

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1241

05.0009.0700

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 12-31-85
DATE FOR REVIEW 1-9-86
DATE DUE 1-19-86

Adopted w/a hearing _____
Adopted w/o hearing _____
Temporary rule _____

Approved 1-14-86 mjC Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 1-15-86 Revisor approved 1/2/86 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 12.17.85 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 1 28.85 + comment.

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency contains small biz statement which does not address quantitative + quantitative effect nor refer readee to SONR.

✓ Affidavit of Mailing Notice or rulemaking
10.3.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
10.7.85 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness contains small biz statement

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of ~~Mailing~~ Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

1/10/86 Olson to get us a new page 18 with correct reference as set forth in FF 7e

9:00 Fri.

SF-00006-02

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT: ATTORNEY GENERAL

TO: THOMAS J. KALITOWSKI, Executive Director
Minnesota Pollution Control Agency

ATTN: JOCELYN F. OLSON
Special Assistant Attorney General

DATE: 1/15/86

FROM: MARTHA J. CASSERLY
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled

The above-referenced rule has been approved as to its legality by the Attorney General on January 14, 1986.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1241

Pollution Control Agency

AG copy

Adopted Rules Relating to Hazardous Waste Recycling and Reuse

Rules as Adopted

7001.0520 PERMIT REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Exclusions.** A person who conducts any of the following activities is not required to obtain a hazardous waste facility permit for that activity:

A. The accumulation by generators of hazardous waste on site for fewer than 90 days as provided in part 7045.0292.

B. The disposal by farmers of hazardous wastes that have been generated by their own use of pesticides as provided in part 7045.0304.

C. The ownership or operation of a totally enclosed treatment facility as defined in part 7045.0020.

D. The storage by transporters of manifested shipments of hazardous waste in containers that meet the requirements of part 7045.0270, subpart 4, at a transfer facility for a period of ten days or fewer as provided in part 7045.0365.

E. An activity conducted to immediately contain or treat a spill or an imminent and substantial threat of a spill of hazardous waste or a material that, when spilled, becomes a hazardous waste. This exclusion does not apply to a person who treats, stores, or disposes of the spilled material or spill residue or debris after the immediate response activities have been completed.

F. The addition of absorbent material to hazardous waste in a container, or the addition of hazardous waste to absorbent material in a container, if the addition occurs at the time waste is first placed in the container, and if the addition is accomplished in accordance with parts 7045.0456, subpart 2, and 7045.0526, subparts 2 and 3.

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G. To the extent provided by part 7045.0125, the ownership or operation of a facility that recycles hazardous waste.

H. The management of hazardous waste as provided in part 7045.0120, item L; 7045.0127, subpart 1; 7045.0135, subpart 5, items C and E; 7045.0218; or 7045.0219, subpart 2.

I. To the extent provided by part 7045.0675, the ownership or operation of a facility that stores or reclaims hazardous waste for recovery of economically significant amounts of precious metals.

J. To the extent provided in part 7045.0685, the ownership or operation of a facility that stores or reclaims spent lead-acid batteries.

Subp. 3. and 4. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. to 6. [Unchanged.]

Subp. 6a. **Boiler.** "Boiler" means an enclosed device using controlled flame combustion and having the characteristics specified in item A or B.

A. (1) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluid, or heated gases.

(2) The unit's combustion chamber and primary energy recovery sections must be of integral design (physically formed into one manufactured or assembled unit). A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; secondary energy recovery equipment (such as air preheaters or economizers) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. Process heaters which transfer energy directly to a process stream and fluidized bed combustion units are not precluded from being considered boilers under this definition solely because they are not of integral design.

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(3) While in operation, the unit must maintain a thermal energy efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel.

(4) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. No credit shall be given for recovered heat used internally in the same unit for purposes such as preheating fuel or combustion air or the driving of induced or forced draft fans or feedwater pumps.

B. The unit is one which the director has determined meets the criteria for a boiler after considering the standards in part 7045.0075, subpart 4.

Subp. 6b. **By-product.** "By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms.

Subp. 7. to 14. [Unchanged.]

Subp. 15. **Designated facility.** "Designated facility" means a hazardous waste treatment, storage, or disposal facility which:

A. (1) has received interim status;

(2) has received an agency permit,

(3) is subject to the requirements of part 7045.0125, subpart 5, 6, or 10, or subpart 9, item B, or part 7045.0685; or

(4) if located outside Minnesota, has been exempted from the requirements to obtain a permit by the United States Environmental Protection Agency~~;~~ has either received an Environmental Protection Agency permit or a permit from an authorized state, or has interim status; and

B. has been designated on the manifest by the generator pursuant to part 7045.0261, or has been designated on a shipping paper or management plan required by part 7045.0125.

Subp. 16. and 17. [Unchanged.]

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Subp. 18. **Discarded.** "Discarded" means abandoned by being:

A. disposed of;

B. burned or incinerated; or

C. accumulated, stored, or treated, but not recycled, before or in lieu of being disposed of, burned, or incinerated.

Subp. 19. to 34. [Unchanged.]

Subp. 35. **Hazardous waste incinerator.** "Hazardous waste incinerator" means an enclosed device using controlled flame combustion, a purpose of which is to thermally break down hazardous waste and that neither meets the criteria for classification as a boiler nor is listed or can be classified as an industrial furnace.

Subp. 36. to 43. [Unchanged.]

Subp. 43a. **Industrial furnace.** "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy: cement kilns; lime kilns; aggregate kilns; phosphate kilns; coke ovens; blast furnaces; smelting, melting, and refining furnaces, including pyrometallurgical devices, such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces; titanium dioxide chloride process oxidation reactors; methane reforming furnaces; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and such other devices as the director determines qualify for inclusion based on one or more of the following factors:

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A. the design and use of the device primarily to accomplish recovery of material products;

B. the use of the device to burn or reduce raw materials to make a material product;

C. the use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as feedstocks;

D. the use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a

material product; or

E. the use of the device in common industrial practice to produce a material product.

Subp. 44. to 62. [Unchanged.]

Subp. 63. **Other waste material.** "Other waste material" means any solid, liquid, semi-solid, or gaseous material, resulting from industrial, commercial, mining, or agricultural operations, or from community activities, and which:

A. is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded; or

B. is recycled or is accumulated, stored, or treated prior to being recycled; or

C. is a spent material or by-product.

Subp. 64. to 68. [Unchanged.]

Subp. 69. [See Repealer.]

Subp. 70. to 73. [Unchanged.]

Subp. 73a. **Reclamation.** "Reclamation" means the processing or regeneration of a waste to recover a usable product. Examples are the recovery of lead values from spent batteries and regeneration of spent solvents.

Subp. 73b. **Recycle.** "Recycle" means the reclamation, reuse, or use of a hazardous waste.

Subp. 74. and 75. [Unchanged.]

Subp. 75a. **Reuse.** "Reuse" means employing a waste as an ingredient in an industrial process to make a product or as an effective substitute for a commercial product, provided that distinct components of the waste are not recovered as end products.

Subp. 76. to 79. [Unchanged.]

Subp. 79a. **Scrap metal.** "Scrap metal" means bits and pieces of metal parts (for example, bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (for example, radiators, scrap automobiles, railroad box cars) which when worn or superfluous can be recycled.

Subp. 80. to 84. [Unchanged.]

Subp. 84a. **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. **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.

Subp. 85. to 100. [Unchanged.]

Subp. 100a. **Used oil.** "Used oil" means any oil which has been refined from crude oil, used, and as a result of such use has become contaminated by physical or chemical impurities.

Subp. 101. to 108. [Unchanged.]

7045.0075 PETITIONS.

Subpart 1. and 2. [Unchanged.]

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.

A. Any person seeking a reduction in regulation of hazardous wastes that are accumulated speculatively as defined in part 7045.0020 without sufficient amounts being recycled as defined in part 7045.0020 may petition under this subpart. The petitioner must demonstrate to the satisfaction of the agency that sufficient amounts will be recycled or transferred for recycling in the following year. Such a reduction in regulation

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is valid only for the following year, but may be renewed on an annual basis by filing a new petition. The agency's decision to grant the petition shall be based on the following standards and criteria:

(1) the manner in which the hazardous waste is to be recycled, where when the waste is expected to be recycled, and whether the expected disposition is likely to be affected by past practice, market factors, the nature of the hazardous waste, or contractual arrangements for recycling;

(2) the reason that the applicant has accumulated the hazardous waste for one or more years without recycling 75 percent of the volume accumulated at the beginning of the previous year;

(3) the quantity of the hazardous waste already accumulated and the quantity expected to be generated and accumulated before the hazardous waste is recycled;

(4) the extent to which the hazardous waste is handled to minimize loss; and

(5) any additional information the director may reasonably request which may be required to evaluate the petition.

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:

(1) how economically viable the production process would be if it were to use virgin materials rather than the reclaimed hazardous waste;

(2) the prevalence of the practice on an industry-wide basis;

(3) the extent to which the hazardous waste is handled before reclamation to minimize loss;

(4) the time periods between generating the

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hazardous waste and its reclamation, and between reclamation and return to the original primary production process;

(5) the location of the reclamation operation in relation to the production process;

(6) whether the hazardous waste as reclaimed is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

(7) whether the person who generates the hazardous waste also reclaims it; and

(8) any additional information the director may reasonably request which may be required to evaluate the petition.

C. Any person seeking a reduction in regulation of hazardous waste that has been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is used like a commodity, may petition under this subpart. The agency's decision to grant the petition shall be based on the following standards and criteria:

(1) the degree of processing the hazardous waste has undergone and the degree of further processing that is required;

(2) the value of the hazardous waste after it has been reclaimed;

(3) the degree to which the reclaimed hazardous waste is like an analogous raw material;

(4) the extent to which an end market for the reclaimed hazardous waste is guaranteed;

(5) the extent to which the reclaimed hazardous waste is handled to minimize loss; and

(6) any additional information the director may reasonably request that may be required to evaluate the petition.

Subp. 4. **Petition to be classified as a boiler.** In accordance with the definition of boiler in part 7045.0020, the director may determine that certain enclosed devices using

controlled flame combustion are boilers, although they do not otherwise meet the definition of boiler, based on the following standards and criteria:

A. the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases;

B. the extent to which the combustion chamber and energy recovery equipment are of integral design;

C. the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of fuel;

D. the extent to which the exported energy is utilized;

E. the extent to which the device is in common and customary use as a "boiler" functioning to produce steam, heated fluids, or heated gases; and

F. any additional information the director may reasonably request which may be required to evaluate the petition.

7045.0120 EXEMPT WASTES.

The following wastes may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

A. to L. [Unchanged.]

M. used oil which does not contain waste listed in part 7045.0135 and is to be recycled;

N. [Unchanged.]

O. pulping liquors (for example, black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in part 7045.0020; or

P. spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in part 7045.0020.

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

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RECLAMATION.

Subpart 1. **Scope.** This part regulates hazardous waste that is to be recycled except for use constituting disposal as provided in ~~parts~~ part 7045.0665, hazardous waste utilized for precious metals recovery as provided in part 7045.0675~~, and~~; or spent lead-acid batteries being reclaimed as provided in part 7045.0685.

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Subp. 2. [See Repealer.]

Subp. 3. [Unchanged.]

Subp. 4. **Management of specific hazardous wastes.** Management of the following wastes when recycled, is not subject to regulation under parts 7045.0205 to 7045.0685: industrial ethyl alcohol that is reclaimed; used batteries or used battery cells returned to a battery manufacturer for regeneration; and scrap metal.

Subp. 5. **Requirements for use of hazardous wastes as feedstock.**

A. Except as provided in items B to D, hazardous wastes that are shown to be recycled by being utilized in a manner specified in subitems (1) to (3), are not subject to regulation under parts 7045.0205 to 7045.0685. This subpart does not apply to wastes being accumulated speculatively as defined in part 7045.0020, or being managed by use constituting disposal, or burning for energy recovery, as regulated under part 7045.0665, or subpart 10. Hazardous wastes are considered to be used as feedstock if they are:

(1) used or reused as ingredients in an industrial process to make a product, provided the hazardous wastes are not being reclaimed;

(2) used or reused as effective substitutes for commercial products; or

(3) returned to the original process from which they are generated, without first being reclaimed. The hazardous waste must be returned as a substitute for raw material feedstock, and the process must use raw materials as principal feedstocks.

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B. Generators of hazardous wastes for use as feedstock are subject to the following requirements:

(1) parts 7045.0214 to 7045.0217;

(2) parts 7045.0220 to 7045.0249;

(3) part 7045.0296, subpart 5;

(4) within 45 days of shipment, the generator must provide the director a copy of the shipping papers confirming that the hazardous waste was delivered to the designated facility as indicated in the management plan; and

(5) the generator must keep records showing: the volume of these wastes stored at the beginning of the calendar year; the amount of these hazardous wastes generated during the calendar year; the amount of these hazardous wastes used as a feedstock during the calendar year; and the amount of these hazardous wastes remaining at the end of the calendar year.

C. Transporters of hazardous wastes for use as feedstock must comply with all applicable requirements of Minnesota Statutes, section 221.033, and Code of Federal Regulations, title 49, parts 171 to 179.

D. Owners or operators of facilities that manage hazardous wastes for use as feedstock are subject to the following requirements:

(1) prior to receiving the waste, as a designated facility, the owner or operator must provide the director with written evidence to document that the hazardous waste is used as specified in item A and that the facility has the equipment necessary to manage the hazardous waste; and

(2) the owner or operator must keep records showing: the volume of these hazardous wastes stored at the beginning of the calendar year; the amount of these wastes received during the calendar year; the amount of these hazardous wastes used as a feedstock during the calendar year; and the amount of these hazardous wastes remaining at the end of the calendar year.

Subp. 6. **Requirements for reclamation of specific hazardous wastes.**

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

(1) Generators of such a hazardous waste are subject to regulation under parts 7045.0214 to 7045.0217; 7045.0220 to 7045.0255; and 7045.0296, subpart 5. In addition, within 45 days of shipment the generator must provide the director a copy of the shipping papers confirming that the waste was delivered to the designated facility as indicated in the management plan. The generator must keep records showing: the volume of such hazardous wastes stored at the beginning of the calendar year; the amount of these wastes generated during the calendar year; the amount of such waste reclaimed during the calendar year; and the amount of such hazardous wastes remaining at the end of the calendar year.

(2) Transporters of such a hazardous waste must comply with all applicable requirements of Minnesota Statutes, section 221.033, and Code of Federal Regulations, title 49, parts 171 to 179.

(3) Owners or operators of designated facilities receiving a hazardous characteristic by-product or sludge must provide written evidence to the director prior to receiving such hazardous waste that the owner or operator has the equipment and capability to reclaim such hazardous waste, and must keep records showing: the volumes of such hazardous waste stored at the beginning of the year; the amount of such hazardous waste received during the calendar year; the amount of such hazardous waste reclaimed during the calendar year; and the amount of such hazardous waste remaining at the end of the calendar year.

B. This subpart does not apply to hazardous wastes being accumulated speculatively as defined in part 7045.0020 or being managed by use constituting disposal, as regulated under part 7045.0665 or being burned for energy recovery under subpart 10.

Subp. 7. **Generator requirements.** Except as provided in subpart 4, 5, 6, or 10, generators of hazardous waste destined

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for recycle, are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 8. **Transporter requirements.** Except as provided in subpart 4, 5, 6, or 10, transporters of hazardous waste destined for recycle are subject to the requirements of parts 7045.0351 to 7045.0397.

Subp. 9. **Facility requirements.** Except as provided in subpart 4, 5, 6, or 10, owners or operators of facilities which 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, 7045.0552 to 7045.0632, and chapter 7001.

B. If the recyclable hazardous waste is recycled without storing before recycling, the owners or operators are subject to the requirements of parts 7045.0556, subpart 2; 7045.0580; and 7045.0582.

Subp. 10. **Hazardous waste which is beneficially used by burning.** Hazardous waste that is transported or stored prior to a beneficial use by burning is subject to regulation under the following:

A. A waste that is hazardous solely due to ignitability and is transported or stored prior to a beneficial use involving burning is subject to the agency's permitting procedures in chapter 7001 for hazardous waste storage facilities and the requirements of parts 7045.0205 to 7045.0534, 7045.0544, 7045.0552 to 7045.0632, and 7045.1000 to 7045.1030.

B. A hazardous waste that is a sludge, or is or contains a waste listed in part 7045.0135 for reasons other than ignitability, or is or contains a waste that is toxic under part 7045.0131, subpart 6, and is transported or stored prior to a beneficial use involving burning is subject to the agency's permitting procedures in chapter 7001 for hazardous waste storage facilities and the following requirements: parts 7045.0205 to 7045.0534; 7045.0544; 7045.0542, except subpart 4,

item C, and subpart 7, item A, subitem (2); 7045.0552 to 7045.0632; 7045.0640; and 7045.1000 to 7045.1030; and must apply for or have an air quality facility permit as required.

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. [Unchanged.]

Subp. 2. **Hazardous wastes from nonspecific sources.**

Hazardous wastes from nonspecific sources are listed as follows:

Hazardous Waste No.	Hazardous Waste	Hazard Code
Generic:		
F001	The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons, and sludges from the recovery of these solvents in degreasing operations	(T)
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, orthodichlorobenzene, and trichlorofluoromethane, and the still bottoms from the recovery of these solvents	(T)
F003	The following spent nonhalogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol, and the still bottoms from the recovery of these solvents	(I)
F004	The following spent nonhalogenated solvents: cresols and cresylic acid, and nitrobenzene, and the still bottoms from the recovery of these solvents	(T)
F005	The following spent nonhalogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, and pyridine, and the still bottoms from the recovery of these solvents	(I,T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum, (2) tin plating on carbon steel, (3) zinc plating (segregated basis) on carbon steel, (4) aluminum or zinc-aluminum plating on carbon steel, (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel, and (6) chemical etching and milling of aluminum	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum	(T)
F007	Spent cyanide plating bath solutions from electroplating operations	(R,T)
F008	Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process	(R,T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process	(R,T)
F010	Quenching bath residues from oil baths from metal heat-treating operations where cyanides are used in the process	(R,T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat-treating operations	(R,T)
F012	Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process	(T)

Subp. 3. [Unchanged.]

Subp. 4. **Discarded commercial chemical products, off-specification species, containers, and spill residues.** The following materials or items are hazardous wastes when they are discarded or intended to be discarded as defined in part 7045.0020, when they are burned for purposes of energy recovery in lieu of their original intended use, when they are used to produce fuels in lieu of their original intended use, when they are applied to the land in lieu of their original intended use, or when they are contained in products that are applied to the land in lieu of their original intended use.

A. to F. [Unchanged.]

Subp. 5. [Unchanged.]

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. 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.

Subp. 2. [Unchanged.]

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 and C, 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, 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.

B. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel

industry, standard industrial classification codes 331 and 332, is not a hazardous waste unless it exhibits one or more characteristics of hazardous waste under part 7045.0131.

C. Materials that have been reclaimed from hazardous wastes and from wastes that have been reclaimed that are beneficially used are not hazardous wastes unless the reclaimed material is used in a manner constituting disposal under part 7045.0665 or burned for energy recovery under part 7045.0125, subpart 10.

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. **Applicability; quantities.** A generator is a small quantity generator subject to the requirements of subparts 2 to 6 if, in a calendar month, he generates less than:

A. a total of 1,000 kilograms of hazardous waste not listed in part 7045.0135, subpart 4, item E; and

B. a total of one kilogram of commercial chemical products and manufacturing chemical intermediates having the generic names listed in part 7045.0135, subpart 4, item E and off-specification commercial chemical products and manufacturing chemical intermediates which, if they met specification, would have the generic names listed in part 7045.0135, subpart 4, item E; and

C. a total of 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any commercial chemical products or manufacturing chemical intermediates having the generic names listed in part 7045.0135, subpart 4, item E, or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification commercial chemical products or manufacturing chemical intermediates which, if they met specification would have the generic names listed in part 7045.0135, subpart 4, item E.

A generator shall not consider the wastes specified under

part 7045.0125, subparts 4, 5, and 6 when calculating the volume of waste generated.

Subp. 2. to 6. [Unchanged.]

7045.0296 ANNUAL REPORTING.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Wastes which are recycled.** Generators of wastes that are recycled in accordance with the provisions of part 7045.0125 and are exempt from the requirements of parts 7045.0261 and 7045.0265 must include the following information in the annual report:

A. evidence that the waste was recycled as indicated in the management plan; and

B. evidence that a continuing market exists for the waste.

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Exemptions.** Parts 7045.0450 to 7045.0544 do not apply to the following:

A. the owner or operator of a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685~~, except to the extent that~~; however, this exemption does not apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 ~~apply and~~ make makes the requirements of parts 7045.0450 to 7045.0544 applicable~~,~~ by cross-reference.

FF 7d

B. to J. [Unchanged.]

7045.0542 THERMAL TREATMENT.

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

A. This part applies to owners and operators of facilities that thermally treat hazardous waste, except as part 7045.0450 provides otherwise. The following facility owners or operators are considered to thermally treat hazardous waste: owners or operators of hazardous waste incinerators as defined in part 7045.0020; and owners or operators who burn hazardous

waste in boilers or in industrial furnaces in order to destroy the waste.

B. to F. [Unchanged.]

Subp. 2. to 9. [Unchanged.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Exemptions.** The requirements of parts 7045.0522 to 7045.0642 do not apply to:

A. [Unchanged.]

B. The owner or operator of a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685~~, except to the extent that~~; however, this exemption does not apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 ~~apply, and make~~ makes the requirements of parts ~~7045.0450~~ 7045.0522 to ~~7045.0544~~ 7045.0642 applicable by cross-reference.

C. to J. [Unchanged.]

7045.0640 THERMAL TREATMENT FACILITIES.

Subpart 1. **Scope.** This part applies to owners and operators of facilities that thermally treat hazardous waste, except as part 7045.0552 provides otherwise.

The following facility owners or operators are considered to thermally treat hazardous waste: owners or operators of hazardous waste incinerators as defined in part 7045.0020; and owners or operators who burn hazardous wastes in boilers or in industrial furnaces in order to destroy the wastes.

Owners and operators of thermal treatment facilities that thermally treat hazardous waste are exempt from all the requirements of this part except subpart 5, if the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain constituents listed in part 7045.0141, and the documentation is kept at the facility, and the waste to be treated is:

A. to D. [Unchanged.]

Subp. 2 to 6. [Unchanged.]

7045.0665 USE CONSTITUTING DISPOSAL.

Subpart 1. **Scope.** This part applies to hazardous wastes that are used in a manner constituting disposal. For the purposes of this part, use constituting disposal means the application or placement of recyclable wastes in or on the land:

A. without mixing with other substances;

B. after mixing with any other substances unless the recyclable waste undergoes a chemical reaction so as to become inseparable from the other substances by physical means; or

C. after combination with any other substances if the resulting material is not produced for the general public's use. Products produced for the general public's use that are used in a manner constituting disposal and that contain recyclable wastes that have undergone a chemical reaction in the course of producing a product so as to become inseparable by physical means are exempt from regulation under this part. Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation under this chapter. } FF 7f.

Subp. 2. **Standards applicable to generators of wastes used in a manner that constitutes disposal.** Generators of wastes that are used in a manner that constitutes disposal are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 3. **Standards applicable to transporters of wastes used in a manner that constitutes disposal.** Transporters of wastes that are used in a manner that constitutes disposal are subject to the requirements of parts 7045.0351 to 7045.0397.

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 are not the ultimate users of the wastes are subject to all applicable provisions of parts

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7045.0450 to 7045.0534, 7045.0544, 7045.0552 to 7045.0632, 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 7045.0450 to 7045.0538, 7045.0544, 7045.0552 to 7045.0638, and chapter 7001.

