

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: March 19, 1992

TO: NATHAN B COOLEY
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul

FROM: MARY JO MURRAY
Special Assistant Attorney General
525 Park Street, Suite 300 (55103)

PHONE: 296-3258

SUBJECT: In the Matter of the Adopted Rule Relating to Land Disposal Restrictions for Hazardous Waste

The above-referenced rule has been approved as to its legality by the Attorney General on March 19, 1992.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJM:jj
Enclosures
cc: Kris Hulsebus
William Brown, Chief Judge
MaryAnn Hruby

Stat authority 116.07 subd 4

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law ...

end of comment period Nov 7, 1978

Notice of Intent

E 11 - missing manner in which you can get a free copy of the rule

authority

116.37 subd(4)

The agency shall promulgate rules by January 1, 1977, governing the granting of certificates of exemption and the requirements of labels in subdivision 3.

~~Statement of fact~~

~~missing~~ X (8) ~~rules are needed~~

~~reasonable~~

SOLAR even these are complying with federal regulations and they refer to the test by for need reasonableness and economic impact they should have explained them in the SOLAR instead of repeating the rule changes - They have alot of changes - I think for their table

(over)

in the SOLAR it would be very
difficult to locate the rule
changes in the Register
some of the cites are for
50-100 pages. I think
it is asking to much
to try to ~~Rance Dorn~~
locate this material
in the Stab Register

SOLAR is horrible ~~text~~ - short
& doesnt cover details, OK anyway

MSM
3-11-92

RULE REVIEW CHECKLIST

File No. 1906
DATE RECEIVED 3-10-92
REVIEW DATE 3-19-92
DUE DATE ~~3-24-92~~
~~(DIS)~~APPROVED 3/19/92
WITHDRAWN _____

Docket No. 05 0009 0697
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 3-11-92
REVISOR (DIS)APPROVED 3-12-92
FILED W/SEC. OF STATE 3-19-92
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
Sept 10, 1990 Date published in State Register
NO Comments

Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
~~Oct 22, 1991~~ Date adopted Sept 24, 1991

Proposed Rule
Revisor's Certificate

✓ Notice of Intent to Adopt Rule
116.07 and 24 Statutory Authority 116.37
Small Business Statement
Expenditure of public money statement
Oct 4, 1991 Signature

✓ Statement of Need and Reasonableness (if applicable) Poor SOLAR
✓ Small Business Statement
NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Oct 4, 1991 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
Copy of rule or summary attached

✓ Publication in State Register
Oct 7, 1991 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of ~~comment period~~ (§ 14.26) (rules without hearing)
effective date of statutory authority (§ 14.29) (emergency rules)

Resolution Adopting Delegation Affidavit of Compliance
~~Oct 22, 1991~~ Date adopted - Feb 28, 1992

✓ Findings of Fact, Conclusions & Order Adopting
Feb 28, 1992 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Kris Hulsebus Name of SAAG representing agency

March 10, 1992 Notice of Submission to Attorney General (if applicable)

March 10, 1992 Affidavit of Mailing Notice to Attorney General (if applicable)

Rules acl

Pollution Control Agency

Adopted Permanent Rules Relating to Land Disposal Restrictions for Hazardous Wastes

Rules as Adopted

7001.0520 PERMIT REQUIREMENTS.

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

Subp. 7. **Permit denial.** The commissioner may deny the permit application, whether or not the application is complete, either in its entirety or as to the active life of a hazardous waste management facility or unit only. The denial does not affect the requirement to obtain a postclosure permit under this part.

7001.0650 INTERIM STATUS.

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

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

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

B. The owner or operator may increase the design capacity of the facility if, before implementation of the increase, the owner or operator submits a revised Part A of the permit application and an explanation of the need for the change, and if the commissioner approves the increase in writing. The commissioner shall approve the change if the commissioner finds that:

(1) there is a lack of available treatment, storage, or disposal capacity at other permitted hazardous waste facilities; or

(2) the change is necessary to comply with a federal, state, or local requirement.

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

E. Changes may be made according to an interim status corrective action order issued by EPA under United States Code,

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title 42, section 3008(h), or other federal authority, by the agency, or by a court in a judicial action brought by EPA or the agency. Changes under this item are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

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

(1) changes made only for complying with parts 7045.0528, subpart 4, and 7045.0628, subpart 4, for tanks and ancillary equipment;

(2) if necessary to comply with federal, state, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of RCRA section 3004(o);

(3) changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility before the effective date of the rule establishing the new listing or identification;

(4) changes during closure of a facility or of a unit within a facility made according to an approved closure plan;

(5) changes necessary to comply with an interim status corrective action order issued by EPA under RCRA section 3008(h) or other federal authority, by an authorized state under comparable state authority, or by a court in judicial proceeding brought by EPA or an authorized state, provided that the changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the

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facility; and

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

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

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

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

7045.0020 DEFINITIONS.

[For text of subps 1 to 45, see M.R.]

Subp. 45a. **Inorganic solid debris.** "Inorganic solid debris" means nonfriable inorganic solids contaminated with D004-D011 hazardous wastes that are incapable of passing through a 9.5 millimeter standard sieve; that require cutting or crushing and grinding in mechanical sizing equipment prior to stabilization; and that are limited to the following inorganic or metal materials:

A. metal slags, either dross or scoria;

B. glassified slag;

C. glass;

D. concrete, excluding cementitious or pozzolanic stabilized hazardous wastes;

E. masonry and refractory bricks;

F. metal cans, containers, drums, or tanks;

G. metal nuts, bolts, pipes, pumps, valves; appliances, or industrial equipment; and

H. scrap metal as defined in subpart 79a.

Subp. 45b. **Installation inspector.** "Installation

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inspector" means a person who, by knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

[For text of subps 46 to 59a, see M.R.]

Subp. 59b. **Nonwastewater.** "Nonwastewater" means hazardous waste that is not wastewater as defined in subpart 102c.

Subp. 59c. **Off-specification used oil.** "Off-specification used oil" means a used oil fuel that exceeds any of the specification levels for the following constituents or has a flash point less than 100 degrees Fahrenheit.

Constituent	Allowable level
Arsenic, total	5 parts per million maximum
Cadmium, total	2 parts per million maximum
Chromium, total	10 parts per million maximum
Lead, total	100 parts per million maximum
Total Halogens	4,000 parts per million maximum

Subp. 59d. **Onground tank.** "Onground tank" means a device meeting the definition of "tank" in subpart 90 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

[For text of subps 60 to 73, see M.R.]

Subp. 73a. **RCRA or Resource Conservation and Recovery Act.** "RCRA" or "Resource Conservation and Recovery Act" means the Resource Conservation and Recovery Act.

Subp. 73b. **Receiving country.** "Receiving country" means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage, or disposal, except short-term storage incidental to transportation.

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

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

[For text of subps 74 to 102b, see M.R.]

Subp. 102c. **Wastewater.** "Wastewater" means waste that

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contains less than one percent by weight total organic carbon (TOC) and less than one percent by weight total suspended solids (TSS), with the following exceptions:

A. F001, F002, F003, F004, or F005 wastewaters are solvent-water mixtures that contain less than one percent by weight total organic carbon or less than one percent by weight total F001, F002, F003, F004, or F005 solvent constituents listed in part 7045.1355;

B. K011, K013, or K014 wastewaters that contain less than five percent by weight total organic carbon and less than one percent by weight total suspended solids as generated; or

C. K0103 or K0104 wastewaters that contain less than four percent by weight total organic carbon and less than one percent by weight total suspended solids.

[For text of subps 103 to 109, see M.R.]

7045.0075 PETITIONS.

[For text of subps 1 to 8, see M.R.]

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

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commissioner that the owner or operator of a land disposal unit receiving restricted wastes will comply with other applicable federal, state, and local laws. The person seeking the exemption must also comply with items A to L.

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

B. Each petition referred to in this subpart must include information described in subitems (1) to (5):

(1) A monitoring plan that describes the monitoring program installed at and around the unit to verify continued compliance with the conditions of the variance. This monitoring plan must provide information on the monitoring of the unit and the environment around the unit. The following specific information must be included in the plan:

(a) the media monitored in the cases where monitoring of the environment around the unit is required;

(b) the type of monitoring conducted at the unit, in the cases where monitoring of the unit is required;

(c) the location of the monitoring stations;

(d) the frequency of monitoring at each station;

(e) the specific hazardous constituents to be monitored;

(f) the implementation schedule for the monitoring program;

(g) the equipment used at the monitoring stations;

(h) the sampling and analytical techniques employed; and

(i) the data recording and reporting procedures.

(2) Where applicable, the monitoring program must be in place for a period of time specified by the commissioner, as part of the commissioner's approval of the petition, before receipt of prohibited waste at the unit.

(3) The monitoring data collected according to the monitoring plan must be sent to the commissioner according

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to a format and schedule specified and approved in the monitoring plan.

(4) A copy of the monitoring data collected under the monitoring plan must be kept on-site at the facility in the operating record.

(5) The monitoring program in subitem (1) must meet the following criteria:

(a) all sampling, testing, and analytical data must be approved by the commissioner and must provide data that is accurate and reproducible;

(b) all estimation and monitoring techniques must be approved by the commissioner; and

(c) a quality assurance and quality control plan addressing all aspects of the monitoring program must be provided to and approved by the commissioner.

C. After a petition has been approved, the owner or operator must report any changes in conditions at the unit and the environment around the unit that significantly depart from the conditions described in the variance and affect the potential for migration of hazardous constituents from the units as follows:

(1) If the owner or operator plans to make changes to the unit design, construction, or operation, the change must be proposed, in writing, and the owner or operator must submit a demonstration to the commissioner at least 30 days before making the change. The commissioner shall determine whether the proposed change invalidates the terms of the petition and will determine the appropriate response. Any change must be approved by the commissioner before being made.

