

Minnesota Attorney General: Administrative Rules Proceedings

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File No. 1521 Docket No. 05-0009-0697

DATE RECEIVED 10/12/88 ADOPTED W/O HEARING ✓

REVIEW DATE 10/21/88 EMERGENCY RULE _____

DUE DATE 10/26/88 * REVISOR APPROVED _____

APPROVED 10/24/88 REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE 10/27/88

WITHDRAWN _____ RETURNED TO AGENCY 10/27/88

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)

12/21/87 Date published in State Register

_____ Comments

_____ ~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution

5/26/88 Date adopted

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

116.07 (4) Statutory Authority

yes Small Business Statement

no Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement

n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

6/9/88 Date (30)/25 days before adoption

✓ Notice attached

_____ ~~Copy of rule or summary attached~~

✓ Publication in State Register

6/13/88 Date (30)/25 days before adoption

✓ 180-day deadline from:

9/12/88 (7/13/88) end of comment period (§ 14.26) (rules without hearing)

_____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ ~~Resolution Adopting~~

8/25/88 ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

8/23/88 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney

Kathleen Winters Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

ATTORNEY GENERAL

October 27, 1988

KATHLEEN L. WINTERS
Special Assistant
Attorney General

JULIE A. LEPPINK
Special Assistant
Attorney General

6-9422

In the Matter of the Adopted Rule Relating to Governing Hazardous Waste; Land Disposl Restrictions Minn. Rules Parts (various).

The above-referenced rule has been approved as to its legality by the Attorney General on October 27, 1988.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth 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 accoradance 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.

JAL:rer

Enclosures

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

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

AG Copy

Pollution Control Agency

Adopted Permanent Rules Relating to Hazardous Waste; Land Disposal Restrictions

Rules as Adopted

7001.0150 TERMS AND CONDITIONS OF PERMITS.

Subpart 1. [Unchanged.]

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

A. to D. [Unchanged.]

Subp. 3. [Unchanged.]

7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF APPLICATION.

Part B of the application must contain the following information:

A. to U. [Unchanged.]

V. For land disposal facilities, if a case-by-case extension has been approved under part 7045.0075, subpart 6, or a petition has been granted under part 7045.0075, subpart 7, a copy of the notice of approval for the extension or petition is required.

7001.0650 INTERIM STATUS.

Subpart 1. to 3. [Unchanged.]

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

A. to C. [Unchanged.]

D. alter a hazardous waste facility in a manner that

amounts to a reconstruction of the facility. For the purpose of this part, reconstruction occurs when the capital investment in the modification of the facility exceeds 50 percent of the capital cost of a comparable new hazardous waste facility. Reconstruction does not include changes made solely for the purpose of complying with the requirements of part 7045.0628, subparts 4 and 5, for tanks and ancillary equipment, or to treat or store in containers or tanks hazardous wastes subject to the land disposal restrictions under parts 7045.1300 to 7045.1380 or RCRA section 3004, if the changes are made solely to comply with parts 7045.1300 to 7045.1380 or RCRA section 3004.

Subp. 5. to 7. [Unchanged.]

7001.0730 MODIFICATION OF PERMITS; REVOCATION AND REISSUANCE OF PERMITS.

Subpart 1. to 3. [Unchanged.]

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

A. to K. [Unchanged.]

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

(1) the hazardous waste has been prohibited from one or more methods of land disposal under parts 7045.1320 to 7045.1330 or RCRA section 3004;

(2) treatment is in accordance with part 7045.1310, if applicable, and part 7045.1305, and applicable standards established under parts 7045.1355 to 7045.1360 and part 7045.0075, subpart 8, or, where no treatment standards have been established, treatment renders the waste no longer subject to the applicable prohibitions of part 7045.1330 or RCRA section 3004;

(3) handling or treatment of the restricted waste

will not present risks substantially different from those of wastes listed in the permit; and

(4) federal or state approval of a minor permit modification request is granted. No permit changes can occur except for the addition of new waste codes and administrative or technical changes necessary to handle new wastes. Changes in treatment processes or physical equipment may not be made under this item; and

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

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

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

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

Subp. 5. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. to 32. [Unchanged.]

Subp. 32a. **Halogenated organic compounds or HOC's.** "Halogenated organic compounds" or "HOC's" means those compounds having a carbon-halogen bond that are listed under Appendix III of Code of Federal Regulations, title 40, part 268.

Subp. 33. to 47. [Unchanged.]

Subp. 47a. **Land disposal.** "Land disposal" means placement in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

Subp. 48. to 71. [Unchanged.]

Subp. 71a. **Polychlorinated biphenyls or PCB's.** "Polychlorinated biphenyls" or "PCB's" are halogenated organic compounds defined in accordance with Code of Federal Regulations, title 40, section 761.3.

Subp. 72. to 108. [Unchanged.]

7045.0075 PETITIONS.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Procedures for case-by-case extensions to an effective date.** A person who generates, treats, stores, or disposes of hazardous waste may submit a petition to the EPA for an extension to the effective date of any applicable restriction established under parts 7045.1320 to 7045.1330. The petition must be submitted in accordance with Code of Federal Regulations, title 40, section 268.5.

Subp. 7. **Petitions to allow land disposal of a prohibited waste.** A person seeking an exemption from a prohibition for the disposal of a restricted hazardous waste in a particular unit or units must submit a petition to the agency and to the EPA demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The demonstration to the EPA must include the provisions in Code of Federal Regulations, title 40, section 268.6. The demonstration to the agency must include an identification of the specific waste and the specific unit for which the demonstration will be made, a waste analysis to describe fully the chemical and physical characteristics of the subject waste, and a comprehensive characterization of the

disposal unit site including an analysis of background air, soil, and water quality.

A. The demonstration must meet the following criteria:

(1) all waste and environmental sampling, test, and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow;

(2) all sampling, testing, and estimation techniques for chemical and physical properties of the waste and all environmental parameters must have been approved by the agency;

(3) simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements;

(4) a quality assurance and quality control plan that addresses all aspects of the demonstration must be approved by the agency; and

(5) an analysis must be performed to identify and quantify any aspects of the demonstration that contribute significantly to uncertainty. This analysis must include an evaluation of the consequences of predictable future events, including but not limited to earthquakes, floods, severe storm events, droughts, or other natural phenomena.

B. Each petition must include the following statement signed by the petitioner or an authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

C. After receiving a petition, the commissioner may request additional information that reasonably may be required

to evaluate the demonstration.

D. If approved, the petition will apply to land disposal of the specific restricted waste at the individual disposal unit described in the demonstration and will not apply to any other restricted waste at that disposal unit, or to that specific restricted waste at any other disposal unit.

E. The commissioner will give public notice in the State Register of the intent to approve or deny a petition and provide an opportunity for public comment. The final decision on a petition will be published in the State Register.

F. The term of a petition granted under this part must be no longer than the term of the RCRA permit if the disposal unit is operating under an RCRA permit, or up to a maximum of five years from the date of approval provided under item G if the unit is operating under interim status. In either case, the term of the granted petition expires upon the termination or denial of an RCRA permit, or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached.

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

H. The petition granted by the agency does not relieve the petitioner of responsibility for the management of hazardous waste under chapters 7001 and 7045.

I. Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to 500 ppm are not eligible for an exemption under this subpart.

Subp. 8. **Petition for alternate treatment standard or alternate technology.** Where a treatment standard is expressed as a concentration in a waste or waste extract and a waste cannot be treated to a specified level, or where the treatment technology is not appropriate to the waste, the generator or the owner or operator of a treatment facility may request a variance from the EPA to provide an alternate treatment standard. The

variance request must be submitted in accordance with Code of Federal Regulations, title 40, sections 268.42(b) and 268.44.

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

Subpart 1. to 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 and 7045.1300 to 7045.1380: industrial ethyl alcohol that is reclaimed, except as provided in subpart 12; used batteries or used battery cells returned to a battery manufacturer for regeneration; and scrap metal.

Subp. 5. to 8. [Unchanged.]

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 7045.1300 to 7045.1380, 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. to 12. [Unchanged.]

7045.0127 RESIDUES IN EMPTY CONTAINERS AND EMPTY INNER LINERS.

Subpart 1. **Scope.** Any hazardous waste remaining in an empty container or an empty inner liner removed from an empty container, as defined in subparts 2 to 4 is not subject to regulation under parts 7045.0100 to 7045.1030 and 7045.1300 to 7045.1380, or a hazardous waste facility permit. Any hazardous waste in a container or an inner liner removed from a container that is not empty, as defined in subparts 2 to 4, is subject to regulation under parts 7045.0100 to 7045.1030 and 7045.1300 to

7045.1380, and the agency's permitting procedures.

Subp. 2. to 4. [Unchanged.]

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. **General.** A waste is a hazardous waste if it is listed under subparts 2 to 5 unless it has been excluded from the list under part 7045.0075, subpart 2.

The basis for listing the classes or types of wastes listed in subparts 2 to 5 is indicated by employing one or more of the following hazard codes:

A. ignitable waste, (I);

B. corrosive waste, (C);

C. reactive waste, (R);

D. EP toxic waste, (E);

E. acute hazardous waste, (H); and

F. toxic waste, (T).

The constituent which caused the agency to list the waste as an EP toxic waste (E) or toxic waste (T) in subparts 2 and 3 is identified in part 7045.0139.

Each listed hazardous waste is assigned a hazardous waste number which precedes the name of the waste. This number must be used in complying with the disclosure requirements of parts 7045.0205 to 7045.0304 and certain record keeping and reporting requirements under parts 7045.0205 to 7045.1030, 7045.1300 to 7045.1380, and the agency's permitting procedures in chapter 7001.

The following hazardous wastes listed in subparts 2 and 3 are subject to the exclusion limits for acutely hazardous wastes established in part 7045.0219: Hazardous Waste Numbers F020, F021, F022, F023, F026, and F027.

Subp. 2. to 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. If the waste is determined to be hazardous, the generator must refer to parts 7045.0075, 7045.0450 to 7045.0685, and 7045.1300 to 7045.1380 for possible exclusions or restrictions relating to management of the specific waste.

Subp. 2. and 3. [Unchanged.]

7045.0365 TRANSFER FACILITY REQUIREMENTS.

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

Subp. 2. and 3. [Unchanged.]

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. **General requirements.** Parts 7045.0450 to 7045.0544 apply to owners and operators of all facilities which treat, store, or dispose of hazardous waste except as specifically provided otherwise in this part or in parts 7045.0100 to 7045.0304.

Parts 7045.0450 to 7045.0544 apply to the owners or operators of publicly owned treatment works which treat, store, or dispose of hazardous waste only to the extent they are included in a permit-by-rule granted under the agency's permitting procedures.

Parts 7045.0450 to 7045.0544 apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act of 1972, United States Code, title 16, sections 1431 to

1434, as amended through December 31, 1982, and United States Code, title 33, section 1401, as amended through December 31, 1982, only to the extent they are included in a permit-by-rule granted under the agency's permitting procedures. Parts 7045.0450 to 7045.0544 apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

Parts 7045.0450 to 7045.0544 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380.

Subp. 2. and 3. [Unchanged.]

7045.0458 WASTE ANALYSIS REQUIREMENTS.

Subpart 1. **Waste analysis.** Waste analysis procedures are as follows:

A. Before an owner or operator treats, stores, or disposes of any hazardous waste, he or she shall obtain a detailed chemical and physical analysis of a representative sample of the waste. This analysis must contain all the information which must be known in order to treat, store, or dispose of the waste in accordance with the requirements of parts 7045.0450 to 7045.0544 and 7045.1300 to 7045.1380, or with the conditions of a permit issued under the agency's permitting procedures.

B. to D. [Unchanged.]

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

A. to E. [Unchanged.]

F. where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in parts 7045.0456; 7045.0538, subpart 10; 7045.0542, subpart 2; and 7045.1315;

G. for off-site facilities, the waste analysis plan

must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. The plan must describe:

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

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

H. for surface impoundments exempted from the land disposal restrictions under part 7045.1310, the procedures and schedules for:

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues that are not delisted under part 7045.0075, subpart 2, and do not exhibit a characteristic of hazardous waste under part 7045.0131, and that do not meet the treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, the annual removal of residues that do not meet the applicable prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d).

7045.0478 OPERATING RECORD.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Record information.** All of the following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

A. to D. [Unchanged.]

E. Records and results of waste analysis performed as specified in parts 7045.0456, 7045.0458, 7045.0538, subpart 10, 7045.0542, subpart 2, 7045.1310, and 7045.1315.

F. to L. [Unchanged.]

M. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 6 or 7, and the notice required by a generator under part 7045.1315, subpart 1, item C.

N. For an off-site treatment facility, a copy of the notice required by a generator under part 7045.1315, subpart 1, item A.

O. For an on-site treatment facility, the information contained in the notice required by the generator under part 7045.1315, subpart 1, item A, except for the manifest number required under subitem (3).

P. For an off-site land disposal facility, a copy of the notice and certification required by the owner or operator of a treatment facility under part 7045.1315, subpart 2, items A and B, or a copy of the notice and certification required by the generator under part 7045.1315, subpart 1, item B, whichever is applicable.

Q. For an on-site land disposal facility, the information contained in the notice required under part 7045.1315, subpart 1, item B, except for the manifest number, or the information contained in the notice required by a treater under part 7045.1315, subpart 2, item A, except the manifest number required under subitem (3), whichever is applicable.

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. **General requirements.** Parts 7045.0552 to 7045.0642 establish minimum standards for the management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. These standards apply to owners and operators of existing facilities who have fully complied with the requirements for state or federal interim status until a permit is issued or until applicable interim status closure and

post-closure responsibilities are fulfilled, and those who have failed to achieve state or federal interim status. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after July 16, 1984, except as specifically provided otherwise.

For existing facilities which were not required to obtain federal interim status under the Resource Conservation and Recovery Act, United States Code, title 42, sections 6901 to 6986, as amended through June 30, 1983, but are required to obtain state interim status, the requirements of parts 7045.0590; 7045.0592; 7045.0632, subpart 4, items A and B; 7045.0634, subpart 2; 7045.0638, subparts 2, 7, and 8, become effective 12 months after July 16, 1984, and the requirements of parts 7045.0608 to 7045.0624 become effective 90 days after July 16, 1984.

Parts 7045.0552 to 7045.0642 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380.

Subp. 1a. to 4. [Unchanged.]

7045.0564 WASTE ANALYSIS REQUIREMENTS.

Subpart 1. **Waste analysis.** The analysis must comply with the following requirements:

A. Before an owner or operator treats, stores, or disposes of any hazardous waste, he or she shall obtain a detailed chemical and physical analysis of a representative sample of the waste. This analysis must contain all the information which must be known in order to treat, store, or dispose of the waste in accordance with the requirements of parts 7045.0552 to 7045.0642 and 7045.1300 to 7045.1380.

B. to D. [Unchanged.]

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

A. to E. [Unchanged.]

F. Where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in parts 7045.0628, subpart 3; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2; 7045.0642, subpart 3; and 7045.1315.

G. [Unchanged.]

H. For surface impoundments exempted from the land disposal restrictions under part 7045.1310, the procedures and schedule for:

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues that are not delisted under part 7045.0075, subpart 2, and do not exhibit a characteristic of hazardous waste under part 7045.0131, and that do not meet the treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, the annual removal of residues that do not meet the applicable prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d).

7045.0584 OPERATING RECORD.

Subpart 1. and 2. [Unchanged.]

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

A. to D. [Unchanged.]

E. Records and results of waste analysis and trial tests performed as specified in parts 7045.0564; 7045.0628, subpart 3; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2; 7045.0642, subpart 3; 7045.1310; and 7045.1315.

F. to I. [Unchanged.]

J. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units

under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 6 or 7, and the notice required by a generator under part 7045.1315, subpart 1, item C.

K. For an off-site treatment facility, the notice required by a generator under part 7045.1315, subpart 1, item A.

L. For an on-site treatment facility, the information contained in the notice required by a generator under part 7045.1315, subpart 1, item A, except for the manifest number required under subitem (3).

M. For an off-site land disposal facility, the notice and certification required by the owner or operator of a treatment facility under part 7045.1315, subpart 2, items A and B, or the certification required by the generator under part 7045.1315, subpart 1, item B, whichever is applicable.

N. For an on-site land disposal facility, the information contained in the notice required by a generator under part 7045.1315, subpart 1, item B, except for the manifest number, or the information contained in the notice required by the treatment facility under part 7045.1315, subpart 2, item A, except the manifest number required under subitem (3), whichever is applicable.

7045.1300 LAND DISPOSAL RESTRICTIONS; APPLICABILITY AND EXEMPTIONS.

Subpart 1. **Applicability.** This part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

Except as specifically provided in subpart 2 or parts 7045.0100 to 7045.0141, the requirements of this part apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities.

Subp. 2. **Exemptions.** Prohibited wastes may continue to be land disposed under the following conditions:

A. if an extension has been granted from the effective date of a prohibition under part 7045.0075, subpart 6, with respect to those wastes covered by the extension;

B. if an exemption has been granted from a prohibition as a result of a petition under part 7045.0075, subpart 7, with respect to those wastes and units covered by the petition;

C. until November 8, 1988, if wastes are contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under the Resource Conservation and Recovery Act;

D. if small quantity generators of less than 100 kilograms of nonacute hazardous waste per month, or less than one kilogram acute hazardous waste per month, as defined in part 7045.0219; and

E. if a farmer is disposing of waste pesticides in accordance with part 7045.0304.

7045.1305 DILUTION PROHIBITED AS A SUBSTITUTE FOR TREATMENT.

No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with parts 7045.1350 to 7045.1360, to circumvent the effective date or otherwise avoid a prohibition in parts 7045.1320 to 7045.1330, or to circumvent a land disposal prohibition imposed by RCRA section 3004.

7045.1310 TREATMENT SURFACE IMPOUNDMENT EXEMPTION.

Subpart 1. **Conditions.** Wastes that are otherwise prohibited from land disposal under parts 7045.1300 to 7045.1380 may be treated in a surface impoundment or series of impoundments if:

A. treatment of the wastes occurs in the impoundments.

B. the residues of the treatment are analyzed, as provided in part 7045.1315 or 7045.1330 to determine if they

meet the applicable treatment standards in parts 7045.1350 to 7045.1360, or, where no treatment standards have been established for the waste, the applicable prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d). The sampling method, specified in the waste analysis plan under part 7045.0458 or 7045.0564 must be designed so the representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples. The treatment residues, including any liquid waste, that do not meet the treatment standards adopted under parts 7045.1350 to 7045.1360, or the applicable prohibition levels adopted under parts 7045.1320 to 7045.1330, or imposed by statute where no treatment standards have been established, or that are not delisted under part 7045.0075, subpart 2, and no longer exhibit a characteristic of hazardous waste, must be removed at least annually. These residues may not be placed in any other surface impoundment for later management. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this requirement. The procedures and schedule for the sampling of impoundment contents, the analysis of test data, and the annual removal of residue that does not meet the treatment standards in parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, the prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d), must be specified in the facility's waste analysis plan as required under part 7045.0458 or 7045.0564.

C. the impoundment meets the design requirements of Code of Federal Regulations, title 40, section 264.221(c) or 265.221(a), and be in compliance with applicable groundwater monitoring requirements of part 7045.0484 or 7045.0590.

D. the owner or operator submits to the commissioner a written certification that the requirements of item C, have been met and a copy of the waste analysis plan required under

item B. The following certification is required:

"I certify under penalty of law that the requirements of part 7045.1310, subpart 1, item C, have been met for all surface impoundments being used to treat restricted wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Subp. 2. **Prohibition of evaporation.** Evaporation of hazardous constituents as the principal means of treatment is not considered to be treatment for purposes of an exemption under this part.

7045.1315 WASTE ANALYSIS FOR RESTRICTED WASTES.

Subpart 1. **Applicability.** Except as provided in part 7045.1330, the generator must test waste or an extract developed using the test method described in Code of Federal Regulations, title 40, part 268, Appendix I, or use knowledge of the waste, to determine if the waste is restricted from land disposal.

A. If a generator determines that the waste being generated is a restricted waste and the waste does not meet the applicable treatment standards, or where the waste does not comply with the applicable prohibitions in part 7045.1330 or RCRA section 3004(d), with each shipment of waste the generator must notify the treatment facility in writing of the appropriate treatment standards in parts 7045.1350 to 7045.1360 and any applicable prohibitions in part 7045.1330 or RCRA section 3004(d).

The notice must include the following information:

(1) EPA Hazardous Waste Number;

(2) the corresponding treatment standards and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d);

(3) the manifest number associated with the shipment of waste; and

(4) waste analysis data, where available.

B. If a generator determines that the waste being generated is a restricted waste and determines that the waste can be land disposed without further treatment, with each shipment of waste the generator must submit, to the land disposal facility, a notice and a certification stating that the waste meets the applicable treatment standards in parts 7045.1350 to 7045.1360 and the applicable prohibitions in part 7045.1330 or RCRA section 3004(d).

(1) The notice must include the EPA Hazardous Waste Number, the corresponding treatment standards and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d), the manifest number associated with the shipment of waste, and waste analysis data, where available.

(2) The certification must be signed by an authorized representative and must state the following:

"I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d). I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment."

C. If a generator's waste is subject to a case-by-case extension under part 7045.0075, subpart 6, an exemption under part 7045.0075, subpart 7, an extension under part 7045.1300, subpart 2, item C, or a nationwide variance under Code of Federal Regulations, title 40, part 268, subpart C, a notice must be forwarded with the waste to the land disposal facility receiving the waste, stating that the waste is exempt from the land disposal restrictions.

D. If a generator's decision that a waste is

restricted is based solely on knowledge of the waste, all supporting data used to make this determination must be maintained on-site in the generator's files.

Subp. 2. **Testing of wastes.** For wastes with treatment standards expressed as concentrations in the waste extract in part 7045.1355, the owner or operator of the treatment facility must test the treatment residues or an extract of the residues developed using the test method described in Code of Federal Regulations, title 40, part 268, Appendix I, to assure that the treatment residues or extract meet the applicable treatment standards. For wastes prohibited under part 7045.1330 or RCRA section 3004(d) which are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the owner or operator of the treatment facility must test the treatment residues according to the generator testing requirements in part 7045.1330 to assure that the treatment residues comply with the applicable prohibitions. For both circumstances described above, the testing must be performed according to the frequency specified in the facility's waste analysis plan as required by part 7045.0458 or 7045.0564. Where the treatment residues do not comply with the applicable treatment standards or prohibitions, the treatment facility must comply with the notice requirements applicable to generators in subpart 1, item A, if the treatment residues will be further managed at a different treatment facility.

A. A notice must be sent to the land disposal facility that includes the following information:

(1) EPA Hazardous Waste Number;

(2) the corresponding treatment standards and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d);

(3) the manifest number associated with the shipment of waste; and

(4) waste analysis data, where available.

B. The treatment facility must submit a certification with each shipment of waste or treatment residue of a restricted

waste to the land disposal facility stating that the waste or treatment residue has been treated in compliance with the applicable performance standards in parts 7045.1350 to 7045.1360 and the applicable prohibitions in part 7045.1330 or RCRA section 3004(d).

(1) For wastes with treatment standards expressed as concentrations in the waste extract in part 7045.1355 or in the waste, or for wastes prohibited under part 7045.1330 or RCRA section 3004(d) which are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the certification must be signed by an authorized representative and must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operations of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the performance levels specified in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d) without dilution of the prohibited waste. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

(2) For wastes with treatment standards expressed as technologies in part 7045.1360, the certification must be signed by an authorized representative and must state the following:

"I certify under penalty of law that the waste has been treated in accordance with the requirements of part 7045.1360. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

Subp. 3. **Facility requirements.** The owner or operator of

any land disposal facility disposing any waste subject to restrictions under parts 7045.1300 to 7045.1380 must have records of the notice and certification required in subpart 1 or 2. The owner or operator of the land disposal facility must test the waste or an extract of the waste or treatment residue developed using the test method described in Code of Federal Regulations, title 40, part 268, Appendix I, or using any methods required by generators under part 7045.1330, to assure that the wastes or treatment residues are in compliance with the applicable treatment standards in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d). The testing must be performed according to the frequency specified in the facility's waste analysis plan as required in part 7045.0458 or 7045.0564.