7045.0675 RECYCLABLE HAZARDOUS WASTE UTILIZED FOR PRECIOUS METAL RECOVERY.

Subpart 1. **Scope.** This part applies to recyclable hazardous waste that is reclaimed to recover economically significant amounts of gold, silver, platinum, paladium, irridium, osmium, rhodium, ruthenium, or any combination of these.

Subp. 2. **Requirements for generators.** Generators of recyclable hazardous waste regulated under this part are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 3. **Requirements for transporters.** Transporters of recyclable hazardous waste regulated under this part are subject to the requirements of parts 7045.0351 to 7045.0397.

Subp. 4. **Requirements for persons who store.** Persons who store recyclable hazardous waste that is regulated under this part are subject to the following requirements:

A. If the hazardous waste is not being accumulated speculatively as defined in part 7045.0020, the following apply:

(1) parts 7045.0556, subpart 2, 7045.0580, and 7045.0582;

(2) the generator and facility <u>owner or operator</u> must keep records showing: the volume of the hazardous wastes stored at the beginning of the calendar year; the amount of the hazardous wastes generated or received during the calendar year; and the amount of hazardous wastes remaining at the end of the calendar year.

ff 7g

B. If the hazardous waste is being accumulated speculatively as defined in part 7045.0020, the recyclable

hazardous waste is subject to all applicable requirements of parts 7045.0205 to 7045.0642 and chapter 7001.

7045.0685 SPENT LEAD-ACID BATTERIES BEING RECLAIMED.

Subpart 1. **Scope.** The requirements of this part apply to persons who generate, transport, collect, store, or reclaim spent lead-acid batteries that are recyclable. Except as provided in subpart 2, persons who generate, transport, or collect spent batteries, or who store spent batteries but do not reclaim them are not subject to regulation under parts 7045.0205 to 7045.0685 and chapter 7001 for such generation, transportation, and storage of spent batteries. For the purpose of this part, indoor storage is storage within a permanently constructed building consisting of at least a roof and three walls permanently affixed to a masonry or other composition floor placed on the ground.

Subp. 2. **Standards for storage of spent batteries.** Storage of spent batteries by persons who do not reclaim them is subject to the following requirements:

A. Storage of batteries indoors shall be on an impermeable curbed surface and provisions shall be made to recontainerize leaking or broken batteries, with regular inspection to assure the integrity of the stored batteries.

B. Storage of spent batteries in a manner other than by indoor storage as defined in subpart 1 shall be subject to the following requirements:

(1) If the storage does not meet the criteria of speculative accumulation as described in part 7045.0020, the storage is subject to the following requirements: storage shall be on an impermeable curbed surface and provisions shall be made to recontainerize leaking or broken batteries, with regular inspection to assure the integrity of the stored batteries; and the requirements of part 7045.0526, subparts 2 to 6, and 9.

(2) If the storage of spent batteries meets the criteria of speculative accumulation as defined in part 7045.0020, the storage is subject to the following

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requirements: parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

Subp. 3. **Standards for owners or operators of facilities that store spent batteries before reclaiming them.** The owners or operators of facilities that store batteries before reclaiming them are subject to regulation under parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

REPEALER. Minnesota Rules, parts 7045.0020, subpart 69; 7045.0125, subpart 2; and 7045.0142 are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 15 1986
Joan Anderson Growe
Secretary of State

9:05 AM

APPROVED AS TO FORM AND LEGALITY
January 14 1986
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Pollution Control Agency

Proposed Rules Relating to Hazardous Waste Recycling and Reuse

Rules as Proposed

7001.0520 PERMIT REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Exclusions.** A person who conducts any of the following activities is not required to obtain a hazardous waste facility permit for that activity:

A. The accumulation by generators of hazardous waste on site for fewer than 90 days as provided in part 7045.0292.

B. The disposal by farmers of hazardous wastes that have been generated by their own use of pesticides as provided in part 7045.0304.

C. The ownership or operation of a totally enclosed treatment facility as defined in part 7045.0020.

D. The storage by transporters of manifested shipments of hazardous waste in containers that meet the requirements of part 7045.0270, subpart 4, at a transfer facility for a period of ten days or fewer as provided in part 7045.0365.

E. An activity conducted to immediately contain or treat a spill or an imminent and substantial threat of a spill of hazardous waste or a material that, when spilled, becomes a hazardous waste. This exclusion does not apply to a person who treats, stores, or disposes of the spilled material or spill residue or debris after the immediate response activities have been completed.

F. The addition of absorbent material to hazardous waste in a container, or the addition of hazardous waste to absorbent material in a container, if the addition occurs at the time waste is first placed in the container, and if the addition is accomplished in accordance with parts 7045.0456, subpart 2, and 7045.0526, subparts 2 and 3.

G. ~~The ownership or operation of a facility that is~~

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~~used to manage hazardous waste described in part 7045.0125, subpart 2, item A or B, that is to be beneficially used, reused, recycled, or reclaimed, unless part 7045.0125, subpart 2, item A, subitem (10) provides otherwise.~~

~~H.~~ To the extent provided by part 7045.0125, ~~subpart 2, item C, B, or E,~~ the ownership or operation of a facility that ~~beneficially uses, reuses,~~ recycles, ~~or reclaims~~ hazardous waste.

~~I.~~ H. The management of hazardous waste as provided in part 7045.0120, item L; 7045.0127, subpart 1; 7045.0135, subpart 5, items C and E; 7045.0218; or 7045.0219, subpart 2.

I. To the extent provided by part 7045.0675, the ownership or operation of a facility that stores or reclaims hazardous waste for recovery of economically significant amounts of precious metals.

J. To the extent provided in part 7045.0685, the ownership or operation of a facility that stores or reclaims spent lead-acid batteries.

Subp. 3. and 4. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. to 6. [Unchanged.]

Subp. 6a. **Boiler.** "Boiler" means an enclosed device using controlled flame combustion and having the characteristics specified in item A or B.

A. (1) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluid, or heated gases.

(2) The unit's combustion chamber and primary energy recovery sections must be of integral design (physically formed into one manufactured or assembled unit). A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; secondary energy recovery equipment (such as air preheaters or economizers) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. Process heaters which

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transfer energy directly to a process stream and fluidized bed combustion units are not precluded from being considered boilers under this definition solely because they are not of integral design.

(3) While in operation, the unit must maintain a thermal energy efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel.

(4) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. No credit shall be given for recovered heat used internally in the same unit for purposes such as preheating fuel or combustion air or the driving of induced or forced draft fans or feedwater pumps.

B. The unit is one which the director has determined meets the criteria for a boiler after considering the standards in part 7045.0075, subpart 4.

Subp. 6b. **By-product.** "By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms.

Subp. 7. to 14. [Unchanged.]

Subp. 15. **Designated facility.** "Designated facility" means a hazardous waste treatment, storage, or disposal facility which:

A. (1) has received interim status;

(2) has received an agency permit, ~~or~~

(3) is subject to the requirements of part 7045.0125, subpart 5, 6, or 10, or subpart 9, item B, or part 7045.0685; or

(4) if located outside Minnesota, has been exempted from the requirements to obtain a permit by the United States Environmental Protection Agency, has either received an Environmental Protection Agency permit or a permit from an authorized state, or has interim status; and

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B. has been designated on the manifest by the generator pursuant to part 7045.0261, or has been designated on a shipping paper or management plan required by part 7045.0125.

Subp. 16. and 17. [Unchanged.]

Subp. 18. **Discarded.** "Discarded" means abandoned by being:

A. disposed of;

B. burned or incinerated~~, except where the material is being burned as a fuel for the purpose of recovering useable energy~~; or

C. ~~physically, chemically, or biologically treated (other than burned or incinerated) in lieu of or prior to being disposed of~~ accumulated, stored, or treated, but not recycled, before or in lieu of being disposed of, burned, or incinerated.

Subp. 19. to 34. [Unchanged.]

Subp. 35. **Hazardous waste incinerator.** "Hazardous waste incinerator" means an enclosed device using controlled flame combustion, a purpose of which is to thermally break down hazardous waste~~. Examples of incinerators are rotary kiln, fluidized bed, and liquid injection incinerators~~ and that neither meets the criteria for classification as a boiler nor is listed or can be classified as an industrial furnace.

Subp. 36. to 43. [Unchanged.]

Subp. 43a. **Industrial furnace.** "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy: cement kilns; lime kilns; aggregate kilns; phosphate kilns; coke ovens; blast furnaces; smelting, melting, and refining furnaces; titanium dioxide chloride process oxidation reactors; methane reforming furnaces; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and such other devices as the director determines qualify for inclusion based on one or more of the following factors:

A. the design and use of the device primarily to accomplish recovery of material products;

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B. the use of the device to burn or reduce raw materials to make a material product;

C. the use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as feedstocks;

D. the use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product; or

E. the use of the device in common industrial practice to produce a material product.

Subp. 44. to 62. [Unchanged.]

Subp. 63. **Other waste material.** "Other waste material" means any solid, liquid, semi-solid, or gaseous material, resulting from industrial, commercial, mining, or agricultural operations, or from community activities, and which:

A. is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded; or

B. ~~has-served-its-original-intended-use-and-sometimes-is-discarded~~ is recycled or is accumulated, stored, or treated prior to being recycled; or

C. is a ~~manufacturing-or-mining-by-product-and-sometimes-is-discarded~~ spent material or by-product.

Subp. 64. to 68. [Unchanged.]

Subp. 69. [See Repealer.]

Subp. 70. to 73. [Unchanged.]

Subp. 73a. **Reclamation.** "Reclamation" means the processing or regeneration of a waste to recover a usable product. Examples are the recovery of lead values from spent batteries and regeneration of spent solvents.

Subp. 73b. **Recycle.** "Recycle" means the reclamation, reuse, or use of a hazardous waste.

Subp. 74. and 75. [Unchanged.]

Subp. 75a. **Reuse.** "Reuse" means employing a waste as an ingredient in an industrial process to make a product or as an effective substitute for a commercial product, provided that

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distinct components of the waste are not recovered as end products.

Subp. 76. to 79. [Unchanged.]

Subp. 79a. **Scrap metal.** "Scrap metal" means bits and pieces of metal parts (for example, bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (for example, radiators, scrap automobiles, railroad box cars) which when worn or superfluous can be recycled.

Subp. 80. to 84. [Unchanged.]

Subp. 84a. **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. **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.

Subp. 85. to 100. [Unchanged.]

Subp. 100a. **Used oil.** "Used oil" means any oil which has been refined from crude oil, used, and as a result of such use has become contaminated by physical or chemical impurities.

Subp. 101. to 108. [Unchanged.]

7045.0075 PETITIONS.

Subpart 1. and 2. [Unchanged.]

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

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requirements for the following recycled hazardous wastes.

A. Any person seeking a reduction in regulation of hazardous wastes that are accumulated speculatively as defined in part 7045.0020 without sufficient amounts being recycled as defined in part 7045.0020 may petition under this subpart. The petitioner must demonstrate to the satisfaction of the agency that sufficient amounts will be recycled or transferred for recycling in the following year. Such a reduction in regulation is valid only for the following year, but may be renewed on an annual basis by filing a new petition. The agency's decision to grant the petition shall be based on the following standards and criteria:

(1) the manner in which the hazardous waste is to be recycled, where the waste is expected to be recycled, and whether the expected disposition is likely to be affected by past practice, market factors, the nature of the hazardous waste, or contractual arrangements for recycling;

(2) the reason that the applicant has accumulated the hazardous waste for one or more years without recycling 75 percent of the volume accumulated at the beginning of the previous year;

(3) the quantity of the hazardous waste already accumulated and the quantity expected to be generated and accumulated before the hazardous waste is recycled;

(4) the extent to which the hazardous waste is handled to minimize loss; and

(5) any additional information the director may reasonably request which may be required to evaluate the petition.

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:

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(1) how economically viable the production process would be if it were to use virgin materials rather than the reclaimed hazardous waste;

(2) the prevalence of the practice on an industry-wide basis;

(3) the extent to which the hazardous waste is handled before reclamation to minimize loss;

(4) the time periods between generating the hazardous waste and its reclamation, and between reclamation and return to the original primary production process;

(5) the location of the reclamation operation in relation to the production process;

(6) whether the hazardous waste as reclaimed is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

(7) whether the person who generates the hazardous waste also reclaims it; and

(8) any additional information the director may reasonably request which may be required to evaluate the petition.

C. Any person seeking a reduction in regulation of hazardous waste that has been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is used like a commodity, may petition under this subpart. The agency's decision to grant the petition shall be based on the following standards and criteria:

(1) the degree of processing the hazardous waste has undergone and the degree of further processing that is required;

(2) the value of the hazardous waste after it has been reclaimed;

(3) the degree to which the reclaimed hazardous waste is like an analogous raw material;

(4) the extent to which an end market for the

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reclaimed hazardous waste is guaranteed;

(5) the extent to which the reclaimed hazardous waste is handled to minimize loss; and

(6) any additional information the director may reasonably request that may be required to evaluate the petition.

Subp. 4. **Petition to be classified as a boiler.** In accordance with the definition of boiler in part 7045.0020, the director may determine that certain enclosed devices using controlled flame combustion are boilers, although they do not otherwise meet the definition of boiler, based on the following standards and criteria:

A. the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases;

B. the extent to which the combustion chamber and energy recovery equipment are of integral design;

C. the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of fuel;

D. the extent to which the exported energy is utilized;

E. the extent to which the device is in common and customary use as a "boiler" functioning to produce steam, heated fluids, or heated gases; and

F. any additional information the director may reasonably request which may be required to evaluate the petition.

7045.0120 EXEMPT WASTES.

The following wastes may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

A. to L. [Unchanged.]

M. ~~petroleum-derived-waste-oils~~ used oil which ~~do~~ does not contain waste listed in part 7045.0135 and ~~are~~ is to be ~~beneficially-used,-reused,~~ recycled~~,-or-reclaimed~~; ~~or~~

N. [Unchanged.]

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O. ~~scrap-metal-which-is-not-hazardous-because-of-a hazardous-characteristic-other-than-toxicity,-is-not-a-waste listed-in-part-7045.0135-and-is-to-be-beneficially-used,-reused, recycled,-or-reclaimed.--Scrap-metal-means-manufactured-metal objects-and-products,-metal-workings-including-but-not-limited to-sandings,-grindings,-shavings,-cuttings,-turnings,-and stampings,-and-solid-metallic-residues-of-metal-production excluding-sludges,-air-pollution-control-dusts,-semi-solids,-and liquid-solutions~~ pulping liquors (for example, black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in part 7045.0020; or

P. spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in part 7045.0020.

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

Subpart 1. **Scope.** This part regulates hazardous waste that is to be ~~beneficially-used,-reused,-or-legitimately~~ recycled ~~or-reclaimed~~ except as provided in parts 7045.0665, 7045.0675, and 7045.0685.

Subp. 2. [See Repealer.]

Subp. 3. [Unchanged.]

Subp. 4. **Management of specific hazardous wastes.** Management of the following wastes when recycled, is not subject to regulation under parts 7045.0205 to 7045.0685: industrial ethyl alcohol that is reclaimed; used batteries or used battery cells returned to a battery manufacturer for regeneration; and scrap metal.

Subp. 5. **Requirements for use of hazardous wastes as feedstock.**

A. Except as provided in items B to D, hazardous wastes that are shown to be recycled by being utilized in a manner specified in subitems (1) to (3), are not subject to regulation under parts 7045.0205 to 7045.0685. This subpart does not apply to wastes being accumulated speculatively as

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defined in part 7045.0020, or being managed by use constituting disposal, or burning for energy recovery, as regulated under part 7045.0665, or subpart 10. Hazardous wastes are considered to be used as feedstock if they are:

(1) used or reused as ingredients in an industrial process to make a product, provided the hazardous wastes are not being reclaimed;

(2) used or reused as effective substitutes for commercial products; or

(3) returned to the original process from which they are generated, without first being reclaimed. The hazardous waste must be returned as a substitute for raw material feedstock, and the process must use raw materials as principal feedstocks.

B. Generators of hazardous wastes for use as feedstock are subject to the following requirements:

(1) parts 7045.0214 to 7045.0217;

(2) parts 7045.0220 to 7045.0249;

(3) part 7045.0296, subpart 5;

(4) within 45 days of shipment, the generator must provide the director a copy of the shipping papers confirming that the hazardous waste was delivered to the designated facility as indicated in the management plan; and

(5) the generator must keep records showing: the volume of these wastes stored at the beginning of the calendar year; the amount of these hazardous wastes generated during the calendar year; the amount of these hazardous wastes used as a feedstock during the calendar year; and the amount of these hazardous wastes remaining at the end of the calendar year.

C. Transporters of hazardous wastes for use as feedstock must comply with all applicable requirements of Minnesota Statutes, section 221.033, and Code of Federal Regulations, title 49, parts 171 to 179.

D. Owners or operators of facilities that manage hazardous wastes for use as feedstock are subject to the following requirements:

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(1) prior to receiving the waste, as a designated facility, the owner or operator must provide the director with written evidence to document that the hazardous waste is used as specified in item A and that the facility has the equipment necessary to manage the hazardous waste; and

(2) the owner or operator must keep records showing: the volume of these hazardous wastes stored at the beginning of the calendar year; the amount of these wastes received during the calendar year; the amount of these hazardous wastes used as a feedstock during the calendar year; and the amount of these hazardous wastes remaining at the end of the calendar year.

Subp. 6. **Requirements for reclamation of specific hazardous wastes.**

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

(1) Generators of such a hazardous waste are subject to regulation under parts 7045.0214 to 7045.0217; 7045.0220 to 7045.0255; and 7045.0296, subpart 5. In addition, within 45 days of shipment the generator must provide the director a copy of the shipping papers confirming that the waste was delivered to the designated facility as indicated in the management plan. The generator must keep records showing: the volume of such hazardous wastes stored at the beginning of the calendar year; the amount of these wastes generated during the calendar year; the amount of such waste reclaimed during the calendar year; and the amount of such hazardous wastes remaining at the end of the calendar year.

(2) Transporters of such a hazardous waste must comply with all applicable requirements of Minnesota Statutes, section 221.033, and Code of Federal Regulations, title 49, parts 171 to 179.

(3) Owners or operators of designated facilities receiving a hazardous characteristic by-product or sludge must provide written evidence to the director prior to receiving such

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hazardous waste that the owner or operator has the equipment and capability to reclaim such hazardous waste, and must keep records showing: the volumes of such hazardous waste stored at the beginning of the year; the amount of such hazardous waste received during the calendar year; the amount of such hazardous waste reclaimed during the calendar year; and the amount of such hazardous waste remaining at the end of the calendar year.

B. This subpart does not apply to hazardous wastes being accumulated speculatively as defined in part 7045.0020 or being managed by use constituting disposal, as regulated under part 7045.0665 or being burned for energy recovery under subpart 10.

Subp. 7. **Generator requirements.** Except as provided in subpart 4, 5, 6, or 10, generators of hazardous waste destined for recycle, are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 8. **Transporter requirements.** Except as provided in subpart 4, 5, 6, or 10, transporters of hazardous waste destined for recycle are subject to the requirements of parts 7045.0351 to 7045.0397.

Subp. 9. **Facility requirements.** Except as provided in subpart 4, 5, 6, or 10, owners or operators of facilities which 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, 7045.0552 to 7045.0632, and chapter 7001.

B. If the recyclable hazardous waste is recycled without storing before recycling, the owners or operators are subject to the requirements of parts 7045.0556, subpart 2; 7045.0580; and 7045.0582.

Subp. 10. **Hazardous waste which is beneficially used by burning.** Hazardous waste that is transported or stored prior to a beneficial use by burning is subject to regulation under the following:

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A. A waste that is hazardous solely due to ignitability and is transported or stored prior to a beneficial use involving burning is subject to the agency's permitting procedures in chapter 7001 for hazardous waste storage facilities and the requirements of parts 7045.0205 to 7045.0534, 7045.0544, 7045.0552 to 7045.0632, and 7045.1000 to 7045.1030.

B. A hazardous waste that is a sludge, or is or contains a waste listed in part 7045.0135 for reasons other than ignitability, or is or contains a waste that is toxic under part 7045.0131, subpart 6, and is transported or stored prior to a beneficial use involving burning is subject to the agency's permitting procedures in chapter 7001 for hazardous waste storage facilities and the following requirements: parts 7045.0205 to 7045.0534; 7045.0544; 7045.0542, except subpart 4, item C, and subpart 7, item A, subitem (2); 7045.0552 to 7045.0632; 7045.0640; and 7045.1000 to 7045.1030; and must apply for or have an air quality facility permit as required.

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. [Unchanged.]

Subp. 2. **Hazardous wastes from nonspecific sources.**

Hazardous wastes from nonspecific sources are listed as follows:

Hazardous Waste No.	Hazardous Waste	Hazard Code
Generic:		
F001	The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons, and sludges from the recovery of these solvents in degreasing operations	(T)
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, orthodichlorobenzene, and trichlorofluoromethane, and the still bottoms from the recovery of these solvents	(T)
F003	The following spent nonhalogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol, and the still bottoms from the recovery of these solvents	(I)
F004	The following spent nonhalogenated solvents: cresols and cresylic acid, and nitrobenzene, and the still bottoms from the recovery of these solvents	(T)
F005	The following spent nonhalogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, and pyridine, and the still bottoms from the recovery of these solvents	(I,T)
F006	Wastewater treatment sludges from electroplating	(T)

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operations except from the following processes: (1) sulfuric acid anodizing of aluminum, (2) tin plating on carbon steel, (3) zinc plating (segregated basis) on carbon steel, (4) aluminum or zinc-aluminum plating on carbon steel, (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel, and (6) chemical etching and milling of aluminum

F019 Wastewater treatment sludges from the chemical conversion coating of aluminum (T)

F007 Spent cyanide plating bath solutions from electroplating operations~~, except for precious metals electroplating spent cyanide plating bath solutions~~ (R,T)

F008 Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process~~, except for precious metals electroplating plating bath sludges~~ (R,T)

F009 Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process~~, except for precious metals electroplating spent stripping and cleaning bath solutions~~ (R,T)

F010 Quenching bath ~~sludge~~ residues from oil baths from metal heat-treating operations where cyanides are used in the process~~, except for precious metals heat treating quenching bath sludges~~ (R,T)

F011 Spent cyanide solutions from salt bath pot cleaning from metal heat-treating operations~~, except for precious metals heat treating spent cyanide solutions from salt bath pot cleaning~~ (R,T)

F012 Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process~~, except for precious metals heat treating quenching wastewater treatment sludges~~ (T)

Subp. 3. [Unchanged.]

Subp. 4. **Discarded commercial chemical products, off-specification species, containers, and spill residues.** The following materials or items are hazardous wastes ~~if and~~ when they are discarded or intended to be discarded~~:~~ as defined in part 7045.0020, when they are burned for purposes of energy recovery in lieu of their original intended use, when they are used to produce fuels in lieu of their original intended use, when they are applied to the land in lieu of their original intended use, or when they are contained in products that are applied to the land in lieu of their original intended use.

A. to F. [Unchanged.]

Subp. 5. [Unchanged.]

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

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is hazardous. 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.

Subp. 2. [Unchanged.]

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 ~~item~~ items B and C, 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, 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.

B. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry, standard industrial classification codes 331 and 332, is not a hazardous waste unless it exhibits one or more characteristics of hazardous waste under part 7045.0131.

C. Materials that have been reclaimed from hazardous wastes and from wastes that have been reclaimed that are beneficially used are not hazardous wastes unless the reclaimed material is used in a manner constituting disposal under part 7045.0665 or burned for energy recovery under part 7045.0125, subpart 10.