(2) If the owner or operator discovers that a condition at the site which was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the commissioner within ten days of discovering the change. The commissioner shall determine whether the reported change from the terms of the petition requires further action, which may include termination of waste

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acceptance and revocation of the petition, petition modifications, or other responses.

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

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

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

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

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

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

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on a petition will be published in the State Register.

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

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

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

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

[For text of subps 10 to 12, see M.R.]

7045.0131 CHARACTERISTICS OF HAZARDOUS WASTE.

Subpart 1. **In general.** A waste which is not excluded from regulation as a hazardous waste under part 7045.0120 is a hazardous waste if it exhibits ignitability, corrosivity, reactivity, toxicity, lethality, or is an oxidizer, as described in subparts 2 to 7. A hazardous waste which is identified by a characteristic in this part is assigned every hazardous waste number that is applicable. This number must be used in complying with the notification requirements of section 3010 of the federal Resource Conservation and Recovery Act and all applicable record keeping and reporting requirements under parts 7045.0205 to 7045.0642 and 7045.1300, and chapter 7001. For purposes of this part, the commissioner shall consider a sample obtained using any of the applicable sampling methods specified

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in Code of Federal Regulations, title 40, part 260, Appendix I or part 261, Appendix II, to be a representative sample.

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

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

C. it is an ignitable compressed gas as defined in Code of Federal Regulations, title 49, section 173.300 (1983) and as determined by the test methods described in that regulation or equivalent test methods approved by the commissioner under part 7045.0075, subpart 1.

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

Subp. 3. **Oxidizers.** A waste exhibits the characteristics of an oxidizer if a representative sample of the waste has the following properties:

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

B. it readily supplies oxygen to a reaction in the absence of air. Oxidative materials include, but are not limited to, oxides, organic and inorganic peroxides, permanganates, perrhenates, chlorates, perchlorates, persulfates, nitric acid, organic and inorganic nitrates, iodates, periodates, bromates, perselenates, perbromates, chromates, dichromates, ozone, and perborates. Bromine, chlorine, fluorine, and iodine react similarly to oxygen under some conditions and are therefore also oxidative materials.

A waste that exhibits the characteristics of an oxidizer has the hazardous waste number of D001.

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

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

B. It is liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm (0.250 inch) per year at a test temperature of 55 degrees Celsius (130 degrees Fahrenheit) as determined by the test method specified in National Association

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of Corrosion Engineers Standard TM-01-69 as standardized in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, issued by the United States Environmental Protection Agency, publication number SW 846 (First Edition, 1980 as updated by Revisions A (August 1980), B (July 1981), and C (February 1982) or Second Edition, 1982) or an equivalent test method approved by the commissioner under the procedures set forth in part 7045.0075, subpart 1.

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

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

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

H. it is a forbidden explosive as defined in Code of Federal Regulations, title 49, section 173.51 (1983), a Class A explosive as defined in Code of Federal Regulations, title 49, section 173.53 (1983), or a Class B explosive as defined in Code of Federal Regulations, title 49, Section 173.88 (1983).

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

Subp. 6. **Lethality.** Lethality is determined as follows:

A. A waste exhibits the characteristic of lethality as determined in item B, if a representative sample of the waste has any one of the following properties:

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

(4) an inhalation median lethal concentration of less than 1,000 parts per million of material in air, if the material or component may be inhaled as gas or vapor.

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

D. A waste that exhibits the characteristics of lethality has the hazardous waste number MN01.

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

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

B. A waste that exhibits the characteristic of toxicity has the hazardous waste number specified in subpart 8

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which corresponds to the toxic contaminant causing it to be hazardous.

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

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

7045.0135 LISTS OF HAZARDOUS WASTES.

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

Subp. 2. **Hazardous wastes from nonspecific sources.** Hazardous wastes from nonspecific sources are listed with the generic hazardous waste number and hazard code in items A to V.

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

T. F027, discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component: (H);

U. F028, residues resulting from the incineration or thermal treatment of soil contaminated with hazardous waste Nos. F020, F021, F022, F023, F026, and F027: (T); and

V. F039, leachate resulting from the <u>treatment, storage, or</u> disposal of more than one restricted waste classified as hazardous under part 7045.0131 and this part. Leachate resulting from the management of one or more of the following EPA hazardous wastes and no other hazardous wastes retains its EPA hazardous waste numbers: F020, F021, F022, F023, F026, F027, or F028: (T).

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

7045.0139 BASIS FOR LISTING HAZARDOUS WASTES.

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

Subp. 2. **Constituents.** The constituents which are the basis for listing the wastes identified in part 7045.0135, subparts 2 and 3 are listed in items A and B.

A. Constituents of wastes identified in part 7045.0135, subpart 2 are listed in subitems (1) to (21).

[For text of subitems (1) to (19), see M.R.]

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(20) F027: Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans; tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine, and other salts;

(21) F028: Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans; tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine, and other salts; and

(22) F039: Constituents for which treatment standards are specified for multisource leachate, wastewaters, and nonwastewaters under part 7045.1358.

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

7045.0214 EVALUATION OF WASTES.

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

Subp. 2. **Method for evaluation.** The person evaluating the waste must determine if the waste meets any of the following criteria for a hazardous waste:

A. the waste is listed in part 7045.0135; or

B. if the waste is not listed in part 7045.0135, the person must then determine whether the waste is identified in part 7045.0131 by either:

(1) testing the waste according to the methods in part 7045.0131 or according to an equivalent method approved by the commissioner pursuant to part 7045.0075, subpart 1; or

(2) applying knowledge of the hazard characteristics of the waste in light of the materials or the processes used.

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

7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

Subpart 1. **When allowed without a permit.** A generator may accumulate hazardous waste on-site without a permit or without having interim status if:

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

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H. the requirements of parts 7045.0558, 7045.0566 to 7045.0576, and 7045.1315, subpart 1, item D, are fulfilled regarding personnel training, preparedness, prevention, and contingency planning; and

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

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

7045.0458 WASTE ANALYSIS REQUIREMENTS.

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

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

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

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

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues which are not delisted under part 7045.0075, subpart 2, or which exhibit a characteristic of hazardous waste under part 7045.0131, and either do not meet the treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, such residues are prohibited from land disposal under parts 7045.1320 to 7045.1333 or RCRA section 3004(d).

7045.0478 OPERATING RECORD.

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

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:

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

M. Records of the quantities and date of placement for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land

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disposal restriction granted under part 7045.0075, subpart 8, a petition under part 7045.0075, subpart 9, or a certification under ~~part 7045.1300~~ Code of Federal Regulations, title 40, section 268.8, and the applicable notice required of a generator under part 7045.1315, subpart 1.

N. For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner under Code of Federal Regulations, title 40, section 268.8, or part 7045.1315, subpart 1, item ~~A, or 7045.1300~~.

O. For an on-site treatment facility, the information contained in the notice, except the manifest number, and the certification and demonstration, if applicable, required of the generator or owner or operator under Code of Federal Regulations, title 40, section 268.8, or part 7045.1315, subpart 1, item ~~A, or 7045.1300~~.

P. For an off-site land disposal facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under ~~parts~~ Code of Federal Regulations, title 40, section 268.8, and part 7045.1315 ~~and 7045.1300~~, whichever is applicable.

Q. For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under part 7045.1315, except for the manifest number, and the certification and demonstration, if applicable, required under ~~part 7045.1300~~ Code of Federal Regulations, title 40, section 268.8, whichever is applicable.

R. For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required of the generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1300~~ ~~or~~ 7045.1315.

S. For an on-site storage facility, the information contained in the notice, except the manifest number, and the

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certification and demonstration if applicable, required of the generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1300 or~~ 7045.1315.

7045.0532 SURFACE IMPOUNDMENTS.

[For text of subps 1 to 7, see M.R.]

Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

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

7045.0534 WASTE PILES.

[For text of subps 1 to 7, see M.R.]

Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a waste pile unless the waste and waste pile satisfy all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

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

7045.0536 LAND TREATMENT.

[For text of subps 1 to 8, see M.R.]

Subp. 9. **Ignitable or reactive waste.** The owner or operator shall not apply ignitable or reactive waste to the treatment zone unless the waste and the treatment zone meet all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

[For text of subps 10 and 11, see M.R.]

7045.0538 LANDFILLS.

[For text of subps 1 to 7, see M.R.]

Subp. 8. **Special requirements for ignitable or reactive waste.** Special requirements for ignitable or reactive waste are as follows:

A. Except as provided in item B and subpart 12,

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ignitable or reactive waste must not be placed in a landfill, unless the waste and landfill meet all applicable requirements of parts 7045.1300 to 7045.1380, and the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under part 7045.0131, subpart 2 or 5, and compliance with part 7045.0456, subpart 2 is maintained.

B. Except for prohibited wastes which remain subject to treatment standards in parts 7045.1350 to 7045.1360, ignitable wastes in containers may be landfilled without meeting the requirements of item A, provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes must be disposed of in nonleaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

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

Subp. 12. **Disposal of small containers of hazardous waste in overpacked drums.** Small containers of hazardous waste in overpacked drums, or laboratory packs, may be placed in a landfill if the requirements of items A to F are met:

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

F. The disposal is in compliance with parts 7045.1300 to 7045.1380. Persons who incinerate lab packs according to part 7045.1360 may use fiber drums in place of metal outer containers. The fiber drums must meet United States Department of Transportation specifications in Code of Federal Regulations, title 49, section 173.12, and be overpacked according to the requirements in item B.