7045.1320 WASTE SPECIFIC PROHIBITIONS; SOLVENT WASTES.

Subpart 1. **Applicability.** The spent solvent wastes specified in part 7045.0135 as Hazardous Waste Nos. F001, F002, F003, F004, and F005, are prohibited from land disposal unless one or more of the following conditions apply:

A. the generator of the solvent waste is a small quantity generator;

B. the solvent waste is generated from any response action taken under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), or any corrective action taken under the Resource Conservation and Recovery Act (RCRA), except where the waste is contaminated soil or debris not subject to this chapter until November 8, 1988;

C. the initial generator's solvent waste is a solvent-water mixture, solvent-containing sludge, or solvent-contaminated soil (non-CERCLA or RCRA corrective action) containing less than one percent total F001-F005 solvent constituents listed in part 7045.1355, subpart 3; or

D. the solvent waste is a residue from treating a waste described in items A to C; or the solvent waste is a residue from treating a waste not described in items A to C,

provided the residue belongs to a different treatability group than the waste as initially generated and wastes belonging to a treatability group are described in item C.

Subp. 2. **Effective date.** Effective November 8, 1988, the F001-F005 solvent wastes listed in subpart 1, items A to C, are prohibited from land disposal. Until November 8, 1988, wastes included in subpart 1, items A to C, may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

Subp. 3. **Exceptions.** The requirements of subparts 1 and 2 do not apply if:

A. the wastes meet the standards of parts 7045.1350 to 7045.1360;

B. persons have been granted an exemption from a prohibition under part 7045.0075, subpart 7, with respect to those wastes and units covered by repetition; or

C. persons have been granted an extension to an effective date of a prohibition under part 7045.0075, subpart 6 with respect to those wastes covered by the extension.

7045.1325 WASTE SPECIFIC PROHIBITION; DIOXIN-CONTAINING WASTES.

Subpart 1. **Applicability.** Effective November 8, 1988, the dioxin-containing wastes specified in part 7045.0135 as Hazardous Waste Nos. F020, F021, F022, F023, F026, F027, and F028, are prohibited from land disposal.

Subp. 2. **Exceptions.** The requirements of subpart 1 do not apply if:

A. the wastes meet the standards of parts 7045.1350 to 7045.1360;

B. persons have been granted an exemption from a prohibition under part 7045.0075, subpart 7, with respect to those wastes or units covered by the petition; or

C. persons have been granted an extension to an effective date of a prohibition under part 7045.0075, subpart 6, with respect to those wastes covered by the extension.

Subp. 3. **Effective date.** Until November 8, 1988, wastes included in subpart 1 may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements of Code of Federal Regulations, title 40, part 268.5(h)(2) and all other applicable requirements of parts 7045.0450 to 7045.0642.

7045.1330 WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES.

Subpart 1. **Application.** The following hazardous wastes are prohibited from land disposal:

A. liquid hazardous wastes having a pH less than or equal to two;

B. liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 50 ppm; and

C. liquid hazardous wastes that are primarily water and contain halogenated organic compounds (HOC's) in total concentration greater than or equal to 1,000 mg/l and less than 10,000 mg/l HOC's.

Subp. 2. **Exceptions.** The following items are an exception from the prohibitions in subpart 1:

A. The requirements of subpart 1 do not apply until November 8, 1988, where the wastes are contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act or a corrective action required under RCRA, subtitle C.

B. Effective July 8, 1989, the following hazardous wastes are prohibited from land disposal:

(1) liquid hazardous wastes that contain HOC's in total concentration greater than or equal to 1,000 mg/l and are not prohibited under subpart 1, item C; and

(2) nonliquid hazardous wastes containing HOC's in total concentration greater than or equal to 1,000 mg/kg.

C. Until July 8, 1989, the wastes described in item B, may be disposed of in a landfill or surface impoundment only

if the facility is in compliance with the requirements of Code of Federal Regulations, title 40, part 268.5(h)(2).

D. The requirements of subparts 1 and 2, items A and B, do not apply if:

(1) an exemption has been granted from a prohibition as a result of a petition under part 7045.0075, subpart 7, with respect to those wastes and units covered by the petition;

(2) an extension to the effective date of a prohibition under part 7045.0075, subpart 7, has been granted with respect to those wastes covered by the extension; or

(3) the wastes meet the applicable standards in parts 7045.1350 to 7045.1360 or, where treatment standards are not specified, the wastes are in compliance with the applicable prohibitions in this part or RCRA section 3004(d).

E. The prohibitions and effective dates in subpart 1, item C, and subpart 2, items A and B, do not apply where the waste is subject to an effective date and prohibition under parts 7045.1320 to 7045.1330 for a specified HOC, such as a hazardous waste chlorinated solvent.

Subp. 3. **Waste analysis.** The following provisions apply to waste analysis:

A. To determine whether or not a waste is a liquid under subparts 1 and 2, item B, and under RCRA section 3004(d), the Paint Filter Liquids Test must be used, method 9095, as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW 846.

B. Except as otherwise provided in this item, the waste analysis and record keeping requirements of part 7045.1315 are applicable to wastes prohibited under this part or RCRA section 3004(d).

(1) The initial generator of a liquid hazardous waste must test the waste, not an extract or filtrate, in accordance with the procedures in part 7045.0131, subpart 4, item A, or use knowledge of the waste, to determine if the waste has a pH less than or equal to two. If the liquid waste has a

pH less than or equal to two, it is restricted from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise provided in this part.

(2) The initial generator of either a liquid hazardous waste containing polychlorinated biphenyls (PCB's) or a liquid or nonliquid hazardous waste containing halogenated organic compounds (HOC's) must test the waste, not an extract or filtrate, or use knowledge of the waste, to determine whether the concentration levels in the waste equal or exceed the prohibition levels in this part. If the concentration of PCB's or HOC's in the waste is greater than or equal to the prohibition levels in this part, the waste is restricted from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise provided in this part.

7045.1350 TREATMENT STANDARDS.

Subpart 1. **Concentration standard.** A restricted waste identified in this subpart may be land disposed without further treatment only if an extract of the waste or of the treatment residue of the waste developed using the test method in Code of Federal Regulations, title 40, part 268, Appendix I, does not exceed the value shown in part 7045.1355, subpart 3, for any hazardous constituent listed for that waste.

Subp. 2. **Technology standard.** A restricted waste for which a treatment technology is specified under part 7045.1360 may be land disposed after it is treated using that technology or an equivalent treatment method approved under the procedures in part 7045.0075, subpart 8.

7045.1355 TREATMENT STANDARDS EXPRESSED AS CONCENTRATIONS IN WASTE EXTRACT.

Subpart 1. **Applicability.** Subpart 3 identifies the restricted wastes and the concentrations of their associated hazardous constituents that may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in Appendix I of Code of Federal Regulations, title 40,

part 268, for the allowable land disposal of the waste.

Subp. 2. **Combined wastes.** When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

Subp. 3. **Constituents in waste extract.** Constituents in waste extracts are listed with the applicable concentration limits.

	Concentration (in mg/l)	
F001-F005 spent solvents	Wastewaters containing spent solvents	All other spent solvent wastes
Acetone	0.05	0.59
n-Butyl alcohol	5.0	5.0
Carbon disulfide	1.05	4.81
Carbon tetrachloride	0.05	0.96
Chlorobenzene	0.15	0.05
Cresols (and cresylic acid)	2.82	0.75
Cyclohexanone	0.125	0.75
1,2-Dichlorobenzene	0.65	0.125
Ethyl acetate	0.05	0.75
Ethylbenzene	0.05	0.053
Ethyl ether	0.05	0.75
Isobutanol	5.0	5.0
Methanol	0.25	0.75
Methylene chloride	0.20	0.96
Methylene chloride (from the pharmaceutical industry)	12.7	0.96
Methyl ethyl ketone	0.05	0.75
Methyl isobutyl ketone	0.05	0.33
Nitrobenzene	0.66	0.125
Pyridine	1.12	0.33
Tetrachloroethylene	0.079	0.05
Toluene	1.12	0.33
1,1,1-Trichloroethane	1.05	0.41

1,1,2-Trichloro-1,2,2-Trifluoroethane	1.05	0.96
Trichloroethylene	0.062	0.091
Trichlorofluoromethane	0.05	0.96
Xylene	0.05	0.15

F020-F023 and F026-F028 dioxin containing wastes	Concentration
HxCDD - All Hexachlorodibenzo-p-dioxins	< 1 ppb
HxCDF - All Hexachlorodibenzofurans	< 1 ppb
PeCDD - All Pentachlorodibenzo-p-dioxins	< 1 ppb
PeCDF - All Pentachlorodibenzofurans	< 1 ppb
TCDD - All Tetrachlorodibenzo-p-dioxins	< 1 ppb
TCDF - All Tetrachlorodibenzofurans	< 1 ppb
2,4,5-Trichlorophenol	< 0.05 ppm
2,4,6-Trichlorophenol	< 0.05 ppm
2,3,4,6-Tetrachlorophenol	< 0.10 ppm
Pentachlorophenol	< 0.01 ppm

7045.1360 TREATMENT STANDARDS EXPRESSED AS SPECIFIED TECHNOLOGIES.

The following wastes must be treated using the identified technology or technologies, or an equivalent method approved under part 7045.0075, subpart 8.

A. Liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 50 ppm but less than 500 ppm must be incinerated in accordance with the technical requirements of Code of Federal Regulations, title 40, section 761.70, or burned in high efficiency boilers in accordance with the technical requirements of Code of Federal Regulations, title 40, section 761.60. Liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 500 ppm must be incinerated in accordance with the technical requirements of Code of Federal Regulations, title 40, section 761.70. Thermal treatment under this section must also be in compliance with applicable

regulations in chapter 7045.

B. Nonliquid hazardous wastes containing halogenated organic compounds (HOC's) in total concentrations greater than or equal to 1,000 mg/kg and liquid HOC-containing wastes that are prohibited under part 7045.1330, subpart 2, item B, subitem (1), must be incinerated in accordance with the requirements of part 7045.0542 or 7045.0640. These treatment standards do not apply if the waste is subject to a treatment standard in parts 7045.1320 to 7045.1330 for a specific HOC.

7045.1380 PROHIBITIONS ON STORAGE OF RESTRICTED WASTES.

Subpart 1. **Applicability.** Except as provided in this part, the storage of hazardous wastes restricted from land disposal under parts 7045.1320 to 7045.1330 or RCRA section 3004 is prohibited, unless the following conditions are met:

A. A generator stores the wastes in tanks or containers on-site solely for the purpose of the accumulation of quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal and the generator complies with part 7045.0292. A generator who is in existence on the effective date of a restriction under part 7045.0075, subparts 6, 7, and 8, and parts 7045.1300 to 7045.1380 and who must store hazardous wastes for longer than 90 days becomes an owner or operator of a storage facility and must obtain an RCRA permit. The facility may qualify for interim status on compliance with the rules governing interim status under parts 7001.0650 and 7045.0552.

B. An owner or operator of a hazardous waste treatment, storage, or disposal facility stores wastes in tanks or containers solely for the purpose of the accumulation of the quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal if (1) each container is clearly marked to identify its contents and the date each period of accumulation begins and (2) each tank is clearly marked with a description of its contents, the quantity of hazardous waste received, and the date each period of accumulation begins. The

information for each tank may be recorded and maintained in the operating record at the facility. Regardless of whether the tank is marked, the owner or operator must comply with the operating record requirements in part 7045.0478 or 7045.0584.

C. A transporter stores manifested shipments of the wastes at a transfer facility for ten days or less.

Subp. 2. **Storage at facility.** An owner or operator of a treatment, storage, or disposal facility may store wastes for up to one year unless the agency can demonstrate that the storage was not solely for the purpose of accumulation of quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal.

Subp. 3. **Extensions to storage period.** An owner or operator of a treatment, storage, or disposal facility may store wastes beyond one year; however, the owner or operator bears the burden of proving that the storage was solely for the purpose of accumulation of quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal.

Subp. 4. **Petition exemptions.** The prohibition in subpart 1 does not apply to the wastes that are the subject of an approved petition under part 7045.0075, subparts 7 and 8, or a variance contained in parts 7045.1320 to 7045.1330.

Subp. 5. **Treated waste.** The prohibition in subpart 1 does not apply to hazardous wastes that meet the treatment standards in parts 7045.1355 to 7045.1360, or, if treatment standards are not specified, wastes that are in compliance with the applicable prohibitions in part 7045.1330 or RCRA section 3004.

Subp. 6. **PCB storage.** Liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 50 ppm must be stored at a facility that meets the requirements of Code of Federal Regulations, title 40, section 761.65(b) and must be removed from storage and treated or disposed as required by this part within one year of the date when the wastes are first placed into storage. Subpart 3 does not apply to PCB wastes prohibited under part 7045.1330.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

OCT 27 1988

Joan Anderson Growe 2:33 PM

Secretary of State

APPROVED AS TO FORM AND LEGALITY

October 1st 1988

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Management, Storage, Treatment and Disposal of Hazardous Waste, Minn. Rules Pts. 7001.0150, 7001.0560, 7001.0650, 7001.0730, 7045.0020, 7045.0075, 7045.0125, 7045.0127, 7045.0135, 7045.0214, 7045.0365, 7045.0450, 7045.0458, 7045.0478, 7045.0552, 7045.0564, 7045.0584, 7045.1300, 7045.1305, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1350, 7045.1355, 7045.1360, and 7045.1380

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Nankivel, being duly sworn says:

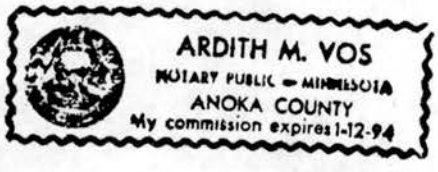
I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 9th day of June, 1988.

That on the 9th day of June 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt 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 a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Carol A Nankivel

Subscribed and sworn to before me this 17 day of August, 1988.

Ardith M. Vos
Notary Public



STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Amendments of Rules Governing
the Management, Storage, Treatment
and Disposal of Hazardous Waste,
Minn. Rules Pts. 7001.0150,
7001.0560, 7001.0650, 7001.0730,
7045.0020, 7045.0075, 7045.0125,
7045.0127, 7045.0135, 7045.0214,
7045.0365, 7045.0450, 7045.0458,
7045.0478, 7045.0552, 7045.0564,
7045.0584, 7045.1300, 7045.1305,
7045.1310, 7045.1315, 7045.1320,
7045.1325, 7045.1330, 7045.1350,
7045.1355, 7045.1360,
and 7045.1380

NOTICE OF INTENT TO
ADOPT RULE AMENDMENTS
WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1986). The MPCA's authority to adopt the rule amendments is set forth in Minn. Stat. § 116.07, subd. 4 (1986).

The proposed rule amendments, if adopted, will address restrictions on the land disposal of hazardous wastes. These land disposal restrictions are based on federal "Land Ban" regulations and establish treatment standards for specific types of hazardous wastes. The hazardous wastes being addressed by these proposed rule amendments include solvents, dioxin wastes, and certain of the wastes identified as "California List" wastes. The California List wastes include PCB's, halogenated organic compounds and acidic wastes that have a pH of less than 2. The proposed rule amendments establish requirements for restricted waste analysis, record keeping, storage and treatment.

All persons have until 4:30 p.m. on July 13, 1988, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rule amendments addressed, the reason for comment, and any change proposed.

Any person may make a written request for public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be addressed to:

Carol Nankivel
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

The proposed rule amendments may be modified if the modifications are supported by data and views submitted to the MPCA and do not result in a substantial change in the proposed rule amendments as noticed.

One free copy of the proposed rule amendments is available upon request from Carol Nankivel at 612/296-7260 or at the address stated above.

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 to support the proposed rule amendments has been prepared and is available from Carol Nankivel upon request.

The amendments correspond to the federal regulations published in the November 7, 1986, June 4, 1987, and July 8, 1987, Federal Registers (Federal Registers Vol. 51, No. 216, pgs. 40572 - 40654, Vol. 52, No. 107, pgs. 21010 - 21018, Vol. 52, No. 130, pgs. 25760 - 25792), with the following exception. The federal provisions provide an exemption from the land disposal restrictions for certain types of treatment in surface impoundments. The proposed rule amendments provide the same exemption except that they require the surface impoundment to meet specific design and operation requirements. 40 Code of Federal Regulations § 268.4 (a)(3)(i) to (iii) provides for certain exemptions and waivers from the design and operation requirements that are not provided under the proposed rule amendments.

You are hereby advised, pursuant to Minn Stat. § 14.115 (1986), "small business considerations in rulemaking," that the proposed rule amendments will have an impact on small businesses. The effect of the proposed rule amendments will depend on the type of waste being generated by the small business and the type of treatment that must be provided. However, the requirements of the proposed rule amendments are already in effect in Minnesota under the federal hazardous waste program and their adoption by the MPCA will not create any effect on small businesses.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and the supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule amendments as adopted, must submit a written request to Carol Nankivel at the address stated above.

Dated: June 9, 1988

for Barbara Lindsey Sims
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777 Big Timber Road
Elgin, IL 60123
Attn: Sue Ryan

St. Cloud AVTI
1540 Northway Drive
St. Cloud, MN 56301
Attn: Mike Lehn

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

St. Mary's Hospital
1216 - 2nd St. S.W.
Rochester, MN 55902
Attn: Alan Knutson

St. Mary's Hospital
1216 - 2nd St. S.W.
P.O. Box 911
Rochester, MN 55903-0911
Attn: C. M. Douglass

St. Paul Fire Department
100 E. Eleventh Street
St. Paul, MN 55101
Attn: Russ Polansky

Scott County
Environmental Health
Scott County Courthouse, Room A102
Shakopee, MN 55379
Attn: Peter Schmidt

Serco Labs
1931 W. Co. Rd. C2
St. Paul, MN 55113
Attn: Carol Kuehn

Sheldahl Inc.
P.O. Box 170
Northfield, MN 55057
Attn: David Miller

Sierra Club, North Star Chapter
1313 Fifth Street, Southeast, #323
Minneapolis, MN 55414-1524
Attn: Vicki Munson

Smith System Manufacturing Co.
1100 S. 10th St.
Princeton, MN 55371
Attn: John Tulp

Solv-Oil Service and Supply Company
6401 Industrial Drive
Box 5477
Hopkins, MN 55343
Attn: Quentin F. Casanova

Soo Line Railroad Company
P.O. Box 1182
Minneapolis, MN 55440
Attn: G. J. Lentzner

Soo Line Railroad Company
Suite #1000, Soo Line Building
P.O. Box 530
Minneapolis, MN 55440
Attn: Michael Mullins

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

Don Sparks
115-104 Larre
Coon Rapids, MN 55433

Special Resource Management Inc.
1131 Westrac Drive #201
Fargo, ND 58103
Attn: Anne T. Harri

Sperry Corporation
Semiconductor Operations
Post Office Box 64724, M.S. H2N26
St. Paul, MN 55164
Attn: Jean Krueger

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

Stone Container Corporation
2150 Parkdale Drive, Suite #400
Atlanta, Georgia 30345
Attn: Curtis Barton

STS Consultants Ltd.
2405 Annapolis Lane, #280
Minneapolis, MN 55441
Attn: Ross Ohman

Tape Mark Company
150 East Marie
West St. Paul, MN 55118
Attn: Doris Polson

Telex Communications, Inc.
9600 Aldrich Avenue South
Minneapolis, MN 55420
Attn: Paul Metcalf

Thermo King Corporation
314 West 90th Street
Bloomington, MN 55420
Attn: Lloyd E. West (E.C.O.)

TWA
Environmental Safety I-135 MCI
PO Box 20126
Kansas City, MO 64195
Attn: Ed Olson

Unisys
P.O. Box 64525
Mail Station U1N14
St. Paul, MN 55164-0525
Attn: Greg Weisjahn

Unisys Corp, Semiconductor Operations
P.O. Box 64724 M.S. H2N26
St. Paul, MN 55164
Attn: Jean Krueger

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

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

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

Valley Truck Service
Box 123
Bayport, Minnesota 55003
Attn: Ronald Nelson

Van Hoven Company, Inc.
505 Hardman Avenue
P.O. Box 56
South St. Paul, MN 55075
Attn: E. G. Van Hoven Jr.