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. **Applicability; quantities.** A generator is a small quantity generator subject to the requirements of subparts 2 to 6 if, in a calendar month, he generates less than:

A. a total of 1,000 kilograms of hazardous waste not listed in part 7045.0135, subpart 4, item E; and

B. a total of one kilogram of commercial chemical products and manufacturing chemical intermediates having the

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generic names listed in part 7045.0135, subpart 4, item E and off-specification commercial chemical products and manufacturing chemical intermediates which, if they met specification, would have the generic names listed in part 7045.0135, subpart 4, item E; and

C. a total of 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any commercial chemical products or manufacturing chemical intermediates having the generic names listed in part 7045.0135, subpart 4, item E, or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification commercial chemical products or manufacturing chemical intermediates which, if they met specification would have the generic names listed in part 7045.0135, subpart 4, item E.

A generator shall not consider the wastes specified under part 7045.0125, subparts 4, 5, and 6 when calculating the volume of waste generated.

Subp. 2. to 6. [Unchanged.]

7045.0296 ANNUAL REPORTING.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Wastes which are recycled.** Generators of wastes that are recycled in accordance with the provisions of part 7045.0125 and are exempt from the requirements of parts 7045.0261 and 7045.0265 must include the following information in the annual report:

A. evidence that the waste was recycled as indicated in the management plan; and

B. evidence that a continuing market exists for the waste.

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Exemptions.** Parts 7045.0450 to 7045.0544 do not apply to the following:

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A. the owner or operator of a facility ~~which treats or stores hazardous waste if the treatment or storage meets the criteria in parts 7045.0125, subpart 2, item A or B except to the extent that part 7045.0125, subpart 2, item A, subitem (9), C, D, or E provides otherwise and part 7045.0292, subpart 1, items E to G is complied with~~ managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685, except to the extent that part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 apply and make the requirements of parts 7045.0450 to 7045.0544 applicable;

B. to J. [Unchanged.]

7045.0542 THERMAL TREATMENT.

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

A. This part applies to owners and operators of facilities that thermally treat hazardous waste, except as ~~provided otherwise in items B, C, and D, parts 7045.0125, and~~ part 7045.0450 provides otherwise. The following facility owners or operators are considered to thermally treat hazardous waste: owners or operators of hazardous waste incinerators as defined in part 7045.0020; and owners or operators who burn hazardous waste in boilers or in industrial furnaces in order to destroy the waste.

B. to F. [Unchanged.]

Subp. 2. to 9. [Unchanged.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Exemptions.** The requirements of parts 7045.0522 to 7045.0642 do not apply to:

A. [Unchanged.]

B. The owner or operator of a facility ~~which treats or stores hazardous waste if the treatment or storage meets the criteria in part 7045.0125, subpart 2, item A or B, except to the extent that part 7045.0125, subpart 2, item C, D, or E, provide otherwise and part 7045.0292, subpart 1, items E to G, are complied with~~ managing recyclable hazardous wastes subject

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to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685, except to the extent that part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 apply, and make the requirements of parts 7045.0450 to 7045.0544 applicable.

C. to J. [Unchanged.]

7045.0640 THERMAL TREATMENT FACILITIES.

Subpart 1. **Scope.** This part applies to owners and operators of facilities that thermally treat hazardous waste, except as ~~item B, and parts 7045.0125 and~~ part 7045.0552 ~~provide~~ provides otherwise.

The following facility owners or operators are considered to thermally treat hazardous waste: owners or operators of hazardous waste incinerators as defined in part 7045.0020; and owners or operators who burn hazardous wastes in boilers or in industrial furnaces in order to destroy the wastes.

Owners and operators of thermal treatment facilities that thermally treat hazardous waste are exempt from all the requirements of this part except subpart 5, if the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain constituents listed in part 7045.0141, and the documentation is kept at the facility, and the waste to be treated is:

A. to D. [Unchanged.]

Subp. 2 to 6. [Unchanged.]

Rules as Proposed (all new material)

7045.0665 USE CONSTITUTING DISPOSAL.

Subpart 1. **Scope.** This part applies to hazardous wastes that are used in a manner constituting disposal. For the purposes of this part, use constituting disposal means the application or placement of recyclable wastes in or on the land:

A. without mixing with other substances;

B. after mixing with any other substances unless the recyclable waste undergoes a chemical reaction so as to become inseparable from the other substances by physical means; or

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C. after combination with any other substances if the resulting material is not produced for the general public's use. Products produced for the general public's use that are used in a manner constituting disposal and that contain recyclable wastes that have undergone a chemical reaction in the course of producing a product so as to become inseparable by physical means are exempt from regulation under this part.

Subp. 2. **Standards applicable to generators of wastes used in a manner that constitutes disposal.** Generators of wastes that are used in a manner that constitutes disposal are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 3. **Standards applicable to transporters of wastes used in a manner that constitutes disposal.** Transporters of wastes that are used in a manner that constitutes disposal are subject to the requirements of parts 7045.0351 to 7045.0397.

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 are not the ultimate users of the wastes are subject to all applicable provisions of parts 7045.0450 to 7045.0534, 7045.0544, 7045.0552 to 7045.0632, 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 7045.0450 to 7045.0538, 7045.0544, 7045.0552 to 7045.0638, and chapter 7001.

7045.0675 RECYCLABLE HAZARDOUS WASTE UTILIZED FOR PRECIOUS METAL RECOVERY.

Subpart 1. **Scope.** This part applies to recyclable hazardous waste that is reclaimed to recover economically significant amounts of gold, silver, platinum, paladium, irridium, osmium, rhodium, ruthenium, or any combination of

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these.

Subp. 2. **Requirements for generators.** Generators of recyclable hazardous waste regulated under this part are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 3. **Requirements for transporters.** Transporters of recyclable hazardous waste regulated under this part are subject to the requirements of parts 7045.0351 to 7045.0397.

Subp. 4. **Requirements for persons who store.** Persons who store recyclable hazardous waste that is regulated under this part are subject to the following requirements:

A. If the hazardous waste is not being accumulated speculatively as defined in part 7045.0020, the following apply:

(1) parts 7045.0556, subpart 2, 7045.0580, and 7045.0582;

(2) the generator and facility must keep records showing: the volume of the hazardous wastes stored at the beginning of the calendar year; the amount of the hazardous wastes generated or received during the calendar year; and the amount of hazardous wastes remaining at the end of the calendar year.

B. If the hazardous waste is being accumulated speculatively as defined in part 7045.0020, the recyclable hazardous waste is subject to all applicable requirements of parts 7045.0205 to 7045.0642 and chapter 7001.

7045.0685 SPENT LEAD-ACID BATTERIES BEING RECLAIMED.

Subpart 1. **Scope.** The requirements of this part apply to persons who generate, transport, collect, store, or reclaim spent lead-acid batteries that are recyclable. Except as provided in subpart 2, persons who generate, transport, or collect spent batteries, or who store spent batteries but do not reclaim them are not subject to regulation under parts 7045.0205 to 7045.0685 and chapter 7001 for such generation, transportation, and storage of spent batteries. For the purpose of this part, indoor storage is storage within a permanently constructed building consisting of at least a roof and three walls permanently affixed to a masonry or other composition

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floor placed on the ground.

Subp. 2. **Standards for storage of spent batteries.** Storage of spent batteries by persons who do not reclaim them is subject to the following requirements:

A. Storage of batteries indoors shall be on an impermeable curbed surface and provisions shall be made to recontainerize leaking or broken batteries, with regular inspection to assure the integrity of the stored batteries.

B. Storage of spent batteries in a manner other than by indoor storage as defined in subpart 1 shall be subject to the following requirements:

(1) If the storage does not meet the criteria of speculative accumulation as described in part 7045.0020, the storage is subject to the following requirements: storage shall be on an impermeable curbed surface and provisions shall be made to recontainerize leaking or broken batteries, with regular inspection to assure the integrity of the stored batteries; and the requirements of part 7045.0526, subparts 2 to 6, and 9.

(2) If the storage of spent batteries meets the criteria of speculative accumulation as defined in part 7045.0020, the storage is subject to the following requirements: parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

Subp. 3. **Standards for owners or operators of facilities that store spent batteries before reclaiming them.** The owners or operators of facilities that store batteries before reclaiming them are subject to regulation under parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

REPEALER. Minnesota Rules, parts 7045.0020, subpart 69;

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7045.0125, subpart 2; and 7045.0142 are repealed.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD841

Agency: Pollution Control Agency

Division:

Agency Contact: Melba Hensel

Minnesota Rules: Parts 7001.0520; 7045.0020; 7045.0075; 7045.0120; 7045.0125; 7045.0135; 7045.0214; 7045.0219; 7045.0296; 7045.0450; 7045.0542; 7045.0552; 7045.0640; 7045.0665; 7045.0675; 7045.0685

Title: Proposed Rules Relating to Hazardous Waste Recycling and Reuse

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

David S. Niss
Assistant Revisor
Phone: 297-2948

Date: September 20, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled, Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520

ORDER ADOPTING RULE AMENDMENTS

Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on October 7, 1985, (10 S.R. 827) and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §14.14 (Supp. 1985) on October 3, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, reviewing and considering the comments, and after determining the need for and reasonableness of the above-captioned rule amendments,

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520 governing hazardous waste which is reused or recycled, are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. 116.07, subd. 4 (Supp. 1985), with the following modifications:

1. Minn. Rules pt. 7045.0020, subp. 43a. The proposed rule amendment is modified as follows:

Industrial furnace. "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy: cement kilns; lime kilns; aggregate kilns; phosphate kilns; coke ovens; blast furnaces; smelting, melting, and refining furnaces, including pyrometallurgical devices, such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces; titanium dioxide chloride process oxidation reactors; methane reforming furnaces; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and such other devices as the director determines qualify for inclusion based on one or more of the following factors;

2. Minn. Rules pt. 7045.0075, subp. 3, item A, subitem (1).

The proposed rule amendment is modified as follows:

(1) the manner in which the hazardous waste is to be recycled, ~~where~~ when the waste is expected to be recycled, and whether the expected disposition is likely to be affected by past practice, market factors, the nature of the hazardous waste, or contractual arrangements for recycling;

3. Minn. Rules pt. 7045.0125, subp. 1. The proposed rule amendment is modified as follows:

Scope. This part regulates hazardous waste that is to be recycled, except for use constituting disposal as provided in ~~parts~~ part 7045.0665; hazardous waste utilized for precious metals recovery as provided in part 7045.0675; and spent lead-acid batteries being reclaimed as provided in part 7045.0685.

4. Minn. Rules pt. 7045.0450, subp. 3, item A. The proposed rule amendment is modified as follows:

Subp. 3. Exemptions. Parts 7045.0450 to 7045.0544 do not apply to the following:

A. the owner or operator of a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685; ~~except to the extent that~~ however, this exemption does

not apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 ~~apply and make~~ makes the requirements of parts 7045.0450 to 7045.0544 applicable by cross reference;

5. Minn. Rules pt. 7045.0552, subp. 3, item B. The proposed rule amendment is modified as follows:

Subp. 3. Exemptions. Parts 7045.0522 to 7045.0642 do not apply to the following:

. . .

B. The owner or operator of a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685; ~~except to the extent that~~ however, this exemption does not apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 ~~apply and make~~ makes the requirements of ~~7045.0450~~ 7045.0522 to ~~7045.0544~~ 7045.0642 applicable by cross reference;

6. Minn. Rules pt. 7045.0665, subp. 1, item C. The proposed rule amendment is modified as follows:

Subpart 1. Scope. This part applies to hazardous wastes that are used in a manner constituting disposal. For the purposes of this part, use constituting disposal means the application or placement of recyclable wastes in or on the land:

. . .

C. after combination with any other substance if the resulting material is not produced for the general public's use. Products produced for the general public's use that are used in a manner constituting disposal and that contain recyclable wastes that have undergone a chemical reaction in the course of producing a product so as to become inseparable by physical means are exempt from regulation under this part. Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation under this chapter.

7. Minn. Rules pt. 7045.0675, subp. 4, item A, subitem 2. The proposed rule amendment is modified as follows:

(2) the generator and facility owner or operator must keep records showing: the volume of the hazardous wastes stored at the beginning of the calendar year; the amount of the hazardous wastes generated or received during the calendar year; and the amount of hazardous wastes remaining at the end of the calendar year.

MINNESOTA POLLUTION
CONTROL AGENCY

Dated: December 17, 1985

DUANE DAHLBERG
Chairperson

THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled, Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520

ORDER ADOPTING RULE AMENDMENTS

Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on October 7, 1985, (10 S.R. 827) and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §14.14 (Supp. 1985) on October 3, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, reviewing and considering the comments, and after determining the need for and reasonableness of the above-captioned rule amendments,

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520 governing hazardous waste which is reused or recycled, are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. 116.07, subd. 4 (Supp. 1985), with the following modifications:

1. Minn. Rules pt. 7045.0020, subp. 43a. The proposed rule amendment is modified as follows:

Industrial furnace. "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy: cement kilns; lime kilns; aggregate kilns; phosphate kilns; coke ovens; blast furnaces; smelting, melting, and refining furnaces, including pyrometallurgical devices, such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces; titanium dioxide chloride process oxidation reactors; methane reforming furnaces; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and such other devices as the director determines qualify for inclusion based on one or more of the following factors;

2. Minn. Rules pt. 7045.0075, subp. 3, item A, subitem (1).

The proposed rule amendment is modified as follows:

(1) the manner in which the hazardous waste is to be recycled, ~~where~~ when the waste is expected to be recycled, and whether the expected disposition is likely to be affected by past practice, market factors, the nature of the hazardous waste, or contractual arrangements for recycling;

3. Minn. Rules pt. 7045.0125, subp. 1. The proposed rule amendment is modified as follows:

Scope. This part regulates hazardous waste that is to be recycled, except for use constituting disposal as provided in ~~parts~~ part 7045.0665; hazardous waste utilized for precious metals recovery as provided in part 7045.0675; and spent lead-acid batteries being reclaimed as provided in part 7045.0685.

4. Minn. Rules pt. 7045.0450, subp. 3, item A. The proposed rule amendment is modified as follows:

Subp. 3. Exemptions. Parts 7045.0450 to 7045.0544 do not apply to the following:

A. the owner or operator of a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685; ~~except to the extent that~~ however, this exemption does

not apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 ~~apply and make~~ makes the requirements of parts 7045.0450 to 7045.0544 applicable by cross reference;

5. Minn. Rules pt. 7045.0552, subp. 3, item B. The proposed rule amendment is modified as follows:

Subp. 3. Exemptions. Parts 7045.0522 to 7045.0642 do not apply to the following:

. . .

B. The owner or operator of a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685; ~~except to the extent that~~ however, this exemption does not apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 ~~apply and make~~ makes the requirements of ~~7045.0450~~ 7045.0522 to ~~7045.0544~~ 7045.0642 applicable by cross reference;

6. Minn. Rules pt. 7045.0665, subp. 1, item C. The proposed rule amendment is modified as follows:

Subpart 1. Scope. This part applies to hazardous wastes that are used in a manner constituting disposal. For the purposes of this part, use constituting disposal means the application or placement of recyclable wastes in or on the land:

. . .

C. after combination with any other substance if the resulting material is not produced for the general public's use. Products produced for the general public's use that are used in a manner constituting disposal and that contain recyclable wastes that have undergone a chemical reaction in the course of producing a product so as to become inseparable by physical means are exempt from regulation under this part. Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation under this chapter.

7. Minn. Rules pt. 7045.0675, subp. 4, item A, subitem 2. The proposed rule amendment is modified as follows:

(2) the generator and facility owner or operator must keep records showing: the volume of the hazardous wastes stored at the beginning of the calendar year; the amount of the hazardous wastes generated or received during the calendar year; and the amount of hazardous wastes remaining at the end of the calendar year.

MINNESOTA POLLUTION
CONTROL AGENCY

Dated: December 17, 1985

DUANE DAHLBERG
Chairperson

THOMAS J. KALITOWSKI
Executive Director

Department of Labor and Industry
Workers' Compensation Division

Outside Opinion Sought Concerning Rules Governing Payment for Workers' Compensation Medical Services

Notice is hereby given that the Minnesota Department of Labor and Industry, Workers' Compensation Division, is seeking information or opinions from sources outside the agency in preparing to amend rules governing the maximum fees payable to providers of health care services to injured workers. These amendments are authorized by Minn. Stat. § 176.136 (1984).

The Minnesota Department of Labor and Industry, Workers' Compensation Division, requests information and comments concerning the subject matter of these amendments. Interested or affected persons or groups may submit written or oral information. Written statements should be addressed to:

Steve Keefe, Commissioner
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Any written material received by the Minnesota Department of Labor and Industry, Workers' Compensation Division, will become part of the record in the event that the amendments are promulgated.

Oral statements will be received during regular business hours over the telephone at (612) 296-2342 and in person at the above address.

Information will be accepted until March 1, 1985.

January 18, 1985

Steve Keefe
Commissioner of Labor and Industry

Pollution Control Agency
Solid and Hazardous Waste Division

Outside Opinions Sought Concerning Amendments to Minnesota Rules Chapter 7045 Governing Hazardous Waste

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information and opinions from sources outside the MPCA regarding possible amendments to the rules governing hazardous waste.

Consideration is being given to amending the rules governing hazardous wastes in the following areas:

1. Rules governing hazardous wastes which are recycled or reused, small quantity generator requirements, and transporter storage requirements. Such amendments could include additional storage and waste management requirements for facilities recycling or reusing hazardous waste, and small quantity generators and transfer facilities storing hazardous waste.

2. Clarification of the applicability of various rules governing hazardous waste management.

3. Incorporation of the requirements set forth in the 1984 amendments to the Resource Conservation and Recovery Act (RCRA). Such amendments may be required by the U.S. Environmental Protection Agency (EPA) for states seeking or having received final authorization of their hazardous waste program under RCRA.

4. The use of "master manifests" or other shipping documents for use when a single transporter is collecting similar wastes from a number of generators during a single day and shipping those wastes to a single facility for use, reuse, recycling or reclamation, and the use of "recycled material" manifests which could be used by generators in shipping wastes to be used, reused, recycled or reclaimed. This manifest could be useful for generators who have found that out-of-state recycling/reuse facilities are reluctant to accept shipments of material accompanied by a hazardous waste manifest as is currently required by Minnesota rules. No amendments are intended which would modify or exempt generators from EPA or U.S. Department of Transportation requirements regarding transportation of hazardous waste.

5. Based on comments received, the MPCA may consider amending other provisions of the hazardous waste rules.

The MPCA requests information and comments concerning the subject matter of the proposed amendments. Written or oral information or comments will be accepted until February 28, 1985. Written statements should be addressed to Karen Ryss, Minnesota Pollution Control Agency, Solid and Hazardous Waste Division, 1935 West County Road B2, Roseville, Minnesota 55113. Oral statements will be received during regular business hours at 612/297-1793.

January 21, 1985

Thomas J. Kalitowski
Executive Director

Pollution Control Agency
Solid and Hazardous Waste Division

Outside Opinion Sought Regarding Rules for Solid Waste Management

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from sources outside the MPCA for the purpose of revising the State's solid waste rules pursuant to Minnesota Statutes, section 116.07 as amended by the 1984 legislative session.

The legislative amendments mandate the establishment of requirements for the closure and post-closure care of solid waste disposal facilities and requirements for proof of financial capability of owners or operators of solid waste disposal facilities. A certificate of need process is required for new capacity at mixed-municipal land disposal facilities located outside the metropolitan area. The revisions will also include changes to rules on county solid waste management plans, resource recovery facilities, ground water protection, design and operation of solid waste management facilities, and ground water monitoring systems. These rules will pertain to mixed-municipal solid waste and nonhazardous industrial waste. Preliminary draft copies of these rules will be mailed, as they are completed, to those interested parties on the MPCA rules mailing list.

The MPCA invites all interested persons or groups to submit information or comments on these subjects to the following staff members:

County Solid Waste Management Plans and Certificate of Need	Cathy Berg Moeger	612/296-7247
Financial Assurance	Robert J. McCarron	612/296-7353
Design and Operation of Solid Waste Management Facilities	Myrna M. Halbach	612/297-1791
Ground Water Protection and Monitoring	Donald L. Jakes	612/296-7375
Industrial Waste/Codisposal	Carol M. Rogers	612/296-7247

Oral statements will be accepted by the appropriate staff member during regular business hours over the telephone. Written comments may be sent to the appropriate staff member at:

Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B2
Roseville, Minnesota 55113

Any written material received by the MPCA by April 1, 1985 shall become part of the background record regarding these rules.

January 18, 1985

Thomas J. Kalitowski
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled, Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520

ORDER FOR NOTICE OF INTENT TO ADOPT AMENDMENTS TO RULES WITHOUT A PUBLIC HEARING

It is hereby ordered this 28th day of August, 1985, that Notice of Intent to Adopt Amendments to Rules Without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and be published in the State Register.

Thomas Kalitowski

THOMAS J. KALITOWSKI
Executive Director

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Thomas J. Kalitowski, do hereby certify that I am the Executive Director of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 27th day of August, 1985, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

BE IT RESOLVED, that the Executive Director of the Minnesota Pollution Control Agency (MPCA) is hereby granted the authority to sign an order of the MPCA directing that notice be given of the MPCA's intent to adopt, without a public hearing, the attached amendments to the MPCA's hazardous waste rules governing the management of hazardous wastes which are recycled or reused, Minn. Rules pts. status landfills, and appendices, Minnesota Rules parts 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, and 7045.0685, and the amendments to the MPCA permit rules, pt. 7001.0520, to sign the Notice thereof, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the MPCA to make in order to obtain the revisor's certification as required by Minn. Stat. §14.07, subd. 2 (1984).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Executive Director is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order and Notice for Hearing, as well as acting as the MPCA's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27th day of August, 1985.

Tho Kalitowski

THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled, Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520

NOTICE OF INTENT TO ADOPT AMENDMENTS TO RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt without a public hearing, in accordance with the provisions of Minn. Stat. §§14.22 - 14.28 (1984), amendments to Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520, rules governing hazardous wastes which are reused or recyled.

The proposed amendments, if adopted, will set forth management requirments for generators, transporters, and facilities of recyclable hazardous waste, including waste used as feedstock, characteristic by-products and sludges, waste burned for energy recovery, and waste used in a manner constituting disposal. Specific requirements are also set forth for the management of hazardous waste being reclaimed for precious metals and spent lead-acid batteries. The proposed amendments are based on recent amendments to U.S. Environmental Protection Agency hazardous waste regulations. The proposed rule amendments are authorized by Minn. Stat. §116.07, subd. 4 (1984). One free copy of the rule amendments is available on request from the Agency. Please contact the person whose name and address appears below.

The Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the Statement of Need and Reasonableness and of the proposed amendments are available and may be obtained by contacting:

Melba Hensel
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7712

Interested persons have until 4:30 p.m. on November 8, 1985, to submit comments on the proposed rule amendments. Comments should be submitted to Melba Hensel at the address stated above. The proposed rule amendments may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed amendments.

Unless the Agency receives twenty-five written requests for a public hearing on the proposed rule amendments during the comment period, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. §§14.131 - 14.20 (1984), as amended by Minn. Laws 1985, First Special Session, ch. 10, §38. If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the amendments by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule amendments as adopted will be sent to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments as adopted, should submit a written statement of such request to Melba Hensel at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. §14.115 (1984), "Small business considerations in rulemaking," that the proposed amendments will affect those small businesses generating hazardous waste which is reused or recycled, and the proposed amendments do not contain less stringent requirements for small businesses. However, the objective of Minn. Stat. ch. 116 is to protect the public health and the environment from the adverse effects which result when hazardous waste is mismanaged. Providing consideration for small businesses by relaxing the management requirements applicable to hazardous waste which is reused or recycled would be contrary to the Agency's mandate.



THOMAS J. KALITOWSKI
Executive Director

Dated: October 1, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled, Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

CARL AGERBECK, being duly sworn, deposes and says:

That on the 3RD day of October, 1985, at the City of Roseville, County of Ramsey, State of Minnesota, ~~s~~/he served the attached Notice of Intent to Adopt Amendments to Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System or in the United States mail for first class mailing at said City of Roseville, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Pollution Control Agency for the purpose of receiving notice of the proposed adoption of rules by the Pollution Control Agency.