[For text of subp 13, see M.R.]

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7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

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

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

Parts 7045.0552 to 7045.0642 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380, land disposal restrictions, and those restrictions are considered material conditions or requirements of parts 7045.0552 to 7045.0642, interim status standards.

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

7045.0564 WASTE ANALYSIS REQUIREMENTS.

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

Subp. 2. **Waste analysis plan.** The owner or operator shall

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

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

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

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues which are not delisted under part 7045.0075, subpart 2, or which exhibit a characteristic of hazardous waste under part 7045.0131, and either do not meet applicable treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, such residues are prohibited from land disposal under parts 7045.1320 to 7045.1333 or RCRA section 3004(d).

7045.0584 OPERATING RECORD.

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

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

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

J. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 8 or 9, monitoring data required pursuant to a petition under part 7045.0075, subpart 9, or a certificate and demonstration under ~~part 7045.1300~~ Code of Federal Regulations, title 40, section 268.8, and the notice required by a generator under part 7045.1315, subpart 1, item C.

K. For an off-site treatment facility, the notice, and the certification and demonstration, if applicable, required

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by a generator or the owner or operator under ~~parts 7045.1300~~ Code of Federal Regulations, title 40, section 268.8, and part 7045.1315, subpart 1, item A.

L. For an on-site treatment facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator under ~~parts 7045.1300~~ Code of Federal Regulations, title 40, section 268.8, and part 7045.1315, subpart 1, item A, except for the manifest number required under part 7045.1315, subpart 1, item A, subitem (3).

M. For an off-site land disposal facility, the notice, certification and demonstration, if applicable, required by the generator, owner or operator of a treatment facility under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1300 or~~ 7045.1315, subpart 2, items A and B, for the facility or part 7045.1315, subpart 1, item B, for the generator, whichever is applicable.

N. For an on-site land disposal facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1300 or~~ 7045.1315 except for the manifest number, whichever is applicable.

O. For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1300 or~~ 7045.1315.

P. For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1300 or~~ 7045.1315.

7045.0630 SURFACE IMPOUNDMENTS.

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

Subp. 5. **Inspections.** The owner or operator shall inspect:

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

B. the surface impoundment, including dikes and vegetation surrounding the dike, at least once a week to detect any leaks, deterioration, or failures in the impoundment. As required by part 7045.0556, subpart 5, the owner or operator shall remedy any deterioration or malfunction found.

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

Subp. 7. **Special requirements for ignitable or reactive wastes.** Ignitable or reactive waste must not be placed in a surface impoundment unless the waste and the impoundment satisfy all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

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

7045.0632 WASTE PILES.

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

Subp. 5. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a pile unless the waste and pile satisfy all applicable requirements of parts 7045.1300 to 7045.1380:

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

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

7045.0634 LAND TREATMENT.

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

Subp. 7. **Special requirements for ignitable or reactive waste.** Ignitable or reactive wastes must not be land treated, unless the waste and treatment zone meet all applicable requirements of parts 7045.1300 to 7045.1380, and the waste is immediately incorporated into the soil so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under parts 7045.0131, subpart 2 or 5; and 7045.0562, subpart 2 is complied with.

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

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7045.0638 LANDFILLS.

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

Subp. 5. **Special requirements for ignitable or reactive waste.** Special requirements for ignitable or reactive waste are as follows:

A. Except as provided in item B, and subparts 7 and 9, ignitable or reactive waste must not be placed in a landfill unless the waste and landfill meet all applicable requirements of parts 7045.1300 to 7045.1380, and the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under part 7045.0131, subpart 2 or 5, and compliance with part 7045.0562, subpart 2, is maintained.

B. Except for prohibited wastes which remain subject to treatment standards in parts 7045.1350 to 7045.1360, ignitable wastes in containers may be landfilled without meeting the requirements of item A if the wastes are disposed so that they are protected from any material or conditions which may cause them to ignite. Ignitable wastes must be disposed in nonleaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the wastes.

[For text of subp 6 to 8, see M.R.]

Subp. 9. **Special requirements for disposal of laboratory packs.** Small containers of hazardous waste in overpacked drums, or laboratory packs, may be placed in a landfill if the requirements of items A to F are met:

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

F. The disposal complies with parts 7045.1300 to 7045.1380. Persons who incinerate lab packs according to part 7045.1360 may use fiber drums in place of metal outer containers. The fiber drums must meet the United States

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Department of Transportation specifications in Code of Federal Regulation, title 49, section 173.12, and be overpacked according to item B.

7045.0665 USE CONSTITUTING DISPOSAL.

Subpart 1. **Scope.** Items A and B apply to hazardous wastes that are used in a manner constituting disposal.

A. For the purposes of this part, use constituting disposal means the application or placement of recyclable wastes in or on the land without mixing with other substances or after mixing or combining with any other substances.

B. Hazardous wastes are not used in a manner constituting disposal if:

(1) they are a product produced for the general public's use;

(2) they contain recyclable hazardous wastes; and if the recyclable hazardous wastes have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means; and

(3) the products meet the applicable treatment standards in parts 7045.1350 to 7045.1360 or applicable prohibition levels in part 7045.1330 or RCRA section 3004(d) where no treatment standards have been established, for each recyclable material that they contain.

Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not presently subject to regulation provided they meet the same treatment standards or prohibition levels for each recyclable material that they contain. However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation.

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

7045.1300 LAND DISPOSAL RESTRICTIONS; APPLICABILITY AND EXEMPTIONS.

Subpart 1. **Applicability.** This part identifies hazardous wastes that are restricted from land disposal and defines those

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limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

Except as specifically provided in subpart 2 or parts 7045.0100 to ~~7045.0141~~ 7045.0143, the requirements of this part apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities. For purposes of this part, a certification statement that complies with Code of Federal Regulations, title 40, part 268, also complies with the certification statement requirements under this part.

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

A. if an extension has been granted from the effective date of a prohibition under part 7045.0075, subpart 8, with respect to those wastes covered by the extension; and

B. if an exemption has been granted from a prohibition as a result of a petition under part 7045.0075, subpart 9, with respect to those wastes and units covered by the petition.

Subp. 3. **Other exemptions.** The following hazardous wastes are not subject to parts 7045.1300 to 7045.1380:

A. waste generated by small quantity generators of less than 100 kilograms of nonacute hazardous waste per month, or less than one kilogram of acute hazardous waste per month, as defined in part 7045.0206;

B. waste pesticides that a farmer disposes of according to part 7045.0213; and

C. waste identified or listed as hazardous after November 8, 1984, for which no land disposal prohibitions or treatment standards have been adopted.

Subp. 4. **Waivers.** The requirements of this part shall not affect the availability of a waiver under section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

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7045.1305 DILUTION PROHIBITED AS A SUBSTITUTE FOR TREATMENT.

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

B. Dilution of wastes that are hazardous only because they exhibit a characteristic in a treatment system that treats wastes subsequently discharged to a water of the United States pursuant to a permit issued under section 402 of the Clean Water Act (CWA), or that treats wastes for purposes of pretreatment requirements under section 307 of the CWA is not impermissible dilution for purposes of this part unless a method has been specified as the treatment standard in part 7045.1360.

~~7045.1300 LANDFILL AND SURFACE IMPOUNDMENT DISPOSAL RESTRICTIONS.~~

~~Subpart 1. Generator requirements. As of May 8, 1990, this part is no longer in effect. Before May 8, 1990, wastes that are otherwise prohibited from land disposal under part 7045.1333, subpart 2, item C, may be disposed in a landfill or surface impoundment in compliance with Code of Federal Regulations, title 40, section 268.5(h)(2), provided that the generator meets the requirements in items A to B.~~

~~A. Before disposal, the generator has made a good faith effort to locate and contract with treatment and recovery facilities practically available that provide the greatest environmental benefit.~~

~~B. If a generator determines that there is no practically available treatment for a waste, the generator must fulfill the requirements in subitems (1) and (2).~~

~~(1) Before the initial shipment of waste, the generator must submit a demonstration to the commissioner that~~

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~~includes a list of facilities and facility officials contacted, addresses, telephone numbers, and contact dates, as well as a written discussion of why the generator was not able to obtain treatment or recovery for that waste. The generator must also provide the following certification:~~

~~"I certify under penalty of law that the requirements of Minnesota Rules, part 7045.1308, subpart 1, item A, have been met and that disposal in a landfill or surface impoundment is the only practical alternative to treatment currently available. I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."~~

~~The generator does not need to wait for commissioner approval of the demonstration or certification before shipment of the waste. However, if the commissioner invalidates the demonstration or certification for the reasons outlined in part 7045.1308, subpart 2, item B, the generator must immediately cease further shipments of the waste, inform all facilities that received the waste of the invalidation, and keep records of the communication on site in the generator's files.~~

~~(2) With the initial shipment of waste, the generator must submit a copy of the demonstration and the certification in subitem (1) to the receiving facility. With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged. The generator must retain on site a copy of the demonstration, if applicable, and certification required for each waste shipment for at least five years from the date that the waste that is the subject of the documentation was last sent to on site or off site disposal. The five year record retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.~~

~~C. If a generator determines that there are~~

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~~practically-available-treatments-for-a-waste, the generator must contract to use the practically available technology that yields the greatest environmental benefit. The generator must also fulfill the requirements in subitems (1) and (2):~~

~~(1) Before the initial shipment of waste, the generator must submit a demonstration to the commissioner that includes a list of facilities and facility officials contacted, addresses, telephone numbers, and contact dates, as well as a written discussion explaining why the treatment or recovery technology chosen provides the greatest environmental benefit. The generator must also provide the following certification:~~

~~"I certify under penalty of law that the requirements of Minnesota Rules, part 7045.1308, subpart 1, item A, have been met and that I have contracted to treat my waste, or otherwise provide treatment, by the practically available technology that yields the greatest environmental benefit, as indicated in my demonstration. I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."~~

~~The generator does not need to wait for commissioner approval of the demonstration or certification before shipment of the waste.~~

~~(2) With the initial shipment of waste, the generator must submit to the receiving facility a copy of the demonstration and the certification in subitem (1). With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged. The generator must retain on site a copy of the demonstration, if applicable, and certification required for each waste shipment for at least five years from the date that the waste that is the subject of the documentation was last sent to on site or off site disposal. The five year record retention requirement is automatically extended during the course of any~~

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unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

B. When the generator has determined that there is practically available treatment for a waste before disposal, with the initial shipment of waste, the generator must submit a copy of the demonstration and the certification required in subpart 1, item B, subitem (2), to the receiving facility. With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged. The generator must retain on site a copy of the demonstration, if applicable, and certification required for each waste shipment for at least five years from the date that the waste that is the subject of the documentation was last sent to on site or off site disposal. The five year record retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

Subp. 2. Certification review.

