

State of Minnesota

State Register



**Rules, Executive Orders, Appointments,
Commissioners' Orders, Revenue Notices, Official Notices, Grants,
State Contracts & Loans, Non-State Bids, Contracts & Grants**
Published every Monday (Tuesday when Monday is a holiday)

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State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes* § 14.46. The *State Register* contains:

- rules of state agencies
- commissioners' orders
- state grants and loans
- executive orders of the governor
- revenue notices
- contracts for professional, technical and consulting services
- non-state public bids, contracts and grants
- appointments
- official notices

Printing Schedule and Submission Deadlines

Vol. 33 Issue Number	PUBLISH DATE (BOLDFACE shows altered publish date)	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts	Deadline for Proposed, Adopted and Exempt RULES
# 2	Monday 14 July	Noon Tuesday 8 July	Noon Wednesday 2 July
# 3	Monday 21 July	Noon Tuesday 15 July	Noon Wednesday 9 July
# 4	Monday 28 July	Noon Tuesday 22 July	Noon Wednesday 16 July
# 5	Monday 4 August	Noon Tuesday 29 July	Noon Wednesday 23 July

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Minnesota Rules: Amendments & Additions

Rules Index - Vol. 33, # 1-2: July 7, 2008 - July 14, 2008	40	State Designer Selection Board:	
Proposed Rules		University of Minnesota/Minnesota State Colleges and Universities	
Pollution Control Agency (MPCA)		Availability of Request for Proposal (RFP) for Designer	
Proposed Permanent Rules Relating to Hazardous Waste.....	41	Selection for Trades Addition and Library Design.....	148
Board of School Administrators		State Designer Selection Board:	
Proposed Amendment to Rules Governing Educational		University of Minnesota: Availability of Request for Proposal	
Administrative Licensure.....	113	for Designer Selection for Center for Magnetic Resonance Research.....	148
Adopted Rules		State Designer Selection Board:	
Human Services Department (DHS)		University of Minnesota: Availability of Request for Proposal	
Adopted Permanent Rules Relating to Surveillance and Integrity Review.....	127	for Designer Selection for Physics and Nanotechnology Building.....	149
Exempt Rules		Colleges and Universities, Minnesota State (MnSCU)	
Labor and Industry Department (DOLI)		Anoka-Ramsey Community College:	
Division of Labor Standards and Apprenticeship:		Request for Proposals for Food Service on the Coon Rapids Campus.....	149
Adoption of Exempt Permanent Rules Governing Apprenticeship.....	130	Anoka Technical College:	
Expedited Emergency Rules		Request for Information to Provide a Hybrid College Bookstore	
Natural Resources Department (DNR)		for Anoka Technical College.....	149
Adopted Expedited Emergency Game and Fish Rules:		Office of the Chancellor:	
2008 Camp Ripley Archery Deer Hunt Quota and		Request for Bid for Printing Translated Language Brochure	
Youth Deer Hunts and Seasons.....	132	Series "Make College a Part of Your Future".....	150
Commissioners' Orders		Dakota County Technical College:	
Natural Resources Department (DNR)		Request for Proposals for Snow Plowing Services.....	150
Commissioner's Scientific and Natural Area Order No. 194,		St. Cloud Technical College:	
Seminary Fen Scientific and Natural Area.....	135	Formal Request for Bid (RFB) for EDM Sinker Machine for	
Commissioner's Scientific and Natural Area Order No. 195,		Machine Tool Technology Lab.....	150
Franconia Bluffs Scientific and Natural Area.....	136	Natural Resources Department (DNR)	
DECISION RECORD; OFFICIAL NOTICE AND ORDER:		Availability of Contract for Gathering High-resolution	
Approval of the DNR Agassiz Lowlands Subsection		Elevation Data that Meets FEMA Criteria for Floodplain	
Forest Resource Management Plan.....	138	Mapping for the Study Area Using Light Detection and	
Exhibit A: State Lands Included in the Agassiz Lowlands		Ranging (LiDAR) Technology.....	151
Subsection Forest Resources Management Plan.....	139	Transportation Department (Mn/DOT)	
Official Notices		Engineering Services Division:	
Get the Most from the Official Notices.....	140	Potential Availability of Contracting Opportunities for a	
Administration Department (Admin)		Variety of Highway Related Technical Activities	
STAR Program: AT Advisory Council Meeting July 15, 2008.....	140	("Consultant Pre-Qualification Program").....	152
Natural Resources Department (DNR)		Engineering Services Division:	
Division of Fish and Wildlife:		Professional/Technical Contract Opportunities.....	152
Fish and Wildlife Habitat Stamp Art Contests 2009.....	140	Non-State Bids, Contracts & Grants	
Designation of Infested Waters: Order No. INF-08-002.....	141	Ducks Unlimited, Inc.	
Public Hearing on Hemlock Ravine Scientific and Natural Area.....	141	Request for Bids for Contract Construction Manager.....	153
State Grants & Loans		Request for Bids for Contract Engineering Technician.....	153
Grant Applicants.....	142	Request for Bids for Contract Wetland Restoration Specialist.....	153
Health Department (MDH)		Metropolitan Council	
Office of Rural Health and Primary Care:		Invitation for Bids (IFB) for Freight Elevator Repair for the	
Request for Proposals: 2008-2009 e- Health Grant Program.....	143	Seneca Wastewater Treatment Plant.....	154
Request for Proposals for Exceptions to the Nursing Home Moratorium.....	143	Minnehaha Creek Watershed District	
Transportation Department (Mn/DOT)		Culvert Construction, Bituminous Road Reconstruction,	
Office of Transit, Planning, Modal and Data Management Division:		Grading and Riprap.....	154
Intent to Release Applications to Fund Small		University of Minnesota (U of M)	
Urban 5317 New Freedom Grant for 2009.....	146	Subscribe to Bid Information Service (BIS).....	155
State Contracts		Minnesota's Bookstore	
How to Work with Contracts.....	147	Contracts information is available from the Materials Management	
Administration Department (Admin)		Helpline (651) 296-2600, or Web site:	
Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP"):		<i>www.mmd.admin.state.mn.us</i>	
Availability of Contract for Pharmaceutical and		State Register information is available from Minnesota's Bookstore	
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Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 660 Olive Street (one block east of I-35E and one block north of University Ave), St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

Rules Index: Vol. 33 - # 1 - 2: 7 July 2008 - 14 July 2008

Labor and Industry Department

- Construction Codes and Licensing Division

1323 (proposed).....	5
7676; 7678 (proposed repealer).....	5

Agriculture Department

1505.0751 (adopted).....	8
1505.0010; .0020; .0030; .0040; .0050; .0070; .0080; .0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160; .0170; .0180; .0190; .0200; .0210; .0220; .0230; .0240; .0250; .0260; .0270; .0280; .0290; .0300; .0310; .0320; .0330; .0340; .0350; .0380; .0390; .0400; .0410; .0420; .0430; .0440; .0450; .0460; .0470; .0480; .0490; .0500; .0510; .0520; .0530; .0540; .0541; .0542; .0543; .0544; .0545; .0546; .0550; .0560; .0570; .0580; .0590; .0600; .0752; .0754 s. 2; .0756 s. 2; 1510.0330; 1562.0700; .0700 s. 2; .0800, (repealed).....	8

School Administrators Board

3512.0100; .0200; .0300; .0400; .0400; .0510; .0700; .0800; .1200; .1300; .1500; .1600; .1700; .2000; .2100; .2400; .2500; .2600; .2700; .3500; .5200 (proposed).....	113
3512.3500, as part 3512.0505 (proposed renumbering and cross references).....	113
3512.0300, s. 6; .0400, s. 2; .0500; .0600; .1100; .1400, (proposed repealer).....	113

Labor and Industry

5200.0300; .0320; .0370; .0420 (adopted exempt).....	130
--	-----

Natural Resources Department

6232.0900; .2550; .2560 (adopted expedited emergency)...	132
6237.0600; .0700 (expedited emergency repealed).....	Vol. 32 SR 2203, 2316; Vol 33 SR 11

Pollution Control Agency

7001.0150; .0501; .0520; .0550; .0560; .0570; .0580; .0590; .0600; .0610; .0620; .0630; .0635; .0650; .0690; .0700; .0710; .0730;	
7045.0020; .0065; .0071; .0075; .0090; .0102; .0120; .0121; .0125; .0127; .0131; .0133; .0135; .0139; .0141; .0143; .0155; .0208; .0213; .0214; .0255; .0270; .0292; .0294; .0300; .0302; .0365; .0371; .0395; .0450; .0452; .0458; .0478; .0482; .0484; .0486; .0490; .0498; .0502; .0504; .0508; .0514; .0518; .0524; .0526; .0528; .0532; .0534; .0536; .0638; .0539; .0540; .0542; .0543; .0544; .0550; .0552; .0556; .0564; .0584; .0586; .0588; .0594; .0596; .0600; .0608; .0610; .0612; .0616; .0620; .0626; .0628; .0629; .0630; .0632; .0634; .0638; .0643; .0645; .0649; .0652; .0655; .0665; .0686; .0692; .0800; .0805; .0855; .0865; .0875; .0885; .1390 (proposed).....	41
7045.0020 s.45a; .0075 s.8, 10; .0135 s. 1, 2, 2a, 3, 4; 0139 s.2; 0141 s. 2-23; .0143 s. 2-7, 9-10, 12-15, 17, 20-21, 23, 25, 27; .0544 s.2, 3; .1300; .1305; .1309; .1310; .1315; .1320; .1325; .1330; .1333; .1334; .1335; .1339; .1350; .1355; .1358; .1360; .1380 (proposed repealer).....	41

Labor and Industry Department

- Construction Codes and Licensing Division

7676; 7678 (proposed repealer).....	5
1323 (proposed).....	5

Racing Commission

7869.0100; 7871.0070; .0080; 7872.0100; 7873.0185; .0240; 7875.0100; .0200; 7876.0110; 7877.0130; .0170; .0180; 7879.0200; 7883.0100; .0140; .0150; .0160; .0170; 7884.0120; .0210; .0230; .0260; .0270; 7890.0100; .0110; .0130; .0140; .0160 (adopted).....	1511
7883.0140 s. 20, 29 (repealed).....	1511

Human Services Department

9505.2160; .2165; .2175; .2180; .2185; .2190; .2195; .2197; .2200; .2205; .2207; .2210; .2210; .2215; .2220; .2230; .2238; .2240; .2245 (adopted).....	127
9505.2165, s. 11; .2210, s. 3 (repealed).....	127

Proposed Rules

Comments on Planned Rules or Rule Amendments. An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing. After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing. Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

KEY: Proposed Rules - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Minnesota Pollution Control Agency Proposed Permanent Rules Relating to Hazardous Waste Notice of Intent to Adopt Rules Without a Public Hearing

Proposed Amendment to Rules Governing Hazardous Waste, *Minnesota Rules*, Chapters 7001 and 7045. The MPCA is proposing to amend its existing hazardous waste rules in *Minnesota Rules* chapters 7001 and 7045. In conjunction with these amendments, the following rules are being repealed: *Minnesota Rules* parts 7045.0020, subpart 45a; 7045.0075, subparts 8 and 10; 7045.0135, subparts 1, 2, 2a, 3, and 4; 7045.0139, subpart 2; 7045.0141, subparts 2-23; 7045.0143, subparts 2, 3, 4, 5, 6, 7, 9, 10, 12, 13, 14, 15, 17, 20, 21, 23, 25, and 27; 7045.0544, subparts 2 and 3; 7045.1300; 7045.1305; 7045.1309; 7045.1310; 7045.1315; 7045.1320; 7045.1325; 7045.1330; 7045.1333; 7045.1334; 7045.1335; 7045.1339; 7045.1350; 7045.1355; 7045.1358; 7045.1360; and 7045.1380.

Introduction. The Minnesota Pollution Control Agency (MPCA or Agency) intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules* 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes* §§ 14.22 to 14.28. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until 4:30 p.m. on Thursday, August 28, 2008.

Agency Contact Person. You must submit comments or questions on the rules and written requests for a public hearing to the designated Agency contact. The Agency contact for this rule is: Nathan Cooley, e-mail: nathan.cooley@pca.state.mn.us, phone: (651) 297-7544. You may also mail comments to the contact's attention at the Minnesota Pollution Control Agency, 520 Lafayette Road North, Saint Paul, Minnesota 55155, or fax to the contact's attention at (651) 297-8676. TTY users may call the MPCA at (651) 282-5332 or 800-657-3864.

Subject of Rules and Statutory Authority. The Agency proposes to amend its hazardous waste rules in *Minnesota Rules* chapters 7001 and 7045. The statutory authority to adopt the rules is contained in *Minnesota Statutes* § 116.07, subdivision 4. The proposed amendments fall into three general categories of change.

First, the Agency is proposing changes to its hazardous waste rules that are required to maintain Minnesota's hazardous waste program authorization from the U.S. Environmental Protection Agency (EPA). EPA program authorization allows the MPCA to operate its state hazardous waste program in lieu of the EPA enforcing federal hazardous waste requirements. The federal Resource Conservation and Recovery Act (RCRA) requires states with federally authorized hazardous waste programs to adopt those federal program amendments that increase stringency in order to maintain their program equivalence and authorization.

Proposed Rules

Some of the proposed rule changes have been in effect federally for at least several years. Those federal regulations that the EPA promulgated under its Hazardous and Solid Waste Amendments (HSWA) authority applied in all states on their federal effective date. In this rulemaking, the MPCA is adopting provisions from about 67 federal amendments. The EPA promulgated about 51 of these using its HSWA authority. Thus, most of these provisions already apply in Minnesota under the authority of the EPA. However, the EPA, rather than the MPCA, enforces these requirements until the MPCA adopts the changes into its rules. Some of the remaining EPA amendments, while also required to maintain state authorization, do not apply in Minnesota until they are adopted into *Minnesota Rules*.

Second, the Agency is adopting certain other federal EPA amendments that are not required to maintain program authorization but which the MPCA believes will reduce unnecessary regulatory burdens while remaining protective of human health and the environment. In adopting some of the federal changes, the MPCA has continued its existing practice of incorporating certain portions of the federal regulations by reference as amended. In this proposed rulemaking, examples of incorporation by reference as amended include incorporation of hazardous waste lists, land disposal restrictions, air emission standards, and testing methodologies and technical standards.

Finally, the MPCA is proposing a number of changes to correct errors or omissions in the existing rules and to improve or clarify existing rule language.

A copy of the proposed rules is published in the *State Register*; Web site: www.comm.media.state.mn.us/bookstore/state_register.asp, and is also available via the Agency Web site: www.pca.state.mn.us/waste/hazwaste-rulechanges.html, or from the Agency contact person listed above.

Comments. You have until 4:30 p.m. on Thursday, August 28, 2008, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and the Agency contact person must receive it by the due date. The Agency is providing a 45-day comment period instead of the required 30-day comment period as part of the Agency's plan to provide additional public notice. The Agency encourages comment. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. You must also make any comments about the legality of the proposed rules during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the Agency hold a hearing on the rules. Your request must be in writing and the Agency contact person must receive it by 4:30 p.m. on Thursday, August 28, 2008. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the Agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the Agency will hold a public hearing unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the Agency must give written notice of this to all persons who requested a hearing, explain the actions the Agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the Agency will follow the procedures in *Minnesota Statutes* §§ 14.131 to 14.20.

Alternative Format. Upon request, the Agency can make this Notice available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the Agency contact person at the address or telephone number listed above.

Modifications. The Agency may modify the proposed rules as a result of public comment. The modifications must be supported by comments and information submitted to the Agency, and the adopted rules may not be substantially different than these proposed rules, unless the Agency follows the procedure under *Minnesota Rules* part 1400.2110. If the proposed rules affect you in any way, the Agency encourages you to participate in the rulemaking process.

Statement of Need and Reasonableness. The statement of need and reasonableness contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. It is now available from the Agency contact person. As part of the Agency's plan to enhance public notice, the Agency is also making the statement of need and reasonableness and supporting documents available on compact disc and on the Agency's Web site: www.pca.state.mn.us/waste/hazwaste-rulechanges.html.

Proposed Rules

Request to Have the MPCA Citizens' Board (Board) Make a Decision on the Rule if No Hearing is Required. If a hearing is required, the Board will make the final decision on whether to adopt the proposed rules. However, even if no hearing is required, you may submit a request to the Commissioner or a Board member to have the Board make the decision on whether to adopt the proposed rules. Your request must be in writing; must state to whom it is directed and must be received by the Agency contact person by 4:30 p.m. on Thursday, August 28, 2008. Under *Minnesota Statutes* § 116.02, where a hearing is not required, the Board will only make the decision on the rule if the MPCA Commissioner grants your request or if a Board member makes a timely request that the decision be made by the Board. If you have questions regarding the process to have the Board make a decision on a final rule adoption if no hearing is required, or need Board member information, you should contact the Agency contact person identified in this Notice.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions about this requirement to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone: (651) 296-5148 or 1-800-657-3889.

Adoption and Review of Rules. If no hearing is required, the Agency may adopt the rules after the end of the comment period. The Agency will then submit the rules and supporting documents to the Office of Administrative Hearings (Office) for review for legality. You may ask to be notified of the date the Agency submits the rules to the Office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the Agency to receive notice of future rule proceedings, submit your request to the Agency contact person listed above.

Dated: July 7, 2008

Brad Moore, Commissioner
Minnesota Pollution Control Agency

7001.0150 TERMS AND CONDITIONS OF PERMITS.

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

Subp. 2. **Special conditions.** Each draft and final permit must contain conditions necessary for the permittee to achieve compliance with applicable Minnesota or federal statutes or rules, including each of the applicable requirements in parts 7045.0450 to ~~7045.0642~~ 7045.0651 and ~~7045.1300 to 7045.1380~~ 7045.1390, and any conditions that the agency determines to be necessary to protect human health and the environment. If applicable to the circumstances, the conditions must include:

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

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

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

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

- (1) become effective by statute;
- (2) are adopted under ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, restricting the placement of hazardous wastes in or on the land; ~~or~~
- (3) are adopted under parts 7045.0450 to 7045.0551 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, construction quality assurance programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of part 7001.0730, minor permit modifications; or
- (4) are adopted under parts 7045.0645, 7045.0647, and 7045.0648, limiting air emissions.

7001.0501 UNDERGROUND INJECTION.

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

7001.0520 PERMIT REQUIREMENTS.

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

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

Proposed Rules

proceedings to terminate eligibility:

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

D. that under the circumstances, in order to protect human health or the environment, the permitted facility should be subject to the requirements of parts ~~7045.0452 to 7045.0544~~ 7045.0450 to 7045.0551.

Subp. 5. **Closure by removal.** Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under parts 7045.0552 to ~~7045.0642~~ 7045.0651 must obtain a postclosure permit unless they can demonstrate to the agency that the closure met the requirements for closure by removal or decontamination in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536, subpart 8. The demonstration may be made in the following ways:

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

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

7001.0550 CONTENTS OF PART A OF APPLICATION.

Part A of the application must contain the following information:

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

E. a list of the waste designated under parts 7045.0102 to ~~7045.0143~~ 7045.0155 as hazardous to be treated, stored, or disposed of by the applicant and an estimate of the quantity of each hazardous waste to be treated, stored, or disposed of annually by the applicant;

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

7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF APPLICATION.

Part B of the application must contain the following information:

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

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

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

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

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

V. For land disposal facilities, if a case-by-case extension has been approved ~~under part 7045.0075, subpart 8 by the United States Environmental Protection Agency, under Code of Federal Regulations, title 40, section 268.5,~~ or a petition has been granted under part 7045.0075, subpart 9, a copy of the notice of approval for the extension or petition is required.

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

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

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

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

7001.0580 PART B INFORMATION REQUIREMENTS FOR STORAGE OR TREATMENT TANKS.

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

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

I. description of controls and practices to prevent spills and overflows, as required under part 7045.0528, subpart 6, item B; ~~and~~
J. for tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of part 7045.0528, subparts 10 and 11 ; and
K. information on air emission controls as required in part 7001.0635.

7001.0590 PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS.

Except as otherwise provided in part 7045.0532, subpart 1, if the applicant proposes to store, treat, or dispose of hazardous waste in surface impoundment facilities, the applicant shall submit detailed plans and specifications accompanied by an engineering report which

collectively includes the following information in addition to the information required by part 7001.0560:

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

K. A waste management plan for hazardous waste F028 and treatment residues and soil contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0532, subpart 10. This plan must address the following items as specified in part 7045.0532, subpart 10:

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

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

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

7001.0600 PART B INFORMATION REQUIREMENTS FOR WASTE PILES.

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

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

L. A waste management plan for hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, describing how a waste pile that is not enclosed is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0534, subpart 10. This submission must address the following items as specified in part 7045.0534, subpart 10:

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

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

7001.0610 PART B INFORMATION REQUIREMENTS FOR LAND TREATMENT.

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

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

I. A waste management plan for hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0536, subpart 11. This plan must address the following items as specified in part 7045.0536, subpart 11:

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

7001.0620 PART B INFORMATION REQUIREMENTS FOR LANDFILLS.

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

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

J. A waste management plan for hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0538, subpart 13. This plan must address the following items as specified in part 7045.0538, subpart 13:

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

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

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

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

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

C. The applicant shall perform an analysis of each waste or mixture of waste to be treated by using the analytical techniques set forth in the Environmental Protection Agency document SW-846, as ~~referenced~~ incorporated in part 7045.0065, or by using techniques found by the commissioner to be equivalent to them. The applicant shall submit all of the following information:

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

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

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

Proposed Rules

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

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

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

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

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

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

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

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

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

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

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

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

7001.0650 INTERIM STATUS.

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

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

B. that the owner or operator is in compliance with parts 7045.0552 to ~~7045.0642~~ 7045.0651;

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

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

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

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

D. alter a hazardous waste facility in a manner that amounts to a reconstruction of the facility. For the purpose of this part, reconstruction occurs when the capital investment in the modification of the facility exceeds 50 percent of the capital cost of a comparable new hazardous waste facility. Reconstruction does not include changes made solely for the purpose of complying with the requirements of part 7045.0628, subpart 4, for tanks and ancillary equipment, or to treat or store in containers ~~or, tanks, or containment buildings~~ hazardous wastes subject to the land disposal restrictions under ~~parts 7045.1300 to 7045.1380~~ part 7045.1390 or RCRA section 3004, if

Proposed Rules

the changes are made solely to comply with ~~parts 7045.1300 to 7045.1380~~ part 7045.1390 or RCRA section 3004.

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

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

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

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

(2) the addition or change is necessary for the owner or operator to comply with federal, Minnesota, or local requirements, including the interim status standards in parts 7045.0552 to ~~7045.0642~~ 7045.0651.

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

F. Except as specifically allowed under this item, changes listed under items A to E may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to reconstruction:

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

(6) changes to treat or store, in tanks ~~or~~ containers, ~~or containment buildings~~, hazardous wastes subject to land disposal restrictions imposed by ~~parts 7045.1300 to 7045.1380~~ part 7045.1390 or RCRA section 3004, provided that ~~the~~ such changes are made solely for the purpose of complying with ~~parts 7045.1300 to 7045.1380~~ part 7045.1390 or RCRA section 3004.

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

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

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

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

7001.0690 EMERGENCY PERMITS.

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

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

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

7001.0700 HAZARDOUS WASTE THERMAL TREATMENT FACILITY PERMITS.

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

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

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

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

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

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

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

7001.0710 LAND TREATMENT DEMONSTRATION PERMITS.

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

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

Proposed Rules

of approval, and the specific waste types.

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

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

7001.0730 MODIFICATION OF PERMITS; REVOCATION AND REISSUANCE OF PERMITS.

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

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

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

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

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

(2) treatment is in accordance with ~~part 7045.1310~~ *Code of Federal Regulations*, title 40, section 268.4, as incorporated in part 7045.1390, if applicable, and ~~part 7045.1305~~ section 268.3, as incorporated in part 7045.1390, and applicable standards established under ~~parts 7045.1355 to 7045.1360 and part 7045.0075, subpart 10~~ *Code of Federal Regulations*, title 40, sections 268.41 to 268.49, and 268.5, as incorporated in part 7045.1390, or, where no treatment standards have been established, treatment renders the waste no longer subject to the applicable prohibitions of ~~part 7045.1330~~ *Code of Federal Regulations*, title 40, section 268.32, as incorporated in part 7045.1390, or RCRA section 3004;

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

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

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

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

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

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

7045.0020 DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

173.120, as amended.

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

Subp. 31. **Generator.** “Generator” means any person, by site, whose act or process produces hazardous waste identified or listed in parts 7045.0102 to ~~7045.0143~~ 7045.0155, or whose act first causes a hazardous waste to become subject to regulation. “Generator” means all size generators including large quantity generators, small quantity generators, and very small quantity generators, unless specifically stated otherwise.

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

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

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

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

Subp. ~~37c.~~ 37d. **Household hazardous waste.** “Household hazardous waste” has the meaning given in *Minnesota Statutes*, section 115A.96, subdivision 1, paragraph (b).

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

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

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

Subp. 45a. [See repealer.]

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

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

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

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

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

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

Subp. 72. **Pretreatment unit.** “Pretreatment unit” means a device which:

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

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

C. meets the definition of “tank” as defined in subpart 90.

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

Subp. 72b. **Processed scrap metal.** “Processed scrap metal” means scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal that has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted) and fines, drosses, and related materials that have been agglomerated. Shredded circuit boards being sent for recycling are not processed scrap metal. When recycled, shredded circuit boards are governed by part 7045.0125, subpart 4, item P.

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

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

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

Proposed Rules

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

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

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

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

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

Subp. 98e. 98d. **Universal waste.** “Universal waste” has the meaning given at *Code of Federal Regulations*, title 40, section 273.9.

Subp. 98d. 98e. **Universal waste handler.** “Universal waste handler” has the meaning given at *Code of Federal Regulations*, title 40, section 273.9.

Subp. 98e. 98f. **Universal waste transporter.** “Universal waste transporter” has the meaning given at *Code of Federal Regulations*, title 40, section 273.9.

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

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

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

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

Subp. 103. **Wastewater treatment unit.** “Wastewater treatment unit” means a device which:

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

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

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

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

7045.0065 INCORPORATION AND AVAILABILITY OF REFERENCES.

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

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

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

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

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

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

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

G. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, publication number SW 846 (Second Edition, 1982, as amended by Update I, April 1984, and Update II, April 1985) of the Office of Solid Waste, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. The Second Edition of SW-846 and Updates I and II available at the Minnesota Law

Proposed Rules

Library and from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161, (703) 487-4600 as Document number PB 87-120-291;

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

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

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

7045.0071 UNDERGROUND INJECTION.

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

7045.0075 PETITIONS.

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

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

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

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

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

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

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

(1) The petitioner must demonstrate that the waste:

(a) does not contain the constituent or constituents in part 7045.0141 that caused the agency to list the waste, using the appropriate test methods prescribed in Code of Federal Regulations, title 40, part 261, appendix III, as amended "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, incorporated by reference in part 7045.0065, item D; or

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

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

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

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

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

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

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

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

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

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

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

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

(1) The alternate manifest system must include a manifest form to be used by the generator to notify the commissioner each time

Proposed Rules

waste is transported under this subpart. The manifest form must include: a space for the generator's name, mailing address, telephone number, and identification number; a space for the transporter's name and identification number; a space for the name, address, telephone number, and identification number of the recycling facility; a space for the United States Department of Transportation shipping name, hazard class, and identification number, and packing group of the waste as specified in the United States Department of Transportation Code, title 49, parts 171 to ~~179~~ 199; a space for the number and type of containers and total volume of the waste being shipped; a space for the waste identification number as specified in part 7045.0131, 7045.0135, or 7045.0137; a space for the signature of the generator or the generator's authorized representative affirming the correctness of the information; the mailing address of the commissioner; and a statement advising the generator to complete the form and submit it to the commissioner within five working days of transporting waste.

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

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

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

Subp. 8. [See repealer.]

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

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

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

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

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

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

Subp. 10. [See repealer.]

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

7045.0090 ADOPTION AND INCORPORATION BY REFERENCE.

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

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

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

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

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

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

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

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

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

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

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

A. References to any section in "Code of Federal Regulations", title 40, part 261, subpart C," or "subparts A to C, or to *Code of Federal*

Proposed Rules

Regulations, title 40, sections ~~261.20~~ 261.1 to 261.24,” or “characteristic hazardous waste” mean the characteristics established in part parts 7045.0102 to 7045.0131 or part 7045.0214, subpart 3.

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

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

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

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

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

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

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

B. References to “*Code of Federal Regulations*, title 40, part 264, subpart H,” “~~Code~~ *Code of Federal Regulations*, title 40, sections 264.140 to 264.151,” “~~Code~~ *Code of Federal Regulations*, title 40, part 265, subpart H,” or “*Code of Federal Regulations*, title 40, sections 265.140 to 265.150,” mean the financial assurance requirements of parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624.

C. References to “*Code of Federal Regulations*, title 40, part 264, subpart O,” “~~Code~~ *Code of Federal Regulations*, title 40, sections 264.340 to 264.351,” “~~Code~~ *Code of Federal Regulations*, title 40, part 265, subpart O,” or “*Code of Federal Regulations*, title 40, sections 265.340 to 265.352,” mean the thermal treatment standards of parts 7045.0542 and 7045.0640.

D. References to “*Code of Federal Regulations*, title 40, part 264, subpart N,” “~~Code~~ *Code of Federal Regulations*, title 40, sections 264.300 to 264.317,” “~~Code~~ *Code of Federal Regulations*, title 40, part 265, subpart N,” or “*Code of Federal Regulations*, title 40, sections 265.300 to 265.316,” mean the landfill standards of parts 7045.0538 and 7045.0638.

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

Subp. 1h. Other standards.

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

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

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

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

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

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

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

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

7045.0102 MIXTURES OF WASTES.

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

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

A. A mixture is a hazardous waste if it is a mixture of nonhazardous waste and any waste which is hazardous solely because it exhibits the characteristic of ignitability, corrosivity, oxidativity, or reactivity as described in part 7045.0131, unless the resulting mixture does not exhibit any of the characteristics of hazardous waste as defined in part 7045.0131 contains a waste that is hazardous solely

Proposed Rules

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Proposed Rules

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

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

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

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

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

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

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

7045.0120 EXEMPTIONS AND SPECIAL REQUIREMENTS.

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

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

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

- (1) slag from primary copper processing;
- (2) slag from primary lead processing;
- (3) red and brown muds from bauxite refining;
- (4) phosphogypsum from phosphoric acid production;
- ~~(2)~~~~(5)~~ slag from elemental phosphorus production;
- ~~(3)~~~~(6)~~ gasifier ash from coal gasification;
- ~~(4)~~~~(7)~~ process wastewater from coal gasification;
- (8) calcium sulfate wastewater treatment plant sludge from primary copper processing;
- ~~(5)~~~~(9)~~ slag tailings from primary copper processing;
- ~~(6)~~~~(10)~~ fluorogypsum from hydrofluoric acid production;
- (11) process wastewater from hydrofluoric acid production;
- (12) air pollution control dust or sludge from iron blast furnaces;
- ~~(7)~~~~(13)~~ iron blast furnace slag;
- ~~(8)~~~~(14)~~ treated residue from the roasting/leaching of chrome ore; ~~and~~
- (15) process wastewater from primary magnesium processing by the anhydrous process;
- (16) process wastewater from phosphoric acid production;
- (17) basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
- ~~(9)~~~~(18)~~ basic oxygen furnace and open hearth furnace slag from carbon steel production;
- (19) chloride process waste solids from titanium tetrachloride production; and
- (20) slag from primary zinc processing.

A residue derived from coprocessing mineral processing secondary materials with normal beneficiation raw materials or with normal

Proposed Rules

mineral processing raw materials remains excluded under this subpart if the owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials and legitimately reclaims the secondary mineral processing materials;

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

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

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

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

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

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

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

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

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

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

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

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

(2) the spent material is not accumulated speculatively;

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

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

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

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

(c) before making a determination under this subitem, the commissioner must provide notice and the opportunity for

Proposed Rules

comment to all persons potentially interested in the determination in accordance with part 7001.0100, subpart 5;

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

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

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

- A. waste collected as a result of a household hazardous waste management program under part 7045.0310;
- B. spent or waste household batteries collected under part 7045.0686;
- C. waste collected as a result of a very small quantity generator hazardous waste collection program under part 7045.0320;
- D. feedstocks and by-products under part 7045.0125, subparts 5 and 6;

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

F. universal waste managed under part 7045.1400; and

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

- (1) any mixture of a waste and an eligible radioactive mixed waste; and
- (2) any waste generated from treating, storing, or disposing of an eligible radioactive mixed waste.