Subscribed and sworn to before me this
3rd day of October, 1985.

Kenneth Allen Stevenson
Notary Public

KENNETH ALLEN STEVENSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Exp. Aug. 6, 1987

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled, Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minn. Stat. §14.14 (1984), that their names be placed on file with the the Minnesota Pollution Control Agency (Agency) for the purpose of receiving notice of the proposed adoption of rules by the Agency is accurate and complete as of 10:00 a.m., this 3 day of October, 1985.

Elaine A. Zoch

A T & T
1 South Wacker Drive, Room 13J
Chicago, IL 60606
Attn: B. Durkin

A. J. Vetsch, Inc.
3919 Marion Road
Rochester, MN 55904
Attn: Allen Vetsch

Advance Circuit Inc.
15102 Minnetonka Ind. Rd.
Minnetonka, MN 55345
Attn: D. J. Berg

Advance Circuits Inc.
560 - 16th Avenue South
Hopkins, MN 55454

Advance Circuits, Inc.
1633 Terrace Drive
Roseville, MN 55113

Advance Circuits, Inc.
1633 Terrace Drive
Roseville, MN 55113
Attn: Farook Meeh

Alan Shilepsky Consulting
19 South First Street, Suite B2507
Minneapolis, MN 55401
Attn: Alan Shilepsky

Albert, Lee
Post Office Box 64355
St. Paul, MN 55164

American Chemical Service
Post Office Box 190
Griffith, IN 46319
Attn: W. S. Wagoner Jr.

American Insurance Association
Stolpestad, Brown and Smith, P.A.
2000 N. Central Life Tower, 445 MN St.
St. Paul, MN 55101
Jeffrey A. Redmon

Anchor Glass Container Corporation
4108 Valley Ind. Blvd. N.
P.O. Box 69
Shakopee, MN 55379
Attn: B. K. Meierbachtol

Ashland Petroleum Company
Post Office Box 391
Ashland, KY 41114
Attn: Bruce Churton

Atwater McMillian Inc.
445 Minnesota Street, Suite 900
St. Paul, MN 55101
Attn: Kae Scott

Auto Body Supply
2841 Anthony Lane
Minneapolis, MN 55418
Attn: Tony Kramer

Badger Foundry Company
Post Office Box 1306
Winona, MN 55987
Attn: Barry Owen

Barth, Carole Ann
1224 Newton Avenue North, #2W
Minneapolis, MN 55411

Berg Oil
Post Office Box 240
Eveleth, MN 55734
Attn: Conrad Berg

Big Dipper Enterprises, Inc.
1016 - 11th Avenue South
Wahpeton, ND 58075
Attn: John Beardmore

Briggs and Morgan
2200 First National Bank Building
St. Paul, MN 55101
Attn: Ann Huntrods

Bureau of Engraving, Inc.
3311 Broadway, Northeast
Minneapolis, MN 55413
Attn: Kenneth Ische/Steve Meyers

C. W. Olson, Inc.
Post Office Box 231
Minneapolis, MN 55440
Attn: John Mackenzie

California Dept. of Health Services
744 P Street
Sacramento, CA 95814
Attn: Eric Workman

Capsule Environmental Engineering
4765 Kent Street
Shoreview, MN 55112
Attn: David Cushman

Chemlawn
6300 Shingle Creek Parkway, #125
Brooklyn Center, MN 55430
Attn: John Peckham

Circuit Chemistry Corp.
1570 Halgren Road
Maple Plain, MN 55359
Attn: Jim Czaja

Circuit Service, Corp.
9805 Hamilton Road
Eden Prairie, MN 55344
Attn: John Foster

City of Bloomington
2215 West Old Shakopee Road
Bloomington, MN 55431
Attn: J. K. Nelson

City of Fridley
6431 University Avenue Northeast
Fridley, MN 55432
Attn: John Flora

City of Redwood Falls
404 East Wyoming
Redwood Falls, MN 56283
Attn: Neil Ruddy

Commercial Pumping and Incineration
9948 Express Drive
Highland, IN 46322
Attn: Allice Erskine

Conklin Company, Inc.
551 Valley Park Drive
Shakopee, MN 55379
Attn: Lawrence Bass

Consolidated Container Corporation
735 North 3rd Street
Minneapolis, MN 55401
Attn: Jon Stein

Continental Machines, Inc.
5505 West 123rd Street
Savage, MN 55378
Attn: Jack Hosford

Control Data Corporation
Post Office Box 0
Minneapolis, MN 55440
Attn: Bob Kaiser HQN7KX

Dakota County
1600 Highway 55
Hastings, MN 55033
Attn: Gerald Stahnke

DeZurik Corporation
250 Riverside Avenue
Sartell, MN 56377
Attn: Lee Walz

Dorsey and Whitney
2200 First Bank Place East
Minneapolis, MN 55402
Attn: Becky Comstock

E. A. Hickok and Associates
545 Indian Mound
Wayzata, MN 55391
Attn: John Lichter

E/M Lubricants, Inc.
Post Office Box 2200
W. Lafayette, IN 47906
Attn: Gregory Keough

Earth Energy Systems, Inc.
225 South Cordova Avenue
LeCenter, MN 56057
Attn: Joe Appelhof

Eaton, Corporation
Hydraulics Division
15151 Highway 5
Eden Prairie, MN 55344
Attn: Marvin Miller

Economics Laboratory, Inc.
Osborn Building
St. Paul, MN 55102
Attn: Charles McDuff

Economics Laboratory, Inc.
Osborn Building
St. Paul, MN 55102
Attn: John Keenan

Electric Equipment Service Corp.
7281 Commerce Circle West
Fridley, MN 55432
Attn: Brian Sjoberg

Electro Mold Corporation
616 Industrial Boulevard
Minneapolis, MN 55413
Attn: Ken Dutton

Envirite Corporation
Bluebell, PA 19422
Attn: Bill Howard

Envirite Corporation
16435 South Center Avenue
Harvey, IL 60426
Attn: Todd Dykton

Environmental Engineering and
Management, Ltd.
7400 Metro Boulevard, #400
Minneapolis, MN 55435
Attn: Cary Perket

Environmental Research Group, Inc.
135 State Street
St. Paul, MN 55107
Attn: Bruce G. Cunningham

Environmental Transportation Services
Post Office Box 36118
Oklahoma City, OK 73136
Attn: Scarlett Perkins

Etchit, Inc.
643-13th Avenue South
Hopkins, MN 55343
Attn: Richard Dunn

Ex-Cell-O Corporation
2855 Coolidge
Troy, MI 48084
Attn: Terence Filipiak

Federal Cartridge Corporation
9th and Tyler
Anoka MN 55303
Attn: Luke Davich

Federal Cartridge Corporation
9th and Tyler
Anoka, MN 55303
Attn: A. G. Drury

Finishing Equipment, Inc.
3640 Kennebec Drive
Eagan, MN 55122
Attn: Win Sabatka

FMC Corp., Northern Ordinance
4800 East River Road
Minneapolis, MN 55421
Attn: William Warren

FMC Corp., Northern Ordinance
4800 East River Road
Minneapolis, MN 55421
Attn: Douglas Hildre

Ford Motor Company
15201 Century Drive
Dearborn, MI 48120
Attn: C. H. Porter

Fort McCoy
Commander, AFZR-DEH-E
Sparta, WI 54656
Attn: Robert Starck

Franklin Manufacturing
701 33rd Avenue North
St. Cloud, MN 56301
Attn: Dick Clute

G.S.X. Services Inc.
Post Office Box 370
Laurel, MD 20707
Attn: Martha Mattingly

General Battery Corporation
654 Penn Street, P.O. Box 1262
Reading, PA 19603
Attn: Jeffrey Leed

General Mills, Inc.
Post Office Box 1113
Minneapolis, MN 55440
Attn: Donald J. Thimsen

GNB, Incorporated
Post Office Box 64100
St. Paul, MN 55164
Attn: E. C. Milton

Gopher Smelting
3385 Highway 149
Eagan, MN 55121
Attn: John Tapper

Governor's Waste Management Board
325 North Salisbury Street
Room 513, Albemarle Building
Raleigh, NC 27611
Attn: Dr. Linda Little

Graco, Inc.
Post Office Box 1441
Minneapolis, MN 55440
Attn: Kristen Nelson

Great Lakes Gas Transmission Co.
2100 Buhl Building
Detroit, MI 48226
Attn: Eugene Morabito

Gresen Mfg./Div. of Dana Corporation
600 Hoover Street
Minneapolis, MN 55413
Attn: Dale C. Halverson

H. B. Fuller Company
3530 Lexington Avenue North
Shoreview, MN 55112
Attn: Chong-Hue Brian Lim

Hall Estill etal
4100 BOK Tower
Tulsa, OK 74172
Attn: Vicki Ford

Hanft, Fride, O'Brien,
Harries, and Bujold, P.A.
Mining and Utility Representatives
1200 Alworth Building
Duluth, MN 55802

Hanson, David
1030 Angelo Drive
Minneapolis, MN 55422

Hazardous Material Technical Center
Post Office Box 8168
Rockville, Maryland 20856
Attn: Erica Perlow

Hennepin County
320 Washington Avenue South
Hopkins, MN 55343
Attn: Edward Monteleone

Hennepin County Board of Commissioners
A2400 Government Center
Minneapolis, MN 55487
Attn: The Honorable Jeff Spartz

Hennepin County Department
of Environment and Energy
Hennepin Cty. Government Center, A1603
Minneapolis, MN 55487
Attn: Luther Nelson

Honeywell
Honeywell Plaza
Minneapolis, MN 55408
Attn: Ken Ford MN12-3175

Honeywell, MN02-3100
5700 Smetana Drive
Minnetonka, MN 55343
Attn: Jay Johnson

Honeywell, Inc.
2600 Ridgeway Pkwy., P.O. Box 312
MN-17-2512
Minneapolis, MN 55440
Attn: Paul Klinge

Imperial, Inc.
Post Office Box 423
Shenandoah, IA 51601
Attn: Gene Currie

Indianhead Truck Line, Inc.
1947 County Road C
Post Office Box 64355
St. Paul, MN 55164
Attn: Lester Wilsey, Jr.

Industrial Health Engineering
Post Office Box 9342
Minneapolis, MN 55420
Attn: James Thill

Interconics
245 East 6th Street
St. Paul, MN 55101
Attn: Don Whitehurst

International Paper Company
2075 The Corners Parkway, #108
Norcross, GA 30092
Attn: Gil Sheerer

Interplastic Corporation
2015 Northeast Broadway
Minneapolis, MN 55413
Attn: R. T. McCabe

Interstate Power Company
1000 Main Street
Dubuque, IA 52001
Attn: Harold Faherty

Interstate Power Company
129 North St. Paul Avenue
Fulda, MN 56131
Attn: A. W. Koopman

Inver Grove Heights City Attorney
402 Drovers Bank Building
Post Office Box 298
South St. Paul, MN 55075
Attn: Timothy Kuntz

Johnson, Bob
420 St. Louis River Road
Proctor, MN 55810

Johnston, Terry
4531 Flag Avenue North
New Hope, MN 55428

Kleer-Flo Company
6970 Shady Oak Road
Eden Prairie, MN 55344
Attn: Wallace Hilgren

Koch Refining Company
Post Office Box 64596
St. Paul, MN 55164
Attn: Thomas Segar

Koppers Company, Inc.
Koppers Building
Pittsburgh, PA 15219
Attn: Jordan Dern

KTCA-TV
1640 Como Avenue
St. Paul, MN 55108
Attn: Mary Freeman

L. Wilson Power Corporation
800 Valley Industrial Circle
Shakopee, MN 55379
Attn: Richard J. Nolan

Land O'Lakes, Inc.
Post Office Box 116
Minneapolis, MN 55440
Attn: James Bosch

Land O'Lakes, Inc.
Post Office Box 116
Minneapolis, MN 55440
Attn: Mark Allen Johnson

Larsen Oil Company
507 Sherman
North Mankato, MN 56001
Attn: Dale Sweet

Larson Boat Company
702 West River Road
Little Falls, MN 56345
Attn: Allen Kuebelbeck

Martinson, Carl
800 North Grotto
St. Paul, MN 55104

McLaughlin Gormley King Company
8810 Tenth Avenue North
Minneapolis, MN 55427
Attn: David J. Carlson

MDI, Inc.
6202 Concord Boulevard
Inver Grove Heights, MN 55075
Attn: Merlin Clausen

Medallion Kitchens of Minnesota, Inc.
180 Industrial Boulevard
Waconia, MN 55387
Attn: John Profaizer

Metal Recovery, Inc.
547 Tamarack Avenue
Long Lake, MN 55356
Attn: George Gulso

Metalcasters of Minnesota
Box 900, 245 East 6th Street
St. Paul, MN 55101
Attn: Barbara Battiste Kelley

Metalcasters, Mpls. Eelctric
Steel
3901 University Avenue, N.E.
Mpls., MN 55421
Attn: Craig Malmberg

Methodist Hospital
Post Office Box 650
Minneapolis, MN 55440
Attn: Richard L. Barrett

Metropolitan Waste Control Commission
350 Metro Square Building
St. Paul, MN 55101
Attn: Robert C. Polta IO

Milwaukee Road, Inc.
516 West Jackson Blvd., #809
Chicago, IL 60606
Attn: Robert Fronczak

Minnegasco, Inc.
6161 Golden Valley Road
Minneapolis, MN 55422
Attn: Paul Deneka

Minnegasco, Inc.
6161 Golden Valley Road
Minneapolis, MN 55422
Attn: Karen Studders

Minnesota Association of
Commerce and Industry
480 Cedar St., 300 Hanover Bldg.
St. Paul, MN 55101
Attn: Raymond O'Connell

Minnesota Association of
Commerce and Industry
480 Cedar St., 300 Hanover Bldg.
St. Paul, MN 55101
Attn: Shirley Brantingham

Minnesota Association of
Commerce and Industry
480 Cedar St., 300 Hanover Bldg.
St. Paul, MN 55101
Attn: James Coleman

Minnesota Automobile Dealers Association
277 University Avenue
St. Paul, MN 55103
Attn: James Schutjer

Minnesota Chapter of the
Solid Waste Management Assoc.
4649 Bloomington Avenue South
Minneapolis, MN 55407
Attn: Mary Ayde

Minnesota Dept. of Health
717 Delaware Street, Southeast
Minneapolis, MN 55440
Attn: Tomas Klaseus

Minnesota Dept. of Natural Resources
Box 10C, DNR Building
500 Lafayette Road
St. Paul, MN 55146
Attn: Tom Balcom

Minnesota Dept. of Transportation
3485 Hadley Avenue, North
Box 9050
North St. Paul, MN 55109
Attn: Gary Christiansen/Jack Pirkl

Minnesota Dept. of Transportation
Room 704, Transportation Building
St. Paul, MN 55155
Attn: John Dustman

Minnesota Dept. of Transportation
Room 704 Transportation Bldg.
St. Paul, MN 55155
Attn; Cheryl Heide

Minnesota Dept. of Transportation
2055 Lilac Drive North
Golden Valley, MN 55422
Attn: Howard Schulz

Minnesota Pesticide Control Association
3860 Minnehaha Ave.
Minneapolis, MN 55406
Attn: Greg O'Reilly

Minnesota Plant Food and
Chemical Association
1821 University Avenue, Room 253
St. Paul, MN 55104
Attn: Craig Sallstrom

Minnesota Power
30 West Superior Street
Duluth, MN 55802
Attn: Diane Carlton

Minnesota Service Station Association
2700 North Rice Street
St. Paul, MN 55113
Attn: Brian Ettesvold

Minnesota Solvents and Chemicals
14765 West Bobolink Avenue
Menomonee Falls, WI 53051
Attn: C. A. Douthitt

Minnesota Solvents and
Chemicals Corporation
2340 Rose Place
Roseville, MN 55113
Attn: A. G. Hale

Chemicals Corporation
Post Office Box 444
Butler, WI 53007
Attn: C. A. Douthitt

Minnesota Waste Management Board
7323 58th Avenue North
Crystal, MN 55428
Attn: Sharon Decker

Moersfelder, Edward
1200 Natl' City Bank Bldg.
510 Marquette Avenue
Minneapolis, MN 55402

Moss and Burnett
1200 Pillsbury Center
Minneapolis, MN 55402
Attn: Michael Ahern

National Association of
Recycling Industries
2500 Elm Street, Southeast
Minneapolis, MN 55414
Attn: Michael J. Abrams

National Association of
Recycling Industries
330 Madison Avenue
New York, NY 10017
Attn: Paul Parker

National Association of
Solvent Recyclers
1333 New Hampshire Avenue, Northwest
Washington, D.C. 20036
Attn: Faith Kuhn

NCR Comten, Inc.
1752 Terrace Drive
Roseville, MN 55113
Attn: David Moline

Norgaard, Mark
4826 Chicago Ave. S., Suite 203
Minneapolis, MN 55417

North American Water Office
1519A East Franklin
Minneapolis, MN 55404
Attn: Lea Foushee

7901 Xerxes Avenue South, #209
Minneapolis, MN 55431
Attn: T. D. Humason

Northern States Power Company
Env. and Reg. Act. Dept.
414 Nicollet Mall
Minneapolis, MN 55401
Attn: R. D. Clough

Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55402
Attn: Pamela Graika

Nyhlen Used Oil Service
Route 1, Box 210X
Paynesville, MN 56362
Attn: John Nyhlen

Otter Tail Power Company
215 South Cascade
Fergus Falls, MN 56537
Attn: Terry Graumann

Outdoors Committee
Box 88
Longville, MN 56655
Attn: James Shields

Outdoors Committeee
485 Rice Street
St. Paul, MN 55103
Attn: James Shields

Peerless Chain Company
1416 East Sanborn
Winona, MN 55987
Attn: Orville Broch

Pillsbury Company
Pillsbury Center, #3612
Minneapolis, MN 55402
Attn: Carl Smith

Plews Division, Parker-Hannifin Corp.
Bush Boulevard
Granite Falls, MN 56241
Attn: Robin Spaude

245 East 6th Street, #813
St. Paul, MN 55101
Attn: Robert Reid

Popham, Haik, Schnobrich, Kaufman
and Doty, Ltd.
4344 IDS Center
Minneapolis, MN 55402
Attn: James A. Payne

Portable Elevator Company
Post Office Box 160
Glencoe, MN 55336
Attn: Dale Johnson

PPG Industries, Inc.
260 Kappa Drive
Pittsburgh, PA 15238
Attn: Christine Babka

Purex Corporation
24600 South Main Street
Carson, CA 90749
Attn: John Dougherty C-20

Quandt Transport Service, Inc.
2606 North 11th Street
Omaha, Nebraska 686110
Attn: Karen Copeland

Rexnord Chemical Products Inc.
7711 Computer Avenue
Minneapolis, MN 55435
Attn: Lawrence Benjamin

Richard Manufacturing, Co.
6250 Bury Drive
Eden Prairie, MN 55344
Attn: Matthew Broms

S. B. Foot Tanning Co., Red Wing, MN
Post Office Box 745
Dumas, TX 79029
Attn: David Guthe

Safety-Kleen Corporation
777 Big Timber Road
Elgin, IL 60120
Attn: Ellen Jurczak

Saint Mary's Hospital
1216-2nd Street, Southwest
Rochester, MN 55902
Attn: Clyde Douglass

Saint Mary's Hospital
Safety and Security
1216 - 2nd Street Southwest
Rochester, MN 55902
Attn: Alan Knutson

Schoeberl Services, Inc.
6306 Grimes Avenue North
Brooklyn Center, MN 55429

Scott County Local Project
Review Committee
27466 Delmar Avenue
New Prague, MN 56071
Attn: DeAnn Croatt

Scott County, Planning,
Inspections & Environmental Health
428 South Holmes Street
Shakopee, MN 55379
Attn: Peter Schmitt

SERCO, Sanitary Engineering
Laboratories, Inc.
1931 West County Road C2
St. Paul, MN 55113
Attn: Gerald Allen

Sheldahl, Inc.
Post Office Box 170
Northfield, MN 55057
Attn: David B. Miller

Sierra Club/Project Environment
2929 4th Avenue South
Minneapolis, MN 55408
Attn: Kristin Sigford

Smith System Manufacturing Co.
1100 South 10th Street
Princeton, MN 55371
Attn: Jesse Jett

Soil Exploration Company
662 Cromwell Avenue
St. Paul, MN 55114
Attn: Derric Iles

Solv-Off Service and Supply Company
Box 338
Hopkins, MN 55343
Attn: David L. Tollefson

Soo Line Railroad Company
804 Soo Line Building, Box 530
Minneapolis, MN 55440
Attn: Michael Mullins

Southern Minnesota Sugar Cooperative
Post Office Box 500
Renville, MN 56284
Attn: William DeBelly

Sperry Corporation
Semiconductor Operations
Post Office Box 64724, M.S. H2R27
St. Paul, MN 55164
Attn: Jean Krueger

SPRTC
100 Freeman Avenue
St. Peter, MN 56082
Attn: Vern Kowal

St. John's Hospital
403 Maria Avenue
St. Paul, MN 55106
Attn: John Pelant

Standard Solvents Company
Division of Willjon Co.
4906 France Avenue North
Minneapolis, MN 55429
Attn: David Heegaard

Stock Brothers Corporation
22077 Mound Road
P.O. Box 1208
Warren, MI 48090
Attn: R. Terry Begnoche

Stone Container Corporation
3805 Presidential Parkway, #101
Atlanta, Georgia 30340
Attn: Curtis Barton

Tapemark Company
150 East Marie
West St. Paul, MN 55118
Attn: O. Polson

Telex Communications, Inc.
9600 Aldrich Avenue South
Minneapolis, MN 55420
Attn: Gayle Hamel

Thermo King Corporation
314 West 90th Street
Minneapolis, MN 55420
Attn: P. Skujins

Union Carbide Corp-Linde Division
120 S. Riverside Plaza, 11th Floor
Chicago, IL 60606
Attn: Michael A. Mikovich

United Power Association
Highway 10
Elk River, MN 55330
Attn: Jim Eggen

United States Environmental
Protection Agency, WH565E
401 M Street, Southwest
Washington, D.C. 20460
Attn: B. W. Vincent

United States Environmental
Protection Agency
230 South Dearborn Street
Chicago, IL 60604
Attn: Lillian Bagus, 5HS-JCK-13

University of Minnesota
Research Analytical Lab
1903 Hendon Avenue
St. Paul, MN 55108
Attn: Professor Robert Munter

University of Minnesota
Department of Physical Plant Operations
319 15th Avenue Southeast, #200
Minneapolis, MN 55455
Attn: Robert Silvagni

University of Minnesota
MNTAP, Boynton Health Service
W-163
Minneapolis, MN 55455
Attn: Donna Peterson

University of Wisconsin-Eau Claire
Division of Allied Health
Eau Claire, WI 54701
Attn: Lon Couillard

Van Hoven Company, Inc.
Box 56
South St. Paul, MN 55075
Attn: E. G. Van Hoven Jr.

