reports described in subparts 2 and 3, the owner or operator shall also report to the  
155.11 commissioner and the Environmental Protection Agency Region V Administrator:

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

155.13 D. as otherwise required by the process vent ~~and~~, equipment leak, and tank,  
155.14 surface impoundment, and container emission standards in Code of Federal Regulations,  
155.15 title 40, part 265, subparts AA and BB, as amended parts 7045.0645, 7045.0647, and  
155.16 7045.0648.

155.17 **7045.0594 CLOSURE.**

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

155.19 Subp. 2. **Closure performance standard.** The owner or operator shall close the  
155.20 facility in a manner minimizing the need for further maintenance. Closure procedures  
155.21 must result in controlling, minimizing, or eliminating, to the extent necessary to protect  
155.22 human health and the environment, postclosure escape of hazardous waste, hazardous  
155.23 constituents, leachate, contaminated runoff, or hazardous waste decomposition products  
155.24 to the ground or surface waters or to the atmosphere, in accordance with all closure  
156.1 requirements including the requirements of parts 7045.0628, subpart 9; 7045.0630,  
156.2 subpart 6; 7045.0632, subpart 7; 7045.0634, subpart 6; 7045.0638, subpart 4; 7045.0640,  
156.3 subpart 5; and 7045.0642, subpart 5; and Code of Federal Regulations, title 40, section  
156.4 265.1102, as incorporated in part 7045.0649.

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

156.6 A. A copy of the written closure plan and all revisions to the plan must be  
156.7 furnished to the commissioner upon request, including request by mail until final closure is  
156.8 completed and certified. For facilities without approved closure plans, the plan must also  
156.9 be provided to the commissioner as requested, during site inspections on the day of the  
156.10 inspection. The plan must identify steps necessary to perform partial and/or final closure  
156.11 of the facility at any point during its active life. The closure plan must include:

156.12 (1) A description of how each hazardous waste management unit will  
156.13 be closed, if applicable, and how the facility will be finally closed, in accordance with  
156.14 subpart 2. The description must identify the maximum extent of the operation which

156.15 will be unclosed during the active life of the facility and how the facility will meet the  
 156.16 requirements of ~~subpart 2, part~~ parts 7045.0590; 7045.0592; 7045.0594; 7045.0596 ~~;~~ and  
 156.17 ~~the applicable closure requirements of parts;~~ 7045.0626, subpart 8; 7045.0628, subpart 9;  
 156.18 7045.0630, subpart 6; 7045.0632, subpart 7; 7045.0634, subpart 6; 7045.0638, subpart 4;  
 156.19 7045.0640, subpart 5; 7045.0642, subpart 5; and 7045.0655, subpart 6, will be met and  
 156.20 Code of Federal Regulations, title 40, section 265.1102, as incorporated in part 7045.0649;

156.21 [For text of subitems (2) to (6), see M.R.]

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

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

156.24 **7045.0596 CLOSURE ACTIVITIES.**

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

157.1 Subp. 2a. **Conditions for receiving nonhazardous waste.** The commissioner shall  
 157.2 allow an owner or operator to receive only nonhazardous waste in a landfill, land treatment,  
 157.3 or surface impoundment unit after the final receipt of hazardous waste at that unit if:

157.4 A. the owner or operator submits an amended Part B application, or a Part B  
 157.5 application, if not previously required, and demonstrates that:

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

157.7 (3) the nonhazardous waste will not be incompatible with any remaining  
 157.8 wastes in the unit, or with the facility design and operating requirements of the unit or  
 157.9 facility under parts 7045.0552 to ~~7045.0642~~ 7045.0651;

157.10 [For text of subitems (4) and (5), see M.R.]

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

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

157.13 **7045.0600 POSTCLOSURE.**

157.14 Subpart 1. **Scope.** This part and parts 7045.0602 to 7045.0606 apply to the owners  
157.15 and operators of all hazardous waste disposal facilities, including surface impoundments  
157.16 and waste piles from which the owner or operator intends to remove the wastes at  
157.17 closure, to the extent that the owner or operator is required to provide postclosure care in  
157.18 part 7045.0630, subpart 6, or ~~in part 7045.0632, subpart 7, and also~~ tank systems that  
157.19 are required under part 7045.0628, subpart 9, to meet the requirements for landfills;  
157.20 and containment buildings that are required under Code of Federal Regulations, title 40,  
157.21 section 265.1102, as incorporated in part 7045.0649, to meet the requirement for landfills,  
157.22 except as provided otherwise in part 7045.0552.

157.23 Subp. 2. **Submittal of postclosure plan.** The postclosure plan must be submitted  
157.24 as follows:

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

158.1 D. The commissioner shall provide the owner or operator and the public,  
158.2 through a newspaper notice, the opportunity to submit written comments, to request  
158.3 modification, or to request a public information meeting on the postclosure plan or  
158.4 substantive amendments to the postclosure plan within 30 days of the date of the notice. In  
158.5 response to a request or at his or her own discretion, the commissioner shall hold a public  
158.6 information meeting whenever a meeting might clarify one or more issues concerning  
158.7 the postclosure plan. The commissioner shall approve, modify, or disapprove postclosure  
158.8 plans for facilities having interim status within 90 days of the receipt of the plan. If the  
158.9 commissioner does not approve the plan, he or she shall provide the owner or operator  
158.10 with a detailed written statement of reasons for the refusal, and the owner or operator shall  
158.11 submit a modified or new plan for approval within 30 days after receiving this written  
158.12 statement. The commissioner shall approve or modify this plan in writing within 60  
158.13 days. If the commissioner modifies the plan, this modified plan becomes the approved

158.14 postclosure plan. A copy of the modified plan and a detailed statement of reasons for the  
158.15 modifications shall be mailed to the owner or operator. The commissioner shall ensure  
158.16 that the approved postclosure plan is consistent with ~~part~~ this part and with the postclosure  
158.17 care and use of property requirements in parts 7045.0602, 7045.0604, and 7045.0606.

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

158.19 **7045.0608 FINANCIAL REQUIREMENTS.**

158.20 Subpart 1. **Scope.** The requirements of parts 7045.0610, 7045.0612, and 7045.0620  
158.21 to 7045.0624 apply to owners and operators of hazardous waste facilities except as  
158.22 provided otherwise in this part or in part 7045.0552.

158.23 The requirements of parts 7045.0614 to 7045.0618 apply only to owners and  
158.24 operators of disposal facilities ~~and~~ tank systems that are required under part 7045.0628,  
158.25 subpart 9, to meet the requirements for landfills; and containment buildings that are  
159.1 required under Code of Federal Regulations, title 40, section 265.1102, as incorporated  
159.2 in part 7045.0649, to meet the requirements for landfills.

159.3 The state and the federal government are exempt from the requirements of parts  
159.4 7045.0608 to 7045.0624.

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

159.6 **7045.0610 COST ESTIMATE FOR FACILITY CLOSURE.**

159.7 Subpart 1. **Cost estimate requirements.** The owner or operator shall prepare a  
159.8 detailed written estimate, in current dollars, of the cost of closing the facility in accordance  
159.9 with the closure plan in part 7045.0594 and applicable closure requirements in parts  
159.10 7045.0626, subpart 8; 7045.0630, subpart 6; 7045.0632, subpart 7; 7045.0634, subpart  
159.11 6; 7045.0638, subpart 4; 7045.0640, subpart 5; and 7045.0642, subpart 5; and Code of  
159.12 Federal Regulations, title 40, section 265.1102, as incorporated in part 7045.0649. The  
159.13 closure cost estimate must equal the cost of closure at the point in the facility's operating

159.14 life when the extent and manner of its operation would make closure the most expensive,  
159.15 as indicated by its closure plan. The closure cost shall be estimated as follows:

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

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

159.18 **7045.0612 FINANCIAL ASSURANCE FOR FACILITY CLOSURE.**

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

159.20 Subp. 6. **Financial test and corporate guarantee for closure.** The financial test and  
159.21 corporate guarantee for closure is as follows:

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

159.23 L. An owner or operator may meet the requirements of this part by obtaining a  
159.24 written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be  
160.1 the parent corporation of the owner or operator. The guarantor must meet the requirements  
160.2 for owner or operator in items A to J; and must comply with the terms of the corporate  
160.3 guarantee. The wording of the corporate guarantee must be identical to the wording  
160.4 specified in part 7045.0524, subpart 8. A certified copy of the corporate guarantee must  
160.5 accompany the items sent to the commissioner as specified in item E. The terms of the  
160.6 corporate guarantee must provide that:

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

160.8 [For text of subps 7 to 9, see M.R.]