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

7045.0121 TREATABILITY STUDY EXEMPTIONS.

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

Subp. 3. **Facilities and sample handling.** A mobile treatment unit may qualify as a laboratory or testing facility subject to requirements of this subpart. Where a group of mobile treatment units are located at the same site, the limitations specified in this subpart apply to the entire group of mobile treatment units involved in treatability studies collectively as if the group were one mobile treatment unit. Samples undergoing treatability studies and the laboratory or testing facility conducting the treatability studies, to the extent the facilities are engaged directly in treatability studies and are not otherwise subject to the Resource Conservation and Recovery Act requirements, *United States Code*, title 42, section 6901 et seq., as amended, are not subject to any requirements of *Code of Federal Regulations*, title 40, part 124, as amended; parts 7045.0102 to 7045.0685 except this part and applicable references; ~~parts 7023.9000 to 7023.9050; 7045.1300 to 7045.1380~~ part 7045.1390; chapter 7001; or to the notification requirements of the Resource Conservation and Recovery Act, *United States Code*, title 42, section 6930, as amended, providing that the conditions in items A to K are met.

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

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

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

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

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

C. scrap metal and excluded scrap metal;

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

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

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

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

Proposed Rules

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

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

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

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

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

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

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

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

- (1) stored in containers sufficient to prevent a release to the environment prior to recovery; and
- (2) free of mercury switches, mercury relays, and nickel-cadmium batteries and lithium batteries.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7045.0127 RESIDUES IN EMPTY CONTAINERS AND EMPTY INNER LINERS.

Subpart 1. **Scope.** Any hazardous waste remaining in an empty container or an empty inner liner removed from an empty container, as defined in subparts 2 to 4 is not subject to regulation under parts 7045.0102 to 7045.1030 and ~~7045.1300 to 7045.1380~~ 7045.1390, or a hazardous waste facility permit. Any hazardous waste in a container or an inner liner removed from a container that is not empty, as

Proposed Rules

defined in subparts 2 to 4, is subject to regulation under parts 7045.0102 to 7045.1030 and ~~7045.1300 to 7045.1380~~ 7045.1390, and the agency's permitting procedures.

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

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

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

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

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

7045.0131 CHARACTERISTICS OF HAZARDOUS WASTE.

Subpart 1. **In general.** A waste which is not excluded from regulation as a hazardous waste under part 7045.0120 is a hazardous waste if it exhibits ignitability, corrosivity, reactivity, toxicity, lethality, or is an oxidizer, as described in subparts 2 to 7. A hazardous waste which is identified by a characteristic in this part is assigned every hazardous waste number that is applicable. This number must be used in complying with the notification requirements of section 3010 of the federal Resource Conservation and Recovery Act and all applicable record keeping and reporting requirements under parts ~~7023.9000 to 7023.9050;~~ 7045.0205 to ~~7045.0642 and 7045.1300~~ 7045.0651 and 7045.1390, and chapter 7001. For purposes of this part, the commissioner shall consider a sample obtained using any of the applicable sampling methods specified in *Code of Federal Regulations*, title 40, part 260 261, Appendix I ~~or part 261, Appendix H,~~ as amended ~~incorporated in part 7045.0155, or Toxicity Characteristic Leaching Procedure, Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, incorporated by reference in part 7045.0065, item D,~~ to be a representative sample.

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

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

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

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

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

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

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

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

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

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

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

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

Proposed Rules

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

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

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

A. A waste, ~~except manufactured gas plant waste~~, exhibits the characteristic of toxicity if, using the ~~test methods described in Code of Federal Regulations, title 40, part 261, appendix H, as amended, or equivalent methods approved by the commissioner under the procedures in part 7045.0075, subpart 1 Toxicity Characteristic Leaching Procedure, Method 1311 in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA publication SW-846, incorporated by reference in part 7045.0155, subpart 1, item B, the extract from a representative sample of the waste contains any of the contaminants listed in subpart 8 at a concentration equal to or greater than the respective value given in that table~~ contaminant values listed. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purpose of this evaluation.

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

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

7045.0133 EXEMPTION FROM REGULATION DUE TO LETHALITY.

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

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

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

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. [See repealer.]

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

A. section 261.30, general;

B. section 261.31, hazardous wastes from nonspecific sources;

C. section 261.32, hazardous wastes from specific sources;

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

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

F. section 261.38, comparable/syngas fuel exclusion.

Subp. 2. [See repealer.]

Subp. 2a. [See repealer.]

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

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

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

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

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

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

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

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

(2) “PCB” means a substance that contains PCB’s at a concentration of 50 parts per million or greater;

(3) “PCB lighting ballast” means a device that electrically controls light fixtures and that contains a PCB small capacitor or potting material that contains PCB’s; and

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

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

C. A generator of PCB wastes ~~who stores on-site prior to disposal~~ is subject to the requirements of *Minnesota Statutes*, section

Proposed Rules

116.07, subdivision 2b, and is exempt from the agency's hazardous waste storage facility permit requirements and parts 7045.0292 and 7045.0450 to 7045.0642 for the storage of those wastes except for the following requirements:

(1) the storage standards described in *Code of Federal Regulations*, title 40, section 761.65, as amended; and
(2) the requirements applicable to the generator based on generator size of part 7045.0292, subpart 1, 5, or 6, regarding proper labeling, personnel training, preparedness, prevention, and contingency planning. However, PCB items in use or in storage prior to disposal that are labeled as PCBs according to *Code of Federal Regulations*, title 40, sections 761.40, 761.45, and 761.65, as amended, are not subject to the hazardous waste labeling requirements of part 7045.0292.

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

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

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

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

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

7045.0139 BASIS FOR LISTING HAZARDOUS WASTES.

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

Subp. 2. [See repealer.]

7045.0141 HAZARDOUS CONSTITUENTS.

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

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

Subp. 8. [See repealer.]

Subp. 9. [See repealer.]

Subp. 10. [See repealer.]

Subp. 11. [See repealer.]

Subp. 12. [See repealer.]

Subp. 13. [See repealer.]

Proposed Rules

- Subp. 14. [See repealer.]
- Subp. 15. [See repealer.]
- Subp. 16. [See repealer.]
- Subp. 17. [See repealer.]
- Subp. 18. [See repealer.]
- Subp. 19. [See repealer.]
- Subp. 20. [See repealer.]
- Subp. 21. [See repealer.]
- Subp. 22. [See repealer.]
- Subp. 23. [See repealer.]

7045.0143 GROUNDWATER PROTECTION HAZARDOUS CONSTITUENTS LIST.

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

- Subp. 2. [See repealer.]
- Subp. 3. [See repealer.]
- Subp. 4. [See repealer.]
- Subp. 5. [See repealer.]
- Subp. 6. [See repealer.]
- Subp. 7. [See repealer.]
- Subp. 9. [See repealer.]
- Subp. 10. [See repealer.]
- Subp. 12. [See repealer.]
- Subp. 13. [See repealer.]
- Subp. 14. [See repealer.]
- Subp. 15. [See repealer.]
- Subp. 17. [See repealer.]
- Subp. 20. [See repealer.]
- Subp. 21. [See repealer.]
- Subp. 23. [See repealer.]
- Subp. 25. [See repealer.]
- Subp. 27. [See repealer.]

7045.0155 APPENDICES TO IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

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

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

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

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

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

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

7045.0208 HAZARDOUS WASTE MANAGEMENT.

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

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

Proposed Rules

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

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

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

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

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

7045.0213 FARMERS; PESTICIDES.

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

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

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

7045.0214 EVALUATION OF WASTES.

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

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

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

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

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

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

Constituent	Maximum for any single composite sample (mg/l)
Antimony	0.063 <u>0.10</u>
Arsenic	0.055 <u>0.50</u>
Barium	6.3 <u>7.6</u>
Beryllium	0.0063 <u>0.010</u>
Cadmium	0.032 <u>0.050</u>
Chromium (total)	0.33
Lead	0.095 <u>0.15</u>

Proposed Rules

Mercury	0.009
Nickel	0.63 1.0
Selenium	0.16
Silver	0.30
Thallium	0.013 0.020
Vanadium	1.26
Zinc	70

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

Constituent	Maximum for any single composite sample (mg/l)
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total)	1.8 (mg/kg)
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

For each shipment of K061 ~~high temperature metals recovery~~, K062, or F006 HTMR residues sent to a solid waste disposal unit that meets units, the treatment facility must prepare and send to the commissioner a onetime notification and certification certifying that the residues meet the generic exclusion levels for all constituents; and ~~does do~~ not exhibit any ~~characteristic~~, a characteristics of hazardous waste. The notification and certification must also be kept in the facility's files. The notification and certification must be updated if the process or operation generating the waste changes or if the solid waste disposal unit receiving the waste changes. However, the treatment facility need only notify the commissioner on an annual basis if these changes occur. The notification and certification must be sent to the commissioner no later than December 31. The notification and certification must include the following information:

- (1) the name and address of the solid waste disposal unit receiving the waste ~~shipment~~ shipments;
- (2) the EPA hazardous waste ~~number~~ numbers and treatability ~~group~~ groups at the initial point of generation; and
- (3) the treatment standards applicable to the waste at the initial point of generation.

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

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

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

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

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

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

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

7045.0270 PRETRANSPORT REQUIREMENTS.

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

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

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

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

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

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

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

7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

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

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

B. the waste is placed as follows:

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

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

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

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

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

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

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

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

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

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

G. the generator meets the requirements of parts 7045.0566, relating to preparedness and prevention; 7045.0568, relating to the arrangements with local authorities for emergencies; and ~~7045.1315, subpart 1, item D~~ *Code of Federal Regulations*, title 40, section 268.7(a)(5), as incorporated in part 7045.1390, relating to waste analysis for restricted wastes; and

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

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

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

B. the waste is placed in containers which meet the standards of part 7045.0270, subpart 4, and are managed in accordance with parts 7045.0594, subpart 2; 7045.0596, subpart 3; and 7045.0626, subparts 1 to 8; in tanks provided the generator complies with the requirements of parts 7045.0594, subpart 2; 7045.0596, subpart 3; and 7045.0629; or for wood preserving operations on drip pads,

Proposed Rules

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

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

Subp. 7. **Acute hazardous waste accumulation.** A small quantity generator or a very small quantity generator who generates acute hazardous waste ~~may accumulate that waste on site indefinitely until one kilogram of acute hazardous waste or 100 kilograms of residue, contaminated soil, water, or other debris resulting from the cleanup of a spill of an acute hazardous waste into or on any land or water, is accumulated. From the date the applicable limit is reached, the entire quantity of waste must be treated on site in compliance with part 7045.0211 or shipped off site in compliance with part 7045.0208 within 90 days. A generator accumulating wastes under this subpart must meet the requirements in items A and B; that is not exempt under subpart 8 must comply with items A and B:~~

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

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

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

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

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

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

Subp. 11. **Accumulation requiring a permit.** A large quantity generator who accumulates hazardous waste for more than 90 days, or a small quantity generator who accumulates more than 3,000 kilograms of hazardous waste at any time, is an operator of a storage facility and is subject to the requirements of parts 7045.0450 to ~~7045.0642~~ 7045.0651 and the agency's permitting procedures in chapter 7001 and ~~parts 7023.9000 to 7023.9050~~ unless the generator has been granted a time extension under subpart 10.

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

7045.0294 RECORD KEEPING.

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

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

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

7045.0300 ADDITIONAL REPORTING.

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

7045.0302 INTERNATIONAL SHIPMENTS; SPECIAL CONDITIONS.

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

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

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

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

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

- A. name, mailing address, telephone number, and identification number of the primary exporter; and
- B. by consignee, for each hazardous waste type:

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

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

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

7045.0365 TRANSFER FACILITY REQUIREMENTS.

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

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

7045.0371 TRANSPORTATION OF HAZARDOUS WASTE.

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

7045.0395 HAZARDOUS WASTE DISCHARGES.

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

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

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

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

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. **General requirements.**

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

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

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

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

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

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

E. an elementary neutralization unit, a pretreatment unit, or a wastewater treatment unit, but only if the unit does not receive hazardous waste from generators other than the owner or operator of the unit, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in *Code of Federal Regulations*, title 40, section 268.40, Table of Treatment Standards for Hazardous Wastes, as incorporated in part 7045.1390) or reactive (D003) waste to remove the

Proposed Rules

characteristic before land disposal, the owner or operator must comply with part 7045.0456, subpart 2;

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

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

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

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

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

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

7045.0452 GENERAL FACILITY STANDARDS.

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

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

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

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

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

7045.0458 WASTE ANALYSIS REQUIREMENTS.

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

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

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

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

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

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

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

G. for off-site facilities, the waste analysis plan must also specify the procedures ~~which that~~ will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the

accompanying manifest or shipping paper. The plan must describe:

- (1) the procedures ~~which that~~ will be used to determine the identity of each movement of waste managed at the facility; ~~and~~
- (2) the sampling method ~~which that~~ will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling. The waste analysis plan must be submitted with the permit application; and
- (3) the procedure that the owner or operator of an off-site landfill receiving containerized hazardous waste will use to determine whether a hazardous waste generator or treater has added a biodegradable sorbent to the waste in the container;

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

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

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

- (1) if direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis and the results of the analysis of test data to verify the exemption; and
- (2) if knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off site, that is used as the basis for knowledge of the waste.

7045.0478 OPERATING RECORD.

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

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

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

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

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

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

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

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

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

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

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

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

Proposed Rules

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

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

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

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

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

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

7045.0482 REQUIRED REPORTS.

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

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

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

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

7045.0484 GROUNDWATER PROTECTION.

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

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

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

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

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

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

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

7045.0486 CLOSURE.

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

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

Subp. 3. **Submittal and contents of closure plan.** The owner or operator of a hazardous waste facility shall submit a closure plan with the permit application, and the closure plan must be approved by the agency as part of the permit issuance procedure. The approved

Proposed Rules

closure plan shall become a condition of any permit. The agency's approval must ensure that the approved closure plan is consistent with subparts 2, 4, and 5, ~~and part, parts 7045.0484, groundwater protection, and 7045.0488, closure activities;~~ and the applicable closure requirements of parts 7045.0526, subpart 9; ~~7045.0528, subpart 9;~~ 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subpart 2; ~~and 7045.0542, subpart 8;~~ and Code of Federal Regulations, title 40, section 264.1102, as incorporated in part 7045.0550.

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

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

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

7045.0490 POSTCLOSURE.

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

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

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

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

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

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

7045.0498 FINANCIAL REQUIREMENTS.

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

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

A. disposal facilities;

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

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

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

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

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

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

7045.0502 COST ESTIMATE FOR FACILITY CLOSURE.

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

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

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

7045.0504 FINANCIAL ASSURANCE FOR FACILITY CLOSURE.

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

Proposed Rules

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

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

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

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

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

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

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

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

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

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

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

7045.0508 FINANCIAL ASSURANCE FOR POSTCLOSURE CARE.

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

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

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

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

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

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

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

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

7045.0514 FINANCIAL ASSURANCE FOR CORRECTIVE ACTION.

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

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

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

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

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

(3) If the owner or operator fails to provide alternate financial assurance as specified in this part and to obtain the written approval of alternate assurance from the commissioner within 90 days after receipt by both the owner or operator and the commissioner

of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will must provide alternative financial assurance in the name of the owner or operator.

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

7045.0518 LIABILITY REQUIREMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Proposed Rules

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 8. Letter of credit for liability coverage.

A. An owner or operator may satisfy the requirements of this part by obtaining an irrevocable standby letter of credit that conforms

to the requirements of this subpart and submitting a copy of the letter of credit to the commissioner.

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

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

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

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

Subp. 9. Trust fund for liability coverage.

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

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

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

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

7045.0524 WORDING OF INSTRUMENTS.

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

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

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

[Agency Commissioner] Minnesota Pollution Control Agency

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

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

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

_____.

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

_____.

3. In states other than Minnesota, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the corrective action, closure, or postclosure care of the following facilities either to the United States Environmental Protection Agency

Proposed Rules

through the use of the financial test specified in *Code of Federal Regulations*, title 40, parts 264 or 265, subpart H, as amended, or to an authorized state through the use of a test equivalent or substantially equivalent to the specified financial test. The current corrective action, closure, and/or postclosure cost estimates covered by such a test are shown for each facility: _____.

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

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

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

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

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

ALTERNATIVE I

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

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

ALTERNATIVE II

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

Proposed Rules

4. Date of maturity of bond _____
- *5. Tangible net worth [if any portion of the corrective action, closure, and postclosure costs estimates is included in “total liabilities” on your firm’s financial statements, you may add the amount of that portion to this line] \$ _____
- *6. Total assets in United States (required only if less than 90 percent of firm’s assets are located in United States) \$ _____
- | | YES | NO |
|---|-----|-----|
| 7. Is line 5 at least \$10,000,000? | ___ | ___ |
| 8. Is line 5 at least 6 times line 1? | ___ | ___ |
| *9. Are at least 90 percent of firm’s assets located in United States? If not, complete line 10 | ___ | ___ |
| 10. Is line 6 at least 6 times line 1? | ___ | ___ |

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

[SIGNATURE] [NAME] [TITLE] [DATE]

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

Subp. 8. **Corporate guarantee for corrective action, closure, or postclosure care.** A corporate guarantee as specified in part 7045.0504, subpart 7; 7045.0508, subpart 7; 7045.0514, subpart 7; 7045.0612, subpart 6; or 7045.0616, subpart 6 must be worded as specified in this subpart, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

CORPORATE GUARANTEE FOR CORRECTIVE ACTION, CLOSURE, OR POSTCLOSURE CARE

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

Recitals

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

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

3. “Closure plans” and “postclosure plans” as used below refer to the plans maintained as required by *Minnesota Rules*, parts 7045.0486 to 7045.0494 and 7045.0594 to 7045.0606 for the closure and postclosure care of facilities as identified above. “Corrective action plans” as used below refers to the plans maintained as required by *Minnesota Rules*, part 7045.0484, subpart 2, item D; and subpart 14 for corrective action for the facilities as identified above.

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

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

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

7. Guarantor agrees that within 30 days after being notified by the Agency Commissioner of a determination that guarantor no longer meets the financial test criteria or that he or she is disallowed from continuing as a guarantor of corrective action, closure, or postclosure care, the guarantor shall establish alternate financial assurance as specified in *Minnesota Rules*, parts 7045.0498 to 7045.0524 or 7045.0608

Proposed Rules

to 7045.0624, as applicable, in the name of [owner or operator] unless [owner or operator] has done so.

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

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

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

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

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

Effective date: _____ [NAME OF GUARANTOR] [AUTHORIZED SIGNATURE FOR GUARANTOR]
[NAME OF PERSON SIGNING] [TITLE OF PERSON SIGNING]
[SIGNATURE OF WITNESS OR NOTARY]

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

CORPORATE GUARANTEE FOR LIABILITY COVERAGE

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

Recitals

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

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

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

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

(a) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the

Proposed Rules

assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert owner or operator] would be obligated to pay in the absence of the contract or agreement.

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

(c) Bodily injury to:

(1) an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator]; or
(2) the spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert owner or operator]. This exclusion applies: (A) whether [insert owner or operator] may be liable as an employer or in any other capacity; and (B) to any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2). (d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft. (e) Property damage to:

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

(3) property loaned to [insert owner or operator];
(4) personal property in the care, custody, or control of [insert owner or operator]; or
(5) that particular part of real property on which [insert owner or operator] or any contractors or subcontractors working directly or indirectly on behalf of [insert owner or operator] are performing operations, if the property damage arises out of these operations.

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

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

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

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

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

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

10-11. Guarantor hereby expressly waives notice of acceptance of this guarantee by any party.

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

12. Exclusions

This corporate guarantee does not apply to:

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

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

C. Bodily injury to:

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

This exclusion applies whether the owner or operator is liable as an employer or in any other capacity. This exclusion also applies to

Proposed Rules

any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in item C:

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

E. Property damage to:

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

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

(3) property loaned to the owner or operator;

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

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

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

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

Certification of Valid Claim

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

[Signatures] Principal (Notary) Date [Signatures] Claimant(s) (Notary) Date

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

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

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

Effective date: _____ [Name of guarantor] [Authorized signatures for guarantor] [Names of persons signing] [Titles of persons signing (Two corporate officers must sign for parent corporation.)] Corporate resolution attached [(Attach resolution adopted by parent corporation authorizing parent corporation to provide the corporate guarantee for subsidiary)] Signature of witness or notary: _____

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

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

IRREVOCABLE STANDBY LETTER OF CREDIT

[Name and Address of Issuing Institution]

[Agency Commissioner]

Minnesota Pollution Control Agency

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. ... in the favor of ["any and all third-party liability claimants" or insert name of trustee of the standby trust fund], at the request and for the account of [owner or operator's name and address] for third-party liability awards or settlements of _____ [insert dollar amount of the letter of credit] per occurrence and the annual aggregate amount of _____ [insert dollar amount of the letter of credit] for sudden accidental occurrences and/or for third-party liability awards or settlements of _____ [insert dollar amount of the letter of credit] per occurrence and the annual aggregate amount

Proposed Rules

of _____ [insert dollar amount of the letter of credit] for nonsudden accidental occurrences available on presentation of a sight draft bearing reference to this letter of credit No. and [insert the following language if the letter of credit is being used without a standby trust fund]:

“(1) a signed certificate reading as follows:

CERTIFICATE OF VALID CLAIM

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

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

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

(c) Bodily injury to:

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

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

This exclusion applies:

(A) whether [insert principal] may be liable as an employer or in any other capacity; and (B) to any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2). (d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft. (e) Property damage to:

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

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

(3) property loaned to [insert principal];

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

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

[Signatures]

Grantor

[Signatures]

Claimant(s)

: or

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

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

Proposed Rules

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

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

We certify that the wording of this letter of credit is identical to the wording specified in *Minnesota Rules*, part 7045.0524, subpart 11, as such rule was constituted on the date shown immediately below. [Signature(s) and title(s) of official(s) of issuing institution] [Date]. This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

Subp. 12. Trust agreement for liability coverage.

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

TRUST AGREEMENT

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

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

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

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

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

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.
- (b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

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

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

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

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

(c) Bodily injury to:

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

Proposed Rules

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

This exclusion applies:

(A) whether [insert Grantor] may be liable as an employer or in any other capacity; and (B) to any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2). (d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft. (e) Property damage to:

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

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

(3) property loaned to [insert Grantor];

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

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

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

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

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

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

CERTIFICATION OF VALID CLAIM

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

[Signatures]

Grantor

[Signatures]

Claimant(s)

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

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

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstance then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

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

Proposed Rules

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

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

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

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

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

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

(a) to sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

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

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

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

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

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

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

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

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

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Agency Commissioner, and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing.

Proposed Rules

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

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

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

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

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

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

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

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

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in part 7045.0524, subpart 12, as such regulations were constituted on the date first above written.

[Signature of Grantor]

[Title]

Attest:

[Title]

[Seal]

[Signature of Trustee]

Attest:

[Title]

Proposed Rules

[Seal]

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

State of _____

County of _____

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

[Signature of Notary Public]

Subp. 13. Standby trust agreement for liability coverage.

A. A standby trust agreement, as specified in part 7045.0518, subpart 8, or 7045.0620, subpart 7, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

STANDBY TRUST AGREEMENT

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

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

Whereas, the Grantor has elected to establish a standby trust into which the proceeds from a letter of credit may be deposited to assure all or part of such financial responsibility for the facilities identified herein.

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

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

Section 1. Definitions. As used in this Agreement:

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

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

Section 2. Identification of Facilities. This Agreement pertains to the facilities identified on attached Schedule A [on Schedule A, for each facility list the identification number, name, and address of the facility(ies) and the amount of liability coverage, or portions thereof, if more than one instrument affords combined coverage as demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a standby trust fund, hereafter the "Fund," for the benefit of any and all third parties injured or damaged by [sudden and/or nonsudden] accidental occurrences arising from operation of the facility(ies) covered by this guarantee, in the amounts of _____ [insert dollar amount of the fund] per occurrence and _____ [insert dollar amount of the fund] annual aggregate for sudden accidental occurrences and _____ [insert dollar amount of the fund] per occurrence and _____ [insert dollar amount of the fund] annual aggregate for nonsudden occurrences, except that the Fund is not established for the benefit of third parties for the following:

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

Proposed Rules

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

(c) Bodily injury to:

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

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

This exclusion applies:

(A) whether [insert Grantor] may be liable as an employer or in any other capacity; and (B) to any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2). (d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft. (e) Property damage to:

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

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

(3) property loaned [insert Grantor];

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

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

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

The Fund is established initially as consisting of the proceeds of the letter of credit deposited into the Fund. Such proceeds and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Agency.

Section 4. Payment for Bodily Injury or Property Damage. The Trustee shall satisfy a third-party liability claim by drawing on the letter of credit described in Schedule B and by making payments from the Fund only upon receipt of one of the following documents:

(a) Certification from the Grantor and the third-party claimant(s) that the liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted: The Trustee shall satisfy a third-party liability claim by drawing on the letter of credit described in Schedule B and by making payments from the Fund only upon receipt of one of the following documents:

CERTIFICATION OF VALID CLAIM

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

[Signature] Grantor

[Signature(s)] Claimant(s)

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

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of the proceeds from the letter of credit drawn upon by the Trustee in accordance with the requirements of *Minnesota Rules*, part 7045.0524, subpart 11, and Section 4 of this Agreement.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge the trustee's

Proposed Rules

duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(a) securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, *United States Code*, title 15, section 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or State government;

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

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

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

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

(b) to purchase shares in any investment company registered under the Investment Company Act of 1940, *United States Code*, title 15, section 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

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

(a) to sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

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

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

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

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

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

Section 10. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 11. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 12. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment; the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Agency Commissioner and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 13. Instructions to the Trustee. All orders, requests, certifications of valid claims, and instructions to the Trustee shall

Proposed Rules

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

Section 14. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Agency Commissioner, or by the Trustee and the Agency Commissioner if the Grantor ceases to exist.

Section 15. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Agency Commissioner, or by the Trustee and the Agency Commissioner, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be paid to the Grantor.

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

Section 16. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor and the Agency Commissioner issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 17. Choice of Law. This Agreement shall be administered, construed, and enforced in accordance with the laws of the State of Minnesota.

Section 18. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation of the legal efficacy of this Agreement.

In Witness Whereof, the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in *Minnesota Rules*, part 7045.0524, subpart 13, as such rule was constituted on the date first above written.

[Signature of Grantor]

[Title]

Attest:

[Title]

[Seal]

[Signature of Trustee]

Attest:

[Title]

[Seal]

B. The following is an example of the certification of acknowledgment which must accompany the trust agreement for a standby trust fund as specified in parts 7045.0518, subpart 8, or 7045.0620, subpart 7.

State of _____

County of _____

Proposed Rules

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

7045.0526 USE AND MANAGEMENT OF CONTAINERS.

Subpart 1. **Scope.** This part applies to owners and operators of all hazardous waste facilities that store containers of hazardous waste, except as part 7045.0450 provides otherwise. Under ~~parts part~~ 7045.0127 and ~~7045.0135, subpart 4, item C~~ *Code of Federal Regulations*, title 40, section 261.33(c), as incorporated in part 7045.0135, if a hazardous waste is emptied from a container, the residue remaining in the container is not considered a hazardous waste if the container is empty, as defined in part 7045.0127. In that event, management of the container is exempt from the requirements of this part.

[For text of subs 2 to 5, see M.R.]

Subp. 6. **Containment.** Requirements for containment systems are as described in items A to E.

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

C. Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system. If the collected material is a hazardous waste as defined in parts 7045.0102 to ~~7045.0143~~ 7045.0155, it must be managed as a hazardous waste ~~according to all applicable requirements of in accordance with~~ parts 7045.0205 to 7045.1030. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of section 402 of the federal Clean Water Pollution Control Act Amendments of 1972, United States Code, title 33, section 1342, as amended.

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

E. Storage areas that store containers holding wastes F020, F021, F022, F023, F026, F027, and F028 from part 7045.0135, subpart 2 ~~1a, item B~~, that do not contain free liquids must have a containment system defined by item A.

Subp. 7. **Special requirements for ignitable or reactive waste.** Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line when physically possible based on the dimensions of the property. When it is not physically possible to place containers at least 50 feet from the property line, based on the dimensions of the property, the ignitable or reactive waste must be placed at least as far as the specified minimum distance from property line found in ~~Table Number 79.503-F of the Minnesota Uniform State Fire Code as incorporated by reference in part 7510.3510, chapter 7510.~~ Nothing in this subpart shall relieve the facility owner or operator from the obligation to comply with any local, state, or federal law governing storage of these wastes.

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

Subp. 10. **Air emission standards.** The owner or operator must manage all hazardous waste placed in a container in accordance with parts 7045.0540, 7045.0547, and 7045.0548.

7045.0528 TANK SYSTEMS.

Subpart 1. **Scope.** This part applies to owners and operators of facilities that use tank systems, including tank systems, sumps, and other such collection devices or systems used in conjunction with drip pads, as defined in part 7045.0020 and regulated under part 7045.0541, to treat or store hazardous waste, except as part 7045.0450, and items A and B provide otherwise.

A. Tank systems that are used to store or treat hazardous waste that contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in subpart 4. To demonstrate the absence or presence of free liquids in the stored or treated waste, EPA the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes Waste, Physical/Chemical Methods," (EPA publication No. SW-846) must be used, incorporated in part 7045.0065, item D.

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

[For text of subs 2 to 9, see M.R.]

Subp. 10. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a tank unless:

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

C. the tank is used solely for emergencies.

The owner or operator of a facility that treats or stores ignitable or reactive waste in a tank shall comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon, as required in the buffer zone requirements for tanks contained in ~~article 79 of the Minnesota Uniform State Fire Code, as incorporated by reference in part 7510.3510 chapter 7510.~~ As required by part 7045.0458, the waste analysis plan must include analyses needed to comply with these special requirements for ignitable or reactive waste. Additional requirements for ignitable and reactive wastes are contained in part 7045.0456, subpart 1. Part 7045.0456, subpart 3 also requires waste analysis, trial tests, or other

documentation to ensure compliance with part 7045.0456, subpart 2. As required by part 7045.0478, the owner or operator shall place the results of each waste analysis and trial test, and any documented information, in the operating record of the facility.

[For text of subp 11, see M.R.]

Subp. 12. **Air emission standards.** The owner or operator of a facility must manage all hazardous waste placed in a tank in accordance with parts 7045.0540, 7045.0547, and 7045.0548.

7045.0532 SURFACE IMPOUNDMENTS.

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

Subp. 7. **Closure and postclosure care.** The requirements of closure and postclosure care are as follows:

A. At closure, the owner or operator shall:

(1) remove or decontaminate all waste residues, contaminated containment system components including liners, contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless they are shown to not be hazardous ~~according to~~ in accordance with parts 7045.0102 to ~~7045.0143~~ 7045.0155; or

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

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

Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and:

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

Subp. 9. **Special requirements for incompatible wastes.** Incompatible wastes, or incompatible wastes and materials, must not be placed in the same surface impoundment unless compliance with part 7045.0456, subpart 2 is maintained. For examples of potentially incompatible wastes, or incompatible waste and materials, see part 7045.0543, subpart 1, item C.

Subp. 10. **Special requirements for hazardous wastes F020, F021, F022, F023, F026, F027, and F028.** The following requirements apply to the hazardous wastes indicated:

A. Hazardous waste F020, F021, F022, F023, F026, and F027 listed under part 7045.0135, subpart 2 1a, item B, must not be placed in a surface impoundment.

B. Hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, must not be placed in surface impoundments unless the owner or operator operates the surface impoundment in accordance with all applicable requirements of this part and in accordance with a management plan that is approved by the commissioner considering the following factors:

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

C. The commissioner shall impose additional design, operating, and monitoring requirements if the commissioner finds that additional requirements are necessary for surface impoundments used to treat, store, or dispose of hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

Subp. 11. **Air emission standards.** The owner or operator must manage all hazardous waste placed in a surface impoundment in accordance with parts 7045.0540 and 7045.0548.

7045.0534 WASTE PILES.

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

Subp. 7. **Closure and postclosure care.** Closure and postclosure requirements are as follows:

A. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components including liners, contaminated subsoils, and structures and equipment contaminated with waste and leachate; and manage them as hazardous waste unless they are shown to not be hazardous ~~according to~~ in accordance with parts 7045.0102 to ~~7045.0143~~ 7054.0150.

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

Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a waste pile unless the waste and waste pile satisfy all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and:

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

[For text of subp 9, see M.R.]

Subp. 10. **Special requirements for hazardous wastes F020, F021, F022, F023, F026, F027, and F028.** The following requirements apply to the hazardous wastes indicated:

A. Hazardous waste F020, F021, F022, F023, F026, and F027 listed under part 7045.0135, subpart 2 1a, item B, must not be placed in a surface impoundment.

