

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : April 21, 1989

TO : JOSEPH G. MATERNOWSKI
Special Assistant Attorney General

FROM : MARTY CASSERLY
Special Assistant Attorney General

PHONE : 6-6839

SUBJECT : In the Matter of the Adopted Permanent Rules Relating to Management of Hazardous Waste

The above-referenced rule has been approved as to its legality by the Attorney General on April 20, 1989.

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.

MJC:klk
Enclosures

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

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

mjc

RULE REVIEW CHECKLIST

File No. 1586 — Docket No. 05.0009.0697

DATE RECEIVED 4-7-89 — ADOPTED W/O HEARING X

REVIEW DATE 4-17-89 — EMERGENCY RULE ____

DUE DATE 4-21-89 — REVISOR APPROVED ____

APPROVED 4.20.89 mjc — REVISOR DISAPPROVED ____

DISAPPROVED ____ — FILED W/SEC. OF STATE ____

WITHDRAWN ____ — RETURNED TO AGENCY ____

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
- 8/29/88 Date published in State Register
- ____ Comments

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

✓ Board's Authorizing Resolution
- 12/20/88 Date adopted

✓ Proposed Rule
- yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 116.075.4 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
- 1/6/89 Date (30)/25 days before adoption
- OK Notice attached
- ____ ~~Copy of rule or summary attached~~

✓ Publication in State Register
- 1/9/89 Date (30)/25 days before adoption

____ 180-day deadline from:
- n/a Effective date of law requiring rule (14.12) (both rules)
- 2/8/89 end of comment period (§ 14.26) (rules without hearing)
- ____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting
- 3/28/89 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- 3/28/89 Date

✓ Written requests, submissions or comments (1)

✓ Declaration of attorney
- J. Maternowski Name of SAAG representing agency

✓ Notice of Submission to Atty. Gen. (if applicable)

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

✓ Aff. re. comments

Pollution Control Agency

Adopted Permanent Rules Relating to Management of Hazardous Waste

Rules as Adopted

7001.0520 PERMIT REQUIREMENTS.

Subpart 1. **Permit required.** Except as provided in subpart 2, no person may do any of the following without obtaining a hazardous waste facility permit from the agency:

A. to D. [Unchanged.]

Owners or operators of surface impoundments, landfills, land treatment units, and waste piles that received wastes after July 26, 1982, or that certified closure according to part 7045.0596, subpart 4, after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal as provided in subparts 5 and 6. If a post-closure permit is required, the permit must address the applicable groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements in chapter 7045.

Subp. 2. to 4. [Unchanged.]

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

A. If the owner or operator has submitted a Part B application for a post-closure permit, the owner or operator may request a determination, based on information contained in the application, that the applicable closure by removal requirements in part 7045.0532, subpart 7; ~~7045.0536, subpart 8, or~~

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7045.0534, subpart 7; or 7045.0536, subpart 8, were met. If the agency determines that the applicable closure by removal requirements were met, the agency will notify the public of this proposed determination, allow for public comment, and reach a final determination as described in subpart 6.

B. If the owner or operator has not submitted a Part B application for a post-closure permit, the owner or operator may petition the agency for a determination that a post-closure permit is not required because closure met the closure by removal requirements in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536, subpart 8. The petition must include data demonstrating that the closure by removal or decontamination requirements in part 7045.0532, subpart 7; ~~7045.0536, subpart 8, or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, were met. The agency shall approve or deny the petition as described in subpart 6.

Subp. 6. **Procedures for closure equivalency determination.** If a facility owner or operator seeks an equivalency demonstration under subpart 5, the agency will proceed as follows:

A. The agency will provide the public, through a notice published in a newspaper of general circulation, the opportunity to submit written comments on the information submitted by the owner or operator. The public comment period will be for 30 days from the date of the notice.

B. The agency will hold a public informational meeting if the agency believes that a meeting will clarify the equivalence of the closure to the applicable closure by removal requirements in part 7045.0532, subpart 7; 7045.0536, subpart 8; or 7045.0534, subpart 7. The agency will give public notice of the meeting at least 30 days before the meeting. Public notice of the meeting may be given at the same time as the notice for public comment described in item A, and the two notices may be combined.

C. The agency shall determine whether the closure met the applicable closure by removal or decontamination

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requirements in part 7045.0532, subpart 7; ~~7045.0536, subpart 8, or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, within 90 days of receipt of the equivalency determination request. If the agency determines that the closure did not meet the applicable closure standards, the agency will provide the owner or operator with a written statement of the reasons why the closure failed to meet the applicable requirements. The owner or operator may submit additional information in support of an equivalency ~~determination~~ demonstration within 30 days after receiving the agency's written statement. The agency will review any additional information submitted and make a final determination within 60 days.

If the agency determines that the facility did not close in accordance with the applicable closure by removal standards in part 7045.0532, subpart 7; ~~7045.0536, subpart 8, or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, the facility is subject to post-closure permitting requirements.

7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF APPLICATION.

Part B of the application must contain the following information:

A. to D. [Unchanged.]

E. A copy of the general inspection schedule required by part 7045.0452, subpart 5, item B, including, if applicable, the information set forth in parts 7045.0526, subpart 5; 7045.0528, subparts 5 and 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0536, subpart 4; 7045.0538, subpart 5; 7045.0539, subpart 3; and 7045.0542, subpart 7.

F. to K. [Unchanged.]

L. A copy of the closure plan and, where applicable, the post-closure plan required by parts 7045.0486, 7045.0490, and 7045.0528, subpart 9, including, if applicable, the specific information in parts 7045.0526, subpart 9; 7045.0528, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subparts 2 and 4; and

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7045.0542, subpart 8.

M. to U. [Unchanged.]

7001.0625 PART B INFORMATION REQUIREMENTS FOR MISCELLANEOUS UNITS.

Except as otherwise provided in part 7045.0539, if the applicant proposes to treat, store, or dispose of hazardous waste in miscellaneous units, the applicant shall furnish the information in items A to E in addition to the information required by part 7001.0560:

A. A detailed description of the unit being used or proposed for use, including the following:

(1) physical characteristics, materials of construction, and dimensions of the unit;

(2) detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of part 7045.0539, subparts 2 and 3; and

(3) for disposal units, a detailed description of the plans to comply with the post-closure requirements of part 7045.0539, subpart 4.

B. Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of part 7045.0539, subpart 2. If the applicant can demonstrate that the applicant does not violate the environmental performance standards of part 7045.0539, subpart 2, and the commissioner agrees with the demonstration, then preliminary hydrologic, geologic, and meteorologic assessments will suffice.

C. Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of the exposures.

D. For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on

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laboratory or field data.

E. Any additional information determined by the commissioner to be necessary for evaluation of compliance of the unit with the environmental performance standards of part 7045.0539, subpart 2.

7001.0640 ADDITIONAL PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS, WASTE PILES, LAND TREATMENT UNITS, AND LANDFILLS.

Subpart 1. **Groundwater protection.** The additional information designated in items A to H regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing surface impoundments, waste piles, land treatment units, and landfills, except as otherwise provided in part 7045.0484, subpart 1, item B, and must be submitted with Part B of the permit application. The following information is in addition to the information requirements of parts 7001.0560, 7001.0590, 7001.0600, 7001.0610, and 7001.0620:

A. to G. [Unchanged.]

H. For each solid waste management unit at a facility seeking a permit:

(1) designate the location of the unit on the topographic map required under part 7001.0560, item R;

(2) designate the type of unit;

(3) provide the general dimensions and a structural description and supply any available drawings;

(4) specify when the unit was operated;

(5) specify all of the wastes that have been managed at the unit, to the extent available;

(6) submit all available information pertaining to any release of hazardous wastes or hazardous constituents from each solid waste management unit at the facility; and

(7) conduct and provide the results of sampling and analysis of groundwater, land surface and subsurface strata, surface water, or air, which may include the installation of wells, where the commissioner determines it is necessary to complete a facility assessment that will determine if a more

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complete investigation is necessary.

Subp. 2. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. to 48. [Unchanged.]

Subp. 49. **Landfill.** "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, or a cave.

Subp. 50. to 58. [Unchanged.]

Subp. 58a. **Miscellaneous unit.** "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well, or unit eligible for a research, development, and demonstration permit under part 7001.0712.

Subp. 59. to 109. [Unchanged.]

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Hazardous waste from specific sources.** Hazardous wastes from specific sources are listed with the industry and hazardous waste number and hazard code in items A to L.

A. to G. [Unchanged.]

H. Iron and steel:

(1) [Unchanged.]

(2) K062, spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry that are classified as number 331 or 332 facilities under the Standard Industrial Classification Manual: (C,T) (1972), which is incorporated by reference. This document is prepared and issued by the Executive Office of the President, Office of Management and Budget, Statistical Policy Division. It is not subject to frequent change. It is available through the Minitex interlibrary loan system.

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I. to L. [Unchanged.]

Subp. 4. **Discarded commercial chemical products, off specification species, containers, and spill residues.** The following materials or items are hazardous wastes when they are discarded or intended to be discarded as described in part 7045.0020, subpart 18; when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment; when they are otherwise applied to the land in lieu of their original intended use; when they are contained in products that are applied to the land in lieu of their original intended use; or when, in lieu of their original intended use, they are produced for use as, or as a component of a fuel, distributed for use as a fuel, or burned as a fuel.

A. to F. [Unchanged.]

Subp. 5. [Unchanged.]

7045.0452 GENERAL FACILITY STANDARDS.

Subpart 1. to 4. [Unchanged.]

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

A. and B. [Unchanged.]

C. The frequency of inspection may vary for the items on the schedule. However, it must be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunctions or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. The inspection schedule must include the terms and frequencies called for in parts 7045.0526, subpart 5; 7045.0528, subparts 4, 5, and 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0538, subpart 5; 7045.0539, subpart 3; and 7045.0542, subpart 7, where applicable. The inspection schedule must be submitted with the permit application. The commissioner shall evaluate the schedule along with the rest of the application to

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ensure that it adequately protects human health and the environment. As part of this review, the commissioner may modify or amend the schedule as necessary.

D. and E. [Unchanged.]

7045.0460 LOCATION STANDARDS.

Subpart 1. **Floodplains.** A facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood unless the owner or operator can demonstrate to the commissioner that the conditions in item A or B are met:

A. [Unchanged.]

B. For existing surface impoundments, waste piles, land treatment units, landfills, and miscellaneous units, no adverse effects on human health or the environment will result if washout occurs, considering:

(1) to (4) [Unchanged.]

Subp. 2. and 3. [Unchanged.]

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 G. [Unchanged.]

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

I. to L. [Unchanged.]

7045.0484 GROUNDWATER PROTECTION.

Subpart 1. to 13. [Unchanged.]

Subp. 14. **Corrective action program.** An owner or operator required to establish a corrective action program shall perform the following:

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A. to D. [Unchanged.]

E. In addition to the other requirements the owner or operator shall conduct a corrective action program to remove or treat in place hazardous constituents established under subpart 4 that exceed concentration limits in groundwater established under subparts 6, 7, and 8:

(1) between the compliance point established under subpart 9 and the downgradient property boundary; and

(2) beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the commissioner that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake the action. The owner or operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address the releases will be determined on a case-by-case basis.

Corrective action measures must be initiated and completed within a reasonable period of time considering the extent and magnitude of contamination. If the owner, operator, or commissioner determines that corrective action measures are not initiated or completed within a reasonable period of time considering the extent and magnitude of contamination, the owner or operator shall cease accepting wastes at the facility.

Corrective action measures may be terminated once the concentration of hazardous constituents is reduced to levels below their respective concentration limits at the compliance point and areas downgradient of the compliance point including areas beyond the facility property line.

F. to H. [Unchanged.]

7045.0485 CORRECTIVE ACTION FOR SOLID AND HAZARDOUS WASTE MANAGEMENT UNITS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Corrective actions beyond the facility boundary.**

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The owner or operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the commissioner that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake the actions. The owner or operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address the releases will be determined on a case-by-case basis. Assurances of financial responsibility for the corrective action must be provided.

7045.0486 CLOSURE.

Subpart 1. [Unchanged.]

Subp. 2. **Closure performance standard.** The owner or operator shall close the facility in a manner minimizing the need for further maintenance. Closure procedures must result in controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere, in accordance with the closure requirements, including the requirements of parts 7045.0526, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subparts 2 to 4; and 7045.0542, subpart 8.

Subp. 3. **Submittal and contents of closure plan.** The owner or operator of a hazardous waste facility shall submit a closure plan with the permit application, and the closure plan must be approved by the agency as part of the permit issuance procedure. The approved closure plan shall become a condition of any permit. The agency's approval must ensure that the approved closure plan is consistent with subparts 2, 4, and 5, and part 7045.0488, and the applicable closure requirements of parts 7045.0526, subpart 9; 7045.0532, subpart 7; 7045.0534,

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subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subpart 2; and 7045.0542, subpart 8.

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

A. A description of how each hazardous waste management unit will be closed, and how the facility will be finally closed. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility and how the requirements of subparts 2, 4, and 5, and part 7045.0488, and the applicable closure requirements of parts 7045.0526, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subpart 2; and 7045.0542, subpart 8, will be met.

B. to F. [Unchanged.]

Subp. 4. to 6. [Unchanged.]

7045.0488 CLOSURE ACTIVITIES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Disposal or decontamination of equipment, structures, and soils.** During the partial and final closure periods, all contaminated facility equipment, structures, and soils must be properly disposed of or decontaminated unless otherwise specified in part 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; or 7045.0538, subpart 7, or under the authority of part 7045.0539, subparts 2 and 4. By removing any hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that waste in accordance with all applicable requirements of parts 7045.0205

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to 7045.0304.

Subp. 4. [Unchanged.]

7045.0490 POST-CLOSURE.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Post-closure plan; amendment of plan.** A copy of the approved plan and all revisions to the plan must be furnished to the commissioner upon request, including request by mail until final closure of the facility. After final closure has been certified, the person or office in item C must keep the approved post-closure plan during the remainder of the post-closure period. For each hazardous waste management unit subject to post-closure care requirements the plan must identify the activities which will be carried on after closure and the frequency of these activities, and it must include at least:

A. a description of the planned monitoring activities and frequencies at which they will be performed to comply with parts 7045.0484 and 7045.0532 to 7045.0539 during the post-closure care period;

B. a description of the planned maintenance activities and frequencies at which they will be performed to ensure the integrity of the cap and final cover or other containment systems according to parts 7045.0532 to 7045.0539, and the function of the facility monitoring equipment according to parts 7045.0484 and 7045.0532 to 7045.0539; and

C. [Unchanged.]

7045.0492 POST-CLOSURE CARE AND USE OF PROPERTY.

Subpart 1. **Post-closure care requirements.** post-closure care requirements are as follows:

A. Post-closure care of each hazardous waste management unit subject to parts 7045.0490 to 7045.0496 must continue for 30 years after the date of completing closure of the unit and must consist of at least monitoring and reporting according to parts 7045.0484 and 7045.0532 to 7045.0539, and the maintenance of monitoring and waste containment systems, according to parts 7045.0484 and 7045.0532 to 7045.0539.