160.9 **7045.0616 FINANCIAL ASSURANCE FOR POSTCLOSURE CARE.**

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

160.11 Subp. 6. **Financial test and corporate guarantee for postclosure care.** The  
160.12 following is the financial test and corporate guarantee for postclosure care:

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

160.14 M. An owner or operator may meet the requirements of this part by obtaining a  
160.15 written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be  
160.16 the parent corporation of the owner or operator. The guarantor must meet the requirements  
160.17 for owners or operators in items A to K, and must comply with the terms of the corporate  
160.18 guarantee. The wording of the corporate guarantee must be identical to the wording  
160.19 specified in part 7045.0524, subpart 8. A certified copy of the corporate guarantee must  
160.20 accompany the items sent to the commissioner as specified in item E. The terms of the  
160.21 corporate guarantee must provide that:

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

160.23 [For text of subps 7 to 9, see M.R.]

160.24 **7045.0620 LIABILITY REQUIREMENTS.**

161.1 Subpart 1. **Coverage for sudden accidental occurrences.** An owner or operator  
161.2 of a hazardous waste treatment, storage, or disposal facility, or a group of these such  
161.3 facilities, ~~shall~~ must demonstrate financial responsibility for bodily injury and property  
161.4 damage to third parties caused by sudden accidental occurrences arising from operations  
161.5 of the facility or group of facilities. The owner or operator ~~shall~~ must have and maintain  
161.6 liability coverage for sudden accidental occurrences in the amount of at least \$1,000,000  
161.7 per occurrence with an annual aggregate of at least \$2,000,000, exclusive of legal defense  
161.8 costs. This liability coverage may be demonstrated ~~in one of three ways,~~ as specified in  
161.9 items ~~A, B, and C~~ to F:

161.10 A. An owner or operator may demonstrate the required liability coverage by  
161.11 having liability insurance as specified in subitems (1) and (2):

161.12 (1) Each insurance policy must be amended by attachment of the hazardous  
161.13 waste facility liability endorsement or evidenced by a certificate of liability insurance. The  
161.14 wording of the endorsement must be identical to the wording specified in part 7045.0524,  
161.15 subpart 9. The wording of the certificate of insurance must be identical to the wording



161.16 specified in part 7045.0524, subpart 10. The owner or operator ~~shall~~ must submit a signed  
161.17 duplicate original of the endorsement or the certificate of insurance to the commissioner.  
161.18 If requested by the commissioner, the owner or operator shall provide a signed duplicate  
161.19 original of the insurance policy.

161.20 (2) Each insurance policy must be issued by an insurer which is licensed to  
161.21 transact the business of insurance or eligible to provide insurance as an excess or surplus  
161.22 lines insurer in one or more states.

161.23 B. An owner or operator may meet the requirements of this part by passing a  
161.24 financial test or using the corporate guarantee for liability coverage as specified in subparts  
161.25 5 and 6.

162.1 C. An owner or operator may meet the requirements of this part by obtaining a  
162.2 letter of credit for liability coverage as specified in subpart 7.

162.3 D. An owner or operator may meet the requirements of this part by obtaining a  
162.4 trust fund for liability coverage as specified in subpart 8.

162.5 E. An owner or operator may demonstrate the required liability coverage through  
162.6 the use of ~~the combinations of insurance, financial test, insurance, the corporate guarantee,~~  
162.7 ~~a combination of the financial test and insurance, or a combination of the corporate~~  
162.8 ~~guarantee and insurance as these mechanisms are specified in this part~~ corporate guarantee,  
162.9 letter of credit, and trust fund, except that the owner or operator may not combine a  
162.10 financial test covering part of the liability coverage requirement with a guarantee unless  
162.11 the financial statement of the owner or operator is not consolidated with the financial  
162.12 statement of the guarantor. The amounts of coverage demonstrated must total at least the  
162.13 minimum amounts required by ~~subpart 4~~ this part. If the owner or operator demonstrates  
162.14 the required coverage through the use of a combination of financial assurances under this  
162.15 item, the owner or operator must specify other assurance as "excess" coverage.

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

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

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

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

163.3 Subp. 2. **Coverage for nonsudden accidental occurrences.** An owner or operator  
163.4 of a surface impoundment, landfill, or land treatment facility which is used to manage  
163.5 hazardous waste, or a group of ~~these~~ such facilities, ~~shall~~ must demonstrate financial  
163.6 responsibility for bodily ~~damage~~ injury and property damage to third parties caused by  
163.7 nonsudden accidental occurrences arising from operations of the facility or group of  
163.8 facilities. The owner or operator ~~shall~~ must have and maintain liability coverage for  
163.9 nonsudden accidental occurrences in the amount of at least \$3,000,000 per occurrence  
163.10 with an annual aggregate of at least \$6,000,000, exclusive of legal defense costs. An  
163.11 owner or operator who must meet the requirements of this part may combine the required  
163.12 per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a  
163.13 single per-occurrence level, and combine the required annual aggregate coverage levels  
163.14 for sudden and nonsudden accidental occurrences into a single annual aggregate level.  
163.15 Owners or operators who combine coverage levels for sudden and nonsudden accidental

163.16 occurrences must maintain liability coverage in the amount of at least \$4,000,000 per  
163.17 occurrence and \$8,000,000 annual aggregate. This liability coverage may be demonstrated  
163.18 ~~in one of three ways as specified in items A, B, and C~~ to F:

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

163.20 B. An owner or operator may meet the requirements of this part by passing a  
163.21 financial test or using the corporate guarantee for liability coverage as specified in subparts  
163.22 5 and 6.

163.23 C. An owner or operator may meet the requirements of this part by obtaining a  
163.24 letter of credit for liability coverage as specified in subpart 7.

163.25 D. An owner or operator may meet the requirements of this part by obtaining a  
163.26 trust fund for liability coverage as specified in subpart 8.

164.1 E. An owner or operator may demonstrate the required liability coverage  
164.2 through use of the combinations of insurance, financial test, insurance, the corporate  
164.3 guarantee, a combination of the financial test and insurance, or a combination of the  
164.4 corporate guarantee and insurance as these mechanisms are specified in this part corporate  
164.5 guarantee, letter of credit, and trust fund, except that the owner or operator may not  
164.6 combine a financial test covering part of the liability coverage requirement with a  
164.7 guarantee unless the financial statement of the owner or operator is not consolidated  
164.8 with the financial statement of the guarantor. The amounts of coverage demonstrated  
164.9 must total at least the minimum amounts required by subpart 1 this part. If the owner or  
164.10 operator demonstrates the required coverage through the use of a combination of financial  
164.11 assurances under this item, the owner or operator shall specify at least one such assurance  
164.12 as "primary" coverage and shall specify other assurance as "excess" coverage.

164.13 D. ~~The required liability coverage for nonsudden accidental occurrences must~~  
164.14 ~~be demonstrated by the dates specified in subitems (1), (2), (3), and (4). The total sales~~  
164.15 ~~or revenues of the owner or operator in all lines of business, in the fiscal year preceding~~

164.16 ~~July 16, 1984, will determine which of the dates applies. If the owner and operator of a~~  
164.17 ~~facility are two different parties, or if there is more than one owner or operator, the sales or~~  
164.18 ~~revenues of the owner or operator with the largest sales or revenues determines the date by~~  
164.19 ~~which the coverage must be demonstrated. The following dates apply:~~

164.20 ~~(1) for an owner or operator not subject to the requirements of Code of~~  
164.21 ~~Federal Regulations, title 40, section 265.147 (1983) with sales or revenues totaling~~  
164.22 ~~\$10,000,000 or more, six months after July 16, 1984;~~

164.23 ~~(2) for an owner or operator not subject to the requirements of Code of~~  
164.24 ~~Federal Regulations, title 40, section 265.147 (1983) with sales or revenues greater than~~  
164.25 ~~\$5,000,000 but less than \$10,000,000, 18 months after July 16, 1984;~~

165.1 ~~(3) all other owners or operators not subject to the requirements of Code of~~  
165.2 ~~Federal Regulations, title 40, section 265.147 (1983) 30 months after July 16, 1984;~~

165.3 ~~(4) for an owner or operator subject to the requirements of Code of~~  
165.4 ~~Federal Regulations, title 40, section 265.147 (1983) on the date he or she is required to~~  
165.5 ~~demonstrate coverage under Code of Federal Regulations, title 40, section 265.147 (1983).~~

165.6 ~~E. By the date six months after July 16, 1984, an owner or operator who is~~  
165.7 ~~within either of the categories in subitem (2) or (3) shall, unless he or she has demonstrated~~  
165.8 ~~liability coverage for nonsudden accidental occurrences, send a letter to the commissioner,~~  
165.9 ~~stating the date by which he or she plans to establish the coverage.~~

165.10 ~~F. An owner or operator shall notify the commissioner in writing within 30~~  
165.11 ~~days whenever:~~

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

165.14 ~~(2) a certification of valid claim for bodily injury or property damage caused~~  
165.15 ~~by a sudden or nonsudden accidental occurrence arising from the operation of a hazardous~~

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

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

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

165.24 Subp. 5. **Financial test for liability coverage.** The financial test for liability  
165.25 coverage is as follows:

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

166.2 H. If the owner or operator no longer meets the requirements of item A, he or  
166.3 she ~~shall~~ must obtain insurance, a letter of credit, a trust fund, or a corporate guarantee  
166.4 for the entire amount of required liability coverage as specified in this part. Evidence of  
166.5 ~~insurance~~ liability coverage must be submitted to the commissioner within 90 days after  
166.6 the end of the fiscal year for which the year-end financial data show that the owner or  
166.7 operator no longer meets the test requirements.