Victory Envelope Inc.
1501 Park Road
Post Office Box 159
Chanhassen, MN 55317
Attn: Lori Storms

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

Washington County Public Health
14900 - 61st North
Post Office Box 6
Stillwater, MN 55082
Attn: Fred Anderson

Washington County Community Health
P.O. Box 6
Stillwater, MN 55082
Attn: Michael Ayers

Waste Management-Blaine
Post Office Box 9
Circle Pines, MN 55014
Attn: Ron Pfeifer

Waste Management
10050 Maples St. NE
P.O. Box 9
Circle Pines, MN 55434
Attn: James Gencavski

Zenk, Read, et al
Post Office Box 689
Albert Lea, MN 56007
Attn: William Trygstad

Zenith Industries
1932 West Michigan Street
Duluth, Minnesota 55806
Attn: Steve Jackson

Waste Management of MN, Inc.
14730 Sunfish Lake Boulevard
Post Office Box 67
Anoka, MN 55303
Attn: Terry Miller

3M
Post Office Box 33331
Bldg. 21-2W-05
St. Paul, MN 55133
Attn: Ken Grant

Waste Oil Service
1625 South 17 Street
Fargo, ND 58103
Attn: F.A. Cordahl

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

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

Ms. Sheila Schuman
Environmental Information, Ltd.
7400 Metro Boulevard
Suite 400
Minneapolis, Minnesota 55435

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

Lea Foushee
Earth Protection
Plymouth Blvd.
Suite 1138
Mpls. MN 55402

WCI Freezer Division
701 33rd Avenue North
St. Cloud, MN 56301
Attn: Richard B. Clute

Wilbur-Ellis Co.
Agriculture Services Corp. Office
191 West Shaw Avenue, #107
Fresno, CA 93704-2876
Attn: Stewart Allen

Worum Chemical Company
2130 Energy Park Drive
St. Paul, MN 55108
Attn: Ruth O'Connell

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SUITE 515
1500 NORTH WILSON BLVD
ARLINGTON VA 22209 1

AM INSURANCE ASSOC
ATTN FRED McGARVEY
300 S RIVERSIDE PLAZA
#2060 SOUTH
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AM LUNG ASSN RAMSEY COUNTY
ATTN NANCY ZINK
614 PORTLAND AVE
ST PAUL MN 55102 1

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MGR ENV CONTR
101 N THIRD ST
MOORHEAD MN 56560 1

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P O BOX 3548
OAK BROOK, IL 60522-3543

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COURTHOUSE 4TH FL
ANOKA MN 55303 1

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ATTN TERRY WOLD
2366 ROSE PLACE
ST PAUL MN 55113 1

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CONAGRA CENTER
ONE CENTRAL PARK PLAZA
OMAHA NE 68102-1679 1

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ATTN RICHARD HETLAND
P O BOX 9
ST PAUL PARK MN 55071 1

ASHLAND PETROLEUM CO
ATTN A C MEKO LAW DEPT
P O BOX 391
ASHLAND KY 41114 1

ASSN OF MN COUNTIES
SUITE 404
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ST PAUL MN 55103 1

BADGER SAFE ENERGY ALLI
BOX 239
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BARR ENGINEERING CO
7803 GLENROY RD
SUITE 100
MINNEAPOLIS MN 55435 1

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ENVIR & PROCESS INST DIV
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LEWISBURG W VA 24901 1

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COURTHOUSE
CARLTON MN 55718 1

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LANCE CROMBIE
201 W BURNSVILLE PKWY
#130G
BURNSVILLE MN 55337 1

BLACK & VEATCH
ATTN JILL WRIGHT
SUITE 1240 TOWER 600 RENCEN
DETROIT MI 48243 1

BLANDIN PAPER COMPANY
ATTN W J LICKE
115 FIRST STREET S W
GRAND RAPIDS MN 55744 1

BLANDIN WOOD PRODUCTS CO
ATTN CURT R FIRMAN
WAFERBOARD PLANT SITE BOX N
GRAND RAPIDS MN 55744 1

BOISE CASCADE CORPORATION
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ENVIRONMENTAL ENGINEER
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8500 NORMANDALE LAKE BLVD
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LAW DEPARTMENT
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ATTN PAM BARBOUR
122 W FRANKLIN AVE RM 302
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CENEX
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BOX 43089
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DAVID CERA
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ST:LOUIS PARK MN 55426 2

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RICHARD W WIGGER
V P ENV AFFAIRS
ONE CHAMPION PLAZA
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MGR REG & LEG AFFAIRS
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3600 ALABAMA AVE
MINNEAPOLIS MN 55416 2

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325 LAKE AVENUE S SUITE 604
DULUTH MN 55802 2

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SUITE 200
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1 CORNELIUS PLACE
HIGHWAY 10 W
ANOKA MN 55303 2

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DULUTH MN 55802 2

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MGR SUITE 165
10800 LYNDALE AVE
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ATTN LAWRENCE ANNEN
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MINNEAPOLIS MN 55402 2

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WILMINGTON DE 19898 2

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CONTROL/3M 21-2W-06
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& POLLUTION CONTROL/3M
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ST PAUL MN 55101 3

DOUG EWALD
15025 HIGHLAND TRAIL
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102 WILMOT SUITE 300
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MINNEAPOLIS MN 55415 3

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BLUE EARTH MN 56013 3

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1313 FIFTH ST S E #327
MINNEAPOLIS MN 55414 3

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ATTN DONALD J THIMSEN
P O BOX 1113
MINNEAPOLIS MN 55440 3

GEO A HORMEL & CO
ATTN KEVIN C JONES
BOX 800
AUSTIN MN 55912 3

GNB INC
EVERETT MILTON
P O BOX 64100
ST PAUL MN 55164-0100 3

D E GRAMMER
4410 E 4TH AVE
HIBBING MN 55746 3

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DEAN HOWARTH
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PUBLIC INTEREST CLINIC
ATTN BARBARA JOHNSON
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121 EIGHTH STREET S
MPLS MN 55402 3

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COURTHOUSE 4TH FLOOR
ANOKA MN 55303 3

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MINNEAPOLIS MN 55409 3

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HENNEPIN PARKS
3800 CTY RD 24
MAPLE PLAIN MN 55359 3

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300 PARKDALE 1 BLDG
5401 GAMBLE DRIVE
MINNEAPOLIS MN 55416-1518 3

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ATTN HAROLD J SODERBERG
4700 IDS CENTER
MINNEAPOLIS MN 55402 3

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ST PAUL MN 55101 3

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1821 UNIVERSITY AVE
ST PAUL MN 55104 4

IBM CORPORATION
ATTN J P HARMON
DEPT 713/BLDG 658-D
ROCHESTER MN 55901 4

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OF MN
ATTN CATHY CARSBERG
9062 LYNDALE AVE S
BLOOMINGTON MN 55420 4

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ATTN KNOWLTON J CAPLAN
7340 WASHINGTON AVE S
EDEN PRAIRIE MN 55344 4

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JACKSON TN 38301 4

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MAHTOMEDI MN 55115 4

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FARIBAULT MN 55021 4

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515 SOUTH WASHINGTON
ALBERT LEA MN 56007 4

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ATTN ERNIE HAIN
P O BOX 377
PRESTON MN 55965 4

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ATTN LYNN A BRANBERG
401 N LAKE STREET
NEENAH WI 54956 4

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1201 KOPPERS BLDG
PITTSBURGH PA 15219 4

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ATTN J B ECKERT
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MAPLEWOOD MN 55109 4

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DULUTH MN 55806 4

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1500 NORTH STAR CENTER
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ST PAUL MN 55114 4

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HEMATOLOGY RESEARCH
ROCHESTER MN 55901 4

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NANCY CARLSON REG COORD
UNIVERSITY OF MN MORRIS
PE ANNEX RM 32
MORRIS MN 56267 5

MIDLAND GLASS COMPANY
DONALD F HENNEN
PLANT MANAGER
P O BOX 69
SHAKOPEE MN 55379 5

CITY OF MILTONA
ATTN KEVIN LEE CLERK
MILTONA MN 56354 5

MINNEAPOLIS TRIBUNE
ATTN BOB FRANKLIN
425 PORTLAND AVE
MINNEAPOLIS MN 55488 5

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PAUL DENEKA
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STEVEN HOLMSTOEN
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MINNESOTA FARMERS UNION
ATTN JULIE BLEYHL
DIRECTOR OF LEG SERV
317 YORK AVE
ST PAUL MN 55101 5

THE MINNESOTA PROJECT
ATTN LONI KEMP
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MINNKOTA POWER COOP INC
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155 S WABASHA STREET
ST PAUL MN 55107 5

MN ASSOC HEALTH CARE FAC
ATTN RICK CARTER
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MN AUDUBON COUNCIL
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SUITE 321
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MINNEAPOLIS MN 55435 5

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2221 UNIVERSITY AVE SE
MPLS MN 55414 5

MN MOTOR TRANSPORT ASSOC
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1821 UNIVERSITY RM 134N
ST PAUL MN 55104 5

MN MULTI HOUSING ASSOC
ATTN JOHN G HORNER
4740 PARK GLEN ROAD
MINNEAPOLIS MN 55416 5

MN NEWSPAPER ASSOC
12 S 6TH STREET SUITE 1120
MINNEAPOLIS MN 55402 5

MN RETAIL MERCHANTS ASSOC
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180 METRO SQUARE BLDG
ST PAUL MN 55101 5

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P O BOX 66568
AMF O'HARE IL 60666 5

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MPIRG
ATTN MICHAEL LEE
2512 DELAWARE ST SE
MINNEAPOLIS MN 55414 5

MPIRG
ATTN KENNETH PETERSON
2412 UNIVERSITY AVE S E
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MARY AYDE
525 PARK STREET #120
ST PAUL MN 55103 5

NAT'L RENDERERS ASSOC INC
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2250 EAST DEVON AVE
DES PLAINES IL 60018 5

NCASI
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CENTRAL LAKE ST REG CE
WESTERN MICHIGAN UNIV
KALAMAZOO MI 49008 5

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KAREN VARIAN
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610 N W 20TH ST
P O BOX 40
FARIBAULT MN 55021 7

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ROCHESTER MN 55904-6503 7

ROCHESTER PUBLIC UTILITIES
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506 FIRST AVE N E
BOX 6057
ROCHESTER MN 55901 7

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MARK GUGISBERG
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ATTN DAVID MILLER
N HWY 3
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SHELL ENGINEERING & ASSOC
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STEARNS COUNTY PLAN DEPT
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EDWIN E STERLING
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ATTN DAN ENGSTRAND
311 W 44TH ST
MINNEAPOLIS MN 55409 7

TENNECO INC
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1100 MILAM BLDG
HOUSTON TX 77001 7

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314 W 90TH ST
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300 HANOVER BLDG
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BOX 197 MAYO BLDG
420 DELAWARE STREET SE
MINNEAPOLIS MN 55455 7

U OF M PHYSICAL PLANT DEPT
ATTN ROBERT SILVAGNI
200 SHOPS BLDG
319 15TH AVE S E
MINNEAPOLIS MN 55455 7

U OF M
ATTN ROBERT SNYDER
248 CLASSROOM OFFICE BLDG
1994 BUFORD AVE
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UNION CARBIDE CORP
ATTN M WILKINS
39 OLD RIDGEBURY RD E2289
DANBURY CT 06817 7

UNITED POWER ASSOC
ATTN REYNOLD S RAHKO
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ELK RIVER MN 55330 7

UNITED POWER ASSOC
ATTN DAN MCCONNON
ENV & LAND DIV
ELK RIVER MN 55330 7

KENT VAN METER
ENVIRONMENTAL SAFETY
ST PAUL PUBLIC SCHOOLS
360 COLBORNE STREET
ST PAUL MN 55102 7

STEWART NICHOLSON
13150 HARRIET AVE S #378
BURNSVILLE MN 55337 6

NORTH STAR STEEL CO
ATTN DON DAME
1678 RED ROCK RD
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ATTN G V WELK MGR
REG COMPL & SERV
414 NICOLLET MALL
MINNEAPOLIS MN 55401 6

OFFICE OF ADMIN HEARI CO
ATTN SAM RUHLE
400 SUMMIT BANK BLDG
30 S FOURTH AVE
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OGLEBAY NORTON CO
HENRY CHISHOLM
P O BOX 6508
CLEVELAND OHIO 44101 6

OLMSTED CITIZENS FOR A
BETTER COMMUNITY
P O BOX 504
ROCHESTER MN 55903 6

OLSON GUNN & SERAN LTD
ATTN WAYNE H OLSON
315 PEAVEY BLDG
730 SECOND AVE S
MINNEAPOLIS MN 55402 6

PAUL WEIR CO
820 DAVIS
P O BOX 1499
EVANSTON IL 60201-1499 6

PERRY GRUBB ASSOC INC
ATTN CHARLES R SINGER
771 HARDING ST N E
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CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is 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 23rd day of August 1988, 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 attached amendments to the MPCA's hazardous waste rules governing the land disposal restrictions, Minn. Rules pts. 7001.0150, 7001.0560, 7001.0650, 7001.0730, 7045.0020, 7045.0075, 7045.0125, 7045.0127. 7045.0135, 7045.0214, 7045.0365, 7045.0450, 7045.0458, 7045.0478, 7045.0552, 7045.0564, 7045.0584, 7045.1300, 7045.1305, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1350, 7045.1355, 7045.1360, and 7045.1380, pursuant to the authority vested in the MPCA by Minn. Stat § 116.07, subd. 4, (1986).
>
> BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner is authorized to make 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, (1986).
>
> BE IT FURTHER RESOLVED, that the MPCA adopts the Findings of Fact, Conclusions, and Order Adopting Rule Amendments and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the MPCA and to perform the necessary acts to provide that the rule amendments shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25 day of August, 1988.

Gerald L. Willet

GERALD L. WILLET
Commissioner

Pollution Control Agency

Proposed Permanent Rules Relating to Hazardous Waste; Land Disposal Restrictions

Rules as Proposed

7001.0150 TERMS AND CONDITIONS OF PERMITS.

Subpart 1. [Unchanged.]

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

A. to D. [Unchanged.]

Subp. 3. [Unchanged.]

7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF APPLICATION.

Part B of the application must contain the following information:

A. to U. [Unchanged.]

V. For land disposal facilities, if a case-by-case extension has been approved under part 7045.0075, subpart 6, or a petition has been granted under part 7045.0075, subpart 7, a copy of the notice of approval for the extension or petition is required.

7001.0650 INTERIM STATUS.

Subpart 1. to 3. [Unchanged.]

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

A. to C. [Unchanged.]

D. alter a hazardous waste facility in a manner that

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amounts to a reconstruction of the facility. For the purpose of this part, reconstruction occurs when the capital investment in the modification of the facility exceeds 50 percent of the capital cost of a comparable new hazardous waste facility. Reconstruction does not include changes made solely for the purpose of complying with the requirements of part 7045.0628, subparts 4 and 5, for tanks and ancillary equipment, or to treat or store in containers or tanks hazardous wastes subject to the land disposal restrictions under parts 7045.1300 to 7045.1380 or RCRA section 3004, if the changes are made solely to comply with parts 7045.1300 to 7045.1380 or RCRA section 3004.

Subp. 5. to 7. [Unchanged.]

7001.0730 MODIFICATION OF PERMITS; REVOCATION AND REISSUANCE OF PERMITS.

Subpart 1. to 3. [Unchanged.]

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

A. to K. [Unchanged.]

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

(1) the hazardous waste has been prohibited from one or more methods of land disposal under parts 7045.1320 to 7045.1330 or RCRA section 3004;

(2) treatment is in accordance with part 7045.1310, if applicable, and part 7045.1305, and applicable standards established under parts 7045.1355 to 7045.1360 and part 7045.0075, subpart 8, or, where no treatment standards have been established, treatment renders the waste no longer subject to the applicable prohibitions of part 7045.1330 or RCRA section 3004;

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(3) handling or treatment of the restricted waste will not present risks substantially different from those of wastes listed in the permit; and

(4) federal or state approval of a minor permit modification request is granted. No permit changes can occur except for the addition of new waste codes and administrative or technical changes necessary to handle new wastes. Changes in treatment processes or physical equipment may not be made under this item; and

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

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

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

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

Subp. 5. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. to 32. [Unchanged.]

Subp. 32a. **Halogenated organic compounds or HOC's.** "Halogenated organic compounds" or "HOC's" means those compounds having a carbon-halogen bond that are listed under Appendix III of Code of Federal Regulations, title 40, part 268.

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Subp. 33. to 47. [Unchanged.]

Subp. 47a. **Land disposal.** "Land disposal" means placement in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

Subp. 48. to 71. [Unchanged.]

Subp. 71a. **Polychlorinated biphenyls or PCB's.** "Polychlorinated biphenyls" or "PCB's" are halogenated organic compounds defined in accordance with Code of Federal Regulations, title 40, section 761.3.

Subp. 72. to 108. [Unchanged.]

7045.0075 PETITIONS.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Procedures for case-by-case extensions to an effective date.** A person who generates, treats, stores, or disposes of hazardous waste may submit a petition to the EPA for an extension to the effective date of any applicable restriction established under parts 7045.1320 to 7045.1330. The petition must be submitted in accordance with Code of Federal Regulations, title 40, section 268.5.

Subp. 7. **Petitions to allow land disposal of a prohibited waste.** A person seeking an exemption from a prohibition for the disposal of a restricted hazardous waste in a particular unit or units must submit a petition to the agency and to the EPA demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The demonstration to the EPA must include the provisions in Code of Federal Regulations, title 40, section 268.6. The demonstration to the agency must include an identification of the specific waste and the specific unit for which the demonstration will be made, a waste analysis to describe fully the chemical and physical characteristics of the

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subject waste, and a comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality.

A. The demonstration must meet the following criteria:

(1) all waste and environmental sampling, test, and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow;

(2) all sampling, testing, and estimation techniques for chemical and physical properties of the waste and all environmental parameters must have been approved by the agency;

(3) simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements;

(4) a quality assurance and quality control plan that addresses all aspects of the demonstration must be approved by the agency; and

(5) an analysis must be performed to identify and quantify any aspects of the demonstration that contribute significantly to uncertainty. This analysis must include an evaluation of the consequences of predictable future events, including but not limited to earthquakes, floods, severe storm events, droughts, or other natural phenomena.

B. Each petition must include the following statement signed by the petitioner or an authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

C. After receiving a petition, the commissioner may

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request additional information that reasonably may be required to evaluate the demonstration.

D. If approved, the petition will apply to land disposal of the specific restricted waste at the individual disposal unit described in the demonstration and will not apply to any other restricted waste at that disposal unit, or to that specific restricted waste at any other disposal unit.

E. The commissioner will give public notice in the State Register of the intent to approve or deny a petition and provide an opportunity for public comment. The final decision on a petition will be published in the State Register.

F. The term of a petition granted under this part must be no longer than the term of the RCRA permit if the disposal unit is operating under an RCRA permit, or up to a maximum of five years from the date of approval provided under item G if the unit is operating under interim status. In either case, the term of the granted petition expires upon the termination or denial of an RCRA permit, or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached.

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

H. The petition granted by the agency does not relieve the petitioner of responsibility for the management of hazardous waste under chapters 7001 and 7045.

I. Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to 500 ppm are not eligible for an exemption under this subpart.

Subp. 8. **Petition for alternate treatment standard or alternate technology.** Where a treatment standard is expressed as a concentration in a waste or waste extract and a waste cannot be treated to a specified level, or where the treatment technology is not appropriate to the waste, the generator or the owner or operator of a treatment facility may request a variance

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from the EPA to provide an alternate treatment standard. The variance request must be submitted in accordance with Code of Federal Regulations, title 40, sections 268.42(b) and 268.44.

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

Subpart 1. to 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 and 7045.1300 to 7045.1380: industrial ethyl alcohol that is reclaimed, except as provided in subpart 12; used batteries or used battery cells returned to a battery manufacturer for regeneration; and scrap metal.

Subp. 5. to 8. [Unchanged.]

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 7045.1300 to 7045.1380, 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. to 12. [Unchanged.]

7045.0127 RESIDUES IN EMPTY CONTAINERS AND EMPTY INNER LINERS.

Subpart 1. **Scope.** Any hazardous waste remaining in an empty container or an empty inner liner removed from an empty container, as defined in subparts 2 to 4 is not subject to regulation under parts 7045.0100 to 7045.1030 and 7045.1300 to 7045.1380, or a hazardous waste facility permit. Any hazardous waste in a container or an inner liner removed from a container that is not empty, as defined in subparts 2 to 4, is subject to

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regulation under parts 7045.0100 to 7045.1030 and 7045.1300 to 7045.1380, and the agency's permitting procedures.

Subp. 2. to 4. [Unchanged.]

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. **General.** A waste is a hazardous waste if it is listed under subparts 2 to 5 unless it has been excluded from the list under part 7045.0075, subpart 2.

The basis for listing the classes or types of wastes listed in subparts 2 to 5 is indicated by employing one or more of the following hazard codes:

A. ignitable waste, (I);

B. corrosive waste, (C);

C. reactive waste, (R);

D. EP toxic waste, (E);

E. acute hazardous waste, (H); and

F. toxic waste, (T).

The constituent which caused the agency to list the waste as an EP toxic waste (E) or toxic waste (T) in subparts 2 and 3 is identified in part 7045.0139.

Each listed hazardous waste is assigned a hazardous waste number which precedes the name of the waste. This number must be used in complying with the disclosure requirements of parts 7045.0205 to 7045.0304 and certain record keeping and reporting requirements under parts 7045.0205 to 7045.1030, 7045.1300 to 7045.1380, and the agency's permitting procedures in chapter 7001.

The following hazardous wastes listed in subparts 2 and 3 are subject to the exclusion limits for acutely hazardous wastes established in part 7045.0219: Hazardous Waste Numbers F020, F021, F022, F023, F026, and F027.

Subp. 2. to 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

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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. If the waste is determined to be hazardous, the generator must refer to parts 7045.0075, 7045.0450 to 7045.0685, and 7045.1300 to 7045.1380 for possible exclusions or restrictions relating to management of the specific waste.

Subp. 2. and 3. [Unchanged.]

7045.0365 TRANSFER FACILITY REQUIREMENTS.

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

Subp. 2. and 3. [Unchanged.]

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. **General requirements.** Parts 7045.0450 to 7045.0544 apply to owners and operators of all facilities which treat, store, or dispose of hazardous waste except as specifically provided otherwise in this part or in parts 7045.0100 to 7045.0304.

Parts 7045.0450 to 7045.0544 apply to the owners or operators of publicly owned treatment works which treat, store, or dispose of hazardous waste only to the extent they are included in a permit-by-rule granted under the agency's permitting procedures.

Parts 7045.0450 to 7045.0544 apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries

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Act of 1972, United States Code, title 16, sections 1431 to 1434, as amended through December 31, 1982, and United States Code, title 33, section 1401, as amended through December 31, 1982, only to the extent they are included in a permit-by-rule granted under the agency's permitting procedures. Parts 7045.0450 to 7045.0544 apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

Parts 7045.0450 to 7045.0544 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380.

Subp. 2. and 3. [Unchanged.]

7045.0458 WASTE ANALYSIS REQUIREMENTS.

Subpart 1. **Waste analysis.** Waste analysis procedures are as follows:

A. Before an owner or operator treats, stores, or disposes of any hazardous waste, he or she shall obtain a detailed chemical and physical analysis of a representative sample of the waste. This analysis must contain all the information which must be known in order to treat, store, or dispose of the waste in accordance with the requirements of parts 7045.0450 to 7045.0544 and 7045.1300 to 7045.1380, or with the conditions of a permit issued under the agency's permitting procedures.

B. to D. [Unchanged.]

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

A. to E. [Unchanged.]

F. where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in parts 7045.0456; 7045.0538, subpart 10; and 7045.0542, subpart 2; and 7045.1315;

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

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

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

H. for surface impoundments exempted from the land disposal restrictions under part 7045.1310, the procedures and schedules for:

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues that are not delisted under part 7045.0075, subpart 2, and do not exhibit a characteristic of hazardous waste under part 7045.0131, and that do not meet the treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, the annual removal of residues that do not meet the applicable prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d).

7045.0478 OPERATING RECORD.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Record information.** All of the following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

A. to D. [Unchanged.]

E. Records and results of waste analysis performed as specified in parts 7045.0456, 7045.0458, 7045.0538, subpart 10, and 7045.0542, subpart 2, 7045.1310, and 7045.1315.

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F. to L. [Unchanged.]

M. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 6 or 7, and the notice required by a generator under part 7045.1315, subpart 1, item C.

N. For an off-site treatment facility, a copy of the notice required by a generator under part 7045.1315, subpart 1, item A.

O. For an on-site treatment facility, the information contained in the notice required by the generator under part 7045.1315, subpart 1, item A, except for the manifest number required under subitem (3).

P. For an off-site land disposal facility, a copy of the notice and certification required by the owner or operator of a treatment facility under part 7045.1315, subpart 2, items A and B, or a copy of the notice and certification required by the generator under part 7045.1315, subpart 1, item B, whichever is applicable.

Q. For an on-site land disposal facility, the information contained in the notice required under part 7045.1315, subpart 1, item B, except for the manifest number, or the information contained in the notice required by a treater under part 7045.1315, subpart 2, item A, except the manifest number required under subitem (3), whichever is applicable.

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. **General requirements.** Parts 7045.0552 to 7045.0642 establish minimum standards for the management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. These standards apply to owners and operators of existing facilities who have fully complied with the requirements for state or federal interim status until a permit

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is issued or until applicable interim status closure and post-closure responsibilities are fulfilled, and those who have failed to achieve state or federal interim status. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after July 16, 1984, except as specifically provided otherwise.

For existing facilities which were not required to obtain federal interim status under the Resource Conservation and Recovery Act, United States Code, title 42, sections 6901 to 6986, as amended through June 30, 1983, but are required to obtain state interim status, the requirements of parts 7045.0590; 7045.0592; 7045.0632, subpart 4, items A and B; 7045.0634, subpart 2; 7045.0638, subparts 2, 7, and 8, become effective 12 months after July 16, 1984, and the requirements of parts 7045.0608 to 7045.0624 become effective 90 days after July 16, 1984.

Parts 7045.0552 to 7045.0642 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380.

Subp. 1a. to 4. [Unchanged.]

7045.0564 WASTE ANALYSIS REQUIREMENTS.

Subpart 1. **Waste analysis.** The analysis must comply with the following requirements:

A. Before an owner or operator treats, stores, or disposes of any hazardous waste, he or she shall obtain a detailed chemical and physical analysis of a representative sample of the waste. This analysis must contain all the information which must be known in order to treat, store, or dispose of the waste in accordance with the requirements of parts 7045.0552 to 7045.0642 and 7045.1300 to 7045.1380.

B. to D. [Unchanged.]

Subp. 2. **Waste analysis plan.** The owner or operator shall develop and follow a written waste analysis plan which describes the procedures the owner or operator will carry out to comply with subpart 1. The owner or operator shall keep this plan at

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the facility. The plan must specify:

A. to E. [Unchanged.]

F. Where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in parts 7045.0628, subpart 3; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2; ~~and~~ 7045.0642, subpart 3; and 7045.1315.

G. [Unchanged.]

H. For surface impoundments exempted from the land disposal restrictions under part 7045.1310, the procedures and schedule for:

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues that are not delisted under part 7045.0075, subpart 2, and do not exhibit a characteristic of hazardous waste under part 7045.0131, and that do not meet the treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, the annual removal of residues that do not meet the applicable prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d).