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B. to D. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

7045.0502 COST ESTIMATE FOR FACILITY CLOSURE.

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

A. to C. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

7045.0506 COST ESTIMATE FOR POST-CLOSURE CARE.

Subpart 1. **Cost estimate requirements.** The owner or operator of a facility subject to post-closure monitoring or maintenance requirements shall have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure requirements in parts 7045.0490 to 7045.0496; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; and 7045.0539, subpart 4. The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under part 7045.0492. The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is neither a parent nor a subsidiary of the owner or operator.

Subp. 2. to 4. [Unchanged.]

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7045.0518 LIABILITY REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Coverage for nonsudden accidental occurrences.** An owner or operator of a surface impoundment, landfill, land treatment facility, or miscellaneous disposal unit which is used to manage hazardous waste, or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least $3,000,000 per occurrence with an annual aggregate of at least $6,000,000, exclusive of legal defense costs. This liability coverage may be demonstrated in one of the following ways:

A. to D. [Unchanged.]

Subp. 3. to 7. [Unchanged.]

7045.0539 MISCELLANEOUS UNITS.

Subpart 1. **Scope.** The requirements in this part apply to owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units.

Subp. 2. **Environmental performance standards.** A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain the terms and provisions necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of parts 7045.0526 to 7045.0542 and chapter 7001 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

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A. prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the groundwater or subsurface environment, considering:

(1) the volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;

(2) the hydrologic and geologic characteristics of the unit and the surrounding area;

(3) the existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater;

(4) the quantity and direction of groundwater flow;

(5) the proximity to and withdrawal rates of current and potential groundwater users;

(6) the patterns of land use in the region;

(7) the potential for ~~depostion~~ deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food chain crops and other vegetation;

(8) the potential for health risks caused by human exposure to waste constituents; and

(9) the potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

B. prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering:

(1) the volume and physical and chemical characteristics of the waste in the unit;

(2) the effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;

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(3) the hydrologic characteristics of the unit and the surrounding area, including the topography of the land around the unit;

(4) the patterns of precipitation in the region;

(5) the quantity, quality, and direction of groundwater flow;

(6) the proximity of the unit to surface waters;

(7) the current and potential uses of nearby surface waters and any water quality standards established for those surface waters;

(8) the existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;

(9) the patterns of land use in the region;

(10) the potential for health risks caused by human exposure to waste constituents; and

(11) the potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

C. prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering:

(1) the volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols, and particulates;

(2) the effectiveness and reliability of systems and structures to reduce or prevent emissions of hazardous constituents to the air;

(3) the operating characteristics of the unit;

(4) the atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;

(5) the existing quality of the air, including other sources of contamination and their cumulative impact on the air;

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(6) the potential for health risks caused by human exposure to ~~hazardous~~ waste constituents; and

(7) the potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

Subp. 3. **Monitoring, analysis, inspection, response, reporting, and corrective action.** Monitoring, testing, analytical data, inspections, response, and reporting procedures and frequencies shall ensure compliance with subpart 2; parts 7045.0452, subpart 5; 7045.0462, subpart 4; 7045.0482, subparts 2 to 4; and 7045.0485, as well as meet any additional requirements needed to protect human health and the environment as specified in the permit.

Subp. 4. **Post-closure care.** A miscellaneous unit that is a disposal unit shall be maintained in a manner that complies with subpart 2 during the post-closure care period. In addition, if a treatment or storage unit has contaminated soils or groundwater that cannot be completely removed or decontaminated during closure, then that unit shall also meet the requirements of subpart 2 during post-closure care. The post-closure plan under part 7045.0490 must specify the procedures that will be used to satisfy this requirement.

7045.0665 USE CONSTITUTING DISPOSAL.

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

A. without mixing with other substances; or

B. after mixing or combination with any other substances.

Products produced for the general public's use that are used in a manner constituting disposal and that contain recyclable wastes that have undergone a chemical reaction in the course of producing a product so as to become inseparable by physical means are exempt from regulation under this part.

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Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation under this chapter.

Subp. 2. to 4. [Unchanged.]

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STATE OF MINNESOTA
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APR 21 1989

Joan Anderson Growe
Secretary of State JH

11:00 AM

APPROVED AS TO FORM AND LEGALITY

April 20 19 89

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Casserly
SPECIAL ASSISTANT ATTORNEY GENERAL

11:00

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

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 twentieth day of December 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, treatment, storage, and disposal of hazardous waste, Minn. Rules pts. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045,0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665, 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 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 20th day of December, 1988.

Gerald L. Willet

Gerald L. Willet
Commissioner

Pollution Control Agency

Proposed Permanent Rules Relating to Management of Hazardous Waste

Rules as Proposed

7001.0520 PERMIT REQUIREMENTS.

Subpart 1. **Permit required.** Except as provided in subpart 2, no person may do any of the following without obtaining a hazardous waste facility permit from the agency:

A. to D. [Unchanged.]

Owners or operators of surface impoundments, landfills, land treatment units, and waste piles that received wastes after July 26, 1982, or that certified closure according to part 7045.0596, subpart 4, after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal as provided in subparts 5 and 6. If a post-closure permit is required, the permit must address the applicable groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements in chapter 7045.

Subp. 2. to 4. [Unchanged.]

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

A. If the owner or operator has submitted a Part B application for a post-closure permit, the owner or operator may request a determination, based on information contained in the application, that the applicable closure by removal requirements in part 7045.0532, subpart 7; 7045.0536, subpart 8; or 7045.0534, subpart 7, were met. If the agency determines that

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the applicable closure by removal requirements were met, the agency will notify the public of this determination, allow for public comment, and reach a final determination as described in subpart 6.

B. If the owner or operator has not submitted a Part B application for a post-closure permit, the owner or operator may petition the agency for a determination that a post-closure permit is not required. The petition must include data demonstrating that the closure by removal or decontamination requirements in part 7045.0532, subpart 7; 7045.0536, subpart 8; or 7045.0534, subpart 7, were met. The agency shall approve or deny the petition as described in subpart 6.

Subp. 6. **Procedures for closure equivalency determination.** If a facility owner or operator seeks an equivalency demonstration under subpart 5, the agency will proceed as follows:

A. The agency will provide the public, through a notice published in a newspaper of general circulation, the opportunity to submit written comments on the information submitted by the owner or operator. The public comment period will be for 30 days from the date of the notice.

B. The agency will hold a public informational meeting if the agency believes that a meeting will clarify the equivalence of the closure to the applicable closure by removal requirements in part 7045.0532, subpart 7; 7045.0536, subpart 8; or 7045.0534, subpart 7. The agency will give public notice of the meeting at least 30 days before the meeting. Public notice of the meeting may be given at the same time as the notice for public comment described in item A, and the two notices may be combined.

C. The agency shall determine whether the closure met the applicable closure by removal or decontamination requirements in part 7045.0532, subpart 7; 7045.0536, subpart 8; or 7045.0534, subpart 7, within 90 days of receipt of the equivalency determination request. If the agency determines that the closure did not meet the applicable closure standards,

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the agency will provide the owner or operator with a written statement of the reasons why the closure failed to meet the applicable requirements. The owner or operator may submit additional information in support of an equivalency determination within 30 days after receiving the agency's written statement. The agency will review any additional information submitted and make a final determination within 60 days.

If the agency determines that the facility did not close in accordance with the applicable closure by removal standards in part 7045.0532, subpart 7; 7045.0536, subpart 8; or 7045.0534, subpart 7, the facility is subject to post-closure permitting requirements.

7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF APPLICATION.

Part B of the application must contain the following information:

A. to D. [Unchanged.]

E. A copy of the general inspection schedule required by part 7045.0452, subpart 5, item B, including, if applicable, the information set forth in parts 7045.0526, subpart 5; 7045.0528, subparts 5 and 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0536, subpart 4; 7045.0538, subpart 5; 7045.0539, subpart 3; and 7045.0542, subpart 7.

F. to K. [Unchanged.]

L. A copy of the closure plan and, where applicable, the post-closure plan required by parts 7045.0486, 7045.0490, and 7045.0528, subpart 9, including, if applicable, the specific information in parts 7045.0526, subpart 9; 7045.0528, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subparts 2 and 4; and 7045.0542, subpart 8.

M. to U. [Unchanged.]

7001.0625 PART B INFORMATION REQUIREMENTS FOR MISCELLANEOUS UNITS.

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Except as otherwise provided in part 7045.0539, if the applicant proposes to treat, store, or dispose of hazardous waste in miscellaneous units, the applicant shall furnish the information in items A to E in addition to the information required by part 7001.0560:

A. A detailed description of the unit being used or proposed for use, including the following:

(1) physical characteristics, materials of construction, and dimensions of the unit;

(2) detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of part 7045.0539, subparts 2 and 3; and

(3) for disposal units, a detailed description of the plans to comply with the post-closure requirements of part 7045.0539, subpart 4.

B. Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of part 7045.0539, subpart 2. If the applicant can demonstrate that the applicant does not violate the environmental performance standards of part 7045.0539, subpart 2, and the commissioner agrees with the demonstration, then preliminary hydrologic, geologic, and meteorologic assessments will suffice.

C. Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of the exposures.

D. For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

E. Any additional information determined by the commissioner to be necessary for evaluation of compliance of the unit with the environmental performance standards of part 7045.0539, subpart 2.

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7001.0640 ADDITIONAL PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS, WASTE PILES, LAND TREATMENT UNITS, AND LANDFILLS.

Subpart 1. **Groundwater protection.** The additional information designated in items A to ~~G~~ H regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing surface impoundments, waste piles, land treatment units, and landfills, except as otherwise provided in part 7045.0484, subpart 1, item B, and must be submitted with Part B of the permit application. The following information is in addition to the information requirements of parts 7001.0560, 7001.0590, 7001.0600, 7001.0610, and 7001.0620:

A. to G. [Unchanged.]

H. For each solid waste management unit at a facility seeking a permit:

(1) designate the location of the unit on the topographic map required under part 7001.0560, item R;

(2) designate the type of unit;

(3) provide the general dimensions and a structural description and supply any available drawings;

(4) specify when the unit was operated;

(5) specify all of the wastes that have been managed at the unit, to the extent available;

(6) submit all available information pertaining to any release of hazardous wastes or hazardous constituents from each solid waste management unit at the facility; and

(7) conduct and provide the results of sampling and analysis of groundwater, land surface and subsurface strata, surface water, or air, which may include the installation of wells, where the commissioner determines it is necessary to complete a facility assessment that will determine if a more complete investigation is necessary.

Subp. 2. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. to 48. [Unchanged.]

Subp. 49. **Landfill.** "Landfill" means a disposal facility

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or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, ~~or~~ an underground injection well, a salt dome formation, a salt bed formation, an underground mine, or a cave.

Subp. 50. to 58. [Unchanged.]

Subp. 58a. **Miscellaneous unit.** "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well, or unit eligible for a research, development, and demonstration permit under part 7001.0712.

Subp. 59. to 109. [Unchanged.]

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Hazardous waste from specific sources.** Hazardous wastes from specific sources are listed with the industry and hazardous waste number and hazard code in items A to L.

A. to G. [Unchanged.]

H. Iron and steel:

(1) [Unchanged.]

(2) K062, spent pickle liquor generated by steel finishing operations of ~~plants that produce iron or steel~~ facilities within the iron and steel industry that are classified as number 331 or 332 facilities under the Standard Industrial Classification Manual: (C,T) (1972), which is incorporated by reference. This document is prepared and issued by the Executive Office of the President, Office of Management and Budget, Statistical Policy Division. It is not subject to frequent change. It is available through the Minitex interlibrary loan system.

I. to L. [Unchanged.]

Subp. 4. **Discarded commercial chemical products, off specification species, containers, and spill residues.** The

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following materials or items are hazardous wastes when they are discarded or intended to be discarded as described in part 7045.0020, subpart 18; when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment; when they are otherwise applied to the land in lieu of their original intended use; when they are contained in products that are applied to the land in lieu of their original intended use; or when, in lieu of their original intended use, they are produced for use as, or as a component of a fuel, distributed for use as a fuel, or burned as a fuel.

A. to F. [Unchanged.]

Subp. 5. [Unchanged.]

7045.0452 GENERAL FACILITY STANDARDS.

Subpart 1. to 4. [Unchanged.]

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

A. and B. [Unchanged.]

C. The frequency of inspection may vary for the items on the schedule. However, it must be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunctions or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. The inspection schedule must include the terms and frequencies called for in parts 7045.0526, subpart 5; 7045.0528, subparts 4, 5, and 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0538, subpart 5; 7045.0539, subpart 3; and 7045.0542, subpart 7, where applicable. The inspection schedule must be submitted with the permit application. The commissioner shall evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the commissioner may modify or amend the schedule as necessary.

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D. and E. [Unchanged.]

7045.0460 LOCATION STANDARDS.

Subpart 1. **Floodplains.** A facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood unless the owner or operator can demonstrate to the commissioner that the conditions in item A or B are met:

A. [Unchanged.]

B. For existing surface impoundments, waste piles, land treatment units, and landfills, and miscellaneous units, no adverse effects on human health or the environment will result if washout occurs, considering:

(1) to (4) [Unchanged.]

Subp. 2. and 3. [Unchanged.]

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 G. [Unchanged.]

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

I. to L. [Unchanged.]

7045.0484 GROUNDWATER PROTECTION.

Subpart 1. to 13. [Unchanged.]

Subp. 14. **Corrective action program.** An owner or operator required to establish a corrective action program shall perform the following:

A. to D. [Unchanged.]

E. In addition to the other requirements the owner or operator shall conduct a corrective action program to remove or

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treat in place hazardous constituents that exceed concentration limits in groundwater ~~that has passed the compliance point. The permit must specify the measures to be taken.~~:

(1) between the compliance point and the downgradient property boundary; and

(2) beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the commissioner that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake the action. The owner or operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address the releases will be determined on a case-by-case basis.

Corrective action measures must be initiated and completed within a reasonable period of time considering the extent and magnitude of contamination. If the owner, operator, or commissioner determines that corrective action measures are not initiated or completed within a reasonable period of time considering the extent and magnitude of contamination, the owner or operator shall cease accepting wastes at the facility.

Corrective action measures may be terminated once the concentration of hazardous constituents is reduced to levels below their respective concentration limits at the compliance point and areas downgradient of the compliance point including areas beyond the facility property line.