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

166.9 Subp. 6. **Corporate guarantee for liability coverage.** The corporate guarantee for  
166.10 liability coverage is as follows:

166.11 A. Subject to item B, an owner or operator may meet the requirements of  
166.12 this part by obtaining a written corporate guarantee. The guarantor must be the parent  
166.13 corporation of the owner or operator. The ~~guarantee~~ guarantor must meet the requirements  
166.14 for owners or operators in subpart 5. The wording of the corporate guarantee must be  
166.15 identical to the wording specified in part 7045.0524, subpart 8a. The guarantee must

166.16 be signed by two corporate officers of the parent corporation. A corporate resolution  
166.17 authorizing the parent corporation to provide the corporate guarantee for the subsidiary  
166.18 must be attached to the guarantee. A certified copy of the corporate guarantee must  
166.19 accompany the items sent to the commissioner as specified in subpart 5, item E. The terms  
166.20 of the corporate guarantee must provide that:

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

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

166.23 **Subp. 7. Letter of credit for liability coverage.**

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

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

167.7 C. The wording of the letter of credit must be identical to the wording in part  
167.8 7045.0524, subpart 11.

167.9 D. An owner or operator who uses a letter of credit to satisfy the requirements of  
167.10 this part may also establish a standby trust fund. Under the terms of a letter of credit, all  
167.11 amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the  
167.12 issuing institution into the standby trust in accordance with instructions from the trustee.  
167.13 The trustee of the standby trust fund must be an entity that has the authority to act as a  
167.14 trustee and whose trust operations are regulated and examined by a federal or state agency.

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

167.17 **Subp. 8. Trust fund for liability coverage.**

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

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

167.23 C. The trust fund for liability coverage must be funded for the full amount of the  
167.24 liability coverage to be provided by the trust fund before it may be relied upon to satisfy the  
167.25 requirements of this part. If at any time after the trust fund is created, the amount of funds  
168.1 in the trust fund is reduced below the full amount of the liability coverage to be provided,  
168.2 the owner or operator, by the anniversary date of the establishment of the fund, must either  
168.3 add sufficient funds to the trust fund to cause its value to equal the full amount of liability  
168.4 coverage to be provided or obtain other financial assurance as specified in this part to cover  
168.5 the difference. For purposes of this subpart, "the full amount of the liability coverage to be  
168.6 provided" means the amount of coverage for sudden or nonsudden occurrences required to  
168.7 be provided by the owner or operator by this part, less the amount of financial assurance  
168.8 for liability coverage that is being provided by other financial assurance mechanisms being  
168.9 used to demonstrate financial assurance by the owner or operator.

168.10 D. The wording of the trust fund must be identical to the wording in part  
168.11 7045.0524, subpart 13.

168.12 **7045.0626 USE AND MANAGEMENT OF CONTAINERS.**

168.13 Subpart 1. **Scope.** This part applies to owners and operators of hazardous waste  
168.14 facilities that store containers of hazardous waste, except as part 7045.0552 provides  
168.15 otherwise. Under ~~parts~~ part 7045.0127, subparts 2 to 4, and 7045.0135, ~~subpart 4,~~  
168.16 ~~item C~~ Code of Federal Regulations, title 40, section 261.33(c), as incorporated in part  
168.17 7045.0135, if a hazardous waste is emptied from a container, the residue remaining in the  
168.18 container is not considered a hazardous waste if the container is empty, as defined in

168.19 part 7045.0127, subparts 2 to 4. In that event, management of the container is exempt  
168.20 from the requirements of this part.

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

168.22 Subp. 7. **Special requirements for ignitable or reactive waste.** Containers holding  
168.23 ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's  
168.24 property line, when physically possible based on the dimensions of the property. When it  
168.25 is not physically possible to place containers at least 50 feet from the property line, based  
168.26 on the dimensions of the property, the ignitable or reactive waste must be placed at least as  
169.1 far as the specified minimum distance from property line found in ~~Table Number 79.503-F~~  
169.2 ~~of the Minnesota Uniform State Fire Code as incorporated by reference in part 7510.3510,~~  
169.3 chapter 7510. Nothing in this subpart shall relieve the facility owner or operator from the  
169.4 obligation to comply with any local, state, or federal law governing storage of these wastes.

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

169.6 Subp. 9. **Air emission standards.** The owner or operator must manage all hazardous  
169.7 waste placed in a container in accordance with the applicable requirements of parts  
169.8 7045.0645, 7045.0647, and 7045.0648.

169.9 **7045.0628 TANK SYSTEMS.**

169.10 Subpart 1. **Scope.** This part applies to owners and operators of facilities that use tank  
169.11 systems, including tank systems, sumps, and other such collection devices or systems used  
169.12 in conjunction with drip pads, as defined in part 7045.0020 and regulated under part  
169.13 7045.0644, to treat or store hazardous waste, except as items A and B and part 7045.0552  
169.14 provide otherwise.

169.15 A. Tank systems that are used to store or treat hazardous waste containing no  
169.16 free liquids and that are located inside a building with an impermeable floor are exempt  
169.17 from the requirements of subpart 4. To demonstrate the absence or presence of free liquids



169.18 in the stored or treated waste, ~~EPA~~ the following test must be used: Method 9095 (Paint  
169.19 Filter Liquids Test) as described in "Test Methods for Evaluating Solid ~~Wastes~~ Waste,  
169.20 Physical/Chemical Methods," (EPA publication No. SW-846 ) ~~must be used,~~ incorporated  
169.21 by reference in part 7045.0065, item D.

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

169.23 [For text of subps 2 to 9, see M.R.]

169.24 Subp. 10. **Special requirements for ignitable or reactive waste.** Ignitable or  
169.25 reactive waste must not be placed in a tank unless:

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

170.2 C. the tank is used solely for emergencies.

170.3 The owner or operator of a facility which treats or stores ignitable or reactive waste  
170.4 in a tank shall comply with the requirements for the maintenance of protective distances  
170.5 between the waste management area and any public ways, streets, alleys, or an adjoining  
170.6 property line that can be built upon, as required in the buffer zone requirements for tanks,  
170.7 contained in ~~article 79 of the Minnesota Uniform State~~ Fire Code, as incorporated by  
170.8 ~~reference in part 7510.3510~~ chapter 7510.

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

170.10 Subp. 13. **Air emission standards.** The owner or operator of a facility must manage  
170.11 all hazardous waste placed in a tank in accordance with parts 7045.0645, 7045.0647,  
170.12 and 7045.0648.

170.13 **7045.0629 REQUIREMENTS FOR SMALL QUANTITY AND VERY SMALL**  
170.14 **QUANTITY GENERATORS THAT ACCUMULATE HAZARDOUS WASTE IN**  
170.15 **TANKS.**

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

170.17 Subp. 5. **Ignitable and reactive wastes.** Generators regulated under this part must  
170.18 comply with the following special requirements for ignitable or reactive waste:

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

170.20 B. The owner or operator of a facility which treats or stores ignitable or reactive  
170.21 waste in covered tanks must comply with the buffer zone requirements for tanks contained  
170.22 in ~~article 79~~ of the Minnesota Uniform State Fire Code, ~~as incorporated by reference~~  
170.23 ~~in part 7510.3510~~ chapter 7510.