7045.0584 OPERATING RECORD.

Subpart 1. and 2. [Unchanged.]

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

A. to D. [Unchanged.]

E. Records and results of waste analysis and trial tests performed as specified in parts 7045.0564; 7045.0628, subpart 3; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2; ~~and~~ 7045.0642, subpart 3; 7045.1310; and 7045.1315.

F. to I. [Unchanged.]

J. Records of the quantities and date of placement of

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each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 6 or 7, and the notice required by a generator under part 7045.1315, subpart 1, item C.

K. For an off-site treatment facility, the notice required by a generator under part 7045.1315, subpart 1, item A.

L. For an on-site treatment facility, the information contained in the notice required by a generator under part 7045.1315, subpart 1, item A, except for the manifest number required under subitem (3).

M. For an off-site land disposal facility, the notice and certification required by the owner or operator of a treatment facility under part 7045.1315, subpart 2, items A and B, or the certification required by the generator under part 7045.1315, subpart 1, item B, whichever is applicable.

N. For an on-site land disposal facility, the information contained in the notice required by a generator under part 7045.1315, subpart 1, item B, except for the manifest number, or the information contained in the notice required by the treatment facility under part 7045.1315, subpart 2, item A, except the manifest number required under subitem (3), whichever is applicable.

7045.1300 LAND DISPOSAL RESTRICTIONS; APPLICABILITY AND EXEMPTIONS.

Subpart 1. **Applicability.** This part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

Except as specifically provided in subpart 2 or parts 7045.0100 to 7045.0141, the requirements of this part apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities.

Subp. 2. **Exemptions.** Prohibited wastes may continue to be

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land disposed under the following conditions:

A. if an extension has been granted from the effective date of a prohibition under part 7045.0075, subpart 6, with respect to those wastes covered by the extension;

B. if an exemption has been granted from a prohibition as a result of a petition under part 7045.0075, subpart 7, with respect to those wastes and units covered by the petition;

C. until November 8, 1988, if wastes are contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under the Resource Conservation and Recovery Act;

D. if small quantity generators of less than 100 kilograms of nonacute hazardous waste per month, or less than one kilogram acute hazardous waste per month, as defined in part 7045.0219; and

E. if a farmer is disposing of waste pesticides in accordance with part 7045.0304.

7045.1305 DILUTION PROHIBITED AS A SUBSTITUTE FOR TREATMENT.

No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with parts 7045.1350 to 7045.1360, to circumvent the effective date or otherwise avoid a prohibition in parts 7045.1320 to 7045.1330, or to circumvent a land disposal prohibition imposed by RCRA section 3004.

7045.1310 TREATMENT SURFACE IMPOUNDMENT EXEMPTION.

Subpart 1. **Conditions.** Wastes that are otherwise prohibited from land disposal under parts 7045.1300 to 7045.1380 may be treated in a surface impoundment or series of impoundments if:

A. treatment of the wastes occurs in the impoundments.

B. the residues of the treatment are analyzed, as

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provided in part 7045.1315 or 7045.1330 to determine if they meet the applicable treatment standards in parts 7045.1350 to 7045.1360, or, where no treatment standards have been established for the waste, the applicable prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d). The sampling method, specified in the waste analysis plan under part 7045.0458 or 7045.0564 must be designed so the representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples. The treatment residues, including any liquid waste, that do not meet the treatment standards adopted under parts 7045.1350 to 7045.1360, or the applicable prohibition levels adopted under parts 7045.1320 to 7045.1330, or imposed by statute where no treatment standards have been established, or that are not delisted under part 7045.0075, subpart 2, and no longer exhibit a characteristic of hazardous waste, must be removed at least annually. These residues may not be placed in any other surface impoundment for later management. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this requirement. The procedures and schedule for the sampling of impoundment contents, the analysis of test data, and the annual removal of residue that does not meet the treatment standards in parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, the prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d), must be specified in the facility's waste analysis plan as required under part 7045.0458 or 7045.0564.

C. the impoundment meets the design requirements of Code of Federal Regulations, title 40, section 264.221(c) or 265.221(a), and be in compliance with applicable groundwater monitoring requirements of part 7045.0484 or 7045.0590.

D. the owner or operator submits to the commissioner a written certification that the requirements of item C, have

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been met and a copy of the waste analysis plan required under item B. The following certification is required:

"I certify under penalty of law that the requirements of part 7045.1310, subpart 1, item C, have been met for all surface impoundments being used to treat restricted wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Subp. 2. **Prohibition of evaporation.** Evaporation of hazardous constituents as the principal means of treatment is not considered to be treatment for purposes of an exemption under this part.

7045.1315 WASTE ANALYSIS FOR RESTRICTED WASTES.

Subpart 1. **Applicability.** Except as provided in part 7045.1330, the generator must test waste or an extract developed using the test method described in Code of Federal Regulations, title 40, part 268, Appendix I, or use knowledge of the waste, to determine if the waste is restricted from land disposal.

A. If a generator determines that the waste being generated is a restricted waste and the waste does not meet the applicable treatment standards, or where the waste does not comply with the applicable prohibitions in part 7045.1330 or RCRA section 3004(d), with each shipment of waste the generator must notify the treatment facility in writing of the appropriate treatment standards in parts 7045.1350 to 7045.1360 and any applicable prohibitions in part 7045.1330 or RCRA section 3004(d).

The notice must include the following information:

(1) EPA Hazardous Waste Number;

(2) the corresponding treatment standards and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d);

(3) the manifest number associated with the

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shipment of waste; and

(4) waste analysis data, where available.

B. If a generator determines that the waste being generated is a restricted waste and determines that the waste can be land disposed without further treatment, with each shipment of waste the generator must submit, to the land disposal facility, a notice and a certification stating that the waste meets the applicable treatment standards in parts 7045.1350 to 7045.1360 and the applicable prohibitions in part 7045.1330 or RCRA section 3004(d).

(1) The notice must include the EPA Hazardous Waste Number, the corresponding treatment standards and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d), the manifest number associated with the shipment of waste, and waste analysis data, where available.

(2) The certification must be signed by an authorized representative and must state the following:

"I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d). I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment."

C. If a generator's waste is subject to a case-by-case extension under part 7045.0075, subpart 6, an exemption under part 7045.0075, subpart 7, an extension under part 7045.1300, subpart 2, item C, or a nationwide variance under Code of Federal Regulations, title 40, part 268, subpart C, a notice must be forwarded with the waste to the land disposal facility receiving the waste, stating that the waste is exempt from the land disposal restrictions.

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D. If a generator's decision that a waste is restricted is based solely on knowledge of the waste, all supporting data used to make this determination must be maintained on-site in the generator's files.

Subp. 2. **Testing of wastes.** For wastes with treatment standards expressed as concentrations in the waste extract in part 7045.1355, the owner or operator of the treatment facility must test the treatment residues or an extract of the residues developed using the test method described in Code of Federal Regulations, title 40, part 268, Appendix I, to assure that the treatment residues or extract meet the applicable treatment standards. For wastes prohibited under part 7045.1330 or RCRA section 3004(d) which are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the owner or operator of the treatment facility must test the treatment residues according to the generator testing requirements in part 7045.1330 to assure that the treatment residues comply with the applicable prohibitions. For both circumstances described above, the testing must be performed according to the frequency specified in the facility's waste analysis plan as required by part 7045.0458 or 7045.0564. Where the treatment residues do not comply with the applicable treatment standards or prohibitions, the treatment facility must comply with the notice requirements applicable to generators in subpart 1, item A, if the treatment residues will be further managed at a different treatment facility.

A. A notice must be sent to the land disposal facility that includes the following information:

(1) EPA Hazardous Waste Number;

(2) the corresponding treatment standards and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d);

(3) the manifest number associated with the shipment of waste; and

(4) waste analysis data, where available.

B. The treatment facility must submit a certification

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with each shipment of waste or treatment residue of a restricted waste to the land disposal facility stating that the waste or treatment residue has been treated in compliance with the applicable performance standards in parts 7045.1350 to 7045.1360 and the applicable prohibitions in part 7045.1330 or RCRA section 3004(d).

(1) For wastes with treatment standards expressed as concentrations in the waste extract in part 7045.1355 or in the waste, or for wastes prohibited under part 7045.1330 or RCRA section 3004(d) which are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the certification must be signed by an authorized representative and must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operations of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the performance levels specified in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d) without dilution of the prohibited waste. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

(2) For wastes with treatment standards expressed as technologies in part 7045.1360, the certification must be signed by an authorized representative and must state the following:

"I certify under penalty of law that the waste has been treated in accordance with the requirements of part 7045.1360. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

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Subp. 3. **Facility requirements.** The owner or operator of any land disposal facility disposing any waste subject to restrictions under parts 7045.1300 to 7045.1380 must have records of the notice and certification required in subpart 1 or 2. The owner or operator of the land disposal facility must test the waste or an extract of the waste or treatment residue developed using the test method described in Code of Federal Regulations, title 40, part 268, Appendix I, or using any methods required by generators under part 7045.1330, to assure that the wastes or treatment residues are in compliance with the applicable treatment standards in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d). The testing must be performed according to the frequency specified in the facility's waste analysis plan as required in part 7045.0458 or 7045.0564.

7045.1320 WASTE SPECIFIC PROHIBITIONS; SOLVENT WASTES.

Subpart 1. **Applicability.** The spent solvent wastes specified in part 7045.0135 as Hazardous Waste Nos. F001, F002, F003, F004, and F005, are prohibited from land disposal unless one or more of the following conditions apply:

A. the generator of the solvent waste is a small quantity generator;

B. the solvent waste is generated from any response action taken under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), or any corrective action taken under the Resource Conservation and Recovery Act (RCRA), except where the waste is contaminated soil or debris not subject to this chapter until November 8, 1988;

C. the initial generator's solvent waste is a solvent-water mixture, solvent-containing sludge, or solvent-contaminated soil (non-CERCLA or RCRA corrective action) containing less than one percent total F001-F005 solvent constituents listed in part 7045.1355, subpart 3; or

D. the solvent waste is a residue from treating a waste described in items A to C; or the solvent waste is a

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residue from treating a waste not described in items A to C, provided the residue belongs to a different treatability group than the waste as initially generated and wastes belonging to a treatability group are described in item C.

Subp. 2. **Effective date.** Effective November 8, 1988, the F001-F005 solvent wastes listed in subpart 1, items A to C, are prohibited from land disposal. Until November 8, 1988, wastes included in subpart 1, items A to C, may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

Subp. 3. **Exceptions.** The requirements of subparts 1 and 2 do not apply if:

A. the wastes meet the standards of parts 7045.1350 to 7045.1360;

B. persons have been granted an exemption from a prohibition under part 7045.0075, subpart 7, with respect to those wastes and units covered by repetition; or

C. persons have been granted an extension to an effective date of a prohibition under part 7045.0075, subpart 6 with respect to those wastes covered by the extension.

7045.1325 WASTE SPECIFIC PROHIBITION; DIOXIN-CONTAINING WASTES.

Subpart 1. **Applicability.** Effective November 8, 1988, the dioxin-containing wastes specified in part 7045.0135 as Hazardous Waste Nos. F020, F021, F022, F023, F026, F027, and F028, are prohibited from land disposal.

Subp. 2. **Exceptions.** The requirements of subpart 1 do not apply if:

A. the wastes meet the standards of parts 7045.1350 to 7045.1360;

B. persons have been granted an exemption from a prohibition under part 7045.0075, subpart 7, with respect to those wastes or units covered by the petition; or

C. persons have been granted an extension to an effective date of a prohibition under part 7045.0075, subpart 6,

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with respect to those wastes covered by the extension.

Subp. 3. **Effective date.** Until November 8, 1988, wastes included in subpart 1 may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements of Code of Federal Regulations, title 40, part 268.5(h)(2) and all other applicable requirements of parts 7045.0450 to 7045.0642.

7045.1330 WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES.

Subpart 1. **Application.** The following hazardous wastes are prohibited from land disposal:

A. liquid hazardous wastes having a pH less than or equal to two;

B. liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 50 ppm; and

C. liquid hazardous wastes that are primarily water and contain halogenated organic compounds (HOC's) in total concentration greater than or equal to 1,000 mg/l and less than 10,000 mg/l HOC's.

Subp. 2. **Exceptions.** The following items are an exception from the prohibitions in subpart 1:

A. The requirements of subpart 1 do not apply until November 8, 1988, where the wastes are contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act or a corrective action required under RCRA, subtitle C.

B. Effective July 8, 1989, the following hazardous wastes are prohibited from land disposal:

(1) liquid hazardous wastes that contain HOC's in total concentration greater than or equal to 1,000 mg/l and are not prohibited under subpart 1, item C; and

(2) nonliquid hazardous wastes containing HOC's in total concentration greater than or equal to 1,000 mg/kg.

C. Until July 8, 1989, the wastes described in item

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B, may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements of Code of Federal Regulations, title 40, part 268.5(h)(2).

D. The requirements of subparts 1 and 2, items A and B, do not apply if:

(1) an exemption has been granted from a prohibition as a result of a petition under part 7045.0075, subpart 7, with respect to those wastes and units covered by the petition;

(2) an extension to the effective date of a prohibition under part 7045.0075, subpart 7, has been granted with respect to those wastes covered by the extension; or

(3) the wastes meet the applicable standards in parts 7045.1350 to 7045.1360 or, where treatment standards are not specified, the wastes are in compliance with the applicable prohibitions in this part or RCRA section 3004(d).

E. The prohibitions and effective dates in subpart 1, item C, and subpart 2, items A and B, do not apply where the waste is subject to an effective date and prohibition under parts 7045.1320 to 7045.1330 for a specified HOC, such as a hazardous waste chlorinated solvent.

Subp. 3. **Waste analysis.** The following provisions apply to waste analysis:

A. To determine whether or not a waste is a liquid under subparts 1 and 2, item B, and under RCRA section 3004(d), the Paint Filter Liquids Test must be used, method 9095, as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW 846.

B. Except as otherwise provided in this item, the waste analysis and record keeping requirements of part 7045.1315 are applicable to wastes prohibited under this part or RCRA section 3004(d).

(1) The initial generator of a liquid hazardous waste must test the waste, not an extract or filtrate, in accordance with the procedures in part 7045.0131, subpart 4, item A, or use knowledge of the waste, to determine if the waste

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has a pH less than or equal to two. If the liquid waste has a pH less than or equal to two, it is restricted from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise provided in this part.

(2) The initial generator of either a liquid hazardous waste containing polychlorinated biphenyls (PCB's) or a liquid or nonliquid hazardous waste containing halogenated organic compounds (HOC's) must test the waste, not an extract or filtrate, or use knowledge of the waste, to determine whether the concentration levels in the waste equal or exceed the prohibition levels in this part. If the concentration of PCB's or HOC's in the waste is greater than or equal to the prohibition levels in this part, the waste is restricted from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise provided in this part.

7045.1350 TREATMENT STANDARDS.

Subpart 1. **Concentration standard.** A restricted waste identified in this subpart may be land disposed without further treatment only if an extract of the waste or of the treatment residue of the waste developed using the test method in Code of Federal Regulations, title 40, part 268, Appendix I, does not exceed the value shown in part 7045.1355, subpart 3, for any hazardous constituent listed for that waste.

Subp. 2. **Technology standard.** A restricted waste for which a treatment technology is specified under part 7045.1360 may be land disposed after it is treated using that technology or an equivalent treatment method approved under the procedures in part 7045.0075, subpart 8.

7045.1355 TREATMENT STANDARDS EXPRESSED AS CONCENTRATIONS IN WASTE EXTRACT.

Subpart 1. **Applicability.** Subpart 3 identifies the restricted wastes and the concentrations of their associated hazardous constituents that may not be exceeded by the extract of a waste or waste treatment residual developed using the test

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method in Appendix I of Code of Federal Regulations, title 40, part 268, for the allowable land disposal of the waste.

Subp. 2. **Combined wastes.** When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

Subp. 3. **Constituents in waste extract.** Constituents in waste extracts are listed with the applicable concentration limits.

	Concentration (in mg/l)	
F001-F005 spent solvents	Wastewaters containing spent solvents	All other spent solvent wastes
Acetone	0.05	0.59
n-Butyl alcohol	5.0	5.0
Carbon disulfide	1.05	4.81
Carbon tetrachloride	0.05	0.96
Chlorobenzene	0.15	0.05
Cresols (and cresylic acid)	2.82	0.75
Cyclohexanone	0.125	0.75
1,2-Dichlorobenzene	0.65	0.125
Ethyl acetate	0.05	0.75
Ethylbenzene	0.05	0.053
Ethyl ether	0.05	0.75
Isobutanol	5.0	5.0
Methanol	0.25	0.75
Methylene chloride	0.20	0.96
Methylene chloride (from the pharmaceutical industry)	12.7	0.96
Methyl ethyl ketone	0.05	0.75
Methyl isobutyl ketone	0.05	0.33
Nitrobenzene	0.66	0.125
Pyridine	1.12	0.33
Tetrachloroethylene	0.079	0.05
Toluene	1.12	0.33

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1,1,1-Trichloroethane	1.05	0.41
1,1,2-Trichloro-1,2,2-Trifluoroethane	1.05	0.96
Trichloroethylene	0.062	0.091
Trichlorofluoromethane	0.05	0.96
Xylene	0.05	0.15

F020-F023 and F026-F028 dioxin containing wastes	Concentration
HxCDD - All Hexachlorodibenzo-p-dioxins	< 1 ppb
HxCDF - All Hexachlorodibenzofurans	< 1 ppb
PeCDD - All Pentachlorodibenzo-p-dioxins	< 1 ppb
PeCDF - All Pentachlorodibenzofurans	< 1 ppb
TCDD - All Tetrachlorodibenzo-p-dioxins	< 1 ppb
TCDF - All Tetrachlorodibenzofurans	< 1 ppb
2,4,5-Trichlorophenol	< 0.05 ppm
2,4,6-Trichlorophenol	< 0.05 ppm
2,3,4,6-Tetrachlorophenol	< 0.10 ppm
Pentachlorophenol	< 0.01 ppm

7045.1360 TREATMENT STANDARDS EXPRESSED AS SPECIFIED TECHNOLOGIES.

The following wastes must be treated using the identified technology or technologies, or an equivalent method approved under part 7045.0075, subpart 8.

A. Liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 50 ppm but less than 500 ppm must be incinerated in accordance with the technical requirements of Code of Federal Regulations, title 40, section 761.70, or burned in high efficiency boilers in accordance with the technical requirements of Code of Federal Regulations, title 40, section 761.60. Liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 500 ppm must be incinerated in accordance with the technical requirements of Code of Federal Regulations, title 40, section 761.70. Thermal treatment under

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this section must also be in compliance with applicable regulations in chapter 7045.

B. Nonliquid hazardous wastes containing halogenated organic compounds (HOC's) in total concentrations greater than or equal to 1,000 mg/kg and liquid HOC-containing wastes that are prohibited under part 7045.1330, subpart 2, item B, subitem (1), must be incinerated in accordance with the requirements of part 7045.0542 or 7045.0640. These treatment standards do not apply if the waste is subject to a treatment standard in parts 7045.1320 to 7045.1330 for a specific HOC.

7045.1380 PROHIBITIONS ON STORAGE OF RESTRICTED WASTES.

Subpart 1. **Applicability.** Except as provided in this part, the storage of hazardous wastes restricted from land disposal under parts 7045.1320 to 7045.1330 or RCRA section 3004 is prohibited, unless the following conditions are met:

A. A generator stores the wastes in tanks or containers on-site solely for the purpose of the accumulation of quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal and the generator complies with part 7045.0292. A generator who is in existence on the effective date of a restriction under part 7045.0075, subparts 6, 7, and 8, and parts 7045.1300 to 7045.1380 and who must store hazardous wastes for longer than 90 days becomes an owner or operator of a storage facility and must obtain an RCRA permit. The facility may qualify for interim status on compliance with the rules governing interim status under parts 7001.0650 and 7045.0552.

B. An owner or operator of a hazardous waste treatment, storage, or disposal facility stores wastes in tanks or containers solely for the purpose of the accumulation of the quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal if (1) each container is clearly marked to identify its contents and the date each period of accumulation begins and (2) each tank is clearly marked with a description of its contents, the quantity of hazardous waste

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received, and the date each period of accumulation begins. The information for each tank may be recorded and maintained in the operating record at the facility. Regardless of whether the tank is marked, the owner or operator must comply with the operating record requirements in part 7045.0478 or 7045.0584.

C. A transporter stores manifested shipments of the wastes at a transfer facility for ten days or less.

Subp. 2. **Storage at facility.** An owner or operator of a treatment, storage, or disposal facility may store wastes for up to one year unless the agency can demonstrate that the storage was not solely for the purpose of accumulation of quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal.

Subp. 3. **Extensions to storage period.** An owner or operator of a treatment, storage, or disposal facility may store wastes beyond one year; however, the owner or operator bears the burden of proving that the storage was solely for the purpose of accumulation of quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal.

Subp. 4. **Petition exemptions.** The prohibition in subpart 1 does not apply to the wastes that are the subject of an approved petition under part 7045.0075, subparts 7 and 8, or a variance contained in parts 7045.1320 to 7045.1330.

Subp. 5. **Treated waste.** The prohibition in subpart 1 does not apply to hazardous wastes that meet the treatment standards in parts 7045.1355 to 7045.1360, or, if treatment standards are not specified, wastes that are in compliance with the applicable prohibitions in part 7045.1330 or RCRA section 3004.

Subp. 6. **PCB storage.** Liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 50 ppm must be stored at a facility that meets the requirements of Code of Federal Regulations, title 40, section 761.65(b) and must be removed from storage and treated or disposed as required by this part within one year of the date when the wastes are first placed into storage. Subpart 3 does not apply to PCB wastes prohibited under part 7045.1330.

Approved by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Hazardous Waste; Land Disposal Restrictions

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapters 7001; 7045

The attached rules are approved for publication
in the State Register

David S. Niss
Assistant Revisor

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the
Proposed Amendment of
Rules Governing the Land
Disposal Restrictions for
Hazardous Wastes,
Minn. Rules pts. 7001.0150,
7001.0560, 7001.0650,
7001.0730, 7045.0020,
7045.0075, 7045.0125,
7045.0127, 7045.0135,
7045.0214, 7045.0365,
7045.0450, 7045.0458,
7045.0478, 7045.0552,
7045.0564, 7045.0584,
7045.1300, 7045.1305,
7045.1310, 7045.1315,
7045.1320, 7045.1325,
7045.1330, 7045.1350,
7045.1355, 7045.1360,
and 7045.1380

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this proceeding is the amendment of the rules of the Minnesota Pollution Control Agency (hereinafter "MPCA") governing the management, treatment, storage, and disposal of hazardous waste. The amendments will incorporate provisions promulgated by the U.S. Environmental Protection Agency (hereinafter "EPA") under the Hazardous and Solid Waste Amendments of 1984 (hereinafter "HSWA"). The amendments also incorporate changes necessary to maintain consistent rule language.

The EPA promulgated regulations under HSWA governing land disposal restrictions for hazardous waste and published these regulations in the November 7, 1986, Federal Register (51 FR 40572-40654) (Exhibit 1) and the July 8, 1987, Federal Register (52 FR 25760-25792) (Exhibit 2). The November 7, 1986, regulations are hereinafter referred to as the solvent and dioxin land disposal restrictions and the July 8, 1987, regulations are

hereinafter referred to as the California List land disposal restrictions. The proposed amendments to Minnesota's hazardous waste rules incorporate all of the federal regulations resulting from the November 7, 1986, publication and the July 8, 1987, publication.

The EPA published corrections to the solvent and dioxin land disposal restrictions in the June 4, 1987, Federal Register (52 FR 21010-21018) (Exhibit 3) which are also incorporated into the amendments.

These rule amendments are proposed pursuant to the MPCA's authority under Minn. Stat. § 116.07, subd. 4 (1986).