F. to H. [Unchanged.]

7045.0485 CORRECTIVE ACTION FOR SOLID AND HAZARDOUS WASTE MANAGEMENT UNITS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Corrective actions beyond the facility boundary.** The owner or operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment, unless the owner or operator

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demonstrates to the satisfaction of the commissioner that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake the actions. The owner or operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address the releases will be determined on a case-by-case basis. Assurances of financial responsibility for the corrective action must be provided.

7045.0486 CLOSURE.

Subpart 1. [Unchanged.]

Subp. 2. **Closure performance standard.** The owner or operator shall close the facility in a manner minimizing the need for further maintenance. Closure procedures must result in controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere, in accordance with the closure requirements, including the requirements of parts 7045.0526, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subparts 2 to 4; and 7045.0542, subpart 8.

Subp. 3. **Submittal and contents of closure plan.** The owner or operator of a hazardous waste facility shall submit a closure plan with the permit application, and the closure plan must be approved by the agency as part of the permit issuance procedure. The approved closure plan shall become a condition of any permit. The agency's approval must ensure that the approved closure plan is consistent with subparts 2, 4, and 5, and part 7045.0488, and the applicable closure requirements of parts 7045.0526, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subpart 2; and 7045.0542, subpart 8.

A copy of the approved closure plan and all revisions to

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

A. A description of how each hazardous waste management unit will be closed, and how the facility will be finally closed. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility and how the requirements of subparts 2, 4, and 5, and part 7045.0488, and the applicable closure requirements of parts 7045.0526, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subpart 2; and 7045.0542, subpart 8, will be met.

B. to F. [Unchanged.]

Subp. 4. to 6. [Unchanged.]

7045.0488 CLOSURE ACTIVITIES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Disposal or decontamination of equipment, structures, and soils.** During the partial and final closure periods, all contaminated facility equipment, structures, and soils must be properly disposed of or decontaminated unless otherwise specified in ~~parts~~ part 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8~~, and~~; or 7045.0538, subpart 7, or under the authority of part 7045.0539, subparts 2 and 4. By removing any hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that waste in accordance with all applicable requirements of parts 7045.0205 to 7045.0304.

Subp. 4. [Unchanged.]

7045.0490 POST-CLOSURE.

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Subpart 1. and 2. [Unchanged.]

Subp. 3. **Post-closure plan; amendment of plan.** A copy of the approved plan and all revisions to the plan must be furnished to the commissioner upon request, including request by mail until final closure of the facility. After final closure has been certified, the person or office in item C must keep the approved post-closure plan during the remainder of the post-closure period. For each hazardous waste management unit subject to post-closure care requirements the plan must identify the activities which will be carried on after closure and the frequency of these activities, and it must include at least:

A. a description of the planned monitoring activities and frequencies at which they will be performed to comply with parts 7045.0484 and 7045.0532 to ~~7045.0538~~ 7045.0539 during the post-closure care period;

B. a description of the planned maintenance activities and frequencies at which they will be performed to ensure the integrity of the cap and final cover or other containment systems according to parts 7045.0532 to ~~7045.0538~~ 7045.0539, and the function of the facility monitoring equipment according to parts 7045.0484 and 7045.0532 to ~~7045.0538~~ 7045.0539; and

C. [Unchanged.]

7045.0492 POST-CLOSURE CARE AND USE OF PROPERTY.

Subpart 1. **Post-closure care requirements.** post-closure care requirements are as follows:

A. Post-closure care of each hazardous waste management unit subject to parts 7045.0490 to 7045.0496 must continue for 30 years after the date of completing closure of the unit and must consist of at least monitoring and reporting according to parts 7045.0484 and 7045.0532 to ~~7045.0538~~ 7045.0539, and the maintenance of monitoring and waste containment systems, according to parts 7045.0484 and 7045.0532 to ~~7045.0538~~ 7045.0539.

B. to D. [Unchanged.]

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Subp. 2. to 4. [Unchanged.]

7045.0502 COST ESTIMATE FOR FACILITY CLOSURE.

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

A. to C. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

7045.0506 COST ESTIMATE FOR POST-CLOSURE CARE.

Subpart 1. **Cost estimate requirements.** The owner or operator of a facility subject to post-closure monitoring or maintenance requirements shall have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure requirements in parts 7045.0490 to 7045.0496; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; and 7045.0538, subpart 7; and 7045.0539, subpart 4. The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under part 7045.0492. The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is neither a parent nor a subsidiary of the owner or operator.

Subp. 2. to 4. [Unchanged.]

7045.0518 LIABILITY REQUIREMENTS.

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Subpart 1. [Unchanged.]

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

A. to D. [Unchanged.]

Subp. 3. to 7. [Unchanged.]

7045.0539 MISCELLANEOUS UNITS.

Subpart 1. **Scope.** The requirements in this part apply to owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units.

Subp. 2. **Environmental performance standards.** A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain the terms and provisions necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of parts 7045.0526 to 7045.0542 and chapter 7001 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

A. prevention of any releases that may have adverse

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effects on human health or the environment due to migration of waste constituents in the groundwater or subsurface environment, considering:

(1) the volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;

(2) the hydrologic and geologic characteristics of the unit and the surrounding area;

(3) the existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater;

(4) the quantity and direction of groundwater flow;

(5) the proximity to and withdrawal rates of current and potential groundwater users;

(6) the patterns of land use in the region;

(7) the potential for depostion or migration of waste constituents into subsurface physical structures, and into the root zone of food chain crops and other vegetation;

(8) the potential for health risks caused by human exposure to waste constituents; and

(9) the potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

B. prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering:

(1) the volume and physical and chemical characteristics of the waste in the unit;

(2) the effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;

(3) the hydrologic characteristics of the unit and the surrounding area, including the topography of the land

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around the unit;

(4) the patterns of precipitation in the region;

(5) the quantity, quality, and direction of groundwater flow;

(6) the proximity of the unit to surface waters;

(7) the current and potential uses of nearby surface waters and any water quality standards established for those surface waters;

(8) the existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;

(9) the patterns of land use in the region;

(10) the potential for health risks caused by human exposure to waste constituents; and

(11) the potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

C. prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering:

(1) the volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols, and particulates;

(2) the effectiveness and reliability of systems and structures to reduce or prevent emissions of hazardous constituents to the air;

(3) the operating characteristics of the unit;

(4) the atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;

(5) the existing quality of the air, including other sources of contamination and their cumulative impact on the air;

(6) the potential for health risks caused by human exposure to hazardous constituents; and

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(7) the potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

Subp. 3. **Monitoring, analysis, inspection, response, reporting, and corrective action.** Monitoring, testing, analytical data, inspections, response, and reporting procedures and frequencies shall ensure compliance with subpart 2; parts 7045.0452, subpart 5; 7045.0462, subpart 4; 7045.0482, subparts 2 to 4; and 7045.0485, as well as meet any additional requirements needed to protect human health and the environment as specified in the permit.

Subp. 4. **Post-closure care.** A miscellaneous unit that is a disposal unit shall be maintained in a manner that complies with subpart 2 during the post-closure care period. In addition, if a treatment or storage unit has contaminated soils or groundwater that cannot be completely removed or decontaminated during closure, then that unit shall also meet the requirements of subpart 2 during post-closure care. The post-closure plan under part 7045.0490 must specify the procedures that will be used to satisfy this requirement.

7045.0665 USE CONSTITUTING DISPOSAL.

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

A. without mixing with other substances; or

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

~~C. after combination with any other substances if the resulting material is not produced for the general public's use.~~ Products produced for the general public's use that are used in a manner constituting disposal and that contain recyclable wastes that have undergone a chemical reaction in the

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course of producing a product so as to become inseparable by physical means are exempt from regulation under this part. Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation under this chapter.

Subp. 2. to 4. [Unchanged.]

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Management of Hazardous Waste

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapters 7001, 7045

INCORPORATIONS BY REFERENCE:

Part 7045.0135, subpart 3.

Standard Industrial Classification Manual, prepared and published by Executive Office of the President, Office of Management and Budget, Statistical Policy Division.

The attached rules are approved for publication in the State Register

Paul M. Marinac
Assistant Deputy Revisor

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management of Hazardous Waste, Minn. Rules Pts. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665

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).

All persons have until 4:30 p.m. on February 9, 1989, 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 the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendments 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 submitted to:

Patrick Carey
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7767

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, if adopted, will pertain to the following:

1. Permitting and technical standards for miscellaneous hazardous waste management units. The amendments provide permitting and technical standards for hazardous waste management technologies that are not covered by the existing hazardous waste rules.

2. The codification of additional corrective action and permit provisions related to hazardous waste management facilities.

3. The definition of hazardous waste. The amendments provide a technical correction to the existing definition of hazardous waste.

4. The listing of spent pickle liquor. The amendments provide a technical correction to the listing of spent pickle liquor already existing in the hazardous waste rules.

The MPCA is proposing these amendments in response to amendments to the federal hazardous waste regulations promulgated by the U.S. Environmental Protection Agency on December 10, 1987; December 1, 1987; June 5, 1987; and August 3, 1987, respectively. One free copy of the rule amendments is available upon request from Patrick Carey at the address and telephone number 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 Patrick Carey upon request.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules will have a minimal impact on small businesses. Since the amendments are based on federal regulations, incorporation of these provisions into the state rules will not impose any additional requirements on the owners and operators of hazardous waste facilities than would be imposed if Minnesota's rules were not equivalent.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and the required 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 of this material 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 as adopted, must submit a written request to Patrick Carey at the address stated above.

Dated: 12-23-88

Gerald L. Willet

GERALD L. WILLET
Commissioner

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. 7001.0520, 7001.0560,
7001.0625, 7001.0640, 7045.0020,
7045.0135, 7045.0452, 7045.0460,
7045.0478, 7045.0484, 7045.0485,
7045.0486, 7045.0488, 7045.0490,
7045.0492, 7045.0502, 7045.0506,
7045.0518, 7045.0539, and 7045.0665

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 "Agency") governing the management, treatment, storage, and disposal of hazardous waste. These amendments to the state hazardous waste rules will incorporate four sets of amendments to the federal hazardous waste regulations promulgated by the U.S. Environmental Protection Agency (hereinafter "EPA"). The proposed amendments pertain to the following:

A. Permitting and technical standards for miscellaneous hazardous waste management units. The amendments provide permitting and technical standards for hazardous waste management technologies that are not covered by the existing hazardous waste rules.

B. The codification of additional corrective action and permit provisions related to hazardous waste management facilities.

C. The definition of hazardous waste. The amendments provide a technical correction to the existing definition of hazardous waste.

D. The listing of spent pickle liquor. The amendments provide a technical correction to the listing of spent pickle liquor already existing in the hazardous waste rules.

EPA's version of these amendments were promulgated and published in the Federal Register on December 10, 1987 (see Exhibit 1); December 1, 1987 (see Exhibit 2); June 5, 1987 (see Exhibit 3); and August 3, 1987 (see Exhibit 4), respectively. The federal amendments pertaining to miscellaneous units, the definition of hazardous waste, and the listing of spent pickle liquor were promulgated by EPA under the authority of the Resource Conservation and Recovery Act (RCRA). The federal amendments pertaining to codification were promulgated by EPA under the authority of the Hazardous and Solid Waste Amendments (HSWA) of 1984.

These state rule amendments are proposed pursuant to the Agency'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 Agency's explanation of the need for the proposed amendments. Part III discusses the reasonableness of the proposed amendments. Part IV documents how the Agency has considered the methods of reducing the impact of the proposed amendments on small businesses as required by Minn. Stat. § 14.115 (1986). Part V documents the economic factors the Agency considered in drafting the amendments as required by Minn. Stat. § 116.07, subd. 6 (1986). Part VI sets forth the Agency's conclusion regarding the amendments. Part VII contains a list of exhibits relied on by the Agency to support the proposed amendments. The exhibits are available for review at the Agency's offices at 520 Lafayette Road North, 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 Agency'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 to 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 from EPA for its hazardous waste program pursuant to RCRA 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. Federal regulations promulgated under RCRA are not in effect in Minnesota until the state rules are amended to incorporate the federal changes.

The authorization Minnesota received on February 11, 1985, did not extend to those federal requirements promulgated by EPA pursuant to HSWA. Federal amendments promulgated under HSWA are in effect in Minnesota and are enforced by EPA until Minnesota modifies their program to adopt the HSWA amendments. Once a state modifies its program to adopt HSWA amendments, the state must apply for and receive authorization specifically under HSWA in order to enforce the HSWA provisions in lieu of EPA as part of the authorized state program. The existing federal regulations establish specific time frames for the adoption of state rules intended to maintain equivalency to the federal rules.

Although a state program may be more stringent than the federal requirements and states are not required to adopt less stringent federal standards, the Agency 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,

amendment of Minnesota's hazardous waste rules to incorporate EPA's amendments is desirable.

B. Need for Rules Protective of Human Health and the Environment.

The proposed amendments to the Minnesota hazardous waste rules are needed for the protection of human health and the environment. As more scientific evidence and technological factors become available pertaining to the management of hazardous waste, the Agency needs to respond by establishing hazardous waste management requirements that adequately protect human health and the environment.

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

The Agency is required by Minn. Stat. ch. 14 (1986) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules or amendments. The Agency proposes to incorporate the federal amendments promulgated by EPA. A complete discussion of the reasonableness of the federal amendments is presented in Exhibits 1 to 4 listed in Part VII of this document, which are hereby incorporated by reference. The reasonableness of each of the proposed amendments to the state hazardous waste rules is discussed below.

A. Minn. Rules Pt. 7001.0520 (Permit Requirements).

Minn. Rules pt. 7001.0520, subp. 1 is entitled "Permit Required" and defines the hazardous waste management activities which require a permit from the Agency. The management activities requiring a permit are specified in items A to D of subpart 1. The Agency is amending subpart 1 to add a concluding paragraph to require owners or operators of surface impoundments, landfills, land treatment units, and waste piles that received wastes after July 26, 1982, or certified closure according to interim status standards after January 26, 1983, to have a post-closure permit unless they demonstrate

that the closure meets the closure requirements currently specified in the rules. The effect of the amendment is to subject hazardous waste management units regulated under interim status standards to the same ground water monitoring, unsaturated zone monitoring, and corrective action requirements that are applicable to new permitted units. This amendment is reasonable because it ensures that the same and appropriate level of post-closure care will be given to all hazardous waste management units by providing a more environmentally protective mechanism for addressing ground water protection at closed facilities than would be obtained through interim status closure and post-closure requirements. The amendment corresponds to the federal amendment to 40 CFR § 270.1(c).

The Agency is also amending Minn. Rules pt. 7001.0520 to add two new subparts, subparts 5 and 6.