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

170.25 **7045.0630 SURFACE IMPOUNDMENTS.**

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

171.2 Subp. 2. **General operating requirements.**

171.3 A. A surface impoundment must maintain enough freeboard to prevent any  
171.4 overtopping of the dike by overfilling, wave action or a storm. There must be at least  
171.5 60 centimeters (two feet) of freeboard. Any point source discharge from a surface  
171.6 impoundment to waters of the United States is subject to the requirements of the Federal  
171.7 Water Pollution Control Act Amendments of 1972, United States Code, title 33, section  
171.8 1342, as amended. Spills may be subject to the Federal Water Pollution Control Act  
171.9 Amendments of 1972, United States Code, title 33, section 1312, as amended.

171.10 B. Surface impoundments that are newly subject to RCRA section 3005(j)(1)  
171.11 due to the promulgation of additional listings or characteristics for the identification of  
171.12 hazardous waste must be in compliance with subpart 1a not later than 48 months after the  
171.13 promulgation of the additional listing or characteristic. This compliance period shall not  
171.14 be cut short as the result of the promulgation of land disposal prohibitions under Code of  
171.15 Federal Regulations, title 40, part 268, as amended, or the granting of an extension to the

171.16 effective date of a prohibition pursuant to Code of Federal Regulations, title 40, section  
171.17 268.5, as incorporated in part 7045.1390, within this 48-month period.

171.18 [For text of subps 2a to 5, see M.R.]

171.19 Subp. 6. **Closure and postclosure care.** The requirements of closure and postclosure  
171.20 care are as follows:

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

171.22 B. If the owner or operator removes or decontaminates all the impoundment  
171.23 materials described in item A, the impoundment is not further subject to the requirements  
171.24 of parts 7045.0552 to ~~7045.0642~~ 7045.0651. At closure and throughout the operating  
171.25 period, unless the owner or operator can demonstrate that any waste removed from  
172.1 the surface impoundment is not a hazardous waste, he or she becomes a generator of  
172.2 hazardous waste and must manage it in accordance with all applicable requirements of  
172.3 parts 7045.0205 to 7045.0397 and 7045.0552 to ~~7045.0642~~ 7045.0651.

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

172.5 Subp. 7. **Special requirements for ignitable or reactive wastes.** Ignitable or  
172.6 reactive waste must not be placed in a surface impoundment unless the waste and the  
172.7 impoundment satisfy all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part  
172.8 7045.1390, and:

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

172.10 Subp. 8. **Special requirements for incompatible wastes.** Incompatible waste, or  
172.11 incompatible wastes and materials, must not be placed in the same surface impoundment  
172.12 unless part 7045.0562, subpart 2, is followed. For examples of potentially incompatible  
172.13 wastes, or incompatible waste and materials, see part 7045.0643, subpart 1, item D.

172.14 Subp. 9. **Air emission standards.** The owner or operator must manage all  
172.15 hazardous waste placed in a surface impoundment in accordance with parts 7045.0645  
172.16 and 7045.0648.

172.17 **7045.0632 WASTE PILES.**

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

172.19 Subp. 5. **Special requirements for ignitable or reactive waste.** Ignitable or  
172.20 reactive waste must not be placed in a pile unless the waste and pile satisfy all applicable  
172.21 requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390:

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

172.23 [For text of subps 6 to 9, see M.R.]

172.24 **7045.0634 LAND TREATMENT.**

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

173.2 Subp. 7. **Special requirements for ignitable or reactive waste.** Ignitable or  
173.3 reactive wastes must not be land treated, unless the waste and treatment zone meet all  
173.4 applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and the waste is  
173.5 immediately incorporated into the soil so that the resulting waste, mixture, or dissolution  
173.6 of material no longer meets the definition of ignitable or reactive waste under parts  
173.7 7045.0131, subpart 2 or 5; and 7045.0562, subpart 2 is complied with.

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

173.9 **7045.0638 LANDFILLS.**

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

173.11 Subp. 4. **Closure and postclosure.** Closure and postclosure requirements are  
173.12 as follows:

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

173.14 B. After final closure, the owner or operator shall comply with all postclosure  
173.15 requirements contained in parts 7045.0600 to 7045.0606 including maintenance and  
173.16 monitoring throughout the postclosure care period. The owner or operator must:

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

173.18 (2) maintain and monitor the leak detection system in accordance with part  
173.19 7045.0538, subparts 3, item C, subitems (3), unit (d), and (4); and 2c, item B, and comply  
173.20 with all other applicable leak detection system requirements of ~~this part~~ parts 7045.0552  
173.21 to 7045.0651 governing interim status facility standards;

173.22 [For text of subitems (3) to (5), see M.R.]

173.23 **Subp. 5. Special requirements for ignitable or reactive waste.** Special  
173.24 requirements for ignitable or reactive waste are as follows:

174.1 A. Except as provided in item B, and subparts 7 and 9, ignitable or reactive  
174.2 waste must not be placed in a landfill unless the waste and landfill meet all applicable  
174.3 requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and the resulting waste,  
174.4 mixture, or dissolution of material no longer meets the definition of ignitable or reactive  
174.5 waste under part 7045.0131, subpart 2 or 5, and compliance with part 7045.0562, subpart  
174.6 2, is maintained.

174.7 B. Except for prohibited wastes which remain subject to treatment standards in  
174.8 ~~parts 7045.1350 to 7045.1360~~ Code of Federal Regulations, title 40, sections 268.40 to  
174.9 268.42, as incorporated in part 7045.1390, ignitable wastes in containers may be landfilled  
174.10 without meeting the requirements of item A if the wastes are disposed so that they are  
174.11 protected from any material or conditions which may cause them to ignite. Ignitable  
174.12 wastes must be disposed in nonleaking containers which are carefully handled and placed  
174.13 so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the  
174.14 wastes; must be covered daily with soil or other noncombustible material to minimize the

174.15 potential for ignition of the wastes; and must not be disposed in cells that contain or will  
174.16 contain other wastes which may generate heat sufficient to cause ignition of the wastes.

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

174.18 Subp. 7. **Special requirements for liquid waste.** Bulk or noncontainerized liquid  
174.19 waste or waste containing free liquids, whether or not ~~absorbents~~ sorbents have been  
174.20 added, must not be placed in a landfill.

174.21 A. A container holding liquid waste or waste containing free liquids must  
174.22 not be placed in a landfill, unless:

174.23 (1) all free standing liquid has been removed by decanting, or other  
174.24 methods; has been mixed with ~~absorbent~~ sorbent or solidified so that free standing liquid  
174.25 is no longer observed; or has been otherwise eliminated;

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

175.1 B. To demonstrate the presence or absence or presence of free liquids in  
175.2 either a containerized or a bulk waste, the following test must be demonstrated using the  
175.3 Paint Filter Liquids Test, used: Method 9095 (Paint Filter Liquids Test) as described in  
175.4 "Test Methods for Evaluating Solid Wastes Waste, Physical/Chemical Methods," EPA  
175.5 publication number SW-846, incorporated in part 7045.0065, item D.

175.6 C. Sorbents used to treat free liquids to be disposed of in landfills must be  
175.7 nonbiodegradable. Nonbiodegradable sorbents are materials listed or described in subitem  
175.8 (1) or materials that pass one of the tests in subitem (2).

175.9 (1) Nonbiodegradable sorbents:

175.10 (a) inorganic minerals, other inorganic materials, and elemental  
175.11 carbon (for example, aluminosilicates, clays, smectites, Fuller's earth, bentonite,  
175.12 calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite),  
175.13 vermiculites, and zeolites; calcium carbonate (organic free limestone); oxides/hydroxides,

175.14 alumina, lime, silica (sand), and diatomaceous earth; perlite (volcanic glass); expanded  
175.15 volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; and activated  
175.16 charcoal/activated carbon);

175.17 (b) high molecular weight synthetic polymers (for example,  
175.18 polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene,  
175.19 polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber,  
175.20 cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers  
175.21 derived from biological material or polymers specifically designed to be degradable; or

175.22 (c) mixtures of these nonbiodegradable materials.

175.23 (2) Tests for nonbiodegradable sorbents must use the following methods.

175.24 The methods are incorporated by reference under part 7045.0538, subpart 10, item D,  
175.25 subitem (2):

176.1 (a) the sorbent material is determined to be nonbiodegradable under  
176.2 ASTM Method G21-70 (1984a), Standard Practice for Determining Resistance of  
176.3 Synthetic Polymer Material to Fungi;

176.4 (b) the sorbent material is determined to be nonbiodegradable under  
176.5 ASTM Method G22-76 (1984b), Standard Practice for Determining Resistance of Plastics  
176.6 to Bacteria; or

176.7 (c) the sorbent material is determined to be nonbiodegradable under  
176.8 OECD test 301B: [CO<sub>2</sub> Evolution (Modified Sturm Test)].