Proposed Rules

B. Hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, must not be placed in surface impoundments unless the owner or operator operates the surface impoundment in accordance with all applicable requirements of this part and in accordance with a management plan that is approved by the commissioner considering the following factors:

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

C. The commissioner shall impose additional design, operating, and monitoring requirements if the commissioner finds that additional requirements are necessary for surface impoundments used to treat, store, or dispose of hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

7045.0536 LAND TREATMENT.

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

Subp. 9. **Ignitable or reactive waste.** The owner or operator shall not apply ignitable or reactive waste to the treatment zone unless the waste and the treatment zone meet all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and:

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

[For text of subp 10, see M.R.]

Subp. 11. **Special requirements for hazardous wastes F020, F021, F022, F023, F026, F027, and F028.** The following requirements apply to the hazardous wastes indicated:

A. Hazardous wastes F020, F021, F022, F023, F026, and F027 listed under part 7045.0135, subpart 2 1a, item B, must not be placed in a land treatment unit.

B. Hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, must not be managed at land treatment units unless the owner or operator operates the land treatment unit in accordance with all applicable requirements of this part and in accordance with a management plan that is approved by the commissioner considering the following factors:

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

C. The commissioner shall impose additional design, operating, and monitoring requirements if the commissioner finds that the additional requirements are necessary for land treatment facilities used to treat or dispose of hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

7045.0538 LANDFILLS.

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

Subp. 7. **Closure and postclosure care.** Closure and postclosure care requirements are as follows:

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

B. After final closure, the owner or operator shall comply with all postclosure requirements contained in parts 7045.0488 to 7045.0494 including maintenance and monitoring throughout the postclosure care period specified in the permit under part 7045.0488. The owner or operator shall:

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

(4) maintain and monitor the leak detection system in accordance with subparts 3, item C, subitems (3), unit (d), and (4); and 5, item C, and comply with all other applicable leak detection system requirements of ~~this part~~ parts 7045.0450 to 7045.0551 governing facility standards;

[For text of subitems (5) to (8), see M.R.]

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

Subp. 8. **Special requirements for ignitable or reactive waste.** Special requirements for ignitable or reactive waste are as follows:

A. Except as provided in item B and subpart 12, ignitable or reactive waste must not be placed in a landfill, unless the waste and landfill meet all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under part 7045.0131, subpart 2 or 5, and compliance with part 7045.0456, subpart 2 is maintained.

B. Except for prohibited wastes which remain subject to treatment standards in ~~parts 7045.1350 to 7045.1360~~ Code of Federal Regulations, title 40, sections 268.40 to 268.42, as incorporated in part 7045.1390, ignitable wastes in containers may be landfilled without meeting the requirements of item A, provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes must be disposed of in nonleaking containers which are

Proposed Rules

carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

[For text of subp 9, see M.R.]

Subp. 10. **Special requirements for liquid waste.** Special requirements for liquid waste are as follows:

A. The placement in any landfill of bulk or noncontainerized liquid hazardous waste or waste containing free liquids, whether or not ~~absorbents~~ sorbents have been added, is prohibited.

B. Containers holding free liquids must not be placed in a landfill unless:

(1) all free-standing liquid has been removed by decanting, or other methods; has been mixed with ~~absorbent~~ sorbent or solidified so that freestanding liquid is no longer observed; or has been otherwise eliminated;

(2) the container is very small, such as an ~~ampule~~ ampoule; or

(3) the container is a laboratory pack as defined in subpart 12 and is disposed of in accordance with subpart 12.

C. ~~To demonstrate the presence or absence or presence~~ of free liquids in either a containerized or a bulk waste, the following test must be demonstrated using the Paint Filter Liquids Test, used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes Waste, Physical/Chemical Methods," EPA publication number SW-846, incorporated in part 7045.0065, item D.

D. Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are materials listed or described in subitem (1) or materials that pass one of the tests in subitem (2).

(1) Nonbiodegradable sorbents:

(a) inorganic minerals, other inorganic materials, and elemental carbon (for example, aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, and zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), and diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; and activated charcoal/activated carbon);

(b) high molecular weight synthetic polymers (for example, polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene, and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(c) mixtures of these nonbiodegradable materials.

(2) Tests for nonbiodegradable sorbents must use the following methods. The methods and tests in this subitem are incorporated by reference, are not subject to frequent change, and are available through the Minitex interlibrary loan system:

(a) the sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a), Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi;

(b) the sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b), Standard Practice for Determining Resistance of Plastics to Bacteria; or

(c) the sorbent material is determined to be nonbiodegradable under OECD test 301B: CO₂ Evolution (Modified Sturm Test).

[For text of subp 11, see M.R.]

Subp. 12. **Disposal of small containers of hazardous waste in overpacked drums.** Small containers of hazardous waste in overpacked drums, or laboratory packs, may be placed in a landfill if the requirements of items A to F are met:

A. Hazardous waste must be packaged in nonleaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the contained waste. Inside containers must be tightly and securely sealed. The inside containers must be of the size and type specified authorized in the United States Department of Transportation hazardous materials regulations under *Code of Federal Regulations*, title 49, parts 173, 178, ~~and 179,~~ and 180, as amended, if those regulations specify a particular inside container for the waste.

B. The inside containers must be overpacked in ~~an open~~ a removable head metal shipping container as specified in the United States Department of Transportation regulations under *Code of Federal Regulations*, title 49, section 173.12 and parts 178 and, 179, and 180, as amended, ~~of no more than 415 liter (110 gallon) capacity and.~~ The inside containers must be surrounded by, at a minimum, a sufficient quantity of absorbent chemically compatible sorbent material, determined to be nonbiodegradable in accordance with subpart 10, item D, to completely absorb sorb all of the liquid contents of the inside containers. The gross weight of the complete package must not exceed 205 kilograms (452 pounds). The metal outer container must be full after packing it has been packed with inside containers and ~~absorbent~~ sorbent materials.

C. The ~~absorbent~~ sorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with part 7045.0456, subpart 2.

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

Proposed Rules

F. The disposal is in compliance with ~~parts 7045.1300 to 7045.1380~~ part 7045.1390. Persons who incinerate lab packs ~~according to part 7045.1360 in accordance with Code of Federal Regulations, title 40, section 268.42, as incorporated in part 7045.1390,~~ may use fiber drums in place of metal outer containers. The fiber drums must meet United States Department of Transportation specifications in *Code of Federal Regulations*, title 49, section 173.12, as amended, and be overpacked ~~according to the requirements in accordance with item B.~~

Subp. 13. **Special requirements for hazardous wastes F020, F021, F022, F023, F026, F027, and F028.** The following requirements apply to the hazardous wastes indicated:

A. Hazardous wastes F020, F021, F022, F023, F026, and F027 listed under part 7045.0135, subpart ~~2~~ 1a, item B, must not be placed in a landfill.

B. Hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart ~~2~~ 1a, item B, must not be managed at landfills unless the owner or operator operates the landfill in accordance with all applicable requirements of this part and in accordance with a management plan that is approved by the commissioner considering the following factors:

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

C. The commissioner shall impose additional design, operating, and monitoring requirements if the commissioner finds that the additional requirements are necessary for landfills used to dispose of hazardous waste F028 and treatment residues and soil contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart ~~2~~ 1a, item B, in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

7045.0539 MISCELLANEOUS UNITS.

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

Subp. 2. **Environmental performance standards.** A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain the terms and provisions necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of parts ~~7023.9000 to 7023.9050,~~ 7045.0526 to 7045.0542, ~~7045.0547, and 7045.0548,~~ and chapter 7001 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

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

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

7045.0540 AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS.

Subpart 1. **Incorporation of federal regulations.** The owners and operators of facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers must comply with *Code of Federal Regulations*, title 40, part 264, subpart CC, air emission standards for tanks, surface impoundments, and containers, sections 264.1080 to 264.1090, as amended, which are incorporated by reference subject to the exceptions in subpart 2.

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

A. The agency does not incorporate the following Code of Federal Regulations, title 40, part 264, subpart CC provisions, as amended:

(1) *Code of Federal Regulations*, title 40, section 264.1080(d) to (g), governing specific exclusions; and

(2) *Code of Federal Regulations*, title 40, section 264.1082(c)(4)(ii), governing authority that EPA cannot delegate to states.

B. Part 7045.0090, adoption and incorporation by reference, also applies.

7045.0542 THERMAL TREATMENT.

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

Subp. 4. **Performance standards.** A thermal treatment facility thermally treating hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under subpart 6 it will comply with all federal and state air quality rules and regulations and will meet the performance standards of items A to E, whichever are applicable:

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

E. A thermal treatment facility thermally treating hazardous wastes F020, F021, F022, F023, F026, and F027 listed under part 7045.0135, subpart ~~2~~ 1a, item B, must achieve a destruction and removal efficiency (“DRE”) of 99.9999 percent for each principal organic hazardous constituent designated in its permit. This performance must be demonstrated on principal organic hazardous constituents that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each principal organic hazardous constituent from the equation in item A. In addition, the owner or operator of the thermal treatment facility must notify the commissioner of the intent to burn waste F020, F021, F022, F023, F026, or F027.

[For text of subs 5 to 9, see M.R.]

7045.0543 APPENDICES TO FACILITY STANDARDS.

Subpart 1. **Incorporation of federal regulations.** The following appendices found in Code of Federal Regulations, title 40, part 264, as amended, are incorporated by reference:

- A. Appendix I, Recordkeeping Instructions;
- B. Appendix IV, Cochran's Approximation to the Behrens-Fisher Students' T-test;
- C. Appendix V, Examples of Potentially Incompatible Waste; and
- D. Appendix IX, Ground Water Monitoring List.

Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.** Part 7045.0090, adoption and incorporation by reference, also applies.

7045.0544 COCHRAN'S APPROXIMATION TO THE BEHRENS-FISHER STUDENTS' T-TEST.

Subpart 1. **In general.** Subpart 2 describes Cochran's approximation to the Behrens-Fisher Students' t-test. Subpart 3 presents the standard t-tables at the 0.05 level of significance. Part 7045.0543, subpart 1, item B, incorporates this test by reference.

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

7045.0550 CONTAINMENT BUILDINGS.

Subpart 1. **Incorporation of federal regulations.** The owners and operators of facilities that store or treat hazardous waste in containment buildings must comply with *Code of Federal Regulations*, title 40, part 264, subpart DD, *Containment Buildings*, sections 264.1100 to 264.1110, as amended, which is incorporated by reference subject to the exceptions in subpart 2.

Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.** Part 7045.0090, adoption and incorporation by reference, also applies.

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. **General requirements.** Parts 7045.0552 to ~~7045.0642~~ 7045.0651 establish minimum standards for the management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to postclosure requirements, until postclosure responsibilities are fulfilled. Except as provided in *Code of Federal Regulations*, title 40, section 265.1080(b), as incorporated in part 7045.0645, the standards in parts 7045.0552 to 7045.0651, and the standards for the corrective action management units in part 7045.0545, temporary units in part 7045.0546, and staging piles in part 7045.0547, apply to: (1) owners and operators of facilities that treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status under chapter 7001 and section 3005(e) of the federal Resource Conservation and Recovery Act (RCRA) until either a permit is issued under chapter 7001 and section 3005 of RCRA or until applicable interim status closure and postclosure responsibilities are fulfilled and (2) those owners and operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by section 3010(a) of RCRA or failed to file Part A of the permit application in chapter 7001. These standards, and those in parts 7045.0545 to 7045.0547, apply to owners and operators of existing facilities who have fully complied with the requirements for state or federal interim status until a permit is issued or until applicable interim status closure and postclosure responsibilities are fulfilled, and those who have failed to achieve state or federal interim status.

Parts 7045.0552 to ~~7045.0642~~ 7045.0651 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts ~~7045.1300 to 7045.1380~~ part 7045.1390, land disposal restrictions, and those restrictions are considered material conditions or requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651, interim status standards.

Subp. 1a. **Applicability for owners and operators of facilities not regulated as hazardous waste facilities by federal regulation.** Owners and operators of hazardous waste facilities that are not federally regulated as hazardous waste facilities that are, for example, regulated as facilities by state rule only, are subject to the applicable requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651 on the effective date of any rules that make the facility subject to regulation. The facility shall submit a Part B application for a hazardous waste facility permit to the commissioner within one year of the effective date of any rules that first make the facility subject to the requirement to obtain a hazardous waste facility permit.

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

Subp. 3. **Exemptions.** The requirements of parts 7045.0552 to ~~7045.0648~~ 7045.0651 do not apply to the following specific waste management units, facilities, or activities, although all other waste management activities of the owner or operator may be regulated:

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

B. a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685; however, this exemption does not apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 makes the requirements of parts

Proposed Rules

7045.0552 to ~~7045.0648~~ 7045.0651 applicable by cross-reference;

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

F. an elementary neutralization unit, a pretreatment unit, or a wastewater treatment unit, if the unit does not receive hazardous waste from generators other than the owner or operator of the unit, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 high TOC subcategory defined in Code of Federal Regulations, title 40, section 268.40, Table of Treatment Standards for Hazardous Wastes, as incorporated in part 7045.1390), or reactive (D003) waste, to remove the characteristic before land disposal, the owner or operator must comply with part 7045.0562, subpart 2;

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

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

(2) a facility otherwise regulated by parts 7045.0552 to ~~7045.0642~~ 7045.0651 shall comply with all applicable requirements of parts 7045.0395, 7045.0397, 7045.0558, and 7045.0566 to 7045.0576; or

(3) a person who is covered by subitem (1) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651 and the agency's permitting procedures for those activities;

K. treatment of hazardous waste by the generator in the generator's accumulation tanks or containers in accordance with part 7045.0292. If the treatment involves evaporation of aqueous waste or polymerization of polyester or other chemical fixation treatment processes in open containers, the generator is exempt from parts 7045.0552 to ~~7045.0642~~ 7045.0651, but before beginning the treatment process must submit to the commissioner the information required under part 7045.0539, subpart 2, items A to C, that is relevant to the treatment activity and must be notified by the commissioner that the treatment activity is approved. The commissioner shall approve the treatment activity if the commissioner finds that the treatment activity will not endanger human health and the environment; or

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

Subp. 4. **Restrictions.** Hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2 1a, item B, must not be managed at facilities governed by interim status unless:

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

7045.0556 GENERAL FACILITY STANDARDS.

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

Subp. 3. **Required notices.** Notices are required in the following situations:

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

C. Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the postclosure care period, the owner or operator shall notify the new owner or operator in writing of the requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651. An owner's or operator's failure to notify the new owner or operator of these requirements does not relieve the new owner or operator of the obligation to comply with all applicable requirements.

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

Subp. 4. **Security.** Security measures include the following:

A. The owner or operator shall prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of the facility, unless:

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

(2) disturbance of the waste or equipment, by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility, will not cause a violation of the requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651.

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

Subp. 5. **General inspection requirements.** General inspection requirements are listed in items A to E.

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

C. The frequency of inspection may vary for the items on the schedule. However, it the frequency must be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the terms and frequencies called for in parts 7045.0626, subpart 5; 7045.0628, subparts 4 and 7; 7045.0630, subpart 5; 7045.0632, subpart 9; 7045.0634, subpart 4; 7045.0638, subpart 2c; 7045.0640, subpart 4; and 7045.0642, subpart 4; and the process vent and, equipment leak, and tank, surface impoundment, and container standards in *Code of Federal Regulations*, title 40, sections ~~264.1033, 264.1052, 264.1053, and 264.1058~~ 265.1033, 265.1052, 265.1053, and 265.1058, as amended, and sections 265.1084 to 265.1090(b), as incorporated in part 7045.0645.

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

[For text of subps 6 to 8, see M.R.]

7045.0564 WASTE ANALYSIS REQUIREMENTS.

Subpart 1. **Waste analysis.** The analysis must comply with the requirements in items A to D.

A. Before an owner or operator treats, stores, or disposes of any hazardous waste, or nonhazardous waste if applicable under part 7045.0596, subpart 2a, the owner or operator shall obtain a detailed chemical and physical analysis of a representative sample of the waste. This analysis must contain all the information which must be known in order to treat, store, or dispose of the waste in accordance with the requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651 and ~~7045.1300 to 7045.1380~~ 7045.1390.

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

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

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

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

F. Where applicable, the methods that will be used to meet the additional waste analysis requirements for specific waste management methods as specified in parts 7045.0628, subpart 12; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2; and 7045.0642, subpart 3; and 7045.1315 *Code of Federal Regulations*, title 40, section 268.7, as incorporated in part 7045.1390; and the process vent and, equipment leak, and tank, surface impoundment, and container test methods and procedures in *Code of Federal Regulations*, title 40, sections ~~264.1034(d) and 264.1063(d)~~ 265.1034(d) and 265.1063(d), as amended, and section 265.1084, as incorporated in part 7045.0645.

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

(1) the procedures ~~which that~~ will be used to determine the identity of each movement of waste managed at the facility; ~~and~~
(2) the sampling method ~~which that~~ will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling; and

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

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

(1) the sampling of impoundment contents;
(2) the analysis of test data; and
(3) the annual removal of residues which are not delisted under part 7045.0075, subpart 2, or which exhibit a characteristic of hazardous waste under part 7045.0131, and either do not meet applicable treatment standards of ~~parts 7045.1350 to 7045.1360~~ *Code of Federal Regulations*, title 40, sections 268.40 to 268.42, as incorporated in part 7045.1390, or, where no treatment standards have been established, such residues are prohibited from land disposal under ~~parts 7045.1320 to 7045.1333~~ *Code of Federal Regulations*, title 40, sections 268.30 to 268.35, as incorporated in part 7045.1390, or RCRA section 3004(d).

I. For owners and operators seeking an exemption to the air emission standards in part 7045.0540 in accordance with *Code of Federal Regulations*, title 40, section 265.1083, as incorporated in part 7045.0645:

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

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

7045.0584 OPERATING RECORD.

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

Subp. 3. **Record information.** The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

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

C. A description and the quantity of each hazardous waste received, and the method and date of treatment, storage, or disposal at the facility in accordance with the record-keeping instructions in *Code of Federal Regulations*, title 40, part 265, Appendix I, as incorporated in part 7045.0643.

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

Proposed Rules

E. Records and results of waste analyses, waste determinations, and trial tests performed as specified in parts 7045.0564; 7045.0628, subpart 12; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2; and 7045.0642, subpart 3; ~~7045.1310; and 7045.1315~~ *Code of Federal Regulations*, title 40, sections 268.4(a) and 268.7, as incorporated in part 7045.1390; and the process vent and, equipment leak, and tank, surface impoundment, and container test methods and procedures in Code of Federal Regulations, title 40, sections ~~264.1034 and 264.1063~~ 265.1034 and 265.1063, as amended, and section 265.1084, as incorporated in part 7045.0645.

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

H. Monitoring, testing, or analytical data, and corrective action where required by parts 7045.0556, subpart 8; 7045.0590, subparts 1, 6, 7, and 8; 7045.0592, subparts 1 and 7; 7045.0628, subparts 2, 4, and 7; 7045.0630, subparts 2a, 3, and 5; 7045.0632, subparts 4b, 8, and 9; 7045.0634, subparts 4 and 6, item D, subitem (1); 7045.0636; 7045.0638, subparts 2a, 2b, and 2c; and 7045.0640, subpart 4, and the process vent and, equipment leak, and tank, surface impoundment, and container test methods and procedures and record keeping requirements in *Code of Federal Regulations*, title 40, sections ~~264.1034~~ 265.1034(c) to (f), ~~264.1035, 264.1063~~ 265.1035, 265.1063(d) to (i), and ~~264.1064~~ 265.1064, as amended, and sections 265.1083 to 265.1090, as incorporated in part 7045.0645. As required by parts 7045.0590, subparts 6 and 7; and 7045.0592, subpart 7, monitoring data at disposal facilities must be kept throughout the postclosure period.

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

J. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under ~~part 7045.0075, subpart 8 or 9~~, by the United States Environmental Protection Agency under *Code of Federal Regulations*, title 40, section 268.5, monitoring data required pursuant to a petition under part 7045.0075, subpart 9, or a certificate and demonstration under *Code of Federal Regulations*, title 40, section 268.8, as amended incorporated in part 7045.1390, and the notice required by a generator under ~~part 7045.1315, subpart 1, item C~~ *Code of Federal Regulations*, title 40, section 268.7(a)(3), as incorporated in part 7045.1390.

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

L. For an on-site treatment facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator under *Code of Federal Regulations*, title 40, ~~section sections 268.7(a)(1) and~~ 268.8, as amended, and ~~part 7045.1315, subpart 1, item A~~ incorporated in part 7045.1390, except for the manifest number required under ~~part 7045.1315, subpart 1, item A, subitem (3)~~ *Code of Federal Regulations*, title 40, section 268.7(a)(1)(i), as incorporated in part 7045.1390.

M. For an off-site land disposal facility, the notice, certification and demonstration, if applicable, required by the generator, owner or operator of a treatment facility under *Code of Federal Regulations*, title 40, section 268.7(b)(1)(2) or 268.8, as amended, or ~~part 7045.1315, subpart 2, items A and B~~ incorporated in part 7045.1390, for the facility or ~~part 7045.1315, subpart 1, item B~~ *Code of Federal Regulations*, title 40, section 268.7(a)(3), as incorporated in part 7045.1390, for the generator, whichever is applicable.

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

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

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

7045.0586 RETENTION AND DISPOSITION OF RECORDS.

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

Subp. 2. **Retention of records.** The retention period for all records required under parts 7045.0552 to ~~7045.0642~~ 7045.0651 is three years and is extended automatically during the course of any unresolved enforcement action regarding the facility.

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

7045.0588 REQUIRED REPORTS.

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

Subp. 4. **Additional reports.** In addition to submitting the manifest discrepancy report described in part 7045.0582, subpart 3, and the annual report and the unmanifested waste reports described in subparts 2 and 3, the owner or operator shall also report to the commissioner and the Environmental Protection Agency Region V Administrator:

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

D. as otherwise required by the process vent and, equipment leak, and tank, surface impoundment, and container emission standards in *Code of Federal Regulations*, title 40, part 265, subparts AA and BB, as amended parts 7045.0645, 7045.0647, and 7045.0648.

7045.0594 CLOSURE.

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

Subp. 2. **Closure performance standard.** The owner or operator shall close the facility in a manner minimizing the need for further maintenance. Closure procedures must result in controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, postclosure escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere, in accordance with all closure requirements including the requirements of parts 7045.0628, subpart 9; 7045.0630, subpart 6; 7045.0632, subpart 7; 7045.0634, subpart 6; 7045.0638, subpart 4; 7045.0640, subpart 5; and 7045.0642, subpart 5; and *Code of Federal Regulations*, title 40, section 265.1102, as incorporated in part 7045.0649.

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

A. A copy of the written closure plan and all revisions to the plan must be furnished to the commissioner upon request, including request by mail until final closure is completed and certified. For facilities without approved closure plans, the plan must also be provided to the commissioner as requested, during site inspections on the day of the inspection. The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include:

(1) A description of how each hazardous waste management unit will be closed, if applicable, and how the facility will be finally closed, in accordance with subpart 2. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility and how the ~~facility will meet the~~ requirements of ~~subpart 2, part~~ parts 7045.0590; 7045.0592; 7045.0594; 7045.0596, and the applicable closure requirements of parts, 7045.0626, subpart 8; 7045.0628, subpart 9; 7045.0630, subpart 6; 7045.0632, subpart 7; 7045.0634, subpart 6; 7045.0638, subpart 4; 7045.0640, subpart 5; 7045.0642, subpart 5; and 7045.0655, subpart 6, ~~will be met~~ and *Code of Federal Regulations*, title 40, section 265.1102, as incorporated in part 7045.0649;

[For text of subitems (2) to (6), see M.R.]

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

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

7045.0596 CLOSURE ACTIVITIES.

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

Subp. 2a. **Conditions for receiving nonhazardous waste.** The commissioner shall allow an owner or operator to receive only nonhazardous waste in a landfill, land treatment, or surface impoundment unit after the final receipt of hazardous waste at that unit if:

A. the owner or operator submits an amended Part B application, or a Part B application, if not previously required, and demonstrates that:

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

(3) the nonhazardous waste will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility under parts 7045.0552 to ~~7045.0642~~ 7045.0651;

[For text of subitems (4) and (5), see M.R.]

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

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

7045.0600 POSTCLOSURE.

Subpart 1. **Scope.** This part and parts 7045.0602 to 7045.0606 apply to the owners and operators of all hazardous waste disposal facilities, including surface impoundments and waste piles from which the owner or operator intends to remove the wastes at closure, to the extent that the owner or operator is required to provide postclosure care in part 7045.0630, subpart 6, or in ~~part~~ 7045.0632, subpart 7, ~~and also~~; tank systems that are required under part 7045.0628, subpart 9, to meet the requirements for landfills; ~~and containment buildings that are required under~~ *Code of Federal Regulations*, title 40, section 265.1102, as incorporated in part 7045.0649, to meet the ~~requirement for landfills~~, except as provided otherwise in part 7045.0552.

Subp. 2. **Submittal of postclosure plan.** The postclosure plan must be submitted as follows:

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

D. The commissioner shall provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments, to request modification, or to request a public information meeting on the postclosure plan or substantive amendments to the postclosure plan within 30 days of the date of the notice. In response to a request or at his or her own discretion, the commissioner shall hold a public information meeting whenever a meeting might clarify one or more issues concerning the postclosure plan. The

Proposed Rules

commissioner shall approve, modify, or disapprove postclosure plans for facilities having interim status within 90 days of the receipt of the plan. If the commissioner does not approve the plan, he or she shall provide the owner or operator with a detailed written statement of reasons for the refusal, and the owner or operator shall submit a modified or new plan for approval within 30 days after receiving this written statement. The commissioner shall approve or modify this plan in writing within 60 days. If the commissioner modifies the plan, this modified plan becomes the approved postclosure plan. A copy of the modified plan and a detailed statement of reasons for the modifications shall be mailed to the owner or operator. The commissioner shall ensure that the approved postclosure plan is consistent with part this part and with the postclosure care and use of property requirements in parts 7045.0602, 7045.0604, and 7045.0606.

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

7045.0608 FINANCIAL REQUIREMENTS.

Subpart 1. **Scope.** The requirements of parts 7045.0610, 7045.0612, and 7045.0620 to 7045.0624 apply to owners and operators of hazardous waste facilities except as provided otherwise in this part or in part 7045.0552.

The requirements of parts 7045.0614 to 7045.0618 apply only to owners and operators of disposal facilities ~~and~~ tank systems that are required under part 7045.0628, subpart 9, to meet the requirements for landfills; and containment buildings that are required under Code of Federal Regulations, title 40, section 265.1102, as incorporated in part 7045.0649, to meet the requirements for landfills.

The state and the federal government are exempt from the requirements of parts 7045.0608 to 7045.0624.

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

7045.0610 COST ESTIMATE FOR FACILITY CLOSURE.

Subpart 1. **Cost estimate requirements.** The owner or operator shall prepare a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the closure plan in part 7045.0594 and applicable closure requirements in parts 7045.0626, subpart 8; 7045.0630, subpart 6; 7045.0632, subpart 7; 7045.0634, subpart 6; 7045.0638, subpart 4; 7045.0640, subpart 5; and 7045.0642, subpart 5; and Code of Federal Regulations, title 40, section 265.1102, as incorporated in part 7045.0649. The closure cost estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan. The closure cost shall be estimated as follows:

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

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

7045.0612 FINANCIAL ASSURANCE FOR FACILITY CLOSURE.

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

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

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

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

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

[For text of subps 7 to 9, see M.R.]

7045.0616 FINANCIAL ASSURANCE FOR POSTCLOSURE CARE.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Financial test and corporate guarantee for postclosure care.** The following is the financial test and corporate guarantee for postclosure care:

[For text of items A to L, see M.R.]

M. An owner or operator may meet the requirements of this part by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in items A to K, and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in part 7045.0524, subpart 8. A certified copy of the corporate guarantee must accompany the items sent to the commissioner as specified in item E. The terms of the corporate guarantee must provide that:

[For text of subitems (1) to (3), see M.R.]

[For text of subps 7 to 9, see M.R.]

7045.0620 LIABILITY REQUIREMENTS.

Subpart 1. **Coverage for sudden accidental occurrences.** An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of these such facilities, ~~shall~~ must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator ~~shall~~ must have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1,000,000 per occurrence with an annual aggregate of at least \$2,000,000, exclusive of legal defense costs. This liability coverage may be demonstrated ~~in one of three ways~~, as specified in items ~~A, B, and C~~ to E:

A. An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in subitems (1) and (2):

(1) Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in part 7045.0524, subpart 9. The wording of the certificate of insurance must be identical to the wording specified in part 7045.0524, subpart 10. The owner or operator ~~shall~~ must submit a signed duplicate original of the endorsement or the certificate of insurance to the commissioner. If requested by the commissioner, the owner or operator shall provide a signed duplicate original of the insurance policy.

(2) Each insurance policy must be issued by an insurer which is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states.

B. An owner or operator may meet the requirements of this part by passing a financial test or using the corporate guarantee for liability coverage as specified in subparts 5 and 6.

C. An owner or operator may meet the requirements of this part by obtaining a letter of credit for liability coverage as specified in subpart 7.

D. An owner or operator may meet the requirements of this part by obtaining a trust fund for liability coverage as specified in subpart 8.

E. An owner or operator may demonstrate the required liability coverage through the use of ~~the combinations of insurance, financial test, insurance, the corporate guarantee, a combination of the financial test and insurance, or a combination of the corporate guarantee and insurance as these mechanisms are specified in this part~~ corporate guarantee, letter of credit, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by ~~subpart 1~~ this part. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this item, the owner or operator must specify other assurance as "excess" coverage.

F. An owner or operator must notify the commissioner in writing within 30 days whenever:

(1) a claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in items A to E;

(2) a certification of valid claim for bodily injury or property damage caused by a sudden or nonsudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage under items A to E; or

(3) a final court order establishing a judgment for bodily injury or property damage caused by a sudden or nonsudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under items A to E.

Subp. 2. **Coverage for nonsudden accidental occurrences.** An owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste, or a group of these such facilities, ~~shall~~ must demonstrate financial responsibility for bodily ~~damage~~ injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator ~~shall~~ must have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least \$3,000,000 per occurrence with an annual aggregate of at least \$6,000,000, exclusive of legal defense costs. An owner or operator who must meet the requirements of this part may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. Owners or operators who combine coverage levels for sudden and nonsudden accidental occurrences must maintain liability coverage in the amount of at least \$4,000,000 per occurrence and \$8,000,000 annual aggregate. This liability coverage may be demonstrated ~~in one of three ways~~ as specified in items ~~A, B, and C~~ to E:

[For text of item A, see M.R.]

B. An owner or operator may meet the requirements of this part by passing a financial test or using the corporate guarantee for liability coverage as specified in subparts 5 and 6.

C. An owner or operator may meet the requirements of this part by obtaining a letter of credit for liability coverage as specified in subpart 7.

D. An owner or operator may meet the requirements of this part by obtaining a trust fund for liability coverage as specified in

Proposed Rules

subpart 8.

E. An owner or operator may demonstrate the required liability coverage through use of the combinations of insurance, financial test, insurance, the corporate guarantee, a combination of the financial test and insurance, or a combination of the corporate guarantee and insurance as these mechanisms are specified in this part corporate guarantee, letter of credit, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by subpart 1 this part. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this item, the owner or operator shall specify at least one such assurance as "primary" coverage and shall specify other assurance as "excess" coverage.

D. The required liability coverage for nonsudden accidental occurrences must be demonstrated by the dates specified in subitems (1), (2), (3), and (4). The total sales or revenues of the owner or operator in all lines of business, in the fiscal year preceding July 16, 1984, will determine which of the dates applies. If the owner and operator of a facility are two different parties, or if there is more than one owner or operator, the sales or revenues of the owner or operator with the largest sales or revenues determines the date by which the coverage must be demonstrated. The following dates apply:

(1) for an owner or operator not subject to the requirements of *Code of Federal Regulations*, title 40, section 265.147 (1983) with sales or revenues totaling \$10,000,000 or more, six months after July 16, 1984;

(2) for an owner or operator not subject to the requirements of *Code of Federal Regulations*, title 40, section 265.147 (1983) with sales or revenues greater than \$5,000,000 but less than \$10,000,000, 18 months after July 16, 1984;

(3) all other owners or operators not subject to the requirements of *Code of Federal Regulations*, title 40, section 265.147 (1983) 30 months after July 16, 1984;

(4) for an owner or operator subject to the requirements of *Code of Federal Regulations*, title 40, section 265.147 (1983) on the date he or she is required to demonstrate coverage under *Code of Federal Regulations*, title 40, section 265.147 (1983).

E. By the date six months after July 16, 1984, an owner or operator who is within either of the categories in subitem (2) or (3) shall, unless he or she has demonstrated liability coverage for nonsudden accidental occurrences, send a letter to the commissioner, stating the date by which he or she plans to establish the coverage.