Ver-Tech Inc.
13225 Industrial Park Boulevard
Minneapolis, MN 55441
Attn: Chuck Rang

Victory Envelope
1501 Park Road
Post Office Box 159
Chanhassen, MN 55317
Attn: Jim Sjoselius

Warden Oil Inc.
187 Humboldt Avenue North
Minneapolis, MN 55405
Attn: Earl Jackelen

Washington County Community
Health Services
2000 Industrial Boulevard
Stillwater, MN 55082
Attn: Michael Ayers

Waste Management of
Minnesota, Inc.
Post Office Box 67
Anoka, MN 55303
Attn: Terry Miller

Waste Oil Service
1338 15th Avenue South
Moorhead, MN 56560
Attn: Arden Cochran

Waste Research and Reclamation
Route 7, Highway 93 South
Eau Claire, WI 54701
Attn: Gene Jameson

Watkins, Inc.
150 Liberty Street
Winona, MN 55987
Attn: L. M. Ferdinandsen

Watt/Peterson, Inc.
15020-27th Avenue North
Plymouth, MN 55441
Attn: Jerry Kotsmith

3501 South Highway 100
Minneapolis, MN 55416
Attn: L. J. Anderson

Westinghouse Electric Corp.
205 Bishops Way
Post Office Box 1000
Elm Grove, WI 53122
Attn: G. W. Hammond

Weyerhaeuser Company
200 Grand Avenue
Rothschild, WI 54474
Attn: William Hall

Winona Van Norman
4730 West Highway 61
P.O. Box 145
Winona, MN 55987
Attn: Walter B. Rotach

Worum Chemical Company
2130 Energy Park Drive
St. Paul, MN 55108
Attn: John Pallansch

Zenk Engineering, Inc.
Post Office Box 689
Albert Lea, MN 56007
Attn: William Trygstad

3M
Post Office Box 33331
Bldg. 21-2W-06
St. Paul, MN 55133
Attn: Georjean Adams

3M
Post Office Box 33331
St. Paul, MN 55133
Attn: Ken Grant

3M
Post Office Box 33331
Building 21-2W
St. Paul, MN 55133
Attn: Gene Johnson

Anoka County Health Department
County Courthouse
Anoka, Minnesota 55303

Mr. Brian Hauge
Carver County Courthouse
600 East 4th Street
Chaska, Minnesota 55318

Mr. Ronald Spong/George Kinney
Dakota County Community
Health Services
1600 West Highway 55
Hastings, Minnesota 55033

Mr. Greg Lie
Hennepin County Department
of Public Works
320 Washington Avenue South
Hopkins, Minnesota 55343

Mr. Lee Holden
Ramsey County Division of
Environmental Health
1910 West County Road B, #209
Roseville, Minnesota 55113

Mr. Al Frechette
Scott County Environmental
Health Specialist
428 South Holmes
Shakopee, Minnesota 55379

Mr. Tom Dellenbach
Washington County Community
Health Services
2000 Industrial Boulevard
Stillwater, Minnesota 55082

MICA Environmental Committee
Metropolitan Inter-County Assoc.
114 Metro Square, 7th and Robert
St. Paul, MN 55101

~~volume before it is buried beneath the surface of a landfill~~ Unless they are very small, such as an ampule, containers must be either:

A. at least 90 percent full when placed in the landfill; or

B. crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

Subp. 9. [Unchanged.]

REPEALER. Minnesota Rules, parts 7045.1240, 7045.1250, and 7045.1260 are repealed.

Pollution Control Agency

Proposed Rules Relating to Hazardous Waste Recycling and Reuse

Notice of Intent to Adopt Amendments to Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt without a public hearing, in accordance with the provisions of Minn. Stat. §§ 14.22-14.28 (1984), amendments to Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520, rules governing hazardous waste which is reused or recycled.

The proposed amendments, if adopted, will set forth management requirements for generators, transporters, and facilities of recyclable hazardous waste, including waste used as feedstock, characteristic by-products and sludges, waste burned for energy recovery, and waste used in a manner constituting disposal. Specific requirements are also set forth for the management of hazardous waste being reclaimed for precious metals and spent lead-acid batteries. The proposed amendments are based on recent amendments to U.S. Environmental Protection Agency hazardous waste regulations. The proposed rule amendments are authorized by Minn. Stat. § 116.07, subd. 4 (1984). The proposed rule amendments are published below. One free copy of the rule amendments is available on request from the Agency. Please contact the person whose name and address appears below.

The Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the Statement of Need and Reasonableness and of the proposed amendments are available and may be obtained by contacting:

Melba Hensel
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7712

Interested persons have until 4:30 p.m. on November 8, 1985, to submit comments on the proposed rule amendments. Comments should be submitted to Melba Hensel at the address stated above. The proposed rule amendments may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed amendments.

Unless the Agency receives twenty-five written requests for a public hearing on the proposed rule amendments during the comment period, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. § 14.131-14.20 (1984), as amended by Minn. Laws 1985, First Special Session, ch. 10, § 38. If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the amendments by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule amendments as adopted will be sent to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments as adopted, should submit a written statement of such request to Melba Hensel at the address previously stated.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1984), "Small business considerations in rulemaking," that the proposed amendments will affect those small businesses generating hazardous waste which is reused or recycled, and the proposed amendments do not contain less stringent requirements for small businesses. However, the objective of Minn. Stat. ch. 116 is to protect the public health and the environment from the adverse effects which result when hazardous waste is mismanaged. Providing consideration for small businesses by relaxing the management requirements applicable to hazardous waste which is reused or recycled would be contrary to the Agency's mandate.

Thomas J. Kalitowski
Executive Director

Rules as Proposed

7001.0520 PERMIT REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Exclusions.** A person who conducts any of the following activities is not required to obtain a hazardous waste facility permit for that activity:

A. The accumulation by generators of hazardous waste on site for fewer than 90 days as provided in part 7045.0292.

B. The disposal by farmers of hazardous wastes that have been generated by their own use of pesticides as provided in part 7045.0304.

C. The ownership or operation of a totally enclosed treatment facility as defined in part 7045.0020.

D. The storage by transporters of manifested shipments of hazardous waste in containers that meet the requirements of part 7045.0270, subpart 4, at a transfer facility for a period of ten days or fewer as provided in part 7045.0365.

E. An activity conducted to immediately contain or treat a spill or an imminent and substantial threat of a spill of hazardous waste or a material that, when spilled, becomes a hazardous waste. This exclusion does not apply to a person who treats, stores, or disposes of the spilled material or spill residue or debris after the immediate response activities have been completed.

F. The addition of absorbent material to hazardous waste in a container, or the addition of hazardous waste to absorbent material in a container, if the addition occurs at the time waste is first placed in the container, and if the addition is accomplished in accordance wth parts 7045.0456, subpart 2, and 7045.0526, subparts 2 and 3.

G. ~~The ownership or operation of a facility that is used to manage hazardous waste described in part 7045.0125, subpart 2, item A or B, that is to be beneficially used, reused, recycled, or reclaimed, unless part 7045.0125, subpart 2, item A, subitem (10) provides otherwise.~~

~~H.~~ To the extent provided by part 7045.0125, ~~subpart 2, item C, D, or E,~~ the ownership or operation of a facility that ~~beneficially uses, reuses,~~ recycles~~, or reclaims~~ hazardous waste.

~~I.~~ H. The management of hazardous waste as provided in part 7045.0120, item L; 7045.0127, subpart 1; 7045.0135, subpart 5, items C and E; 7045.0218; or 7045.0219, subpart 2.

I. To the extent provided by part 7045.0675, the ownership or operation of a facility that stores or reclaims hazardous waste for recovery of economically significant amounts of precious metals.

J. To the extent provided in part 7045.0685, the ownership or operation of a facility that stores or reclaims spent lead-acid batteries.

Subp. 3. and 4. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. to 6. [Unchanged.]

Subp. 6a. **Boiler.** "Boiler" means an enclosed device using controlled flame combustion and having the characteristics specified in item A or B.

A. (1) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluid, or heated gases.

(2) The unit's combustion chamber and primary energy recovery sections must be of integral design (physically formed into one manufactured or assembled unit). A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; secondary energy recovery equipment (such as air preheaters or economizers) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. Process heaters which transfer energy directly to a process stream and fluidized bed combustion units are not precluded from being considered boilers under this definition solely because they are not of integral design.

(3) While in operation, the unit must maintain a thermal energy efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel.

(4) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. No credit shall be given for recovered heat used internally in the same unit for purposes such as preheating fuel or combustion air or the driving of induced or forced draft fans or feedwater pumps.

B. The unit is one which the director has determined meets the criteria for a boiler after considering the standards in part 7045.0075, subpart 4.

Subp. 6b. **By-product.** "By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms.

Subp. 7. to 14. [Unchanged.]

Subp. 15. **Designated facility.** "Designated facility" means a hazardous waste treatment, storage, or disposal facility which:

A. (1) has received interim status;

(2) has received an agency permit, ~~or~~

(3) is subject to the requirements of part 7045.0125, subpart 5, 6, or 10, or subpart 9, item B, or part 7045.0685; or

(4) if located outside Minnesota, has been exempted from the requirements to obtain a permit by the United States Environmental Protection Agency, has either received an Environmental Protection Agency permit or a permit from an authorized state, or has interim status; and

B. has been designated on the manifest by the generator pursuant to part 7045.0261, or has been designated on a shipping paper or management plan required by part 7045.0125.

Subp. 16. and 17. [Unchanged.]

Subp. 18. **Discarded.** "Discarded" means abandoned by being:

A. disposed of;

B. burned or incinerated~~, except where the material is being burned as a fuel for the purpose of recovering useable energy~~; or

C. ~~physically, chemically, or biologically treated (other than burned or incinerated) in lieu of or prior to being disposed of~~ accumulated, stored, or treated, but not recycled, before or in lieu of being disposed of, burned, or incinerated.

Subp. 19. to 34. [Unchanged.]

Subp. 35. **Hazardous waste incinerator.** "Hazardous waste incinerator" means an enclosed device using controlled flame combustion, a purpose of which is to thermally break down hazardous waste~~. Examples of incinerators are rotary kiln, fluidized bed, and liquid injection incinerators~~ and that neither meets the criteria for classification as a boiler nor is listed or can be classified as an industrial furnace.

Subp. 36. to 43. [Unchanged.]

Subp. 43a. **Industrial furnace.** "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy: cement kilns; lime kilns; aggregate kilns; phosphate kilns; coke ovens; blast furnaces; smelting, melting, and refining furnaces; titanium dioxide chloride process oxidation reactors; methane reforming furnaces; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and such other devices as the director determines qualify for inclusion based on one or more of the following factors:

A. the design and use of the device primarily to accomplish recovery of material products;

B. the use of the device to burn or reduce raw materials to make a material product;

C. the use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as feedstocks;

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D. the use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product, or

E. the use of the device in common industrial practice to produce a material product.

Subp. 44. to 62. [Unchanged.]

Subp. 63. **Other waste material.** "Other waste material" means any solid, liquid, semi-solid, or gaseous material, resulting from industrial, commercial, mining, or agricultural operations, or from community activities, and which:

A. is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded; or

B. ~~has served its original intended use and sometimes is discarded~~ is recycled or is accumulated, stored, or treated prior to being recycled; or

C. is a ~~manufacturing or mining by product and sometimes is discarded~~ spent material or by-product.

Subp. 64. to 68. [Unchanged.]

Subp. 69. [See Repealer.]

Subp. 70. to 73. [Unchanged.]

Subp. 73a. **Reclamation.** "Reclamation" means the processing or regeneration of a waste to recover a usable product. Examples are the recovery of lead values from spent batteries and regeneration of spent solvents.

Subp. 73b. **Recycle.** "Recycle" means the reclamation, reuse, or use of a hazardous waste.

Subp. 74. and 75. [Unchanged.]

Subp. 75a. **Reuse.** "Reuse" means employing a waste as an ingredient in an industrial process to make a product or as an effective substitute for a commercial product, provided that distinct components of the waste are not recovered as end products.

Subp. 76. to 79. [Unchanged.]

Subp. 79a. **Scrap metal.** "Scrap metal" means bits and pieces of metal parts (for example, bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (for example, radiators, scrap automobiles, railroad box cars) which when worn or superfluous can be recycled.

Subp. 80. to 84. [Unchanged.]

Subp. 84a. **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. **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.

Subp. 85. to 100. [Unchanged.]

Subp. 100a. **Used oil.** "Used oil" means any oil which has been refined from crude oil, used, and as a result of such use has become contaiminated by physical or chemical impurities.

Subp. 101. to 108. [Unchanged.]

7045.0075 PETITIONS.

Subpart 1. and 2. [Unchanged.]

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.

A. Any person seeking a reduction in regulation of hazardous wastes that are accumulated speculatively as defined in part 7045.0020 without sufficient amounts being recycled as defined in part 7045.0020 may petition under this subpart. The petitioner must demonstrate to the satisfaction of the agency that sufficient amounts will be recycled or transferred for recycling in the following year. Such a reduction in regulation is valid only for the following year, but may be renewed on an annual basis by filing a new petition. The agency's decision to grant the petition shall be based on the following standards and criteria:

(1) the manner in which the hazardous waste is to be recycled, where the waste is expected to be recycled, and whether the expected disposition is likely to be affected by past practice, market factors, the nature of the hazardous waste, or contractual arrangements for recycling;

(2) the reason that the applicant has accumulated the hazardous waste for one or more years without recycling 75 percent of the volume accumulated at the beginning of the previous year;

(3) the quantity of the hazardous waste already accumulated and the quantity expected to be generated and accumulated before the hazardous waste is recycled;

(4) the extent to which the hazardous waste is handled to minimize loss; and

(5) any additional information the director may reasonably request which may be required to evaluate the petition.

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:

(1) how economically viable the production process would be if it were to use virgin materials rather than the reclaimed hazardous waste;

(2) the prevalence of the practice on an industry-wide basis;

(3) the extent to which the hazardous waste is handled before reclamation to minimize loss;

(4) the time periods between generating the hazardous waste and its reclamation and between reclamation and return to the original primary production process;

(5) the location of the reclamation operation in relation to the production process;

(6) whether the hazardous waste as reclaimed is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

(7) whether the person who generates the hazardous waste also reclaims it; and

(8) any additional information the director may reasonably request which may be required to evaluate the petition.

C. Any person seeking a reduction in regulation of hazardous waste that has been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is used like a commodity, may petition under this subpart. The agency's decision to grant the petition shall be based on the following standards and criteria:

(1) the degree of processing the hazardous waste has undergone and the degree of further processing that is required;

(2) the value of the hazardous waste after it has been reclaimed;

(3) the degree to which the reclaimed hazardous waste is like an analogous raw material;

(4) the extent to which an end market for the reclaimed hazardous waste is guaranteed;

(5) the extent to which the reclaimed hazardous waste is handled to minimize loss, and

(6) any additional information the director may reasonably request that may be required to evaluate the petition.

Subp. 4. **Petition to be classified as a boiler.** In accordance with the definition of boiler in part 7045.0020, the director may determine that certain enclosed devices using controlled flame combustion are boilers, although they do not otherwise meet the definition of boiler, based on the following standards and criteria:

A. the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam heated fluids or heated gases;

B. the extent to which the combustion chamber and energy recovery equipment are of integral design;

C. the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of fuel;

D. the extent to which the exported energy is utilized;

E. the extent to which the device is in common and customary use as a "boiler" functioning to produce steam, heated fluids, or heated gases; and

F. any additional information the director may reasonably request which may be required to evaluate the petition.

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7045.0120 EXEMPT WASTES.

The following wastes may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

A. to L. [Unchanged.]

M. ~~petroleum derived waste oils~~ used oil which ~~do~~ does not contain waste listed in part 7045.0135 and ~~are~~ is to be ~~beneficially used, reused.~~ recycled~~, or reclaimed~~; ~~or~~

N. [Unchanged.]

O. ~~scrap metal which is not hazardous because of a hazardous characteristic other than toxicity. is not a waste listed in part 7045.0135 and is to be beneficially used, reused, recycled, or reclaimed. Scrap metal means manufactured metal objects and products; metal workings including but not limited to sandings, grindings, shavings, cuttings, turnings, and stampings; and solid metallic residues of metal production excluding sludges, air pollution control dusts, semi solids, and liquid solutions~~ pulping liquors (for example, black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in part 7045.0020; or

P. spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in part 7045.0020.

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

Subpart 1. **Scope.** This part regulates hazardous waste that is to be ~~beneficially used, reused, or legitimately~~ recycled ~~or reclaimed~~ except as provided in parts 7045.0665, 7045.0675, and 7045.0685.

Subp. 2. [See Repealer.]

Subp. 3. [Unchanged.]

Subp. 4. **Management of specific hazardous wastes.** Management of the following wastes when recycled, is not subject to regulation under parts 7045.0205 to 7045.0685: industrial ethyl alcohol that is reclaimed; used batteries or used battery cells returned to a battery manufacturer for regeneration; and scrap metal.

Subp. 5. **Requirements for use of hazardous wastes as feedstock.**

A. Except as provided in items B to D, hazardous wastes that are shown to be recycled by being utilized in a manner specified in subitems (1) to (3), are not subject to regulation under parts 7045.0205 to 7045.0685. This subpart does not apply to wastes being accumulated speculatively as defined in part 7045.0020, or being managed by use constituting disposal, or burning for energy recovery, as regulated under part 7045.0665, or subpart 10. Hazardous wastes are considered to be used as feedstock if they are:

(1) used or reused as ingredients in an industrial process to make a product, provided the hazardous wastes are not being reclaimed;

(2) used or reused as effective substitutes for commercial products; or

(3) returned to the original process from which they are generated, without first being reclaimed. The hazardous waste must be returned as a substitute for raw material feedstock, and the process must use raw materials as principal feedstocks.

B. Generators of hazardous wastes for use as feedstock are subject to the following requirements:

(1) parts 7045.0214 to 7045.0217;

(2) parts 7045.0220 to 7045.0249;

(3) part 7045.0296, subpart 5;

(4) within 45 days of shipment, the generator must provide the director a copy of the shipping papers confirming that the hazardous waste was delivered to the designated facility as indicated in the management plan; and

(5) the generator must keep records showing: the volume of these wastes stored at the beginning of the calendar year; the amount of these hazardous wastes generated during the calendar year; the amount of these hazardous wastes used as a feedstock during the calendar year; and the amount of these hazardous wastes remaining at the end of the calendar year.

C. Transporters of hazardous wastes for use as feedstock must comply with all applicable requirements of Minnesota Statutes, section 221.033, and Code of Federal Regulations, title 49, parts 171 to 179.

D. Owners or operators of facilities that manage hazardous wastes for use as feedstock are subject to the following requirements:

(1) prior to receiving the waste, as a designated facility, the owner or operator must provide the director with written evidence to document that the hazardous waste is used as specified in item A and that the facility has the equipment necessary to manage the hazardous waste; and

(2) the owner or operator must keep records showing: the volume of these hazardous wastes stored at the beginning of the calendar year; the amount of these wastes received during the calendar year; the amount of these hazardous wastes used as a feedstock during the calendar year; and the amount of these hazardous wastes remaining at the end of the calendar year.

Subp. 6. **Requirements for reclamation of specific hazardous wastes.**

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

(1) Generators of such a hazardous waste are subject to regulation under parts 7045.0214 to 7045.0217; 7045.0220 to 7045.0255; and 7045.0296, subpart 5. In addition, within 45 days of shipment the generator must provide the director a copy of the shipping papers confirming that the waste was delivered to the designated facility as indicated in the management plan. The generator must keep records showing: the volume of such hazardous wastes stored at the beginning of the calendar year; the amount of these wastes generated during the calendar year; the amount of such waste reclaimed during the calendar year; and the amount of such hazardous wastes remaining at the end of the calendar year.

(2) Transporters of such a hazardous waste must comply with all applicable requirements of Minnesota Statutes, section 221.033, and Code of Federal Regulations, title 49, parts 171 to 179.

(3) Owners or operators of designated facilities receiving a hazardous characteristic by-product or sludge must provide written evidence to the director prior to receiving such hazardous waste that the owner or operator has the equipment and capability to reclaim such hazardous waste, and must keep records showing: the volumes of such hazardous waste stored at the beginning of the year; the amount of such hazardous waste received during the calendar year; the amount of such hazardous waste reclaimed during the calendar year; and the amount of such hazardous waste remaining at the end of the calendar year.

B. This subpart does not apply to hazardous wastes being accumulated speculatively as defined in part 7045.0020 or being managed by use constituting disposal, as regulated under part 7045.0665 or being burned for energy recovery under subpart 10.

Subp. 7. **Generator requirements.** Except as provided in subpart 4, 5, 6, or 10, generators of hazardous waste destined for recycle, are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 8. **Transporter requirements.** Except as provided in subpart 4, 5, 6, or 10, transporters of hazardous waste destined for recycle are subject to the requirements of parts 7045.0351 to 7045.0397.

Subp. 9. **Facility requirements.** Except as provided in subpart 4, 5, 6, or 10, owners or operators of facilities which 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, 7045.0552 to 7045.0632, and chapter 7001.

B. If the recyclable hazardous waste is recycled without storing before recycling, the owners or operators are subject to the requirements of parts 7045.0556, subpart 2; 7045.0580; and 7045.0582.

Subp. 10. **Hazardous waste which is beneficially used by burning.** Hazardous waste that is transported or stored prior to a beneficial use by burning is subject to regulation under the following:

A. A waste that is hazardous solely due to ignitability and is transported or stored prior to a beneficial use involving burning is subject to the agency's permitting procedures in chapter 7001 for hazardous waste storage facilities and the requirements of parts 7045.0205 to 7045.0534, 7045.0544, 7045.0552 to 7045.0632, and 7045.1000 to 7045.1030.

B. A hazardous waste that is a sludge, or is or contains a waste listed in part 7045.0135 for reasons other than ignitability, or is or contains a waste that is toxic under part 7045.0131, subpart 6, and is transported or stored prior to a beneficial use involving burning is subject to the agency's permitting procedures in chapter 7001 for hazardous waste storage facilities and the following requirements: parts 7045.0205 to 7045.0534; 7045.0544; 7045.0542, except subpart 4, item C, and subpart 7, item A, subitem (2); 7045.0552 to 7045.0632; 7045.0640; and 7045.1000 to 7045.1030; and must apply for or have an air quality facility permit as required.

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7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. [Unchanged.]

Subp. 2. **Hazardous wastes from nonspecific sources.** Hazardous wastes from nonspecific sources are listed as follows:

Hazardous Waste No.	Hazardous Waste	Hazard Code
Generic:		
F001	The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons, and sludges from the recovery of these solvents in degreasing operations	(T)
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, orthodichlorobenzene, and trichlorofluoromethane, and the still bottoms from the recovery of these solvents	(T)
F003	The following spent nonhalogenated solvents: xylene, acetone, ethyl acetate, ethyl benezene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol, and the still bottoms from the recovery of these solvents	(I)
F004	The following spent nonhalogenated solvents: cresols and cresylic acid, and nitrobenzene, and the still bottoms from the recovery of these solvents	(T)
F005	The following spent nonhalogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, and pyridine, and the still bottoms from the recovery of these solvents	(I,T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum, (2) tin plating on carbon steel, (3) zinc plating (segregated basis) on carbon steel, (4) aluminum or zinc-aluminum plating on carbon steel, (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel, and (6) chemical etching and milling of aluminum	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum	(T)
F007	Spent cyanide plating bath solutions from electroplating operations~~, except for precious metals electroplating spent cyanide plating bath solutions~~	(R,T)
F008	Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process~~, except for precious metals electroplating bath sludges~~	(R,T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process~~, except for precious metals electroplating spent stripping and cleaning bath solutions~~	(R,T)
F010	Quenching bath ~~sludge~~ residues from oil baths from metal heat-treating operations where cyanides are used in the process~~, except for precious metals heat treating quenching bath sludges~~	(R,T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat-treating operations~~, except for precious metals heat-treating spent cyanide solutions from salt bath pot cleaning~~	(R,T)
F012	Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process~~, except for precious metals heat-treating quenching wastewater treatment sludges~~	(T)

Subp. 3. [Unchanged.]

Subp. 4. **Discarded commercial chemical products, off-specification species, containers, and spill residues.** The following materials or items are hazardous wastes ~~if and~~ when they are discarded or intended to be discarded~~:~~ as defined in part 7045.0020, when they are burned for purposes of energy recovery in lieu of their original intended use, when they are used to produce fuels in lieu of their original intended use, when they are applied to the land in lieu of their original intended use, or when they are contained in products that are applied to the land in lieu of their original intended use.