This Statement of Need and Reasonableness is divided into seven parts. Following this introduction, Part II contains the MPCA's explanation of the need for the proposed amendments. Part III discusses the reasonableness of the proposed amendments. Part IV documents how the MPCA has considered the methods of reducing the impact of the proposed amendments on small businesses as required by Minn. Stat. § 14.115, subd. 2 (1986). Part V documents the economic factors the MPCA considered in drafting the amendments as required by Minn. Stat. § 116.07, subd. 6 (1986). Part VI sets forth the MPCA's conclusion regarding the amendments. Part VII contains a list of the exhibits relied on by the MPCA to support the proposed amendments. The exhibits, which are incorporated by reference into this Statement of Need and Reasonableness, are available for review at the MPCA's offices at 520 Lafayette Road, St. Paul, Minnesota 55155.

II. NEED FOR THE PROPOSED AMENDMENTS TO THE HAZARDOUS WASTE RULES

Minn. Stat. ch. 14 (1986) 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 evaluation of each proposed revision. In the broad sense, the need for amendments to the MPCA's rules governing the management, treatment, storage, and disposal of hazardous waste has two bases: (1) the need for consistency with the federal hazardous waste regulations, and (2) the need for rules which provide protection of human health and the environment without unduly restricting normal commerce.

A. Need for Consistency with Federal Regulations

In 1976, Congress adopted 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 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 pursuant to RCRA as amended in 1980 from EPA effective February 11, 1985. See 50 FR 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.

However, the authorization did not extend to those requirements promulgated pursuant to HSWA. To administer a program that includes the HSWA requirements a state must obtain separate authorization. Before the MPCA can apply for authorization under HSWA, all rule amendments necessary to maintain equivalency to the federal program must be in effect in Minnesota. Although a state program may be more stringent than the federal requirements, the MPCA believes 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 many generators must be knowledgeable about requirements of both the State and federal hazardous waste programs. The need to comply with multiple sets of rules makes compliance difficult. Therefore, to the extent it can be accomplished without posing a threat to human health and the environment, Minnesota should incorporate EPA's amendments.

B. Need for Managing Hazardous Waste Consistent with the Protection of Human Health and the Environment

The proposed amendments to the Minnesota hazardous waste rules include provisions protective of human health and the environment. The amendments include provisions which prohibit the land disposal of hazardous waste unless it is treated to meet specific standards. The standards for specific waste treatment are specified in the amendments, as are cross-references to corresponding management standards and permit rules.

III. REASONABLENESS OF THE PROPOSED AMENDMENTS TO THE HAZARDOUS WASTE RULES

The MPCA is required by Minn. Stat. ch. 14 (1986) 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 MPCA's action. The reasonableness of each of the proposed amendments is discussed below.

A. Minn. Rules pt. 7001.0150 Terms and Conditions of Permits

Minn. Rules pt. 7001.0150 establishes the terms and conditions for hazardous waste facility permits. The rule currently requires that each draft and final permit include all conditions necessary to comply with State or federal statutes or rules. The amendments add the requirements of the facility standards and the newly added land disposal restrictions. Although the reference to the applicable existing facility standards has not been part of the State rules, it is appropriate and reasonable to provide it now as part of the clarifying changes required for incorporating the land disposal restrictions. The additions clarify which standards apply to draft and final permits. The clarification will assist the regulated community and thus improve compliance, and also, provide the same cross-references as the corresponding federal regulations under 40 C.F.R. § 270.32(b)(1).

B. Minn. Rules pt. 7001.0560 General Information Requirements for Part B of Application

Minn. Rules pt. 7001.0560 specifies the information that must be provided in an application for a Part B facility permit. A land disposal facility that is subject to the land disposal restrictions must, in its permit application, demonstrate compliance with applicable requirements (see A. above). However, in some cases it is possible for the owner or operator of a land disposal facility to petition for time extensions or to apply standards that differ from the requirements of the rules. The rule requires the owner or operator to provide evidence of approval of a petition where one has been granted. Evidence of approval of extensions and petitions granted under the land disposal restrictions is especially important because they must be obtained from EPA, not the MPCA. It is reasonable to require evidence of the EPA approval to insure that the federal standards have been met and to expedite the administration of the permit. This requirement corresponds to 40 C.F.R. § 270.14(b)(21).

C. Minn. Rules pt. 7001.0650 Interim Status

Minn. Rules pt. 7001.0650 establishes conditions for obtaining and maintaining interim status. While a facility has interim status it must not be significantly altered. The existing rule specifies that any alteration that will amount to reconstruction of the facility is not allowed. However, the amendment specifies that the assessment of whether or not the facility is reconstructed must not consider changes made to comply with the tank standards or to comply with the land disposal restrictions. It is reasonable to make

this kind of exception in recognition of the fact that the waste treatment industry will need time to fully respond to the requirements imposed by the land disposal restrictions. Without such an exception, an interim status facility that needed to change in a manner amounting to reconstruction, in order to accept a waste covered by the land disposal restrictions, would lose its interim status by making the change. It is not reasonable to penalize the owners and operators of facilities by requiring them to obtain a permit in advance of their permit schedule, solely because they have made improvements to achieve compliance with the land disposal restrictions.

This exception is provided in the federal regulations under 40 C.F.R. § 270.72(e). However, as the land disposal restrictions were published in the Federal Register, (Exhibit 2) previous federal rule language was inadvertently deleted regarding changes made solely for purposes of complying with tank standards. The exception for tank standards was published in the July 14, 1986, Federal Register under 40 C.F.R. § 270.42(e), and incorporated into the State rules in amendments adopted by the MPCA on February 22, 1988. Conversations with Lillian Bagus of EPA Headquarters and Christine Klemme of EPA, Region V confirmed that the omission of the language was unintentional. Therefore, the adopted rule language regarding tank standards is retained and the new federal provisions regarding the land disposal restrictions are added to it.

D. Minn. Rules pt. 7001.0730 Modification of Permits; Revocation and Reissuance of Permits

Minn. Rules pt. 7001.0730 establishes conditions for modifying and reissuing hazardous waste facility permits. Subpart 4 specifies a number of

situations that constitute a minor permit modification. Minor permit modifications can be made without extensive administrative procedures or public hearings. The amendment to subitem L allows the treatment of hazardous wastes that are not specified in the permit if certain conditions are met. These conditions are, that the wastes must be subject to the land disposal restrictions, the treatment facility must conduct the treatment specified in the land disposal restrictions for the waste, the treatment of the waste must not present a substantial risk to human health and the environment, and approval of the minor modification must be granted by the State or applicable federal authority.

The amendment to subitem M allows permitted facilities to change their operations to treat wastes governed by the land disposal restrictions. Again, the amendments specify that certain conditions must be met before the change will be considered a minor modification. The most significant of these conditions are the requirements that the treatment can only occur in containers or tanks and that it cannot involve the addition of new treatment processes. The amendments also require that the facility owner or operator initiate the process to modify the permit through the major modification process and demonstrate in that request that the operational change is necessary to comply with the land disposal restrictions. Pending the decision on the major modification, the facility must be operated to meet applicable interim status and land disposal restriction requirements.

These amendments correspond to federal permit conditions under 40 C.F.R. § 270.42(o). Their reasonableness is discussed in the preamble to the federal regulations (Exhibit 2, 40598-40599). In this discussion, EPA recognizes the

fact that the land disposal restrictions will place an increased demand on hazardous waste treatment facilities. Permitted facilities do not currently have the regulatory flexibility to add new wastes to their permit conditions or to change their permitted operations to respond to the need for certain types of waste treatment. Therefore, it is reasonable to provide flexibility with these additional minor modification provisions. By allowing the treatment of certain new wastes or changes to the operation, without going through the entire permit revision process, the amendments will encourage the waste treatment industry to respond to the needs imposed by the land disposal restrictions.

E. Minn. Rules pt. 7045.0020 Definitions

The amendments add three new definitions to the hazardous waste rules. The definitions of halogenated organic compounds, land disposal, and polychlorinated biphenyls directly correspond to definitions in 40 C.F.R. § 268.2(a). Definitions of the terms maintain consistency with the federal regulations and provide clarification regarding their meaning.

EPA opted to add these definitions under 40 C.F.R. part 268, which specifically addresses the land disposal restrictions, instead of under the federal hazardous waste definition subpart of 40 C.F.R. § 260.10. Under the federal rulemaking convention, definitions are frequently included near the part of the regulations to which they apply. However, under Minnesota's rulemaking convention, definitions are generally provided in the part of the rules specifically established for definitions. The MPCA believes this is a more accessible format for providing definitions and enables the regulated community to find a definition without extensive knowledge of where it is used within the rules.

The federal regulations also provide a definition of hazardous constituents. However, the MPCA does not believe it is necessary to add this definition to clarify this aspect of the rules. Hazardous constituents are all the wastes identified under Minn. Rules pt. 7045.0141. Because this list corresponds to the federal definition that references Appendix VIII of 40 C.F.R., part 261, it would be redundant to also provide the federal definition.

F. Minn. Rules pt. 7045.0075 Petitions

Three new petition options are provided by the amendments that add subparts 6, 7 and 8 to Minn. Rules pt. 7045.0075. Under the federal regulations, these options for reduced regulation are addressed under 40 C.F.R., part 268, which specifically addresses the land disposal restrictions. However, the MPCA believes it is reasonable to address these options under the part of the State rules that addresses other petition options. Although this causes the format of the State rules to differ from the federal regulations, it will not result in any substantive difference between the State and federal land disposal restriction programs. It is reasonable to maintain consistency with the current format of the State rules by addressing the land disposal restrictions options in Minn. Rules pt. 7045.0075 with other petition options.

Subpart 6 of Minn. Rules pt. 7045.0075 provides for petitions for case-by-case extensions of the effective date of a land disposal restriction. The amendments only provide a reference to the requirements of the federal regulations regarding the granting of case-by-case extensions and do not provide for any MPCA involvement in such petitions.

There are two bases for the reasonableness of the MPCA's decision to refer only to the federal regulations regarding the granting of case-by-case extensions and to not impose any State conditions for these petitions. These are: (1) the fact that EPA will not delegate authorization for states to make such decisions and; (2) the fact that the decision to grant or deny a case-by-case extension must be based on review of national capacity for waste treatment.

1. Lack of authorization to review case-by-case extension petitions. In the July 8, 1987, Federal Register (Exhibit 2, 25783). EPA published their decision to not delegate to states the authority to grant case-by-case extensions under 40 CFR § 268.5. Without EPA authorization, the MPCA's actions would be limited to either agreeing with an EPA decision to grant or deny a petition or to denying a petition that EPA had decided to grant. In no case would the MPCA be able to supersede an EPA denial and grant a petition for a case-by-case extension. Because of the limited range of action that will be allowed to the MPCA, it is reasonable to refer such decisions to EPA and avoid unnecessary duplication of efforts and unreasonable delay in the review process.

2. Need for consideration of national capacity. A generator requesting a case-by-case extension must be able to demonstrate that they cannot provide the required level of treatment for their waste by the time specified in the land disposal restrictions. The review of such a demonstration must include consideration of all the treatment options that

would be available to the petitioner. In many cases, national capacity for treating waste is the limiting factor in meeting the land disposal restrictions. Even if a generator is able to pay transport and treatment costs, it may not be possible to obtain the necessary treatment due to the high demand for limited treatment facility services. The determination of whether or not treatment capacity is available for a particular waste at a given time will be very difficult. Such a determination is beyond the scope of the MPCA's routine activities. It is therefore reasonable to refer such decisions to the EPA as the most appropriate authority for determining the validity of petitions dealing with treatment capacity at the national level.

Subpart 7 establishes a procedure for petitions to allow land disposal of a prohibited waste. This petition option is based on the provisions established in 40 C.F.R. § 268.6 that allow untreated waste to be disposed if it can be demonstrated that there will be no migration of hazardous constituents from the disposal unit or injection zone. The amendments establish specific criteria for the preparation and review of the petitions. These include the submittal of information to adequately characterize the waste and the disposal facility. In addition, subpart 7 requires public notification of the petition being considered and establishes conditions for the term of such petitions. The reasonableness of these conditions and criteria for the review of no-migration petitions is discussed in the federal preamble (Exhibit 1, 40605). All of the conditions and criteria in the amendments are the same as the corresponding federal petition criteria except that at each point where the federal criteria reference the EPA Administrator, the amendments refer instead to the MPCA.

EPA will not delegate authority to Minnesota to grant no-migration petitions. It is reasonable, however, to require MPCA approval of the petitions as well as EPA approval. No-migration petitions differ from the other new petition options found in subparts 6 and 8. In those cases, review of the petition involves consideration of national concerns and the approval of the petition would have no effect on Minnesota's environment. However, no-migration petitions may be sought by facility owners and operators and will be based on determination of site specific factors. If the facility is located in Minnesota, MPCA has a legitimate interest in the decision of whether or not to grant the petition. Even though the MPCA will not be authorized to supercede an EPA decision to deny a petition, the MPCA can deny a petition that EPA has granted.

Because EPA will not grant authorization to the MPCA to grant no migration petitions, it is necessary to also provide a reference to the federal regulations governing these petitions. This is reasonable to insure that prospective petitioners are aware that the MPCA review is conducted in conjunction with the EPA review and does not only exist as a State rule requirement.

Subpart 8 establishes the procedure for petitions for an alternate treatment standard or technology. The conditions for these petitions are similar to the conditions regarding petitions for case-by-case extensions as discussed under subpart 6. EPA will not grant authorization to states to review petitions for alternate treatment standards or technologies and the criteria for the review of the petitions involves consideration of factors that must be evaluated on a national level. For the same reasons discussed

under subpart 6, the MPCA believes it is reasonable to refer these petition requests to EPA. Therefore, the amendments only reference the federal petition criteria of 40 C.F.R. §§ 268.42(b) and 268.44. It is reasonable to include this reference in the State rules so that the option for such petition requests is available to the regulated community. Without a reference to the federal regulations in the State rules, such petitions, when granted by EPA, would not be applicable in Minnesota.

G. Minn. Rules pt. 7045.0125 Management of Waste by Use, Reuse, Recycling and Reclamation

Minn. Rules pt. 7045.0125 establishes the requirements for recycled hazardous wastes. Subpart 4 identifies certain wastes that, when recycled, are exempted from the management requirements in the hazardous waste rules. The wastes that are exempted from further regulation are industrial ethyl alcohol, used batteries returned to the manufacturer for reclamation and scrap metal. Additional treatment under the land disposal restrictions is not required for these exempted wastes. It is therefore reasonable to provide this reference in the amendments to clarify their continued exempted status. This amendment corresponds to the federal provision under 40 C.F.R. § 261.6(a)(3).

Subpart 4, item A establishes the requirements applicable to wastes that are stored prior to recycling. The land disposal restrictions are applicable to stored wastes and, therefore, it is reasonable to include a reference to the applicable land disposal restrictions being added in this rulemaking. This amendment corresponds to 40 C.F.R. § 261.6(c)(1). In the federal rule, EPA has added a parenthetical clarification that the recycling process itself

is exempt from regulation, only the storage is subject to regulation. Existing federal and State rules apply the facility standards to the storage of waste prior to recycling. It is a reasonable extension of this established concern for stored waste to also apply the storage restrictions of the land disposal restrictions to stored wastes. The application of the storage restrictions of the land disposal restrictions will ensure that restricted wastes are processed in a timely manner.

H. Minn. Rules pt. 7045.0127 Residues in Empty Containers and Empty Inner Liners

Minn. Rules pt. 7045.0127 establishes criteria for the determination of whether or not a container is empty. The residues that remain in a container, after it has been emptied to meet the criteria of this part, are not subject to further regulation as hazardous wastes. Because residues are not subject to regulation under the generation, transportation or facility standards, it is reasonable to also except them from regulation under the land disposal restrictions being added in this rulemaking. It is not the intent of the MPCA to regulate empty containers or empty inner liners or to apply the land disposal restrictions to their management. This provision corresponds to the federal requirements under 40 C.F.R. § 261.7.

I. Minn. Rules pt. 7045.0135 Lists of Hazardous Wastes

Minn. Rules pt. 7045.0135 lists the wastes that have been determined to be hazardous and therefore subject to regulation under chapter 7045. The actual lists of wastes are provided in subparts 2 to 5. Subpart 1 establishes general conditions for the use of the lists and the corresponding hazardous waste numbers. The rule requires that the hazardous waste number be used in

complying with the disclosure and reporting requirements of the generator, transporter and facility standards. The hazardous waste number is also required for certain of the land disposal restrictions requirements being added in this rulemaking. The use of the hazardous waste number is reasonable because it provides clear identification of the waste in a form that is readily understood by individuals at each step of the waste management process. Providing this cross reference to the land disposal restrictions requirements will notify the regulated community that additional requirements exist regarding the use of the hazardous waste number. This provision corresponds to 40 C.F.R. § 262.11.

J. Minn. Rules pt. 7045.0214 Evaluation of Wastes

Minn. Rules pt. 7045.0214 requires the evaluation of waste to determine if it is hazardous. The amendment to subpart 1 provides a directive that when a waste is determined to be hazardous, the generator must refer to the land disposal restrictions for further restrictions or possible exclusions. This is a reasonable directive because of the fact that the land disposal restrictions are all contained in a few specific provisions that are located in a different part of the rules from the existing generator, transporter and facility standards. Therefore, it is necessary to provide an additional reference to these separate requirements and to possible exclusions, to assist the regulated community in complying with the newly added land disposal restrictions. This provision corresponds to 40 C.F.R. § 262.11.

K. Minn. Rules pt. 7045.0450 Facilities Governed by Facility Standards

Minn. Rules pt. 7045.0450 provides an introduction to the hazardous waste facility standards by establishing the applicability of the standards and

their relationship to the interim status standards and by describing the exceptions to the facility standards. The amendments add a new paragraph to subpart 1 that provides a cross-reference to the land disposal restrictions. This added paragraph applies the facility standards to the owners or operators of all facilities that manage wastes referred to under the land disposal restrictions. This provision was added to the federal rules as a correction to 40 C.F.R. § 264.1. In the preamble EPA states that this cross-reference was inadvertently omitted when the land disposal restrictions were published and is added to clarify the fact that the land disposal restrictions apply regardless of permit status (Exhibit 3, page 21010). It is reasonable to add the same clarifying provision to the State rules to maintain consistency with the federal regulations.

L. Minn. Rules pt. 7045.0458 Waste Analysis Requirements

Minn. Rules pt. 7045.0458 establishes the requirements for the owners or operators of hazardous waste facilities to conduct waste analyses on the wastes to be managed at the facility. Subpart 1 requires that the analysis contain all the information needed to dispose of the waste in accordance with the facility standards. The amendments add the requirement that the analysis also include the information needed to comply with the land disposal restrictions. This cross-reference is reasonable to direct the regulated community to the newly added waste analysis conditions and to provide consistency with the corresponding requirements of 40 C.F.R. § 264.13(a)(1).

Subpart 2 also adds cross-references to the land disposal restrictions. The amendment to subpart 2, item F corresponds to 40 C.F.R. § 264.13(b)(6) and the added provision under subpart 2, item H corresponds to 40 C.F.R.

§ 264.13(b)(7). The addition of these provisions is reasonable to provide necessary cross-references to the land disposal restrictions and consistency with the federal regulations.

M. Minn. Rules pt. 7045.0478 Operating Record

Minn. Rules pt. 7045.0478 requires the maintenance of an operating record for hazardous waste facility operation. Because the land disposal restrictions require additional waste analyses and management practices, the operating record requirements must be amended to reflect the addition of these requirements. Subpart 3, item E, and items M to Q require that the operating record include information specifically addressing requirements imposed by the land disposal restrictions. These operating record requirements correspond to the federal provisions under 40 C.F.R. § 264.73(b)(3) and (10) to (14). It is reasonable to provide this information so that the regulated community will know the information that must be maintained in the operating record and to insure consistency with the federal regulations.

N. Minn. Rules pt. 7045.0552 Facilities Governed by Interim Status

Minn. Rules pt. 7045.0552 provides an introduction to the interim status standards. The amendments add a paragraph to subpart 1 to clarify the applicability of the land disposal restrictions to interim status facilities. This provision is reasonable for the reasons discussed in section K of this Statement of Need and Reasonableness. The amendment corresponds to 40 C.F.R. § 265.1.

O. Minn. Rules pt. 7045.0564 Waste Analysis Requirements

Minn. Rules pt. 7045.0564 establishes the waste analysis requirements that are applicable to the owners or operators of interim status hazardous waste facilities. These waste analysis requirements correspond to the

requirements for permitted facilities and their reasonableness is discussed in more detail under section L of this Statement of Need and Reasonableness. The cross-references and the conditions applicable to surface impoundments are the same as the requirements of the federal regulations under 40 C.F.R. § 265.13(b).

P. Minn. Rules pt. 7045.0584 Operating Record

Minn. Rules pt. 7045.0584 requires the maintenance of an operating record of specific facility information. The amendments to subpart 3 require that specific information associated with the land disposal restrictions be retained in the facility record. The information required by the amendments is the same for permitted and for interim status facilities. The reasonableness of this amendment is discussed in more detail in section M of this Statement of Need and Reasonableness. These requirements correspond to the federal interim status requirements under 40 C.F.R. § 265.73(b)(3) and (8) to (12).

Q. Minn. Rules pt. 7045.1300 Land Disposal Restrictions; Applicability and Exemptions

Minn. Rules pt. 7045.1300 provides an introduction to the portion of the hazardous waste rules that are being added to specifically address the land disposal restrictions. This part of the amendments corresponds to the federal requirements of 40 C.F.R. § 268.1, which establishes the purpose, scope and applicability of the federal land disposal restrictions.

Subpart 1 establishes the applicability of the land disposal restrictions and identifies the persons who are subject to regulation under the requirements that follow. It is reasonable to identify the regulated

community at this point because the land disposal restrictions differ from the other parts of chapter 7045 in that they establish separate requirements that are only applicable to certain individuals. It is especially important to clearly define the extent of the applicability of the land disposal restrictions because they will change periodically as new wastes are addressed.

Subpart 2 provides a list of exemptions from the land disposal restrictions. These are the same exemptions that are provided under the federal regulations. Two of the exemptions refer to the petition procedures previously discussed under section F of this Statement of Need and Reasonableness. It is reasonable to exempt wastes that have been the subject of a successful petition to the MPCA or EPA.

The amendments also exempt wastes resulting from Comprehensive Environmental Response Compensation and Liability Act (CERCLA) activities until November 8, 1988. EPA provided a 24-month extension for CERCLA wastes when the federal land disposal restrictions were first published in November 1986. The extension is incorporated into the amendments with a November 8, 1988 effective date. After that date, CERCLA wastes will be subject to full regulation under the State and federal land disposal restrictions. Additional discussion of the type of wastes exempted under this CERCLA provision is provided in the federal preamble (Exhibit 1, pages 40583-40584).

The amendments also provide exemptions for small quantity generators of less than 100 kilograms of hazardous waste a month. Although the existing federal and MPCA programs differ in their small quantity generator exemptions, the MPCA believes that it is reasonable to provide the same land disposal exemption as the EPA regulations for small quantity generators of less than 100 kilograms a month. Much of Minnesota's hazardous waste must be

transported to other states for treatment and disposal. The factors EPA considered in granting this exemption, such as national treatment capacity and risks presented by disposal of untreated wastes, are equally relevant for Minnesota's generators. It is not reasonable to establish a separate universe of wastes that are regulated only by Minnesota's hazardous waste rules when this category of generators will be managing their waste on a national level.

Farmers disposing of waste pesticides are also exempted from all of the requirements of the land disposal restrictions. As discussed for small quantity generators, it is reasonable in this case to provide the same exemptions to the land disposal restrictions in the State rules as are provided in the federal regulations so that the same universe of wastes is regulated.