F. An owner or operator shall notify the commissioner in writing within 30 days whenever:

(1) a claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in items A to E;

(2) a certification of valid claim for bodily injury or property damage caused by a sudden or nonsudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage under items A to E; or

(3) a final court order establishing a judgment for bodily injury or property damage caused by a sudden or nonsudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under items A to E.

[For text of subps 3 and 4, see M.R.]

Subp. 5. **Financial test for liability coverage.** The financial test for liability coverage is as follows:

[For text of items A to G, see M.R.]

H. If the owner or operator no longer meets the requirements of item A, he or she shall must obtain insurance, a letter of credit, a trust fund, or a corporate guarantee for the entire amount of required liability coverage as specified in this part. Evidence of insurance liability coverage must be submitted to the commissioner within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

[For text of item I, see M.R.]

Subp. 6. **Corporate guarantee for liability coverage.** The corporate guarantee for liability coverage is as follows:

A. Subject to item B, an owner or operator may meet the requirements of this part by obtaining a written corporate guarantee. The guarantor must be the parent corporation of the owner or operator. The guarantee guarantor must meet the requirements for owners or operators in subpart 5. The wording of the corporate guarantee must be identical to the wording specified in part 7045.0524, subpart 8a. The guarantee must be signed by two corporate officers of the parent corporation. A corporate resolution authorizing the parent corporation to provide the corporate guarantee for the subsidiary must be attached to the guarantee. A certified copy of the corporate guarantee must accompany the items sent to the commissioner as specified in subpart 5, item E. The terms of the corporate guarantee must provide that:

[For text of subitems (1) and (2), see M.R.]

[For text of item B, see M.R.]

Subp. 7. **Letter of credit for liability coverage.**

A. An owner or operator may satisfy the requirements of this part by obtaining an irrevocable standby letter of credit that conforms

Proposed Rules

to the requirements of this subpart and submitting a copy of the letter of credit to the commissioner.

B. The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

C. The wording of the letter of credit must be identical to the wording in part 7045.0524, subpart 11.

D. An owner or operator who uses a letter of credit to satisfy the requirements of this part may also establish a standby trust fund. Under the terms of a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the issuing institution into the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

E. The wording of the standby trust fund must be identical to the wording in part 7045.0524, subpart 13.

Subp. 8. Trust fund for liability coverage.

A. An owner or operator may satisfy the requirements of this part by establishing a trust fund that conforms to the requirements of this subpart and submitting an originally signed duplicate of the trust agreement to the commissioner.

B. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

C. The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this part. If at any time after the trust fund is created, the amount of funds in the trust fund is reduced below the full amount of the liability coverage to be provided, the owner or operator, by the anniversary date of the establishment of the fund, must either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided or obtain other financial assurance as specified in this part to cover the difference. For purposes of this subpart, “the full amount of the liability coverage to be provided” means the amount of coverage for sudden or nonsudden occurrences required to be provided by the owner or operator by this part, less the amount of financial assurance for liability coverage that is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

D. The wording of the trust fund must be identical to the wording in part 7045.0524, subpart 13.

7045.0626 USE AND MANAGEMENT OF CONTAINERS.

Subpart 1. **Scope.** This part applies to owners and operators of hazardous waste facilities that store containers of hazardous waste, except as part 7045.0552 provides otherwise. Under ~~parts part~~ 7045.0127, subparts 2 to 4, and ~~7045.0135, subpart 4, item C~~ *Code of Federal Regulations*, title 40, section 261.33(c), as incorporated in part 7045.0135, if a hazardous waste is emptied from a container, the residue remaining in the container is not considered a hazardous waste if the container is empty, as defined in part 7045.0127, subparts 2 to 4. In that event, management of the container is exempt from the requirements of this part.

[For text of subps 2 to 6, see M.R.]

Subp. 7. **Special requirements for ignitable or reactive waste.** Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility’s property line, when physically possible based on the dimensions of the property. When it is not physically possible to place containers at least 50 feet from the property line, based on the dimensions of the property, the ignitable or reactive waste must be placed at least as far as the specified minimum distance from property line found in ~~Table Number 79.503-F~~ of the Minnesota ~~Uniform State Fire Code~~ as incorporated by reference in part 7510.3510, chapter 7510. Nothing in this subpart shall relieve the facility owner or operator from the obligation to comply with any local, state, or federal law governing storage of these wastes.

[For text of subp 8, see M.R.]

Subp. 9. **Air emission standards.** The owner or operator must manage all hazardous waste placed in a container in accordance with the applicable requirements of parts 7045.0645, 7045.0647, and 7045.0648.

7045.0628 TANK SYSTEMS.

Subpart 1. **Scope.** This part applies to owners and operators of facilities that use tank systems, including tank systems, sumps, and other such collection devices or systems used in conjunction with drip pads, as defined in part 7045.0020 and regulated under part 7045.0644, to treat or store hazardous waste, except as items A and B and part 7045.0552 provide otherwise.

A. Tank systems that are used to store or treat hazardous waste containing no free liquids and that are located inside a building with an impermeable floor are exempt from the requirements of subpart 4. To demonstrate the absence or presence of free liquids in the stored or treated waste, ~~EPA the following test must be used; Method 9095 (Paint Filter Liquids Test) as described in “Test Methods for Evaluating Solid Wastes Waste, Physical/Chemical Methods,” (EPA publication No. SW-846) must be used, incorporated by reference in~~ part 7045.0065, item D.

[For text of item B, see M.R.]

[For text of subps 2 to 9, see M.R.]

Subp. 10. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a tank unless:

[For text of items A and B, see M.R.]

Proposed Rules

C. the tank is used solely for emergencies.

The owner or operator of a facility which treats or stores ignitable or reactive waste in a tank shall comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon, as required in the buffer zone requirements for tanks, contained in ~~article 79~~ of the Minnesota ~~Uniform State Fire Code~~, as ~~incorporated by reference in part 7510.3510~~ chapter 7510.

[For text of subps 11 and 12, see M.R.]

Subp. 13. **Air emission standards.** The owner or operator of a facility must manage all hazardous waste placed in a tank in accordance with parts 7045.0645, 7045.0647, and 7045.0648.

7045.0629 REQUIREMENTS FOR SMALL QUANTITY AND VERY SMALL QUANTITY GENERATORS THAT ACCUMULATE HAZARDOUS WASTE IN TANKS.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Ignitable and reactive wastes.** Generators regulated under this part must comply with the following special requirements for ignitable or reactive waste:

[For text of item A, see M.R.]

B. The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in ~~article 79~~ of the Minnesota ~~Uniform State Fire Code~~, as ~~incorporated by reference in part 7510.3510~~ chapter 7510.

[For text of subp 6, see M.R.]

7045.0630 SURFACE IMPOUNDMENTS.

[For text of subps 1 and 1a, see M.R.]

Subp. 2. **General operating requirements.**

A. A surface impoundment must maintain enough freeboard to prevent any overtopping of the dike by overfilling, wave action or a storm. There must be at least 60 centimeters (two feet) of freeboard. Any point source discharge from a surface impoundment to waters of the United States is subject to the requirements of the Federal Water Pollution Control Act Amendments of 1972, *United States Code*, title 33, section 1342, as amended. Spills may be subject to the Federal Water Pollution Control Act Amendments of 1972, *United States Code*, title 33, section 1312, as amended.

B. Surface impoundments that are newly subject to RCRA section 3005(j)(1) due to the promulgation of additional listings or characteristics for the identification of hazardous waste must be in compliance with subpart 1a not later than 48 months after the promulgation of the additional listing or characteristic. This compliance period shall not be cut short as the result of the promulgation of land disposal prohibitions under *Code of Federal Regulations*, title 40, part 268, as amended, or the granting of an extension to the effective date of a prohibition pursuant to *Code of Federal Regulations*, title 40, section 268.5, as incorporated in part 7045.1390, within this 48-month period.

[For text of subps 2a to 5, see M.R.]

Subp. 6. **Closure and postclosure care.** The requirements of closure and postclosure care are as follows:

[For text of item A, see M.R.]

B. If the owner or operator removes or decontaminates all the impoundment materials described in item A, the impoundment is not further subject to the requirements of parts 7045.0552 to ~~7045.0642~~ 7045.0651. At closure and throughout the operating period, unless the owner or operator can demonstrate that any waste removed from the surface impoundment is not a hazardous waste, he or she becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 7045.0205 to 7045.0397 and 7045.0552 to ~~7045.0642~~ 7045.0651.

[For text of items C and D, see M.R.]

Subp. 7. **Special requirements for ignitable or reactive wastes.** Ignitable or reactive waste must not be placed in a surface impoundment unless the waste and the impoundment satisfy all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and:

[For text of items A and B, see M.R.]

Subp. 8. **Special requirements for incompatible wastes.** Incompatible waste, or incompatible wastes and materials, must not be placed in the same surface impoundment unless part 7045.0562, subpart 2, is followed. For examples of potentially incompatible wastes, or incompatible waste and materials, see part 7045.0643, subpart 1, item D.

Subp. 9. **Air emission standards.** The owner or operator must manage all hazardous waste placed in a surface impoundment in accordance with parts 7045.0645 and 7045.0648.

7045.0632 WASTE PILES.

[For text of subs 1 to 4b, see M.R.]

Subp. 5. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a pile unless the waste and pile satisfy all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390:

[For text of items A and B, see M.R.]

[For text of subs 6 to 9, see M.R.]

7045.0634 LAND TREATMENT.

[For text of subs 1 to 6, see M.R.]

Subp. 7. **Special requirements for ignitable or reactive waste.** Ignitable or reactive wastes must not be land treated, unless the waste and treatment zone meet all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and the waste is immediately incorporated into the soil so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under parts 7045.0131, subpart 2 or 5; and 7045.0562, subpart 2 is complied with.

[For text of subp 8, see M.R.]

7045.0638 LANDFILLS.

[For text of subs 1 to 3, see M.R.]

Subp. 4. **Closure and postclosure.** Closure and postclosure requirements are as follows:

[For text of item A, see M.R.]

B. After final closure, the owner or operator shall comply with all postclosure requirements contained in parts 7045.0600 to 7045.0606 including maintenance and monitoring throughout the postclosure care period. The owner or operator must:

[For text of subitem (1), see M.R.]

(2) maintain and monitor the leak detection system in accordance with part 7045.0538, subparts 3, item C, subitems (3), unit (d), and (4); and 2c, item B, and comply with all other applicable leak detection system requirements of ~~this part~~ parts 7045.0552 to 7045.0651 governing interim status facility standards;

[For text of subitems (3) to (5), see M.R.]

Subp. 5. **Special requirements for ignitable or reactive waste.** Special requirements for ignitable or reactive waste are as follows:

A. Except as provided in item B, and subparts 7 and 9, ignitable or reactive waste must not be placed in a landfill unless the waste and landfill meet all applicable requirements of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, and the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under part 7045.0131, subpart 2 or 5, and compliance with part 7045.0562, subpart 2, is maintained.

B. Except for prohibited wastes which remain subject to treatment standards in ~~parts 7045.1350 to 7045.1360~~ Code of Federal Regulations, title 40, sections 268.40 to 268.42, as incorporated in part 7045.1390, ignitable wastes in containers may be landfilled without meeting the requirements of item A if the wastes are disposed so that they are protected from any material or conditions which may cause them to ignite. Ignitable wastes must be disposed in nonleaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the wastes.

[For text of subp 6, see M.R.]

Subp. 7. **Special requirements for liquid waste.** Bulk or noncontainerized liquid waste or waste containing free liquids, whether or not ~~absorbents~~ sorbents have been added, must not be placed in a landfill.

A. A container holding liquid waste or waste containing free liquids must not be placed in a landfill, unless:

(1) all free standing liquid has been removed by decanting, or other methods; has been mixed with ~~absorbent~~ sorbent or solidified so that free standing liquid is no longer observed; or has been otherwise eliminated;

[For text of subitems (2) to (4), see M.R.]

B. ~~To demonstrate the presence or absence or presence~~ of free liquids in ~~either a~~ containerized or ~~a~~ bulk waste, ~~the following test must be demonstrated using the Paint Filter Liquids Test, used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes Waste, Physical/Chemical Methods," EPA publication number SW-846, incorporated in part 7045.0065, item D.~~

C. Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are materials listed or described in subitem (1) or materials that pass one of the tests in subitem (2).

(1) Nonbiodegradable sorbents:

(a) inorganic minerals, other inorganic materials, and elemental carbon (for example, aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, and zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), and diatomaceous earth; perlite (volcanic glass);

Proposed Rules

expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; and activated charcoal/activated carbon);

(b) high molecular weight synthetic polymers (for example, polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(c) mixtures of these nonbiodegradable materials.

(2) Tests for nonbiodegradable sorbents must use the following methods. The methods are incorporated by reference under part 7045.0538, subpart 10, item D, subitem (2):

(a) the sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a), Standard Practice for Determining Resistance of Synthetic Polymer Material to Fungi;

(b) the sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b), Standard Practice for Determining Resistance of Plastics to Bacteria; or

(c) the sorbent material is determined to be nonbiodegradable under OECD test 301B: [CO₂ Evolution (Modified Sturm Test)].

[For text of subp 8, see M.R.]

Subp. 9. **Special requirements for disposal of laboratory packs.** Small containers of hazardous waste in overpacked drums, or laboratory packs, may be placed in a landfill if the requirements of items A to F are met:

A. Hazardous waste must be packaged in nonleaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the waste held therein. Inside containers must be tightly and securely sealed. The inside containers must be of the size and type ~~specified~~ authorized in the United States Department of Transportation hazardous materials regulations under *Code of Federal Regulations*, title 49, parts 173, 178, ~~and~~ 179, and 180, as amended, if those regulations specify a particular inside container for the waste.

B. The inside containers must be overpacked in ~~an open a removable~~ a removable head metal shipping container as specified in United States Department of Transportation regulations under *Code of Federal Regulations*, title 49, ~~section 173.12 and~~ parts 178 ~~and~~, 179, and 180, as amended, ~~of no more than 416 liter (110 gallon) capacity, and. The inside containers must be surrounded by a sufficient quantity of absorbent chemically compatible sorbent material, determined to be nonbiodegradable in accordance with subpart 7, item C, to completely absorb sorb~~ all of the liquid contents of the inside containers. The gross weight of the complete package must not exceed 205 kilograms (452 pounds). The metal outer container must be full after ~~packing it has been~~ packed with inside containers and ~~absorbent sorbent~~ material.

C. The ~~absorbent sorbent~~ material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with part 7045.0562, subpart 2.

[For text of items D and E, see M.R.]

F. The disposal complies with ~~parts 7045.1300 to 7045.1380~~ part 7045.1390. Persons who incinerate lab packs ~~according to part 7045.1360 in accordance with~~ *Code of Federal Regulations*, title 40, section 268.42(c)(1), as ~~incorporated in part 7045.1390,~~ may use fiber drums in place of metal outer containers. The fiber drums must meet the United States Department of Transportation specifications in *Code of Federal Regulation*, title 49, section 173.12, as amended, and be overpacked ~~according to~~ in accordance with item B.

7045.0643 APPENDICES TO INTERIM STATUS FACILITY STANDARDS.

Subpart 1. **Incorporation of federal regulations.** The following appendices found in *Code of Federal Regulations*, title 40, part 265, as amended, are incorporated by reference:

A. Appendix I, Recordkeeping Instructions;

B. Appendix III, EPA Interim Primary Drinking Water Standards;

C. Appendix IV, Tests for Significance;

D. Appendix V, Examples of Potentially Incompatible Waste; and

E. Appendix VI, Compounds with Henry's Law Constant Less Than 0.1 Y/X.

Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.** Part 7045.0090, adoption and incorporation by reference, also applies.

7045.0645 AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS.

Subpart 1. **Incorporation of federal regulations.** The owners and operators of interim status facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers must comply with *Code of Federal Regulations*, title 40, part 265, subpart CC, air emission standards for tanks, surface impoundments, and containers, sections 265.1080 to 265.1091, as amended, which are incorporated by reference subject to the exceptions in subpart 2.

Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.**

A. The agency does not incorporate the following *Code of Federal Regulations*, title 40, part 265, subpart CC, provisions, as

amended:

(1) *Code of Federal Regulations*, title 40, section 265.1080(d) to (g), governing specific exclusions; and

(2) *Code of Federal Regulations*, title 40, section 265.1083(c)(4)(ii), governing authority that EPA cannot delegate to states.

B. Part 7045.0090, adoption and incorporation by reference, also applies.

7045.0649 CONTAINMENT BUILDINGS.

Subpart 1. **Incorporation of federal regulations.** The owners and operators of interim status facilities that store or treat hazardous waste in containment buildings must comply with *Code of Federal Regulations*, title 40, part 265, subpart DD, Containment Buildings, sections 265.1100 to 265.1110, as amended, which are incorporated by reference subject to the exceptions in subpart 2.

Subp. 2. **Additions, modifications, or exceptions to incorporated regulations.** Part 7045.0090, adoption and incorporation by reference, also applies.

7045.0652 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. **General requirements.** Parts 7045.0652 and 7045.0655 apply in lieu of parts 7045.0450 to ~~7045.0642~~ 7045.0651 to the owner or operator of the following types of units or facilities:

[For text of items A to D, see M.R.]

[For text of subp 2, see M.R.]

7045.0655 GENERAL FACILITY STANDARDS.

[For text of subs 1 to 5, see M.R.]

Subp. 6. **Closure.** At closure, the owner or operator of an elementary neutralization unit, pretreatment unit, or wastewater treatment unit shall remove all hazardous waste and hazardous waste residues from the unit.

At closure, the owner or operator of a combustion waste facility shall analyze the waste present in the facility ~~according to~~ in accordance with parts 7045.0102 to ~~7045.0143~~ 7045.0155 and shall submit the waste analysis results and proposed closure methods to the commissioner. Based on the waste analysis and proposed closure methods, the agency shall determine which closure standards from parts 7045.0450 to 7045.0551, if any, apply to the facility.

[For text of subp 7, see M.R.]

7045.0665 USE-HAZARDOUS WASTES USED IN A MANNER CONSTITUTING DISPOSAL.

Subpart 1. **Scope.** ~~Items A and B apply~~ This part applies to hazardous wastes that are used in a manner constituting disposal.

[For text of item A, see M.R.]

B. Hazardous wastes are not used in a manner constituting disposal if:

[For text of subitems (1) and (2), see M.R.]

(3) the products meet the applicable treatment standards in ~~parts 7045.1350 to 7045.1360 or applicable prohibition levels in part 7045.1330~~ *Code of Federal Regulations*, title 40, sections 268.40 to 268.49, as incorporated in part 7045.1390, or, if no treatment standards have been established, meet the applicable prohibition levels in *Code of Federal Regulations*, title 40, section 268.32, as incorporated in part 7045.1390, or RCRA section 3004(d) where no treatment standards have been established, for each recyclable material hazardous waste that they contain.

Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not presently subject to regulation provided they meet the same treatment standards or prohibition levels for each recyclable material that they contain. However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation.

C. Antiskid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in item B and remain subject to regulation.

D. Fertilizers that contain recyclable materials are not subject to regulation provided that:

(1) they are zinc fertilizers that meet the requirements in *Code of Federal Regulations*, title 40, section 261.4(a)(21), as amended;

or

(2) they meet the applicable treatment standards in *Code of Federal Regulations*, title 40, sections 268.40 to 268.49, as incorporated in part 7045.1390, for each hazardous waste that they contain.

[For text of subs 1a to 3, see M.R.]

Subp. 4. **Standards applicable to facilities managing wastes that are to be used in a manner that constitutes disposal.** Facilities managing wastes in a manner that constitutes disposal are subject to the following requirements:

A. owners or operators of facilities that store recyclable wastes that are to be used in a manner that constitutes disposal, but who

Proposed Rules

are not the ultimate users of the wastes are subject to all applicable provisions of parts ~~7023.9000 to 7023.9050~~, 7045.0450 to ~~7045.0534, 7045.0544~~ 7045.0551, and 7045.0552 to ~~7045.0632~~ 7045.0651, and chapter 7001; and

B. owners or operators of facilities that use recyclable wastes that are to be used in a manner that constitutes disposal are subject to all applicable provisions of parts ~~7023.9000 to 7023.9050~~, 7045.0450 to ~~7045.0538, 7045.0544~~ 7045.0551, 7045.0552 to ~~7045.0638~~ 7045.0651, and 7045.1390 and chapter 7001.

7045.0686 SPECIAL REQUIREMENTS FOR MANAGEMENT OF SPENT OR WASTE HOUSEHOLD BATTERIES.

Subpart 1. **Scope.** The requirements of this part apply to operators who collect, store, transport, or reclaim spent or waste household batteries as a part of a household battery management program.

[For text of item A, see M.R.]

B. Operators who collect, transport, or store spent or waste household batteries which are sent for recycling but who do not reclaim them are subject to regulation under subparts 2 and 3, but are not otherwise subject to regulation under parts ~~7023.9000 to 7023.9050~~, 7045.0205 to ~~7045.1380~~ 7045.1390, and chapter 7001 for such collection, transportation, and storage.

[For text of items C and D, see M.R.]

[For text of subs 2 to 4, see M.R.]

7045.0692 HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY.

[For text of subs 1 to 4, see M.R.]

Subp. 5. **Standards applicable to marketers of hazardous waste fuel.** Marketers are subject to the requirements in items A to F.

[For text of items A and B, see M.R.]

C. If a marketer is a generator, or becomes a generator by initiating a shipment of hazardous waste fuel, the marketer must comply with parts 7045.0205 to 7045.0320. If the marketer operates a facility, the marketer must comply with parts 7045.0450 to ~~7045.0534~~ 7045.0551. If the marketer is operating a facility under interim status, the marketer must comply with parts 7045.0552 to ~~7045.0632~~ 7045.0651. If the marketer stores hazardous waste, the marketer must comply with the agency's permitting procedures in chapter 7001 and parts ~~7023.9000 to 7023.9050~~ for storage of hazardous waste.

[For text of items D and E, see M.R.]

F. In addition to the applicable record keeping requirements of parts 7045.0205 to 7045.0320, 7045.0450 to ~~7045.0534~~ 7045.0551, and 7045.0552 to ~~7045.0632~~ 7045.0651, a marketer must keep a copy of each certification notice received or sent for three years from the date the marketer last engaged in a hazardous waste fuel marketing transaction with the person who sent or received the certification notice.

Subp. 6. **Standards applicable to burners of hazardous waste fuel.** Owners and operators of industrial furnaces and boilers identified in subpart 2, item B, that burn hazardous fuel are subject to the requirements in items A to F.

[For text of items A to D, see M.R.]

E. Generators who accumulate waste for longer than the time periods in item D, and burners who receive waste from off-site and store it, must comply with the following requirements:

(1) the agency's permitting procedures in chapter 7001 and parts ~~7023.9000 to 7023.9050~~ for hazardous waste storage facilities, parts 7045.0205 to 7045.0536, 7045.0544, 7045.0552 to 7045.0632, 7045.1000 to 7045.1030, and ~~7045.1300 to 7045.1380~~ 7045.1390; and

[For text of subitem (2), see M.R.]

[For text of item F, see M.R.]

7045.0800 MIXTURES OF USED OIL AND HAZARDOUS WASTE.

[For text of subs 1 and 2, see M.R.]

Subp. 3. **Rebuttable presumption of mixing.** Except as provided in items A to C, used oil containing more than 1,000 ppm total halogens is presumed to have been mixed with a halogenated hazardous waste listed in part 7045.0135, and thus is subject to regulation as a listed hazardous waste. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste. Demonstration must either involve applying knowledge of the source of halogens or the use of an analytical method from Environmental Protection Agency document SW-846, Edition III, (such as method 8010A or 8021) as incorporated by reference in part 7045.0065, item D, to show that the used oil does not contain greater than 100 ppm of any individual halogenated hazardous constituent listed in part 7045.0139.

[For text of items A to C, see M.R.]

Subp. 4. **Characteristic waste.** Mixtures of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristics identified in part 7045.0131 and mixtures of used oil and hazardous waste that is listed in part 7045.0135 solely because it exhibits one or more of the characteristics of hazardous waste identified in part 7045.0131 are subject to:

[For text of item A, see M.R.]

B. except as provided in item C, regulation as used oil under parts 7045.0790 to 7045.0990 and regulation under the land disposal restrictions of ~~parts 7045.1300 to 7045.1380~~ part 7045.1390, if the resultant mixture does not exhibit any characteristic of hazardous waste identified in part 7045.0131; or

[For text of item C, see M.R.]

7045.0805 WASTE CONTAINING OR CONTAMINATED WITH USED OIL.

A. Waste contaminated with used oil that is destined for disposal is subject to evaluation under parts 7045.0102 to ~~7045.0143~~ 7045.0155 to determine if it is hazardous waste, and the appropriate solid or hazardous waste management standards based on the results of the evaluation, unless the waste is:

[For text of subitems (1) and (2), see M.R.]

[For text of items B to E, see M.R.]

7045.0855 STANDARDS FOR USED OIL GENERATORS.

[For text of subpart 1, see M.R.]

Subp. 2. Storage.

A. Used oil generators shall comply with all applicable spill prevention, control, and countermeasures requirements of *Code of Federal Regulations*, title 40, part 112, as amended, in addition to the requirements of this part. Used oil generators shall also comply with the underground storage tank standards of *Code of Federal Regulations*, title 40, ~~part 280~~, chapter 7150 for used oil stored in underground tanks, whether or not the used oil exhibits any characteristic of hazardous waste, in addition to the requirements of this part.

B. Used oil generators who store used oil for ~~more than seven days~~ in aboveground tanks of ~~at least 110 gallons in size~~ are subject to ~~parts 7100.0010 to 7100.0090~~ chapter 7151, in addition to the requirements of this part. Used oil generators who store at least 10,000 gallons of used oil at one time are subject to the requirements of *Minnesota Statutes*, chapter 115E, to prepare and maintain a discharge prevention and response plan, in addition to the requirements of this part. All used oil generators shall comply with the storage and use requirements of ~~article 79 of the Minnesota Uniform State Fire Code, as incorporated by reference in part 7510.3510~~ chapter 7510, in addition to the requirements of this part.

[For text of items C and D, see M.R.]

Subp. 3. **On-site burning in small burning units designed to burn used oil.** Generators who store used oil in vessels directly connected to burning units shall comply with ~~article 61 of the Minnesota Uniform State Fire Code, as incorporated by reference in part 7510.3510~~ chapter 7510. Generators may burn used oil in burning units designed to burn used oil provided that:

[For text of items A to D, see M.R.]

E. ~~the unit is used in accordance and its operation comply with the Minnesota Statutes, section 299F.015 Fire Code.~~

[For text of subps 4 and 5, see M.R.]

Subp. 6. Closure.

A. Generators who store or process used oil in aboveground tanks must to the extent practical, at closure of the tank system, remove or decontaminate visible residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil and manage them as hazardous waste unless the materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155.

B. Owners and operators who store used oil in containers must, at closure, remove containers holding used oils or residues of used oil from the site. The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste unless the materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155.

[For text of subp 7, see M.R.]

7045.0865 STANDARDS FOR USED OIL TRANSPORTERS AND TRANSFER FACILITIES.

[For text of subps 1 to 6, see M.R.]

Subp. 7. Used oil discharges.

[For text of items A to C, see M.R.]

D. An air, rail, highway, or water transporter who has discharged used oil must give notice, if required by *Code of Federal Regulations*, title 49, section 171.15, as amended, to the National Response Center (800) 424-8802, and report in writing as required by *Code of Federal Regulations*, title 49, section 171.16, as amended, to the ~~Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau~~ Information Systems Manager, PHH-63, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Washington, D.C. 20590-0001, or submit an electronic hazardous materials incident report to the Information Systems Manager, DHM-63, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Washington, D.C. 20590-0001 at <http://hazmat.dot.gov>.

Proposed Rules

[For text of subp 8, see M.R.]

Subp. 9. **Used oil storage at transfer facilities.** This subpart applies to used oil transfer facilities where used oil is stored for more than 24 hours and no more than 35 days. Transfer facilities where used oil is stored for more than 35 days are subject to regulation under part 7045.0875.

A. Used oil transporters shall comply with all applicable spill prevention, control, and countermeasures requirements of *Code of Federal Regulations*, title 40, part 112, as amended, in addition to the requirements of this part. Used oil transporters shall also comply with the underground storage tank standards of *Code of Federal Regulations*, title 40, part 280, as amended, chapter 7150 for used oil stored in underground tanks, whether or not the used oil exhibits any characteristic of hazardous waste, in addition to the requirements of this part.

B. Used oil transporters who store used oil for more than seven days in aboveground tanks of at least 110 gallons in size are subject to ~~parts 7100.0010 to 7100.0090~~ chapter 7151, in addition to the requirements of this part. Used oil transporters who store at least 10,000 gallons of used oil at one time are subject to the requirements of *Minnesota Statutes*, chapter 115E, to prepare and maintain a discharge prevention and response plan, in addition to the requirements of this part. All used oil transporters shall comply with the storage and use requirements of ~~article 79~~ of the Minnesota Uniform State Fire Code, as ~~incorporated by reference in part 7510.3510~~ chapter 7510, in addition to the requirements of this part.

C. Used oil transporters shall not store used oil in units other than containers or tanks and shall ensure that the following requirements for containers and tanks are met. Containers and tanks used to store used oil at transfer facilities must be in good condition, not leaking, and closed. Containers must be equipped with a secondary containment system consisting of dikes, berms, or retaining walls and a floor that covers the entire area within the dikes, berms, or retaining walls, or an equivalent secondary containment system. The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water. Containers, aboveground tanks, and fill pipes of underground tanks used to store used oil at transfer facilities must be marked with the words "Used Oil." Aboveground tanks used to store used oil at transfer facilities ~~are may also be~~ subject to the secondary containment requirements of ~~parts 7100.0010 to 7100.0090~~ and other requirements in chapter 7151. ~~Double-walled tanks meet this secondary containment requirement.~~

[For text of item D, see M.R.]

[For text of subps 10 to 12, see M.R.]

Subp. 13. **Closure.**

A. Owners and operators who store or process used oil in aboveground tanks must, at closure of the tank system, remove or decontaminate residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil and manage them as hazardous waste unless the materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in this item, then the owner or operator must close the tank system and perform postclosure care in accordance with the closure and postclosure care requirements of part 7045.0638, subpart 4, that apply to hazardous waste landfills.

B. Owners and operators who store used oil in containers must, at closure, remove containers holding used oils or residues of used oil from the site. The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste unless the materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155.

[For text of subp 14, see M.R.]

7045.0875 STANDARDS FOR USED OIL PROCESSORS AND REREFINERS.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Used oil storage and management.**

A. Used oil processors/rerefiners shall comply with all applicable spill prevention, control, and countermeasures requirements of *Code of Federal Regulations*, title 40, part 112, as amended, in addition to the requirements of this part. Used oil processors/rerefiners shall also comply with the underground storage tank standards of *Code of Federal Regulations*, title 40, part 280, as amended, chapter 7150 for used oil stored in underground tanks, whether or not the used oil exhibits any characteristic of hazardous waste, in addition to the requirements of this part.

B. Used oil processors/rerefiners who store used oil for more than seven days in aboveground tanks of at least 110 gallons in size are subject to ~~parts 7100.0010 to 7100.0090~~ chapter 7151, in addition to the requirements of this part. Used oil processors/rerefiners who store at least 10,000 gallons of used oil at one time are subject to the requirements of *Minnesota Statutes*, chapter 115E, to prepare and maintain a discharge prevention and response plan, in addition to the requirements of this part. All used oil processors/rerefiners shall comply with the storage and use requirements of ~~article 79~~ of the Minnesota Uniform State Fire Code, as ~~incorporated by reference in part 7510.3510~~ chapter 7510, in addition to the requirements of this part.

C. Used oil processors/rerefiners shall not store used oil in units other than containers or tanks and shall ensure that the following

requirements for containers and tanks are met. Containers and tanks used to store used oil at processing/refining facilities must be in good condition, not leaking, and closed. Containers must be equipped with a secondary containment system. The secondary containment system must consist of, at a minimum, dikes, berms, or retaining walls, and a floor which covers the entire area within the dike, berm, or retaining wall. An equivalent secondary containment system may be used for containers. The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water. Containers, aboveground tanks, and fill pipes of underground tanks used to store used oil at transfer facilities must be marked with the words "Used Oil." Aboveground tanks used to store used oil at transfer facilities ~~are~~ may also be subject to the secondary containment requirements of parts 7100.0010 to 7100.0090 and other requirements in chapter 7151. ~~Double-walled tanks meet this secondary containment requirement.~~

[For text of item D, see M.R.]

E. Closure:

(1) Owners and operators who store or process used oil in aboveground tanks must, at closure of the tank system, remove or decontaminate residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste unless the materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in this subitem, then the owner or operator must close the tank system and perform postclosure care in accordance with the closure and postclosure care requirements of part 7045.0638, subpart 4, that apply to hazardous waste landfills.