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

176.10 **Subp. 9. Special requirements for disposal of laboratory packs.** Small containers  
176.11 of hazardous waste in overpacked drums, or laboratory packs, may be placed in a landfill  
176.12 if the requirements of items A to F are met:

176.13 A. Hazardous waste must be packaged in nonleaking inside containers. The  
176.14 inside containers must be of a design and constructed of a material that will not react  
176.15 dangerously with, be decomposed by, or be ignited by the waste held therein. Inside  
176.16 containers must be tightly and securely sealed. The inside containers must be of the size  
176.17 and type ~~specified~~ authorized in the United States Department of Transportation hazardous  
176.18 materials regulations under Code of Federal Regulations, title 49, parts 173, 178, ~~and~~  
176.19 179, and 180, as amended, if those regulations specify a particular inside container for  
176.20 the waste.

176.21 B. The inside containers must be overpacked in ~~an open~~ a removable head metal  
176.22 shipping container as specified in United States Department of Transportation regulations  
176.23 under Code of Federal Regulations, title 49, section 173.12 and parts 178 ~~and~~ 179,  
176.24 and 180, as amended, ~~of no more than 416 liter (110 gallon) capacity, and~~. The inside  
176.25 containers must be surrounded by a sufficient quantity of ~~absorbent~~ chemically compatible  
176.26 sorbent material, determined to be nonbiodegradable in accordance with subpart 7, item C,  
177.1 to completely absorb sorb all of the liquid contents of the inside containers. The gross  
177.2 weight of the complete package must not exceed 205 kilograms (452 pounds). The metal  
177.3 outer container must be full after ~~packing~~ it has been packed with inside containers and  
177.4 ~~absorbent~~ sorbent material.

177.5 C. The ~~absorbent~~ sorbent material used must not be capable of reacting  
177.6 dangerously with, being decomposed by, or being ignited by the contents of the inside  
177.7 containers, in accordance with part 7045.0562, subpart 2.

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

177.9 F. The disposal complies with ~~parts 7045.1300 to 7045.1380~~ part 7045.1390.  
177.10 Persons who incinerate lab packs ~~according to part 7045.1360~~ in accordance with Code of  
177.11 Federal Regulations, title 40, section 268.42(c)(1), as incorporated in part 7045.1390, may  
177.12 use fiber drums in place of metal outer containers. The fiber drums must meet the United



177.13 States Department of Transportation specifications in Code of Federal Regulation, title 49,  
177.14 section 173.12, as amended, and be overpacked ~~according to~~ in accordance with item B.

177.15 **7045.0643 APPENDICES TO INTERIM STATUS FACILITY STANDARDS.**

177.16 Subpart 1. **Incorporation of federal regulations.** The following appendices found in  
177.17 Code of Federal Regulations, title 40, part 265, as amended, are incorporated by reference:

177.18 A. Appendix I, Recordkeeping Instructions;

177.19 B. Appendix III, EPA Interim Primary Drinking Water Standards;

177.20 C. Appendix IV, Tests for Significance;

177.21 D. Appendix V, Examples of Potentially Incompatible Waste; and

177.22 E. Appendix VI, Compounds with Henry's Law Constant Less Than 0.1 Y/X.

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

177.24 Part 7045.0090, adoption and incorporation by reference, also applies.

178.1 **7045.0645 AIR EMISSION STANDARDS FOR TANKS, SURFACE**  
178.2 **IMPOUNDMENTS, AND CONTAINERS.**

178.3 Subpart 1. **Incorporation of federal regulations.** The owners and operators of  
178.4 interim status facilities that treat, store, or dispose of hazardous waste in tanks, surface  
178.5 impoundments, or containers must comply with Code of Federal Regulations, title 40, part  
178.6 265, subpart CC, air emission standards for tanks, surface impoundments, and containers,  
178.7 sections 265.1080 to 265.1091, as amended, which are incorporated by reference subject  
178.8 to the exceptions in subpart 2.

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

178.10 A. The agency does not incorporate the following Code of Federal Regulations,  
178.11 title 40, part 265, subpart CC, provisions, as amended:

178.12 (1) Code of Federal Regulations, title 40, section 265.1080(d) to (g),  
178.13 governing specific exclusions; and

178.14 (2) Code of Federal Regulations, title 40, section 265.1083(c)(4)(ii),  
178.15 governing authority that EPA cannot delegate to states.

178.16 B. Part 7045.0090, adoption and incorporation by reference, also applies.

178.17 **7045.0649 CONTAINMENT BUILDINGS.**

178.18 Subpart 1. **Incorporation of federal regulations.** The owners and operators of  
178.19 interim status facilities that store or treat hazardous waste in containment buildings must  
178.20 comply with Code of Federal Regulations, title 40, part 265, subpart DD, Containment  
178.21 Buildings, sections 265.1100 to 265.1110, as amended, which are incorporated by  
178.22 reference subject to the exceptions in subpart 2.

178.23 Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.**  
178.24 Part 7045.0090, adoption and incorporation by reference, also applies.

178.25 **7045.0652 FACILITIES GOVERNED BY FACILITY STANDARDS.**

179.1 Subpart 1. **General requirements.** Parts 7045.0652 and 7045.0655 apply in lieu  
179.2 of parts 7045.0450 to ~~7045.0642~~ 7045.0651 to the owner or operator of the following  
179.3 types of units or facilities:

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

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

179.6 **7045.0655 GENERAL FACILITY STANDARDS.**

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

179.8 Subp. 6. **Closure.** At closure, the owner or operator of an elementary neutralization  
179.9 unit, pretreatment unit, or wastewater treatment unit shall remove all hazardous waste and  
179.10 hazardous waste residues from the unit.

179.11 At closure, the owner or operator of a combustion waste facility shall analyze the  
 179.12 waste present in the facility ~~according to~~ in accordance with parts 7045.0102 to ~~7045.0143~~  
 179.13 7045.0155 and shall submit the waste analysis results and proposed closure methods  
 179.14 to the commissioner. Based on the waste analysis and proposed closure methods, the  
 179.15 agency shall determine which closure standards from parts 7045.0450 to 7045.0551, if  
 179.16 any, apply to the facility.

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

179.18 **7045.0665 ~~USE HAZARDOUS WASTES USED IN A MANNER CONSTITUTING~~**  
 179.19 **~~DISPOSAL.~~**

179.20 Subpart 1. **Scope.** ~~Items A and B apply~~ This part applies to hazardous wastes that  
 179.21 are used in a manner constituting disposal.

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

179.23 B. Hazardous wastes are not used in a manner constituting disposal if:

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

180.1 (3) the products meet the applicable treatment standards in ~~parts 7045.1350~~  
 180.2 ~~to 7045.1360 or applicable prohibition levels in part 7045.1330~~ Code of Federal  
 180.3 Regulations, title 40, sections 268.40 to 268.49, as incorporated in part 7045.1390, or, if  
 180.4 no treatment standards have been established, meet the applicable prohibition levels in  
 180.5 Code of Federal Regulations, title 40, section 268.32, as incorporated in part 7045.1390,  
 180.6 or RCRA section 3004(d) where no treatment standards have been established, for each  
 180.7 recyclable material hazardous waste that they contain.

180.8 ~~Commercial fertilizers that are produced for the general public's use that contain~~  
 180.9 ~~recyclable materials also are not presently subject to regulation provided they meet the~~  
 180.10 ~~same treatment standards or prohibition levels for each recyclable material that they~~  
 180.11 ~~contain. However, zinc-containing fertilizers using hazardous waste K061 that are~~  
 180.12 ~~produced for the general public's use are not presently subject to regulation.~~

180.13 C. Antiskid/deicing uses of slags, which are generated from high temperature  
180.14 metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a  
180.15 manner constituting disposal are not covered by the exemption in item B and remain  
180.16 subject to regulation.

180.17 D. Fertilizers that contain recyclable materials are not subject to regulation  
180.18 provided that:

180.19 (1) they are zinc fertilizers that meet the requirements in Code of Federal  
180.20 Regulations, title 40, section 261.4(a)(21), as amended; or

180.21 (2) they meet the applicable treatment standards in Code of Federal  
180.22 Regulations, title 40, sections 268.40 to 268.49, as incorporated in part 7045.1390, for  
180.23 each hazardous waste that they contain.