Subpart 5 is being added to provide the procedure for owners or operators, who closed their surface impoundments, land treatment units, and waste piles according to interim status standards, to demonstrate that their closed units meet the applicable closure by removal or decontamination requirements specified in the rules. The procedure for demonstrating that the applicable closure by removal or decontamination requirements have been met are described in items A and B of proposed subpart 5. The amendment is reasonable because it describes for the regulated community the actions necessary for making the applicable demonstration. Also, the procedure itself is reasonable because it will provide the Agency with the information necessary for determining whether the demonstration meets the applicable closure by removal or decontamination requirements. The amendment is equivalent to 40 CFR § 270.1(c)(5).

Subpart 6 is being added to provide the procedure by which the Agency will determine whether an owner's or operator's closure demonstration, as described above under the discussion of proposed subpart 5, meets the applicable closure by removal or decontamination requirements specified in the rules. The procedure is outlined in items A to C of proposed subpart 6. Item A allows the public 30-days to submit comments to the Agency regarding the demonstration information submitted by an owner or operator. Item B requires the Agency to hold a public meeting regarding the closure equivalency, if the Agency believes a meeting will clarify the situation. Item C establishes the time frames for both the Agency to make a closure equivalency determination and the owner or operator to submit additional information. The amendment is reasonable because it outlines for both the regulated community and the Agency the process that will be followed by the Agency in making a closure equivalency determination. The determination process itself is reasonable because it provides the owner or operator with a fair determination process which allows for the submittal of additional information and public input. The amendment is equivalent to 40 CFR § 270.1(c)(6).

B. Minn. Rules Pt. 7001.0560 (General Information Requirements for Part B of Application).

Minn. Rules pt. 7001.0560 sets out the general information to be contained in Part B of a hazardous waste permit application. The required information is specified in items A to U of Minn. Rules pt. 7001.0560.

Item E requires that Part B of a permit application must contain a copy of the general inspection schedule required by the rules as well as additional inspection information specific to the type of hazardous waste management unit seeking a permit. Minn. Rules pt. 7045.0539 entitled "Miscellaneous Units" is being added to the hazardous waste rules as a result

of these amendments, as discussed in section S, specifically for the purpose of providing technical standards for owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units. Proposed Minn. Rules pt. 7045.0539, subp. 3 sets out the inspection requirements specific to miscellaneous units. Therefore, item E of Minn. Rules pt. 7001.0560 is being amended to require the inspection information specified in Minn. Rules pt. 7045.0539, subp. 3 to be contained in Part B of a permit application for a miscellaneous unit. In this manner, miscellaneous units will be regulated the same as hazardous waste management units currently regulated. The amendment is reasonable because it addresses the addition of Proposed Minn. Rules pt. 7045.0539 which sets forth the technical standards applicable to miscellaneous units. The amendment is equivalent to 40 CFR § 270.14(b)(5). The reasonableness of adding the Minn. Rules pt. 7045.0539 miscellaneous unit standards to the rules is discussed in section S.

Item L requires that Part B of a permit application must contain a copy of the closure plan and, where applicable, the post-closure plan including additional closure and post-closure information specific to the type of hazardous waste management unit seeking a permit. As discussed above under the amendment to item E, a new part is being added to the hazardous waste rules as a result of these amendments for the purpose of providing technical standards for miscellaneous hazardous waste management units. The miscellaneous unit standards are set out in proposed Minn. Rules pt. 7045.0539. Proposed Minn. Rules pt. 7045.0539, subps. 2 and 4 set forth the closure and post-closure requirements specific to miscellaneous units. Therefore, item L of Minn. Rules pt. 7001.0560 is being amended to require the closure and post-closure information specified in Minn. Rules pt. 7045.0539, subps. 2 and 4 to be contained in Part B of a permit application for a

miscellaneous unit. In this manner, miscellaneous units will be regulated the same as hazardous waste management units currently regulated. The amendment is reasonable because it will ensure that Part B of permit applications for miscellaneous units will contain the applicable closure and post-closure information necessary to approve or deny a permit. The amendment is equivalent to 40 CFR § 270.14(b)(13).

C. Minn. Rules Pt. 7001.0625 (Part B Information Requirements for Miscellaneous Units).

The Agency is proposing to add a new part to the hazardous waste rules, Minn. Rules pt. 7001.0625 entitled "Part B Information Requirements for Miscellaneous Units." As discussed in section S, Minn. Rules pt. 7045.0539 is being added to the rules to set forth the technical standards for operating a miscellaneous unit. However, in order to operate a miscellaneous unit, the owner or operator must first obtain a permit from the Agency. In order to consider issuing a permit for a miscellaneous unit, the Agency must receive the relevant design, location, and operating information for the miscellaneous unit. All currently regulated hazardous waste management units are required to submit similar information to the Agency. Minn. Rules pts. 7001.0570, 7001.0580, 7001.0590, 7001.0600, 7001.0610, 7001.0620, and 7001.0630 set forth the Part B information requirements for containers, tanks, surface impoundments, waste piles, land treatment, landfills, and thermal treatment units, respectively.

Proposed Minn. Rules pt. 7001.0625 sets forth the Part B information requirements for miscellaneous units. The information required is specified in items A to E. The information required includes: (1) a detailed description of the physical characteristics of the unit including the materials of construction and dimensions of the unit; (2) detailed plans and

engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed; (3) post-closure plans, if the unit is a disposal unit; (4) detailed hydrologic, geologic, and meteorologic assessments and land-use maps of the region surrounding the site; (5) information relative to the exposure of humans or environmental receptors to hazardous waste or constituents; (6) if the unit is for treatment, a report on the effectiveness of the treatment; and (7) any additional data necessary to evaluate compliance of the unit with the performance standards specified in the rules.

The information requirements proposed in Minn. Rules pt. 7001.0625 are reasonable because the required information will allow the Agency to assess whether the design, location, operation, and maintenance of the unit will be such that human health and the environment will be appropriately protected. The amendment is equivalent to 40 CFR § 270.23.

D. Minn. Rules Pt. 7001.0640 (Additional Part B Information Requirements for Surface Impoundments, Waste Piles, Land Treatment Units, and Landfills).

Minn. Rules pt. 7001.0640, subp. 1 sets out additional groundwater protection information to be submitted in Part B of a permit application by owners or operators of surface impoundments, waste piles, land treatment units, and landfills. Subpart 1 is amended to add item H. Proposed item H requires additional groundwater protection information to be submitted in Part B of a permit application for each solid waste management unit at a facility for which a permit is being sought. Proposed item H requires an owner or operator to provide the following information for each solid waste management unit: (1) designate the location of the unit on the topographic map currently required by the rules; (2) designate the type of unit; (3) provide the

dimensions, a structural description, and any available drawings; (4) specify when the unit was operated; (5) specify the wastes that have been managed at the unit; (6) provide information pertaining to any hazardous waste releases from the unit; and (7) conduct and provide results of sampling and analysis of groundwater, land surface and subsurface strata, surface water, or air where necessary to complete a facility assessment.

The Agency believes that the analysis of existing data for solid waste management units is often necessary as part of making a preliminary assessment of releases from solid waste management units before a permit is issued, and that it should have a mechanism to require the owner or operator to provide the necessary data. The information requirements proposed in item H regarding solid waste management units are reasonable because the information will allow the Agency to determine the existence or the likelihood that there is or has been a release of hazardous waste into the environment at the facility. The required information on solid waste management units will enhance the Agency's ability to make these determinations. The amendment is equivalent to 40 CFR § 270.14(c) and (d).

E. Minn. Rules Pt. 7045.0020 (Definitions).

Minn. Rules pt. 7045.0020, subp. 49 provides a definition for the word "landfill". The Agency is amending subp. 49 to revise the existing definition of "landfill" in order to address the addition of a definition for "miscellaneous unit" which is discussed below. Existing subp. 49 defines a landfill as a disposal facility or part of a facility where hazardous waste is placed in or on land which is not a land treatment facility, a surface impoundment, or an injection well. Therefore, a landfill is a catchall category for all disposal facilities that do not meet the definition of a land treatment facility, a surface impoundment, or an injection well. However, as

discussed below, the proposed definition of "miscellaneous unit" makes miscellaneous units the new catchall category and requires a revision to the definition of "landfill". Therefore, the Agency is amending subp. 49 to limit the definition of "landfill" to a discrete category of specific types of units. Since the proposed definition for "miscellaneous unit" changes the meaning of "landfill," it is reasonable to revise the definition of "landfill" to reflect this change. The amendment is equivalent to 40 CFR § 260.10.

As stated above, the Agency is proposing to add a definition to the hazardous waste rules for "miscellaneous unit." The new definition is proposed as subp. 58a. "Miscellaneous unit" is being defined as a hazardous waste treatment, storage, or disposal unit that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well, or unit eligible for a research, development, and demonstration permit, which are all hazardous waste management units for which technical standards currently exist in the rules. Providing the definition is reasonable because it assists individuals in understanding and interpreting the rules. The amendment is equivalent to 40 CFR § 260.10.

F. Minn. Rules Pt. 7045.0135 (Lists of Hazardous Waste).

Minn. Rules pt. 7045.0135 is entitled "Lists of Hazardous Wastes." The Agency is amending subparts 3 and 4 of this rule.

Subpart 3 provides a listing of hazardous wastes from specific sources. Item H of subpart 3 provides a listing of hazardous wastes from the iron and steel industry. Specifically, item H, subitem (2) currently lists spent pickle liquor generated by steel finishing operations of plants that produce iron and steel as a hazardous waste. In the August 3, 1987, Federal Register (52 FR 28697-28698) (see Exhibit 4), the EPA amended the federal

regulations to correct the language of the listing of spent pickle liquor from steel finishing operations in order to reflect the original intent. The federal amendment clarifies that the scope for the listing of spent pickle liquor from steel finishing operations applies to all plants in the iron and steel industry and not just to the plants that actually produce the iron and steel. The Agency is amending item H, subitem (2) to incorporate the federal technical correction to the listing of spent pickle liquor. The Agency believes it is reasonable to provide the amendment in order to provide for the original intent of the listing of spent pickle liquor. The technical correction provides equivalency with 40 CFR § 261.32.

Subpart 4 lists materials which are hazardous wastes when they are discarded or intended to be discarded. In the June 5, 1987, Federal Register (52 FR 21306-21307) (see Exhibit 3), the EPA amended the federal regulations to correct the language of the listing of materials which are hazardous wastes when they are discarded or intended to be discarded. In effect, the federal technical correction changed the definition of hazardous wastes, but provided for the original intent of the definition. The federal amendment clarified that the materials listed are also hazardous when they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to the land in lieu of their original intended use. The Agency is amending subpart 4 to incorporate the federal technical correction. The amendment is reasonable because it will indicate more clearly that hazardous wastes are always subject to regulation prior to being used in a manner that constitutes disposal. This was the original intent of the requirements. The amendment is equivalent to 40 CFR § 261.33.

G. Minn. Rules Pt. 7045.0452 (General Facility Standards).

Minn. Rules pt. 7045.0452 sets out the general operating standards for all hazardous waste facilities. The Agency is amending subpart 5 of this part.

Subpart 5 sets forth the general inspection requirements for all hazardous waste facilities. By referencing the inspection requirements specific to each type of hazardous waste management unit, Item C of subpart 5 provides for the terms and frequencies of inspections to be specified in the inspection schedule for each type of hazardous waste management unit. The Agency is amending subpart 5, item C to include the reference for the inspection requirements for miscellaneous units. As discussed in section S, the Agency is proposing to establish operating standards for a new type of hazardous waste management unit, the miscellaneous unit. The proposed miscellaneous unit operating standards include inspection requirements. Therefore, providing the reference to the miscellaneous unit inspection requirements is reasonable because it will provide for the terms and frequencies of inspections for miscellaneous units to be specified in the inspection schedule in the same manner as all other hazardous waste management units. The amendment is equivalent to 40 CFR § 264.15(b)(4).

H. Minn. Rules Pt. 7045.0460 (Location Standards).

Minn. Rules pt. 7045.0460 establishes the location standards for hazardous waste facilities. The Agency is amending subpart 1 of this part.

Subpart 1 provides the location standards for facilities located in a 100-year floodplain. Specifically, subpart 1 requires that a facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste unless the owner or operator can demonstrate that the conditions in items A or B are met. The

condition specified in item B pertains to surface impoundments, waste piles, land treatment units, and landfills and requires that the owner or operator demonstrate that no adverse effects on human health or the environment will result if washout occurs. The Agency is amending item B of subpart 1 to allow the condition to apply to miscellaneous units as well. Since miscellaneous units are a newly regulated hazardous waste management unit as discussed in section S, it is reasonable to apply the applicable requirements of the existing hazardous waste rules to these units. The amendment is equivalent to 40 CFR § 264.18(b)(1)(ii).

I. Minn. Rules Pt. 7045.0478 (Operating Record).

Minn. Rules pt. 7045.0478, subp. 3 sets forth the information that must be recorded and maintained in the operating record by the facility owner or operator. The required information is specified in items A to L of subpart 3. The Agency is amending item H to require the owner or operator to record and maintain information in the operating record pertaining to corrective action activities, if required, at the facility. The amendment is reasonable because it will provide both the Agency and the owner or operator with the information necessary to determine whether corrective action activities at the facility have taken place and the adequacy of the corrective action.

The Agency is also amending item H of subpart 3 to provide a reference to the miscellaneous unit standards specified in Minn. Rules pt. 7045.0539, subp. 3. Since miscellaneous units are a newly regulated hazardous waste management unit as discussed in section S, it is reasonable to apply the applicable requirements of the existing hazardous waste rules to these units. The amendment is equivalent to 40 CFR § 264.73(b)(6).

J. Minn. Rules Pt. 7045.0484 (Groundwater Protection).

Minn. Rules pt. 7045.0484 sets forth the groundwater protection requirements for hazardous waste facilities. The Agency is amending subpart 14 of this part.

Subpart 14 establishes the corrective action program activities to be performed by a facility owner or operator. The required corrective action program activities are specified in items A to H of subpart 14. Item E currently requires the owner or operator to remove or treat hazardous constituents that exceed concentration limits in groundwater that has passed the compliance point. The Agency is amending item E to add subitems (1) and (2). Proposed subitem (1) requires the owner or operator to remove or treat hazardous constituents that exceed concentration limits in groundwater between the compliance point and the downgradient property boundary. Proposed subitem (2) requires the owner or operator to remove or treat hazardous constituents that exceed concentration limits in groundwater beyond the facility boundary, unless the owner or operator is denied access to adjacent lands despite the owner or operator's best efforts. The amendments are reasonable because the requirements will ensure that human health and the environment are protected from the adverse effects of hazardous waste releases from hazardous waste management units. The amendments are equivalent to 40 CFR § 264.100(e)(1) and (2).