(2) Owners and operators who store used oil in containers must, at closure, remove containers holding used oils or residues of used oil from the site. The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste unless the materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155.

[For text of subps 6 to 11, see M.R.]

7045.0885 STANDARDS FOR USED OIL BURNERS WHO BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Used oil storage.**

A. Applicability of federal storage regulations. Used oil burners must comply with all applicable spill prevention, control, and countermeasures requirements of *Code of Federal Regulations*, title 40, part 112, as amended, in addition to the requirements of this subpart. Used oil burners must comply with the underground storage tank standards of ~~*Code of Federal Regulations*, title 40, part 280, as amended;~~ chapter 7150 for used oil stored in underground tanks, whether or not the used oil exhibits any characteristic of hazardous waste, in addition to the requirements of this part.

B. Used oil burners who store used oil ~~for more than seven days~~ in aboveground tanks ~~of at least 110 gallons in size~~ are subject to ~~parts 7100.0010 to 7100.0090~~ chapter 7151, in addition to the requirements of this subpart. Used oil burners who store at least 10,000 gallons of used oil at one time are subject to the requirements of *Minnesota Statutes*, chapter 115E, to prepare and maintain a discharge prevention and response plan, in addition to the requirements of this part. All used oil burners shall comply with the storage and use requirements of ~~article 79 of the Minnesota Uniform State Fire Code, as incorporated by reference in part 7510.3510~~ chapter 7510, in addition to the requirements of this part.

C. Used oil burners shall not store used oil in units other than containers or tanks and must ensure that the following requirements for containers and tanks are met. Containers and tanks used to store used oil at burning facilities must be in good condition, not leaking, and closed. Containers must be equipped with a secondary containment system. The secondary containment system must consist of, at a minimum, dikes, berms, or retaining walls, and a floor which covers the entire area within the dike, berm, or retaining wall. An equivalent secondary containment system may be used for containers. The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water. Containers, aboveground tanks, and fill pipes of underground tanks used to store used oil at transfer facilities must be marked with the words "Used Oil." Aboveground tanks used to store used oil at burning facilities ~~are~~ may also be subject to the secondary containment requirements of parts 7100.0010 to 7100.0090 and other requirements in chapter 7151. ~~Double-walled tanks meet this secondary containment requirement.~~

[For text of item D, see M.R.]

[For text of subps 7 to 9, see M.R.]

Subp. 10. **Closure.**

A. Owners and operators who store or process used oil in aboveground tanks must, at closure of the tank system, remove or decontaminate residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste unless the materials are not hazardous waste under parts 7045.0102 to

Proposed Rules

~~7045.0143~~ 7045.0155. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in this item, then the owner or operator must close the tank system and perform postclosure care in accordance with the closure and postclosure care requirements of part 7045.0638, subpart 4, that apply to hazardous waste landfills.

B. Owners and operators who store used oil in containers must, at closure, remove containers holding used oils or residues of used oil from the site. The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste unless the materials are not hazardous waste under parts 7045.0102 to ~~7045.0143~~ 7045.0155.

[For text of subp 11, see M.R.]

7045.1390 LAND DISPOSAL RESTRICTIONS.

Subpart 1. Incorporation of federal land disposal restrictions. *Code of Federal Regulations*, title 40, part 268, as amended, land disposal restrictions, is incorporated by reference, except as provided in subparts 2 to 5.

Subp. 2. General additions, modifications, or exceptions to incorporation of regulations.

A. Part 7045.0090, adoption and incorporation by reference, also applies.

B. The agency does not incorporate the definitions of debris or hazardous debris in *Code of Federal Regulations*, title 40, section 268.2, or the regulations related to debris and hazardous debris throughout *Code of Federal Regulations*, title 40, part 268, including the treatment standards for hazardous debris in section 268.45. Wastes that would be federally regulated as debris or hazardous debris are regulated as hazardous waste.

Subp. 3. Exceptions or additions to Code of Federal Regulations, title 40, subpart A.

A. The agency does not incorporate *Code of Federal Regulations*, title 40, section 268.1(c)(3), allowing disposal into an injection well.

B. References to “EPA” in *Code of Federal Regulations*, title 40, sections 268.1(e)(3) and 268.2(j) mean the federal Environmental Protection Agency.

C. The agency does not incorporate the definitions found in *Code of Federal Regulations*, title 40, section 268.2, paragraph a, c, d, e, f, g, or h.

D. References in *Code of Federal Regulations*, title 40, section 268.7(a)(9)(iii), to D001 to D043 do not include D009.

E. The agency does not incorporate *Code of Federal Regulations*, title 40, section 268.5, governing procedures for case-by-case extensions to an effective date. That section is administered by the EPA.

F. The agency does not incorporate *Code of Federal Regulations*, title 40, section 268.6, governing petitions to allow land disposal of a waste prohibited under subpart C. Part 7045.0075, subpart 9, applies.

G. The agency does not incorporate *Code of Federal Regulations*, title 40, section 268.4(a)(3)(ii) and (iii), relating to waivers or modifications of surface impoundment requirements.

Subp. 4. Exceptions or additions to Code of Federal Regulations, title 40, subpart B. The agency does not incorporate the EPA schedule in *Code of Federal Regulations*, title 40, section 268.13, for wastes identified or listed after November 8, 1984. That section is administered by the Environmental Protection Agency.

Subp. 5. Exceptions or additions to Code of Federal Regulations, title 40, subpart D.

A. The agency does not incorporate *Code of Federal Regulations*, title 40, section 268.42(b), governing the demonstration of an alternative treatment method. That section is administered by the EPA.

B. The agency does not incorporate *Code of Federal Regulations*, title 40, section 268.44, paragraphs (a) to (g) or (o), governing variance from a treatment standard and wastes excluded in various states. That section is administered by the EPA.

REPEALER. *Minnesota Rules*, parts 7045.0020, subpart 45a; 7045.0075, subparts 8 and 10; 7045.0135, subparts 1, 2, 2a, 3, and 4; 7045.0139, subpart 2; 7045.0141, subparts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23; 7045.0143, subparts 2, 3, 4, 5, 6, 7, 9, 10, 12, 13, 14, 15, 17, 20, 21, 23, 25, and 27; 7045.0544, subparts 2 and 3; 7045.1300; 7045.1305; 7045.1309; 7045.1310; 7045.1315; 7045.1320; 7045.1325; 7045.1330; 7045.1333; 7045.1334; 7045.1335; 7045.1339; 7045.1350; 7045.1355; 7045.1358; 7045.1360; and 7045.1380, are repealed.

Minnesota Board of School Administrators**Proposed Amendment to Rules Governing Educational Administrative Licensure,
Minnesota Rule 3512****Notice of Intent to Adopt Rules - Permabebt Revisions of Rules Relating to Governing
Educational Administrative Licensure Without a Public Hearing**

Introduction. The Minnesota Board of School administrators intends to amend rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28.

Agency Contact Person. You must submit comments or questions on the rules and written requests for a public hearing to the agency contact person is Judith M. Eaton Lamp, Executive Director at the Minnesota Board of School Administrators, Suite B100, TIES Building, 1667 Snelling Avenue North, Falcon Heights, MN 55108, phone: (651) 999-7387, fax: (651) 999-7388, and e-mail: jlamp@msbsa.org.

Subject of Rules. The proposed amended rules are about Educational Administrative Licensure. The statutory authority to adopt the rules is *Minnesota Statutes, Minnesota Laws 2006 Chapter 263, Article 2, section 81* authorizes the Board to change rules for *Minnesota Rules 3512*. "On or before June 30, 2007, the Board of School Administrators may adopt rules to reflect the changes in duties, responsibilities, And roles of school administrators under sections 121A.035, 121A.037, and 299F.30, and to make technical revisions and clarifications to *Minnesota Rules*, chapter 3512." A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on August 12, 2008, to submit written comment in support of or in opposition to the proposed rule amendments and any part of subpart of the rules. Your comment must be in writing and the Board contact person must receive it by the due date. The Board encourages comment. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. You must also make any comments about the legality of the proposed rules during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the Board hold a hearing on the rules. Your request must be in writing and the agency contact person must receive it by 4:30 p.m. on August 12, 2008. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the propose rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the Board will hold a public hearing unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the Board must give written notice of this to all persons who requested a hearing, explain the actions the Board took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the Board will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format. Upon request, the Board can make this Notice available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the Board contact person at the address or telephone number listed above.

Modifications. The Board may modify the proposed rules as a result of public comment. The modifications must be supported by comments and information submitted to the Board, and the adopted rules may not be substantially different than these proposed rules, unless the Board follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Board encourages you to participate in the rulemaking process.

Statement of Need and Reasonableness. The statement of need and reasonableness statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. It is now available from the Board contact person. You may review or obtain copies for the cost of reproduction by contacting the Board contact person.

Proposed Rules

RE-PUBLICATION of the Notice of Intent to Adopt Rules is made to correct certain procedural defects. The Minnesota Board of school administrators will provide, upon request, copies of the supplemental materials required by the Administrative Law Judge's report.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions about this requirement to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone: (651) 296-5148 or 1-800-657-3889.

Adoption and Review of Rules. If no hearing is required, the Board may adopt the rules after the end of the comment period. The Board will then submit the rules and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the Board submits the rules to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the Board to receive notice of future rule proceedings, submit your request to the Board contact person listed above.

Dated: June 30, 2008

Mary Mackbee, Board Chairperson
Minnesota Board of School Administrators

3512.0100 DEFINITIONS.

[For text of subs 1 and 2, see M.R.]

Subp. 2a. **Board.** "Board" means the Minnesota Board of School Administrators.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Education.

Subp. 4. **Department.** "Department" means the Department of Education.

Subp. 5. **Director.** "Director" means the director and the assistant director of special education, or the director and assistant director of community education who perform duties consisting of 50 percent or more in administration, personnel, supervision, evaluation, and curriculum.

Subp. 5a. **Executive director.** "Executive director" means the executive director of the Board of School Administrators.

Subp. 6. **Principal.** "Principal" means elementary ~~and~~ secondary, ~~and~~ kindergarten through grade 12 school principals and assistant principals who perform duties consisting of 50 percent or more in administration, personnel, supervision, evaluation, and curriculum.

Subp. 7. **Superintendent.** "Superintendent" means superintendents and assistant superintendents who perform duties consisting of 50 percent or more in administration, personnel, supervision, evaluation, and curriculum.

3512.0200 EDUCATION AND EXPERIENCE REQUIREMENTS FOR SUPERINTENDENT, PRINCIPAL, AND DIRECTOR OF SPECIAL EDUCATION.

Subpart 1. **Scope.** A person holding a position as a superintendent, ~~principal,~~ assistant superintendent, ~~principal,~~ or assistant principal, ~~special education director, or assistant special education director~~ must hold the appropriate license as a superintendent or principal.

Subp. 2. **Teaching experience.** An applicant for licensure as a superintendent ~~or~~ principal, ~~or special education director~~ shall have three years of successful classroom teaching experience while holding a classroom teaching license valid for the position or positions in which the experience was gained. Licensure as an elementary school principal shall be granted to those applicants with an elementary teaching license and the elementary teaching experience required in this part. Licensure as a secondary school principal shall be granted to those applicants with a secondary teaching license and the secondary teaching experience required in this part. For purposes of this subpart, "classroom teaching license" means a license valid to teach elementary school, secondary school subjects, prekindergarten, or kindergarten to grade 12 subjects granted by the Board of Teaching. It does not include limited licenses, provisional licenses, intern licenses, postsecondary vocational licenses, or secondary vocational licenses based on criteria other than degree requirements.

Subp. 3. **K-12 principals and superintendents, principals, and directors of special education.**

A. An applicant for licensure as a ~~K-12 principal or superintendent, principal, or director of special education~~ must complete:

A. ~~complete (1) a specialist or doctoral program or a program consisting of a master's degree plus 45 quarter credits in school administration 60 semester credits beyond the bachelor's degree that includes a terminating graduate degree and topics preparatory for educational administration and the Minnesota competencies identified in part 3512.0510.~~ Each program must be approved by the ~~commissioner~~ Board of School Administrators pursuant to part 3512.2500 and be offered at a regionally accredited Minnesota graduate school; and

(2) item B for an applicant for superintendent or principal or item C for an applicant for director of special education.

B. An applicant for licensure as a superintendent or principal must have field experience of at least 320 hours or eight weeks 40 eight-hour days to be completed within 12 continuous months in elementary or secondary, middle or junior high, and high schools as an administrative aide to a licensed and practicing school principal, or have placement with a licensed educational administrator appropriate

~~for the school superintendency and principalship. for principal licensure or superintendent for superintendent licensure. The field experience must include at least 40 hours or one week at each level not represented by the applicant's primary teaching experience.~~

C. An applicant as a director of special education must have a practicum or field experience, that must include a minimum of 320 hours in an administrative position under the immediate supervision of a licensed director of special education. The field experience will include at least 40 hours or one week at a special education administrative unit other than the primary experience of the applicant.

[For text of subs 4 and 5, see M.R.]

3512.0300 SCHOOL SUPERINTENDENTS AND, PRINCIPALS, AND DIRECTORS OF SPECIAL EDUCATION.

Subpart 1. **License required.** A person who serves as or performs the duties of a superintendent ~~or, principal, or director of special education~~ shall hold a license appropriate to the position of school superintendent ~~or school, principal, or director of special education~~. Performance of duties includes duties that provide assistance to the superintendent ~~or, principal, or director of special education~~ consisting of 50 percent or more in administration, ~~personnel,~~ supervision, evaluation, and curriculum.

Entrance Initial licenses may be issued for each administrative licensure area for which licensure is sought. An applicant must meet requirements for licensure as a superintendent of schools ~~or, as a school principal, or as a director of special education.~~

Subp. 2. **Institutional requirement.** An institution applying to the ~~commissioner board~~ for approval of a preparation program leading to licensure as superintendent ~~or, principal, or director of special education~~ shall comply with part 3512.2500. An approved program must include a description of how applicants for licensure may have their experience and preparation in those areas listed in subpart 3 or 4 evaluated by an institution with an approved program. The evaluation must include representation from college departments involved with the licensure program and licensed practicing superintendents ~~and, principals, and director of special education~~. This evaluation must result in a plan for the applicant to complete the knowledge, skills, and ~~abilities~~ dispositions listed in ~~parts 3512.0500 and 3512.0600, and may include a reduction of the required college credits necessary for an applicant to be recommended for licensure or a recommendation for licensure for currently licensed elementary and secondary principals part 3512.0510.~~

An approved program for the competency and situational observation component must include an exit evaluation that requires a licensure candidate to demonstrate mastery of aptitude with the knowledge, understanding skills, and abilities ~~listed~~ dispositions in ~~parts 3512.0500 and 3512.0600~~ part 3512.0510. The exit evaluation must focus on those skill components not previously demonstrated during completion of the ~~fieldbased~~ experience requirement. ~~One acceptable model for evaluating aptitude in these components places the candidate in a series of realistic hypothetical problemsolving situations while being observed by a team of two to four persons including practicing administrators competent to evaluate the candidate's aptitude and knowledge of skill areas. This exit evaluation must allow the candidate to demonstrate aptitude with the knowledge areas within a reasonable time frame.~~

[For text of subp 3, see M.R.]

Subp. 4. **Persons holding life or permanent licenses.**

A. A person holding a Minnesota life or permanent license as a superintendent or principal need not hold an entrance initial license or a continuing license in that administrative licensure area.

[For text of item B, see M.R.]

Subp. 5. **Administrative licensure completed outside of Minnesota.** A person prepared in another state must be granted an initial license in accordance with part 3512.2600. One year of full-time experience as a superintendent, assistant superintendent, principal, or assistant principal in another state may be substituted for the field experience required by part 3512.0400. A person licensed in another state must achieve educational equivalency by the end of their initial license with persons licensed in Minnesota. Educational equivalency includes 30 semester credits beyond a masters degree or 60 semester credits beyond a bachelor degree.

Subp. 6. [See repealer.]

3512.0400 PROGRAM REQUIREMENTS.

Subpart 1. **Field experience.** ~~A college or university shall design a field experience to accommodate a person's needs and emphasize the knowledge and skills of the program outcomes. An approved school licensure program must include a 320-hour field experience. A person taking part in field experiences shall not replace required superintendents, principals, or superintendents. Program outcomes of the directors of special education. Field experience should be mutually agreed upon with the candidate and the onsite administrator. Emphasis should be placed on outcomes must focus on the knowledge, skills, and outcomes not included in a person's previous preparation and experiences~~ dispositions evident in the competencies for school administrators under part 3512.0510.

Subp. 2. [See repealer.]

Subp. 3. **Situational observation component.** An approved licensure program for superintendents ~~and, principals, or directors of special education~~ must include a component that requires a person to demonstrate mastery of the program knowledge ~~and, skills contained, and dispositions~~ in ~~parts 3512.0500 and 3512.0600~~ part 3512.0510. The extent of mastery shall be evaluated by placing the person in a series of realistic hypothetical problemsolving situations while being observed by a team of two to four persons, including a licensed school administrator, competent to evaluate the extent of mastery of the knowledge and skills. ~~Other committee members should be selected from~~

Proposed Rules

higher education preparers of school administrators and school board members. The exit evaluation should focus on knowledge and skills, not previously demonstrated during the field experience requirements and dispositions evident in the competencies for school administrators under part 3512.0510 and may contain a combination of objective examinations, portfolio reviews, and observations.

3512.0510 PROGRAM REQUIREMENTS FOR ALL ADMINISTRATIVE LICENSES.

Subpart 1. Core leadership competencies for Minnesota administrative licenses. A person who serves as a superintendent, principal, director of special education, or director of community education shall demonstrate competence in the following core areas:

A. Leadership by:

- (1) collaboratively assessing and improving culture and climate;
- (2) providing purpose and direction for individuals and groups;
- (3) modeling shared leadership and decisionmaking strategies;
- (4) demonstrating an understanding of issues affecting education;
- (5) through a visioning process, formulating strategic plans and goals with staff and community;
- (6) setting priorities in the context of stakeholder needs;
- (7) serving as a spokesperson for the welfare of all learners in a multicultural context;
- (8) understanding how education is impacted by local, state, national, and international events;
- (9) demonstrating the ability to facilitate and motivate others; and
- (10) demonstrating the ability to implement change or educational reform;

B. Organizational management by:

- (1) demonstrating an understanding of organizational systems;
- (2) defining and using processes for gathering, analyzing, managing, and using data to plan and make decisions for program evaluation;
- (3) planning and scheduling personal and organizational work, establishing procedures to regulate activities and projects, and delegating and empowering others at appropriate levels;
- (4) demonstrating the ability to analyze need and allocate personnel and material resources;
- (5) developing and managing budgets and maintaining accurate fiscal records;
- (6) demonstrating an understanding of facilities development, planning, and management; and
- (7) understanding and using technology as a management tool;

C. Diversity leadership by:

- (1) demonstrating an understanding and recognition of the significance of diversity, and responding to the needs of diverse learners;
- (2) creating and monitoring a positive learning environment for all students;
- (3) creating and monitoring a positive working environment for all staff;
- (4) promoting sensitivity of diversity throughout the school community; and
- (5) demonstrating the ability to adapt educational programming to the needs of diverse constituencies;

D. Policy and law by:

- (1) developing, adjusting, and implementing policy to meet local, state, and federal requirements and constitutional provisions, standards, and regulatory applications;
- (2) recognizing and applying standards of care involving civil and criminal liability for negligence, harassment, and intentional torts; and
- (3) demonstrating an understanding of state, federal, and case law governing general education, special education, and community education;

E. Political influence and governance by:

- (1) exhibiting an understanding of school districts as a political system, including governance models;
- (2) demonstrating the ability to involve stakeholders in the development of educational policy;
- (3) understanding the role and coordination of social agencies and human services; and
- (4) demonstrating the ability to align constituencies in support of priorities and build coalitions for programmatic and financial support;

F. Communication by:

- (1) formulating and carrying out plans for internal and external communications;
- (2) demonstrating facilitation skills;
- (3) recognizing and applying an understanding of individual and group behavior in normal and stressful situations;
- (4) facilitating teamwork;
- (5) demonstrating an understanding of conflict resolution and problem-solving strategies;
- (6) making presentations that are clear and easy to understand;
- (7) responding, reviewing, and summarizing information for groups;

(8) communicating appropriately, speaking, listening, and writing, for different audiences such as students, teachers, parents, community, and other stakeholders; and

(9) understanding and utilizing appropriate communication technology;

G. Community relations by:

(1) articulating organizational purpose and priorities to the community and media;

(2) requesting and responding to community feedback;

(3) demonstrating the ability to build community consensus;

(4) relating political initiatives to takeholders, including parental involvement programs;

(5) identifying and interacting with internal and external publics;

(6) understanding and responding to the news media;

(7) promoting a positive image of schools and the school district;

(8) monitoring and addressing perceptions about schoolcommunity issues; and

(9) demonstrating the ability to identify and articulate critical community issues that may impact local education;

H. Curriculum planning and development for the success of all learners by:

(1) demonstrating the ability to enhance teaching and learning through curriculum assessment and strategic planning for all learners, including early childhood, elementary, middle and junior high school, high school, special education, and adult levels;

(2) demonstrating the ability to provide planning and methods to anticipate trends and educational implications;

(3) demonstrating the ability to develop, implement, and monitor procedures to align, sequence, and articulate curriculum and validate curricular procedures;

(4) demonstrating the ability to identify instructional objectives and use valid and reliable performance indicators and evaluative procedures to measure performance outcomes;

(5) appropriately using learning technologies;

(6) demonstrating an understanding of alternative instructional designs, curriculum, behavior management, and assessment accommodations and modifications; and

(7) demonstrating an understanding of the urgency of global competitiveness;

I. Instructional management for the success of all learners by:

(1) demonstrating an understanding of research of learning and instructional strategies;

(2) describing and applying research and best practices on integrating curriculum and resources to help all learners achieve at high levels;

(3) demonstrating the ability to utilize data for instructional decision making;

(4) demonstrating the ability to design appropriate assessment strategies for measuring learner outcomes;

(5) demonstrating the ability to implement alternative instructional designs, curriculum, behavior management, and assessment accommodations and modifications; and

(6) demonstrating the ability to appropriately use technology to support instruction;

J. Human resource management by:

(1) demonstrating knowledge of effective personnel recruitment, selection, and retention;

(2) demonstrating an understanding of staff development to improve the performance of all staff members;

(3) demonstrating the ability to select and apply appropriate models for supervision and evaluation;

(4) describing and demonstrating the ability to apply the legal requirements for personnel selection, development, retention, and dismissal;

(5) demonstrating an understanding of management responsibilities to act in accordance with federal and state constitutional provisions, statutory and case law, regulatory applications toward education, local rules, procedures, and directives governing human resource management;

(6) demonstrating an understanding of labor relations and collective bargaining; and

(7) demonstrating an understanding of the administration of employee contracts, benefits, and financial accounts;

K. Values and ethics of leadership by:

(1) demonstrating an understanding of the role of education in a democratic society;

(2) demonstrating an understanding of and model democratic value systems, ethics, and moral leadership;

(3) demonstrating the ability to balance complex community demands in the best interest of learners;

(4) helping learners grow and develop as caring, informed citizens; and

(5) demonstrating an understanding and application of the Code of Ethics for School Administrators under part 3512.5200;

L. Judgment and problem analysis by:

(1) identifying the elements of a problem situation by analyzing relevant information, framing issues, identifying possible causes, and reframing possible solutions;

Proposed Rules

(2) demonstrating adaptability and conceptual flexibility;

(3) assisting others in forming opinions about problems and issues;

(4) reaching logical conclusions by making quality, timely decisions based on available information;

(5) identifying and giving priority to significant issues;

(6) demonstrating an understanding of and utilize appropriate technology in problem analysis; and

(7) demonstrating an understanding of different leadership and decision-making strategies, including but not limited to collaborative models and model appropriately their implementation; and

M. Safety and security by:

(1) demonstrating the ability to develop and implement policies and procedures for safe and secure educational environments;

(2) demonstrating the ability to formulate safety and security plans to implement security procedures including an articulated emergency chain of command, safety procedures required by law, law enforcement assistance, communication with the public, and evacuation procedures;

(3) demonstrating the ability to identify areas of vulnerability associated with school buses, buildings, and grounds and formulate a plan to take corrective action;

(4) demonstrating an understanding of procedural predictabilities and plan variations where possible; and

(5) demonstrating the ability to develop plans that connect every student with a school adult, eliminate bullying and profiling, and implement recommended threat assessment procedures.

Subp. 2. **Superintendent competencies.** A person who serves as a superintendent shall demonstrate all core competencies described in subpart 1 and competence in the following specific areas:

A. Policy and law by:

(1) demonstrating an understanding of the role policy plays in school district governance and administration;

(2) demonstrating knowledge of statutory regulations affecting school board meetings, communications, procedures, and practices; and

(3) demonstrating an understanding of the roles and responsibilities of the school board;

B. Political influence and governance by:

(1) demonstrating an understanding of the role the political process plays in public education and the connection between them;

(2) demonstrating an understanding of how to interact with local and state governments; and

(3) demonstrating an understanding of the roles played by other community leaders in the school district;

C. Communication by:

(1) demonstrating knowledge of cultivating positive relationships between and with school board members; and

(2) demonstrating an understanding of the importance of communication leadership between school district and its community;

D. Organization management by demonstrating knowledge of factors that affect school finance, including sources of revenue; expenditure classifications; generally acceptable accounting principles; and local, state, and federal finance calculations; and

E. Judgment and problem analysis by demonstrating knowledge of how to balance varied and competing interests to ensure the mission and vision of the school district is carried forward.

Subp. 3. **Principal competencies.** A person who serves as a principal shall demonstrate all core competencies described in subpart 1 and competence in the following specific areas:

A. Instructional leadership by:

(1) demonstrating the ability to understand and apply schoolwide literacy and numeracy systems; and

(2) demonstrating the ability to understand and apply districtwide literacy and numeracy systems;

B. Monitor student learning by:

(1) demonstrating the ability to create a culture that fosters a community of learners;

(2) demonstrating an understanding of student guidance systems and auxiliary services;

(3) demonstrating the ability to implement a positive and effective student management system;

(4) demonstrating the ability to develop and implement effective student discipline plans;

(5) demonstrating the ability to develop a master instructional schedule;

(6) demonstrating the ability to meet the enrichment, remediation, and special education needs of all students; and

(7) demonstrating the ability to understand and support a comprehensive program of student activities; and

C. Early childhood through grade 12 leadership by:

(1) demonstrating an understanding of the articulation and alignment of curriculum from preschool through grade 12;

(2) demonstrating an understanding of different organizational systems and structures at early childhood, elementary, middle or junior high, and high school levels;

(3) demonstrating the ability to work with children of all ages;

(4) demonstrating the ability to work with parents, teachers, and other staff in all levels of schooling;

Proposed Rules

(5) demonstrating an understanding of the characteristics of effective transitions from one level of schooling to the next; and

(6) demonstrating an understanding of the developmental needs of children of all ages.

Subp. 4. Director of special education competencies. A person who serves as a director of special education shall demonstrate the core competencies described in subpart 1 and competence in the following specific areas:

A. Policy and law by:

(1) demonstrating an understanding of state and federal laws, rules, and procedures governing special education finance, budgeting, and accounting; and

(2) demonstrating an understanding of state and federal regulations governing the monitoring of special education programs.

B. Organizational management by:

(1) demonstrating an understanding of the role policy and procedure play in school district governance and administration;

(2) demonstrating knowledge of statutory regulations affecting board meetings, communications, procedures, and practices that affect special education governance; and

(3) demonstrating an understanding of special education administrative models used in Minnesota.

C. Resource allocation by:

(1) demonstrating an understanding of special education program development including needs assessment, design, and evaluation; and

(2) demonstrating an understanding of the resources available, along with the agencies and organizations that serve students with a disability and their families.

Subp. 5. Director of community education competencies. A person who serves as a director of community education shall demonstrate the core competencies described in subpart 1 and competence in the following specific areas:

A. Community education concepts by:

(1) understanding and describing the history and philosophy of community education;

(2) demonstrating a knowledge and application of the principles of community education;

(3) demonstrating a knowledge of the role of the local school district's administrative team and the community education director's place within it;

(4) demonstrating, facilitating, and leading the integration of community education into the early childhood through grade 12 system;

(5) demonstrating the skills necessary to conduct community needs assessments, determine educational objectives, select learning experiences, schedule and promote programs, and establish and implement registration procedures;

(6) demonstrating knowledge of the various assessment tools used to effectively evaluate community education programs; and

(7) demonstrating an understanding of the resources available to support learners of all abilities.

B. Community capital by:

(1) demonstrating a knowledge of the role, organization, functions, and development of advisory councils;

(2) demonstrating the ability to involve advisory councils in addressing community and school issues;

(3) demonstrating the ability to build collaborative partnerships in the community;

(4) demonstrating the ability to effectively identify the community political structures, both formal and informal;

(5) demonstrating the ability to identify and effectively use local, civic, and business resources to enhance the lifelong learning opportunities within the community;

(6) demonstrating the knowledge of the techniques used for developing leadership among community members;

(7) demonstrating knowledge about sustaining community involvement in the community education process; and

(8) demonstrating knowledge of factors that affect school finance, including sources of revenue; expenditure classifications; generally acceptable accounting principles; and local, state, and federal finance calculations.

3512.0700 ADMINISTRATIVE LICENSURE WITHOUT TEACHING EXPERIENCE FOR SUPERINTENDENTS, PRINCIPALS, AND DIRECTORS OF SPECIAL EDUCATION.

[For text of subs 1 and 2, see M.R.]

Subp. 3. Field experience. An applicant shall have satisfactorily completed a field experience in school administration, which as an intern in the license area sought. The field experience shall be in a school district setting appropriate for the license under the supervision of educators from an approved college or university school administration program and a licensed practicing school administrator working in the area of the intern's field experience. The field experience must consist of at least 320 hours, of which at least 40 must be in each school level: elementary, middle grades, and high school, and is in addition to the internship teaching experience described in subpart 4.

Subp. 3a. Teaching knowledge and skills. An applicant shall demonstrate basic teaching knowledge and skills as required by part 8710.2000. The applicant shall:

A. present a portfolio or other appropriate presentation as determined by the approved school administration program demonstrating teaching knowledge and skills; or

B. meet the examination requirement of part 8710.0510, subpart 1, items A and B, and subpart 3, items A and B.

Proposed Rules

Subp. 4. **Teaching internship requirement.** An applicant shall have experience and knowledge in curriculum, school organization, philosophy of education, and early childhood, elementary and secondary, junior high, middle school, and senior high schools. The internship shall:

A. include one school year with a minimum hour equivalency of 1,050 hours of classroom ~~experience~~ experiences, including eight weeks of supervised teaching;

B. be under the supervision of a ~~practicing~~, licensed practicing school administrator;

[For text of items C and D, see M.R.]

3512.0800 ALTERNATIVE LICENSURE FOR SCHOOL SUPERINTENDENTS.

Subpart 1. **Intent of alternative license.** An applicant for an alternative license shall demonstrate skills and competencies needed to perform the functions of a superintendent. This alternative is intended for applicants ~~lacking the teaching background and administrative preparation program required in parts who do not meet the requirements for superintendent licensure as specified in part 3512.0200 and 3512.0400.~~

Subp. 2. **Procedures for licensure.** An applicant for an alternative license must demonstrate that the applicant has substantive experience and education in administration, supervision, management, and executive leadership, in either education, health care, business or industry, labor, or government. An applicant for an alternative license shall:

A. complete a written application;

B. provide a written description of the exceptional qualifications;

C. provide an official college transcript;

D. document competence in reference to part 3512.0510, subparts 1 and 2, and other educational and leadership experience;

E. provide a professional resume; and

F. include letters of recommendation and portfolio examples.

Subp. 3. **Credential review committee.** An applicant ~~may shall~~ appear before a credential review committee and present evidence relating to the applicant's proposed effectiveness as a superintendent. Data and information regarding leadership effectiveness shall be presented as ~~may~~ testimony from teachers, parents, students, site council members, community members, and other interested persons. The review committee ~~may shall~~ consist of a licensed administrator appropriate to the field, a college or university administration preparer, and a member of a local school board or person of similar background. The credential review committee shall make a recommendation to the ~~manager of the licensing team regarding licensure~~ executive director.

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Issuance of license.** Initial and renewal licenses shall be issued according to this subpart.

A. Based upon the credential review committee recommendation, the applicant may be granted a two-year ~~entrance~~ initial license. The ~~commissioner board~~ may also identify needed activities which the candidate shall implement during the period of the ~~entry~~ initial license to strengthen the individual's skills which may lead to improved results as a ~~principal~~ superintendent. This may include a mentoring experience or specific skills or competencies that need improvement.