R. Minn. Rules pt. 7045.1305 Dilution Prohibited as a Substitute for Treatment

The amendments provide a specific prohibition against dilution. In developing the land disposal restrictions, EPA recognized that dilution of wastes could be used to circumvent the established treatment standards. Because dilution is not an acceptable treatment method for hazardous waste, it is reasonable to specifically prohibit its use. In its preamble, EPA provides extensive discussion of the reasoning behind the dilution prohibition and the interpretation of the term dilution (Exhibit 1, page 40592). The MPCA agrees with EPA that dilution is not an acceptable method for treating hazardous waste and believes it is reasonable to impose restrictions on the use of dilution in regard to the standards established in the land disposal restrictions.

The prohibition of Minn. Rules pt. 7045.1305 corresponds to the dilution prohibition of 40 C.F.R. § 268.3.

S. Minn. Rules pt. 7045.1310 Treatment Surface Impoundment Exemption

Minn. Rules pt. 7045.1310 establishes the conditions under which restricted wastes may still be managed in a surface impoundment. Because a surface impoundment is considered to be a land disposal facility, restricted wastes may not be disposed of in a surface impoundment except when treated in accordance with the established treatment standards. However, under the specific circumstances identified in part 7045.1310, the land disposal restrictions are not applicable to surface impoundments. The conditions in the amendments for a treatment surface impoundment exemption are essentially the same as the conditions under 40 C.F.R. § 268.4. However, the amendments are more stringent than the federal regulations in regard to the acceptable design of the treatment impoundment.

40 C.F.R. § 268.4(a)(3) requires that the impoundment must meet the minimum technology facility standards of 40 C.F.R. §§ 264.221(c) or 265.221 unless it has received an exemption for alternate design, or the EPA Administrator has granted a waiver from the minimum technology facility standards. The referenced federal facility exemptions and waivers have never been adopted in Minnesota. Although these options for alternate operation and design of surface impoundments are available under the federal program, it is not reasonable to reference them in the land disposal restrictions because they are not available as options under the State facility standards. Therefore, the land disposal restrictions exemption for treatment surface impoundments is only available in Minnesota for those impoundments that meet the minimum technology standards. Also, it is necessary to provide a direct

reference to the federal regulations that establish the minimum technology standards because the State rules have not yet been amended to include the federal minimum technology standards.

T. Minn. Rules pt. 7045.1315 Waste Analysis for Restricted Wastes

Minn. Rules pt. 7045.1315 establishes specific requirements for the analysis of wastes restricted by the land disposal restrictions. Subpart 1 provides two routes for the generators of restricted wastes. If a generator determines that the waste being generated is restricted, but does not meet the treatment standards, the treatment facility receiving the waste must be given specific information regarding the waste. This is reasonable in order to insure adequate characterization of the waste before it is accepted for treatment.

If the generator determines that the waste is restricted but that it can be land disposed without further treatment, subpart 2 of the amendments specifies the information that must be submitted to the disposal facility at the time the waste is transported. The required information includes a characterization of the waste and also a certification statement to be signed by the generator. The generator must certify that the wastes meet the applicable land disposal restrictions treatment standard. It is reasonable to require this level of information from the generator because, at this point, the generator is solely responsible for the evaluation of the waste and is best able to characterize the waste. In order for the treatment facility to properly manage the waste received, it must be accurately characterized and its status under the land disposal restrictions properly defined.

Subpart 3 of the amendments requires that the facility owner or operator retain the information provided by the generator and also conduct any analyses necessary to determine that the wastes meet the applicable treatment standards. The frequency of the testing must be in accordance with the waste analysis plan required under Minn. Rules pts. 7045.0458 or 7045.0564. It is reasonable to require the facility to maintain evidence of the generator's statements regarding the specific wastes they have treated or disposed, in order to provide a basis for future investigations or verification of waste management. Because the activities at treatment and disposal facilities vary a great deal, the existing State rules allow the waste analysis plan to be developed on a site-specific basis. It is reasonable to provide this same level of flexibility in the type and frequency of waste analyses that are required for the land disposal restrictions so that the amendments provide an acceptable level of surveillance of a facility's operations without unreasonably restricting the activities conducted at the facility.

The waste analysis amendments correspond to 40 C.F.R. § 268.7.

U. Minn. Rules pt. 7045.1320 Waste Specific Prohibitions; Solvent Wastes

Minn. Rules pt. 7045.1320 identifies a specific category of wastes that are governed by the land disposal restrictions. These are the solvent wastes identified as hazardous waste numbers F001, F002, F003, F004 and F005. These solvent wastes are restricted from land disposal until they are treated to meet the established treatment standards. However, not all solvent wastes are restricted from land disposal. EPA has granted a two year extension to several types of solvent waste generators by providing exemptions in the land disposal restrictions. Solvent wastes from small quantity generators, CERCLA cleanups and very low concentration solvent wastes can be land disposed

without treatment until November 8, 1988. However, the regulations specify that these exempted solvent wastes may only be disposed at facilities that meet the minimum technology standards for facility design and operation.

The amendments establish the same conditions and exemptions as the federal requirements under 40 C.F.R. § 268.30. It is reasonable to provide the same exemptions as the federal regulations because EPA's decision to provide such exemptions was based on the determination that additional time is needed to provide sufficient national capacity for the treatment of these wastes. This determination of the national treatment capacity, and the additional burden that would be imposed by the requirement to treat the currently exempted wastes, was made by EPA after extensive research into the solvent waste management industry (Exhibit 1). Because most of Minnesota's waste is disposed outside of the State, it is reasonable to acknowledge the concerns identified by EPA and regulate the same universe of solvent wastes in a consistent manner.

V. Minn. Rules pt. 7045.1325 Waste Specific Prohibition; Dioxin Containing Wastes

Minn. Rules pt. 7045.1325 establishes specific prohibitions on the disposal of dioxin containing wastes. The amendments address dioxin containing wastes identified by hazardous waste numbers F020, F021, F022, F023, F026, F027 and F028. The prohibition on dioxin wastes is similar to the prohibition on specific solvent wastes as discussed in section U of this Statement of Need and Reasonableness. EPA has granted a modified two year extension on the dioxin waste prohibition. Until November 8, 1988, the federal regulations allow the land disposal of untreated dioxin wastes but require

that dioxin wastes must be disposed at a facility that meets the minimum technology standards for facility design and operation. Again, EPA's decision to grant the two year extension for dioxin wastes was based on an evaluation of the national treatment capacity for dioxin waste. As discussed in section U of this Statement of Need and Reasonableness, the MPCA believes that limitations on the national capacity is a valid constraint on waste treatment and therefore agrees that it is reasonable to provide the same extension in the amendments.

The requirements of the dioxin prohibitions correspond to the federal requirements under 40 C.F.R. § 268.31.

W. Minn. Rules pt. 7045.1330 Waste Specific Prohibitions; California List Wastes

Minn. Rules pt. 7045.1330 identifies several wastes that are prohibited from land disposal. These wastes are part of a group of wastes identified as "California List" wastes. The California List is a list of wastes, originally identified by the State of California as requiring special treatment prior to disposal. Congress mandated in HSWA that the California list wastes must be included in the land disposal restrictions by July 8, 1987. The California List includes a number of metals, cyanide wastes, low pH wastes, PCB's and waste containing halogenated organic compounds (HOC's).

When EPA published the California List land disposal restrictions on July 8, 1988 (Exhibit 2) it did not establish treatment standards for all of the California List wastes. EPA intends to address treatment standards for metals and free cyanides in a separate rulemaking and has allowed the

statutory prohibition on these wastes to become effective. As of July 8, 1987, these wastes have been banned from land disposal by HSWA, and no State rules are needed to implement this Congressional prohibition.

However, for the remaining California List wastes, EPA has promulgated standards to allow their continued land disposal, provided they are treated to meet the established standards. The amendments address all of the wastes restricted by the federal regulations under 40 C.F.R. § 268.32. The wastes that are restricted are acidic wastes with a pH of less than or equal to 2.0, PCB wastes at concentrations greater than or equal to 50 parts per million (ppm) and liquid wastes that contain HOC's at concentrations between 1,000 milligrams per liter (mg/l) and 10,000 mg/l.

However, as discussed previously, EPA recognized that treatment capacity is limited for certain wastes and provided a number of extensions to the applicable compliance dates. CERCLA wastes may be land disposed until November 8, 1988, and certain HOC wastes are allowed to be land disposed until July 8, 1989. The HOC wastes that are exempted until July 8, 1989, must be either liquid wastes that are not primarily water but contain more than 1,000 mg/l HOC's, or non-liquid wastes containing more than 1,000 mg/kg. As discussed in section U of this Statement of Need and Reasonableness, the extension provided for these wastes only applies if the wastes are disposed at facilities that meet minimum technology standards for design and operation.

It is reasonable to regulate the same universe of waste as the federal regulations to provide consistency with the federal program and to accommodate concerns regarding the treatment capacity available to generators of restricted wastes.

Subpart 3 of the amendments provides specific waste analysis requirements applicable to generators of restricted California List wastes. The analysis requirements determine whether or not the waste is a liquid, the pH of the waste and the concentrations of PCB's or HOC's in the waste. The requirements relate to specific management considerations of the California List wastes. It is reasonable to require the specific analyses to characterize special aspects of these wastes in addition to the characterization required in Minn. Rules pt. 7045.1315. The analyses required are the same as the federal requirements under 40 C.F.R. § 268.32(i) and (j).

X. Minn. Rules pts. 7045.1350, 7045.1355 and 7045.1360 Treatment Standards Expressed as Concentrations in Waste Extract or as Specific Technologies

Minn. Rules pts. 7045.1350, 7045.1355 and 7045.1360 establish the treatment standards that are applicable to the wastes identified in the waste specific prohibitions provided in the amendments to Minn. Rules pts. 7045.1320, 7045.1325 and 7045.1330. For each waste identified in the waste specific prohibitions, a treatment standard has been provided. Minn. Rules pt. 7045.1350 summarizes the basic concept of the treatment standards. This part identifies the two routes for meeting the criteria of "treatment," either by: (1) meeting a concentration standard; or (2) meeting a technology based standard. All of the criteria in the amendments establishing treatment standards are the same as the federal criteria provided under 40 C.F.R. §§ 268.40, 268.41 and 268.42.

In developing the treatment standards expressed as concentrations in waste extract, EPA conducted extensive research aimed at determining the best demonstrated available technology (BDAT) for the treatment of the waste. The determination of BDAT is an ongoing process that will be continually expanded and revised as waste treatment technology develops. The development of the BDAT presented in the amendments is extensively discussed in the preambles to the land disposal restrictions (Exhibits 1 and 2). MPCA is relying on the data and views presented by EPA in the preambles to provide the technical basis of the treatment standards in the amendments. After determining the BDAT, EPA was able to establish a concentration limit that could be applied to the waste in question.

For example, EPA considered a number of technologies for treating solvent waste so that the level of risk is reduced when it is disposed. Solvent wastes can be treated by a number of technologies but the technologies that provide the highest level of treatment are steam stripping, activated carbon treatment or biological treatment. Therefore, EPA has set the treatment standard for solvent wastes at the concentration level that can be achieved by use of these technologies. If a generator can use a different treatment method that will still achieve the treatment standard, that will be an acceptable treatment. Minn. Rules pt. 7045.1355, subpart 3 provides a list of the concentrations in waste extract for each restricted waste. When a waste has been treated to the extent that an extract of the waste will meet those concentration limits, it may be land disposed.

The second route for treating restricted wastes is provided in Minn. Rules pt. 7045.1360. For certain wastes the treatment standard is not given as a concentration limit. Instead, a specific technology is required and only that technology can insure compliance with the standard. Generators of PCB wastes and HOC wastes must meet the established technology-based standard. Treatment by other methods that would still achieve a very low concentration is not allowed for these wastes. Again, EPA has conducted extensive research to determine the best management of these wastes. Incineration has been identified as the BDAT for PCB wastes and HOC wastes. The reasonableness of selecting incineration as the required treatment method is extensively discussed in the preamble to the federal regulations as proposed (Exhibit 4, pages 44725-44727).

The MPCA agrees with the EPA's decision requiring incineration as the BDAT for these wastes. It is reasonable to provide the same treatment standards as the federal regulations because of the nature of the waste treatment industry. Wastes from Minnesota are generally transported to other states for treatment and disposal. Where such interstate transportation occurs, it is essential that states rules provide consistency with the federal regulations and not impose conditions unique to each state. The same universe of wastes must be regulated and held to the same standards in each state.

Y. Minn. Rules pt. 7045.1380 Prohibition on Storage of Restricted Wastes

Minn. Rules pt. 7045.1380 establishes the conditions for the storage of restricted wastes. In developing the land disposal restrictions, EPA recognized that the requirement to treat wastes prior to disposal would increase the expense of disposal as a waste management option. The increased

expense would prompt generators to consider long-term storage as an alternative to treatment and disposal. Because of the environmental concerns associated with the storage of hazardous waste in containers or tanks, EPA has prohibited the storage of restricted waste except under certain conditions. In general, storage is only allowed in tanks or containers in order to accumulate sufficient waste to conduct treatment activities.

The containers or tanks must be marked to identify their contents and to indicate the date each period of accumulation begins. Also, compliance with the accumulation requirements of Minn. Rules pt. 7045.2929 is required. These requirements include protection from unauthorized access, shading ignitable wastes and curbed container storage areas.

The requirements imposed by the amendments are the same as the conditions for storage imposed under 40 C.F.R. § 268.50. These conditions represent reasonable limitations on storage in order to facilitate the implementation of the treatment requirements of the land disposal restrictions.

IV. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 14.115, subd. 2 (1986) requires the MPCA, when proposing amendments to existing rules which may affect small businesses, to consider the impact of the rule amendment on small business. The objective of Minn. Stat. ch. 116 (1986) is to protect the public health and welfare and the environment from the adverse effects which will result when hazardous waste is mismanaged. Application of less stringent standards to the hazardous wastes generated or managed by small businesses would be contrary to the MPCA's mandate since small businesses' hazardous wastes can cause the same environmental harm as that of larger businesses. Some additional expenses

will be incurred as a result of the amendments due to changes in management requirements though these costs are difficult for the MPCA to quantify in the abstract. However, the requirements are justified under the circumstances.

Because the amendments are based on federal regulations promulgated under HSWA that are already in effect in Minnesota, incorporation of these provisions into the State rules will not impose any additional requirements on small businesses that are not currently being imposed by the federal regulations in effect in Minnesota and elsewhere in the nation.

V. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the MPCA is required by Min. Stat. § 116.07, subd. 6 (1986) to give due consideration to economic factors. The statute provides:

> In exercising all its powers the Pollution Control Agency shall given due consideration to the establishment, maintenance, operation, and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

The MPCA has given due consideration to all available information on the economic impacts of the proposed amendments. The amendments will have some economic impact for generators of hazardous waste. The amendments affect generators of hazardous waste by requiring more extensive waste analysis, notification, and reporting requirements. The MPCA does not believe the administrative effects will be substantial.

The amendments establish much more extensive treatment requirements that may significantly increase the cost of hazardous waste management. The actual increase in cost will depend on the type of waste being treated and the way the waste currently is being managed. For generators of PCB wastes the requirements to incinerate their waste will not necessarily increase their costs because, in most cases, PCB waste is currently being incinerated. Generators of solvent wastes may only incur significant expenses if they must modify their waste management practices in order to meet the very stringent concentration limits established in the amendments. However, all of the amendments are based on federal regulations promulgated under HSWA which are already in effect in Minnesota. Incorporation of these provisions into the State rules will not impose any additional requirements on the generators of hazardous waste that are not currently imposed by the federal regulations in effect in Minnesota.

VI. CONCLUSION

The MPCA 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 MPCA's Statement of Need and Reasonableness for the proposed amendments to the hazardous waste rules.

VII. LIST OF EXHIBITS

The MPCA is relying on the following documents to support these amendments:

Agency Ex. No.	Title
1	Federal Register, Vol. 51, No. 216, pages 40572-40654, November 7, 1986.
2	Federal Register, Vol. 52, No. 130, pages 25760-25792, July 8, 1987.
3	Federal Register, Vol. 52, No. 107, pages 21010-21018, June 4, 1987.
4	Federal Register, Vol. 51, No. 238, pages 44714-44740, December 11, 1986.
5	Federal Register, Vol. 51, No. 9, pages 1602-1766, January 14, 1986.

Date: May 13, 1988

Barbara Lindsey Sims
for GERALD L. WILLET
Commissioner

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1	Federal Register, Vol. 51, No. 216, pages 40572-40654, November 7, 1986.
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Commissioner

B. The remaining 20 percent of the grant upon compliance by the grantee with the following conditions:

(1) submission of a certification of compliance with all permit conditions for a period of 12 consecutive calendar months following project completion;

(2) submission of a certification that the project is capable of accepting hydraulic and organic loadings to the extent designed for in the approved plans and specifications; and

(3) submission of a certification that the project will have no overflows or bypasses under design conditions.

Subp. 3. **Verification of compliance.** Before a grant payment is made, the commissioner shall verify that the grantee has complied with part 7075.1135 and with the grantee's permit conditions.

Subp. 4. **Certification of payment.** Within ten days of receipt of a payment request, the commissioner shall determine whether the grantee qualifies for payment. If the commissioner determines that payment is not appropriate, the commissioner shall advise the grantee of the deficiencies in the request. If the commissioner determines that payment is appropriate, the commissioner shall certify to the authority that payment should be made.

7075.1155 TERMINATION OF GRANT.

Failure of the grantee to comply with part 7075.1140 shall constitute grounds for the commissioner to recommend that the authority terminate the grant of a grantee.

7075.1160 RECOVERY OF FUNDS.

Violation of permit conditions by reason of improper design, improper construction, or improper operation and maintenance shall constitute grounds for the commissioner to recommend that the authority seek to recover grant funds tendered or disbursed to a grantee.

Pollution Control Agency

Proposed Permanent Rules Relating to Hazardous Waste; Land Disposal Restrictions

Notice of Intent to Adopt Rule Amendments without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1986). The MPCA's authority to adopt the rule amendments is set forth in *Minnesota Statutes* § 116.07, subd. 4 (1986).

The proposed rule amendments, if adopted, will address restrictions on the land disposal of hazardous wastes. These land disposal restrictions are based on federal "Land Ban" regulations and establish treatment standards for specific types of hazardous wastes. The hazardous wastes being addressed by these proposed rule amendments include solvents, dioxin wastes, and certain of the wastes identified as "California List" wastes. The California List wastes include PCB's, halogenated organic compounds and acidic wastes that have a pH of less than 2. The proposed rule amendments establish requirements for restricted waste analysis, record keeping, storage and treatment.

All persons have until 4:30 p.m. on July 13, 1988, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rule amendments addressed, the reason for comment, and any change proposed.

Any person may make a written request for public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be addressed to:

Carol Nankivel
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

The proposed rule amendments may be modified if the modifications are supported by data and views submitted to the MPCA and do not result in a substantial change in the proposed rule amendments as noticed.

The proposed rule amendments follow this notice. One free copy of the proposed rule amendments is available upon request from Carol Nankivel at 612/296-7260 or at the address stated above.

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 to support the proposed rule amendments has been prepared and is available from Carol Nankivel upon request.

The amendments correspond to the federal regulations published in the November 7, 1986, June 4, 1987, and July 8, 1987, *Federal Registers* (Federal Registers Vol. 51, No. 216, pgs. 40572-40654, Vol. 52, No. 107, pgs. 21010-21018, Vol. 52, No. 130, pgs. 25760-25792), with the following exception. The federal provisions provide an exemption from the land disposal restrictions for certain types of treatment in surface impoundments. The proposed rule amendments provide the same exemption except that they require the surface impoundment to meet specific design and operation requirements. 40 Code of Federal Regulations § 268.4 (a)(3)(i) to (iii) provides for certain exemptions and waivers from the design and operation requirements that are not provided under the proposed rule amendments.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "small business considerations in rulemaking," that the proposed rule amendments will have an impact on small businesses. The effect of the proposed rule amendments will depend on the type of waste being generated by the small business and the type of treatment that must be provided. However, the requirements of the proposed rule amendments are already in effect in Minnesota under the federal hazardous waste program and their adoption by the MPCA will not create any effect on small businesses.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and the supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule amendments as adopted, must submit a written request to Carol Nankivel at the address stated above.

Gerald L. Willet
Commissioner

Rules as Proposed

7001.0150 TERMS AND CONDITIONS OF PERMITS.

Subpart 1. [Unchanged.]

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

A. to D. [Unchanged.]

Subp. 3. [Unchanged.]

7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF APPLICATION.

Part B of the application must contain the following information:

A. to U. [Unchanged.]

V. For land disposal facilities, if a case-by-case extension has been approved under part 7045.0075, subpart 6, or a petition has been granted under part 7045.0075, subpart 7, a copy of the notice of approval for the extension or petition is required.

7001.0650 INTERIM STATUS.

Subpart 1. to 3. [Unchanged.]

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

A. to C. [Unchanged.]

D. alter a hazardous waste facility in a manner that amounts to a reconstruction of the facility. For the purpose of this part, reconstruction occurs when the capital investment in the modification of the facility exceeds 50 percent of the capital cost of a comparable new hazardous waste facility. Reconstruction does not include changes made solely for the purpose of complying with

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the requirements of part 7045.0628, subparts 4 and 5, for tanks and ancillary equipment, or to treat or store in containers or tanks hazardous wastes subject to the land disposal restrictions under parts 7045.1300 to 7045.1380 or RCRA section 3004, if the changes are made solely to comply with parts 7045.1300 to 7045.1380 or RCRA section 3004.

Subp. 5. to 7. [Unchanged.]

7001.0730 MODIFICATION OF PERMITS; REVOCATION AND REISSUANCE OF PERMITS.

Subpart 1. to 3. [Unchanged.]

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

A. to K. [Unchanged.]

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

(1) the hazardous waste has been prohibited from one or more methods of land disposal under parts 7045.1320 to 7045.1330 or RCRA section 3004;

(2) treatment is in accordance with part 7045.1310, if applicable, and part 7045.1305, and applicable standards established under parts 7045.1355 to 7045.1360 and part 7045.0075, subpart 8, or, where no treatment standards have been established, treatment renders the waste no longer subject to the applicable prohibitions of part 7045.1330 or RCRA section 3004;

(3) handling or treatment of the restricted waste will not present risks substantially different from those of wastes listed in the permit; and

(4) federal or state approval of a minor permit modification request is granted. No permit changes can occur except for the addition of new waste codes and administrative or technical changes necessary to handle new wastes. Changes in treatment processes or physical equipment may not be made under this item; and

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

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

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

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

Subp. 5. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. to 32. [Unchanged.]

Subp. 32a. **Halogenated organic compounds or HOC's.** "Halogenated organic compounds" or "HOC's" means those compounds having a carbon-halogen bond that are listed under Appendix III of Code of Federal Regulations, title 40, part 268.

Subp. 33. to 47. [Unchanged.]

Subp. 47a. **Land disposal.** "Land disposal" means placement in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

Subp. 48. to 71. [Unchanged.]

Subp. 71a. **Polychlorinated biphenyls or PCB's.** "Polychlorinated biphenyls" or "PCB's" are halogenated organic compounds defined in accordance with Code of Federal Regulations, title 40, section 761.3.

Subp. 72. to 108. [Unchanged.]

7045.0075 PETITIONS.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Procedures for case-by-case extensions to an effective date.** A person who generates, treats, stores, or disposes of hazardous waste may submit a petition to the EPA for an extension to the effective date of any applicable restriction established

under parts 7045.1320 to 7045.1330. The petition must be submitted in accordance with Code of Federal Regulations, title 40, section 268.5.

Subp. 7. **Petitions to allow land disposal of a prohibited waste.** A person seeking an exemption from a prohibition for the disposal of a restricted hazardous waste in a particular unit or units must submit a petition to the agency and to the EPA demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The demonstration to the EPA must include the provisions in Code of Federal Regulations, title 40, section 268.6. The demonstration to the agency must include an identification of the specific waste and the specific unit for which the demonstration will be made, a waste analysis to describe fully the chemical and physical characteristics of the subject waste, and a comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality.