A. After receiving the demonstration and certification, the commissioner may request any additional information which the commissioner considers necessary to evaluate the certification.

B. A generator who has submitted a certification under this part must immediately notify the commissioner when the generator has knowledge of any change in the conditions that formed the basis of the generator's certification, and submit a new demonstration and certification as provided in part 7045.1308, subpart 1, to the receiving facility.

C. If, after review of the certification, the commissioner determines that practically available treatment exists where the generator has certified otherwise, or that there exists some other method of practically available treatment yielding greater environmental benefit than that which the generator has certified, the commissioner may invalidate the certification.

B. If the commissioner invalidates a certification,

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~~the generator must immediately cease further shipments of the waste, and inform all facilities that received the waste of the invalidation, and keep records of such communication on site in the generator's files.~~

~~Subp. 3. Facility requirements.~~

~~A. A treatment, recovery, or storage facility receiving wastes subject to a valid certification must keep copies of the generator's demonstration, if applicable, and certification in the facility's operating record.~~

~~B. The owner or operator of a treatment or recovery facility must certify that the facility has treated the waste according to the generator's demonstration. The following certification is required:~~

~~"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly and complies with treatment as specified in the generator's demonstration. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."~~

~~C. The owner or operator of a treatment, recovery, or storage facility must, for each initial shipment of waste, send a copy of the generator's demonstration, if applicable, and certification under part 7045.1308, subpart 1, item B, subitem (1) or item C, subitem (1), and certification under subpart 3, item B, if applicable, to the facility receiving the waste or treatment residues. With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged.~~

~~D. The owner or operator of a disposal facility must ensure that those wastes prohibited under part 7034.1333,~~

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~~subpart 2, item B, are subject to a certification according to the requirements of this part before disposal in a landfill or surface impoundment, and that the units receiving the wastes must meet the minimum technological requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).~~

~~Subp. 4. Land disposal authorized. When the certification is received by the commissioner, and provided that the wastes have been treated by the treatment, if any, determined by the generator to yield the greatest environmental benefit practically available, the wastes or treatment residuals may be disposed in a landfill or surface impoundment unit meeting the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2), unless otherwise prohibited by the commissioner.~~

7045.1309 SPECIAL RULES REGARDING WASTES THAT EXHIBIT A CHARACTERISTIC.

Subpart 1. **Applicable treatment standards.** The initial generator of a solid waste must determine each EPA hazardous waste number applicable to the waste to determine the applicable treatment standards under parts 7045.1350 to 7045.1360. For purposes of parts 7045.1300 to 7045.1380, the waste will carry the waste code for any applicable listing under part 7045.0135 and also one or more waste codes under part 7045.0131 where the waste exhibits a characteristic, except when the treatment standard for the waste code listed in part 7045.0135 operates in lieu of the standard for the waste code under part 7045.0131 as provided in subpart 2.

Subp. 2. **Conditions of meeting treatment standards.** When a prohibited waste is listed under part 7045.0135 and exhibits a characteristic under part 7045.0131, the treatment standard for the waste code listed in part 7045.0135 will operate in lieu of the standard for the waste code under part 7045.0131, provided that the treatment standard for the waste includes a treatment standard for the constituent that causes the waste to exhibit the characteristic. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic

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waste codes.

Subp. 3. **Land disposal.** In addition to any applicable standards determined from the initial point of generation, no prohibited waste that exhibits a characteristic under part 7045.0131 may be land disposed unless the waste complies with the treatment standards under parts 7045.1350 to 7045.1360.

Subp. 4. **Waste analysis.**

A. Wastes that exhibit a characteristic under part 7045.0131 are also subject to the requirements of part 7045.1315, except that when the waste is no longer hazardous, for each shipment of the wastes to a solid waste facility under chapter 7035, the initial generator or the treatment facility need not send a notification as required in part 7045.1315 to the facility. In those circumstances, a notification and certification must be sent to the commissioner.

B. The notification must include the following information:

(1) the name and address of the solid waste facility receiving the waste shipment under chapter 7035;

(2) a description of the waste as initially generated, including the applicable EPA hazardous waste numbers, the applicable wastewater or nonwastewater category as defined in part 7045.0020, and the subdivisions made within a waste code based on waste specific criteria; and

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

C. The certification must be signed by an authorized representative, and must use the following statement:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly and complies with the performance levels in

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parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d) without impermissible dilution of the prohibited waste. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

7045.1310 TREATMENT SURFACE IMPOUNDMENT EXEMPTION.

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

A. treatment of the wastes occurs in the impoundments;

B. the following conditions are met:

(1) For wastes with treatment standards in parts 7045.1350 to 7045.1360 or prohibition levels in parts 7045.1320 to 7045.1350 or RCRA section 3004(d), the residues from treatment are analyzed, as specified in part 7045.1315 or 7045.1330 to determine if they meet the applicable treatment standards, or, where no treatment standards have been established for the waste, the applicable prohibition levels. The sampling method, specified in the waste analysis plan under part 7045.0458 or 7045.0564 must be designed so the representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples.

(2) The following treatment residues, including any liquid waste, must be removed at least annually: residues that do not meet the treatment standards adopted under parts 7045.1350 to 7045.1360; residues that do not meet the prohibition levels adopted under parts 7045.1320 to 7045.1350, or imposed by statute where no treatment standards have been established; residues that are from the treatment of wastes prohibited from land disposal under parts 7045.1320 to 7045.1350 where no treatment standards have been established and no prohibition levels apply; or residues from managing listed

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wastes that are not delisted under part 7045.0075, subpart 2. However, residues that are the subject of a valid certification under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, made no later than one year after placement of the wastes in an impoundment are not required to be removed annually. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, the flow-through constitutes removal of the supernatant for the purpose of this requirement.

(3) Treatment residues may not be placed in any other surface impoundment for subsequent management unless the residues are the subject of a valid certification under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, that allows disposal in surface impoundments meeting the requirements of ~~part 7045.1308, subpart 1~~ Code of Federal Regulations, title 40, section 268.8.

(4) The procedures and schedule for the sampling of impoundment contents, the analysis of test data, and the annual removal of residues that do not meet the treatment standards, or, prohibition levels where no treatment standards have been established, or that are from the treatment of wastes prohibited from land disposal under parts 7045.1320 to 7045.1350 where no treatment standards have been established and no prohibition levels apply, must be specified in the facility's waste analysis plan as required under parts 7045.0458 and 7045.0564;

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

D. the owner or operator submits to the commissioner a written certification that the requirements of item C~~,~~ have been met and a copy of the waste analysis plan required under item B. The ~~following~~ certification ~~is required~~ must be signed by an authorized representative, and must use the following

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statement:

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

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

7045.1315 WASTE ANALYSIS FOR RESTRICTED WASTES.

Subpart 1. **Applicability.** Except as provided in part 7045.1330 or 7045.1358, if a waste is listed in part 7045.0135, the generator must test the waste, or test an extract using the test method described in Code of Federal Regulations, title 40, part 261, Appendix II, or use knowledge of the waste, to determine if the waste is restricted from land disposal. Except as specified in part 7045.1330, if a generator's waste exhibits one or more of the characteristics in part 7045.0131, the generator must test an extract using the test method in Code of Federal Regulations, title 40, part 268, Appendix IX, or use knowledge of the waste to determine if the waste is restricted from land disposal under this part.

A. If a generator is managing a restricted waste and the waste does not meet the applicable treatment standards or exceeds the applicable prohibition levels in part 7045.1330 or RCRA section 3004(d), with each shipment of waste the generator must notify the treatment or storage facility in writing of the appropriate treatment standards in parts 7045.1350 to 7045.1360 and any applicable prohibition levels in part 7045.1330 or RCRA section 3004(d). The notice must include the following information:

(1) EPA Hazardous Waste Number;

(2) the corresponding treatment standards for wastes F001-F005, F039, and wastes prohibited under part

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7045.1330 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part 7045.1360 ~~(e.g., INCIN, WETOX)~~ also must be listed on the notification;

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

(4) waste analysis data, where available.

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

(1) The notice must include the following information:

(a) EPA Hazardous Waste Number;

(b) the corresponding treatment standards for wastes F001-F005, F039, and wastes prohibited under part 7045.1330 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment

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standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part 7045.1360 also must be listed on the notification;

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

(d) waste analysis data, where available.