B. The two-year ~~entrance~~ initial license may be renewed for a five-year license after verification of one year of successful administrative experience. Subsequent five-year renewals shall be granted based upon continuing education requirements in part 3510.2700, subpart 4.

Subp. 7. **Appeal.** If the candidate's initial application is rejected, an appeal may be filed with the ~~commissioner of education~~ board within 30 days of the denial.

Subp. 8. **Fee.** In addition to the license fee under part 3512.2000, subpart 1, the ~~commissioner~~ board may charge a fee for the review process to recover costs.

3512.1200 CONTINUING EDUCATION PROGRAMS FOR DIRECTORS, PRINCIPALS, AND SUPERINTENDENTS.

[For text of subpart 1, see M.R.]

Subp. 1a. **Approval.** All continuing education programs, and the clock hours which may be earned in each program, must be approved by the ~~commissioner board~~. If clock hours are to be earned, approval must be secured before participants are registered in a continuing education program. Admission to all approved continuing education programs shall be open to any licensed Minnesota school administrator ~~or supervisor who meets the education and experience requirements for admission.~~ The ~~department~~ board shall disseminate lists of known approved continuing education programs twice annually.

Subp. 2. **Program initiator.** The initiator of a continuing education program has complete responsibility for conducting that program. However, the initiator may use resources from professional associations, governmental agencies, and the private business sector. The program initiator is responsible for:

[For text of item A, see M.R.]

B. forwarding continuing education program proposals to the ~~commissioner~~ board for approval; and

C. maintaining communication with the ~~commissioner~~ board concerning the status of all approved continuing education programs offered; and.

Proposed Rules

~~D. reporting to the commissioner the names of all individuals who complete an approved continuing education program including the number of clock hours earned by each individual.~~

Subp. 3. **Content of continuing education program.** Each continuing education program shall consist of at least three clock hours and each program proposal shall contain:

[For text of items A to E, see M.R.]

F. statements indicating the number of clock hours requested for the proposed program;

~~G. length of time for which approval is being requested; and;~~

~~H. the number of times that the program is to be offered during the approval period; and~~

~~G. I. evidence that qualified staff have been assigned to the program and that other resources necessary to the program have been allocated.~~

Subp. 4. **Term of approval.** Programs may be approved for periods of time up to two years. A program will be approved if it meets the requirements of the rules and if the ~~commissioner~~ board determines that the program is adequate to fulfill the purposes of continuing education requirements.

3512.1300 PROCEDURES FOR VOLUNTARY SURRENDER OF LICENSES.

Subpart 1. **Materials required to surrender license.** A person holding a license granted by the ~~commissioner of education~~ board may voluntarily surrender the license by submitting to the ~~manager of the personnel licensing section~~ executive director of the ~~Department of Education~~ board:

[For text of items A to D, see M.R.]

Subp. 2. **Surrender date.** When the ~~manager of the personnel licensing section~~ board receives the materials listed in subpart 1 by January 1, the date of surrender is July 1 of that year. If the materials are received after January 1, the date of license surrender is July 1 of the following calendar year. An applicant may revoke the request to surrender a license. The revocation must be made in writing to the ~~manager executive director of the personnel licensing section~~ board no later than December 31 of the year in which the request for voluntary surrender is received by the ~~manager of the personnel licensing section~~ board.

Subp. 3. **When surrender is prohibited.** A person may not voluntarily surrender a license if:

[For text of item A, see M.R.]

B. the ~~commissioner of education~~ board has begun proceedings to suspend or revoke the license pursuant to part 3512.5200 and Minnesota Statutes, sections 122A.20 and 214.10; or

[For text of item C, see M.R.]

Subp. 4. **Entrance Initial license after surrender.** A person whose Minnesota administrative or supervisory license has been voluntarily surrendered may apply for entrance initial licensure in the field for which licensure was previously surrendered. An entrance initial license must be granted to the applicant if:

[For text of item A, see M.R.]

B. the applicant meets the entrance licensure standards that are in effect in the field at the time of application and meets procedures in ~~Department of Education~~ board rules applicable to an entrance license; and

[For text of item C, see M.R.]

[For text of subp 5, see M.R.]

3512.1500 THE ISSUANCE AND RENEWAL OF LICENSES.

Subpart 1. **Renewal.** ~~All licenses~~ A license to serve as superintendent ~~and, principal, or director~~ shall bear the date of issue and the date of expiration and may be renewed on or before July 1 in the year of expiration.

Subp. 2. **Expiration.** After July 1 in the year of expiration, ~~all licenses~~ a license to serve as superintendent ~~and, principal, or director~~ shall be deemed expired and no longer valid for administration.

Subp. 3. **Fees.** Each application for the issuance and/or renewal of a license to serve as superintendent ~~or, principal, or director~~ shall be accompanied by a processing fee in the amount of ~~\$40 effective July 1, 1983~~ \$57 effective July 1, 2004.

3512.1600 APPEALS.

Subpart 1. **Licensure denials.** A person denied an administrative license may appeal the denial under *Minnesota Statutes*, chapter 14, to a final decision by the ~~commissioner of education~~ Board of School Administrators.

Subp. 2. **Appeal request.** A person entitled to a hearing under this part shall file a written request for a hearing with the ~~commissioner of education~~ executive director within 30 days from the date of the denial. Failure to file a written request for a hearing within 30 days constitutes a waiver of the person's right to a hearing.

3512.1700 RULES REVIEW.

Proposed Rules

Licensure standards for superintendents and principals, and directors shall be reviewed every even-numbered year beginning in the year 2000 2008. The review shall be conducted by a committee appointed by the commissioner who shall report recommendations to the commissioner of education.

3512.2000 REQUIREMENTS FOR ISSUANCE AND RENEWAL OF LICENSES.

Subpart 1. **In general.** An applicant must qualify separately for each licensure area for which application is made and provide evidence of satisfactory completion of a program in such the licensure area which that has been approved by the commissioner board.

Each application for the issuance or renewal of a license shall be accompanied by a the processing fee set by the Board of Teaching in part 8700.0600 8710.0200. The processing fee shall be nonrefundable for applicants not qualifying for a license, except the fee is refundable when the applicant for a license already holds the license for which application is made and that license does not expire in the year the application is submitted.

All licenses must be issued or renewed according to criteria established in rules of the Department of Education board and are valid for the period of time specified in this part. All licenses must bear the date of issuance and expire on the specified number of years from July 1 nearest the date licensure was approved. Applications for renewal must be accepted by the commissioner Minnesota Department of Education, Division of Educator Licensing and Teaching Quality, after January 1 of the year of expiration. The renewal period begins on July 1 of the year of expiration. After June 30 in the year of expiration, all licenses not renewed expire and are no longer valid.

Subp. 2. **Initial license.** The initial license issued in any licensure area is an entrance license, valid for two years. Licenses valid for administration and supervision in Minnesota schools must be granted to persons who meet all requirements of applicable statutes and rules and who complete programs approved by the commissioner board leading to licensure in Minnesota institutions that are approved by the board of Teaching pursuant to part 8700.7600 3512.2500 to prepare persons for licensure.

[For text of subp 3, see M.R.]

Subp. 4. **Continuing license.** A continuing license, valid for five years, must be issued and renewed upon application according to provisions enumerated in the specific licensure rules of the Department of Education board for the continuing license being issued or renewed.

3512.2100 ENTRANCE INITIAL LICENSE.

Requirements must be met for each administrative area where licensure is sought. An entrance initial license shall be issued to an applicant who has met all of the following requirements. An applicant must:

A. fulfill the requirements of parts 3512.2000, subparts 1 and 2, and 3512.2700; and

B. be recommended for licensure by a Minnesota Board of School Administrators approved Minnesota college or university which, in making such a recommendation, attests to satisfactory completion of the approved program by the applicant. An applicant coming to Minnesota from another state must present to the commissioner Minnesota Department of Education, Division of Educator Licensing and Teacher Quality, a transcript of college or university work to be analyzed in order to determine comparability of program.

3512.2400 SUSPENSION AND REVOCATION OF LICENSES.

Subpart 1. **Cause.** The license of a director, superintendent, or principal, or director may be revoked or suspended for any of the following causes:

[For text of items A to C, see M.R.]

D. fraud or misrepresentation in obtaining a license; or

E. felony conviction of a felony which directly relates to the occupation for which licensure is held; or

F. violation of part 3512.5200, code of ethics for school administrators.

Subp. 2. **Procedure for suspension and revocation of licenses.** The State Board of Education board may act to suspend or revoke the license of a person whose license was granted by the board of Education after the following procedures have been followed:

A. A written complaint that specifies the nature and character of the charges against the licensee is filed with the State board of Education by a student, parent, community member, or the school board employing the person, or by the commissioner.

B. The commissioner, within ten calendar days after the filing of the complaint with the State Board of Education, serves a copy of the complaint upon the licensee by certified mail addressed to the licensee at the licensee's last known address board notifies the licensee of the allegations contained in the complaint, giving the licensee an opportunity to respond to the allegations.

C. The licensee, within 20 calendar days after the service of the copy of charges, files with the State Board of Education an answer to the charges specified. The failure to answer within the 20 calendar day period is a waiver of the right to a hearing.

D. A hearing conducted according to the rules of the Office of Administrative Hearings, if not waived, must be held.

Subp. 3. **Revocation.** Revocation includes the cancellation or repeal of a license or renewal privilege. Revocation disqualifies a person from performing any function that is permitted on the basis of holding a license issued pursuant to under the rules of the State board of Education. Revocation is final, except that a person whose license has been revoked may petition the State board of Education for licensure

pursuant to under subpart 6.

Subp. 4. **Suspension.** Suspension includes the temporary withdrawal of a license or renewal privilege. Suspension disqualifies a person from performing any function that is permitted on the basis of holding a license issued pursuant to under the rules of the ~~State Board of Education board~~. The length of each suspension and any terms and conditions attached to the suspension must be determined by the ~~State Board of Education board~~ on consideration of:

[For text of items A to D, see M.R.]

Subp. 5. **Applicability.** Unless otherwise provided by the ~~State Board of Education board~~, a revocation or suspension applies to each license or renewal privilege held by the individual at the time final action is taken by the ~~State Board of Education board~~. A person whose license or renewal privilege has been suspended or revoked is ineligible to be issued any other license by the ~~State Board of Education board~~ during the pendency of the suspension or revocation.

Subp. 6. **Issuance of license after revocation.** A person whose license or renewal privilege has been revoked by the ~~State Board of Education board~~ may apply for and must may be granted an entrance initial license upon presentation of reliable evidence that all terms and conditions that the board imposed have been fulfilled, and upon meeting current licensure standards.

Subp. 7. **Issuance or reinstatement of license after suspension.** A person whose license or renewal privilege has been suspended by the ~~State Board of Education board~~ may apply for reinstatement of that license according to this subpart.

[For text of items A to E, see M.R.]

3512.2500 PROCEDURES FOR APPROVAL OF LICENSURE PROGRAMS.

Subpart 1. **Request for approval.** Institutions approved by the board of Teaching pursuant to under part 8700.7600 3512.2500 to prepare persons for licensure may request approval by the ~~commissioner board~~ of licensure programs in administration and supervision. The programs shall be evaluated for initial approval and thereafter shall be audited for continuing approval according to this part.

Subp. 2. **Content of program description.** Each institution shall forward from the administrator of the defined administrative and instructional unit of that institution to the ~~commissioner board~~ a program description for each licensure program for which approval is requested. The licensure program description shall include:

[For text of items A to C, see M.R.]

D. an enumeration of the specific knowledge, skills, and ~~understandings~~ dispositions to be achieved by persons completing the licensure program;

E. a description of the licensure program which relates individual program components to the knowledge, skills, and ~~understandings~~ dispositions to be achieved by persons completing the licensure program;

[For text of items F to J, see M.R.]

Subp. 3. **Evidence required in program description.** Each program description forwarded to the ~~commissioner board~~ by an institution for each licensure program for which approval is requested shall include evidence that:

A. rules of the ~~Department of Education board~~ governing the licensure program are met;

[For text of items B and C, see M.R.]

Subp. 4. **Appraisal of program.** Before initial approval for the licensure program is granted, ~~department staff~~ or persons designated as program auditors by the ~~commissioner board~~ may visit the institution to examine the licensure program for the purpose of verifying the program description and making a recommendation regarding approval status. During the operation of an approved licensure program, an audit visit to verify that the approved program complies with this part may be arranged in consultation with the institution. Program auditors shall make a written report of their findings to the ~~commissioner board~~ and to the institution.

~~Department Board~~ staff or persons designated as program auditors by the ~~commissioner board~~ in consultation with the institution shall make audit visits on a fiveyear cycle to verify program descriptions and to make a recommendation regarding approval status of each licensure program.

Based upon appraisal of the program description prepared by the institution and the written report of the auditors, the ~~commissioner board~~ shall:

[For text of items A to D, see M.R.]

Subp. 5. **Conditional approval.** If a licensure program is conditionally approved, the ~~commissioner board~~ shall reconsider the approval status of the licensure program upon verification that the stated conditions are met. If stated conditions are not met within the established time lines, conditional approval must be withdrawn.

[For text of subp 6, see M.R.]

Subp. 7. **Revisions made in program.** If an institution makes revisions in an approved licensure program, the administrator of the defined administrative and instructional unit of that institution shall forward to the ~~commissioner board~~ a written description of the licensure program revision. An audit must be made to verify that the revised licensure program continues to meet rules of the ~~Department of Education board~~. Each verified licensure program revision is an amendment to the approved licensure program.

Subp. 8. **Revocation or suspension due to failure to meet rules.** The ~~commissioner board~~ shall revoke or suspend the approval of

Proposed Rules

a licensure program if the ~~commissioner~~ board determines that an approved licensure program no longer complies with this part.

3512.2600 LICENSURE FOR PERSONS PREPARED IN STATES OTHER THAN MINNESOTA.

Subpart 1. **Criteria.** Minnesota licenses shall be granted to persons who otherwise meet applicable statutory requirements and who complete programs leading to licensure in colleges and universities located outside Minnesota. The licenses shall be granted only in licensure fields for which the ~~commissioner of education~~ board has established rules governing programs leading to licensure. Persons prepared in states other than Minnesota shall present their credentials to the board for approval. The board has jurisdiction on all matters concerning administrative licensure. The licenses shall be issued according to either item A or B as follows:

A. Persons who complete approved programs in colleges and universities leading to licensure within states which have signed contracts with Minnesota according to the Interstate Agreement on Qualification of Educational Personnel shall be granted a Minnesota entrance initial license. No licenses shall be issued on the basis of teaching experience only.

B. Persons who complete programs leading to licensure in colleges and universities within states outside Minnesota which have not signed contracts with Minnesota ~~according to the Interstate Agreement on Qualification of Educational Personnel~~ shall be granted a Minnesota entrance initial license when all of the following criteria are met:

[For text of subitems (1) and (2), see M.R.]

(3) the program leading to licensure completed by the applicant is essentially equivalent in content to approved programs offered by Minnesota colleges and universities ~~according to~~ under the rules of the ~~Department of Education~~ Board of School Administrators governing the licensure field; and

(4) the college or university which offers the program leading to licensure verifies that the applicant has completed an approved licensure program at that institution and recommends the applicant for a license in a licensure field at a licensure level.

Notwithstanding part 3510.4000 governing human relations, persons who have been prepared for licensure in states other than Minnesota shall be granted a Minnesota entrance initial license based upon the provisions of this part.

[For text of subp 2, see M.R.]

3512.2700 HUMAN RELATIONS REQUIREMENT.

All applicants for licenses to be issued or renewed under authority of the ~~commissioner of education~~ board shall complete a training program containing human relations components. Persons holding life licenses are exempted from this requirement except in those instances where the person holding a life license seeks to be licensed, or to have a license renewed, in an area for which the person does not hold a life license. Persons from outside Minnesota who wish to be licensed must complete a human relations training program during the two-year period of the entrance initial license. Components which constitute a human relations training program must be approved by the ~~commissioner of education~~ board.

Human relations components of programs which lead to licensure in education under authority of the ~~commissioner of education~~ board shall be approved upon submission of evidence:

[For text of items A to D, see M.R.]

3512.3500 DIRECTORS OF COMMUNITY EDUCATION.

Subpart 1. **Scope.** A person who serves as a district director of community education or assistant director of community education shall hold a license as a director of community education.

Subp. 2. **License requirement.** An applicant recommended for licensure as a director of community education shall:

A. hold a baccalaureate degree from a regionally accredited college or university; and

B. satisfactorily complete a preparation program listed in subpart 3, approved by the ~~commissioner~~ board leading to licensure of directors of community education.

Subp. 3. **Program requirement.** A program leading to the licensure of directors of community education must consist of a minimum of ~~30 quarter~~ 20 semester hours, or the equivalent, and must provide a candidate recommended for licensure with the knowledge, skills, and abilities ~~dispositions~~ in all of the subjects listed in ~~items A to H~~ part 3512.0510, subparts 1 and 5.

A. Community assessment includes the ability to:

- (1) prepare and conduct a survey and tabulate and interpret the results;
- (2) conduct interviews with community leaders, interagency personnel, and residents;
- (3) address values and attitudes of various racial, ethnic, and socioeconomic subgroups within the community;
- (4) understand the concept that individuals can determine their destiny within a rapidly changing society;
- (5) analyze community power structure and its interaction for promoting community growth; and
- (6) identify the physical, human, civic, social, financial, and cultural resources of the community.

B. Community involvement includes:

- (1) skill in the application of the resolution of community issues process;

- (2) knowledge of the types of advisory councils and their organization and potential functions;
- (3) ability to involve an advisory council in addressing community issues;
- (4) knowledge of methods of sustaining community involvement in the community education process; and
- (5) knowledge of the techniques for developing leadership among community members.

C. Public relations and communications includes the:

- (1) ability to speak before varied community groups to impart information about and understanding of community education;
- (2) ability to identify the media outlets available to local programs and the conditions under which each is used;
- (3) skill to develop articles such as publications, newsletters, and program brochures for program dissemination;
- (4) ability to articulate the community education concept, its development, implementation, maintenance, and expansion;
- (5) knowledge of the process available to identify community wants and needs; and
- (6) skills necessary to conduct effective meetings and the ability to train others to conduct effective meetings.

D. Coordination and cooperation includes the ability to:

- (1) develop strategies for building trust among community groups and between individuals;
- (2) participate in mutual goal setting activities with other groups and agencies; and
- (3) acknowledge and accept the autonomy of various groups and programs.

E. Program management includes the:

- (1) knowledge of the philosophy, mission, purpose, and current rules and regulations for community education programs;
- (2) skills necessary to conduct needs assessments, determine educational objectives, select and organize learning experiences, schedule and promote programs, and registration procedures;
- (3) skills necessary to recruit and provide in-service education to staff members; and
- (4) skills needed to supervise facilities, activities, and personnel.

F. Evaluation includes skills to:

- (1) evaluate personnel;
- (2) work with staff in evaluating individual programs; and
- (3) monitor evaluation efforts of staff and consultants for the total community education program.

G. Philosophy and administration of community education includes knowledge of:

- (1) the role of the local school district's administrative team and the community education director's place within it;
- (2) the professional responsibilities of superintendents, principals, teachers, and staff;
- (3) management styles;
- (4) management by objectives;
- (5) history and philosophy of education;
- (6) general education curriculum development;
- (7) goal development and achievement and the ability to implement goals;
- (8) education law as it pertains to community education;
- (9) education finance as it pertains to community education;
- (10) the history and philosophy of community education; and
- (11) human relations including intercultural and interpersonal components.

H. The person must complete a practicum, which is a field experience, that includes at least ~~200~~ 320 clock hours in an administrative position under the supervision of a licensed director of community education. During the field experience, the candidate shall demonstrate the ability to apply the knowledge and skills listed in items A to G part 3512.0510, subparts 1 and 5. A person prepared in another state as director of community education may substitute one year of experience as a district wide director of community education in another state for the field experience.

Subp. 4. **Institutional requirement.** An institution applying to the commissioner board for approval of a program leading to licensure as directors of community education shall comply with part 3512.2500. An approved program must include a description of how applicants for licensure may have their experience and preparation in those areas listed in subpart 3 evaluated by an institution with an approved program. The evaluation must include representation from college departments involved with the licensure program and licensed practicing directors of community education. This evaluation must result in a plan for the applicant to complete the knowledge, skills, and abilities dispositions listed in subpart 3 and may include a reduction of the required college credits necessary for an applicant to be recommended for licensure.

[For text of subs 5 to 8, see M.R.]

Subp. 9. **Approval for exception.** Subject to the conditions in this subpart, the commissioner board shall issue a letter of approval to a school district annually to allow the district to use an individual who is not fully licensed as the community education director if the school district is unable to employ a fully licensed director of community education.

[For text of items A to C, see M.R.]

Proposed Rules

3512.5200 CODE OF ETHICS FOR SCHOOL ADMINISTRATORS.

[For text of subpart 1, see M.R.]

Subp. 2. **Standards of professional conduct.** The standards of professional conduct for school administrators are listed in items A to K.

[For text of items A to H, see M.R.]

I. A school administrator shall only accept a contract for a position when licensed for the position or when a school district is granted a variance or letter of approval by the ~~commissioner of education under Minnesota Statutes, section 121.11, subdivision 7b~~ board.

[For text of items J and K, see M.R.]

[For text of subp 3, see M.R.]

Subp. 4. **Complaints handled by ~~commissioner of education~~ board.** When oral complaints alleging violations of the code of ethics for school administrators are received, the ~~commissioner of education~~ board shall request the complaining party to submit a written complaint. Upon receipt of a written complaint, the administrator named in the complaint shall be notified in writing ~~within ten days of the receipt~~ of the complaint. The administrator shall be entitled to be represented by the administrator's own counsel or representative at each stage of the investigation and hearing.

Subp. 5. **Enforcement procedures.** The ~~commissioner of education~~ board may impose one or more of the following penalties when it has found a violation of a standard under subpart 2. These actions shall be taken only after previous efforts at remediation have been exhausted.

A. The ~~commissioner of education~~ board may enter into agreements with administrators accused of violating the code of ethics that would suspend or terminate proceedings against the administrator on conditions agreeable to both parties.

B. A letter of censure from the ~~commissioner of education~~ board may be sent to the person determined to be in violation of the standards of the code of ethics. ~~A copy of the letter shall be filed with the commissioner of education.~~ The letter shall be kept on file for a period of time not to exceed one calendar year.

C. An administrator who has been found to have violated the code of ethics may be placed on probationary licensure status for a period of time to be determined by the ~~commissioner of education~~ board. The ~~commissioner~~ board may impose conditions on the administrator during the probationary period which are to be directed toward improving the administrator's performance in the area of the violation. During this period, the administrator's performance or conduct shall be subject to review by the ~~commissioner of education or the commissioner's designee~~ board. The review shall be directed toward monitoring the administrator's activities or performance with regard to whatever conditions may be placed on the administrator during the probationary period. Before the end of the probationary period, the ~~commissioner of education~~ board shall decide to extend or terminate the probationary licensure status or to take further disciplinary actions as consistent with this rule.

D. The license to practice of the person determined to be in violation of the standards of the code of ethics may be suspended for a period of time determined by the ~~commissioner of education~~ board.

E. The license to practice of the person determined to be in violation of the standards of the code of ethics may be revoked by the ~~commissioner of education~~ board.

REVISOR INSTRUCTION. The revisor of statutes shall renumber Minnesota Rules, part 3512.3500, as part 3512.0505 and correct cross references.

REPEALER. Minnesota Rules, parts 3512.0300, subpart 6; 3512.0400, subpart 2; 3512.0500; 3512.0600; 3512.1100; and 3512.1400, are repealed.

Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§ 14.05-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule. If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed. If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

KEY: Proposed Rules - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Department of Human Services

Adopted Permanent Rules Relating to Surveillance and Integrity Review

The rules proposed and published at *State Register*, Volume 32, Number 12, pages 487-499, September 17, 2007 (32 SR 487), are adopted with the following modifications:

9505.2165 DEFINITIONS.

Subp. 2. **Abuse.** "Abuse" means:

A. in the case of a vendor, a pattern of practices that are inconsistent with sound fiscal, business, or health service practices, and that result in unnecessary costs to the programs or in reimbursements for services that are not medically necessary or that fail to meet professionally recognized standards for health service. The following practices are deemed to be abuse by a vendor:

- (1) submitting repeated claims, or causing claims to be submitted, from which required information is missing or incorrect;
- (2) submitting repeated claims, or causing claims to be submitted, using procedure codes that overstate the level or amount of health service provided;
- (3) submitting repeated claims, or causing claims to be submitted, for health services which are not reimbursable under the programs;
- (4) submitting repeated duplicate claims, or causing claims to be submitted, for the same health service provided to the same recipient;
- (5) submitting repeated claims, or causing claims to be submitted, for health services that do not comply with part 9505.0210 and, if applicable, part 9505.0215;
- (6) submitting repeated claims, or causing claims to be submitted, for health services that are not medically necessary;
- (10) repeatedly failing to properly report duplicate payments from third party payers for covered health services provided to a recipient under a program and billed to the department;
- (13) repeatedly submitting or causing false information to be submitted for the purpose of obtaining a service agreement, prior authorization, inpatient hospital admission certification under parts 9505.0501 to 9505.0540, or a second surgical opinion as required under part 9505.5035;
- (17) repeatedly billing a program for health services after entering into an agreement with a third-party payer to accept an amount in full satisfaction of the payer's liability;
- (18) repeatedly failing to comply with the requirements of the provider agreement that relate to the programs covered by parts 9505.2160 to 9505.2245;
- (21) billing for services that were ~~not provided in compliance with regulatory agency requirements or that were~~ outside of the scope of the vendor's license, or in the case of a vendor that is not required to hold a license, billing by a vendor for services that the vendor is not authorized to provide under applicable regulatory agency requirements; or

Subp. 6d. **Lockout.** "Lockout" means excluding or limiting ~~for a reasonable time up to 24 months~~ the scope of health services for which a vendor may receive payment through a program.

Subp. 10a. **Responsible party.** "Responsible party" has the meaning given in *Minnesota Statutes*, section 256B.0655, subdivision ~~†~~, ~~paragraph (h)~~ 1h.

Subp. 10b. **Restricted recipient program.** "Restricted recipient program" means a program for recipients who have failed to comply with the requirements of the program. Placement in the restricted recipient program does not include long-term care facilities. Placement in the restricted recipient program means:

A. requiring the recipient for a period of 24 ~~or~~ 36 months of eligibility to obtain health services from:

(~~†~~) a designated primary care provider, hospital, pharmacy, or other designated health service provider located in the recipient's local trade area; ~~and~~ or

Exempt Rules

(2) an agency licensed by the Minnesota Department of Health according to *Minnesota Statutes*, chapter 144A, as a class A home care agency or a designated Medicare-certified home health agency; or

9505.2175 HEALTH SERVICE RECORDS.

Subp. 2. **Required standards for health service records.** A vendor must keep a health service record as specified in items A to I.

G. The record must contain the recipient's plan of care, individual service plan as required by *Minnesota Statutes*, section 256B.092, or individual treatment plan. For purposes of this item, "plan of care" has the meaning given in part 9505.0175, subpart 35; and "individual treatment plan" has the meaning given in part 9505.0323, subpart 1.

Subp. 4. **Medical transportation service records.** A medical transportation record must meet the requirements of subparts 1 and 2 and be signed by the driver and contain the following statement: "I certify and swear that I have accurately reported in this mileage log the miles I actually drove and the dates and times I actually drove them. I understand that misreporting the miles driven and hours worked is fraud for which I could face criminal prosecution or civil proceedings." Each transportation record for each trip must document:

C. if applicable, a physician's certification for nonemergency, ancillary, or special transportation services as defined in part 9505.0315, subpart 1, items A and F;

G. the number of recipients occupants in the vehicle; and

Subp. 5. **Durable medical equipment records.** A durable medical equipment record must meet the requirements of subparts 1 and 2 and must document:

D. repairs made by the current durable medical equipment provider to the equipment;

E. a shipping invoice or a shipping invoice with a delivery service tracking log manifest showing the date of delivery that proves that the medical equipment was delivered to the recipient; and

F. a physician's order or licensed practitioner's order for the equipment that specifies the type of equipment and the expected length of time the equipment will be needed by the recipient.

Subp. 5a. **Medical supply record.** A medical supply record must meet the requirements of subparts 1 and 2 and must document:

A. a physician's order or licensed practitioner's order for the supplies that indicates the type of supply needed, the expected length of time the supplies will be needed, and the quantity needed;

Subp. 6. **Rehabilitative and therapeutic services records.** Rehabilitative and therapeutic service records must meet the requirements of subparts 1 and 2 and, must meet the criteria in part 9505.0412, and must document:

D. a physician's licensed practitioner's order for the rehabilitative and therapeutic services.

Subp. 7. **Personal care provider service records.** Health care service records maintained by a personal care provider, consumer-directed home care provider, ~~telehomecare provider~~, or fiscal agent must meet the requirements of subparts 1 and 2 and must document:

9505.2180 FINANCIAL RECORDS.

Subpart 1. **Financial records required of vendors.** The financial records, including written and electronically stored data, of a vendor who receives payment for a recipient's services under a program must contain the material specified in items A to I:

I. delivery tracking information, where applicable, such as the provider's shipping invoice, delivery manifest, or the delivery service's tracking slip.

9505.2185 ACCESS TO RECORDS.

Subp. 2. **Department access to records.** A vendor shall grant the department access during the department's normal business hours to examine health service and financial records related to a health service billed to a program. A vendor shall make its records available at the vendor's place of business on the day for which access was requested, unless the vendor and the department both agree that the records will be viewed at another location. Access to a recipient's health service record or vendor's records shall be for the purposes in part 9505.2200, subpart 1. The department shall notify the vendor no less than 24 hours before obtaining access to a health service or financial record, unless the vendor waives notice. The department's normal business hours are 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding state holidays as defined in *Minnesota Statutes*, section 645.44, subdivision 5.

9505.2200 IDENTIFYING FRAUD, THEFT, ABUSE, OR ERROR.

Subp. 5. **Postinvestigation actions.**

A. After completing the determination required under subpart 4, the department shall take one or more of the actions specified in subitems (1) to (8):

(8) place the recipient in the ~~designated provider~~ restricted recipient program.

9505.2220 MONETARY RECOVERY; RANDOM SAMPLE EXTRAPOLATION.

Subp. 2. **Decision to use samples.** The department may use sampling and extrapolation to calculate a monetary recovery if:

A. the claims to be reviewed represent services to 50 or more recipients; or

B. there are more than 1,000 claims to be reviewed; or

C. ~~complete rejudication would be excessively costly or impractical. This test is met if the cost of conducting a review of 100 percent of the individual claims will result in a cost that is disproportionate to the amount that can probably be recovered, or if a review is otherwise impractical.~~

Subp. 3. **Statistical method.** The department shall use the methods in items A to ~~E~~ D in calculating the amount of monetary recovery by random sample extrapolation. The federal share of overpayment determined by the federal government under a federal random sample extrapolation method shall be recovered by the department from a medical assistance vendor according to *Minnesota Statutes*, section 256B.0641, subdivision 1, clause (1).

A. Samples of a given size shall be selected in such a way that every sample of that size shall be equally likely to be selected, these samples are called simple random samples. The department may choose to employ other sampling designs, such as the stratified random sampling, if it determines that those designs are more likely to lead to greater precision, or a closer approximation to the population mean. The department shall tell the provider the sampling method the department is using prior to drawing the sample.

C. The sampling method, including drawing the sample, calculating values, and extrapolating from the results of the sample, shall be performed according to statistical procedures published in the following text: W. Cochran, *Sampling Techniques*, John Wiley and Sons, New York 3rd Ed. (1977). *Sampling Techniques* is incorporated by reference and is available through the Minitex interlibrary loan system. Samples must consist of at least 50 claims. Each stratum in a stratified sample must contain at least 30 claims or, if a population stratum contains less than 30 claims, all of the claims in that population stratum.

D. ~~Samples must consist of at least 50 claims. Each stratum in a stratified sample must contain at least 30 claims or, if a population stratum contains less than 30 claims, all of the claims in that population stratum. The vendor shall be required to pay the department the estimated overpayment only if the null hypothesis that the mean overpayment is less than or equal to zero can be rejected with probability less than 0.05. The amount owed to the department shall be the mean overpayment multiplied by the number of claims in the population. With simple random samples, the mean overpayment is the sum of all differences between correct and actual charges in the sample, divided by the number of claims in the sample. With stratified samples, the mean overpayment is the sum of the products of the mean differences within strata and the proportion of all claims in the population that are in the strata.~~

E. Standard techniques for extrapolating from a sample to the population shall be used to determine the amount owed to the department. With simple random samples, the amount owed to the department shall be the mean overpayment, multiplied by the number of claims in the population. The mean overpayment is the total overpayment estimated from the sample divided by the number of claims in the sample.