K. Minn. Rules Pt. 7045.0485 (Corrective Action for Solid and Hazardous Waste Management Units).

Minn. Rules pt. 7045.0485 sets forth the corrective action requirements for solid and hazardous waste management units. The Agency is amending Minn. Rules pt. 7045.0485 to add a new subpart, subpart 3. Proposed subpart 3 requires an owner or operator to conduct corrective actions beyond

the facility property boundary, where necessary, unless the owner or operator is denied access to adjacent lands despite the owner or operator's best efforts. The Agency believes this requirement is reasonable because it will protect human health and the environment from the adverse effects of releases of hazardous constituents from solid and hazardous waste management units. Subpart 3 also requires the owner or operator to provide financial responsibility assurances for the corrective action. This requirement is reasonable because it will ensure that the owner or operator has the funds necessary to provide the required corrective action. The amendments are equivalent to 40 CFR § 264.101(c).

L. Minn. Rules Pt. 7045.0486 (Closure).

Minn. Rules pt. 7045.0486 sets forth the requirements for closing a hazardous waste facility. The closure requirements are specified in subparts 1 to 6 of Minn. Rules pt. 7045.0486. The Agency is amending subparts 2 and 3 of this part.

Subpart 2 establishes the closure performance standard. The closure performance standard requires the owner or operator to close the facility in a manner minimizing the need for further maintenance. This requires compliance with the closure requirements, which are referenced in subpart 2, specific to the type of facility being closed. Subpart 2 is being amended to provide the reference for the closure standards specific to miscellaneous units. Since miscellaneous units are a newly regulated hazardous waste management unit as discussed in section S, it is reasonable to apply the applicable requirements of the existing hazardous waste rules to these units. The amendment is equivalent to 40 CFR § 264.111(c).

Subpart 3 requires a facility owner or operator to submit a closure plan with their permit application. Subpart 3 also requires the contents of the closure plan to be consistent with the closure requirements, which are referenced in subpart 3, specific to the type of facility. Subpart 3 is being amended to add two references to the closure standards for miscellaneous units. This amendment is reasonable for the same reason provided above for the amendment to subpart 2. The amendment is equivalent to 40 CFR § 264.112(a)(2).

M. Minn. Rules Pt. 7045.0488 (Closure Activities).

Minn. Rules pt. 7045.0488 sets forth specific activities to be conducted by a facility owner or operator during closure. These closure activities are set out in subparts 1 to 4 of this part. The Agency is amending subpart 3 of this part.

Subpart 3 requires the owner or operator to properly dispose of or decontaminate all contaminated equipment, structures, and soils, unless otherwise specified in the standards, which are referenced in subpart 3, specific to the type of facility being closed. Subpart 3 is amended to provide the reference for the miscellaneous unit standards provided in the rules. The amendment is reasonable for the same reason provided in section L for the amendments to Minn. Rules pt. 7045.0486. The amendment is equivalent to 40 CFR § 264.114.

N. Minn. Rules Pt. 7045.0490 (Post-closure).

Minn. Rules pt. 7045.0490 sets forth the post-closure requirements for hazardous waste facilities. Subpart 3 of this part establishes the post-closure plan and sets forth the information to be included in the post-closure plan. The required information is specified in items A and B of subpart 3. The Agency is amending subpart 3, items A and B to reflect the

addition of standards for miscellaneous units as discussed in section S. The amendments are reasonable for the same reason provided in section L for the amendments to Minn. Rules pt. 7045.0486. The amendments are equivalent to 40 CFR §§ 264.118(b)(1) and 264.118(b)(2)(i) and (ii).

O. Minn. Rules Pt. 7045.0492 (Post-closure Care and Use of Property).

Subpart 1 of Minn. Rules pt. 7045.0492 sets forth the post-closure care requirements for hazardous waste facilities. The post-closure care requirements are specified in items A to D of subpart 1. Item A describes the monitoring, reporting, and maintenance requirements during the post-closure period of a facility. The Agency is amending item A to include the references to the monitoring, reporting, and maintenance requirements for miscellaneous units. The amendments are reasonable for the same reason provided in section L for the amendments to Minn. Rules pt. 7045.0486. The amendments are equivalent to 40 CFR § 264.117(a)(1)(i) and (ii).

P. Minn. Rules Pt. 7045.0502 (Cost Estimate for Facility Closure).

Subpart 1 of Minn. Rules pt. 7045.0502 requires the owner or operator of a hazardous waste facility to have an estimate of the cost of closing the facility in accordance with the closure requirements, which are referenced in subpart 1, specific to the type of facility. The Agency is amending subpart 1 to provide the reference to the closure requirements for miscellaneous units. The amendment is reasonable for the same reason provided in section L for the amendments to Minn. Rules pt. 7045.0486. The amendment is equivalent to 40 CFR § 264.142(a).

Q. Minn. Rules Pt. 7045.0506 (Cost Estimate for Post-closure Care).

Subpart 1 of Minn. Rules pt. 7045.0506 requires the owner or operator of a hazardous waste facility to have an estimate of the annual cost of providing post-closure care for the facility in accordance with the post-closure requirements, which are referenced in subpart 1, specific to the type of facility. The Agency is amending subpart 1 to provide the reference to the post-closure requirements for miscellaneous units. The amendment is reasonable for the same reason provided in section L for the amendments to Minn. Rules pt. 7045.0486. The amendment is equivalent to 40 CFR § 264.144(a).

R. Minn. Rules Pt. 7045.0518 (Liability Requirements).

Minn. Rules pt. 7045.0518 sets forth the liability requirements for hazardous waste facilities. Subpart 2 of this part sets forth the coverage required for nonsudden accidental occurrences at a hazardous waste facility. The Agency is amending subpart 2 to require owners or operators of miscellaneous units to provide coverage for nonsudden accidental occurrences at their facilities. The amendment is reasonable for the same reason provided in section L for the amendments to Minn. Rules pt. 7045.0486. The amendment is equivalent to 40 CFR § 264.147(b).

S. Minn. Rules Pt. 7045.0539 (Miscellaneous Units).

The state hazardous waste rules currently contain permitting and operating standards for specific types of hazardous waste treatment, storage, and disposal units, including containers, tanks, surface impoundments, waste piles, land treatment units, landfills, thermal treatment units, and research, development, and demonstration facilities. However, some hazardous waste management technologies are not covered by the existing hazardous waste management rules. Technologies not currently covered include: open

burning/open detonation of explosive wastes; certain chemical, physical, and biological treatment units; and certain thermal treatment technologies. Therefore, owners and operators of hazardous waste management units utilizing these technologies cannot obtain the permit necessary to operate them.

In order to issue permits to operate hazardous waste management units utilizing technologies that are not currently covered by the existing hazardous waste regulations, the EPA amended the federal regulations on December 1, 1987, to provide technical operating standards applicable to owners and operators of new and existing hazardous waste management units not covered under the existing regulations (52 FR 45788-45799)(see Exhibit 1).

The Agency is proposing to add a new part to Minnesota's hazardous waste rules to incorporate the federal miscellaneous unit standards. The proposed miscellaneous unit technical operating standards are set out in Minn. Rules pt. 7045.0539. Specifically, the amendments are set forth in subparts 1 to 4 of Minn. Rules pt. 7045.0539.

Proposed subpart 1 defines the scope of the requirements of this part by specifying that the requirements set forth in Minn. Rules pt. 7045.0539 apply to owners and operators of miscellaneous units. Providing the scope of the requirements is reasonable because it will assist the regulated community in locating and understanding the applicable requirements in the rules. The amendment is equivalent to 40 CFR § 264.600.

Proposed subpart 2 sets forth the environmental performance standard for miscellaneous units. The environmental performance standard requires that a miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that protects human health and the environment. The permit must contain the terms necessary to maintain the

performance standard. Items A to C of subpart 2 define the steps necessary to protect human health and the environment.

Specifically, item A of subpart 2 requires the prevention of releases affecting the groundwater or subsurface environment, considering: (1) the volume and characteristics of the waste in the unit, including the potential for migration from the unit; (2) the hydrologic and geologic characteristics of the unit and the surrounding area; (3) the existing quality of groundwater; (4) the quantity and direction of groundwater flow; (5) the proximity to and withdrawal rates of current and potential groundwater users; (6) the land use patterns in the area; (7) the potential for migration of hazardous constituents into subsurface structures and the root zone of food chain crops and other vegetation; (8) the health risks caused by human exposure to hazardous constituents; and (9) the potential damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to hazardous constituents.

Item B of subpart 2 requires the prevention of releases affecting surface water, wetlands, or the soil surface, considering: (1) the volume and characteristics of the waste in the unit; (2) the effectiveness of containment and collection systems in preventing migration; (3) the hydrologic and topographic characteristics of the unit and surrounding area; (4) the precipitation patterns in the region; (5) the quantity, quality, and direction of groundwater flow; (6) the proximity of the unit to surface waters; (7) the uses of nearby surface waters and any water quality standards established for those waters; (8) the quality of surface waters and surface soils; (9) the land use patterns in the area; (10) the potential health risks caused by human exposure to hazardous constituents; and (11) the potential for damage to

domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to hazardous constituents.

Item C of subpart 2 requires the prevention of releases affecting the air, considering: (1) the volume and characteristics of the waste in the unit, including the potential for the emission of gases, aerosols, and particulates; (2) the effectiveness of systems and structures to prevent emissions of hazardous constituents to the air; (3) the operating characteristics of the unit; (4) the atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area; (5) the existing quality of the air; (6) the potential for health risks caused by human exposure to hazardous constituents; and (7) the potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to hazardous constituents.

The requirements proposed in subpart 2 are reasonable because they will ensure that human health and the environment are appropriately protected from the adverse effects of hazardous waste and hazardous constituents migrating from a miscellaneous unit. The requirements also provide the regulated community with a thorough understanding of what is expected of them in operating a miscellaneous unit. The amendments are equivalent to 40 CFR § 264.601.

Proposed subpart 3 of Minn. Rules pt. 7045.0539 sets forth the monitoring, analysis, inspection, response, reporting, and corrective action requirements for miscellaneous units. The amendments are reasonable because the information provided by monitoring, analysis, inspections, and reporting will allow the Agency and the permittee to assess whether human health and the environment are being appropriately protected from the adverse effects of the operation of the facility. The response and corrective action requirements

will also ensure that human health and the environment will be appropriately protected. In this manner, miscellaneous units will be regulated the same as the other hazardous waste management units currently regulated in the hazardous waste rules. The amendments are equivalent to 40 CFR § 264.602.

Proposed subpart 4 sets forth the post-closure care requirements for miscellaneous units. The requirements are consistent with the post-closure care requirements specified in the rules for other types of hazardous waste management units. The amendment is reasonable because it will ensure that human health and the environment are protected from the adverse effects of hazardous wastes and constituents located at a miscellaneous unit after the unit is closed. The amendment is equivalent to 40 CFR § 264.603.

T. Minn. Rules Pt. 7045.0665 (Use Constituting Disposal).

Minn. Rules pt. 7045.0665 sets forth the requirements for hazardous wastes used in a manner that constitutes disposal. The Agency is proposing to amend subpart 1 of this part.

Subpart 1 of Minn. Rules pt. 7045.0665 defines the scope of this part and specifically defines "use constituting disposal." Subpart 1 is amended to clarify the existing definition of "use constituting disposal" and to delete redundancies in the existing language. The amendment is reasonable because it clarifies the existing language provided in this requirement and, therefore, the requirement is easier to understand. The amendment is equivalent to 40 CFR § 266.20(a)(2).

IV. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 14.115, subd. 2 (1986) requires the Agency, when proposing amendments to existing rules which may affect small businesses, to consider the impact of the rule amendments on small business. However, the goal 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 Agency's mandate since small businesses' hazardous wastes can cause the same environmental harm as that of larger businesses.

The volume of hazardous waste generated by a business is not directly proportional to the size of the business. Many large businesses generate very small quantities of hazardous waste and conversely, a small business may generate a very large volume of hazardous waste. Therefore, it is not reasonable to impose regulations based on the size of the business because this may have little relation to the potential for mismanagement or the extent of the adverse effects on human health and the environment if the waste is mismanaged.

The amendments pertaining to miscellaneous units, the definition of hazardous waste, and the listing of spent pickle liquor are based on federal regulations promulgated under RCRA. While these more stringent amendments are not yet in effect in Minnesota, the amendments must eventually be incorporated into the state rules and must be equivalent to the federal level of regulation. The amendments pertaining to codification are based on federal regulations promulgated under HSWA. These more stringent HSWA amendments are currently in effect in Minnesota. Therefore, incorporation of these federal requirements into the state rules will not impose any additional requirements on small businesses that would not be imposed under the federal program.

Therefore, the Agency believes that these additional regulations are justifiable and do not present an unreasonable burden to small businesses that may be subject to these requirements.

V. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the Agency is required by Minn. 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 give 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 that may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

In proposing the requirements of these amendments, the Agency has given due consideration to available information as to any economic impacts the proposed amendments would have. The amendments will have some economic impacts for owners and operators of hazardous waste facilities. However, the amendments are based on federal regulations promulgated under RCRA and HSWA. Therefore, incorporation of these provisions into the state rules will not impose any additional requirements on the owners and operators of hazardous waste facilities than would be imposed if Minnesota's rules were not equivalent.

VI. CONCLUSION

The Agency has, in this document and its exhibits, made its presentation of facts establishing the need for and reasonableness of the proposed amendments to Minnesota's hazardous waste rules. This document constitutes the Agency's Statement of Need and Reasonableness for the proposed amendments to the hazardous waste rules.

VII. LIST OF EXHIBITS

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

Agency Ex. No.	Title
1	Federal Register, Vol. 52, No. 237, Pages 46946-46965, December 10, 1987.
2	Federal Register, Vol. 52, No. 230, Pages 45788-45799, December 1, 1987.
3	Federal Register, Vol. 52, No. 108, Pages 21306-21307, June 5, 1987.
4	Federal Register, Vol. 52, No. 148, Pages 28697-28698, August 3, 1987.

DATE: December 6, 1988

for Barbara Lindsey Sims
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. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

PATRICK F. CAREY, 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 (1988) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 6TH day of JANUARY, 1989.

That on the 6TH day of JANUARY, 1989, 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.

PAT F. CAREY

Subscribed and sworn to before me this 6 day of Jan., 1989.

Ardith M. Vos
Notary Public

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Proposed Permanent Rules Relating to Management of Hazardous Waste

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).

All persons have until 4:30 p.m. on February 9, 1989, 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 the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendments 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 submitted to:

Patrick Carey
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7767

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, if adopted, will pertain to the following:

1. Permitting and technical standards for miscellaneous hazardous waste management units. The amendments provide permitting and technical standards for hazardous waste management technologies that are not covered by the existing hazardous waste rules.

2. The codification of additional corrective action and permit provisions related to hazardous waste management facilities.

3. The definition of hazardous waste. The amendments provide a technical correction to the existing definition of hazardous waste.

4. The listing of spend pickle liquor. The amendments provide a technical correction to the listing of spent pickle liquor already existing in the hazardous waste rules.