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

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

C. If a generator's waste is subject to an exemption from a prohibition on the type of land disposal method used for the waste, including, but not limited to, a case-by-case extension under part 7045.0075, subpart 8, an exemption under part 7045.0075, subpart 9, or a nationwide capacity variance under Code of Federal Regulations, title 40, part 268, subpart C, with each shipment of wastes, the generator must submit a notice to the facility receiving the waste, stating that the waste is not prohibited from land disposal. The notice must include the following information:

(1) the EPA Hazardous Waste Number;

(2) the corresponding treatment standards for wastes F001-F005, F039, and wastes prohibited in part 7045.1330 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the

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applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part 7045.1360 also must be listed on the notification;

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

(4) waste analysis data, where available; and

(5) the date the waste is subject to the prohibitions.

D. If a generator is managing a prohibited waste in tanks or containers under part 7045.0292, and is treating the waste in tanks or containers to meet applicable treatment standards under parts 7045.1350 to 7045.1360, the generator must develop and follow a written waste analysis plan that describes the procedures the generator will carry out to comply with the treatment standards. The plan must be kept on-site in the generator's records, and the following requirements must be met:

(1) the waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited wastes being treated, and contain all information necessary to treat the wastes according to parts 7045.1300 to 7045.1380, including the selected testing frequency;

(2) the plans must be filed with the commissioner at least 30 days before treatment activity, with delivery verified; and

(3) wastes shipped off-site must comply with the notification requirements of subpart 1.

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

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or an extract developed using the test method described in Code of Federal Regulations, title 40, part 261, Appendix II, all waste analysis data must be retained on-site in the generator's files.

F. If a generator determines that the generator is managing a restricted waste that is excluded from the definition of hazardous or solid waste or exempt from hazardous waste regulation under Code of Federal Regulations, title 40, sections 261.2 to 261.6, subsequent to the point of generation, the generator must place a one-time notice stating the generation, subsequent exclusion from the definition of hazardous or solid waste, or exemption from the hazardous waste regulation, and the disposition of the waste in the facility's file.

G. Generators must retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced under this part for at least five years from the date that the waste that is the subject of the documentation was last sent to on-site or off-site treatment, storage, or disposal. The five-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner. The requirements of this item apply to solid wastes even when the hazardous characteristic is removed before disposal or when the waste is excluded from the definition of hazardous or solid waste or exempted from hazardous waste regulation, subsequent to the point of generation.

H. If a generator is managing a lab pack that contains wastes identified under part 7045.1380 and wishes to use the alternative treatment standard under part 7045.1360, with each shipment of waste, the generator must submit a notice to the treatment facility according to this subpart. The generator must also submit the following certification, which must be signed by an authorized representative:

"I certify under penalty of law that I personally have examined and am familiar with the waste and that the

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lab pack contains only the wastes specified in Code of Federal Regulations, title 40, part 268, Appendix IV, or solid wastes not subject to regulation under Code of Federal Regulations, title 40, part 261. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment."

I. If a generator is managing a lab pack that contains organic wastes and wishes to use the alternate treatment standards in part 7045.1360, with each shipment of waste, the generator must submit a notice to the treatment facility according to this subpart. The generator also must submit the following certification, which must be signed by an authorized representative:

"I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste and that the lab pack contains only organic waste specified in Code of Federal Regulations, title 40, part 268, Appendix V, or solid wastes not subject to regulation under Code of Federal Regulations, title 40, part 261. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment."

J. Small quantity generators with tolling agreements must comply with the applicable notification and certification requirements of this subpart for the initial shipment of the waste subject to the agreement. The generators must retain on-site a copy of the notification and certification, together with the tolling agreement, for at least three years after termination or expiration of the agreement. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

Subp. 2. **Testing of wastes.** Treatment facilities must test their wastes according to the frequency specified in their

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waste analysis plans under part 7045.0458 or 7045.0564. The testing must be performed as provided in items A to C.

A. For wastes with treatment standards expressed as concentrations in the waste extract in part 7045.1355, the owner or operator of the treatment facility must test the treatment residues or an extract of the residues developed using the test method described in Code of Federal Regulations, title 40, part 261, Appendix II, to assure that the treatment residues or extract meet the applicable treatment standards.

B. For wastes prohibited under part 7045.1330 or RCRA section 3004(d) which are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the owner or operator of the treatment facility must test the treatment residues according to the generator testing requirements in part 7045.1330 to assure that the treatment residues comply with the applicable prohibitions.

C. For wastes with treatment standards expressed as concentrations in the waste under part 7045.1358, the owner or operator of the treatment facility must test the treatment residues, not an extract of the residues, to assure that the treatment residues meet the applicable treatment standards.

D. A notice must be sent with each waste shipment to the land disposal facility that includes the following information:

(1) the EPA Hazardous Waste Number;

(2) the corresponding treatment standards for wastes F001-F005, F039, and wastes prohibited under part 7045.1330 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in part

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7045.1360, the applicable five-letter treatment code in part 7045.1360 ~~(e.g., INCIN, WETOX)~~ also must be listed on the notification;

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

(4) waste analysis data, where available.

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

(1) For wastes with treatment standards expressed as concentrations in the waste extract or in the waste, under part 7045.1355 or 7045.1358, or for wastes prohibited under part 7045.1330 or RCRA section 3004(d) that are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the certification must be signed by an authorized representative and must state the following:

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

(2) For wastes with treatment standards expressed as technologies in part 7045.1360, the certification must be

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signed by an authorized representative and must state the following:

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

(3) For wastes with treatment standards expressed as concentrations in the waste under part 7045.1358, if compliance with the treatment standards in parts 7045.1350 to 7045.1360 is based in whole or in part on the analytical detection limit alternative specified in part 7045.1358, the certification ~~also~~ must be signed by an authorized representative and must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by incineration in units operated according to Code of Federal Regulations, title 40, part 264, subpart O, or part 265, subpart O, or by combustion in fuel substitution units operating according to applicable technical requirements, and I have been unable to detect the nonwastewater organic constituents despite having used my best good faith efforts to analyze for the constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

F. If the waste or treatment residue will be further managed at a different treatment or storage facility, the treatment, storage, or disposal facility sending the waste or treatment residue off-site must comply with the notice and

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certification requirements applicable to generators under this part.

G. When the wastes are recyclable materials used in a manner constituting disposal subject to part 7045.0665, subpart 1, item C, regarding treatment standards and prohibition levels, the owner or operator of a treatment facility~~, the recycler,~~ is not required to notify the receiving facility under item D. With each shipment of the wastes, the owner or operator of the recycling facility must submit the certification in item E, and a notice that includes the information in item D, except the manifest number, to the commissioner's delegated representative. The recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

Subp. 3. **Facility requirements.** Except when the owner or operator is disposing of waste that is a recyclable material used in a manner constituting disposal under part 7045.0665, subpart 1, the owner or operator of a land disposal facility disposing any waste subject to restrictions under parts 7045.1300 to 7045.1380 must:

A. have copies of the notice and certifications specified in subpart 1 or 2 and the certification specified in ~~part 7045.1300~~ Code of Federal Regulations, title 40, section 268.8, if applicable; and

B. test the waste, or an extract of the waste or treatment residue developed using the test method in Code of Federal Regulations, title 40, part 261, Appendix II, or using any methods required by generators under part 7045.1330, to assure that the wastes or treatment residues are in compliance with the applicable treatment standards in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d). The testing must be performed according to the frequency specified in the facility's waste analysis plan as required in part 7045.0458 or 7045.0564.

7045.1320 WASTE SPECIFIC PROHIBITIONS; SOLVENT WASTES.

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Subpart 1. **Applicability.** Effective November 8, 1986, the spent solvent wastes specified in part 7045.0135 as Hazardous Waste Nos. F001, F002, F003, F004, and F005 are prohibited from land disposal unless one or more of the following conditions apply:

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

B. the solvent waste is generated from any response action taken under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), or any corrective action taken under the Resource Conservation and Recovery Act (RCRA), except where the waste is contaminated soil or debris;

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

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

Subp. 2. **Effective date.** Effective November 8, 1988, the F001-F005 solvent wastes listed in subpart 1, items A to D, are prohibited from land disposal. Effective November 8, 1990, the F001-F005 solvent wastes that are contaminated soil and debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under RCRA, subtitle C, and the residues from treating these wastes are prohibited from land disposal. Between November 8, 1988, and November 8, 1990, these wastes may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations,~~

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~~title-40,-section-260.5(h)(2)~~ part 7045.0532.

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

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

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

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

7045.1325 WASTE SPECIFIC PROHIBITION; DIOXIN-CONTAINING WASTES.

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

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

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

B. persons have been granted an exemption from a prohibition under part 7045.0075, subpart 9, with respect to those wastes or units covered by the petition;

C. persons have been granted an extension to the effective date of a prohibition under part 7045.0075, subpart 8, with respect to those wastes covered by the extension; or

D. the F020-F023 and F026-F028 dioxin-containing wastes are contaminated soil and debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or a corrective action taken under RCRA, subtitle C.

Subp. 3. **Effective date.** Effective November 8, 1990, the F020-F023 and F026-F028 dioxin-containing wastes in subpart 2, item D, are prohibited from land disposal. Between November 8,

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1988, and November 8, 1990, wastes included in subpart 2, item A, may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, part 268.5(h)(2)~~ part 7045.0532 and all other applicable requirements of parts 7045.0450 to 7045.0642.

7045.1330 WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES.

Subpart 1. **Application.** Effective July 8, 1987, the following hazardous wastes are prohibited from land disposal:

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

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

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

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

E. nonliquid hazardous wastes containing HOC's in total concentration greater than or equal to 1,000 mg/kg and are not wastes described in subpart 2, items A and B.