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

181.1 **Subp. 4. Standards applicable to facilities managing wastes that are to be used**  
181.2 **in a manner that constitutes disposal.** Facilities managing wastes in a manner that  
181.3 constitutes disposal are subject to the following requirements:

181.4 A. owners or operators of facilities that store recyclable wastes that are to be  
181.5 used in a manner that constitutes disposal, but who are not the ultimate users of the wastes  
181.6 are subject to all applicable provisions of parts ~~7023.9000 to 7023.9050~~, 7045.0450 to  
181.7 ~~7045.0534, 7045.0544~~ 7045.0551, and 7045.0552 to 7045.0632 7045.0651, and chapter  
181.8 7001; and

181.9 B. owners or operators of facilities that use recyclable wastes that are to be  
181.10 used in a manner that constitutes disposal are subject to all applicable provisions of parts  
181.11 ~~7023.9000 to 7023.9050~~, 7045.0450 to ~~7045.0538, 7045.0544~~ 7045.0551, 7045.0552 to  
181.12 ~~7045.0638~~ 7045.0651, and 7045.1390 and chapter 7001.

181.13 **7045.0686 SPECIAL REQUIREMENTS FOR MANAGEMENT OF SPENT OR**  
 181.14 **WASTE HOUSEHOLD BATTERIES.**

181.15 Subpart 1. **Scope.** The requirements of this part apply to operators who collect, store,  
 181.16 transport, or reclaim spent or waste household batteries as a part of a household battery  
 181.17 management program.

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

181.19 B. Operators who collect, transport, or store spent or waste household batteries  
 181.20 which are sent for recycling but who do not reclaim them are subject to regulation under  
 181.21 subparts 2 and 3, but are not otherwise subject to regulation under parts ~~7023.9000 to~~  
 181.22 ~~7023.9050~~, 7045.0205 to ~~7045.1380~~ 7045.1390, and chapter 7001 for such collection,  
 181.23 transportation, and storage.

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

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

182.1 **7045.0692 HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY.**

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

182.3 Subp. 5. **Standards applicable to marketers of hazardous waste fuel.** Marketers  
 182.4 are subject to the requirements in items A to F.

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

182.6 C. If a marketer is a generator, or becomes a generator by initiating a shipment  
 182.7 of hazardous waste fuel, the marketer must comply with parts 7045.0205 to 7045.0320.  
 182.8 If the marketer operates a facility, the marketer must comply with parts 7045.0450 to  
 182.9 ~~7045.0534~~ 7045.0551. If the marketer is operating a facility under interim status, the  
 182.10 marketer must comply with parts 7045.0552 to ~~7045.0632~~ 7045.0651. If the marketer  
 182.11 stores hazardous waste, the marketer must comply with the agency's permitting procedures  
 182.12 in chapter 7001 and parts ~~7023.9000 to 7023.9050~~ for storage of hazardous waste.

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

182.14 F. In addition to the applicable record keeping requirements of parts 7045.0205  
182.15 to 7045.0320, 7045.0450 to ~~7045.0534~~ 7045.0551, and 7045.0552 to ~~7045.0632~~  
182.16 7045.0651, a marketer must keep a copy of each certification notice received or sent for  
182.17 three years from the date the marketer last engaged in a hazardous waste fuel marketing  
182.18 transaction with the person who sent or received the certification notice.

182.19 Subp. 6. **Standards applicable to burners of hazardous waste fuel.** Owners and  
182.20 operators of industrial furnaces and boilers identified in subpart 2, item B, that burn  
182.21 hazardous fuel are subject to the requirements in items A to F.

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

182.23 E. Generators who accumulate waste for longer than the time periods in item D,  
182.24 and burners who receive waste from off-site and store it, must comply with the following  
182.25 requirements:

183.1 (1) the agency's permitting procedures in chapter 7001 ~~and parts 7023.9000~~  
183.2 ~~to 7023.9050~~ for hazardous waste storage facilities, parts 7045.0205 to 7045.0536,  
183.3 7045.0544, 7045.0552 to 7045.0632, 7045.1000 to 7045.1030, and ~~7045.1300 to~~  
183.4 ~~7045.1380~~ 7045.1390; and

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

183.6 [For text of item F, see M.R.]

183.7 **7045.0800 MIXTURES OF USED OIL AND HAZARDOUS WASTE.**

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

183.9 Subp. 3. **Rebuttable presumption of mixing.** Except as provided in items A  
183.10 to C, used oil containing more than 1,000 ppm total halogens is presumed to have  
183.11 been mixed with a halogenated hazardous waste listed in part 7045.0135, and thus is  
183.12 subject to regulation as a listed hazardous waste. Persons may rebut this presumption by

183.13 demonstrating that the used oil does not contain hazardous waste. Demonstration must  
183.14 either involve applying knowledge of the source of halogens or the use of an analytical  
183.15 method from Environmental Protection Agency document SW-846, Edition III, (such as  
183.16 method 8010A or 8021) as incorporated by reference in part 7045.0065, item D, to show  
183.17 that the used oil does not contain greater than 100 ppm of any individual halogenated  
183.18 hazardous constituent listed in part 7045.0139.

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

183.20 Subp. 4. **Characteristic waste.** Mixtures of used oil and hazardous waste that solely  
183.21 exhibits one or more of the hazardous waste characteristics identified in part 7045.0131  
183.22 and mixtures of used oil and hazardous waste that is listed in part 7045.0135 solely  
183.23 because it exhibits one or more of the characteristics of hazardous waste identified in part  
183.24 7045.0131 are subject to:

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

184.1 B. except as provided in item C, regulation as used oil under parts 7045.0790  
184.2 to 7045.0990 and regulation under the land disposal restrictions of ~~parts 7045.1300 to~~  
184.3 ~~7045.1380~~ part 7045.1390, if the resultant mixture does not exhibit any characteristic of  
184.4 hazardous waste identified in part 7045.0131; or

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

184.6 **7045.0805 WASTE CONTAINING OR CONTAMINATED WITH USED OIL.**

184.7 A. Waste contaminated with used oil that is destined for disposal is subject to  
184.8 evaluation under parts 7045.0102 to ~~7045.0143~~ 7045.0155 to determine if it is hazardous  
184.9 waste, and the appropriate solid or hazardous waste management standards based on the  
184.10 results of the evaluation, unless the waste is:

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

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

184.13 **7045.0855 STANDARDS FOR USED OIL GENERATORS.**184.14 [For text of subpart 1, see M.R.]184.15 **Subp. 2. Storage.**

184.16 A. Used oil generators shall comply with all applicable spill prevention, control,  
184.17 and countermeasures requirements of Code of Federal Regulations, title 40, part 112, as  
184.18 amended, in addition to the requirements of this part. Used oil generators shall also comply  
184.19 with the underground storage tank standards of ~~Code of Federal Regulations, title 40, part~~  
184.20 ~~280~~, chapter 7150 for used oil stored in underground tanks, whether or not the used oil  
184.21 exhibits any characteristic of hazardous waste, in addition to the requirements of this part.

184.22 B. Used oil generators who store used oil ~~for more than seven days in~~  
184.23 ~~aboveground tanks of at least 110 gallons in size~~ are subject to ~~parts 7100.0010 to~~  
184.24 ~~7100.0090~~ chapter 7151, in addition to the requirements of this part. Used oil generators  
185.1 who store at least 10,000 gallons of used oil at one time are subject to the requirements of  
185.2 Minnesota Statutes, chapter 115E, to prepare and maintain a discharge prevention and  
185.3 response plan, in addition to the requirements of this part. All used oil generators shall  
185.4 comply with the storage and use requirements of ~~article 79 of the Minnesota Uniform~~  
185.5 State Fire Code, ~~as incorporated by reference in part 7510.3510~~ chapter 7510, in addition  
185.6 to the requirements of this part.

185.7 [For text of items C and D, see M.R.]185.8 **Subp. 3. On-site burning in small burning units designed to burn used oil.**

185.9 Generators who store used oil in vessels directly connected to burning units shall comply  
185.10 with ~~article 61 of the Minnesota Uniform~~ State Fire Code, ~~as incorporated by reference in~~  
185.11 ~~part 7510.3510~~ chapter 7510. Generators may burn used oil in burning units designed to  
185.12 burn used oil provided that:

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



185.14 E. ~~the unit is used in accordance~~ and its operation comply with the Minnesota  
185.15 ~~Statutes, section 299F.015~~ Fire Code.

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

185.17 Subp. 6. **Closure.**

185.18 A. Generators who store or process used oil in aboveground tanks must to the  
185.19 extent practical, at closure of the tank system, remove or decontaminate visible residues in  
185.20 tanks, contaminated containment system components, contaminated soils, and structures  
185.21 and equipment contaminated with used oil and manage them as hazardous waste unless  
185.22 the materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155.