The MPCA is proposing these amendments in response to amendments to the federal hazardous waste regulations promulgated by the U.S. Environmental Protection Agency on December 10, 1987; December 1, 1987; June 5, 1987; and August 3, 1987, respectively. The proposed rule amendments are published below. One free copy of the rule amendments is available upon request from Patrick Carey at the address and telephone number 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 Patrick Carey upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules will have a minimal impact on small businesses. Since the amendments are based on federal regulations, incorporation these provisions into the state rules will not impose any additional requirements on the owners and operators of hazardous waste ilities than would be imposed if Minnesota's rules were not equivalent.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and the required 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 of this material 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 as adopted, must submit a written request to Patrick Carey at the address stated above.

Gerald L. Willet
Commissioner

Rules as Proposed

7001.0520 PERMIT REQUIREMENTS.

Subpart 1. **Permit required.** Except as provided in subpart 2, no person may do any of the following without obtaining a hazardous waste facility permit from the agency:

A. to D. [Unchanged.]

Owners or operators of surface impoundments, landfills, land treatment units, and waste piles that received wastes after July 26, 1982, or that certified closure according to part 7045.0596, subpart 4, after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal as provided in subparts 5 and 6. If a post-closure permit is required, the permit must address the applicable groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements in chapter 7045.

Subp. 2. to 4. [Unchanged.]

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

A. If the owner or operator has submitted a Part B application for a post-closure permit, the owner or operator may request a determination, based on information contained in the application, that the applicable closure by removal requirements in part 7045.0532, subpart 7, 7045.0536, subpart 8, or 7045.0534, subpart 7, were met. If the agency determines that the applicable closure by removal requirements were met, the agency will notify the public of this determination, allow for public comment, and reach a final determination as described in subpart 6.

B. If the owner or operator has not submitted a Part B application for a post-closure permit, the owner or operator may petition the agency for a determination that a post-closure permit is not required. The petition must include data demonstrating that the closure by removal or decontamination requirements in part 7045.0532, subpart 7, 7045.0536, subpart 8, or 7045.0534, subpart 7, were met. The agency shall approve or deny the petition as described in subpart 6.

Subp. 6. **Procedures for closure equivalency determination.** If a facility owner or operator seeks an equivalency demonstration under subpart 5, the agency will proceed as follows:

A. The agency will provide the public, through a notice published in a newspaper of general circulation, the opportunity to submit written comments on the information submitted by the owner or operator. The public comment period will be for 30 days from the date of the notice.

B. The agency will hold a public informational meeting if the agency believes that a meeting will clarify the equivalence of the closure to the applicable closure by removal requirements in part 7045.0532, subpart 7, 7045.0536, subpart 8, or 7045.0534, subpart 7. The agency will give public notice of the meeting at least 30 days before the meeting. Public notice of the meeting may be given at the same time as the notice for public comment described in item A, and the two notices may be combined.

C. The agency shall determine whether the closure met the applicable closure by removal or decontamination requirements in part 7045.0532, subpart 7, 7045.0536, subpart 8, or 7045.0534, subpart 7, within 90 days of receipt of the equivalency determination request. If the agency determines that the closure did not meet the applicable closure standards, the agency will provide the owner or operator with a written statement of the reasons why the closure failed to meet the applicable requirements. The owner or operator may submit additional information in support of an equivalency determination within 30 days after receiving the agency's written statement. The agency will review any additional information submitted and make a final determination within 60 days.

If the agency determines that the facility did not close in accordance with the applicable closure by removal standards in part 7045.0532, subpart 7, 7045.0536, subpart 8, or 7045.0534, subpart 7, the facility is subject to post-closure permitting requirements.

7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF APPLICATION.

Part B of the application must contain the following information:

A. to D. [Unchanged.]

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E. A copy of the general inspection schedule required by part 7045.0452, subpart 5, item B, including, if applicable, the information set forth in parts 7045.0526, subpart 5; 7045.0528, subparts 5 and 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0536, subpart 4; 7045.0538, subpart 5; 7045.0539, subpart 3, and 7045.0542, subpart 7.

F. to K. [Unchanged.]

L. A copy of the closure plan and, where applicable, the post-closure plan required by parts 7045.0486, 7045.0490, and 7045.0528, subpart 9, including, if applicable, the specific information in parts 7045.0526, subpart 9; 7045.0528, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subparts 2 and 4; and 7045.0542, subpart 8.

M. to U. [Unchanged.]

7001.0625 PART B INFORMATION REQUIREMENTS FOR MISCELLANEOUS UNITS.

Except as otherwise provided in part 7045.0539, if the applicant proposes to treat, store, or dispose of hazardous waste in miscellaneous units, the applicant shall furnish the information in items A to E in addition to the information required by part 7001.0560.

A. A detailed description of the unit being used or proposed for use, including the following:

(1) physical characteristics, materials of construction, and dimensions of the unit;

(2) detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of part 7045.0539, subparts 2 and 3; and

(3) for disposal units, a detailed description of the plans to comply with the post-closure requirements of part 7045.0539, subpart 4.

B. Detailed hydrologic, geologic, and meteorologic assessments and land use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of part 7045.0539, subpart 2. If the applicant can demonstrate that the applicant does not violate the environmental performance standards of part 7045.0539, subpart 2, and the commissioner agrees with the demonstration, then preliminary hydrologic, geologic, and meteorologic assessments will suffice.

C. Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of the exposures.

D. For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

E. Any additional information determined by the commissioner to be necessary for evaluation of compliance of the unit with the environmental performance standards of part 7045.0539, subpart 2.

7001.0640 ADDITIONAL PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS, WASTE PILES, LAND TREATMENT UNITS, AND LANDFILLS.

Subpart 1. **Groundwater protection.** The additional information designated in items A to G H regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing surface impoundments, waste piles, land treatment units, and landfills, except as otherwise provided in part 7045.0484, subpart 1, item B, and must be submitted with Part B of the permit application. The following information is in addition to the information requirements of parts 7001.0560, 7001.0590, 7001.0600, 7001.0610, and 7001.0620:

A. to G. [Unchanged.]

H. For each solid waste management unit at a facility seeking a permit:

(1) designate the location of the unit on the topographic map required under part 7001.0560, item R;

(2) designate the type of unit;

(3) provide the general dimensions and a structural description and supply any available drawings;

(4) specify when the unit was operated;

(5) specify all of the wastes that have been managed at the unit, to the extent available;

(6) submit all available information pertaining to any release of hazardous wastes or hazardous constituents from each solid waste management unit at the facility; and

(7) conduct and provide the results of sampling and analysis of groundwater, land surface and subsurface strata, surface water, or air, which may include the installation of wells, where the commissioner determines it is necessary to complete a facility assessment that will determine if a more complete investigation is necessary.

Subp. 2. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. to 48. [Unchanged.]

Subp. 49. **Landfill.** "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, ~~or~~ an underground injection well, a salt dome formation, a salt bed formation, an underground mine, or a cave.

Subp. 50. to 58. [Unchanged.]

Subp. 58a. **Miscellaneous unit.** "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well, or unit eligible for a research, development, and demonstration permit under part 7001.0712.

Subp. 59. to 109. [Unchanged.]

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Hazardous waste from specific sources.** Hazardous wastes from specific sources are listed with the industry and hazardous waste number and hazard code in items A to L.

A. to G. [Unchanged.]

H. Iron and steel:

(1) [Unchanged.]

(2) K062, spent pickle liquor generated by steel finishing operations of ~~plants that produce iron or steel~~ facilities within the iron and steel industry that are classified as number 331 or 332 facilities under the Standard Industrial Classification Manual (C.I.) (1972), which is incorporated by reference. This document is prepared and issued by the Executive Office of the President, Office of Management and Budget, Statistical Policy Division. It is not subject to frequent change. It is available through the Minitex interlibrary loan system.

I. to L. [Unchanged.]

Subp. 4. **Discarded commercial chemical products, off specification species, containers, and spill residues.** The following materials or items are hazardous wastes when they are discarded or intended to be discarded as described in part 7045.0020, subpart 18, when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, when they are otherwise applied to the land in lieu of their original intended use, when they are contained in products that are applied to the land in lieu of their original intended use, or when, in lieu of their original intended use, they are produced for use as, or as a component of a fuel, distributed for use as a fuel, or burned as a fuel.

A. to F. [Unchanged.]

Subp. 5. [Unchanged.]

7045.0452 GENERAL FACILITY STANDARDS.

Subpart 1. to 4. [Unchanged.]

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

A. and B. [Unchanged.]

C. The frequency of inspection may vary for the items on the schedule. However, it must be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunctions or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be

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inspected daily when in use. The inspection schedule must include the terms and frequencies called for in parts 7045.0526, subpart 5; 7045.0528, subparts 4, 5, and 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0538, subpart 5; 7045.0539, subpart 3; and 7045.0542, subpart 7, where applicable. The inspection schedule must be submitted with the permit application. The commissioner shall evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the commissioner may modify or amend the schedule as necessary.

D. and E. [Unchanged.]

7045.0460 LOCATION STANDARDS.

Subpart 1. **Floodplains.** A facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood unless the owner or operator can demonstrate to the commissioner that the conditions in item A or B are met:

A. [Unchanged.]

B. For existing surface impoundments, waste piles, land treatment units, ~~and~~ landfills, and miscellaneous units, no adverse effects on human health or the environment will result if washout occurs, considering:

(1) to (4) [Unchanged.]

Subp. 2. and 3. [Unchanged.]

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 G. [Unchanged.]

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

I. to L. [Unchanged.]

7045.0484 GROUNDWATER PROTECTION.

Subpart 1. to 13. [Unchanged.]

Subp. 14. **Corrective action program.** An owner or operator required to establish a corrective action program shall perform the following:

A. to D. [Unchanged.]

E. In addition to the other requirements the owner or operator shall conduct a corrective action program to remove or treat in place hazardous constituents that exceed concentration limits in groundwater ~~that has passed the compliance point. The permit must specify the measures to be taken.~~:

(1) between the compliance point and the downgradient property boundary, and

(2) beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the commissioner that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake the action. The owner or operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address the releases will be determined on a case-by-case basis.

Corrective action measures must be initiated and completed within a reasonable period of time considering the extent and magnitude of contamination. If the owner, operator, or commissioner determines that corrective action measures are not initiated or completed within a reasonable period of time considering the extent and magnitude of contamination, the owner or operator shall cease accepting wastes at the facility.

Corrective action measures may be terminated once the concentration of hazardous constituents is reduced to levels below their respective concentration limits at the compliance point and areas downgradient of the compliance point including areas beyond the facility property line.

F. to H. [Unchanged.]

7045.0485 CORRECTIVE ACTION FOR SOLID AND HAZARDOUS WASTE MANAGEMENT UNITS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Corrective actions beyond the facility boundary.** The owner or operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the commissioner that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake the actions. The owner or operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address the releases will be determined on a case-by-case basis. Assurances of financial responsibility for the corrective action must be provided.

7045.0486 CLOSURE.

Subpart 1. [Unchanged.]

Subp. 2. **Closure performance standard.** The owner or operator shall close the facility in a manner minimizing the need for further maintenance. Closure procedures must result in controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere, in accordance with the closure requirements, including the requirements of parts 7045.0526, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subparts 2 to 4; and 7045.0542, subpart 8.

Subp. 3. **Submittal and contents of closure plan.** The owner or operator of a hazardous waste facility shall submit a closure plan with the permit application, and the closure plan must be approved by the agency as part of the permit issuance procedure. The approved closure plan shall become a condition of any permit. The agency's approval must ensure that the approved closure plan is consistent with subparts 2, 4, and 5, and part 7045.0488, and the applicable closure requirements of parts 7045.0526, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subpart 2; and 7045.0542, subpart 8.

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

A. A description of how each hazardous waste management unit will be closed, and how the facility will be finally closed. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility and how the requirements of subparts 2, 4, and 5, and part 7045.0488, and the applicable closure requirements of parts 7045.0526, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subpart 2; and 7045.0542, subpart 8, will be met.

B. to F. [Unchanged.]

Subp. 4. to 6. [Unchanged.]

7045.0488 CLOSURE ACTIVITIES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Disposal or decontamination of equipment, structures, and soils.** During the partial and final closure periods, all contaminated facility equipment, structures, and soils must be properly disposed of or decontaminated unless otherwise specified in ~~parts~~ part 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; ~~and,~~ or 7045.0538, subpart 7, or under the authority of part 7045.0539, subparts 2 and 4. By removing any hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that waste in accordance with all applicable requirements of parts 7045.0205 to 7045.0304.

Subp. 4. [Unchanged.]

7045.0490 POST-CLOSURE.

Subpart 1. and 2. [Unchanged.]

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Subp. 3. **Post-closure plan; amendment of plan.** A copy of the approved plan and all revisions to the plan must be furnished to the commissioner upon request, including request by mail until final closure of the facility. After final closure has been certified, the person or office in item C must keep the approved post-closure plan during the remainder of the post-closure period. For each hazardous waste management unit subject to post-closure care requirements the plan must identify the activities which will be carried on after closure and the frequency of these activities, and it must include at least:

A. a description of the planned monitoring activities and frequencies at which they will be performed to comply with parts 7045.0484 and 7045.0532 to ~~7045.0538~~ 7045.0539 during the post-closure care period;

B. a description of the planned maintenance activities and frequencies at which they will be performed to ensure the integrity of the cap and final cover or other containment systems according to parts 7045.0532 to ~~7045.0538~~ 7045.0539, and the function of the facility monitoring equipment according to parts 7045.0484 and 7045.0532 to ~~7045.0538~~ 7045.0539; and

C. [Unchanged.]

7045.0492 POST-CLOSURE CARE AND USE OF PROPERTY.

Subpart 1. **Post-closure care requirements.** post-closure care requirements are as follows:

A. Post-closure care of each hazardous waste management unit subject to parts 7045.0490 to 7045.0496 must continue for 30 years after the date of completing closure of the unit and must consist of at least monitoring and reporting according to parts 7045.0484 and 7045.0532 to ~~7045.0538~~ 7045.0539, and the maintenance of monitoring and waste containment systems, according parts 7045.0484 and 7045.0532 to ~~7045.0538~~ 7045.0539.

B. to D. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

7045.0502 COST ESTIMATE FOR FACILITY CLOSURE.

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

A. to C. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

7045.0506 COST ESTIMATE FOR POST-CLOSURE CARE.

Subpart 1. **Cost estimate requirements.** The owner or operator of a facility subject to post-closure monitoring or maintenance requirements shall have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure requirements in parts 7045.0490 to 7045.0496, 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8, and 7045.0538, subpart 7; and 7045.0539, subpart 4. The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under part 7045.0492. The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is neither a parent nor a subsidiary of the owner or operator.

Subp. 2. to 4. [Unchanged.]

7045.0518 LIABILITY REQUIREMENTS.

Subpart 1. [Unchanged.]

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

A. to D. [Unchanged.]

Subp. 3. to 7. [Unchanged.]