A. The demonstration must meet the following criteria:

(1) all waste and environmental sampling, test, and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow;

(2) all sampling, testing, and estimation techniques for chemical and physical properties of the waste and all environmental parameters must have been approved by the agency;

(3) simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements;

(4) a quality assurance and quality control plan that addresses all aspects of the demonstration must be approved by the agency; and

(5) an analysis must be performed to identify and quantify any aspects of the demonstration that contribute significantly to uncertainty. This analysis must include an evaluation of the consequences of predictable future events, including but not limited to earthquakes, floods, severe storm events, droughts, or other natural phenomena.

B. Each petition must include the following statement signed by the petitioner or an authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

C. After receiving a petition, the commissioner may request additional information that reasonably may be required to evaluate the demonstration.

D. If approved, the petition will apply to land disposal of the specific restricted waste at the individual disposal unit described in the demonstration and will not apply to any other restricted waste at that disposal unit, or to that specific restricted waste at any other disposal unit.

E. The commissioner will give public notice in the *State Register* of the intent to approve or deny a petition and provide an opportunity for public comment. The final decision on a petition will be published in the *State Register*.

F. The term of a petition granted under this part must be no longer than the term of the RCRA permit if the disposal unit is operating under an RCRA permit, or up to a maximum of five years from the date of approval provided under item G if the unit is operating under interim status. In either case, the term of the granted petition expires upon the termination or denial of an RCRA permit, or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached.

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

H. The petition granted by the agency does not relieve the petitioner of responsibility for the management of hazardous waste under chapters 7001 and 7045.

I. Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to 500 ppm are not eligible for an exemption under this subpart.

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Subp. 8. **Petition for alternate treatment standard or alternate technology.** Where a treatment standard is expressed as a concentration in a waste or waste extract and a waste cannot be treated to a specified level, or where the treatment technology is not appropriate to the waste, the generator or the owner or operator of a treatment facility may request a variance from the EPA to provide an alternate treatment standard. The variance request must be submitted in accordance with Code of Federal Regulations, title 40, sections 268.42(b) and 268.44.

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

Subpart 1. to 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 and 7045.1300 to 7045.1380: industrial ethyl alcohol that is reclaimed, except as provided in subpart 12; used batteries or used battery cells returned to a battery manufacturer for regeneration; and scrap metal.

Subp. 5. to 8. [Unchanged.]

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 7045.1300 to 7045.1380, 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. to 12. [Unchanged.]

7045.0127 RESIDUES IN EMPTY CONTAINERS AND EMPTY INNER LINERS.

Subpart 1. **Scope.** Any hazardous waste remaining in an empty container or an empty inner liner removed from an empty container, as defined in subparts 2 to 4 is not subject to regulation under parts 7045.0100 to 7045.1030 and 7045.1300 to 7045.1380, or a hazardous waste facility permit. Any hazardous waste in a container or an inner liner removed from a container that is not empty, as defined in subparts 2 to 4, is subject to regulation under parts 7045.0100 to 7045.1030 and 7045.1300 to 7045.1380, and the agency's permitting procedures.

Subp. 2. to 4. [Unchanged.]

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. **General.** A waste is a hazardous waste if it is listed under subparts 2 to 5 unless it has been excluded from the list under part 7045.0075, subpart 2.

The basis for listing the classes or types of wastes listed in subparts 2 to 5 is indicated by employing one or more of the following hazard codes:

A. ignitable waste, (I);

B. corrosive waste, (C);

C. reactive waste, (R);

D. EP toxic waste, (E);

E. acute hazardous waste, (H); and

F. toxic waste, (T).

The constituent which caused the agency to list the waste as an EP toxic waste (E) or toxic waste (T) in subparts 2 and 3 is identified in part 7045.0139.

Each listed hazardous waste is assigned a hazardous waste number which precedes the name of the waste. This number must be used in complying with the disclosure requirements of parts 7045.0205 to 7045.0304 and certain record keeping and reporting requirements under parts 7045.0205 to 7045.1030, 7045.1300 to 7045.1380, and the agency's permitting procedures in chapter 7001.

The following hazardous wastes listed in subparts 2 and 3 are subject to the exclusion limits for acutely hazardous wastes established in part 7045.0219: Hazardous Waste Numbers F020, F021, F022, F023, F026, and F027.

Subp. 2. to 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. If the waste is determined to be hazardous, the generator must refer to parts 7045.0075, 7045.0450 to 7045.0685, and 7045.1300 to 7045.1380 for possible exclusions or restrictions relating to management of the specific waste.

Subp. 2. and 3. [Unchanged.]

7045.0365 TRANSFER FACILITY REQUIREMENTS.

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

Subp. 2. and 3. [Unchanged.]

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. **General requirements.** Parts 7045.0450 to 7045.0544 apply to owners and operators of all facilities which treat, store, or dispose of hazardous waste except as specifically provided otherwise in this part or in parts 7045.0100 to 7045.0304.

Parts 7045.0450 to 7045.0544 apply to the owners or operators of publicly owned treatment works which treat, store, or dispose of hazardous waste only to the extent they are included in a permit-by-rule granted under the agency's permitting procedures.

Parts 7045.0450 to 7045.0544 apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act of 1972, United States Code, title 16, sections 1431 to 1434, as amended through December 31, 1982, and United States Code, title 33, section 1401, as amended through December 31, 1982, only to the extent they are included in a permit-by-rule granted under the agency's permitting procedures. Parts 7045.0450 to 7045.0544 apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

Parts 7045.0450 to 7045.0544 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380.

Subp. 2. and 3. [Unchanged.]

7045.0458 WASTE ANALYSIS REQUIREMENTS.

Subpart 1. **Waste analysis.** Waste analysis procedures are as follows:

A. Before an owner or operator treats, stores, or disposes of any hazardous waste, he or she shall obtain a detailed chemical and physical analysis of a representative sample of the waste. This analysis must contain all the information which must be known in order to treat, store, or dispose of the waste in accordance with the requirements of parts 7045.0450 to 7045.0544 and 7045.1300 to 7045.1380, or with the conditions of a permit issued under the agency's permitting procedures.

B. to D. [Unchanged.]

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

A. to E. [Unchanged.]

F. where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in parts 7045.0456; 7045.0538, subpart 10; ~~and~~ 7045.0542, subpart 2; and 7045.1315;

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

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

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

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H. for surface impoundments exempted from the land disposal restrictions under part 7045.1310, the procedures and schedules for:

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues that are not delisted under part 7045.0075, subpart 2, and do not exhibit a characteristic of hazardous waste under part 7045.0131, and that do not meet the treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, the annual removal of residues that do not meet the applicable prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d).

7045.0478 OPERATING RECORD.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Record information.** All of the following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

A. to D. [Unchanged.]

E. Records and results of waste analysis performed as specified in parts 7045.0456, 7045.0458, 7045.0538, subpart 10, ~~and~~ 7045.0542, subpart 2, 7045.1310, and 7045.1315.

F. to L. [Unchanged.]

M. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 6 or 7, and the notice required by a generator under part 7045.1315, subpart 1, item C.

N. For an off-site treatment facility, a copy of the notice required by a generator under part 7045.1315, subpart 1, item A.

O. For an on-site treatment facility, the information contained in the notice required by the generator under part 7045.1315, subpart 1, item A, except for the manifest number required under subitem (3).

P. For an off-site land disposal facility, a copy of the notice and certification required by the owner or operator of a treatment facility under part 7045.1315, subpart 2, items A and B, or a copy of the notice and certification required by the generator under part 7045.1315, subpart 1, item B, whichever is applicable.

Q. For an on-site land disposal facility, the information contained in the notice required under part 7045.1315, subpart 1, item B, except for the manifest number, or the information contained in the notice required by a treater under part 7045.1315, subpart 2, item A, except the manifest number required under subitem (3), whichever is applicable.

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. **General requirements.** Parts 7045.0552 to 7045.0642 establish minimum standards for the management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. These standards apply to owners and operators of existing facilities who have fully complied with the requirements for state or federal interim status until a permit is issued or until applicable interim status closure and post-closure responsibilities are fulfilled, and those who have failed to achieve state or federal interim status. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after July 16, 1984, except as specifically provided otherwise.

For existing facilities which were not required to obtain federal interim status under the Resource Conservation and Recovery Act, United States Code, title 42, sections 6901 to 6986, as amended through June 30, 1983, but are required to obtain state interim status, the requirements of parts 7045.0590; 7045.0592; 7045.0632, subpart 4, items A and B; 7045.0634, subpart 2; 7045.0638, subparts 2, 7, and 8, become effective 12 months after July 16, 1984, and the requirements of parts 7045.0608 to 7045.0624 become effective 90 days after July 16, 1984.

Parts 7045.0552 to 7045.0642 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380.

Subp. 1a. to 4. [Unchanged.]

7045.0564 WASTE ANALYSIS REQUIREMENTS.

Subpart 1. **Waste analysis.** The analysis must comply with the following requirements:

A. Before an owner or operator treats, stores, or disposes of any hazardous waste, he or she shall obtain a detailed chemical and physical analysis of a representative sample of the waste. This analysis must contain all the information which must be known in order to treat, store, or dispose of the waste in accordance with the requirements of parts 7045.0552 to 7045.0642 and 7045.1300 to 7045.1380.

B. to D. [Unchanged.]

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

A. to E. [Unchanged.]

F. Where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in parts 7045.0628, subpart 3; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2; ~~and~~ 7045.0642, subpart 3; and 7045.1315.

G. [Unchanged.]

H. For surface impoundments exempted from the land disposal restrictions under part 7045.1310, the procedures and schedule for:

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues that are not delisted under part 7045.0075, subpart 2, and do not exhibit a characteristic of hazardous waste under part 7045.0131, and that do not meet the treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, the annual removal of residues that do not meet the applicable prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d).

7045.0584 OPERATING RECORD.

Subpart 1. and 2. [Unchanged.]

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

A. to D. [Unchanged.]

E. Records and results of waste analysis and trial tests performed as specified in parts 7045.0564; 7045.0628, subpart 3; 7045.0630, subpart 4; 7045.0632, subpart 3; 7045.0634, subpart 3; 7045.0638, subpart 7; 7045.0640, subpart 2; ~~and~~ 7045.0642, subpart 3; 7045.1310; and 7045.1315.

F. to I. [Unchanged.]

J. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 6 or 7, and the notice required by a generator under part 7045.1315, subpart 1, item C.

K. For an off-site treatment facility, the notice required by a generator under part 7045.1315, subpart 1, item A.

L. For an on-site treatment facility, the information contained in the notice required by a generator under part 7045.1315, subpart 1, item A, except for the manifest number required under subitem (3).

M. For an off-site land disposal facility, the notice and certification required by the owner or operator of a treatment facility under part 7045.1315, subpart 2, items A and B, or the certification required by the generator under part 7045.1315, subpart 1, item B, whichever is applicable.

N. For an on-site land disposal facility, the information contained in the notice required by a generator under part 7045.1315, subpart 1, item B, except for the manifest number, or the information contained in the notice required by the treatment facility under part 7045.1315, subpart 2, item A, except the manifest number required under subitem (3), whichever is applicable.

7045.1300 LAND DISPOSAL RESTRICTIONS; APPLICABILITY AND EXEMPTIONS.

Subpart 1. **Applicability.** This part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

Except as specifically provided in subpart 2 or parts 7045.0100 to 7045.0141, the requirements of this part apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities.

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Subp. 2. **Exemptions.** Prohibited wastes may continue to be land disposed under the following conditions:

A. if an extension has been granted from the effective date of a prohibition under part 7045.0075, subpart 6, with respect to those wastes covered by the extension;

B. if an exemption has been granted from a prohibition as a result of a petition under part 7045.0075, subpart 7, with respect to those wastes and units covered by the petition;

C. until November 8, 1988, if wastes are contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under the Resource Conservation and Recovery Act;

D. if small quantity generators of less than 100 kilograms of nonacute hazardous waste per month, or less than one kilogram acute hazardous waste per month, as defined in part 7045.0219; and

E. if a farmer is disposing of waste pesticides in accordance with part 7045.0304.

7045.1305 DILUTION PROHIBITED AS A SUBSTITUTE FOR TREATMENT.

No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with parts 7045.1350 to 7045.1360, to circumvent the effective date or otherwise avoid a prohibition in parts 7045.1320 to 7045.1330, or to circumvent a land disposal prohibition imposed by RCRA section 3004.

7045.1310 TREATMENT SURFACE IMPOUNDMENT EXEMPTION.

Subpart 1. **Conditions.** Wastes that are otherwise prohibited from land disposal under parts 7045.1300 to 7045.1380 may be treated in a surface impoundment or series of impoundments if:

A. treatment of the wastes occurs in the impoundments.

B. the residues of the treatment are analyzed, as provided in part 7045.1315 or 7045.1330 to determine if they meet the applicable treatment standards in parts 7045.1350 to 7045.1360, or, where no treatment standards have been established for the waste, the applicable prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d). The sampling method, specified in the waste analysis plan under part 7045.0458 or 7045.0564 must be designed so the representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples. The treatment residues, including any liquid waste, that do not meet the treatment standards adopted under parts 7045.1350 to 7045.1360, or the applicable prohibition levels adopted under parts 7045.1320 to 7045.1330, or imposed by statute where no treatment standards have been established, or that are not delisted under part 7045.0075, subpart 2, and no longer exhibit a characteristic of hazardous waste, must be removed at least annually. These residues may not be placed in any other surface impoundment for later management. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this requirement. The procedures and schedule for the sampling of impoundment contents, the analysis of test data, and the annual removal of residue that does not meet the treatment standards in parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, the prohibition levels in parts 7045.1320 to 7045.1330 or RCRA section 3004(d), must be specified in the facility's waste analysis plan as required under part 7045.0458 or 7045.0564.

C. the impoundment meets the design requirements of Code of Federal Regulations, title 40, section 264.221(c) or 265.221(a), and be in compliance with applicable groundwater monitoring requirements of part 7045.0484 or 7045.0590.

D. the owner or operator submits to the commissioner a written certification that the requirements of item C. have been met and a copy of the waste analysis plan required under item B. The following certification is required:

"I certify under penalty of law that the requirements of part 7045.1310, subpart 1, item C, have been met for all surface impoundments being used to treat restricted wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Subp. 2. **Prohibition of evaporation.** Evaporation of hazardous constituents as the principal means of treatment is not considered to be treatment for purposes of an exemption under this part.

7045.1315 WASTE ANALYSIS FOR RESTRICTED WASTES.

Subpart 1. **Applicability.** Except as provided in part 7045.1330, the generator must test waste or an extract developed using the test method described in Code of Federal Regulations, title 40, part 268, Appendix I, or use knowledge of the waste, to determine if the waste is restricted from land disposal.

A. If a generator determines that the waste being generated is a restricted waste and the waste does not meet the applicable treatment standards, or where the waste does not comply with the applicable prohibitions in part 7045.1330 or RCRA section 3004(d), with each shipment of waste the generator must notify the treatment facility in writing of the appropriate treatment standards

in parts 7045.1350 to 7045.1360 and any applicable prohibitions in part 7045.1330 or RCRA section 3004(d).

The notice must include the following information:

(1) EPA Hazardous Waste Number;

(2) the corresponding treatment standards and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d);

(3) the manifest number associated with the shipment of waste; and

(4) waste analysis data, where available.

B. If a generator determines that the waste being generated is a restricted waste and determines that the waste can be land disposed without further treatment, with each shipment of waste the generator must submit, to the land disposal facility, a notice and a certification stating that the waste meets the applicable treatment standards in parts 7045.1350 to 7045.1360 and the applicable prohibitions in part 7045.1330 or RCRA section 3004(d).

(1) The notice must include the EPA Hazardous Waste Number, the corresponding treatment standards and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d), the manifest number associated with the shipment of waste, and waste analysis data, where available.

(2) The certification must be signed by an authorized representative and must state the following:

"I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d). I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment."

C. If a generator's waste is subject to a case-by-case extension under part 7045.0075, subpart 6, an exemption under part 7045.0075, subpart 7, an extension under part 7045.1300, subpart 2, item C, or a nationwide variance under Code of Federal Regulations, title 40, part 268, subpart C, a notice must be forwarded with the waste to the land disposal facility receiving the waste, stating that the waste is exempt from the land disposal restrictions.

D. If a generator's decision that a waste is restricted is based solely on knowledge of the waste, all supporting data used to make this determination must be maintained on-site in the generator's files.

Subp. 2. **Testing of wastes.** For wastes with treatment standards expressed as concentrations in the waste extract in part 7045.1355, the owner or operator of the treatment facility must test the treatment residues or an extract of the residues developed using the test method described in Code of Federal Regulations, title 40, part 268, Appendix I, to assure that the treatment residues or extract meet the applicable treatment standards. For wastes prohibited under part 7045.1330 or RCRA section 3004(d) which are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the owner or operator of the treatment facility must test the treatment residues according to the generator testing requirements in part 7045.1330 to assure that the treatment residues comply with the applicable prohibitions. For both circumstances described above, the testing must be performed according to the frequency specified in the facility's waste analysis plan as required by part 7045.0458 or 7045.0564. Where the treatment residues do not comply with the applicable treatment standards or prohibitions, the treatment facility must comply with the notice requirements applicable to generators in subpart 1, item A, if the treatment residues will be further managed at a different treatment facility.

A. A notice must be sent to the land disposal facility that includes the following information:

(1) EPA Hazardous Waste Number;

(2) the corresponding treatment standards and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d);

(3) the manifest number associated with the shipment of waste; and

(4) waste analysis data, where available.

B. The treatment facility must submit a certification with each shipment of waste or treatment residue of a restricted waste to the land disposal facility stating that the waste or treatment residue has been treated in compliance with the applicable performance standards in parts 7045.1350 to 7045.1360 and the applicable prohibitions in part 7045.1330 or RCRA section 3004(d).

(1) For wastes with treatment standards expressed as concentrations in the waste extract in part 7045.1355 or in the

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waste, or for wastes prohibited under part 7045.1330 or RCRA section 3004(d) which are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the certification must be signed by an authorized representative and must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operations of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the performance levels specified in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d) without dilution of the prohibited waste. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

(2) For wastes with treatment standards expressed as technologies in part 7045.1360, the certification must be signed by an authorized representative and must state the following:

"I certify under penalty of law that the waste has been treated in accordance with the requirements of part 7045.1360. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

Subp. 3. **Facility requirements.** The owner or operator of any land disposal facility disposing any waste subject to restrictions under parts 7045.1300 to 7045.1380 must have records of the notice and certification required in subpart 1 or 2. The owner or operator of the land disposal facility must test the waste or an extract of the waste or treatment residue developed using the test method described in Code of Federal Regulations, title 40, part 268, Appendix I, or using any methods required by generators under part 7045.1330, to assure that the wastes or treatment residues are in compliance with the applicable treatment standards in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d). The testing must be performed according to the frequency specified in the facility's waste analysis plan as required in part 7045.0458 or 7045.0564.

7045.1320 WASTE SPECIFIC PROHIBITIONS; SOLVENT WASTES.

Subpart 1. **Applicability.** The spent solvent wastes specified in part 7045.0135 as Hazardous Waste Nos. F001, F002, F003, F004, and F005, are prohibited from land disposal unless one or more of the following conditions apply:

A. the generator of the solvent waste is a small quantity generator;

B. the solvent waste is generated from any response action taken under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), or any corrective action taken under the Resource Conservation and Recovery Act (RCRA), except where the waste is contaminated soil or debris not subject to this chapter until November 8, 1988;

C. the initial generator's solvent waste is a solvent-water mixture, solvent-containing sludge, or solvent-contaminated soil (non-CERCLA or RCRA corrective action) containing less than one percent total F001-F005 solvent constituents listed in part 7045.1355, subpart 3; or

D. the solvent waste is a residue from treating a waste described in items A to C; or the solvent waste is a residue from treating a waste not described in items A to C, provided the residue belongs to a different treatability group than the waste as initially generated and wastes belonging to a treatability group are described in item C.

Subp. 2. **Effective date.** Effective November 8, 1988, the F001-F005 solvent wastes listed in subpart 1, items A to C, are prohibited from land disposal. Until November 8, 1988, wastes included in subpart 1, items A to C, may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

Subp. 3. **Exceptions.** The requirements of subparts 1 and 2 do not apply if:

A. the wastes meet the standards of parts 7045.1350 to 7045.1360;

B. persons have been granted an exemption from a prohibition under part 7045.0075, subpart 7, with respect to those wastes and units covered by repetition; or

C. persons have been granted an extension to an effective date of a prohibition under part 7045.0075, subpart 6 with respect to those wastes covered by the extension.

7045.1325 WASTE SPECIFIC PROHIBITION; DIOXIN-CONTAINING WASTES.

Subpart 1. **Applicability.** Effective November 8, 1988, the dioxin-containing wastes specified in part 7045.0135 as Hazardous Waste Nos. F020, F021, F022, F023, F026, F027, and F028, are prohibited from land disposal.

Subp. 2. **Exceptions.** The requirements of subpart 1 do not apply if:

A. the wastes meet the standards of parts 7045.1350 to 7045.1360;

B. persons have been granted an exemption from a prohibition under part 7045.0075, subpart 7, with respect to those wastes or units covered by the petition; or

C. persons have been granted an extension to an effective date of a prohibition under part 7045.0075, subpart 6, with respect to those wastes covered by the extension.

Subp. 3. **Effective date.** Until November 8, 1988, wastes included in subpart 1 may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements of Code of Federal Regulations, title 40, part 268.5(h)(2) and all other applicable requirements of parts 7045.0450 to 7045.0642.

7045.1330 WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES.

Subpart 1. **Application.** The following hazardous wastes are prohibited from land disposal:

A. liquid hazardous wastes having a pH less than or equal to two;

B. liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 50 ppm; and

C. liquid hazardous wastes that are primarily water and contain halogenated organic compounds (HOC's) in total concentration greater than or equal to 1,000 mg/l and less than 10,000 mg/l HOC's.

Subp. 2. **Exceptions.** The following items are an exception from the prohibitions in subpart 1:

A. The requirements of subpart 1 do not apply until November 8, 1988, where the wastes are contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act or a corrective action required under RCRA, subtitle C.

B. Effective July 8, 1989, the following hazardous wastes are prohibited from land disposal:

(1) liquid hazardous wastes that contain HOC's in total concentration greater than or equal to 1,000 mg/l and are not prohibited under subpart 1, item C; and

(2) nonliquid hazardous wastes containing HOC's in total concentration greater than or equal to 1,000 mg/kg.

C. Until July 8, 1989, the wastes described in item B. may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements of Code of Federal Regulations, title 40, part 268.5(h)(2).

D. The requirements of subparts 1 and 2, items A and B, do not apply if:

(1) an exemption has been granted from a prohibition as a result of a petition under part 7045.0075, subpart 7, with respect to those wastes and units covered by the petition;

(2) an extension to the effective date of a prohibition under part 7045.0075, subpart 7, has been granted with respect to those wastes covered by the extension; or

(3) the wastes meet the applicable standards in parts 7045.1350 to 7045.1360 or, where treatment standards are not specified, the wastes are in compliance with the applicable prohibitions in this part or RCRA section 3004(d).

E. The prohibitions and effective dates in subpart 1, item C, and subpart 2, items A and B, do not apply where the waste is subject to an effective date and prohibition under parts 7045.1320 to 7045.1330 for a specified HOC, such as a hazardous waste chlorinated solvent.

Subp. 3. **Waste analysis.** The following provisions apply to waste analysis:

A. To determine whether or not a waste is a liquid under subparts 1 and 2, item B, and under RCRA section 3004(d), the Paint Filter Liquids Test must be used, method 9095, as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW 846.

B. Except as otherwise provided in this item, the waste analysis and record keeping requirements of part 7045.1315 are applicable to wastes prohibited under this part or RCRA section 3004(d).

(1) The initial generator of a liquid hazardous waste must test the waste, not an extract or filtrate, in accordance with the procedures in part 7045.0131, subpart 4, item A, or use knowledge of the waste, to determine if the waste has a pH less than or equal to two. If the liquid waste has a pH less than or equal to two, it is restricted from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise provided in this part.