9505.2238 PLACEMENT IN RESTRICTED RECIPIENT PROGRAM.

Subp. 2. **Change in selected providers.** A recipient may change designated providers under the following circumstances:

A. if the recipient moves outside of the designated provider's local trade area a recipient may change designated providers for any stated reason after the initial three months of restriction, provided the changes do not occur more than twice in one year; and

B. the a recipient is discharged by the designated provider; or may change designated providers as often as needed under the circumstances in subitems (1) to (3):

(1) if the recipient moves outside of the designated provider's local trade area;

(2) if the recipient is discharged by the designated provider; or

(3) other circumstances that require the recipient to change designated providers.

C. other circumstances require the recipient to change designated providers.

~~A recipient who seeks to change designated providers under this subpart must wait three months after the initial selection of a provider, and may change designated providers no more than twice in one year. The department shall grant the recipient's request to change designated providers under this subpart if the change is consistent with protecting the integrity of the restricted recipient program.~~

Subp. 3. **Placement renewal.** After a recipient has completed an initial 24-month period of eligibility in the restricted recipient program, the department may renew the recipient's placement in the restricted recipient program under part ~~9509.2165~~ 9505.2165, subpart 2, item C, by sending written notice to the recipient. The recipient will remain placed in the restricted recipient program pending the resolution of an appeal of the placement renewal. If the recipient's placement is not renewed, the recipient shall be notified by the department that the recipient's participation in the restricted recipient program is over. Renewal of the recipient's placement in the restricted recipient program shall be for an additional period of 36 months of eligibility.

Exempt Rules

Exempt rules are excluded from the normal rulemaking procedures (*Minnesota Statutes* §§ 14.386 and 14.388). They are most often of two kinds. One kind is specifically exempted by the Legislature from rulemaking procedures, but approved for form by the Revisor of Statutes, reviewed for legality by the Office of Administrative Hearings, and then published in the *State Register*. These exempt rules are effective for two years only.

The second kind of exempt rule is one adopted where an agency for good cause finds that the rulemaking provisions of *Minnesota Statutes*, Chapter 14 are unnecessary, impracticable, or contrary to the public interest. This exemption can be used only where the rules:

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with *Minnesota Statutes* Sections 14.14-14.28, or
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning, or effect of the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years only. The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

KEY: Proposed Rules - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Department of Labor and Industry Division of Labor Standards and Apprenticeship Adoption of Exempt Permanent Rules Governing Apprenticeship, Chapter 5200 ORDER AMENDING RULES

WHEREAS:

1. The Department of Labor and Industry, Labor Standards and Apprenticeship Division for good cause under *Minnesota Statutes* § 14.388, subd. 1(3), finds that full rulemaking is unnecessary or impractical to incorporate legislative provisions and good cause exemption from full rulemaking applies: The provisions being incorporated are found at *Laws of Minnesota, 2007*, Chapter 135, Article 7 (and Chapter 140, Article 11), and at 29 *USC* 50 as detailed in 29 *CFR* 29.12(b)(10) and its accompanying definition of "employer."; and

2. All notice and procedural requirements in *Minnesota Statutes*, chapter 14, *Minnesota Rules*, chapter 1400, for rules exempt under good cause, and other applicable law, have been complied with:

- a) the Revisor of Statutes approved the form of the rule by certificate;
- b) notice by mail of Intent to Adopt was given to persons on the agency mailing list and electronic Notice pursuant to 16E.07, subd. 3 was given;
- c) the Office of Administrative Hearings approved the rule as to its legality and filed four copies with the Secretary of State;
- d) the Order Amending Rules is signed below;
- e) the rule amendments will be published in the *State Register*; and

3. The Office of Administrative Hearings received no written comments and submissions on the rules; and

4. The rules are needed and reasonable.

NOW THEREFORE:

IT IS ORDERED that the abovecaptioned rule amendments, in the form attached hereto and to the Notice of Intent to Adopt, are adopted pursuant to authority vested in me by *Minnesota Statutes* § 178.041 and *Minnesota Statutes* § 175.171.

Dated: June 17, 2008

Steve Sviggum, Commissioner
Department of Labor and Industry

5200.0300 PROCEDURE FOR ESTABLISHING PROGRAMS.

The procedure for establishing an approved apprenticeship program is as follows. The proposed program must be presented to the director of the Division of Voluntary Apprenticeship by the program sponsor in duplicate and must include a detailed job process for the occupation including the training standards, amount of time to be spent in each individual category of training, percentage of journeyman's wage rate to be paid the apprentice, graduated schedule of wage increases, and the journeyman's wage rate for the proposed occupation.

Under a program proposed for registration by an employer or employers' association, and where the standards, collective bargaining agreement, or other instrument provides for participation by a union in any manner in the operation of the substantive matters of the apprenticeship program, and the participation is exercised, written acknowledgment of union agreement or no objection to the registration is required. Where no participation is evidenced and practiced, the employer or employers' association shall simultaneously furnish to the union, if any, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. The state agency shall provide a reasonable time of not less than 30 days nor more than 60 days for receipt of union comments, if any, before final action on the application for registration and/or approval. For purposes of this paragraph, "employer" means a person or organization employing an apprentice whether or not the person or organization is a party to an apprenticeship agreement with the apprentice.

If the program is approved by the director, a certificate of registration will be issued to the program sponsor. Within 90 days of the certificate being issued, the program sponsor must submit to the director of the Division of Voluntary Apprenticeship a copy of at least one apprenticeship agreement or the director may revoke the certificate of registration.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subpart 1. **Definitions.** When used in parts 5200.0290 to 5200.0420 the terms defined in this subpart have the ~~meaning~~ meanings given them.

A. "Employer" means the apprenticeship sponsor. (Employer, apprenticeship committee, association of employers, or organization of employees.)

B. "Approval agency" or "registration agency" means the apprenticeship ~~advisory council board~~.

[For text of items C to F, see M.R.]

[For text of subps 2 to 15, see M.R.]

5200.0370 EQUAL OPPORTUNITY FOR APPRENTICES.

Requirements of program sponsors under the Minnesota plan for equal employment opportunity in apprenticeship and *Code of Federal Regulations*, title 29, part 30 are as follows:

[For text of items A and B, see M.R.]

C. Requirements for program reciprocity under the Minnesota plan for equal employment opportunity in Apprenticeship and *Code of Federal Regulations*, title 29, part 30, are as follows:

[For text of subitems (1) and (2), see M.R.]

(3) A presentation of a request for reciprocity must be made to the Minnesota apprenticeship ~~advisory council board~~ in writing for information purposes and for the ~~council's board's~~ advice on the request.

[For text of subitem (4), see M.R.]

5200.0420 MAINTENANCE OF RECORDS.

Subpart 1. **Advisory ~~council's board's~~ duty.** Minnesota apprenticeship ~~advisory council board~~ business and records are kept by the Division of Voluntary Apprenticeship for the ~~council board~~.

[For text of subps 2 and 3, see M.R.]

Expedited Emergency Rules

Provisions exist for the Commissioners of some state agencies to adopt expedited emergency rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Expedited emergency rules are effective upon publication in the State Register, and may be effective up to seven days before publication under certain emergency conditions.

Expedited emergency rules are effective for the period stated or up to 18 months. Specific *Minnesota Statute* citations accompanying these expedited emergency rules detail the agency's rulemaking authority.

KEY: Proposed Rules - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Department of Natural Resources

Adopted Expedited Emergency Game and Fish Rules: 2008 Camp Ripley Archery Deer Hunt Quota and Youth Deer Hunts and Seasons

NOTICE IS HEREBY GIVEN that the above-entitled rules have been adopted through the process prescribed by *Minnesota Statutes*, Section 84.027, subdivision 13(b). The statutory authority for the contents of the rule is *Minnesota Statutes*, Sections 97A.091, 97A.401, subd. 4, 97B.112, 97B.305, 97B.311; and *Laws of Minnesota for 2004*, Chapter 215, section 36

The emergency conditions that do not allow compliance with *Minnesota Statutes*, Sections 97A.0451 to 97A.0459, are that data on deer populations necessary to establish special hunts, including youth hunts and Camp Ripley are not available until May. Additionally, hunt cooperators have not determined their participation plans or recommended hunt dates until May. The special youth deer season in northwestern Minnesota was mandated by *Laws of Minnesota for 2004*, Chapter 215, Section 36.

Dated: May 19, 2008

Mark Holsten, Commissioner
Department of Natural Resources

6232.0900 CAMPRIPLEY ARCHERY HUNT.

Subpart 1. **Deer season and hunter quota.** Camp Ripley may be open, by permit only, for the taking of deer by archery. Open dates are ~~the two-day period beginning the third Thursday in October and the two-day period beginning the last Saturday in October 19 and 20 and October 26 and 27.~~

Subp. 2. **Permit required to hunt.** Only persons possessing a valid Minnesota archery ~~or all-season deer hunting~~ license, an unused possession tag valid for taking a deer by archery, and a permit validated for the Camp Ripley archery hunt will be permitted to enter Camp Ripley. Permits are not transferable between individuals or hunting dates. The permit for the Camp Ripley archery hunt authorizes the permit holder to take one deer at Camp Ripley, unless otherwise authorized by the commissioner. A permit holder may not take any species other than deer at Camp Ripley.

Subp. 3. **Antlerless deer and legal bucks.** In 2008, Camp Ripley is open for the taking of antlerless deer and legal bucks. Not more than 2,500 permits shall be issued for each two-day hunting period.

Subp. 4. **Bag limits.** The bag limit for the Camp Ripley archery hunt is two deer. Hunters may use bonus permits to take antlerless deer and may take a deer of either sex on their regular license. Only one legal buck may be taken during this hunt.

6232.2550 YOUTH SPECIAL DEER HUNTS.

Subpart 1. **General requirements.** Youth special deer hunt permittees may hunt in open areas and times designated by the commissioner. All participating youths and a parent or guardian authorized by the parent must attend ~~a the~~ mandatory ~~orientation and~~ prehunt orientation/clinic. During the hunt, youth participants must be accompanied by ~~at least one adult mentor a parent or guardian authorized by the parent~~ who is at least 18 years of age ~~and authorized by the youth's parent or guardian.~~ The accompanying adult may not hunt. Party hunting is not allowed. Persons participating in youth archery special deer hunts must obtain a valid license for taking deer by archery by the beginning date of the respective hunt. Persons participating in youth firearms special deer hunts must obtain a license for taking deer by firearms, valid for any zone or season option, by the beginning date of the respective hunt. The blaze orange requirements in *Minnesota Statutes*, section 97B.071, paragraph (a), apply to all hunters and trappers, and all adult mentors of youth hunters, in areas open to youth firearms deer hunting during the open hunting dates established in this part.

[For text of subp 2, see M.R.]

Subp. 3. **Open areas.** The youth special deer hunt areas described in items A to M are open by permit only during the 2008 season.

Expedited Emergency Rules

Area	Type	County of permits	Dates	No./type	Bag	Sponsors limit	Special instructions
A. <u>Camp Ripley Military Refuge</u>	Archery	<u>Morrison</u>	<u>10/10-10/12</u>	<u>150 either sex</u>	1	<u>Minnesota Deer Hunters Association, Minnesota State Archery Association</u>	<u>Permittees will be provided maps of open hunting areas and may not enter closed areas unless specifically authorized. One bonus permit may be used, but a hunter may not take more than one deer.</u>
B. <u>Lake Alexander Preserve</u>	Archery	<u>Morrison</u>	<u>10/10-10/12</u>	<u>20 either sex</u>	1	<u>Nature Conservancy, Minnesota State Archery Association, Minnesota Deer Hunters Association</u>	<u>One bonus permit may be used, but a hunter may not take more than one deer.</u>
C. <u>Arden Hills Army Training Center</u>	Archery	<u>Ramsey</u>	<u>10/16-10/17</u>	<u>30 either sex</u>	1	<u>Minnesota Deer Hunters Association, Minnesota State Archery Association</u>	<u>One bonus permit may be used, but a hunter may not take more than one deer.</u>
D. <u>Arden Hills Army Training Center</u>	Archery	<u>Ramsey</u>	<u>10/18-10/19</u>	<u>30 either sex</u>	1	<u>Minnesota Deer Hunters Association, Minnesota State Archery Association</u>	<u>One bonus permit may be used, but a hunter may not take more than one deer.</u>
E. <u>White-water Wildlife Management Area Refuge</u>	Archery/ Firearms	<u>Winona</u>	<u>10/16-10/19</u>	<u>75 either sex</u>	1	<u>Bluffland White-tails Association, Minnesota Deer Hunters Association</u>	<u>One bonus permit may be used, but a hunter may not take more than one deer. Hunters using archery equipment must comply with blaze orange requirements. Youth firearms age requirements apply.</u>
F. <u>Lake Bemidji State Park</u>	Firearms	<u>Beltrami</u>	<u>10/18-10/19</u>	<u>25 either sex</u>	5	<u>Minnesota Deer Hunters Association</u>	<u>Up to four bonus permits may be used and hunters may take up to five deer.</u>
G. <u>St. Croix State Park</u>	Firearms	<u>Pine</u>	<u>10/25-10/26</u>	<u>75 either sex</u>	1	<u>State Parks</u>	<u>One bonus permit may be used, but a hunter may not take more than one deer.</u>

Expedited Emergency Rules

<u>H. Rydell National Wildlife Refuge</u>	<u>Firearms</u>	<u>Polk</u>	<u>10/18-10/19</u>	<u>20</u> <u>either sex</u>	<u>1</u>	<u>Friends of Rydell National Wildlife Refuge, Minnesota Deer Hunters Association</u>	<u>One bonus permit may be used, but a hunter may not take more than one deer.</u>
<u>I. Savanna Portage State Park</u>	<u>Firearms</u>	<u>Aitkin</u>	<u>10/25-10/26</u>	<u>20</u> <u>either sex</u>	<u>1</u>	<u>State Parks</u>	<u>One bonus permit may be used, but a hunter may not take more than one deer</u>
<u>J. Buffalo River State Park</u>	<u>Firearms</u>	<u>Clay</u>	<u>10/25-10/26</u>	<u>10</u> <u>either sex</u>	<u>2</u>	<u>State Parks</u>	<u>Up to two bonus permits may be used and hunters may take up to two deer.</u>
<u>K. Tettegouche State Park</u>	<u>Firearms</u>	<u>Lake</u>	<u>10/18-10/19</u>	<u>10</u> <u>either sex</u>	<u>1</u>	<u>State Parks</u>	<u>One bonus permit may be used, but a hunter may not take more than one deer.</u>
<u>L. Game Haven Scout Reserve</u>	<u>Private firearms</u>	<u>Olmstead</u>	<u>10/25-10/26</u>	<u>7</u> <u>either sex</u>	<u>5</u>	<u>Boy Scouts of America, Game</u>	<u>Up to four bonus permits may be used and hunters may take up to five deer. Male and female participants will be selected by lottery conducted by sponsoring organization.</u>
<u>M. Game Haven Scout Reserve</u>	<u>Private firearms</u>	<u>Olmstead</u>	<u>11/1-11/2</u>	<u>7</u> <u>either sex</u>	<u>5</u>	<u>Boy Scouts of America, Game Haven Council</u>	<u>Up to four bonus permits may be used and hunters may take up to five deer. Male and female participants will be selected by lottery conducted by sponsoring organization.</u>

6232.2560 YOUTH SPECIAL DEER SEASONS.

Subpart 1. Requirements. Youths participating in youth special deer seasons must obtain a license for taking deer by firearms, valid for any zone or season option, by the beginning date of the special season. A youth special season participant may take one deer, which must be antlerless. One bonus permit may be used. An adult mentor age 18 or older authorized by the youth's parent or guardian must accompany the youth hunter at all times during the hunt. The accompanying adult may not hunt. Party hunting is not allowed. The blaze orange requirements in Minnesota Statutes, section 97B.071, paragraph (a), apply to all hunters and trappers, and all adult mentors of youth hunters, in the areas open to firearms deer hunting during the youth special seasons established in this part.

Subp. 2. Open areas. Open areas and dates for youth deer seasons shall be established annually by the commissioner. For 2008, Kittson, Lake of the Woods, Marshall, Pennington, and Roseau Counties are open October 18 and 19 for taking antlerless deer by firearms for youth who are at least age 12 and under age 15 at the time of the hunt. Old Mill State Park, Lake Bronson State Park, Hayes Lake State Park, and Zippel Bay State Park are open to taking antlerless deer by eligible youth. One bonus permit may be used, but a hunter may not take more than one deer.

EFFECTIVE PERIOD. The emergency amendments to Minnesota Rules, parts 6232.0900, 6232.2550, and 6232.2560, expire December 31, 2008. After the emergency amendments expire, the permanent rules as they read prior to those amendments again take effect, except as they may be amended by permanent rule.

Commissioners' Orders

Various agency commissioners are authorized to issue "commissioner's orders" on specified activities governed by their agency's enabling laws. See the *Minnesota Statutes* governing each agency to determine the specific applicable statutes. Commissioners' orders are approved by assistant attorneys general as to form and execution and published in the *State Register*. These commissioners orders are compiled in the year-end subject matter index for each volume of the *State Register*.

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 194, Seminary Fen Scientific and Natural Area

WHEREAS, certain lands in Carver County, Minnesota, described as:

That part of the Northeast Quarter of the Southeast Quarter of Section 34, Township 116 North, Range 23 West, Carver County, Minnesota, bounded by the following described lines:

Commencing at the northeast corner of said Northeast Quarter of the Southeast Quarter; thence South 02 degrees 22 minutes 55 seconds East, assumed bearing, a distance of 230.35 feet along the east line of said Northeast Quarter of the Southeast Quarter to the southeasterly line of HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY PROPERTY MAP. NO. 13 and the point of beginning of the parcel to be described; thence South 02 degrees 22 minutes 55 seconds East along the east line of said Northeast Quarter of the Southeast Quarter a distance of 697.65 feet; thence South 85 degrees 59 minutes 05 seconds West a distance of 994.61 feet to the southeasterly line of HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY PROPERTY MAP. NO. 13; thence northeasterly along said southeasterly line of HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY PROPERTY MAP. NO. 13 a distance of 1231 feet, more or less, to the point of beginning.

AND

That part of the Southwest Quarter of Section 35, Township 116 North, Range 23 West, Carver County, Minnesota, bounded by the following described lines:

Beginning at the northwest corner of said Southwest Quarter; thence South 02 degrees 22 minutes 55 seconds East, assumed bearing, a distance 928.00 feet along the east line of said Southwest Quarter; thence North 85 degrees 59 minutes 05 seconds East a distance of 696.00 feet; thence South 39 degrees 00 minutes 55 seconds East a distance of 710.85 feet to the center line of State Trunk Highway Number 212; thence northeasterly along said center line a distance of 1650 feet, more or less, to the east line of said Southwest Quarter; thence North 02 degrees 54 minutes 05 seconds West along said east line a distance of 740 feet, more or less, to the northeast corner of said Southwest Quarter; thence North 89 degrees 30 minutes 53 seconds a distance of 2621.56 feet along the north line of said Southwest Quarter to the point of beginning.

EXCEPTING therefrom that part of the HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY PROPERTY MAP. NO. 14 within said Southwest Quarter.

Containing 73.10, more or less, acres is under the control and possession of the Department of Natural Resources;

and

WHEREAS, such lands contain Calcareous Fen (Southeastern) and Southern Seepage Meadow/Carr native plant communities and habitat for rare plant and animal species including sterile sedge (*Carex sterilis*), beaked spike-rush (*Eleocharis rostellata*), whorled nut-rush (*Scleria verticillata*), hair-like beak-rush (*Rhynchospora capillacea*), valerian (*Valeriana edulis*), twig-rush (*Cladium mariscoides*), and small white lady's-slipper (*Cypripedium candidum*);

and

Commissioner's Orders

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Mark Holsten, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, 97A.093 and other applicable laws, do hereby designate the above-described lands as the Seminary Fen Scientific and Natural Area.

FURTHERMORE, the Seminary Fen Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of Minn. Rules 6136.0100 through 6136.0600 shall apply to the above-designated area, except that the area shall be open to bow hunting and to fishing, and open to trapping as needed for management purposes, with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated.

A copy of this order shall be filed with the Secretary of State.

Dated at St. Paul, Minnesota, this 19th day of June, 2008.

MARK HOLSTEN, Commissioner
Department of Natural Resources

Department of Natural Resources Commissioner's Scientific and natural Area Order No. 195, Franconia Bluffs Scientific and Natural Area

WHEREAS, certain lands in Chisago County, Minnesota, described as:

The Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4), Section Ten (10), Township Thirty-three (33), Range Nineteen (19), and the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) Section Three (3), Township Thirty-three (33), Range Nineteen (19) West, except a parcel described as follows:

Beginning at the Northwest corner of said SW1/4 SE1/4, Section 3, Township 33, Range 19 West, thence east 165 feet, thence South 750 feet, thence West 165 feet, thence North 750 feet to point of beginning, also except the following described parcel, Commencing at the Southeast corner of said SW1/4 of SE1/4; thence running West on the South line thereof, a distance of 275 feet, thence running North 38 degrees East a distance of 446 feet to the East line of said Quarter Section; thence due South on the said East line of said Quarter Section a distance of 350 feet to the point of beginning, containing 1.11 acres or more.

AND except part of NW1/4 NE1/4 lying SE of a line begin at a point 275 feet W of NE corner of and ending at SW corner of said NW1/4 NE1/4 containing 24.17 acres, + or -, Sec 10, Rng 19 W, 4th Prin Mer.

ALSO EXCEPTING therefrom that part of the Southwest Quarter of the Southeast Quarter of Section 3, Township 33 North, Range 19 West, Chisago County, Minnesota described as follows:

That part of the east 193.00 feet of said Southwest Quarter of the Southeast Quarter lying southerly of the center line of Franconia Trail and lying northerly of the following described parcel: Commencing at the southeast corner of said Southwest Quarter of the Southeast Quarter; thence running West on the south line thereof a distance of 275 feet; thence running North 38 degrees East a distance of 446 feet to the east line of said Southwest Quarter of the Southeast Quarter; thence running South on said east line a distance of 350 feet to the point of beginning.

TOGETHER WITH an easement for ingress and egress over and across the north 4 rods of the Southeast Quarter of the Southwest Quarter, lying easterly of the centerline of State Highway No. 95 and over the north 4 rods of the west 165 feet of the Southwest Quarter of the Southeast Quarter, all in Section 3, Township 33 North, Range 19 West.

Containing 48.0, more or less, acres is under the control and possession of the Department of Natural Resources;

Commissioner's Orders

and

WHEREAS, such lands contain native plant communities such as Southern Dry-Mesic Oak Forest and Southern Dry-Mesic Oak (Maple) Woodland and habitat for rare plant and animal species including red-shouldered hawk (*Buteo lineatus*), Cerulean warbler (*Dendroica cerulea*), Acadian flycatcher (*Empidonax vireescens*), Louisiana waterthrush (*Seiurus motacilla*), bald eagle (*Haliaeetus leucocephalus*), and wood turtle (*Glyptemys insculpta*); and adjoins the St. Croix National Scenic Riverway which contains four state-listed fish species documented near the SNA and a total of 40 native mussel species, two of which are federally- and state-endangered; and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Mark Holsten, Commissioner of Natural Resources, pursuant to authority vested in me by Minn. Stat. §§ 84.033, 86A.05, subd. 5, 97A.093 and other applicable laws, do hereby designate the above-described lands as the Franconia Bluffs Scientific and Natural Area.

FURTHERMORE, the Franconia Bluffs Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* 6136.0100 through 6136.0600 shall apply to the above-designated area, except that the area shall be open to hunting with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated.

A copy of this order shall be filed with the Secretary of State.

Dated at St. Paul, Minnesota, this 19th day of June, 2008.

MARK HOLSTEN, Commissioner
Department of Natural Resources

Commissioner's Orders

Minnesota Department of Natural Resources

DECISION RECORD

OFFICIAL NOTICE AND ORDER

Approval of the DNR Agassiz Lowlands Subsection Forest Resource Management Plan Pursuant to *Minnesota Statutes*, Section 89.012

Approval of the DNR Agassiz Lowlands Subsection Forest Resource Management Plan for 1.7 million acres of state forest lands in Beltrami, Koochiching, Lake of the Woods, and Roseau counties in northern Minnesota.

Notice Published: July 14, 2008

Effective Date: February 25, 2008

NOTICE IS HEREBY GIVEN that the Commissioner of the Minnesota Department of Natural Resources has approved the DNR Agassiz Lowlands Subsection Forest Resource Management Plan that will direct vegetation management on DNR-administered forest lands in the Agassiz Lowlands subsection landscape (see *Exhibit A*, attached hereto and incorporated herein).

WHEREAS:

1. *Minnesota Statutes*, Section 89.012 provides that the commissioner shall approve unit forest resource plans by written order published in the *State Register*.

2. The agency solicited and received written comments and submissions regarding the proposed vegetation management of state forest lands within the Agassiz Lowlands subsection landscape region.

3. All notice and procedural requirements in *Minnesota Statutes*, and other applicable rules and law have been complied with.

4. The DNR Agassiz Lowlands Subsection Forest Resource Management Plan is both needed and reasonable.

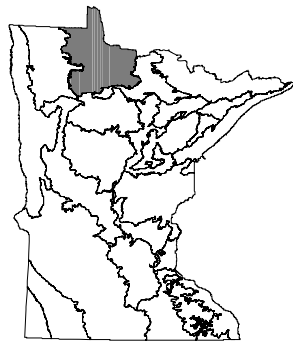
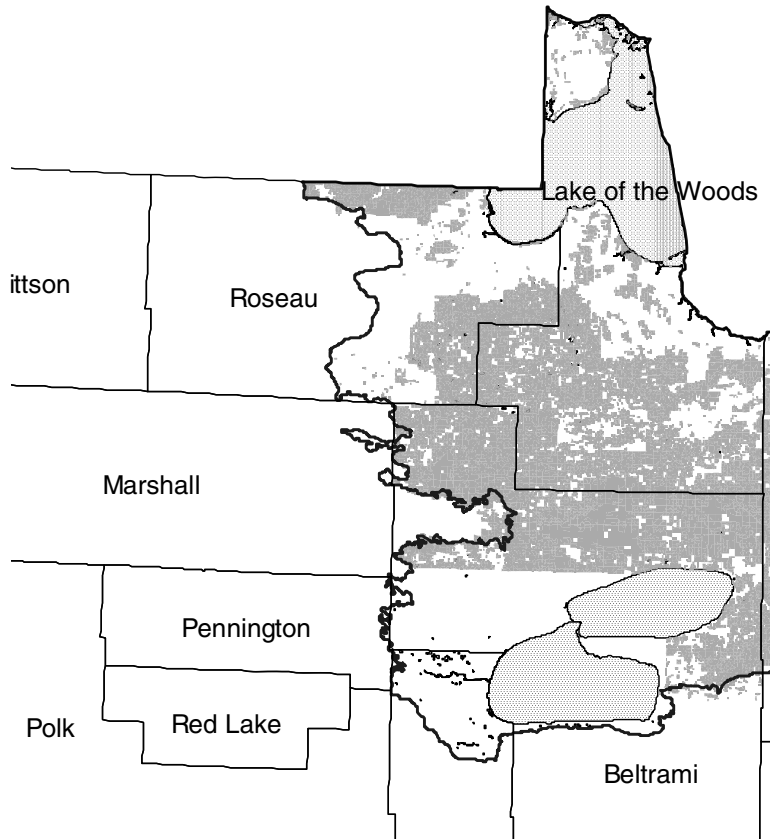
NOW THEREFORE, IT IS ORDERED that the DNR Agassiz Lowlands Subsection Forest Resource Management Plan is approved for implementation on state forest lands in the Agassiz Lowlands subsection landscape (see *Exhibit A*, attached hereto and incorporated herein) pursuant to authority vested in me by Minnesota law.

IT IS FURTHER ORDERED that the approval of the DNR Agassiz Lowlands Subsection Forest Resource Management Plan is effective on February 25, 2008

Dated: February 25, 2008

Mark Holsten, Commissioner
Department of Natural Resources

Exhibit A



Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

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Department of Administration STAR Program AT Advisory Council Meeting July 15, 2008

The next STAR Program AT Advisory Council Meeting will be held July 15, 2008 from 9:00 a.m. – 3:00 p.m. at the Radisson Hotel Roseville, 2540 North Cleveland Avenue, Roseville, MN 55113. Please contact the STAR Program at (651) 201-2640 if accommodations are needed.

Department of Natural Resources Division of Fish and Wildlife Notice of Fish and Wildlife Habitat Stamp Art Contests 2009

Background about the Fish and Wildlife Habitat Stamp Art Contests

Minnesota Statutes 97A.045 and *Minnesota Rules* 6290 permit the Commissioner of the Department of Natural Resources (DNR) to conduct contests for selection of designs for fish and wildlife habitat stamps.

NOTICE IS HEREBY GIVEN that **entry dates for the following habitat stamp contest** conducted by the DNR is as follows:

1. Year **2009 Walleye Habitat Stamp contest**. Entries will be accepted beginning Monday, December 1, 2008, and continuing until 4:00 p.m. Friday December 12, 2008, at the DNR Division of Fish & Wildlife, 500 Lafayette Road Box 20, St. Paul, Minnesota, 55155-4020. The judging will take place Thursday, December 18, 2008, at the Minnesota DNR office, 500 Lafayette Road, St. Paul, Minnesota 55155.

All entries for the contests must be accompanied by the appropriate application materials. Contest application packages, which include all entry forms and specifications, are available by writing: Minnesota DNR Information Center, 500 Lafayette Road, St. Paul, MN 55155-4040; or by calling the DNR at (651) 296-6157. The contest application and information are also available on the DNR website at: <http://www.dnr.state.mn.us/contests/stamps.html>.

Department of Natural Resources

Designation of Infested Waters

Order No. INF-08-002

Pursuant to the provisions of *Minnesota Statutes*, section 84D.03, subdivision 1 the following described waters in the state meet the criteria established for designating infested waters. A lake in more than one county is listed under the county corresponding to its protected waters inventory number, but the designation applies to the entire lake. Lake Superior and designated portions of rivers that flow through more than one county are listed under the heading Multiple Counties. Ponds and wetlands that are not on the protected waters inventory are listed with "none" in the number column. Rivers and streams on the protected waters inventory are listed without a number in the number column.

Waters infested with Eurasian water milfoil.

The following water bodies are infested with Eurasian water milfoil (*Myriophyllum spicatum*) or its hybrids.

Carver County

Reitz Lake	10-0361
Swede Lake	10-0095

Chisago County

North Center	13-0032
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Crow Wing County

Lower Mission	18-0243
Upper Mission	18-0242

Pine County

Sturgeon Lake	58-0067
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Sherburne County

Mitchell Lake	71-0081
---------------	---------

Wright County

Twin Lake	86-0279
Sylvia Lake	86-0289

NOW THEREFORE, IT IS HEREBY ORDERED that the waters described above are designated as infested waters. These new designations are in addition to all the infested waters previously designated in Commissioners Order INF-08-001 dated April 21, 2008.

Dated: July 7, 2008

Mark Holsten, Commissioner
Department of Natural Resources

Department of Natural Resources

Notice of Public Hearing on Hemlock Ravine Scientific and Natural Area

The Department of Natural Resources (DNR) will conduct a public hearing to consider opening Hemlock Ravine Scientific and Natural Area (SNA) to deer hunting. Hemlock Ravine SNA, covering 48 acres, is located in Silver Brook Township, Carlton County, and includes that part of the Southeast Quarter (SE 1/4), Section 3, Township 48 North, Range 16 West, not in Jay Cooke State Park.

The hearing will be held July 23, 2008, from 7:00pm to 8:00pm, or until all testimony is taken, in the Carlton Fire Hall, 100 Forth St.

Official Notices

N., Carlton, Minnesota. The purpose of the hearing is to take public testimony regarding opening Hemlock Ravine SNA to deer hunting in seasons for taking deer. All other existing regulations will remain in effect should this proposal be approved.

Hemlock Ravine SNA protects a grove of rare Eastern hemlock trees and relatively undisturbed native plant communities. The DNR proposes to open the site to deer hunting in order to reduce the negative impacts that high deer numbers are having on these resources.

At the hearing, a hearing official will record all testimony on whether the SNA should be opened to deer hunting with such limitations as the DNR commissioner determines are necessary for protection of the values for which the site was designated. An official of the DNR will be present to discuss these matters. Written statements on this subject will also be accepted until July 23, 2008. Testimony may be sent to the following address.

Regional Administrator, c/o Scientific and Natural Areas
Minnesota Department of Natural Resources
650 Hwy. 169
Tower, MN 55790
or e-mail: steve.wilson@dnr.state.mn.us.
For further information, call (218) 753-2580, ext. 270.