Subp. 2. **Exceptions.** The requirements of subpart 1, items A to E, do not apply until:

A. July 8, 1989, where the wastes are contaminated soil or debris not resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action taken under RCRA, subtitle C. Between July 8, 1987, and July 8, 1989, the wastes may be disposed of in a landfill or surface impoundment only if the disposal is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532.

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B. November 8, 1990, where the wastes are contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action taken under RCRA, subtitle C. Between November 8, 1988, and November 8, 1990, the wastes may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532.

C. Between July 8, 1987, and November 8, 1988, the wastes included in subpart 1, items D and E, may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, part 268.5(h)(2)~~ part 7045.0532.

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

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

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

7045.1333 WASTE SPECIFIC PROHIBITIONS; FIRST ONE-THIRD OF REGULATED WASTES.

Subpart 1. **Application.** The hazardous wastes in items A ~~and~~ B to D are prohibited from land disposal.

A. Effective August 8, 1988, the wastes specified as EPA Hazardous Waste Nos. F006 (nonwastewater) in part 7045.0135; K001 and K004 wastes specified in part 7045.1358, subpart 1; K008 wastes specified in part 7045.1358, subpart 1; K016, K018, K019, K020 and K021 wastes specified in part 7045.1358, subpart 1; K022 (nonwastewater), K024, and K025 nonwastewaters specified in part 7045.1358, subpart 1; K030, K036 (nonwastewater), K037, K044, K045, nonexplosive K046 (nonwastewater), K047, K060 (nonwastewater), K061 (nonwastewaters containing less than 15 percent zinc), K062, non $CaSO_4$ K069 (nonwastewaters), K086

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(solvent washes), K087, K099, and K100 nonwastewaters specified in part 7045.1358, subpart 1; K101 (wastewater), K101 (nonwastewater, low arsenic subcategory less than one percent total arsenic), K102 (wastewater), K102 (nonwastewater, low arsenic subcategory less than one percent total arsenic), K103, and K104 are prohibited from land disposal.

B. Effective August 8, 1988, and continuing until August 7, 1990, K061 wastes containing 15 percent zinc or greater are prohibited from land disposal under the treatment standards specified in part 7045.1355 applicable to K061 wastes that contain less than 15 percent zinc.

C. Effective August 8, 1990, the waste specified in part 7045.0135, subpart 3, as EPA Hazardous Waste No. K071 is prohibited from land disposal.

D. Effective August 8, 1990, the wastes specified in Code of Federal Regulations, title 40, section 268.10, having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration that are contaminated soil and debris are prohibited from land disposal.

Subp. 2. **Exceptions to subpart 1.** Items A ~~to B~~ and B are exceptions from the prohibitions in subpart 1.

~~A.--Effective-August-8,-1990,-the-waste-specified-in part-7045.0135,-subpart-3,-as-EPA-Hazardous-Waste-No.-K071-is prohibited-from-land-disposal.~~

~~B.--Effective-August-8,-1990,-the-wastes-specified-in Code-of-Federal-Regulations,-title-40,-section-268.10,-having-a treatment-standard-in-parts-7045.1350-to-7045.1360-based-on incineration-that-are-contaminated-soil-and-debris-are prohibited-from-land-disposal.~~

~~C.~~ A. Between November 8, 1988, and August 8, 1990, wastes included in subpart 1, items ~~A~~ C and ~~B~~ D may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code-of-Federal Regulations,-title-40,-section-268.5(h)(2)~~ part 7045.0532.

~~B.~~ B. The requirements of this subpart and subpart 1 do not apply if:

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(1) the wastes meet the applicable standards in part 7045.1355;

(2) persons have been granted an exemption to an effective date of a prohibition under part 7045.0075, subpart 7, with respect to those wastes and units covered by the petition; or

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

Subp. 3. **Applicability between August 8, 1988, and May 8, 1990.** Between August 8, 1988, and May 8, 1990, the wastes specified in Code of Federal Regulations, title 40, section 268.10, for which treatment standards under part 7045.1355 have not been adopted, including wastes that are subject to the statutory prohibitions of RCRA section 3004(d) or codified prohibitions under part 7045.0135, subpart 3, but not including wastes subject to a treatment standard under part 7045.1360, are prohibited from disposal in a landfill or surface impoundment unless a demonstration and certification have been submitted.

Subp. 4. **Waste analysis.** To determine whether a hazardous waste listed in Code of Federal Regulations, title 40, section 268.10, exceeds the applicable treatment standards in parts 7045.1355 and 7045.1358, the initial generator must test a representative sample of the waste extract or the entire waste depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable subpart D levels, the waste is prohibited from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise specified.

7045.1334 WASTE SPECIFIC PROHIBITION; SECOND ONE-THIRD OF REGULATED WASTES.

Subpart 1. **Application.** The wastes in items A to E are prohibited from land disposal.

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A. Effective June 8, 1989, the wastes specified in part 7045.0135 as EPA Hazardous Waste Nos. F010; F024; K005; K007; K009 (nonwastewaters); K010; K023; K027; K028; K029 (nonwastewaters); K036 (wastewaters); K038; K039; K040; K043; K093; K094; K095 (nonwastewaters); K096 (nonwastewaters); K113; K114; K115; K116; P013; P021; P029; P030; P039; P040; P041; P043; P044; P062; P063; P071; P074; P085; P089; P094; P097; P098; P099; P104; P106; P109; P111; P121; U028; U058; U069; U087; U088; U102; U107; U221; U223; and U235 are prohibited from land disposal.

B. Effective June 8, 1989, the wastes specified in part 7045.0135 as EPA Hazardous Waste Nos. K009 (wastewaters); K011 (nonwastewaters); K013 (nonwastewaters); and K014 (nonwastewaters) are prohibited from land disposal.

C. Effective July 8, 1989, the wastes specified in part 7045.0135 as EPA Hazardous Waste Nos. F006--cyanide (nonwastewater); F008; F009; F011 (wastewaters); and F012 (wastewaters) are prohibited from land disposal.

D. Effective July 8, 1989, the waste specified in Code of Federal Regulations, title 40, section 261.31, as EPA Hazardous Waste No. F007 is prohibited from land disposal.

E. Effective July 8, 1989 through December 8, 1989, F011 (nonwastewaters) and F012 (nonwastewaters) are prohibited from land disposal pursuant to the treatment standards in parts 7045.1355 and 7045.1358 applicable to EPA Hazardous Waste Nos. F007, F008, and F009 nonwastewaters. Effective December 8, 1989, F011 (nonwastewaters) and F012 (nonwastewaters) are prohibited from land disposal pursuant to the treatment standards in parts 7045.1355 and 7045.1358 applicable to F011 (nonwastewaters) and F012 (nonwastewaters).

Subp. 2. **Exceptions.** Items A to D are exceptions from the prohibitions in subpart 1.

A. Effective June 8, 1991, the wastes specified in this part, having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration, that are contaminated soil and debris are prohibited from land disposal.

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B. Between June 8, 1989, and June 8, 1991, (for EPA Hazardous Waste Nos. F007, F008, F009, F011, and F012 between June 8, 1989, and July 8, 1989) wastes included in item A and subpart 1, item C, may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the technical requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532.

C. The requirements of item A and subpart 1, items A to C, do not apply if:

(1) the wastes meet the applicable standards in parts 7045.1350 to 7045.1360;

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

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

D. Between June 8, 1989, and May 8, 1990, the wastes specified in Code of Federal Regulations, title 40, section 268.11, for which treatment standards under parts 7045.1350 to 7045.1360 are not applicable, including California list wastes subject to the statutory prohibitions of RCRA section 3004(d) or codified prohibitions under part 7045.0135, subpart 3, are prohibited from disposal in a landfill or surface impoundment unless the wastes are the subject of a valid demonstration and certification under ~~part 7045.1300~~ Code of Federal Regulations, title 40, section 268.8.

Subp. 3. **Waste analysis.** To determine whether a hazardous waste listed in Code of Federal Regulations, title 40, sections 268.10 to 268.12, exceeds the applicable treatment standards specified in parts 7045.1355 and 7045.1358, the initial generator must test a representative sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract ~~of~~ or the waste, or the generator may use knowledge of the waste.

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If the waste contains constituents in excess of the applicable levels specified in parts 7045.1350 to 7045.1360, the waste is prohibited from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise specified.

7045.1335 WASTE SPECIFIC PROHIBITIONS; THIRD ONE-THIRD OF REGULATED WASTES.

Subpart 1. **Applicability as of August 8, 1990.** Effective August 8, 1990, the following wastes are prohibited from land disposal:

A. wastes specified in part 7045.1325 as EPA Hazardous Waste Nos. F002 (1,1,2-trichloroethane); F005 (benzene); F005 (2-ethoxy ethanol); F005 (2-nitro-propane); F006 (wastewaters); F019; F025; and F039 (wastewaters);

B. wastes specified in part 7045.1330 as EPA Hazardous Waste Nos. K002; K003; K004 (wastewaters); K005 (wastewaters); K006; K008 (wastewaters); K011 (wastewaters); K013 (wastewaters); K014 (wastewaters); K015 (nonwastewaters); K017; K021 (wastewaters); K022 (wastewaters); K025 (wastewaters); K026; K029 (wastewaters); K031 (wastewaters); K032; K033; K034; K035; K041; K042; K046 (wastewaters, reactive nonwastewaters); K048 (wastewaters); K049 (wastewaters); K050 (wastewaters); K051 (wastewaters); K052 (wastewaters); K060 (wastewaters); K061 (wastewaters and high zinc subcategory > 15 percent zinc); K069 (wastewaters, calcium sulfate nonwastewaters); K073; K083; K084 (wastewaters); K085; K095 (wastewaters); K096 (wastewaters); K097; K098; K100 (wastewaters); K101 (wastewaters); K102 (wastewaters); K105; and K106 (wastewaters);