7045.0539 MISCELLANEOUS UNITS.

Subpart 1. **Scope.** The requirements in this part apply to owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units.

Subp. 2. **Environmental performance standards.** A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain the terms and provisions necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of parts 7045.0526 to 7045.0542 and chapter 7001 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

A. prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the groundwater or subsurface environment, considering:

(1) the volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;

(2) the hydrologic and geologic characteristics of the unit and the surrounding area;

(3) the existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater;

(4) the quantity and direction of groundwater flow;

(5) the proximity to and withdrawal rates of current and potential groundwater users;

(6) the patterns of land use in the region;

(7) the potential for deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food chain crops and other vegetation;

(8) the potential for health risks caused by human exposure to waste constituents; and

(9) the potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

B. prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering:

(1) the volume and physical and chemical characteristics of the waste in the unit;

(2) the effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;

(3) the hydrologic characteristics of the unit and the surrounding area, including the topography of the land around the unit;

(4) the patterns of precipitation in the region;

(5) the quantity, quality, and direction of groundwater flow;

(6) the proximity of the unit to surface waters;

(7) the current and potential uses of nearby surface waters and any water quality standards established for those surface waters;

(8) the existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;

(9) the patterns of land use in the region;

(10) the potential for health risks caused by human exposure to waste constituents; and

(11) the potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

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C. prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering:

(1) the volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols, and particulates;

(2) the effectiveness and reliability of systems and structures to reduce or prevent emissions of hazardous constituents to the air;

(3) the operating characteristics of the unit;

(4) the atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;

(5) the existing quality of the air, including other sources of contamination and their cumulative impact on the air;

(6) the potential for health risks caused by human exposure to hazardous constituents; and

(7) the potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

Subp. 3. **Monitoring, analysis, inspection, response, reporting, and corrective action.** Monitoring, testing, analytical data, inspections, response, and reporting procedures and frequencies shall ensure compliance with subpart 2, parts 7045.0452, subpart 5, 7045.0462, subpart 4, 7045.0482, subparts 2 to 4; and 7045.0485, as well as meet any additional requirements needed to protect human health and the environment as specified in the permit.

Subp. 4. **Post-closure care.** A miscellaneous unit that is a disposal unit shall be maintained in a manner that complies with subpart 2 during the post-closure care period. In addition, if a treatment or storage unit has contaminated soils or groundwater that cannot be completely removed or decontaminated during closure, then that unit shall also meet the requirements of subpart 2 during post-closure care. The post-closure plan under part 7045.0490 must specify the procedures that will be used to satisfy this requirement.

7045.0665 USE CONSTITUTING DISPOSAL.

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

A. without mixing with other substances; or

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

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

Subp. 2. to 4. [Unchanged.]

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.

Department of Public Safety

Adopted Rules Relating to Deputy Registrars

The rules proposed and published at *State Register*, Volume 13, Number 16, pages 977-980, October 17, 1988 (13 S.R. 977) are adopted as proposed.

Emergency Rules

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

1) that a free copy of the proposed emergency rule is available upon request from the agency;
2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by 1) publishing notice in the *State Register*, and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Board of Marriage and Family Therapy

Adopted Emergency Rules Relating to Marriage and Family Therapy

The rules proposed and published at *State Register*, Volume 13, Number 16, pages 984-998, October 17, 1988 (13 S.R. 984) are adopted with the following modifications:

Rules as Adopted

5300.0110 [Emergency] LICENSE REQUIREMENT.

Subpart 1. **License required.** No person, other than those individuals exempt in *Minnesota Statutes*, section 148B.38, shall engage in marriage and family therapy practice, advertise the performance of such services, or use a title or description denoting

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.

Minnesota Pollution Control Agency

Division of Hazardous Waste

Notice of Intent to Solicit Outside Information Regarding Proposed Amendments to *Minnesota Rules* Chapters 7001 and 7045 Governing the Management of Hazardous Waste

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 rules governing the management of hazardous waste. Specifically, the MPCA is considering proposing amendments regarding the following:

1. Miscellaneous hazardous waste management units. The amendments would enable the MPCA to issue permits to miscellaneous waste management units not covered under the existing rules.

2. Corrective action and permitting for hazardous waste facilities. The amendments would include corrective action provisions for releases beyond the facility boundary.

3. A technical correction to the listing of spent pickle liquor from steel finishing operations. The correction would clarify that the listing for spent pickle liquor from steel finishing operations (hazardous waste no. K062) applies only to wastes generated by iron and steel facilities.

4. A technical correction to the definition of hazardous waste. The amendments would clarify the intent of the definition.

The MPCA is considering these amendments in response to amendments to the federal hazardous waste regulations promulgated by the U.S. Environmental Protection Agency on December 10, 1987, December 1, 1987, August 3, 1987, and June 5, 1987, respectively. The amendment of the MPCA rules is authorized by *Minnesota Statutes* § 116.07, subd. 4 (1986).

The MPCA requests information and opinions concerning the subject matter of these rules. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to:

Patrick F. Carey
Minnesota Pollution Control Agency
Hazardous Waste Division
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: 612/296-7767

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 September 29, 1988. Any written materials received by the MPCA shall become part of the rulemaking record in the event that the rule is amended.

Gerald L. Willet
Commissioner

Teachers Retirement Association

Notice of Regular Meeting

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Thursday, September 15, 1988 at 9:00 a.m. in Suite 500, Gallery Building, 17 West Exchange Street, St. Paul, MN to consider matters which may properly come before the Board.

Minnesota Amateur Sports Commission

Department of Trade & Economic Development

Announcement of the Minnesota Amateur Sports Commission's Capital Bonding Application Process

The Minnesota Amateur Sports Commission (MASC) will be reviewing applications for major amateur sport facility projects at the Commission's September 22, 1988 meeting.

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 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 twenty-eighth day of March, 1989, 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 hereby approves and adopts the attached amendments to the Minnesota Pollution Control Agency's rules governing the management, storage, treatment, and disposal of hazardous waste, Minn. Rules pts. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665, pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116.12, subd. 1 (1988).

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 to the rules 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 (1988).

BE IT FURTHER RESOLVED, that the Minnesota Pollution Control Agency 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 Minnesota Pollution Control Agency 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 28th day of March, 1989.

Gerald L. Willet

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management of Hazardous Waste, Minn. Rules Pts. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665

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-eighth day of March, 1989. 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 January 9, 1989 (13 SR 1724), 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 (1988) on January 6, 1989.

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 rule amendments for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on February 9, 1989.

4. No requests for public hearing were received during the comment period.

5. One request for notice of submission to the Attorney General was received by the MPCA.

6. During the comment period the MPCA received one written comment letter, that being from the U.S. Environmental Protection Agency, Region V (EPA). The MPCA finds that six modifications to the proposed rule amendments are justified by the record in this proceeding, as follows:

a. Minn. Rules pt. 7001.0520, subp. 5, item A.

The first correction is in the proposed amendment to Minn. Rules pt. 7001.0520, subp. 5, item A. Specifically, item A of proposed subp. 5 provides, in relevant part, that the MPCA will notify the public of a determination of closure equivalency, allow for public comment, and then reach a final determination as specified in the rules. The EPA commented that because the determination the MPCA makes prior to allowing for public comment is preliminary in nature, the word "proposed" should be added to item A to provide for this fact. The MPCA agrees with this comment and item A is modified to add the word "proposed" to clarify that the initial determination is preliminary. The modification is not substantive because it does not change the regulatory nature of the amendment and merely provides clarity to the intent of the requirement.

Minn. Rules pt. 7001.0520, subp. 5, item A is modified to read (Please note that the modified language includes several form changes to the rule regarding the reordering of rule cites as required by the Revisor of Statutes.):

> subp. 5. Closure by removal. Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under parts 7045.0552 to 7045.0642 must obtain a post-closure permit unless they can demonstrate to the agency that the closure met the requirements for closure by removal or decontamination in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8. The demonstration may be made in the following ways:
>
> A. If the owner or operator has submitted a Part B application for a post-closure permit, the owner or operator may request a determination, based on information contained in the application, that the applicable closure by removal requirements in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, were met. If the agency determines that the applicable closure by removal requirements were met, the agency will notify the public of this proposed determination, allow for public comment, and reach a final determination as described in subpart 6.
>
> B. [Modified as provided in Finding No. 6b below.]

b. Minn. Rules pt. 7001.0520, subp. 5, item B.

The second modification is in the proposed amendments to Minn. Rules pt. 7001.0520, subp. 5, item B. Specifically, item B of proposed subp. 5 allows an owner or operator of a regulated unit to petition the MPCA for a determination that a post-closure permit is not required. The EPA commented that proposed item B should be modified to clarify the reason why a post-closure permit would not be required. The MPCA agrees with the comment and item B is modified to include a statement clarifying that a post-closure permit would not be required because the closure met the applicable closure by removal standards specified in the rules. The modification is not substantive in nature because it does not change the regulatory nature of the requirement and merely clarifies the meaning of the requirement.

Minn. Rules pt. 7001.0520, subp. 5, item B is modified to read (Please note that the modified language includes two form changes to the rule regarding the reordering of rule cites as required by the Revisor of Statutes.):

> subp. 5. Closure by removal. Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under parts 7045.0552 to 7045.0642 must obtain a post-closure permit unless they can demonstrate to the agency that the closure met the requirements for closure by removal or decontamination in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8. The demonstration may be made in the following ways:
>
> A. [Modified as provided in Finding No. 6a above.]
>
> B. If the owner or operator has not submitted a Part B application for a post-closure permit, the owner or operator may petition the agency for a determination that a post-closure permit is not required because closure met the closure by removal requirements in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536, subpart 8. The petition must include data demonstrating that the closure by removal or decontamination requirements in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, were met. The agency shall approve or deny the petition as described in subpart 6.

c. Minn. Rules pt. 7001.0520, subp. 6, item C.

The third modification is in the proposed amendments to Minn. Rules pt. 7001.0520, subp. 6, item C. Proposed item C, in relevant part, provides an owner or operator seeking an equivalency determination with an opportunity to submit additional information in support of his/her equivalency determination. The EPA commented that since the MPCA would be making the equivalency determination, not the owner or operator, an owner or operator would not be submitting information in support of his/her equivalency determination, but rather, the owner or operator would be submitting information in support of his/her equivalency demonstration (emphasis added). The MPCA agrees with the EPA's comment and proposed item C is modified to replace the word "determination" with "demonstration." This modification is not substantive in nature because it merely provides for the original intent of the requirement and equivalency with the corresponding federal amendment.

Minn. Rules pt. 7001.0520, subp. 6, item C is modified to read (Please note that the modified language includes two form changes to the rule regarding the reordering of rule cites as required by the Revisor of Statutes.):

> subp. 6. Procedures for closure equivalency determination. If a facility owner or operator seeks an equivalency demonstration under subpart 5, the agency will proceed as follows:
>
> A. and B. [Unchanged.]

C. The agency shall determine whether the closure met the applicable closure by removal or decontamination requirements in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, within 90 days of receipt of the equivalency determination request. If the agency determines that the closure did not meet the applicable closure standards, the agency will provide the owner or operator with a written statement of the reasons why the closure failed to meet the applicable requirements. The owner or operator may submit additional information in support of an equivalency ~~determination~~ demonstration within 30 days after receiving the agency's written statement. The agency will review any additional information submitted and make a final determination within 60 days. If the agency determines that the facility did not close in accordance with the applicable closure by removal standards in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, the facility is subject to post-closure permitting requirements.

d. Minn. Rules pt. 7045.0484, subp. 14, item E.

The fourth modification is in the proposed amendments to Minn. Rules pt. 7045.0484, subp. 14, item E. Proposed Item E, in relevant part, requires an owner or operator, as part of a corrective action program, to treat in place the hazardous constituents that exceed the concentration limits in ground water between the compliance point and the downgradient property boundary. The EPA commented that item E should be modified to provide the references to the rule parts that establish the hazardous constituents of concern, the concentration limits in ground water, and the compliance point. The MPCA agrees with EPA's comment and item E is modified to provide these references. Since item E requires an owner or operator to conduct a corrective action program considerate of the hazardous constituents of concern, the concentration limits in ground water, and the compliance point, which are all established in the permit, it is reasonable to provide the references to the rule parts that establish these requirements. In this manner, item E will specify the location of the rule parts to be considered when conducting a corrective action program. The modification is not substantive in nature because it merely provides additional clarification of the intent of the requirement.

Minn. Rules pt. 7045.0484, subp. 14, item E is modified to read:

subp. 14. Corrective action program. An owner or operator required to establish a corrective action program shall perform the following:

A. to D. [Unchanged.]

E. In addition to the other requirements the owner or operator shall conduct a corrective action program to remove or treat in place hazardous constituents established under subpart 4 that exceed concentration limits in ground water established under subparts 6, 7, and 8:

(1) between the compliance point established under subpart 9 and the downgradient property boundary; and

(2) [Unchanged.]

F. to H. [Unchanged.]

e. Minn. Rules pt. 7045.0539, subp. 2, item A, subitem (7).

The fifth modification is in the proposed amendments to Minn. Rules pt. 7045.0539, subp. 2, item A, subitem (7). The EPA commented that the word "deposition" was misspelled as "depostion" in proposed subitem (7). The MPCA agrees with EPA's comment and subitem (7) is modified to provide for the correct spelling of the word "deposition." The modification is not substantive because it merely provides for the original intent of the requirement.

Minn. Rules pt. 7045.0539, subp. 2, item A, subitem (7) is modified to read:

subp. 2. Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain the terms and provisions necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of parts 7045.0526 to 7045.0542 and chapter 7001 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

A. prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the ground water or subsurface environment, considering:

(1) to (6) [Unchanged.]

(7) the potential for ~~depostion~~ deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food chain crops and other vegetation;

(8) and (9) [Unchanged.]

B. [Unchanged.]

C. [Modified as provided in Finding No. 6f below.]

f. Minn. Rules pt. 7045.0539, subp. 2, item C, subitem (6).

The sixth modification is in the proposed amendments to Minn. Rules pt. 7045.0539, subp. 2, item C, subitem (6). The EPA commented that the word "hazardous" in subitem (6) should be replaced by the word "waste" in order for the state language to be consistent with the corresponding federal language. The MPCA agrees with EPA's comment and subitem (6) is modified to replace the word "hazardous" with "waste" so that the state requirement is consistent with the corresponding federal language. The modification is not substantive in nature because it provides for the MPCA's original intent which was to provide consistency with the corresponding federal requirement.

Minn. Rules pt. 7045.0539, subp. 2, item C, subitem (6) is modified to read:

subp. 2. Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain the terms and provisions necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of parts 7045.0526 to 7045.0542 and chapter 7001 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

A. [Modified as provided in Finding No. 6e above.]

B. [Unchanged.]

C. prevention of any release that may have adverse effects on human health and the environment due to migration of waste constituents in the air, considering:

(1) to (5) [Unchanged.]