A. to F. [Unchanged.]

Subp. 5. [Unchanged.]

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. 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.

Subp. 2. [Unchanged.]

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 ~~item~~ items B and C, 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, 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.

B. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry, standard industrial classification codes 331 and 332, is not a hazardous waste unless it exhibits one or more characteristics of hazardous waste under part 7045.0131.

C. Materials that have been reclaimed from hazardous wastes and from wastes that have been reclaimed that are beneficially used are not hazardous wastes unless the reclaimed material is used in a manner constituting disposal under part 7045.0665 or burned for energy recovery under part 7045.0125, subpart 10.

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. **Applicability; quantities.** A generator is a small quantity generator subject to the requirements of subparts 2 to 6 if, in a calendar month, he generates less than:

A. a total of 1,000 kilograms of hazardous waste not listed in part 7045.0135, subpart 4, item E; and

B. a total of one kilogram of commercial chemical products and manufacturing chemical intermediates having the generic names listed in part 7045.0135, subpart 4, item E and off-specification commercial chemical products and manufacturing chemical intermediates which, if they met specification, would have the generic names listed in part 7045.0135, subpart 4, item E; and

C. a total of 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any commercial chemical products or manufacturing chemical intermediates having the generic names listed in part 7045.0135, subpart 4, item E, or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification commercial chemical products or manufacturing chemical intermediates which, if they met specification would have the generic names listed in part 7045.0135, subpart 4, item E.

A generator shall not consider the wastes specified under part 7045.0125, subparts 4, 5, and 6 when calculating the volume of waste generated.

Subp. 2. to 6. [Unchanged.]

7045.0296 ANNUAL REPORTING.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Wastes which are recycled.** Generators of wastes that are recycled in accordance with the provisions of part 7045.0125 and are exempt from the requirements of parts 7045.0261 and 7045.0265 must include the following information in the annual report:

A. evidence that the waste was recycled as indicated in the management plan; and

B. evidence that a continuing market exists for the waste.

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Exemptions.** Parts 7045.0450 to 7045.0544 do not apply to the following:

A. the owner or operator of a facility ~~which treats or stores hazardous waste if the treatment or storage meets the criteria in parts 7045.0125, subpart 2, item A or B except to the extent that part 7045.0125, subpart 2, item A, subitem (9), C, D, or E provides otherwise and part 7045.0292, subpart 1, items E to G is complied with~~ managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685, except to the extent that part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 apply and make the requirements of parts 7045.0450 to 7045.0544 applicable;

B. to J. [Unchanged.]

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7045.0542 THERMAL TREATMENT.

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

A. This part applies to owners and operators of facilities that thermally treat hazardous waste, except as ~~provided otherwise in items B, C, and D; parts 7045.0125; and~~ part 7045.0450 provides otherwise. The following facility owners or operators are considered to thermally treat hazardous waste: owners or operators of hazardous waste incinerators as defined in part 7045.0020; and owners or operators who burn hazardous waste in boilers or in industrial furnaces in order to destroy the waste.

B. to F. [Unchanged.]

Subp. 2. to 9. [Unchanged.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Exemptions.** The requirements of parts 7045.0522 to 7045.0642 do not apply to:

A. [Unchanged.]

B. The owner or operator of a facility ~~which treats or stores hazardous waste if the treatment or storage meets the criteria in part 7045.0125, subpart 2, item A or B, except to the extent that part 7045.0125, subpart 2, item C, D, or E, provide otherwise and part 7045.0292, subpart 1, items E to G, are complied with~~ managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685, except to the extent that part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 apply, and make the requirements of parts 7045.0450 to 7045.0544 applicable.

C. to J. [Unchanged.]

7045.0640 THERMAL TREATMENT FACILITIES.

Subpart 1. **Scope.** This part applies to owners and operators of facilities that thermally treat hazardous waste, except as ~~item B and parts 7045.0125 and~~ part 7045.0552 ~~provide~~ provides otherwise.

The following facility owners or operators are considered to thermally treat hazardous waste: owners or operators of hazardous waste incinerators as defined in part 7045.0020; and owners or operators who burn hazardous wastes in boilers or in industrial furnaces in order to destroy the wastes.

Owners and operators of thermal treatment facilities that thermally treat hazardous waste are exempt from all the requirements of this part except subpart 5, if the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain constituents listed in part 7045.0141, and the documentation is kept at the facility, and the waste to be treated is:

A. to D. [Unchanged.]

Subp. 2. to 6. [Unchanged.]

Rules as Proposed (all new material)

7045.0665 USE CONSTITUTING DISPOSAL.

Subpart 1. **Scope.** This part applies to hazardous wastes that are used in a manner constituting disposal. For the purposes of this part, use constituting disposal means the application or placement of recyclable wastes in or on the land:

A. without mixing with other substances;

B. after mixing with any other substances unless the recyclable waste undergoes a chemical reaction so as to become inseparable from the other substances by physical means; or

C. after combination with any other substances if the resulting material is not produced for the general public's use. Products produced for the general public's use that are used in a manner constituting disposal and that contain recyclable wastes that have undergone a chemical reaction in the course of producing a product so as to become inseparable by physical means are exempt from regulation under this part.

Supb. 2. **Standards applicable to generators of wastes used in a manner that constitutes disposal.** Generators of wastes that are used in a manner that constitutes disposal are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 3. **Standards applicable to transporters of wastes used in a manner that constitutes disposal.** Transporters of wastes that are used in a manner that constitutes disposal are subject to the requirements of parts 2045.0351 to 7045.0397.

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 are not the ultimate users of the wastes are subject to all applicable provisions of parts 7045.0450 to 7045.0534, 7045.0544, 7045.0552 to 7045.0632, 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 7045.0450 to 7045.0538, 7045.0544, 7045.0552 to 7045.0638, and chapter 7001.

7045.0675 RECYCLABLE HAZARDOUS WASTE UTILIZED FOR PRECIOUS METAL RECOVERY.

Subpart 1. **Scope.** This part applies to recyclable hazardous waste that is reclaimed to recover economically significant amounts of gold, silver, platinum, paladium, irridium, osmium, rhodium, ruthenium, or any combination of these.

Subp. 2. **Requirements for generators.** Generators of recyclable hazardous waste regulated under this part are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 3. **Requirements for transporters.** Transporters of recyclable hazardous waste regulated under this part are subject to the requirements of parts 7045.0351 to 7045.0397.

Subp. 4. **Requirements for persons who store.** Persons who store recyclable hazardous waste that is regulated under this part are subject to the following requirements:

A. If the hazardous waste is not being accumulated speculatively as defined in part 7045.0020, the following apply:

(1) parts 7045.0556, subpart 2, 7045.0580, and 7045.0582;

(2) the generator and facility must keep records showing: the volume of the hazardous wastes stored at the beginning of the calendar year; the amount of the hazardous wastes generated or received during the calendar year; and the amount of hazardous wastes remaining at the end of the calendar year.

B. If the hazardous waste is being accumulated speculatively as defined in part 7045.0020, the recyclable hazardous waste is subject to all applicable requirements of parts 7045.0205 to 7045.0642 and chapter 7001.

7045.0685 SPENT LEAD-ACID BATTERIES BEING RECLAIMED.

Subpart 1. **Scope.** The requirements of this part apply to persons who generate, transport, collect, store, or reclaim spent lead-acid batteries that are recyclable. Except as provided in subpart 2, persons who generate, transport, or collect spent batteries, or who store spent batteries but do not reclaim them are not subject to regulation under parts 7045.0205 to 7045.0685 and chapter 7001 for such generation, transportation, and storage of spent batteries. For the purpose of this part, indoor storage is storage within a permanently constructed building consisting of at least a roof and three walls permanently affixed to a masonry or other composition floor placed on the ground.

Subp. 2. **Standards for storage of spent batteries.** Storage of spent batteries by persons who do not reclaim them is subject to the following requirements:

A. Storage of batteries indoors shall be on an impermeable curbed surface and provisions shall be made to recontainerize leaking or broken batteries, with regular inspection to assure the integrity of the stored batteries.

B. Storage of spent batteries in a manner other than by indoor storage as defined in subpart 1 shall be subject to the following requirements:

(1) If the storage does not meet the criteria of speculative accumulation as described in part 7045.0020, the storage is subject to the following requirements: storage shall be on an impermeable curbed surface and provisions shall be made to recontainerize leaking or broken batteries, with regular inspection to assure the integrity of the stored batteries; and the requirements of part 7045.0526, subparts 2 to 6, and 9.

(2) If the storage of spent batteries meets the criteria of speculative accumulation as defined in part 7045.0020, the storage is subject to the following requirements: parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

Subp. 3. **Standards for owners or operators of facilities that store spent batteries before reclaiming them.** The owners or operators of facilities that store batteries before reclaiming them are subject to regulation under parts 7045.0452 to 7045.0456; 7045.0460 to 7045.0470; 7045.0478 to 7045.0534; 7045.0544; 7045.0552 to 7045.0562; 7045.0566 to 7045.0578; 7045.0584 to 7045.0632; and the permitting requirements of chapter 7001 for hazardous waste storage facilities.

REPEALER. Minnesota Rules, parts 7045.0020, subpart 69; 7045.0125, subpart 2; and 7045.0142 are repealed.

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STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled, Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 17th day of December, 1985. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact and Conclusions.

FINDINGS OF FACT

1. The Agency published its notice of intent to adopt the above-captioned rule amendments, together with the proposed rule amendments, in the State Register on October 7, 1985 (10 S.R. 827).

2. On October 3, 1985, the Agency gave the same notice by mail to all persons who have registered their names with the Agency pursuant to Minn. Stat. §14.14 (Supp. 1985).

3. The notice of the Agency's intent to amend the rules afforded all interested persons 30 days to submit data and views on the proposed rules. The notice was in all respects in compliance with the requirements of Minn. Stat. §14.22 (Supp. 1985).

4. The Agency prepared a Statement of Need and Reasonableness and made it available to the public upon the date of mailing of the notice of intent to adopt the rules.

5. The 30 day comment period, as set out in the notice, expired on November 8, 1985.

6. During the comment period, the Agency received three written comments.

7. The comments received during the public comment period justify seven modifications to the proposed rules, as discussed below.

a. Minn. Rules pt. 7045.0020, subp. 43a.

The U. S. Environmental Protection Agency (EPA) commented that the Agency's proposed definition of "industrial furnace" was not identical to the federal definition of "industrial furnace" in 40 C.F.R. §260.10 because it did not specify that pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces are included in the term "smelting, melting, and refining furnaces." As originally proposed, the rules do apply to these specific items because they are covered by the more general term. However, for

purposes of clarification, and to satisfy EPA's concern that the Agency's rules be consistent with federal requirements, the Agency finds that the proposed rule amendment should be modified as follows:

> Industrial furnace. "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy: cement kilns; lime kilns; aggregate kilns; phosphate kilns; coke ovens; blast furnaces; smelting, melting, and refining furnaces, <u>including pyrometallurgical devices, such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces</u>; titanium dioxide chloride process oxidation reactors; methane reforming furnaces; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and such other devices as the director determines qualify for inclusion based on one or more of the following factors;

The Agency finds that this modification is needed and reasonable. The modification clarifies the Agency's original intent and is not a substantial change from the proposed rules.

b. <u>Minn. Rules pt. 7045.0075, subp. 3, item A, subitem (1)</u>.

EPA commented that in order to make this rule equivalent to federal regulations, the phrase "where the waste is expected to be recycled" should be amended to read "when the waste is expected to be recycled," since the rule relates to "speculative accumulation" of hazardous waste, a concept which involves the length of time waste is stored without recycling. This modification is needed and reasonable because it will maintain consistency between Agency rules and federal requriements. The proposed rule amendment should be modified as follows:

> (1) the manner in which the hazardous waste is to be recycled, ~~where~~ when the waste is expected to be recycled, and whether the expected disposition is likely to be affected by past practice, market factors, the nature of the hazardous waste, or contractual arrangements for recycling;

The Agency finds that this modification does not constitute a substantial change because the rule relates to "speculative accumulation," and to determine whether hazardous waste is accumulated speculatively, it is necessary to determine when it will be recycled. Therefore the modification does not add any new concepts to the proposed rules.

c. Minn. Rules pt. 7045.0125, subp. 1.

As proposed, this rule stated: "This part regulates hazardous waste that is recycled except as provided in parts 7045.0665, 7045.0675, and 7045.0685." EPA commented that this language is unclear because the Agency's intent to exempt certain items from regulation under this part does not come through to the reader. Therefore this rule should be clarified as follows:

> Scope. This part regulates hazardous waste that is to be recycled, except for use constituting disposal as provided in ~~parts~~ part 7045.0665; hazardous waste utilized for precious metals recovery as provided in part 7045.0675; and spent lead-acid batteries being reclaimed as provided in part 7045.0685.

The Agency finds that this modification is needed and reasonable. The modification clarifies the original intent of the proposed rule and is therefore not a substantial change.

d. Minn. Rules pt. 7045.0450, subp. 3, item A.

As proposed, this rule stated:

Subp. 3. Exemptions. Parts 7045.0450 to 7045.0544 do not apply to the following:

A. the owner or operator of a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685, except to the extent that part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 apply and make the requirements of parts 7045.0450 to 7045.0544 applicable;

EPA commented that this language is unclear. In order to clarify the intent of this rule, the Agency finds that the following modification is needed and reasonable:

Subp. 3. Exemptions. Parts 7045.0450 to 7045.0544 do not apply to the following:

A. the owner or operator of a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685; ~~except to the extent that~~ however, this exemption does not apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 ~~apply and make~~ makes the requirements of parts 7045.0450 to 7045.0544 applicable by cross reference; p.17

The modification clarifies the original intent of the proposed rule and is therefore not a substantial change.

e. Minn. Rules pt. 7045.0552, subp. 3, item B.

As originally proposed, this rule stated:

rule amendment is modified as follows:

Subp. 3. Exemptions. Parts 7045.0522 to 7045.0642 do not apply to the following:

. . .

B. The owner or operator of a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685, except to the extent that part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 apply and make the requirements of 7045.0450 to 7045.0544 applicable;

EPA commented that this language is unclear. In addition, the staff identified an error in the last line of item B: the rule references in that line do not match the rule references in the introductory language of subp. 3; the context of the rules indicates that these rule references should match. Therefore, the Agency finds the following modifications to the proposed rules to be needed and reasonable:

> Subp. 3. Exemptions. Parts 7045.0522 to 7045.0642 do not apply to the following:
>
> . . .
>
> B. The owner or operator of a facility managing recyclable hazardous wastes subject to regulation under part 7045.0125, 7045.0665, 7045.0675, or 7045.0685; ~~except to the extent that~~ however, this exemption does not apply where part 7045.0125, 7045.0665, 7045.0675, or 7045.0685 ~~apply and make~~ makes the requirements of ~~7045.0450~~ 7045.0522 to ~~7045.0544~~ 7045.0642 applicable by cross reference;

P.18 not corrected

The Agency finds that the modifications clarify the original intent of the proposed rule and are therefore, not substantial changes.

f. Minn. Rules pt. 7045.0665, subp. 1, item C.

This rule applies to hazardous wastes that are used in a manner constituting disposal. However, the rule exempts from regulation under this part "products produced for the general public's use that are used in a manner constituting disposal and that contain recyclable wastes that have undergone a chemical reaction in the course of producing a product so as to become inseparable by physical means." EPA commented that the proposed

rule did not include the federal language exempting commercial fertilizers from regulation. Since the Agency considered commercial fertilizers containing recyclable hazardous waste to be "products" and did not intend them to be subject to regulation under chapter 7045, the Agency finds that the following modification to the proposed rule amendment is needed and reasonable:

> Subpart 1. Scope. This part applies to hazardous wastes that are used in a manner constituting disposal. For the purposes of this part, use constituting disposal means the application or placement of recyclable wastes in or on the land:
>
> . . .
>
> C. after combination with any other substance if the resulting material is not produced for the general public's use. Products produced for the general public's use that are used in a manner constituting disposal and that contain recyclable wastes that have undergone a chemical reaction in the course of producing a product so as to become inseparable by physical means are exempt from regulation under this part. Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation under this chapter.

p.19

The Agency finds that this modification clarifies the original intent of the proposed rule and therefore, does not constitute a substantial change.

g. Minn. Rules pt. 7045.0675, subp. 4, item A, subitem (2).

This rule as proposed states that records must be kept by "the generator and facility." EPA commented that this language was unclear as to who at the facility is responsible for

recordkeeping. The Agency intended that records be kept by the facility owner or operator. Therefore, the Agency finds that the following modification to the rule amendment is needed and reasonable:

> (2) the generator and facility <u>owner or operator</u> must keep records showing: the volume of the hazardous wastes stored at the beginning of the calendar year; the amount of the hazardous wastes generated or received during the calendar year; and the amount of hazardous wastes remaining at the end of the year.

p. 20

The Agency finds that this modification clarifies the original intent of the proposed rule and therefore, does not constitute a substantial change.

8. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the amendments to the rules. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely and adequate notice of the intent to adopt amendments to the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rule amendments are supported by the comments received during the comment period and

do not constitute substantial changes from the rules as proposed.

Dated: December 17, 1985 MINNESOTA POLLUTION CONTROL AGENCY

Duane Dahlberg
Chairperson

Thomas J. Kalitowski
Executive Director

CERTIFICATE OF AGENCY'S RESOLUTION ADOPTING RULE AMENDMENTS

I, Thomas J. Kalitowski, do hereby certify that I am the Executive Director of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 17th day December, 1985, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

BE IT RESOLVED, that the Minnesota Pollution Control Agency (MPCA) hereby approves and adopts the amendments to the MPCA's hazardous waste rules governing the management of hazardous waste which is recycled or reused, Minn. Rules pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, and 7001.0520, and the addition of Minn. Rules pts. 7045.0665, 7045.0675, and 7045.0685, pursuant to the authority vested in the MPCA by Minn. Stat. §116.07, subd. 4 (Supp. 1985).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Executive Director is authorized to make any form changes in the rules that the Revisor of Statues requires the MPCA to make in order to obtain the Revisor's Certificate as required by Minn. Stat., Section 14.07, subd. 2 (Supp. 1985).

BE IT FURTHER RESOLVED, that the MPCA adopts the attached Findings of Fact and Conclusions and attached Order Adopting Rule Amendments and that the chairperson and Executive Director are hereby authorized to execute the above-mentioned documents on behalf of the MPCA.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 17th day of December, 1985.

THOMAS J. KALITOWSKI
Executive Director

Attachment 2

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed
Amendments of Rules Governing
the Regulations of Hazardous
Waste Which is Reused or Recycled,
Minn. Rules Pts. 7045.0020,
7045.0075, 7045.0120, 7045.0125,
7045.0135, 7045.0142, 7045.0214,
7045.0219, 7045.0450, 7045.0542,
7045.0552, 7045.0640, 7045.0665,
7045.0675, 7045.0685, and 7001.0520

STATEMENT OF NEED

AND REASONABLENESS

I. INTRODUCTION

The subject of this proceeding is the revision of the rules of the Minnesota Pollution Control Agency (hereinafter "Agency") governing the management of hazardous waste which is reused or recycled. These rules are proposed for amendment pursuant to the Agency's authority under Minn. Stat. § 116.07, subd. 4 (1984). The amendments provide specific management requirements for generators, transporters, and facilities involved with the management of hazardous waste which is recycled or reused.

This Statement of Need and Reasonableness is divided into several parts. Part II contains the Agency's explanation of the need for the proposed amendments. Part III contains an explanation of the reasonableness of the proposed amendments. Pursuant to the requirements of Minn. Stat § 14.115 (1984), part IV documents how the Agency has considered the methods of reducing the impact of the proposed amendments on small businesses. Part VI contains a list of the exhibits relied on by the Agency to support the proposed amendments. The exhibits are available for review at the Agency's offices at 1935 West County Road B2, Roseville, Minnesota 55113.

II. NEED FOR THE PROPOSED AMENDMENTS TO THE HAZARDOUS WASTE RULES

Minn. Stat. ch. 14 (1984) requires an agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rules or amendments proposed. In general terms this means that an agency must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention and reasonableness means that the solution proposed by an agency is appropriate.

Need is a broad test that does not easily lend itself to an evaluation of each proposed revision. In this broad sense, the need for amendments to the Agency's rules governing the classification of waste as hazardous and the rules governing the management of hazardous waste which is reused or recycled has two bases: the need for consistency with the federal hazardous waste regulations; and the need for the rules which provide an acceptable level of protection for human health and the environment while at the same time encouraging recycling activities.

A. Need for Consistency with Federal Regulations.

In 1976, Congress adopted the Resource Conservation and Recovery Act (hereinafter "RCRA") to regulate the management of hazardous waste. 42 U.S.C. §§ 6901 et seq. In adopting RCRA, Congress provided for eventual state control of the hazardous waste program and set up the mechanism for the U.S. Environmental Protection Agency (hereinafter "EPA") to grant authority to states to operate the program. In states that receive authorization, the state

environmental agency administers the state program in lieu of the federal program. To receive and maintain authorization, the state program must be "equivalent" to the federal program and consistent with federal or state programs applicable in other states. EPA has defined equivalent to mean that the state requirements are at least as stringent as federal requirements. In terms of consistency, EPA's goal is to achieve an integrated national program which requires that final state programs do not conflict with each other or with the federal program.

Minnesota received final authorization for its hazardous waste program from EPA effective February 11, 1985. See 50 Fed. Reg. 3756 (January 28, 1985). A state with final authorization administers its hazardous waste program in lieu of the EPA program for those regulations which were promulgated pursuant to RCRA as adopted in 1976 and as amended in 1980.[1] When new more stringent federal requirements are promulgated by EPA, the state is required to enact equivalent requirements within specified time frames. However, until they are adopted as state requirements, the new federal requirements do not take effect in an authorized state. States are not required to adopt new federal amendments which are less stringent than state requirements. However, they are urged to consider adopting those amendments to maintain consistency among state and federal programs.

Although a state program may be more stringent than the federal program and

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[1]The final authorization received by Minnesota does not include authority to implement EPA regulations adopted pursuant to the 1984 Hazardous and Solid Waste Amendments (Pub. L. 98-616). Authorization must be obtained specifically under those amendments.

authorized states are not required to adopt less stringent federal standards, the Agency believes that it is important to maintain as much consistency as possible between Minnesota's rules and the federal program. Much of the hazardous waste generated in Minnesota must be sent to other states for treatment or disposal because Minnesota has no commercial disposal facilities, and only very limited commercial treatment facilities. This means that even though Minnesota has received authorization for its hazardous waste program, many Minnesota generators must be knowledgeable about requirements of both the State and federal hazardous waste programs. The need to comply with two or more different sets of standards makes compliance with any set of standards more difficult. Therefore, to the extent it can be accomplished without harming human health or welfare, or the environment, it is preferable to incorporate amendments to EPA's hazardous waste regulations into the Agency's hazardous waste rules.

EPA has adopted amendments to 40 C.F.R. Parts 260, 261, 264, 265 and 266 regarding the definition of solid waste and the level of regulation applicable to hazardous waste which is recycled.[2] 50 Fed. Reg. 614 (January 4, 1985) (Exhibit 2). The need for those amendments is discussed in Exhibit 2, and that discussion is hereby incorporated by reference into this document.

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[2]The federal definition of "solid waste" is different than the State definition. At the federal level, hazardous waste is a class of solid waste. In Minnesota, solid waste and hazardous waste are totally different classifications of waste. Although the federal regulations as published on January 4, 1985 refer to a change in the definition of solid waste, from Minnesota's standpoint they are a change in the regulation of hazardous waste which is recycled.