(2) The initial generator of either a liquid hazardous waste containing polychlorinated biphenyls (PCB's) or a liquid or

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.

nonliquid hazardous waste containing halogenated organic compounds (HOC's) must test the waste, not an extract or filtrate, or use knowledge of the waste, to determine whether the concentration levels in the waste equal or exceed the prohibition levels in this part. If the concentration of PCB's or HOC's in the waste is greater than or equal to the prohibition levels in this part, the waste is restricted from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise provided in this part.

7045.1350 TREATMENT STANDARDS.

Subpart 1. **Concentration standard.** A restricted waste identified in this subpart may be land disposed without further treatment only if an extract of the waste or of the treatment residue of the waste developed using the test method in Code of Federal Regulations, title 40, part 268, Appendix I, does not exceed the value shown in part 7045.1355, subpart 3, for any hazardous constituent listed for that waste.

Subp. 2. **Technology standard.** A restricted waste for which a treatment technology is specified under part 7045.1360 may be land disposed after it is treated using that technology or an equivalent treatment method approved under the procedures in part 7045.0075, subpart 8.

7045.1355 TREATMENT STANDARDS EXPRESSED AS CONCENTRATIONS IN WASTE EXTRACT.

Subpart 1. **Applicability.** Subpart 3 identifies the restricted wastes and the concentrations of their associated hazardous constituents that may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in Appendix I of Code of Federal Regulations, title 40, part 268, for the allowable land disposal of the waste.

Subp. 2. **Combined wastes.** When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

Subp. 3. **Constituents in waste extract.** Constituents in waste extracts are listed with the applicable concentration limits.

	Concentration (in mg/l)	
F001-F005 spent solvents	Wastewaters containing spent solvents	All other spent solvent wastes
Acetone	0.05	0.59
n-Butyl alcohol	5.0	5.0
Carbon disulfide	1.05	4.81
Carbon tetrachloride	0.05	0.96
Chlorobenzene	0.15	0.05
Cresols (and cresylic acid)	2.82	0.75
Cyclohexanone	0.125	0.75
1,2-Dichlorobenzene	0.65	0.125
Ethyl acetate	0.05	0.75
Ethylbenzene	0.05	0.053
Ethyl ether	0.05	0.75
Isobutanol	5.0	5.0
Methanol	0.25	0.75
Methylene chloride	0.20	0.96
Methylene chloride (from the pharmaceutical industry)	12.7	0.96
Methyl ethyl ketone	0.05	0.75
Methyl isobutyl ketone	0.05	0.33
Nitrobenzene	0.66	0.125
Pyridine	1.12	0.33
Tetrachloroethylene	0.079	0.05
Toluene	1.12	0.33
1,1,1-Trichloroethane	1.05	0.41
1,1,2-Trichloro-1,2,2-Trifluoroethane	1.05	0.96
Trichloroethylene	0.062	0.091
Trichlorofluoromethane	0.05	0.96
Xylene	0.05	0.15

F020-F023 and F026-F028 dioxin containing wastes	Concentration
HxCDD - All Hexachlorodibenzo-p-dioxins	< 1 ppb
HxCDF - All Hexachlorodibenzofurans	< 1 ppb
PeCDD - All Pentachlorodibenzo-p-dioxins	< 1 ppb
PeCDF - All Pentachlorodibenzofurans	< 1 ppb
TCDD - All Tetrachlorodibenzo-p-dioxins	< 1 ppb
TCDF - All Tetrachlorodibenzofurans	< 1 ppb
2,4,5-Trichlorophenol	< 0.05 ppm
2,4,6-Trichlorophenol	< 0.05 ppm
2,3,4,6-Tetrachlorophenol	< 0.10 ppm
Pentachlorophenol	< 0.01 ppm

7045.1360 TREATMENT STANDARDS EXPRESSED AS SPECIFIED TECHNOLOGIES.

The following wastes must be treated using the identified technology or technologies, or an equivalent method approved under part 7045.0075, subpart 8.

A. Liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 50 ppm but less than 500 ppm must be incinerated in accordance with the technical requirements of Code of Federal Regulations, title 40, section 761.70, or burned in high efficiency boilers in accordance with the technical requirements of Code of Federal Regulations, title 40, section 761.60. Liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 500 ppm must be incinerated in accordance with the technical requirements of Code of Federal Regulations, title 40, section 761.70. Thermal treatment under this section must also be in compliance with applicable regulations in chapter 7045.

B. Nonliquid hazardous wastes containing halogenated organic compounds (HOC's) in total concentrations greater than or equal to 1,000 mg/kg and liquid HOC-containing wastes that are prohibited under part 7045.1330, subpart 2, item B, subitem (1), must be incinerated in accordance with the requirements of part 7045.0542 or 7045.0640. These treatment standards do not apply if the waste is subject to a treatment standard in parts 7045.1320 to 7045.1330 for a specific HOC.

7045.1380 PROHIBITIONS ON STORAGE OF RESTRICTED WASTES.

Subpart 1. **Applicability.** Except as provided in this part, the storage of hazardous wastes restricted from land disposal under parts 7045.1320 to 7045.1330 or RCRA section 3004 is prohibited, unless the following conditions are met:

A. A generator stores the wastes in tanks or containers on-site solely for the purpose of the accumulation of quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal and the generator complies with part 7045.0292. A generator who is in existence on the effective date of a restriction under part 7045.0075, subparts 6, 7, and 8, and parts 7045.1300 to 7045.1380 and who must store hazardous wastes for longer than 90 days becomes an owner or operator of a storage facility and must obtain an RCRA permit. The facility may qualify for interim status on compliance with the rules governing interim status under parts 7001.0650 and 7045.0552.

B. An owner or operator of a hazardous waste treatment, storage, or disposal facility stores wastes in tanks or containers solely for the purpose of the accumulation of the quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal if (1) each container is clearly marked to identify its contents and the date each period of accumulation begins and (2) each tank is clearly marked with a description of its contents, the quantity of hazardous waste received, and the date each period of accumulation begins. The information for each tank may be recorded and maintained in the operating record at the facility. Regardless of whether the tank is marked, the owner or operator must comply with the operating record requirements in part 7045.0478 or 7045.0584.

C. A transporter stores manifested shipments of the wastes at a transfer facility for ten days or less.

Subp. 2. **Storage at facility.** An owner or operator of a treatment, storage, or disposal facility may store wastes for up to one year unless the agency can demonstrate that the storage was not solely for the purpose of accumulation of quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal.

Subp. 3. **Extensions to storage period.** An owner or operator of a treatment, storage, or disposal facility may store wastes

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beyond one year; however, the owner or operator bears the burden of proving that the storage was solely for the purpose of accumulation of quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal.

Subp. 4. **Petition exemptions.** The prohibition in subpart 1 does not apply to the wastes that are the subject of an approved petition under part 7045.0075, subparts 7 and 8, or a variance contained in parts 7045.1320 to 7045.1330.

Subp. 5. **Treated waste.** The prohibition in subpart 1 does not apply to hazardous wastes that meet the treatment standards in parts 7045.1355 to 7045.1360, or, if treatment standards are not specified, wastes that are in compliance with the applicable prohibitions in part 7045.1330 or RCRA section 3004.

Subp. 6. **PCB storage.** Liquid hazardous wastes containing polychlorinated biphenyls (PCB's) at concentrations greater than or equal to 50 ppm must be stored at a facility that meets the requirements of Code of Federal Regulations, title 40, section 761.65(b) and must be removed from storage and treated or disposed as required by this part within one year of the date when the wastes are first placed into storage. Subpart 3 does not apply to PCB wastes prohibited under part 7045.1330.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Bureau of Mediation Services

Adopted Permanent Rules Relating to Labor; Representation Elections; Appeal Status

The rules proposed and published at *State Register*, Volume 12, Number 35, pages 1798-1799, February 29, 1988 (12 S.R. 1798) are adopted as proposed.

Bureau of Mediation Services

Adopted Permanent Rules Relating to Repeal of Transmittal of Labor Contract Obligation

The rule proposed and published at *State Register*, Volume 12, Number 23, pages 1186-1187, December 7, 1987 (12 S.R. 1186) is adopted as proposed.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Minnesota State Arts Board

Board Meeting

The Minnesota State Arts Board will hold a regular business meeting on Thursday, June 23. The meeting will be held at the Arts Board offices, 432 Summit Avenue, Saint Paul and will begin at 9:30 a.m.

Agenda items include the selection of grantees for Series Presenters awards, and approval of second-year Operating Support and McKnight Foundation grants to arts institutions.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Amendments of Rules Governing the
Management, Storage, Treatment,
and Disposal of Hazardous Waste,
Minn. Rules Pts. 7001.0150,
7001.0560, 7001.0650, 7001.0730,
7045.0020, 7045.0075, 7045.0125,
7045.0127, 7045.0135, 7045.0214,
7045.0365, 7045.0450, 7045.0458,
7045.0478, 7045.0552, 7045.0564,
7045.0584, 7045.1300, 7045.1305,
7045.1310, 7045.1315, 7045.1320,
7045.1325, 7045.1330, 7045.1350,
7045.1355, 7045.1360, and
7045.1380

FINDINGS OF FACT,
CONCLUSIONS, AND
ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the twenty-third day of August 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, 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 MPCA, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the MPCA's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on June 13, 1988, and was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat. §§ 14.14, subd. 1a. and 14.22 (1986) on June 9, 1988.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the proposed rule amendments for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on July 13, 1988.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the MPCA.

6. No comments were received during the comment period.

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed amendments to the rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule amendments are needed and reasonable.

CONCLUSIONS

1. The MPCA duly acquired and has jurisdiction over this proceeding.

2. The MPCA 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.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 7001.0150, 7001.0560, 7001.0650, 7001.0730, 7045.0020, 7045.0075, 7045.0125, 7045.0127, 7045.0135, 7045.0214, 7045.0365, 7045.0450, 7045.0458, 7045.0478, 7045.0552, 7045.0564, 7045.0584, 7045.1300, 7045.1305, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1350, 7045.1355, 7045.1360, and 7045.1380, governing restrictions on the land disposal of hazardous wastes, are adopted pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4 (1986).

Dated: August 23, 1988

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments of Rules Governing the Management, Storage, Treatment, and Disposal of Hazardous Waste, Minn. Rules Pts. 7001.0150, 7001.0560, 7001.0650, 7001.0730, 7045.0020, 7045.0075, 7045.0125, 7045.0127, 7045.0135, 7045.0214, 7045.0365, 7045.0450, 7045.0458, 7045.0478, 7045.0552, 7045.0564, 7045.0584, 7045.1300, 7045.1305, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1350, 7045.1355, 7045.1360, and 7045.1380

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the twenty-third day of August 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, 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 MPCA, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the MPCA's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on June 13, 1988, and was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat. §§ 14.14, subd. 1a. and 14.22 (1986) on June 9, 1988.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the proposed rule amendments for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on July 13, 1988.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the MPCA.

6. No comments were received during the comment period.

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed amendments to the rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule amendments are needed and reasonable.

CONCLUSIONS

1. The MPCA duly acquired and has jurisdiction over this proceeding.

2. The MPCA 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.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 7001.0150, 7001.0560, 7001.0650, 7001.0730, 7045.0020, 7045.0075, 7045.0125, 7045.0127, 7045.0135, 7045.0214, 7045.0365, 7045.0450, 7045.0458, 7045.0478, 7045.0552, 7045.0564, 7045.0584, 7045.1300, 7045.1305, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1350, 7045.1355, 7045.1360, and 7045.1380, governing restrictions on the land disposal of hazardous wastes, are adopted pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4 (1986).

Dated: August 23, 1988

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules
Governing Hazardous Wate; Land Disposal
Restrictions, Minn. Rules Parts 7001.0150,
7001.0560, 7001.0650, 7001.0730, 7045.0020,
7045.0075, 7045.0125, 7045.0127, 7045.0135,
7045.0214, 7045.0365, 7045.0450, 7045.0458,
7045.0478, 7045.0552, 7045.0564, 7045.0584,
7045.1300, 7045.1305, 7045.1310, 7045.1315,
7045.1320, 7045.1325, 7045.1330, 7045.1350,
7045.1355, 7045.1360 and 7045.1380.

DECLARATION OF COUNSEL

I, Kathleen L. Winters, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0697.

KATHLEEN L. WINTERS
Special Assistant
Attorney General

KLW:mi

Department of Natural Resources

Official Notice Regarding Protection of Threatened and Endangered Species

Pursuant to *Minnesota Statutes*, 84.0895, Section 9, regarding the Protection of Threatened and Endangered Species, Subdivision 3 addresses the official designation of state endangered, threatened and special concern species and states that the Commissioner of Natural Resources "shall reevaluate the designated species list every three years after it is just adopted and make appropriate changes. The review must consider the need for further protection of species on the species of special concern list."

The first official list of state endangered, threatened and special concern plants and animals was adopted in March 1984. Upon reviewing the designated species list I have determined that the 1984 list remains an accurate statement of the status of Minnesota's native fauna and flora and therefore the current list will remain in effect through 1990.

Dated: 1 December 1987

Joseph N. Alexander, Commissioner
Department of Natural Resources

Minnesota Pollution Control Agency

Division of Hazardous Waste

Notice of Intent to Solicit Outside Information Regarding Proposed Rule Governing the Disposal of Specific Hazardous Waste at Land Disposal Facilities

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from outside sources in preparing to propose the amendment of *Minnesota Rules* Ch. 7045 to add rules governing the disposal of specific hazardous wastes at land disposal facilities. The United States Environmental Protection Agency (EPA) has adopted amendments to address the land disposal of solvent and dioxin wastes and the hazardous wastes identified as "California List" wastes (*Federal Register*, November 7, 1986 and July 8, 1987). Amendments to the State hazardous waste rules are being proposed in response to the amendments to the federal hazardous waste program. The proposed amendment of the rules is authorized by *Minnesota Statutes*, § 116.07 Subd. 4 (1986), which allows the MPCA to adopt rules relating to the management and disposal of hazardous waste. The MPCA requests information and opinions concerning the subject matter of the proposed rules. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to:

Carol Nankivel
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: (612) 296-7260

Oral statements will be received during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

All statements of information and opinion will be accepted until January 25, 1988. Any written materials received by the MPCA shall become part of the rulemaking record in the event that the proposed rules are adopted.

Gerald L. Willet
Commissioner

Minnesota Pollution Control Agency

Notice of Public Meeting Regarding Schedules and Procedures for Upcoming Solid Waste Rulemaking Hearing

Notice is hereby given that a public meeting has been scheduled for 1:30 p.m., Wednesday, December 30, 1987, in the Board Room of the Minnesota Pollution Control Agency offices at 520 Lafayette Road, St. Paul, Minnesota at which time the schedule and procedures for the upcoming hearings on the proposed solid waste rules will be discussed. The hearings are tentatively scheduled for April or May.

The proposed rules and the statement of need and reasonableness will be very lengthy. The purpose of the meeting will be to discuss how the rulemaking hearings can be best organized to maximize their efficiency and effectiveness. The meeting will be informal and will deal only with the procedures to be used. It will ***not*** deal with the substance of the proposed rules.

Persons or groups that might be major participants in the rulemaking hearings are invited to attend this planning meeting.

Gerald L. Willet
Commissioner

KOCH

RECEIVED

DEC 30 87

MPCA, Hazardous
Waste Division

KOCH REFINING COMPANY

December 28, 1987

Ms. Carol Nankivel
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

Dear Ms. Nankivel:

The MPCA's intent to solicit outside information concerning Rules to Govern Disposal of Specific Hazardous Waste at Land Disposal Facilities was published in the December 21, 1987 State Register.

As in past comments we have submitted to the MPCA concerning hazardous waste rules and regulations, we suggest you adopt the federal rules verbatim. MPCA is required to adopt RCRA rule changes as U.S. EPA promulgates new regulations. This is occurring with increasing frequency and complexity. We believe EPA rules should be adopted verbatim or by reference to enhance the regulated community's ability to comply and to enhance the application of the rule by the many levels of regulators, federal, state, county, in a uniform and consistent manner.

Sincerely,

T. W. Segar
Industrial Relations/
Environmental Manager

P.O.Box 64596 • Saint Paul, Minnesota 55164 • 612/437-0700

CERTIFICATION OF RESOLUTION AUTHORIZING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner 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 24th day of May 1988, 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 Commissioner of the Minnesota Pollution Control Agency is hereby granted the authority to sign and to give notice of the Minnesota Pollution Control Agency's intent to adopt, without a public hearing, the attached amendments to the Minnesota Pollution Control Agency's hazardous waste rules governing the management, storage, treatment, and disposal of hazardous waste, Minn. Rules pts. 7001.0150, 7001.0560, 7001.0650, 7001.0730, 7045.0020, 7045.0075, 7045.0125, 7045.0127, 7045.0135, 7045.0214, 7045.0365, 7045.0450, 7045.0458, 7045.0478, 7045.0552, 7045.0564, 7045.0584, 7045.1300, 7045.1305, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1350, 7045.1355, 7045.1360, and 7045.1380, to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and publish the notice and the rule amendments in the State Register, and to perform any acts incidental thereto, including making any form changes in the rule amendments that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1986).
>
> BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Commissioner is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rule amendments as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for and Notice of Hearing, as well as acting as the Minnesota Pollution Control Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of May 1988.

Gerald L. Willet

GERALD L. WILLET
Commissioner

Minnesota Pollution Control Agency

Proposed Permanent Rules Relating to Hazardous Waste:

Minn. Rules Pts. Minn. Rules Pts. 7001.0150, 7001.0560, 7001.0650, 7001.0730, 7045.0020, 7045.0075, 7045.0125, 7045.0127, 7045.0135, 7045.0214, 7045.0365, 7045.0450, 7045.0458, 7045.0478, 7045.0552, 7045.0564, 7045.0584, 7045.1300, 7045.1305, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1350, 7045.1355, 7045.1360, and 7045.1380

Notice of Intent to Adopt Rule Amendments without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1986). The MPCA's authority to adopt the rule amendments is set forth in Minn. Stat. § 116.07, subd. 4 (1986).

The proposed rule amendments, if adopted, will address restrictions on the land disposal of hazardous wastes. These land disposal restrictions are based on federal "Land Ban" regulations and establish treatment standards for specific types of hazardous wastes. The hazardous wastes being addressed by these proposed rule amendments include solvents, dioxin wastes, and certain of the wastes identified as "California List" wastes. The California List wastes include PCB's, halogenated organic compounds and acidic wastes that have a pH of less than 2. The proposed rule amendments establish requirements for restricted waste analysis, record keeping, storage and treatment.

All persons have until 4:30 p.m. on July 13, 1988, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of

the proposed rule amendments addressed, the reason for comment, and any change proposed.

Any person may make a written request for public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be addressed to:

Carol Nankivel
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

The proposed rule amendments may be modified if the modifications are supported by data and views submitted to the MPCA and do not result in a substantial change in the proposed rule amendments as noticed.

The proposed rule amendments follow this notice. One free copy of the proposed rule amendments is available upon request from Carol Nankivel at 612/296-7260 or at the address stated above.

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 to support the proposed rule amendments has been prepared and is available from Carol Nankivel upon request.

The amendments correspond to the federal regulations published in the November 7, 1986, June 4, 1987, and July 8, 1987, Federal Registers (Federal Registers Vol. 51, No. 216, pgs. 40572 - 40654, Vol. 52, No. 107, pgs. 21010 - 21018, Vol. 52, No. 130, pgs. 25760 - 25792), with the following exception. The federal provisions provide an exemption from the land disposal restrictions for certain types of treatment in surface impoundments. The proposed rule amendments provide the same exemption except that they require the surface impoundment to meet specific design and operation requirements. 40 Code of Federal Regulations § 268.4 (a)(3)(i) to (iii) provides for certain exemptions and waivers from the design and operation requirements that are not provided under the proposed rule amendments.

You are hereby advised, pursuant to Minn Stat. § 14.115 (1986), "small business considerations in rulemaking," that the proposed rule amendments will have an impact on small businesses. The effect of the proposed rule amendments will depend on the type of waste being generated by the small business and the type of treatment that must be provided. However, the requirements of the proposed rule amendments are already in effect in Minnesota under the federal hazardous waste program and their adoption by the MPCA will not create any effect on small businesses.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and the supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule amendments as adopted, must submit a written request to Carol Nankivel at the address stated above.

Gerald L. Willet
Commissioner

Notice mailed
was signed.
See Affidavit

COMMENTS RECEIVED

NONE

RECEIVED
FEB 17 88
MPCA. Hazardous
Waste Division

Rexnord

February 8, 1988

Rexnord Chemical Products
6120 East 58th Avenue
Commerce City, CO 80022
303/289-5651
FAX: 303/289-5283

Ms. Carol Nankivel
Program Development Unit
Hazardous Waste Division
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55755

Dear Ms. Nankivel:

I am in receipt of a letter from Karen A. Ryss, dated February 3, 1988, discussing proposed Land Disposal Restriction Amendments to Minnesota State hazardous waste regulations.

State rules which correlate closely with existing federal regulations concerning treatment levels and compliance timetables would ease the compliance burden and avoid potential confusion.

I would appreciate a copy of the proposed regulations, if available, sent to the address at the top of this letter.

Please direct any further correspondence on this subject to my attention.

Thank you.

Sincerely,

Catherine Griffith
Regulatory Affairs Coordinator
Rexnord Chemical Products

c: L. Benjamin, C.L. Roeder

Contech brand & admix products Nordbak resin systems Sonneborn building products

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

October 11, 1988

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

Ms. Christie Eller
Assistant Attorney General
Office of the Attorney General
515 Transportation Building
St. Paul, MN 55155

Re: In the Matter of Proposed Rules Governing Hazardous Waste; Land Disposal Restrictions, Minn. Rules Parts (various).

Dear Ms. Eller:

On August 25, 1988, the Minnesota Pollution Control Agency adopted the above-captioned rules governing Hazardous Waste; Land Disposal Restrictions. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).

3. Certificate of Resolution Adopting Rules.

4. Notice of Intent to Solicit Outside Opinion (12 S.R. 1266, December 21, 1987.

5. Copies of written comments received pursuant to Notice of Intent to Solicit Outside Opinion.

6. Certificate of Authorizing Resolution.

7. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (12 S.R. 2698, June 13, 1988).

8. Comments received during the comment period.

9. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

10. Affidavit of Mailing the Notice of Intent to Adopt Rule Without a Public Hearing and Certificate of Mailing List.

11. Rules as proposed.

12. Statement of Need and Reasonableness.

13. Declaration of Counsel.

It is my understanding that neither the Notice of Submission of the Rule Adopted Without Public Hearing nor the Affidavit of Mailing the Notice of Submission are needed for this proceeding.

Very truly yours,

KATHLEEN L. WINTERS
Special Assistant
Attorney General

KLW:mi

KOCH

KOCH REFINING COMPANY

February 22, 1988

RECEIVED
FEB 24 88
MPCA, Hazardous Waste Division

Ms. Carol Nankivel
Pollution Control Specialist
Division of Hazardous Waste
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

Dear Ms. Nankivel:

We have received your February 3, 1988 notice concerning amendments to rules governing land disposal of hazardous waste. We note the agency's comments on the need for equivalency with the Federal Hazardous Waste Regulations. However, Koch Refining Company and other members of Minnesota industry have constantly requested that MPCA adopt Federal Rules verbatim to ensure such consistency rather than MPCA modify RCRA language and make a statement that the language is "consistent with" or, "equivalent to", EPA RCRA language.

Our resources are limited in reviewing the overwhelming output of the MPCA and amendments to state hazardous waste rules. We are unable to compare MPCA proposed language word for word with EPA RCRA final rules.

Therefore, we again ask that MPCA adopt RCRA rules verbatim rather than modify the language. To the extent that you feel necessary to amend RCRA language, we request that the SNR contain the side-by-side comparison of RCRA language and changes proposed by MPCA.

Sincerely,

Thomas W. Segar
Industrial Relations/
Environmental Manager

TWS:jmm