185.23 B. Owners and operators who store used oil in containers must, at closure,  
185.24 remove containers holding used oils or residues of used oil from the site. The owner or  
185.25 operator must remove or decontaminate used oil residues, contaminated containment  
186.1 system components, contaminated soils, and structures and equipment contaminated with  
186.2 used oil, and manage them as hazardous waste unless the materials are not hazardous  
186.3 waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155.

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

186.5 **7045.0865 STANDARDS FOR USED OIL TRANSPORTERS AND TRANSFER**  
186.6 **FACILITIES.**

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

186.8 Subp. 7. **Used oil discharges.**

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

186.10 D. An air, rail, highway, or water transporter who has discharged used oil  
186.11 must give notice, if required by Code of Federal Regulations, title 49, section 171.15,  
186.12 as amended, to the National Response Center (800) 424-8802, and report in writing as  
186.13 required by Code of Federal Regulations, title 49, section 171.16, as amended, to the

186.14 ~~Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau~~  
186.15 ~~Information Systems Manager, PHH-63, Pipeline and Hazardous Materials Safety~~  
186.16 ~~Administration, Department of Transportation, Washington, D.C. 20590-0001, or submit~~  
186.17 ~~an electronic hazardous materials incident report to the Information Systems Manager,~~  
186.18 ~~DHM-63, Pipeline and Hazardous Materials Safety Administration, Department of~~  
186.19 ~~Transportation, Washington, D.C. 20590-0001 at <http://hazmat.dot.gov>.~~

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

186.21 Subp. 9. **Used oil storage at transfer facilities.** This subpart applies to used oil  
186.22 transfer facilities where used oil is stored for more than 24 hours and no more than 35  
186.23 days. Transfer facilities where used oil is stored for more than 35 days are subject to  
186.24 regulation under part 7045.0875.

187.1 A. Used oil transporters shall comply with all applicable spill prevention,  
187.2 control, and countermeasures requirements of Code of Federal Regulations, title 40, part  
187.3 112, as amended, in addition to the requirements of this part. Used oil transporters shall  
187.4 also comply with the underground storage tank standards of ~~Code of Federal Regulations,~~  
187.5 ~~title 40, part 280, as amended,~~ chapter 7150 for used oil stored in underground tanks,  
187.6 whether or not the used oil exhibits any characteristic of hazardous waste, in addition  
187.7 to the requirements of this part.

187.8 B. Used oil transporters who store used oil ~~for more than seven days~~ in  
187.9 aboveground tanks ~~of at least 110 gallons in size~~ are subject to ~~parts 7100.0010 to~~  
187.10 ~~7100.0090~~ chapter 7151, in addition to the requirements of this part. Used oil transporters  
187.11 who store at least 10,000 gallons of used oil at one time are subject to the requirements of  
187.12 Minnesota Statutes, chapter 115E, to prepare and maintain a discharge prevention and  
187.13 response plan, in addition to the requirements of this part. All used oil transporters shall  
187.14 comply with the storage and use requirements of ~~article 79~~ of the Minnesota ~~Uniform~~

187.15 State Fire Code, as ~~incorporated by reference in part 7510.3510~~ chapter 7510, in addition  
187.16 to the requirements of this part.

187.17 C. Used oil transporters shall not store used oil in units other than containers or  
187.18 tanks and shall ensure that the following requirements for containers and tanks are met.  
187.19 Containers and tanks used to store used oil at transfer facilities must be in good condition,  
187.20 not leaking, and closed. Containers must be equipped with a secondary containment  
187.21 system consisting of dikes, berms, or retaining walls and a floor that covers the entire  
187.22 area within the dikes, berms, or retaining walls, or an equivalent secondary containment  
187.23 system. The entire containment system, including walls and floors, must be sufficiently  
187.24 impervious to used oil to prevent any used oil released into the containment system  
187.25 from migrating out of the system to the soil, groundwater, or surface water. Containers,  
187.26 aboveground tanks, and fill pipes of underground tanks used to store used oil at transfer  
187.27 facilities must be marked with the words "Used Oil." Aboveground tanks used to store  
188.1 used oil at transfer facilities ~~are~~ may also be subject to the secondary containment  
188.2 requirements of ~~parts 7100.0010 to 7100.0090~~ and other requirements in chapter 7151.  
188.3 ~~Double-walled tanks meet this secondary containment requirement.~~

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

188.5 [For text of subs 10 to 12, see M.R.]

188.6 Subp. 13. **Closure.**

188.7 A. Owners and operators who store or process used oil in aboveground  
188.8 tanks must, at closure of the tank system, remove or decontaminate residues in tanks,  
188.9 contaminated containment system components, contaminated soils, and structures and  
188.10 equipment contaminated with used oil and manage them as hazardous waste unless the  
188.11 materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155. If the  
188.12 owner or operator demonstrates that not all contaminated soils can be practicably removed  
188.13 or decontaminated as required in this item, then the owner or operator must close the tank

188.14 system and perform postclosure care in accordance with the closure and postclosure care  
188.15 requirements of part 7045.0638, subpart 4, that apply to hazardous waste landfills.

188.16 B. Owners and operators who store used oil in containers must, at closure,  
188.17 remove containers holding used oils or residues of used oil from the site. The owner or  
188.18 operator must remove or decontaminate used oil residues, contaminated containment  
188.19 system components, contaminated soils, and structures and equipment contaminated with  
188.20 used oil, and manage them as hazardous waste unless the materials are not hazardous  
188.21 waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155.

188.22 [For text of subp 14, see M.R.]

188.23 **7045.0875 STANDARDS FOR USED OIL PROCESSORS AND REREFINERS.**

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

188.25 Subp. 5. **Used oil storage and management.**

189.1 A. Used oil processors/rerefiners shall comply with all applicable spill  
189.2 prevention, control, and countermeasures requirements of Code of Federal Regulations,  
189.3 title 40, part 112, as amended, in addition to the requirements of this part. Used oil  
189.4 processors/rerefiners shall also comply with the underground storage tank standards of  
189.5 ~~Code of Federal Regulations, title 40, part 280, as amended,~~ chapter 7150 for used oil  
189.6 stored in underground tanks, whether or not the used oil exhibits any characteristic of  
189.7 hazardous waste, in addition to the requirements of this part.

189.8 B. Used oil processors/rerefiners who store used oil ~~for more than seven days~~  
189.9 ~~in aboveground tanks of at least 110 gallons in size~~ are subject to ~~parts 7100.0010~~  
189.10 ~~to 7100.0090~~ chapter 7151, in addition to the requirements of this part. Used oil  
189.11 processors/rerefiners who store at least 10,000 gallons of used oil at one time are subject to  
189.12 the requirements of Minnesota Statutes, chapter 115E, to prepare and maintain a discharge  
189.13 prevention and response plan, in addition to the requirements of this part. All used oil

189.14 processors/rerefiners shall comply with the storage and use requirements of ~~article 79 of~~  
189.15 the Minnesota ~~Uniform State Fire Code, as incorporated by reference in part 7510.3510~~  
189.16 chapter 7510, in addition to the requirements of this part.

189.17 C. Used oil processors/rerefiners shall not store used oil in units other than  
189.18 containers or tanks and shall ensure that the following requirements for containers and  
189.19 tanks are met. Containers and tanks used to store used oil at processing/rerefining facilities  
189.20 must be in good condition, not leaking, and closed. Containers must be equipped with a  
189.21 secondary containment system. The secondary containment system must consist of, at a  
189.22 minimum, dikes, berms, or retaining walls, and a floor which covers the entire area within  
189.23 the dike, berm, or retaining wall. An equivalent secondary containment system may be  
189.24 used for containers. The entire containment system, including walls and floor, must be  
189.25 sufficiently impervious to used oil to prevent any used oil released into the containment  
189.26 system from migrating out of the system to the soil, groundwater, or surface water.  
189.27 Containers, aboveground tanks, and fill pipes of underground tanks used to store used oil  
190.1 at transfer facilities must be marked with the words "Used Oil." Aboveground tanks used  
190.2 to store used oil at transfer facilities ~~are~~ may also be subject to the secondary containment  
190.3 requirements of ~~parts 7100.0010 to 7100.0090~~ and other requirements in chapter 7151.  
190.4 ~~Double-walled tanks meet this secondary containment requirement.~~

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

190.6 E. Closure:

190.7 (1) Owners and operators who store or process used oil in aboveground  
190.8 tanks must, at closure of the tank system, remove or decontaminate residues in tanks,  
190.9 contaminated containment system components, contaminated soils, and structures and  
190.10 equipment contaminated with used oil, and manage them as hazardous waste unless the  
190.11 materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155. If the  
190.12 owner or operator demonstrates that not all contaminated soils can be practicably removed

190.13 or decontaminated as required in this subitem, then the owner or operator must close the  
190.14 tank system and perform postclosure care in accordance with the closure and postclosure  
190.15 care requirements of part 7045.0638, subpart 4, that apply to hazardous waste landfills.