The proposed amendments to the Agency's rules incorporate those changes to the federal hazardous waste requirements which are more stringent than the Agency's existing rules and incorporates other changes to the federal rules to the extent that the chanages are appropriate in Minnesota. These proposed amendments are needed in order to maintain equivalency with the new more restrictive federal regulations and to promote consistency between federal regulations and Agency rules.

B. Need for Encouraging Recycling Activities in a Manner Consistent with Protection of Human Health and the Environment.

The proposed amendments regarding use of hazardous waste as a feedstock and reclamation of characteristic hazardous waste by-products and sludges are more restrictive than those of the federal regulations but less restrictive than current Agency rules. These proposed amendments are needed in order to promote recycling activities while still providing a level of regulation which is necessary to protect human health and the environment.

III. REASONABLENESS OF THE PROPOSED AMENDMENTS TO THE HAZARDOUS WASTE RULES

The Agency is required by Minn. Stat. ch. 14 (1984) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules or amendments. Reasonableness is the opposite of arbitrariness and capriciousness. It means that there is a rational basis for the Agency's action. The reasonableness of each of the proposed amendments is discussed below.

A. Minn. Rules Pt. 7045.0020.

The Agency is proposing to amend Minn. Rules, pt. 7045.0020 to add or amend

several definitions which are important to the proposed amendments. The Agency is also proposing to repeal the definition of "petroleum derived waste oil." With one exception, the definitions which are proposed to be added are all terms which have been added to the federal regulations. It is reasonable to define these terms in the rules in order to maintain consistency with the federal program. Because these terms are all used elsewhere in the proposed amendments, it is reasonable to define them so that the regulated community can understand the requirements of the proposed rule amendments. All of the proposed new definitions are consistent with the federal regulations. Each proposed additional definition and its corresponding federal reference is listed below.

Subpart	Term	40 C.F.R. Section
6a	"boiler"	260.10
6c	"by-product"	261.1(c)(3)
38a	"industrial furnace"	260.10
73a	"reclamation"	261.1(c)(4)
73b	"recycle"	261.1(c)(7)
73c	"reuse"	261.1(c)(5)
79a	"scrap metal"	261.1(c)(6)
84a	"speculative accumulation"	261.1(c)(8)
84b	"spent material"	261.1(c)(1)

The Agency is also proposing to add a definition of "used oil." The proposed definition is the same as the definition used in RCRA, 42 U.S.C. § 6903 (36).

It is reasonable to define this term in accordance with the statutory definition in order to maintain consistency with the federal program. At the same time, the Agency is proposing to repeal Minn. Rules pt. 7045.0020, subp. 69, which defines "petroleum derived waste oil," for the reason that the new definition of "used oil" is intended to replace it. It is reasonable to repeal this rule because the replacement of it with the new definition promotes consistency between the Agency program and the federal program.

The Agency is proposing to amend four definitions within Minn. Rules pt. 7045.0020: 1) "designated facility" (subp. 15); 2) "discarded" (subp. 18); 3) "hazardous waste incinerator" (subp. 35); and 4) "other waste material" (subp. 63). The purpose of the amendments to these definitions is to make the definitions consistent with their use in the management requirements set forth elsewhere in the proposed rule amendments and also to conform the rules to the requirements of the federal program. It is reasonable to amend these terms so that the regulated community can understand what facilities and wastes are subject to applicable management requirements.

B. Minn. Rules, Pt. 7045.0075 (Petitions).

Minn. Rules, pt. 7045.0075, subp. 3 describes the procedure for petitioning the Agency to reduce certain management requirements for some hazardous wastes which are accumulated speculatively or reclaimed prior to use. It also sets forth the standards and criteria to be applied in determining whether a petition should be granted. These petitioning procedures are consistent with those contained in 40 C.F.R. §§ 260.30 and 260.31.

Minn. Rules pt. 7045.0075, subp. 3, item A allows a person to petition the

Agency for a reduction in the regulation of hazardous waste which is speculatively accumulated, as defined in Minn. Rules pt. 7045.0020, without sufficient amounts being recycled. In accordance with the definitions of "speculative accumulation," this means that a person who fails to recycle 75 percent of the waste accumulated over the period of a calendar year may petition under this rule. The rules would normally require a recycler of hazardous waste who does not recycle 75 percent of the accumulated waste over the period of a year to be fully regulated under the appropriate parts of ch. 7045. However, in certain situations there may be valid reasons why persons are unable to recycle sufficient amounts of waste and, therefore, it may not be appropriate or necessary to impose full regulation on that person. Therefore, it is reasonable to have a provision which allows for a petition to reduce the regulatory requirements.

Item A specifically provides that if a petition is granted, the reduction in regulation is valid only for the following year. It is reasonable to limit the time period for the reduction in regulation because MPCA staff is provided additional opportunity to review the recycling activity and make sure that the generator continues to meet the criteria.

The amendments set forth the criteria to be used by the Agency in evaluating the petition. Item A provides that the petitioner must demonstrate that sufficient amounts (i.e. 75 percent) will be recycled or transferred for recycling the next year. Items A(1) through A(5) set forth the following criteria which are to be used in evaluating the information provided by the petitioner: the manner in which the waste is to be recycled; where it will be

recycled; whether the expected disposition will be affected by past practice, market factors, the nature of the waste or contractual arrangements for recycling; the reason that the waste has been accumulated without recycling 75 percent of the waste accumulated at the beginning of the year; the quantity already accumulated at the time of the petition and any additional volume expected to be accumulated before the waste is recycled; and the extent to which the waste is handled to minimize loss. The director may require additional information which may be needed to evaluate the petition. These criteria are reasonable because they are related to the ability of the Agency to ensure that accumulated hazardous waste will be managed in a manner which is protective of human health and the environment even if the person responsible for its management is allowed to be subject to reduced regulatory requirements.

Minn. Rules, pt. 7045.0125, subp. 3, item B, allows a person to petition the Agency for a reduction in regulation for hazardous waste used as a feedstock, within the original primary process in which it was generated if the reclamation is an essential part of the production process. It is reasonable in some instances to allow a reduction in regulation of hazardous waste in closed-loop recycling because it encourages recycling thus reducing the environmental risk which would result from disposal of the waste. The Agency must base its decision on reduction in regulation on the following standards and criteria:

1. How economically viable the production process would be if it used virgin materials rather than the reclaimed hazardous waste. It is reasonable to apply this criterion because the more significant the cost saving, the more the situation is like one single production process.

2. The prevalence of the practice on an industry-wide basis. It is reasonable to use this criterion because the more wide-spread the practice, the more likely it is to be considered a production process.

3. The extent to which handling of the material before it is reclaimed is designed to minimize loss of material. Materials utilized in production processes should be stored in a way to minimize loss. It is reasonable to apply this criterion because the more precautions that are taken to protect the material prior to reclamation, the more the situation is like a production process.

4. The time periods between generation of the material and its reclamation, and between reclamation and reuse in the original process. It is reasonable to apply this criterion because the shorter the elapsed time between generation, reclamation, and reuse, the more likely the entire operation is to be viewed as a single process.

5. The location of the reclamation process in relation to the production process. It is reasonable to apply this criterion because the closer the reclamation operation is physically to the production process, the more likely the situation is to be considered closed-loop recycling.

6. Whether the reclaimed material is used for its original purpose when it is returned to the original primary production process, and whether it is returned to the process in substantially its original form. It is reasonable to apply this criterion because operations are most like a closed-loop operation when the reclaimed material is returned to the original process in substantially its original form for its original purpose.

7. Any additional information the Agency may need for a complete evaluation of the petition. This additional criterion is necessary and reasonable because on a case-by-case basis other unforeseen factors may be appropriate to consider in making a decision on the petition.

Minn. Rules pt. 7045.0125, subp. 3, item C allows a person to petition the Agency for a reduction in regulation for hazardous wastes which have been reclaimed but must be reclaimed further before recovery is completed. It is reasonable in some instances to allow a reduction in regulation for hazardous wastes which have been reclaimed but need further recycling because such a reduction encourages recycling and reduces the need for disposal of the waste. The Agency must evaluate the petition based on the following criteria:

1. The degree of processing that the material has undergone and the degree of further processing required before it is usable. It is reasonable to apply this criterion because the more substantial the first processing step, the more the waste may be considered a marketable commodity.

2. The value of the hazardous waste after it has been reclaimed. It is reasonable to apply this criterion because the more valuable the reclaimed material, the less one would consider it a waste.

3. The degree to which the initially reclaimed material is like an analogous raw material. It is reasonable to apply this criterion because if the reclaimed material can be substituted for a raw material in a process, it is more like a commodity than a waste.

4. The extent to which an end market for the reclaimed hazardous waste is guaranteed. It is reasonable to apply this criterion because a guaranteed

market indicates that the material is more like a commodity than a waste.

5. The extent to which the reclaimed hazardous waste is handled to minimize loss. It is reasonable to apply this criterion because the more the reclaimed hazardous waste is handled like a raw material by protecting from loss or deterioration, the more likely that the material reclaimed from the waste could be granted some reduction in regulation.

6. Any additional information the director may reasonably request which may be required to evaluate the petition. This is a reasonable provision since the circumstances of each petition will be different and additional information may be needed.

Pt. 7045.0075, subp. 4 allows a person to petition the Agency Director to determine that certain enclosed devices using controlled flame combustion (i.e., an "incinerator" or "industrial furnace" as defined in Minn. Rules pt. 7045.0020) as boilers, although they do not otherwise meet the definition of "boiler," if efficient heat recovery equipment is added to an existing unit.

The reason for allowing this petition arises from the fact that the definition of "boiler" focuses on physical indicia of their legitimate use for energy recovery. The definition relies upon the concepts of integral design, combustion efficiency, and energy recovery. This reflects the fact that boilers are designed and operated to convert fuel into more usable energy. This is most efficiently done when energy recovery devices, such as water vessels, are physically in contact with (integrally connected to) the combustion chamber in which the fuel is burned. Consequently, the definition of "boiler" provides that "the unit's combustion chamber and primary energy recovery sections must be

of integral design." Minn. Rules pt. 7045.0020, subp. 6a.A.(2). A great majority of boilers can be unambiguously identified from this characteristic; however, there are a few units which could legitimately function as boilers without having this characteristic. Therefore, it is reasonable to allow the Director to make a case-by-case determination that such units are boilers. The proposed rule is consistent with the federal regulations 40 C.F.R. § 260.32. The Agency must evaluate the petition based on the following criteria:

1. The extent to which the unit has provisions for recovering thermal energy in the form of steam, heated fluids, or heated gases.

2. The extent to which the combustion chamber and energy recovery equipment are of integral design.

3. The efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel.

4. The extent to which the exported energy is utilized.

5. The extent to which the device is in common and customary use as a "boiler" functioning to produce steam, heated liquid, or heated gases.

6. Any additional information the director may reasonably request which may be required to evaluate the petition.

These criteria are reasonable because they are relevant to the objective of evaluating whether or not the device under consideration will efficiently serve the intended purpose of a boiler.

C. Minn. Rules, Pt. 7045.0120 (Exempt Wastes).

Minn. Rules pt. 7045.0120, items M, O, and P are amended to make it consistent with the language of the federal rules.

Item M is amended to replace the term "petroleum-derived waste oil" with the term "used oil" and to delete words which have become redundant under the new definition of "recycle." It is reasonable to conform the rule to the new definitions in the Agency's proposed amendments.

Item O is amended to delete scrap metal as an "exempt waste." Scrap metal is now specifically referred to in the proposed new subp. 4 of Minn. Rules pt. 7045.0125, which regulates the management of waste by use, reuse, recycling, and reclamation. It is reasonable to delete the reference to scrap metal in pt. 7045.0120 since the subject will now be covered elsewhere. The scrap metal exemption is replaced by an exemption for pulping liquors reclaimed in the pulping process by a paper mill. This black liquor exemption is the same as that in 40 C.F.R. § 261.4 (a)(6), and is reasonable because recovery of black liquor is a very common practice in the paper industry, and in fact, some pulp making processes would not be economically viable without recovery of the black liquor. (Black liquor is the spent chemicals, usually corrosive, which are recovered from the wood chip digester.) Because this operation appears to occur on a nearly continuous basis for all black liquor generated, the exemption is reasonable.

Minn. Rules, pt. 7045.0120, item P exempts spent sulfuric acid used to produce virgin sulfuric acid. The use of spent sulfuric acid as a feedstock in the production of virgin sulfuric acid is a well-established recycling operation which accounts for about 9 percent of all sulfuric acid produced annually in the United States. This is a reasonable exemption since the spent sulfuric acid is used like a raw material. This exemption is the same as that in 40 C.F.R. § 261.4 (a)(7).

D. Minn. Rules, pt. 7045.0125 (Management of Waste by Use, Reuse, Recycling, and Reclamation).

Minn. Rules pt. 7045.0125 sets forth the requirements for the management of hazardous waste which is recycled.

Minn. Rules pt. 7045.0125, subp. 1 is amended to indicate that the part does not apply to use constituting disposal, precious metals recovery from hazardous waste, and spent lead-acid batteries. This is reasonable since each of these concerns is addressed in a separate part setting forth specific requirements.

Minn. Rules pt. 7045.0125, subp. 2 is repealed. This subpart made certain management requirements applicable to specific hazardous wastes which were to be beneficially used, reused, recycled, or reclaimed. The repeal of this subpart is necessary and reasonable since the provisions included are less stringent than the federal requirements for recycling hazardous waste.

Minn. Rules pt. 7045.0125, subp. 4 states that the management of specific hazardous wastes, namely industrial ethyl alcohol that is reclaimed, used batteries or battery cells returned to a battery manufacturer for regeneration, and scrap metal are not subject to regulation under the generator, transporter and facility standards of ch. 7045. These exemptions from regulation are the same as those contained in 40 C.F.R. § 261.6 (a)(3). These exemptions are reasonable as a general matter because these wastes can be handled as a product or commodity with commercial value, and it is desirable to encourage the recycling of these wastes instead of disposal. The reasonableness of each exemption is discussed below.

The exemption of reclaimed industrial ethyl alcohol from regulation under

the hazardous waste rules is reasonable because it is strictly regulated by the Federal Bureau of Alcohol, Tobacco, and Firearms from point of generation to the point of redistillation.

Exemption of used batteries or battery cells which are returned to a battery manufacturer for regeneration is reasonable since a battery is a commercial product being recycled, and thus waste management is not actually involved. Also, since the batteries are being returned intact for regeneration, the risk to public health and the environment posed by them is minimal.

Scrap metal is exempted at this time because EPA believes further evaluation of the hazard of various kinds of scrap metal is necessary, and expects to propose some regulatory scheme at a later date. Therefore, this exemption is temporary. It is reasonable for the Agency to assume a consistent approach to avoid confusion since it is likely that there will be consideration of several different regulatory approaches at the federal level.

Minn. Rules, pt. 7045.0125, subp. 5 sets forth requirements for management of hazardous waste used as a feedstock. A hazardous waste may be regulated under this subpart if it meets the criteria set forth in item A:

1. It is used or reused as an ingredient in an industrial process to make a product, provided the hazardous waste is not reclaimed prior to use or reuse.

2. It is used or reused as an effective substitute for a commercial product.

3. The waste is returned to the original process from which it is generated without first being reclaimed. The hazardous waste must be returned

as a substitute for raw material feedstock, and the process must use raw materials as principal feedstocks.

The criteria for evaluating use as a feedstock are the same as those contained in 40 C.F.R. § 261.2 (e)(1). This is reasonable in order to promote consistency with the federal program.

The management and transportation requirements for use of a hazardous waste as a feedstock are set forth in items B through D. They are somewhat different from the requirements in the federal regulations. Under the federal regulations, such activities are exempt from regulation under the hazardous waste program. Under current State rules, such activities are subject to various levels of regulation based on the waste type (characteristic versus listed or sludge). Under the proposed amendments, such activities will be subject to reduced regulation. Such a reduction in regulation is reasonable since it encourages use as a feedstock and such use presents a minimal risk if done properly. It is desirable to encourage using the waste as a feedstock because this reduces the amount of hazardous waste to be disposed. However, to ensure the hazardous waste is properly managed, it is reasonable to require some level of regulation.

Minn. Rules pt. 7045.0125, subp. 5, item B sets forth the requirements for the generators of hazardous waste which is used as a feedstock. The rules require evaluation of the waste to determine whether or not it is a hazardous waste, inclusion of its management in the generator's waste management plan, and the disclosure of the waste to the Agency. In addition, a generator must comply with Minn. Rules, pt. 7045.0296, subp. 5, which the Agency is proposing to amend

to require the generator include in the annual report a report of the recycling activity over the previous year and provide evidence that a continuing market exist for the waste.

These management requirements applicable to the generator of the wastes which are used as a feedstock are reasonable since they provide some assurance that the wastes are being soundly managed. These requirements are more stringent than the federal rules because the Agency believes it is reasonable to place some management requirements on the waste without requiring the administrative burden of additional requirements such as hazardous waste manifests.

Minn. Rules pt. 7045.0125, subp. 5, item B also requires that within 45 days of shipment the generator must send the Agency Director a copy of the shipping papers confirming that the hazardous waste was delivered to the designated facility as indicated in the management plan; and the generator must keep records showing the amount of the waste stored at the beginning of the calendar year, the amount of waste generated during the calendar year, the amount of the waste used as a feedstock during the calendar year, and the amount of the waste remaining at the end of the calendar year. These provisions are reasonable because they will provide for documentation and record keeping of the management of the waste without imposing the burden of using hazardous waste manifests. Also, such records are necessary in order to document that the hazardous waste has not been accumulated speculatively. Speculative accumulation of hazardous waste is subject to full regulation. As such, it is reasonable to require such record keeping to enable the Agency to assure itself that wastes are not

accumulated speculatively.

Minn. Rules pt. 7045.0125, subp. 5, item C provides that the transporters of hazardous wastes which are used as a feedstock, must comply with all applicable State and federal requirements for transporting hazardous materials. This is consistent with the federal requirements. It is reasonable to require the transporter to comply with the State and federal rules since the hazardous waste can still pose an environmental threat if it is transported off-site.

Minn. Rules pt. 7045.0125, subp. 5, item D sets forth the requirements for owners or operators of facilities which manage the waste used as a feedstock. The facility receiving the waste to be used as a feedstock must provide the Director with written evidence to document that the waste is being used as a feedstock as provided in the management plan. The owner or operator of the facility must also keep records showing the wastes stored at the beginning of the calendar year, the amount received during the calendar year, the amount of the hazardous wastes used as a feedstock, and the amount of the hazardous wastes remaining at the end of the calendar year. These are reasonable requirements of the facility owner or operator because a facility permit is not required to receive the wastes and the owner or operator is not required to sign a hazardous waste manifest. However, it does require submission of documentation to the director that the waste was appropriately managed.

Minn. Rules pt. 7045.0125, subp. 6 sets forth the requirements for reclamation of specific hazardous wastes. Minn. Rules pt. 7045.0125, subp. 6, item A sets forth the requirements for a by-product or sludge which is hazardous only because it exhibits a hazardous characteristic and which is reclaimed.

Reclamation is defined as the "processing or regeneration of a waste to recover a usable product." (Minn. Rules pt. 7045.0020, subp. 73a, as proposed.) Under the federal regulation, 40 C.F.R. § 261.2 (c)(3), the reclamation of characteristic by-products and sludges is exempt from regulation under the hazardous waste program. However, under 40 C.F.R. § 261.2 (f), persons who claim they are exempt from regulation for recycling activities must maintain documentation as evidence of qualifying for such an exemption. The federal regulation does not require submission of the documentation to EPA; however, EPA could obtain access to it through its inspection and enforcement program. Under current State rules, all recycling activities are subject to some level of regulation. The Agency has chosen to continue to regulate such recycling activities rather than exempting them but to require submission of documentation of recycling activities. Under the proposed amendments, such activities are subject to reduced requirements. This is reasonable in order to encourage the selection of recycling of a material with commercial value over disposal. However, the documentation required by federal regulations must be submitted to the Director for review and approval through the disclosure/annual report process. Such submittal and review would allow the Agency to assure itself that the hazardous waste is being properly managed. Therefore, it is reasonable to require record keeping and submittal of information to ensure ongoing proper management of the hazardous waste. Generators of such waste are required to evaluate the waste and submit a disclosure and management plan to the director. In addition, within 45 days of shipment the generator must provide the Director documentation that the waste was delivered to the facility

designated in the management plan. The generator must also keep records showing the volume of wastes stored at the beginning of the calendar year, the amount of wastes generated during the calendar year, the amount of the wastes reclaimed during the calendar year, and the amount of the wastes remaining at the end of the calendar year. These requirements of the generator are reasonable since they provide a degree of assurance that the wastes are being managed as described in the management plan and that the environment is being protected.

Item A(2) of the rule provides that the transporters of hazardous waste must comply with the applicable requirements of Minn. Stat. § 221.033 and 49 C.F.R. Parts 171 to 179. These requirements are reasonable since the waste should be transported as a hazardous material in order to protect the public and the environment during transportation from the generator to the recycling facility.

Item A(3) provides owners or operators of facilities receiving a hazardous characteristic by-product or sludge are required to provide evidence to the Director of the equipment and the capability to reclaim the waste prior to receiving such a hazardous waste. This is reasonable in order to ensure that the wastes are being managed properly. In addition, the owner or operator must keep records showing the volume of wastes stored at the beginning of the year, the volume of such hazardous waste received during the year, the amount of such hazardous waste reclaimed during the calendar year, and the volume of such waste remaining at the end of the year. Such record keeping requirements are reasonable to ensure wastes are not accumulated speculatively.

Item B of the rule states that subp. 6 does not apply to hazardous wastes

being accumulated speculatively, being managed by use constituting disposal, or being burned for energy recovery. This is consistent with 40 C.F.R. § 261.2. It is reasonable because these management methods involve a certain lack of control over the waste, and in order to protect the public health and the environment should not be relieved of regulation.

Minn. Rules pt. 7045.0125, subp. 7 provides that unless the activities of generators of hazardous waste destined for recycling fall within the provisions of Minn. Rules pt. 7045.0125, subps. 4, 5, 6, or 10, they are subject to all generator requirements of pts. 7045.0205 to 7045.0304. It is reasonable to place all the generator requirements of ch. 7045 on the generators of such waste because the waste has little commercial value until it is processed. Therefore, because of the lower value of the waste, the generator has less monetary incentive to handle the waste carefully, and the wastes should be regulated. For the most part, these requirements are the same as those contained in current State rules. Also, under 40 C.F.R. § 261.6 (b) generators are subject to full regulation under 40 C.F.R. Part 262 which is the federal counterpart to Minn. Rules pts. 7045.0205 to 7045.0304.

Minn. Rules pt. 7045.0125, subp. 8 provides that unless the activities of transporters of hazardous waste destined for recycle fall within the provisions of Minn. Rules pt. 7045.0125, subps. 4, 5, 6, or 10, they are subject to all requirements for hazardous waste transporters. This is reasonable in order to protect the public and environment to the fullest extent possible.

Minn. Rules pt. 7045.0125, subp. 9 sets forth the requirements for owners or operators of facilities which recycle hazardous waste where the waste does

not meet the criteria of subps. 4, 5, 6, or 10 of pt. 7045.0125. Item A provides that if the owner or operator of a recycling facility stores the hazardous waste prior to recycling, the owner or operator is subject to the requirements of pts. 7045.0450 to 7045.0534, pt. 7045.0544, pts. 7045.0552 to 7045.0632, and the permitting requirements of ch. 7001. It is reasonable to place these requirements on such owners or operators because the wastes are being held at the facility site, and every effort must be made to protect the public and the environment during the storage. These requirements are consistent with the federal provisions under 40 C.F.R. § 261.6 (c)(1).