C. wastes specified in part 7045.1333, subpart 2, as EPA Hazardous Waste Nos. P001; P002; P003; P004; P005; P006; P007; P008; P009; P010 (wastewaters); P011 (wastewaters); P012 (wastewaters); P014; P015; P016; P017; P018; P020; P022; P023; P024; P026; P027; P028; P031; P033; P034; P036 (wastewaters); P037; P038 (wastewaters); P042; P045; P046; P047; P048; P049;

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P050; P051; P054; P056; P057; P058; P059; P060; P064; P065 (wastewaters); P066; P067; P068; P069; P070; P072; P073; P075; P076; P077; P078; P081; P082; P084; P088; P092 (wastewaters); P093; P095; P096; P101; P102; P103; P105; P108; P110; P112; P113; P114; P115; P116; P118; P119; P120; P122; and P123;

D. wastes specified in part 7045.1333, subpart 3, as EPA Hazardous Waste Nos. U001; U002; U003; U004; U005; U006; U007; U008; U009; U010; U011; U012; U014; U015; U016; U017; U018; U019; U020; U021; U022; U023; U024; U025; U026; U027; U029; U030; U031; U032; U033; U034; U035; U036; U037; U038; U039; U041; U042; U043; U044; U045; U046; U047; U048; U049; U050; U051; U052; U053; U055; U056; U057; U059; U060; U061; U062; U063; U064; U066; U067; U068; U070; U071; U072; U073; U074; U075; U076; U077; U078; U079; U080; U081; U082; U083; U084; U085; U086; U089; U090; U091; U092; U093; U094; U095; U096; U097; U098; U099; U101; U103; U105; U106; U108; U109; U110; U111; U112; U113; U114; U115; U116; U117; U118; U119; U120; U121; U122; U123; U124; U125; U126; U127; U128; U129; U130; U131; U132; U133; U134; U135; U136 (wastewaters); U137; U138; U140; U141; U142; U143; U144; U145; U146; U147; U148; U149; U150; U151 (wastewaters); U152; U153; U154; U155; U156; U157; U158; U159; U160; U161; U162; U163; U164; U165; U166; U167; U168; U169; U170; U171; U172; U173; U174; U176; U177; U178; U179; U180; U181; U182; U183; U184; U185; U186; U187; U188; U189; U191; U192; U193; U194; U196; U197; U200; U201; U202; U203; U204; U205; U206; U207; U208; U209; U210; U211; U213; U214; U215; U216; U217; U218; U219; U220; U222; U225; U226; U227; U228; U234; U236; U237; U238; U239; U240; U243; U244; U246; U247; U248; and U249; and

E. the following wastes identified as hazardous based on a characteristic alone: D001; D002; D003; D004 (wastewaters); D005; D006; D007; D008 (except for lead materials stored before secondary smelting); D009 (wastewaters); D010; D011; D012; D013; D014; D015; D016; and D017.

Subp. 2. **Applicability as of November 8, 1990.** Effective November 8, 1990, the wastes specified in part 7045.1330 as EPA

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Hazardous Waste Nos. K048 (nonwastewaters); K049 (nonwastewaters); K050 (nonwastewaters); K051 (nonwastewaters); and K052 (nonwastewaters) are prohibited from land disposal.

Subp. 3. **Applicability as of May 8, 1992.** Effective May 8, 1992, the following wastes are prohibited from land disposal:

A. waste specified in part 7045.1325 as EPA Hazardous Waste No. F039 (nonwastewaters);

B. wastes specified in part 7045.1330 as EPA Hazardous Waste Nos. K031 (nonwastewaters); K084 (nonwastewaters); K101 (nonwastewaters); K102 (nonwastewaters); and K106 (nonwastewaters);

C. wastes specified in part 7045.1333, subpart 2, as EPA Hazardous Waste Nos. P010 (nonwastewaters); P011 (nonwastewaters); P012 (nonwastewaters); P036 (nonwastewaters); P038 (nonwastewaters); P065 (nonwastewaters); P087; and P092 (nonwastewaters);

D. wastes specified in part 7045.1333, subpart 3, as EPA Hazardous Waste Nos. U136 (nonwastewaters); and U151 (nonwastewaters); and

E. the following wastes identified as hazardous based on a characteristic alone: D004 (nonwastewaters); D008 (lead materials stored before secondary smelting), and D009 (nonwastewaters); inorganic solids debris as defined in part 7045.0020, subpart 45a (which also applies to chromium refractory bricks carrying the EPA Hazardous Waste Nos. K048-K052); and RCRA hazardous wastes that contain naturally occurring radioactive materials.

Subp. 4. **Mixed radioactive/hazardous wastes.** Effective May 8, 1992, hazardous wastes listed in Code of Federal Regulations, title 40, sections 268.10, 268.11, and 268.12, that are mixed radioactive/hazardous wastes, and soil or debris contaminated with the hazardous wastes, are prohibited from land disposal.

Subp. 5. **Contaminated soil or debris.** Effective May 8, 1992, the wastes specified in this part having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration,

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mercury retorting, vitrification, acid leaching followed by chemical precipitation, or thermal recovery of metals, and which are contaminated soil or debris, are prohibited from land disposal.

Subp. 6. **Exceptions between May 8, 1990, and August 8, 1990.** Between May 8, 1990, and August 8, 1990, the wastes in subpart 1 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements ~~in~~ of part ~~7045.0075, subpart 8~~ 7045.0532.

Subp. 7. **Exceptions between May 8, 1990, and November 8, 1990.** Between May 8, 1990, and November 8, 1990, the wastes in subpart 2 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements ~~in~~ of part ~~7045.0075, subpart 8~~ 7045.0532.

Subp. 8. **Exceptions between May 8, 1990, and May 8, 1992.** Between May 8, 1990, and May 8, 1992, the wastes in subparts 3 to 5 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532.

Subp. 9. **General exceptions.** The requirements of subparts 1 to 5 do not apply if:

A. the wastes meet the applicable standards in parts 7045.1350 to 7045.1360;

B. persons have been granted an exemption from a prohibition pursuant to a petition under part 7045.0075, subpart 9, with respect to wastes and units covered by the petition;

C. the wastes meet the applicable alternate standards established pursuant to a petition granted under Code of Federal Regulations, title 40, section 268.44; and

D. persons have been granted an extension to the effective date of a prohibition under part 7045.0075, subpart 8, with respect to wastes covered by the extension.

Subp. 10. **Waste analysis.** To determine whether a hazardous waste listed in Code of Federal Regulations, title 40, sections 268.10, 268.11, and 268.12, exceeds the applicable

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treatment standards in parts 7045.1355 and 7045.1358, the initial generator must test a representative sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable levels listed in parts 7045.1350 to 7045.1360, the waste is prohibited from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise specified.

7045.1339 EFFECTIVE DATES OF SURFACE DISPOSED WASTES REGULATED IN THE LAND DISPOSAL RESTRICTIONS.

The comprehensive list of effective dates of surface disposed wastes regulated in the land disposal restrictions is found in Code of Federal Regulations, title 40, section 268, Appendix VII, Tables 1 and 2. This table does not include mixed radioactive wastes which are receiving a national capacity variance until May 8, 1992, for all applicable treatment technologies.

7045.1350 TREATMENT STANDARDS.

Subpart 1. **Concentration standard for waste extract.** A restricted waste identified in part 7045.1355 may be land disposed only if an extract of the waste or of the treatment residue of the waste developed using the test method in Code of Federal Regulations, title 40, part 261, Appendix II, does not exceed the value shown in Code of Federal Regulations, title 40, part 268.41, Table CCWE, for any hazardous constituent listed for that waste, with the following exceptions: D004; D008; K031; K084; K101; K102; P010; P011; P012; P036; P038; and U136. These wastes may be land disposed only if an extract of the waste or of the treatment residue of the waste developed using either the test method in Code of Federal Regulations, title 40, part 261, Appendix II, or the test method in Code of Federal Regulations, title 40, part 268, Appendix ~~II~~ I, does not exceed the concentrations shown in Code of Federal Regulations, title

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40, part 268.41, Table CCWE, for any hazardous constituent listed for that waste.

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

Subp. 3. **Concentration standard for waste or treatment residue.** Except as otherwise specified in part 7045.1358, a restricted waste identified in part 7045.1358 may be land disposed only if the constituent concentrations in the waste or treatment residue of the waste do not exceed the value shown in Code of Federal Regulations, title 40, part 268.43, Table CCW, for any hazardous constituents listed for that waste.

7045.1355 TREATMENT STANDARDS EXPRESSED AS CONCENTRATIONS IN WASTE EXTRACT.

Subpart 1. **Applicability.** Code of Federal Regulations, title 40, part 268.41, Table CCWE, identifies the restricted wastes and the concentrations of their associated constituents that may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in Code of Federal Regulations, title 40, part 261, Appendix II, for the allowable land disposal of such wastes, with the exception of EPA Hazardous Waste Nos. D004, D008, K031, K084, K101, K102, P010, P011, P012, P036, P038, and U136. Table CCWE also identifies the restricted EPA Hazardous Waste Nos. D004, D008, K031, K084, K101, K102, P010, P011, P012, P036, P038, and U136 and the concentrations of their associated constituents which may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in Code of Federal Regulations, title 40, part 261, Appendix II, for the allowable land disposal of such wastes. Code of Federal Regulations, title 40, part 268, Appendix II, provides agency guidance on treatment methods that have been shown to achieve the Table CCWE levels for the respective wastes. This guidance is provided to assist generators and owners or operators in their selection of appropriate treatment methods. Compliance with these concentrations is required based on grab samples.