190.16 (2) Owners and operators who store used oil in containers must, at closure,  
190.17 remove containers holding used oils or residues of used oil from the site. The owner or  
190.18 operator must remove or decontaminate used oil residues, contaminated containment  
190.19 system components, contaminated soils, and structures and equipment contaminated with  
190.20 used oil, and manage them as hazardous waste unless the materials are not hazardous  
190.21 waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155.

190.22 [For text of subps 6 to 11, see M.R.]

190.23 **7045.0885 STANDARDS FOR USED OIL BURNERS WHO BURN**  
190.24 **OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY.**

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

191.1 **Subp. 6. Used oil storage.**

191.2 A. Applicability of federal storage regulations. Used oil burners must comply  
191.3 with all applicable spill prevention, control, and countermeasures requirements of Code  
191.4 of Federal Regulations, title 40, part 112, as amended, in addition to the requirements of  
191.5 this subpart. Used oil burners must comply with the underground storage tank standards  
191.6 of ~~Code of Federal Regulations, title 40, part 280, as amended,~~ chapter 7150 for used oil  
191.7 stored in underground tanks, whether or not the used oil exhibits any characteristic of  
191.8 hazardous waste, in addition to the requirements of this part.

191.9 B. Used oil burners who store used oil for more than seven days in aboveground  
191.10 tanks of at least 110 gallons in size are subject to parts ~~7100.0010 to 7100.0090~~ chapter  
191.11 7151, in addition to the requirements of this subpart. Used oil burners who store at least  
191.12 10,000 gallons of used oil at one time are subject to the requirements of Minnesota  
191.13 Statutes, chapter 115E, to prepare and maintain a discharge prevention and response plan,

191.14 in addition to the requirements of this part. All used oil burners shall comply with the  
191.15 storage and use requirements of ~~article 79 of the Minnesota Uniform State Fire Code, as~~  
191.16 ~~incorporated by reference in part 7510.3510~~ chapter 7510, in addition to the requirements  
191.17 of this part.

191.18 C. Used oil burners shall not store used oil in units other than containers or  
191.19 tanks and must ensure that the following requirements for containers and tanks are met.  
191.20 Containers and tanks used to store used oil at burning facilities must be in good condition,  
191.21 not leaking, and closed. Containers must be equipped with a secondary containment  
191.22 system. The secondary containment system must consist of, at a minimum, dikes, berms,  
191.23 or retaining walls, and a floor which covers the entire area within the dike, berm, or  
191.24 retaining wall. An equivalent secondary containment system may be used for containers.  
191.25 The entire containment system, including walls and floor, must be sufficiently impervious  
191.26 to used oil to prevent any used oil released into the containment system from migrating  
192.1 out of the system to the soil, groundwater, or surface water. Containers, aboveground  
192.2 tanks, and fill pipes of underground tanks used to store used oil at transfer facilities  
192.3 must be marked with the words "Used Oil." Aboveground tanks used to store used oil  
192.4 at burning facilities ~~are~~ may also be subject to the secondary containment requirements  
192.5 ~~of parts 7100.0010 to 7100.0090~~ and other requirements in chapter 7151. ~~Double-walled~~  
192.6 ~~tanks meet this secondary containment requirement.~~

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

192.8 [For text of subps 7 to 9, see M.R.]

192.9 Subp. 10. **Closure.**

192.10 A. Owners and operators who store or process used oil in aboveground  
192.11 tanks must, at closure of the tank system, remove or decontaminate residues in tanks,  
192.12 contaminated containment system components, contaminated soils, and structures and  
192.13 equipment contaminated with used oil, and manage them as hazardous waste unless the

192.14 materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155. If the  
192.15 owner or operator demonstrates that not all contaminated soils can be practicably removed  
192.16 or decontaminated as required in this item, then the owner or operator must close the tank  
192.17 system and perform postclosure care in accordance with the closure and postclosure care  
192.18 requirements of part 7045.0638, subpart 4, that apply to hazardous waste landfills.

192.19 B. Owners and operators who store used oil in containers must, at closure,  
192.20 remove containers holding used oils or residues of used oil from the site. The owner or  
192.21 operator must remove or decontaminate used oil residues, contaminated containment  
192.22 system components, contaminated soils, and structures and equipment contaminated with  
192.23 used oil, and manage them as hazardous waste unless the materials are not hazardous  
192.24 waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155.

192.25 [For text of subp 11, see M.R.]

193.1 **7045.1390 LAND DISPOSAL RESTRICTIONS.**

193.2 Subpart 1. Incorporation of federal land disposal restrictions. Code of Federal  
193.3 Regulations, title 40, part 268, as amended, land disposal restrictions, is incorporated by  
193.4 reference, except as provided in subparts 2 to 5.

193.5 Subp. 2. General additions, modifications, or exceptions to incorporation of  
193.6 regulations.

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

193.8 B. The agency does not incorporate the definitions of debris or hazardous debris  
193.9 in Code of Federal Regulations, title 40, section 268.2, or the regulations related to debris  
193.10 and hazardous debris throughout Code of Federal Regulations, title 40, part 268, including  
193.11 the treatment standards for hazardous debris in section 268.45. Wastes that would be  
193.12 federally regulated as debris or hazardous debris are regulated as hazardous waste.



193.13 Subp. 3. Exceptions or additions to Code of Federal Regulations, title 40,  
193.14 subpart A.

193.15 A. The agency does not incorporate Code of Federal Regulations, title 40,  
193.16 section 268.1(c)(3), allowing disposal into an injection well.

193.17 B. References to "EPA" in Code of Federal Regulations, title 40, sections  
193.18 268.1(e)(3) and 268.2(j) mean the federal Environmental Protection Agency.

193.19 C. The agency does not incorporate the definitions found in Code of Federal  
193.20 Regulations, title 40, section 268.2, paragraph a, c, d, e, f, g, or h.

193.21 D. References in Code of Federal Regulations, title 40, section 268.7(a)(9)(iii),  
193.22 to D001 to D043 do not include D009.

193.23 E. The agency does not incorporate Code of Federal Regulations, title 40,  
193.24 section 268.5, governing procedures for case-by-case extensions to an effective date.  
193.25 That section is administered by the EPA.

194.1 F. The agency does not incorporate Code of Federal Regulations, title 40, section  
194.2 268.6, governing petitions to allow land disposal of a waste prohibited under subpart C.  
194.3 Part 7045.0075, subpart 9, applies.

194.4 G. The agency does not incorporate Code of Federal Regulations, title  
194.5 40, section 268.4(a)(3)(ii) and (iii), relating to waivers or modifications of surface  
194.6 impoundment requirements.

194.7 Subp. 4. Exceptions or additions to Code of Federal Regulations, title 40,  
194.8 subpart B. The agency does not incorporate the EPA schedule in Code of Federal  
194.9 Regulations, title 40, section 268.13, for wastes identified or listed after November 8,  
194.10 1984. That section is administered by the Environmental Protection Agency.

194.11 Subp. 5. Exceptions or additions to Code of Federal Regulations, title 40,  
194.12 subpart D.

194.13           A. The agency does not incorporate Code of Federal Regulations, title 40,  
194.14 section 268.42(b), governing the demonstration of an alternative treatment method. That  
194.15 section is administered by the EPA.

194.16           B. The agency does not incorporate Code of Federal Regulations, title 40,  
194.17 section 268.44, paragraphs (a) to (g) or (o), governing variance from a treatment standard  
194.18 and wastes excluded in various states. That section is administered by the EPA.

194.19 **REPEALER.** Minnesota Rules, parts 7045.0020, subpart 45a; 7045.0075, subparts 8 and  
194.20 10; 7045.0135, subparts 1, 2, 2a, 3, and 4; 7045.0139, subpart 2; 7045.0141, subparts 2,  
194.21 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23; 7045.0143,  
194.22 subparts 2, 3, 4, 5, 6, 7, 9, 10, 12, 13, 14, 15, 17, 20, 21, 23, 25, and 27; 7045.0544,  
194.23 subparts 2 and 3; 7045.1300; 7045.1305; 7045.1309; 7045.1310; 7045.1315; 7045.1320;  
194.24 7045.1325; 7045.1330; 7045.1333; 7045.1334; 7045.1335; 7045.1339; 7045.1350;  
194.25 7045.1355; 7045.1358; 7045.1360; and 7045.1380, are repealed.