Item B provides that if the owner or operator of a recycling facility does not store the hazardous waste prior to recycling, the owner or operator is subject to the requirements of pt. 7045.0556, subp. 2 and pts. 7045.0580 and 7045.0582. These requirements govern the use of the manifest system including the requirement to obtain an EPA identification number. It is reasonable to require the facility owner or operator to comply with the manifest system requirements since the hazardous waste shipments are required to be accompanied by a manifest. This will ensure that the hazardous waste has been received by the designated facility. These requirements are consistent with those of 40 C.F.R. § 261.6 (c)(2).

Minn. Rules pt. 7045.0125, subp. 10 sets forth the requirements for the management of hazardous wastes which are burned for energy recovery. These are the same requirements as those in pt. 7045.0125, subp. 2, items D and E of the existing rules. These requirements are reasonable since they provide some assurance that the waste is being properly managed.

Item A of subp. 10 provides that if the waste is hazardous solely due to ignitability and is stored prior to burning, the facility owner or operator must have a hazardous waste storage facility permit, and is subject to all facility requirements for a storage facility. This is reasonable because there is a need to minimize risk to the public health and the environment by imposing the storage facility standards.

Item B of subp. 10 provides that if the hazardous waste is a sludge, or contains a waste listed for other than ignitability or a waste that is toxic under pt. 7045.0131, subp. 6, and if the waste is transported or stored prior to burning, the facility must have a hazardous waste storage facility permit and is subject to the requirements in pts. 7045.0205 to 7045.0534 and pt. 7045.0544, for generators, transporters, and storage facilities, pts. 7045.0552 to 7045.0632 for storage facilities, and pt. 7045.0542 except subp. 4, item C and subp. 7, item A, subitem (2) and pt. 7045.0640 for thermal treatment facilities. In addition, the facility must have or apply for an air quality facility permit as required. Placing these requirements on a facility which is burning a toxic waste is reasonable since it ensures that there is control over the management of the waste. Including the thermal treatment standards for any facility burning a hazardous waste is reasonable since it provides operating standards for the equipment to minimize emissions. Referencing the requirement for an air quality facility permit is reasonable, since it alerts the regulated person that there are additional regulatory requirements under another Agency program.

These requirements on hazardous waste burned for energy recovery are more

stringent than the federal requirements. The Agency believes this additional regulation is both necessary and reasonable to provide some degree of control over the management of the waste and protect the environment and the public. EPA has recognized that there are gaps in the federal regulatory scheme regarding the management of hazardous wastes burned for energy recovery, and has begun to close those gaps. The Agency believes the approach used in pt. 7045.0125, subp. 10 is a reasonable means of closing those gaps and is the same as the requirements under existing State rules. Once EPA promulgates final regulations regarding facility standards for the use of hazardous waste as a fuel, the Agency will review them and consider whether amending the rules is appropriate at that time.

E. Minn. Rules Pt. 7045.0135 (Lists of Hazardous Wastes.)

Minn. Rules pt. 7045.0135, subp. 2, governing hazardous wastes from non-specific sources is amended to delete the exceptions for the wastes from precious metal plating for waste numbers F007, F008, F009, F010, F011, and F012. This is reasonable since the reason for the wastes being listed for non-precious metals is due to the cyanide content, and the same waste from precious metal plating poses a similar threat. These deletions are the same as those in 40 C.F.R. § 261.31. Also, the recycling of these wastes will now be subject to special requirements under proposed pt. 7045.0675.

Minn. Rules pt. 7045.0135, subp. 4 is amended to expand the categories of discarded commercial chemical products, off-specification species, containers, and spill residues to include wastes burned for energy recovery, wastes used to produce fuels, wastes applied to the land directly, or wastes which are

contained in products which are applied to the land. This is a reasonable requirement since it clearly provides that the acutely hazardous wastes listed in pt. 7045.0125, subp. 4, item E are to be considered as hazardous wastes if they are discarded, burned for energy recovery either alone or blended, or when they are applied to the land as a waste or in a product. Such consideration is reasonable due to the risk associated with such wastes when they are burned or used in a manner constituting disposal. Also, this requirement is the same as that in 40 C.F.R. § 261.33.

F. Minn. Rules Pt. 7045.0142 (Method of Testing Primary Irritative Substances).

Minn. Rules pt. 7045.0142 is repealed by these amendments. This is reasonable since it refers to pt. 7045.0125, subp. 2 which must be repealed because it is less stringent than the federal regulations. The requirements of pt. 7045.0142 will no longer be necessary once pt. 7045.0125, subp. 2 is repealed.

G. Minn. Rules Pt. 7045.0214 (Evaluation of Wastes).

Minn. Rules, pt. 7045.0214, subp. 1 is amended to provide that a material is determined to be a waste according to the conditions of the definition of other waste material in pt. 7045.0020. This is reasonable since it clarifies that waste which "is recycled or is accumulated, stored or treated prior to being recycled" or "is a spent material or by-product" is subject to the requirements of waste evaluation. This approach is consistent with existing State rules and the new federal regulations; however, the cross-reference to other waste material clarifies the applicability of this provision.

Pt. 7045.0214, subp. 3 is amended to add item C which provides that materials which have been reclaimed from hazardous wastes are not hazardous wastes unless the reclaimed material is used in a manner constituting disposal as described in pt. 7045.0665 or burned for energy recovery under pt. 7045.0125, subp. 10. This is a reasonable provision since the material after reclamation is no longer managed as a waste, but is more like a raw material or commodity. However, it is reasonable to consider the reclaimed material a hazardous waste if it is used in a manner constituting disposal or burned for energy recovery since the waste presents a greater risk to human health and the environment when managed in such a manner. Therefore, it is reasonable to require such activities be subject to regulation to minimize adverse effects, such as air emissions or ground water contamination. This provision is consistent with the requirements of 40 C.F.R. § 261.3 (c)(2).

H. Minn. Rules Pt. 7045.0219 (Special Requirements for Small Quantity Generators of Hazardous Waste).

Minn. Rules pt. 7045.0219, subp. 1, item C is amended to provide that hazardous wastes which are used as feedstock, characteristic by-products or sludges which are reclaimed, industrial ethyl alcohol that is reclaimed, used batteries or used battery cells returned to a battery manufacturer for regeneration, and scrap metal are not to be considered when calculating the total volume of waste generated. Because industrial ethyl alcohol, used batteries, and scrap metal are not subject to regulation under the management requirements of pts. 7045.0205 to 7045.0685 (as described in pt. 7045.0125, subp. 4), it is reasonable not to include these wastes when calculating the

volume of waste generated. It is also reasonable to exclude wastes used as a feedstock and characteristic by-products or sludges which are reclaimed in calculating the waste volume, since these wastes are managed more as commodities than wastes. Also, under the federal regulation, 40 C.F.R. 261.2, these wastes are not included in the volume calculations when determining volume of waste generated.

I. Minn. Rules Pt. 7045.0296 (Annual Reporting).

Minn. Rules pt. 7045.0296 is amended to add subp. 5 which sets forth the reporting requirements for wastes which are recycled according to the provisions of pt. 7045.0125 and which are exempt from the requirements for use of manifests. A generator of such hazardous waste is required to include in the annual report evidence that the waste was recycled as indicated in the management plan and evidence that a continuing market exists for the waste. It is reasonable to require generators to provide the Agency information regarding the past and future management of the waste since no manifests are required and the Agency needs to be able to assure itself that the management requirements have been complied with.

J. Minn. Rules, Pt. 7045.0450 (Facilities Governed by Facility Standards).

Minn. Rules pt. 7045.0450 subp. 3, item A is amended to clarify which recycling facilities are exempted from the facility standards. Facilities which manage recyclable hazardous wastes subject to regulation under pts. 7045.0125, 7045.0665, 7045.0675, or 7045.0685 are exempt except as those parts provide otherwise. It is reasonable to exempt the facilities receiving certain wastes because the waste that is received is more like a product than a waste and it is

not going to be disposed of or managed in a manner which would require the control provided in a permitted facility.

K. Minn. Rules, Pt. 7045.0542 (Thermal Treatment).

Minn. Rules pt. 7045.0542, subp. 1, item A is amended to include as thermal treatment facilities hazardous waste incinerators and industrial furnaces or boilers which burn hazardous wastes in order to destroy them. It is reasonable to include this amendment to clarify exactly what is meant by thermal treatment facilities.

L. Minn. Rules Pt. 7045.0552 (Facilities Governed by Interim Status).

Minn. Rules pt. 7045.0552, subp. 3, item B is amended to clarify which recycling facilities are exempted from the interim status facility standards. Facilities which manage recyclable hazardous wastes subject to regulation under pts. 7045.0125, 7045.0665, 7045.0675, or 7045.0685 are exempt except as those parts provide otherwise. It is reasonable to exempt the facilities receiving certain hazardous wastes because the waste that is received is more like a product than a waste, and it is not going to be disposed of or managed in a manner which would require the control provided by the requirements for a facility.

M. Minn. Rules, Pt. 7045.0640 (Thermal Treatment).

Minn. Rules pt. 7045.0640, subp. 1 is amended to include as thermal treatment facilities hazardous waste incinerators and industrial furnaces or boilers which burn hazardous wastes in order to destroy them. It is reasonable to include this amendment to clarify exactly what is meant by thermal treatment facilities.

N. Minn. Rules Pt. 7045.0665 (Use Constituting Disposal).

Minn. Rules pt. 7045.0665 sets forth the requirements for management of hazardous wastes which are used in a manner constituting disposal. Use constituting disposal means the application or placement of recyclable wastes in or on the land.

It is reasonable to regulate hazardous wastes which are placed on the land in the form generated or which are mixed but retain the original chemical character of the waste in order to minimize soil and ground water contamination. Placing such wastes on the land poses the same risk of migration of the hazardous constituents as land treatment, and therefore should be regulated as such. In the preamble to the proposed regulation (48 Fed. Reg. 14496, April 4, 1983) EPA states, "...recycling that constitutes disposal is virtually tantamount to unsupervised land disposal." The requirements of this part are the same as those of 40 C.F.R. §§ 266.20 to 266.23.

Minn. Rules pt. 7045.0665, subp. 1 provides that use constituting disposal includes application or placement of recyclable wastes in or on the land:

(1) without mixing with other substance(s);

(2) after mixing with other substance(s) unless the recyclable waste undergoes a chemical reaction so as to become inseparable from the other constituents by physical means;

(3) after combination with any other substance(s) if the resulting material is not produced for the general public's use.

These are reasonable provisions since they clarify which wastes used in a manner constituting disposal are regulated under this part. These conditions

indicate that unless the hazardous waste is changed to eliminate its potential hazard, the activity of placing it on the land is regulated. An example of an activity that will be regulated under this part is the incorporation of high pH waste into the soil as a soil conditioner. Products produced for the general public's use that are used in a manner constituting disposal that contain recyclable wastes which have undergone a chemical reaction in the course of producing a product so as to become inseparable by physical means are exempt from regulation under this part. This is reasonable because the wastes are chemically transformed and the threat to the public health and the environment is minimized.

Minn. Rules pt. 7045.0065, subp. 2 sets forth the requirements for generators of wastes used in a manner constituting disposal. The generators are subject to all generator requirements of ch. 7045. This is reasonable because it assures the Agency that the waste is being appropriately managed at all stages. Use of manifests also informs the generator that the waste is being shipped to the correct point of use.

Minn. Rules pt. 7045.0665, subp. 3 sets forth the requirements for transporters of waste used in a manner constituting disposal. Such transporters are subject to all transporter requirements of ch. 7045. Again, it is reasonable to apply these requirements to make sure the waste is being safely and correctly managed.

Minn. Rules pt. 7045.0665, subp. 4 sets forth the requirements applicable to facilities managing wastes that are used in a manner constituting disposal. Owners or operators of intermediate facilities which store the waste are subject

to all requirements for storage facilities of ch. 7045 and must obtain a permit. The facilities which use the hazardous waste in a manner constituting disposal are subject to all facility requirements of ch. 7045 and must obtain a hazardous waste facility permit. These requirements are reasonable because they provide the greatest protection of the environment at the time the wastes are first placed on the land and thereafter.

O. Minn. Rules pt. 7045.0675 (Recyclable Wastes Utilized for Precious Metal Recovery).

Minn. Rules pt. 7045.0675 sets forth the requirements for management of hazardous wastes utilized for precious metal recovery. It is reasonable to include these hazardous wastes in the hazardous waste management program because precious metals are frequently reclaimed from the cyanide plating baths, which are hazardous regardless of the metals involved due to the presence of cyanide. These requirements are the same as those of 40 C.F.R. § 266.70.

Minn. Rules pt. 7045.0675, subp. 1 specifies the precious metals to which the part applies. These are gold, silver, platinum, paladium, irridium, osmium, rhodium, ruthenium, or any combination of these. It is reasonable to list the metals to clarify what metals are considered precious.

Minn. Rules pt. 7045.0675, subp. 2 prescribes that generators of hazardous waste utilized for precious metals recovery are subject to all generator requirements of ch. 7045. It is reasonable to apply these requirements because of the hazard of the cyanide-containing waste.

Minn. Rules pt. 7045.0675, subp. 3 sets forth the requirements for transporters of hazardous wastes utilized for precious metals recovery.

Transporters of such wastes are subject to all transporter requirements of ch. 7045. This is a reasonable approach to assure that the hazardous waste is handled appropriately during transit.

Minn. Rules pt. 7045.0675, subp. 4 sets forth the requirements for persons who store recyclable hazardous waste utilized for precious metals recovery. If the hazardous waste is only being stored for a short period without any intent of speculative accumulation, the facility must obtain an identification number as provided in pt. 7045.0556, subp. 2, and must receive only wastes accompanied by a hazardous waste manifest. These are reasonable requirements because the reclaimers generally enter into batch tolling agreements requiring the return of the theoretically reclaimable metal to the generator and the facility does not keep the waste for long periods before beginning the reclamation process. The use of manifests is necessary to confirm that the waste has been received and is being appropriately treated.

The generator and facility must keep records showing: the volume of the precious metals stored at the beginning of the calendar year; the amount of the wastes generated or received during the calendar year; and the amount of wastes remaining at the end of the calendar year. These are reasonable requirements to avoid speculative accumulation of the waste with the intent of storing the waste for unknown periods of time at the risk of the environment and the public.

If the wastes are being accumulated speculatively with the intent of future reclamation, the person storing the waste becomes subject to all the facility requirements of ch. 7045 and must obtain a hazardous waste storage facility permit. It is reasonable to apply these requirements in order to protect the

public and the environment to the greatest exent possible.

O. Minn. Rules Pt. 7045.0685 (Spent Lead-Acid Batteries Being Reclaimed).

Minn. Rules pt. 7045.0685 sets forth the requirements for persons who generate, store, transport, collect, or reclaim spent lead-acid batteries that are recyclable.

Subp. 1 provides that, except as provided in subp. 2, persons who generate, transport, or collect spent batteries or store spent batteries but do not reclaim them are not subject to the generator, transporter or facility requirements of ch. 7045. Subp. 1 also defines indoor storage for the purpose of pt. 7045.0685 as "storage within a permanently constructed building consisting of at least a roof and three walls permanently affixed to a masonry or other composition floor placed on the ground." It is reasonable to define the scope of the part so it is clear which persons who handle spent lead-acid batteries must comply with the rules. It is reasonable to exclude the persons who generate, transport, or store spent batteries but do not reclaim them, or who collect batteries, from the generator, transporter, and facility requirements of ch. 7045 since they generally store batteries for only a short period of time. It is reasonable to distinguish indoor storage of batteries from other storage because outdoor storage of batteries by individuals who store them, but do not reclaim them, poses a soil and ground water contamination threat due to leaking and broken batteries.

Minn. Rules pt. 7045.0685, subp. 2 sets forth the specific requirements for storage of batteries by persons who do not reclaim them. Item A provides that if the batteries are stored indoors, they must be on an impermeable curbed

surface and provisions shall be made to place leaking or broken batteries into non-leaking containers, with regular inspection to assure the integrity of the stored batteries. These are reasonable requirements to protect the soil and the ground water at the storage site. The provisions are reasonable because they address the situation which has been brought to the attention of the Agency that intermediate collection sites frequently store the batteries under unsafe conditions.

Minn. Rules pt. 7045.0685, subp. 2 item B sets forth the requirements for storage of the batteries other than indoors as defined in subp. 1 of this part. Subitem 1 provides that if the batteries are not being speculatively accumulated, the storage must be on an impermeable curbed surface, provisions must be made to place leaking and broken batteries into non-leaking containers, and compliance with the requirements for the management of containers in pt. 7045.0526, subps. 2 through 6 and 9 must be maintained. These requirements are reasonable because they provide some degree of protection for the ground water and the soil at the storage site. It is reasonable to have the container requirements included because if the batteries are not stored in a structure, exposure to the elements will result in eventual deterioration of the battery cases.

Minn. Rules pt. 7045.0685, subp. 2, item B, subitem 2 sets forth the requirements for storage of batteries if it meets the provisions of speculative accumulation; that is, if at least 75 percent of the batteries are not sent for reclamation after a year. The storage becomes subject to the storage facility requirements of ch. 7045, except that waste analysis and manifests are not

needed, and a hazardous waste storage facility permit is required. These requirements are reasonable because of the risk of deterioration and damage to the batteries during long-term storage. These requirements are more stringent than the federal requirements for persons who store the batteries but do not reclaim them. It is reasonable to be more stringent in this case due to Minnesota's climate, particularly the freeze-thaw cycles. In addition, EPA has recognized that there are problems with the intermediate collection centers, and indicated in the preamble to the final rules (see 50 F.R. 649 January 4, 1985), that investigation is continuing as to whether further regulation of intermediate collection sites is appropriate. The Agency believes it is reasonable to regulate these collection sites at this time.

Minn. Rules pt. 7045.0685, subp. 3 sets forth the requirements for owners or operators of facilities that store spent batteries before reclaiming them. Such facilities are subject to all storage facility requirements except waste evaluation and use of manifests and the facilities must obtain a hazardous waste storage facility permit.

These requirements for the battery reclaimers are essentially the same as the federal requirements. It is reasonable to provide the environmental control and protection that a hazardous waste facility permit ensures. It is also reasonable not to require waste evaluation and manifests since the waste is homogeneous.

P. Minn. Rules Pt. 7001.0520 (Permit Requirements).

Minn. Rules pt. 7001.0520 is amended to reflect the changes in requirements for recycling hazardous wastes which are being made in the amendments to ch.

7045.

Minn. Rules pt. 7001.0520, subp. 2, item G is repealed. This is reasonable because of the reference to pt. 7045.0125 which was significantly amended to be more stringent.

Minn. Rules pt. 7001.0520, subp. 2, item H is amended to clarify that the recycling activity of a facility is not required to obtain a hazardous waste facility permit to the extent provided in pt. 7045.0125. This is reasonable because the specific wastes addressed in pt. 7045.0125 each have their own management requirements, and the cross-references must be consistent.

Minn. Rules pt. 7001.0520, subp. 2, item J specifically excludes from the permit requirement a facility which stores or reclaims economically significant amounts of precious metals, except where pt. 7045.0675 requires a permit. This is a reasonable exclusion because of the economic incentives to strictly manage the amount of wastes containing precious metals and is consistent with the requirements of proposed pt. 7045.0675.

Minn. Rules pt. 7001.0520, subp. 2, item K specifically excludes from the permit requirement facilities that store or reclaim spent lead-acid batteries except as provided in pt. 7045.0685. This is reasonable because the specific provisions of pt. 7045.0685 describe precisely what categories of persons who store or reclaim batteries need to obtain a permit.

IV. CONSIDERATION OF SMALL BUSINESS

Minn. Stat. § 14.115 (1984) requires Minnesota agencies when proposing amendments to existing rules which may affect small business, to consider

reducing the impact of the rule on small business. The objective of Minn. Stat. ch. 116 (1984) is to protect the public health and welfare and the environment from the adverse effects which will result when hazardous waste is mismanaged. Consideration which would apply less stringent standards to be hazardous waste generated by small businesses would be contrary to the Agency's mandate.

However, consideration is given to the generators, collectors, and transporters of spent lead-acid batteries by generally not regulating them. In many cases these will be service stations and battery retailers who receive the spent battery. These will often be small businesses, which are not regulated by Minn. Rules pt. 7045.0685, as proposed.

For other wastes, the amendments will impose the same requirements on large businesses as small businesses. The amendments will require additional management of the hazardous waste based on the potential for adverse effects on human health and the environment. This potential is not diminished in relation to the size of the business generating or handling the wastes. Additional expenses will be incurred as a result of the amendments due to the need to change the management of hazardous wastes which are destined for recycling.

V. CONCLUSION

The Agency has, in this document and its exhibits, made its presentation of facts establishing the need for and reasonableness of the proposed amendments to Minnesota's hazardous waste rules. This document constitutes the Agency's Statement of Need and Reasonableness for the proposed amendments to the hazardous waste rules.

VI. LIST OF EXHIBITS

The Agency is relying on the following documents to support these amendments.

MPCA

Ex. No.	Title
1	Federal Register, Volume 48, Number 65, pages 14472-14512, April 4, 1983
2	Federal Register, Volume 50, Number 3, pages 614-668, January 4, 1985

Dated: 8/15/85

Thomas J. Kalitowski

Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled, Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Jocelyn F. Olson, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act and the rules of the Attorney General have been followed.

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

Dated: December 17, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled, Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520

AFFIDAVIT REGARDING REQUESTS FOR NOTIFICATION AS TO SUBMISSION OF RULE AMENDMENTS TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Melba Hensel, being duly sworn on oath deposes and says:

1. That she is the person named in the Notice of Intent to Amend Rules Without a Public Hearing (10 S.R. 827, October 7, 1985) as the person to receive requests for notification of the date that the Agency submits the above-captioned rules to the Attorney General.

2. That no person has requested notification of the date on which the Agency submitted to the Attorney General.

Subscribed and sworn to before me
this 17th day of December, 1985.

Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 9-24-91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
ATTORNEY GENERAL'S OFFICE
POLLUTION CONTROL DIVISION
1935 WEST COUNTY ROAD B-2
ROSEVILLE, MN 55113
TELEPHONE: (612) 296-7342

December 30, 1985

RECEIVED
DEC 31 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Mr. Mike Miles
Assistant Attorney General
Office of the Attorney General
Administration Building
St. Paul, MN 55155

Re: In the Matter of the Proposed Amendment of Hazardous Waste Rules Governing Hazardous Waste Which is Reused or Recycled, Minn. Rules Pts. 7045.0020, 7045.0075, 7045.0120, 7045.0125, 7045.0135, 7045.0142, 7045.0214, 7045.0219, 7045.0450, 7045.0542, 7045.0552, 7045.0640, 7045.0665, 7045.0675, 7045.0685, and 7001.0520

Dear Mr. Miles:

On December 17, 1985, the Minnesota Pollution Control Agency adopted amendments to the above-captioned rules governing hazardous wastes which are reused or recycled. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Order Adopting Rule Amendments (two copies).

3. Certificate of Agency's Resolution Adopting Rule Amendments.

4. Notice of intent to solicit outside opinion (9 S.R. 1696, January 28, 1985).

5. A copy of one written comment received pursuant to notice of intent to solicit outside opinion.

6. Order for Notice of Intent to Adopt Amendments to Rules Without a Public Hearing.

7. Certificate of Agency's Authorizing Resolution.

8. Notice of Intent to Amend Rules Without A Public Hearing and rule amendments as proposed (10 S.R. 827, October 7, 1985).

9. Copies of comments received pursuant to notice

of intent to adopt amendments to rules without a public hearing.

10. Notice of Intent to Adopt Amendments to Rules Without a Public Hearing, as mailed.

11. Affidavit of Mailing, mailing list, and Certificate concerning mailing list.

12. Rule amendments as proposed.

13. Findings of Fact and Conclusions.

14. Statement of Need and Reasonableness.

15. Statement of Compliance with Rulemaking Procedures.

16. Affidavit Regarding Requests for Notification as to Submission of Rules to the Attorney General.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General