(6) the potential for health risks caused by human exposure to ~~hazardous~~ waste constituents; and

(7) [Unchanged.]

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 6 above.

8. The above-captioned rule amendments, together with the modifications made by the MPCA in Finding No. 6 above to respond to comments received during the comment period, 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 the rule amendments without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rule amendments are supported by the record and do not result in a substantial change in the proposed rule amendments.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665, governing the management of hazardous waste, are adopted pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4 (1988).

Dated: March 28, 1989

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management of Hazardous Waste, Minn. Rules Pts. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665

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-eighth day of March, 1989. 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 January 9, 1989 (13 SR 1724), 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 (1988) on January 6, 1989.

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 rule amendments for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on February 9, 1989.

4. No requests for public hearing were received during the comment period.

5. One request for notice of submission to the Attorney General was received by the MPCA.

6. During the comment period the MPCA received one written comment letter, that being from the U.S. Environmental Protection Agency, Region V (EPA). The MPCA finds that six modifications to the proposed rule amendments are justified by the record in this proceeding, as follows:

a. Minn. Rules pt. 7001.0520, subp. 5, item A.

The first correction is in the proposed amendment to Minn. Rules pt. 7001.0520, subp. 5, item A. Specifically, item A of proposed subp. 5 provides, in relevant part, that the MPCA will notify the public of a determination of closure equivalency, allow for public comment, and then reach a final determination as specified in the rules. The EPA commented that because the determination the MPCA makes prior to allowing for public comment is preliminary in nature, the word "proposed" should be added to item A to provide for this fact. The MPCA agrees with this comment and item A is modified to add the word "proposed" to clarify that the initial determination is preliminary. The modification is not substantive because it does not change the regulatory nature of the amendment and merely provides clarity to the intent of the requirement.

Minn. Rules pt. 7001.0520, subp. 5, item A is modified to read (Please note that the modified language includes several form changes to the rule regarding the reordering of rule cites as required by the Revisor of Statutes.):

> subp. 5. Closure by removal. Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under parts 7045.0552 to 7045.0642 must obtain a post-closure permit unless they can demonstrate to the agency that the closure met the requirements for closure by removal or decontamination in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8. The demonstration may be made in the following ways:
>
> A. If the owner or operator has submitted a Part B application for a post-closure permit, the owner or operator may request a determination, based on information contained in the application, that the applicable closure by removal requirements in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, were met. If the agency determines that the applicable closure by removal requirements were met, the agency will notify the public of this proposed determination, allow for public comment, and reach a final determination as described in subpart 6.
>
> B. [Modified as provided in Finding No. 6b below.]

b. Minn. Rules pt. 7001.0520, subp. 5, item B.

The second modification is in the proposed amendments to Minn. Rules pt. 7001.0520, subp. 5, item B. Specifically, item B of proposed subp. 5 allows an owner or operator of a regulated unit to petition the MPCA for a determination that a post-closure permit is not required. The EPA commented that proposed item B should be modified to clarify the reason why a post-closure permit would not be required. The MPCA agrees with the comment and item B is modified to include a statement clarifying that a post-closure permit would not be required because the closure met the applicable closure by removal standards specified in the rules. The modification is not substantive in nature because it does not change the regulatory nature of the requirement and merely clarifies the meaning of the requirement.

Minn. Rules pt. 7001.0520, subp. 5, item B is modified to read (Please note that the modified language includes two form changes to the rule regarding the reordering of rule cites as required by the Revisor of Statutes.):

> subp. 5. Closure by removal. Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under parts 7045.0552 to 7045.0642 must obtain a post-closure permit unless they can demonstrate to the agency that the closure met the requirements for closure by removal or decontamination in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8. The demonstration may be made in the following ways:
>
> A. [Modified as provided in Finding No. 6a above.]
>
> B. If the owner or operator has not submitted a Part B application for a post-closure permit, the owner or operator may petition the agency for a determination that a post-closure permit is not required because closure met the closure by removal requirements in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536, subpart 8. The petition must include data demonstrating that the closure by removal or decontamination requirements in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, were met. The agency shall approve or deny the petition as described in subpart 6.

c. Minn. Rules pt. 7001.0520, subp. 6, item C.

The third modification is in the proposed amendments to Minn. Rules pt. 7001.0520, subp. 6, item C. Proposed item C, in relevant part, provides an owner or operator seeking an equivalency determination with an opportunity to submit additional information in support of his/her equivalency determination. The EPA commented that since the MPCA would be making the equivalency determination, not the owner or operator, an owner or operator would not be submitting information in support of his/her equivalency determination, but rather, the owner or operator would be submitting information in support of his/her equivalency demonstration (emphasis added). The MPCA agrees with the EPA's comment and proposed item C is modified to replace the word "determination" with "demonstration." This modification is not substantive in nature because it merely provides for the original intent of the requirement and equivalency with the corresponding federal amendment.

Minn. Rules pt. 7001.0520, subp. 6, item C is modified to read (Please note that the modified language includes two form changes to the rule regarding the reordering of rule cites as required by the Revisor of Statutes.):

> subp. 6. Procedures for closure equivalency determination. If a facility owner or operator seeks an equivalency demonstration under subpart 5, the agency will proceed as follows:
>
> A. and B. [Unchanged.]

C. The agency shall determine whether the closure met the applicable closure by removal or decontamination requirements in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, within 90 days of receipt of the equivalency determination request. If the agency determines that the closure did not meet the applicable closure standards, the agency will provide the owner or operator with a written statement of the reasons why the closure failed to meet the applicable requirements. The owner or operator may submit additional information in support of an equivalency ~~determination~~ demonstration within 30 days after receiving the agency's written statement. The agency will review any additional information submitted and make a final determination within 60 days. If the agency determines that the facility did not close in accordance with the applicable closure by removal standards in part 7045.0532, subpart 7; ~~7045.0536, subpart 8; or~~ 7045.0534, subpart 7; or 7045.0536, subpart 8, the facility is subject to post-closure permitting requirements.

d. Minn. Rules pt. 7045.0484, subp. 14, item E.

The fourth modification is in the proposed amendments to Minn. Rules pt. 7045.0484, subp. 14, item E. Proposed Item E, in relevant part, requires an owner or operator, as part of a corrective action program, to treat in place the hazardous constituents that exceed the concentration limits in ground water between the compliance point and the downgradient property boundary. The EPA commented that item E should be modified to provide the references to the rule parts that establish the hazardous constituents of concern, the concentration limits in ground water, and the compliance point. The MPCA agrees with EPA's comment and item E is modified to provide these references. Since item E requires an owner or operator to conduct a corrective action program considerate of the hazardous constituents of concern, the concentration limits in ground water, and the compliance point, which are all established in the permit, it is reasonable to provide the references to the rule parts that establish these requirements. In this manner, item E will specify the location of the rule parts to be considered when conducting a corrective action program. The modification is not substantive in nature because it merely provides additional clarification of the intent of the requirement.

Minn. Rules pt. 7045.0484, subp. 14, item E is modified to read:

subp. 14. Corrective action program. An owner or operator required to establish a corrective action program shall perform the following:

A. to D. [Unchanged.]

E. In addition to the other requirements the owner or operator shall conduct a corrective action program to remove or treat in place hazardous constituents established under subpart 4 that exceed concentration limits in ground water established under subparts 6, 7, and 8:

(1) between the compliance point established under subpart 9 and the downgradient property boundary; and

(2) [Unchanged.]

F. to H. [Unchanged.]

e. Minn. Rules pt. 7045.0539, subp. 2, item A, subitem (7).

The fifth modification is in the proposed amendments to Minn. Rules pt. 7045.0539, subp. 2, item A, subitem (7). The EPA commented that the word "deposition" was misspelled as "depostion" in proposed subitem (7). The MPCA agrees with EPA's comment and subitem (7) is modified to provide for the correct spelling of the word "deposition." The modification is not substantive because it merely provides for the original intent of the requirement.

Minn. Rules pt. 7045.0539, subp. 2, item A, subitem (7) is modified to read:

> subp. 2. Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain the terms and provisions necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of parts 7045.0526 to 7045.0542 and chapter 7001 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:
>
> A. prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the ground water or subsurface environment, considering:
>
> (1) to (6) [Unchanged.]
>
> (7) the potential for ~~depostion~~ deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food chain crops and other vegetation;
>
> (8) and (9) [Unchanged.]
>
> B. [Unchanged.]
>
> C. [Modified as provided in Finding No. 6f below.]

f. Minn. Rules pt. 7045.0539, subp. 2, item C, subitem (6).

The sixth modification is in the proposed amendments to Minn. Rules pt. 7045.0539, subp. 2, item C, subitem (6). The EPA commented that the word "hazardous" in subitem (6) should be replaced by the word "waste" in order for the state language to be consistent with the corresponding federal language. The MPCA agrees with EPA's comment and subitem (6) is modified to replace the word "hazardous" with "waste" so that the state requirement is consistent with the corresponding federal language. The modification is not substantive in nature because it provides for the MPCA's original intent which was to provide consistency with the corresponding federal requirement.

Minn. Rules pt. 7045.0539, subp. 2, item C, subitem (6) is modified to read:

subp. 2. Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain the terms and provisions necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of parts 7045.0526 to 7045.0542 and chapter 7001 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

A. [Modified as provided in Finding No. 6e above.]

B. [Unchanged.]

C. prevention of any release that may have adverse effects on human health and the environment due to migration of waste constituents in the air, considering:

(1) to (5) [Unchanged.]

(6) the potential for health risks caused by human exposure to ~~hazardous~~ waste constituents; and

(7) [Unchanged.]

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 6 above.

8. The above-captioned rule amendments, together with the modifications made by the MPCA in Finding No. 6 above to respond to comments received during the comment period, 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 the rule amendments without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rule amendments are supported by the record and do not result in a substantial change in the proposed rule amendments.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665, governing the management of hazardous waste, are adopted pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4 (1988).

Gerald L. Willet

Dated: March 28, 1989

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management, Storage, Treatment, and Disposal of Hazardous Waste, Minn. Rules Pts. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665

DECLARATION OF COUNSEL

I, Joseph G. Maternowski, 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.

Joseph G. Maternowski
Special Assistant
Attorney General

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management, Storage, Treatment, and Disposal of Hazardous Waste, Minn. Rules Pts. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. § 14.26 (1988):

PLEASE TAKE NOTICE that the above-captioned rules as adopted have been submitted to the Office of the Attorney General on this date, April 7, 1989, for review as to legality and form to the extent form relates to legality. The proposed rules, the rules as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and request for a hearing received, and other required documents also have been submitted to the Attorney General.

The proposed rules which were published in the State Register (13 SR 1724) and made available to the public on January 9, 1989, have been modified. A copy of the rules as modified is enclosed with this notice. A free copy of the Findings of Fact, Conclusions, and Order explaining the amendments and adopting the rules is available upon request from Patrick Carey, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, Minnesota 55155, telephone 612/296-7767.

The rules must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rules. Any written comments must be submitted within eight calendar days of the date of the submission of the rules to the Attorney General. Your comments must address only the issue of legality of the rules or the legality of the specific parts or subparts of the rules. The Attorney General standards for review are set forth in Minnesota Rules, pt. 2010.1000. You may receive a copy of the Attorney General decision upon written request to the Attorney General. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
Public Finance Division
515 Transportation Building
John Ireland Boulevard
St. Paul, Minnesota 55155
Telephone: 297-2040

Any written comments submitted to the Attorney General must also be submitted to Patrick Carey of the Minnesota Pollution Control Agency at the address stated above.

Dated: April 7, 1989

Sharon C. Meyer

Sharon C. Meyer, Supervisor
Program Development Unit
Hazardous Waste Division

Sent to:

Ms. Marian Paradis
Plummer, Minnesota 56748

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management, Storage, Treatment, and Disposal of Hazardous Waste, Minn. Rules Pts. 7001.0520, 7001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I, Patrick F. Carey, being duly sworn says:

That on the seventh day of April, 1989, in the city of St. Paul, county of Ramsey, state of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the United States Mail for first class mailing a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Pat F. Carey

Subscribed and sworn to before me this seventh day of April, 1989.

Ardith M. Vos
Notary Public

ARDITH M. VOS
NOTARY PUBLIC — MINNESOTA
ANOKA COUNTY
My commission expires 1-12-94

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Management of Hazardous Waste, Minn. Rules Chs. 7001 and 7045

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Patrick F. Carey, being duly sworn on oath deposes and says:

1. That he is the person named in the Notice of Intent to Solicit Outside Opinion (13 SR 504, August 29, 1988) as the person to receive comments on the Minnesota Pollution Control Agency's intent to adopt rule amendments concerning the above-entitled matter.

2. That the comment period set forth in the notice terminated at 4:30 p.m. on September 29, 1988.

3. That during the public comment period, there were no comments received by the Minnesota Pollution Control Agency regarding the above-entitled matter.

Pat F. Carey

Subscribed and sworn to before me this 7 day of October, 1988.

Ardith M. Vos
Notary Public

ARDITH M. VOS
NOTARY PUBLIC — MINNESOTA
ANOKA COUNTY
My commission expires 1-12-94

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

April 7, 1989

RECEIVED
APR 07 1989
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

Ms. Christie Eller
Assistant Attorney General
Office of the Attorney General
515 Transportation Building
John Ireland Blvd.
St. Paul, MN 55155

Re: In the Matter of Proposed Rules Governing the Management, Storage, Treatment, and Disposal of Hazardous Waste, Minn. Rules Pts 7001.0520, 1001.0560, 7001.0625, 7001.0640, 7045.0020, 7045.0135, 7045.0452, 7045.0460, 7045.0478, 7045.0484, 7045.0485, 7045.0486, 7045.0488, 7045.0490, 7045.0492, 7045.0502, 7045.0506, 7045.0518, 7045.0539, and 7045.0665

Dear Ms. Eller:

On March 28, 1989, the Minnesota Pollution Control Agency adopted the above-captioned rule amendments governing the management, storage, treatment, and disposal of hazardous waste. 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 (13 S.R. 504, August 29, 1988).

5. Affidavit stating that no comments were received pursuant to Notice of Intent to Solicit Outside Opinion.

6. Certificate of Authorizing Resolution.

7. Notice of Intent to Adopt Rule Amendments Without a Public Hearing and rule amendments as proposed (13 S.R. 1724, January 9, 1989).

8. Comments received during the comment period.

9. Notice of Intent to Adopt Rule Amendments 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.

14. Notice of Submission of Rule Amendments Adopted Without Public Hearing to the Attorney General.

15. Affidavit of Mailing of Notice of Submission of Rule Amendments Adopted Without Public Hearing to the Attorney General.

Very truly yours,

JOSEPH G. MATERNOWSKI
Special Assistant
Attorney General

JGM:raa
Enclosures