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts Section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Grant Applicants

Have you checked up on all the “active” state grants? A “Contracts & Grants” section is available that lists all grants and contracts open for bid. Open the *State Register* and click on Bookmarks in the upper left corner. You will see a list of ALL the current rules, with an INDEX, and previous years’ indices, as well as a list of all contracts and grants open for bid. Subscribe and receive LINKS to the *State Register*. You also receive Subscriptions cost \$180 a year (an \$80 savings). Here’s what you receive via e-mail:

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Minnesota Department of Health Office of Rural Health and Primary Care Request for Proposals: 2008-2009 e- Health Grant Program

The Office of Rural Health and Primary Care, Minnesota Department of Health, is soliciting proposals for grants under the authority of M.S. Section 144.3345 to support the adoption and use of interoperable electronic health records by health care providers in rural and medically underserved areas of the state that frequently cannot fully afford the investment in health information technology. The grant program goals include adoption and use of interoperable electronic health records, as well as health information exchange among different health and health care organizations within a community.

Total Funding: \$3.5 million is available for: 1) Readiness Assessment and Planning Grants up to \$50,000 or 2) Implementation Grants up to \$750,000. A one-to-three match is required; that is, applicants must provide one dollar in the form of cash or in-kind services for every three dollars provided by the grant program.

Eligible applicants:

- 1) **Community e-health collaboratives.** Two or more health care organizations representing at least two of following types of health care settings: community clinics, rural hospitals, physician clinics located in a community with a population of less than 50,000, nursing facilities, community health boards or boards of health, nonprofit health information exchange organizations; and other providers.
- 2) **Community clinics** as defined under *Minnesota Statutes* Section 145.9268, and
- 3) **Regional or community-based health information exchange organizations** as defined under *Minnesota Statutes* 144.291.

To be considered for funding, proposals must be received by **4:30 p.m., Friday, September 5, 2008**, at the Minnesota Department of

Attn: Anne Schloegel
Office of Rural Health and Primary Care
Department of Health

By mail: P.O. Box 64882
St. Paul, MN 55164-0882.

By courier: 85 East Seventh Place, Suite 220
St. Paul, MN, 55101

Late proposals will not be considered.

The full Request for Proposals and application forms are available at: <http://www.health.state.mn.us/divs/orhpc/funding/index.html#ehr>

For more information contact Anne Schloegel at (651) 201-3850 or anne.schloegel@state.mn.us

Minnesota Department of Health Request for Proposals for Exceptions to the Nursing Home Moratorium

Purpose

The Commissioner of Health is accepting written proposals from nursing homes and certified boarding care homes requesting funding through the moratorium exception process, according to *Minnesota Statutes* 144A.073. The commissioner of health, in coordination with the Commissioner of Human Services, may approve such requests under conditions listed in *Minnesota Statutes*. These conditions refer to categories of exceptions which are defined as:

- (a) "Conversion" means the relocation of a nursing home bed from a nursing home to an attached hospital.
- (b) "Relocation" means the movement of licensed nursing home beds or certified boarding care beds as permitted by state statute to promote equitable access across the state or to move the beds to another site.
- (c) "Renovation" means extensive remodeling of an existing facility with a total cost exceeding ten percent of the appraised value of the facility or \$200,000, whichever is less. A renovation may include the replacement or upgrade of existing mechanical or electrical systems.
- (d) "Replacement" means the construction of a complete new facility.

State Grants & Loans

- (e) "Addition" means the construction of new space to an existing facility.
- (f) "Upgrading" means a change in the level of licensure of a bed from a boarding care bed to a nursing home bed in a certified boarding care facility.

(g) "Phased project" means a proposal that identifies construction occurring with more than one distinct completion date. To be considered a distinct completion, each phase must have construction that is ready for resident use, as determined by the commissioner, that is not dependent on similar commissioner approval for future phases of construction. The commissioner of human services shall only allow rate adjustments for construction projects in phases if the proposal from a facility identifies construction in phases and each phase can be approved for use independent of the other phases.

Appropriation Available

The amount of the legislative appropriation available for the total annual additional costs to the Medical Assistance program for this Request for Proposals (RFP) is \$1,478,037. Depending upon the outcome of this round of moratorium exceptions, a second round of moratorium exception proposals may be announced after July 1, 2009.

NOTE: As of 10-01-08, Minnesota Statutes 256B.434, subd. 4f, allows projects with costs less than \$1,400,482 to proceed without applying for a moratorium exception under this process.

Eligibility to Submit a Proposal

A proposal for an exception to the nursing home moratorium may be submitted by an organization or individual authorized by a facility's governing board or management to prepare and submit a proposal to the commissioner of health.

Method for Estimating Proposal Cost

The method that the commissioner will use in evaluating proposals for approval or disapproval for estimating the cost of a proposal is detailed in the application materials.

Criteria for Review

Minnesota Statutes 144A.073, subd. 4, states the criteria the Commissioner of Health is to consider in reviewing moratorium exception proposals:

Subd. 4. **Criteria for review.** The following criteria shall be used in a consistent manner to compare, evaluate, and rank all proposals submitted. Except for the criteria specified in clause (3), the application of criteria listed under this subdivision shall not reflect any distinction based on the geographic location of the proposed project:

(1) the extent to which the proposal furthers state long-term care goals, including the goal of enhancing the availability and use of alternative care services and the goal of reducing the number of long-term care resident rooms with more than two beds;

(2) the proposal's long-term effects on state costs including the cost estimate of the project according to section [144A.071](#), subdivision 5a;

(3) the extent to which the proposal promotes equitable access to long-term care services in nursing homes through redistribution of the nursing home bed supply, as measured by the number of beds relative to the population 85 or older, using data published according to requirements in section [144A.351](#).

(4) the extent to which the project improves conditions that affect the health or safety of residents, such as narrow corridors, narrow door frames, unenclosed fire exits, and wood frame construction, and similar provisions contained in fire and life safety codes and licensure and certification rules;

(5) the extent to which the project improves conditions that affect the comfort or quality of life of residents in a facility or the ability of the facility to provide efficient care, such as a relatively high number of residents in a room; inadequate lighting or ventilation; poor access to bathing or toilet facilities; a lack of available ancillary space for dining rooms, day rooms, or rooms used for other activities; problems relating to heating, cooling, or energy efficiency; inefficient location of nursing stations; or other provisions contained in the licensure and certification rules;

(6) the extent to which the applicant demonstrates the delivery of quality care, as defined in state and federal statutes and rules, to residents as evidenced by the two most recent state agency certification surveys and the applicants' response to those surveys;

(7) the extent to which the project removes the need for waivers or variances previously granted by either the licensing agency, certifying agency, fire marshal, or local government entity;

(8) the extent to which the project increases the number of private or single bed rooms;

(9) the extent to which the applicant demonstrates the continuing need for nursing facility care in the community and adjacent communities; and

State Grants & Loans

(10) other factors that may be developed in permanent rule by the commissioner of health that evaluate and assess how the proposed project will further promote or protect the health, safety, comfort, treatment, or well-being of the facility's residents.

Priority for Approval

Minnesota Laws 2007, Chapter 147, Article 19, Section 3, subd. 8, clause (c), directs that priority shall be given to proposals that entail:

- (1) complete building replacement in conjunction with reductions in the number of beds in a county, with greater weight given to projects in counties with a greater than average number of beds per 1,000 elderly;
- (2) technology improvements;
- (3) improvements in life safety;
- (4) construction of nursing facilities that are part of senior services campuses; and
- (5) improvements in the work environment.

Procedure for Receiving Application Materials

The application materials, including instructions, format and necessary forms, are available at the following website:

<http://www.health.state.mn.us/divs/fpc/moratoriumapp08.html>

or upon e-mail written or facsimile request to:

Mary Cahill
MDH – Division of Compliance Monitoring
U.S. Mail Service: MDH – Division of Compliance Monitoring
P.O. Box 64900
St. Paul, Minnesota 55164-0900
Phone: (651) 201-3701
Fax: (651) 215-9695
E-mail: mary.cahill@state.mn.us

Review and Approval of Proposals

Proposals will be reviewed by a committee composed of organizations that represent consumers and providers of nursing home services; persons who provide engineering, building construction, or design services; and, state agencies involved in long term care issues, housing and finance. Applicants will have the opportunity to present their proposal, in person, to the Proposal Review Committee (Committee) prior to the Committee submitting comments and recommendations to the commissioner. Details on this meeting, including date, time and location will be made available to the contact person listed in each moratorium exception proposal. The commissioner of health will approve or disapprove project proposals based on criteria established in law and rule. The commissioner will make the final decision no later than April 16, 2009.

Questions Concerning the RFP

Any questions relating to the RFP process must be submitted by prospective applicants in writing via Fax, US mail or e-mail to:

Mary Cahill
Minnesota Department of Health
Division of Compliance Monitoring
P.O. Box 64900
St. Paul, MN 55164-0900
Fax: (651) 215-9695
E-mail: mary.cahill@state.mn.us

No answers will be provided in response to phone calls. Each question must cite the particular RFP page to which it refers. Copies of all questions and their answers will be provided to all prospective applicants who have requested application materials. Only responses in writing by staff of the Minnesota Department of Health will be considered official. The closing date for the receipt of questions will be Friday, October 17, 2008.

Technical assistance in completing the application forms is available from the Minnesota Health and Housing Alliance, at (651) 645-4545, or Care Providers of Minnesota at (952) 854-2844.

State Grants & Loans

Procedures for Submitting Proposals

No proposals submitted by facsimile machine will be accepted. **Six (6) written copies of the completed proposal must be received no later than 4:00 p.m. on Thursday, December 11, 2008 by:**

Darcy Miner
U.S. Mail Service:
Minnesota Department of Health
Division of Compliance Monitoring
P.O. Box 64900
St. Paul, Minnesota 55164-0900

Darcy Miner
Courier or Walk-In-Service
Minnesota Department of Health
Division of Compliance Monitoring
85 East Seventh Place, Room 220
St. Paul, Minnesota 55101

Department of Transportation

Office of Transit

Planning, Modal and Data Management Division

Notice of Intent to Release Applications to Fund Small Urban 5317 New Freedom Grant for 2009

The Minnesota Department of Transportation (Mn/DOT) Office of Transit is releasing applications for four publicly funded transportation programs:

- New Freedom Grant, and

Applications will be posted July 16th, 2008 on the Mn/DOT Office of Transit Website at: www.dot.state.mn.us/transit

The New Freedom Grant, supported with federal funds (Section 5317), is intended to provide funding for “NEW” transportation services and public transportation alternatives beyond the requirements of the Americans with Disabilities Act (ADA). The services and alternatives must assist individuals with disabilities with accessing transportation services to and from jobs and employment support services. This grant is specifically looking for Mobility Management proposals.

Eligible recipients include small urban areas with :

- State or Local Government Authorities;
- Private, Nonprofit organizations;
- Operators of public transportation services, and
- Private operators of public transportation services.

Applications for the small urban **New Freedom Grants** must be mailed to Mn/DOT’s Office of Transit and postmarked no later than 4:00 p.m. Central Daylight time on **August 29, 2008**. For further information, please contact:

Chuck Morris
395 John Ireland Blvd., MS 430
St. Paul, MN 55155
Phone: (651) 366-4178
E-mail: charles.morris@dot.state.mn.us

State Contracts

Informal Solicitations: Informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) Web site. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD Web site at www.mmd.admin.state.mn.us for informal solicitation announcements.

Formal Solicitations: Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

Requirements: There are no statutes or rules requiring contracts to be advertised for any specific length of time, but the Materials Management Division strongly recommends meeting the following requirements:

- \$0 - \$5000 does not need to be advertised. Contact the Materials Management Division: (651) 296-2600
- \$5,000 - \$25,000 should be advertised in the *State Register* for a period of at least seven calendar days;
- \$25,000 - \$50,000 should be advertised in the *State Register* for a period of at least 14 calendar days; and
- anything above \$50,000 should be advertised in the *State Register* for a minimum of at least 21 calendar days

How to Work with Contracts

A summarized "Contracts & Grants" section of all contracts and grants open for bid is available only to subscribers. Obtain MORE and FASTER information with a SUBSCRIPTION to the *State Register*. You also receive LINKS to the *State Register*. Open the *State Register* and click on Bookmarks in the upper left corner. You will see a list of the contents of the current issue, with an INDEX, and previous years' indices. You also receive "Contracts & Grants." Here's what you receive via e-mail:

- **Word Search Capability**
- **LINKS, LINKS, LINKS**
- **Easy Access to *State Register* Archives**
- **Updates to Index to Vol. 31**
- **"Contracts & Grants" Open for Bid**
- **Early delivery, on Friday**
- **E-mailed to you . . . its so easy**
- **Indexes to Vols. 31, 30, 29, 28 and 27**

Subscriptions cost \$180 a year (an \$80 savings). It's all E-mailed to you, at end-of-day on Friday, instead of waiting for the non-subscriber's issue released on Monday. Contact Cathy Hoekstra, our subscriptions manager, at (651) 297-8777, or **Fax:** (651) 297-8260, or **E-mail:** cathy.hoekstra@state.mn.us

Department of Administration

Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") Notice of Availability of Contract for Pharmaceutical and Medical Supply Industry Consultants

The Minnesota Department of Administration, MMCAP Program, is requesting proposals for the purpose of strategic planning services and consulting regarding the pharmaceutical group purchasing and medical supply industries and best practices.

Work is proposed to start after August 18, 2008.

The Request for Proposal can be obtained on the MMCAP web page: www.mmcap.org, click on "Vendors & RFPs," then on "Open RFPs"

Requests for paper copies of the RFP may be sent to: mn.multistate@state.mn.us or call (651) 201-2420.

Proposals submitted in response to the Request for Proposals in this advertisement must be sealed and received at the address above no later than 2:00 p.m., Central Standard Time, Monday, August 4, 2008. **Late proposals will not be considered.** Fax or e-mailed proposals will not be considered.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

State Contracts

Department of Administration

State Designer Selection Board

University of Minnesota/Minnesota State Colleges and Universities

Notice of Availability of Request for Proposal (RFP) for Designer Selection for: Trades Addition and Library Design

State Designer Selection Board Project No. 08-06

The State of Minnesota, acting through its Board of Trustees of the Minnesota State Colleges and Universities, on behalf of Minnesota State Community and Technical College - Moorhead, through the State Designer Selection Board, is soliciting proposals from interested, qualified consultants for architectural and engineering design services for the above referenced project.

A full Request for Proposals is available on the Minnesota State Colleges Universities website,
<http://www.finance.mnscu.edu/facilities/index.html>

click on "Announcements." A copy of the pre-design is available for review at <http://www.finance.mnscu.edu/facilities/index.html>. An informational meeting is scheduled for 2:00 PM, Wednesday, July 23, 2008 in the auditorium of the MSCTC Moorhead campus, 1900 28th Ave. South, Moorhead, MN 56560. All firms interested in this meeting should contact Tom Koehnlein, at (218) 347- 6211 or tom.koehnlein@minnesota.edu to sign up to attend the meeting. Project questions will also be taken by this individual.

Proposals must be delivered to Alisha Cowell, Executive Secretary, State Designer Selection Board, Administration Building in the Commissioner's Office, Room 200, 50 Sherburne Ave., St. Paul, MN 55155 (651) 201-2627 **not later than 4:00 P.M., July 28, 2008**. Late responses will not be considered.

Minnesota State Colleges and Universities is not obligated to complete the proposed project and reserves the right to cancel the solicitation if it is considered to be in its best interest.

Department of Administration

State Designer Selection Board

University of Minnesota

Notice of Availability of Request for Proposal (RFP) for Designer Selection for: Center for Magnetic Resonance Research (Project No. 08-05)

The State of Minnesota, acting through its Board of Regents for the University of Minnesota, through the State Designer Selection Board, is soliciting proposals from interested, qualified consultants for architectural and engineering design services for the above referenced project.

A full Request for Proposals is available on the University of Minnesota Capital Planning and Project Management website:
<http://www.cppm.umn.edu/purchasing/rfp.html>, click on "CMRR."

Proposals must be delivered to Alisha Cowell, Executive Secretary, State Designer Selection Board, 200 Administration Building in the Commissioner's Office, 50 Sherburne Ave., St. Paul, MN 55155, **phone:** (651) 201-2627, **not later than 1:00 P.M. CDT, July 21st**. Late responses will not be considered.

The University of Minnesota is not obligated to complete the proposed project and reserves the right to cancel the solicitation if it is considered to be in its best interest.

**Department of Administration
State Designer Selection Board
University of Minnesota****Notice of Availability of Request for Proposal (RFP) for Designer Selection for:
Physics and Nanotechnology Building (Project No. 08-08)**

The State of Minnesota, acting through its Board of Regents for the University of Minnesota, through the State Designer Selection Board, is soliciting proposals from interested, qualified consultants for architectural and engineering design services for the above referenced project.

A full Request for Proposals is available on the University of Minnesota Capital Planning and Project Management website:
<http://www.cppm.umn.edu/purchasing/rfp.html>, click on "Physics and Nanotechnology."

A **mandatory informational meeting** is tentatively scheduled for **3:30 p.m., July 16th in Room 317/18 Donhowe Building, 319 – 15th Avenue SE, Minneapolis**. All firms interested in this project should attend this meeting. Project questions will also be taken at this meeting.

Proposals must be delivered to Alisha Cowell, Executive Secretary, State Designer Selection Board, 200 Administration Building in the Commissioner's Office, 50 Sherburne Ave., St. Paul, MN 55155, **phone: (651) 201-2627, not later than 1:00 P.M., July 21st**. Late responses will not be considered.

The University of Minnesota is not obligated to complete the proposed project and reserves the right to cancel the solicitation if it is considered to be in its best interest.

**Minnesota State Colleges and Universities (MnSCU)
Anoka-Ramsey Community College
Request for Proposals for Food Service on the Coon Rapids Campus**

NOTICE IS HEARBY GIVEN that Anoka-Ramsey Community College will receive proposals for food service on the Coon Rapids Campus. Specifications will be available on Monday, July 14, 2008 on the website *<http://www.anokaramsey.edu/IT/proposal.cfm>*. Copies of the specifications can also be obtained from Marilyn Smith at (763) 433-1306 or *marilyn.smith@anokaramsey.edu*. Sealed proposals must be received by Marilyn Smith at Anoka-Ramsey Community College, 11200 Mississippi Blvd, Coon Rapids, MN 55433 by 10:00 a.m. on Monday, July 28, 2008. Bid openings will be in room C144 of Anoka-Ramsey Community College, Coon Rapids Campus, at 10:00 a.m. on Monday, July 28, 2008. Anoka-Ramsey Community College reserves the right to reject any or all proposals, or portions thereof, or to waive any irregularities or informalities, in proposals received.

**Minnesota State Colleges and Universities (MnSCU)
Anoka Technical College
Request for Information to Provide a Hybrid College Bookstore for Anoka
Technical College**

Anoka Technical College currently sells textbooks online only via eCampus, an online seller of books. As part of Anoka Technical College's continuous improvement process, the college is entertaining proposals from a vendor to operate a "hybrid bookstore" for the college. A hybrid bookstore is defined as a bookstore that sells college textbooks, materials and logo-wear on the college site as well via the Internet.

State Contracts

Full copies of the RFI can be obtained by contacting Pamela Mogensen, Purchasing Agent, Anoka Technical College at (763) 576-4785 or via e-mail to: pmogensen@anokatech.edu. Proposals are due no later than 2:00 p.m. CST on Monday, July 28, 2008.

Minnesota State Colleges and Universities (MnSCU) Office of the Chancellor Request for Bid for Printing Translated Language Brochure Series “Make College a Part of Your Future”

The Office of the Chancellor is requesting bids from qualified vendors for the 4-color printing of “Make College a Part of Your Future” brochure series, which will be printed in nine languages.

Print specifications are available by visiting the website: www.mnscu.edu/makecollegerfb. Sealed bids must be received by FRIDAY, JULY 25, 2008, 2:00 pm CST.

This request does not obligate Minnesota State Colleges and Universities to complete the proposed project, and the system reserves the right to cancel this solicitation if it is considered to be in its best interest.

The Minnesota State Colleges and Universities system is an Equal Opportunity employer and educator.

Minnesota State Colleges and Universities (MnSCU) Dakota County Technical College Request for Proposals for Snow Plowing Services

NOTICE IS HEREBY GIVEN that Dakota County Technical College will receive proposals for Snow Plowing Services for the 2008-2009 fiscal year. on our campus. Bid documents are available by calling (651) 423-8236.

Sealed proposals must be received by Paul Demuth, Dakota County Technical College, 1300 145th ST. East, Rosemount, MN 55068 by 2:00 p.m. July 28, 2008.

Dakota County Technical College reserves the right to reject any or all proposals or portions thereof, or to waive any irregularities in proposals received.

Minnesota State Colleges and Universities (MnSCU) St. Cloud Technical College Formal Request for Bid (RFB) for EDM Sinker Machine for Machine Tool Technology Lab

RESPONSE DUE DATE AND TIME: Monday, July 28 at 2:00 pm

TITLE OF PROJECT: EDM Sinker Machine for Machine Tool Technology Lab

The complete Request for Proposal will be available on Monday, July 14, 2008, on the website <http://www.sctc.edu/rfp>.

GEOGRAPHIC LOCATION REQUIREMENTS: St. Cloud Technical College, 1540 Northway Drive, St Cloud, MN 56303

RESPONSES MUST BE RECEIVED AT THE LOCATION LISTED BELOW:

St. Cloud Technical College
Attn: Susan Meyer
1540 Northway Drive
St Cloud, MN 56303

Contact Name:	Susan Meyer, Purchasing Agent	Bruce Peterson, Academic Dean
Phone:	(320) 308-5973	(320) 308-0978
Fax:	(320) 308-5027	(320) 308-5905
E-mail:	<i>smeyer@sctc.edu</i>	<i>bpeterson@sctc.edu</i>

Your response to this Request for Bid (RFB) must be returned sealed. Sealed responses must be received no later than the due date and time specified above, at which time the names of the vendors responding to this RFB will be read. **Late responses** cannot be considered and the responses will be rejected.

The laws of Minnesota and MnSCU Board of Trustees policies and procedures apply to this RFB.

All attached General RFB Terms and Conditions, Specifications and Special Terms and Conditions are part of this RFB and will be incorporated into any contract(s) entered into as a result of this RFB.

All responses to this RFB must be prepared as stated herein and properly signed. **Address all correspondence and inquiries regarding this RFB to the Contact person named above. This is a request for responses to an RFB and is not a purchase order.**

Department of Natural Resources

Notice of Availability of Contract for Gathering High-resolution Elevation Data that Meets FEMA Criteria for Floodplain Mapping for the Study Area Using Light Detection and Ranging (LiDAR) Technology

Estimate of proposed contract: \$615,000
CERTIFICATION #16035

The Minnesota Department of Natural Resources, on behalf of the 2007 Minnesota Recovers Task Force and its local, state, and federal partners are seeking proposals from qualified responders to collect high-resolution digital elevation data across the seven counties identified as federal disaster areas after the August 2007 floods. These counties include Dodge, Fillmore, Houston, Olmsted, Steele, Wabasha, and Winona. The area of the proposed collection area is approximately 4,146 square miles. In addition, there is considerable interest from the project partners to include Mower County, and portions of the non-Minnesota side of the Mississippi River in this project area that would increase the project size to approximately 5,000 square miles (Appendix A).

Work is proposed to start after August 1, 2008.

The Request for Proposal can be obtained from:

Department of Natural Resources
Tim Loesch, Project Coordinator
500 Lafayette Road, Box 16
St. Paul, MN 55155-4016
Fax: (651) 297-5818
E-mail: *tim.loesch@dnr.state.mn.us*

Request for Proposals must be received by July 23, 2008

All proposals must be received not later than 2:30 p.m., Central Daylight Time, Friday, July 25th, 2008, as indicated by a notation made by the Receptionist, 4th Floor, 500 Lafayette Road, St. Paul, MN.

State Contracts

Late proposals will not be considered. Fax or e-mailed proposals will **not** be considered.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

Department of Transportation (Mn/DOT) Engineering Services Division Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities (“Consultant Pre-Qualification Program”)

This document is available in alternative formats for persons with disabilities by calling Juanita Voigt at (651) 366-4774 for persons who are hearing or speech impaired by calling Minnesota Relay Service at (800) 627-3529.

Mn/DOT, worked in conjunction with the Consultant Reform Committee, the American Council of Engineering Companies of Minnesota (ACEC/MN), and the Department of Administration, to develop the Consultant Pre-Qualification Program as a new method of consultant selection. The ultimate goal of the Pre-Qualification Program is to streamline the process of contracting for highway related professional/technical services. Mn/DOT awards most of its consultant contracts for highway-related technical activities using this method, however, Mn/DOT also reserves the right to use Request for Proposal (RFP) or other selection processes for particular projects. Nothing in this solicitation requires Mn/DOT to use the Consultant Pre-Qualification Program.

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT’s Consultant Services web site, indicated below, to see which highway related professional/technical services are available for application. Applications are accepted on a continual basis. All expenses are incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

Consultant Pre-Qualification Program information, application requirements and applications forms are available on Mn/DOT’s Consultant Services web site at: <http://www.dot.state.mn.us/consult>.

Send completed application material to:

Juanita Voigt
Consultant Services
Office of Technical Support
Minnesota Department of Transportation
395 John Ireland Blvd. Mail Stop 680
St. Paul, Minnesota 55155

Note: DUE DATE: APPLICATION MATERIAL WILL BE ACCEPTED ON A CONTINUAL BASIS.

Department of Transportation (Mn/DOT) Engineering Services Division Notice Concerning Professional/Technical Contract Opportunities

NOTICE TO ALL: The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT’s Consultant Services **website** at: www.dot.state.mn.us/consult.

New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

Non-State Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of commodity, project or tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from the date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact editor for further details.

Ducks Unlimited, Inc.

Request for Bids for Contract Construction Manager

Ducks Unlimited, Inc. (DU) is accepting bids for one Contract Construction Manager to oversee the construction of water control structures to restore drained wetlands on Wetlands Reserve Program (WRP) easements on the Glacial Ridge Project in northwest Minnesota.

The successful bidder will be housed in the Glacial Ridge NRCS Field Office in Crookston, MN and work in close collaboration with DU, the Natural Resources Conservation Service (NRCS) and other conservation partners to complete wetland restoration projects on closed WRP easements.

The successful bidder should have a minimum of 2 years experience in construction management of water control structures, the ability to understand and use design plans, the ability to work with contractors and oversee construction practices, a working knowledge of NRCS wetland and upland restoration practices and specifications, knowledge of the various types of water control structures and the construction requirements for each type, and the ability to use GPS and laser-based survey equipment to assist contractors during construction and to assist in final inspection.

Funding for this position has been secured through June 30, 2009. Bids will be accepted until 5:00 PM CST, July 18, 2008. To receive a complete bid packet, please contact Bob Usgaard, DU Regional Biologist at (218) 739-6545, **e-mail:** rusgaard@ducks.org.

Ducks Unlimited, Inc.

Request for Bids for Contract Engineering Technician

Ducks Unlimited, Inc. (DU) is accepting bids for one Contract Engineering Technician to survey, design and oversee the construction of water control structures to restore drained wetlands on Wetlands Reserve Program (WRP) easements in west-central and northwest Minnesota.

The successful bidder will work in close collaboration with DU, the Natural Resources Conservation Service (NRCS) and other conservation partners to complete wetland restoration projects on closed WRP easements.

The successful bidder should have a minimum of a 2-year degree in civil engineering or related field and 2 years of civil engineering experience in wetland restoration design.

The successful bidder should have a working knowledge and experience in using GPS and laser-based surveying equipment, Auto Cad and Eagle Point engineering software, hydrology and watershed modeling software, NRCS practices and specifications as related to wetland restoration, knowledge of hydrologic characteristics of the Agassiz Beach Ridge and the Prairie Pothole Region, experience in construction management and final inspection, and the ability to provide his/here own office space, vehicle and computer equipment and software.

Funding for this position has been secured through June 30, 2009. Bids will be accepted until 5:00 PM CST, July 18, 2008. To receive a complete bid packet, please contact Bob Usgaard, DU Regional Biologist at (218) 739-6545, **e-mail:** rusgaard@ducks.org.

Ducks Unlimited, Inc.

Request for Bids for Contract Wetland Restoration Specialist

Ducks Unlimited, Inc. (DU) is accepting bids for six Contract Wetland Restoration Specialist positions to promote and administer the Wetlands Reserve Program (WRP) in the prairie pothole region of Minnesota. Working in close collaboration with DU and Natural (Cite 33 SR 153)

Non-State Bids, Contracts & Grants

Resources Conservation Service (NRCS) staff, the successful contractors will promote WRP to private landowners, complete signed applications, develop conservation plans, and administer and oversee the restoration of wetlands and associated uplands on WRP easements according to NRCS plan specifications and schedules.

Interested applicants should have a minimum of 3 years experience in restoration, ecology and management of wetland and grassland habitats or a combination of 4 years experience and education in wildlife management or a related field.

Interested applicants should have a working knowledge of WRP and other USDA Farmbill Programs, a minimum of 2-years experience in working with private landowners, experience with ArcGIS, Toolkit, and Microsoft Office Software, knowledge of hydric soils, and knowledge and experience in identification of drained wetlands and restoration of wetlands and associated uplands according to NRCS specifications.

Funding for these contract positions has been secured through 30 June 2009. The six positions will be housed in NRCS Offices in the following locations: Crookston, Detroit Lakes, Fergus Falls, Glenwood, St. Peter and Albert Lea. NRCS will provide a computer, office supplies, field equipment, and vehicle.

Bids will be accepted until 5:00 PM CST, July 18, 2008. To receive a complete bid packet, please contact Bob Usgaard, DU Regional Biologist at (218) 739-6545, e-mail: rusgaard@ducks.org.

Metropolitan Council

Notice of Invitation for Bids (IFB) for Freight Elevator Repair for the Seneca Wastewater Treatment Plant

Reference Number 08P067

The Metropolitan Council is requesting bids for Freight Elevator Repair at the Seneca Wastewater Treatment Plant.

Issue Invitation for Bids

July 7, 2008

Bids Due

July, 22, 2008 @ 1:00 pm local time

Contract Award

August 2008

All firms interested in submitting bids for this contract and desiring to receive an IFB package are invited to make a request by e-mail, fax or mail to:

Miriam Lopez-Rieth, Administrative Assistant
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101
Phone: (651) 602-1095
Fax: (651) 602-1083
E-mail: miriam.lopez-rieth@metc.state.mn.us

Minnehaha Creek Watershed District

Culvert Construction, Bituminous Road Reconstruction, Grading and Riprap

NOTICE IS HEREBY GIVEN that the Minnehaha Creek Watershed District (MCWD) is soliciting bids for culvert construction, bituminous road reconstruction, grading and riprap. The project is located on Painters Creek Road in the City of Minnetrista. Work shall begin within five (5) days of receipt of the Notice to Proceed and the Work shall thereafter be substantially completed including final site restoration by no later than September 12, 2008.

Sealed Bid Proposals for the furnishing of all labor, materials and all other items necessary to complete the work will be received by Minnehaha Creek Watershed District at its office, 18202 Minnetonka Boulevard, Deephaven, MN until 2:00 PM, July 28, 2008. Bid submittals must be clearly labeled "MCWD PAINTER CREEK FISH BARRIER" on the outside of the submittal package.

Non-State Bids, Contracts & Grants

All communications relative to this project should be addressed to the Project Manager prior to opening of the Bid. Minnehaha Creek Watershed District: Attention Renae Clark, **e-mail:** relark@minnehahacreek.org or phone (952) 471-0590.

Contractors desiring a copy of the bid package, plans, specifications and proposal forms may obtain them from the office of Minnehaha Creek Watershed District upon the payment of a \$65.00 non-refundable fee for each bid package. Bid packages are also available for examination at the Minnehaha Creek Watershed District office.

A pre-bid meeting will be held at the Minnehaha Creek Watershed District office at 9:00 AM on July 21, 2008.

Each bid proposal shall be submitted on forms furnished for that purpose. Each bid proposal shall be accompanied by a "Bid Security" in the form of a certified or cashier's check made payable to Minnehaha Creek Watershed District ("owner") in an amount not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the Owner, with a surety company duly authorized to do business in the state of Minnesota, such Bid Security to be a guarantee that the bidder, if awarded a contract, will enter into a contract with Minnehaha Creek Watershed District; and the amount of the certified check will be retained or the bond enforced by the Owner in case the bidder fails to do so. The Owner will retain the deposits for the three lowest bidders until the contract has been awarded and executed but not longer than sixty (60) days. No bid may be withdrawn for a period of sixty (60) days following the bid opening.

The bid of the lowest responsible bidder is intended to be accepted on or before the expiration of sixty (60) days after the date of the opening of bids. The Owner, however, reserves the right to reject any or all bids and to waive any minor irregularities, informalities or discrepancies, and further reserves the right to award the contract in the best interest of Minnehaha Creek Watershed District.

University of Minnesota (U of M) Subscribe to Bid Information Service (BIS)

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