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

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Subp. 3. **Constituent concentrations in waste extract.** Constituents in waste extracts are listed with the applicable concentration limits in Code of Federal Regulations, title 40, part 268.41, Table CCWE.

7045.1358 TREATMENT STANDARDS EXPRESSED AS WASTE CONCENTRATIONS.

Subpart 1. **Applicability.** Subpart 3 identifies the restricted wastes and the concentrations of their associated hazardous constituents that may not be exceeded by the waste or treatment residual, not an extract of the waste or residual, for the allowable land disposal of the waste or residual. Compliance with these concentrations is required based on grab samples, unless otherwise noted in subpart 3. Limits are expressed in milligrams per kilogram (mg/kg) for nonwastewaters and in milligrams per liter (mg/l) for wastewaters.

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

Subp. 3. **Constituent concentrations in wastes.** Constituent concentrations in wastes are listed with the applicable concentration limits in Code of Federal Regulations, title 40, section 268.43, Table CCW.

Subp. 4. **No land disposal.** The nonwastewater forms of the following wastes generated by the processes described in the waste listing description applies only to wastes generated and disposed after the dates shown, if a date is shown, and not generated in the course of treating wastewater forms of these wastes based on no generation, except as noted, are prohibited from land disposal:

A. K004, after August 17, 1988;

B. K005, after June 8, 1989;

C. K007, after June 8, 1989;

D. K008, after August 17, 1988;

E. K015, after May 8, 1990, based on no ash;

F. K021, after August 17, 1988;

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G. K025, after August 17, 1988;

H. K036, after August 17, 1988;

I. K044, based on reactivity;

J. K045, based on reactivity;

K. K047, based on reactivity;

L. K060, after August 17, 1988;

M. K061 - high zinc subcategory, greater than or equal to 15 percent total zinc, after August 17, 1990, based on recycling, effective August 8, 1990;

N. K069 - noncalcium sulfate subcategory, after August 17, 1988, based on recycling;

O. K083 - no ash subcategory, less than 0.01 percent total ash, after May 8, 1990, based on no ash; and

P. K100, after August 17, 1988.

Subp. 5. **Demonstrating compliance with treatment standards for organic constituents.** Notwithstanding the prohibitions in subpart 1, treatment and disposal facilities may demonstrate, and certify under part 7045.1315, subpart 2, item E, compliance with the treatment standards for organic constituents specified by a footnote in Code of Federal Regulations, title 40, section 268.43, Table CCW, provided the following conditions are satisfied:

A. the treatment standards for the organic constituents were established based on incineration in units operated according to the technical requirements of part 7045.0542 or 7045.0640, or based on combustion in fuel substitution units operating in ~~according to~~ accordance with applicable technical requirements;

B. the treatment or disposal facility has used the methods referenced in item A to treat the organic constituents; and

C. the treatment or disposal facility has been unable to detect the organic constituents despite using its best good faith efforts as defined by applicable guidance or standards. Until the guidance or standards are developed, the treatment or disposal facility may demonstrate such good faith efforts by

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achieving detection limits for the regulated organic constituents that do not exceed an order of magnitude of the treatment standards specified in this part.

7045.1360 TREATMENT STANDARDS EXPRESSED AS SPECIFIED TECHNOLOGIES.

Subpart 1. **Applicability.** The wastes in items A and B and subparts 4 and 5 must be treated using the technology or technologies specified in items A to C and subpart 3.

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

B. Nonliquid hazardous wastes containing halogenated organic compounds (HOC's) in total concentration greater than or equal to 1,000 mg/kg and liquid HOC-containing wastes that are prohibited under part 7045.1330, subpart 1, item D, must be incinerated in accordance with the requirements of part 7045.0542 or 7045.0640. These treatment standards do not apply if the waste is subject to a treatment standard in parts 7045.1350 to 7045.1360 for a specific HOC.

C. A mixture consisting of wastewater, the discharge of which is subject to regulation under either section 307(b) or 402 of the Clean Water Act, and de minimis losses of materials from manufacturing operations in which these materials are used as raw materials or are produced as products in the manufacturing process, and that meet the criteria of the D001 ignitable liquids containing greater than ten percent total organic constituents (TOC) subcategory, is subject to the DEACT treatment standard described in subpart 3. For purposes of this item, de minimis losses include those from normal material handling operations such as spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials; minor leaks from process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; and relief device discharges.

Subp. 2. **Alternative technology.** A person may submit an application to the commissioner demonstrating that an

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alternative treatment method can achieve a measure of performance equivalent to that achievable by methods specified in subpart 1. The applicant must submit information demonstrating that the alternative treatment method complies with federal, state, and local requirements and is protective of human health and the environment. On the basis of all available information, the commissioner may approve the use of the alternative treatment method if the commissioner finds that the alternative treatment method provides a measure of performance equivalent to that achieved by methods specified in subpart 1. An approval must be stated in writing and contain provisions and conditions the commissioner considers appropriate. The person to whom the approval is issued must comply with all limitations contained in the determination.

Subp. 3. **Technology codes and description of technology-based standards.** The items in this subpart list the five-letter technology codes for use in notifications and the description of each technology-based standard.

When a combination of these technologies, called a treatment train, is specified as a single treatment standard, the order of application is specified in subpart 4 by indicating the five-letter technology code that must be applied first, then the designation "fb," which is an abbreviation for "followed by," then the five-letter technology code for the technology that must be applied next, and so on.

When more than one technology or treatment train are specified as alternative treatment standards, the five-letter technology codes or the treatment trains are separated by a semicolon (;) with the last technology preceded by the word "OR." This indicates that any one of these BDAT technologies or treatment trains can be used for compliance with the standard.

A. ADGAS: venting of compressed gases into an absorbing or reacting media (i.e., solid or liquid). Venting can be accomplished through physical release using values/piping; physical penetration of the container; or penetration through detonation.

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B. AMLGM: amalgamation of liquid, elemental mercury contaminated with radioactive materials using inorganic reagents such as copper, zinc, nickel, gold, and sulfur that result in a nonliquid, semisolid amalgam and thereby reducing potential emissions of elemental mercury vapors to the air.

C. BIODG: biodegradation of organics or nonmetallic inorganics (i.e., degradable inorganics that contain the elements of phosphorus, nitrogen, and sulfur) in units operated under either aerobic or anaerobic conditions so that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon can often be used as an indicator parameter for the biodegradation of many organic constituents that cannot be directly analyzed in wastewater residues).

D. CARBN: carbon adsorption (granulated or powdered) of nonmetallic inorganics, organo metallics, and/or organic constituents, operated so that a surrogate compound or indicator parameter has not undergone breakthrough (e.g., total organic carbon can often be used as an indicator parameter for the adsorption of many organic constituents that cannot be directly analyzed in wastewater residues). Breakthrough occurs when the carbon has become saturated with the constituent (or indicator parameter) and substantial change in adsorption rate associated with that constituent occurs.

E. CHOXD: chemical or electrolytic oxidation using the following oxidation reagents (or waste reagents) or combinations or reagents:

(1) hypochlorite (e.g., bleach);

(2) chlorine;

(3) chlorine dioxide;

(4) ozone or ultraviolet light assisted ozone;

(5) peroxides;

(6) persulfates;

(7) perchlorates;

(8) permangantes; and/or

(9) other oxidizing reagents of equivalent

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efficiency, performed in units operated so that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon can often be used as an indicator parameter for the oxidation of many organic constituents that cannot be directly analyzed in wastewater residues). Chemical oxidation specifically includes what is commonly referred to as alkaline chlorination.

F. CHRED: chemical reduction using the following reducing reagents (or waste reagents) or combinations of reagents:

(1) sulfur dioxide;

(2) sodium, potassium, or alkali salts of sulfites, bisulfites, metabisulfites, and polyethylene glycols (e.g., NaPEG and KPEG);

(3) sodium hydrosulfide;

(4) ferrous salts; and/or

(5) other reducing reagents of equivalent efficiency, performed in units operated such that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic halogens can often be used as an indicator parameter for the reduction of many halogenated organic constituents that cannot be directly analyzed in wastewater residues). Chemical reduction is commonly used for the reduction of hexavalent chromium to the trivalent state.

G. DEACT: deactivation to remove the hazardous characteristics of a waste due to its ignitability, corrosivity, and/or reactivity.

H. FSUBS: fuel substitution in units operated according to applicable technical operating requirements.

I. HLVIT: vitrification of high level mixed radioactive wastes in units in compliance with all applicable radioactive protection requirements under control of the Nuclear Regulatory Commission.

J. IMERC: incineration of wastes containing organics and mercury in units operated according to the technical

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operating requirements of parts 7045.0542 and 7045.0640. All wastewater and nonwastewater residues derived from this process must comply with the corresponding treatment standards per waste code with consideration of any applicable subcategories (e.g., high or low mercury subcategories).

K. INCIN: incineration units operated according to the technical operating requirements of parts 7045.0542 and 7045.0640.

L. LLEXT: liquid-liquid extraction (often referred to as solvent extraction) of organics from liquid wastes into an immiscible solvent for which the hazardous constituents have a greater solvent affinity, resulting in an extract high in organics that must undergo either incineration, reuse as a fuel, or other recovery/reuse and a raffinate (extracted liquid waste) proportionately low in organics that must undergo further treatment as specified in the standard.

M. MACRO: macroencapsulation with surface coating materials such as polymeric organics (e.g., resins and plastics) or with a jacket of inert inorganic materials to substantially reduce surface exposure to potential leaching media. Macroencapsulation specifically does not include any material that would be classified as a tank or container according to part 7045.0020.

N. NEUTR: neutralization with the following reagents (or waste reagents) or combinations of reagents:

(1) acids;

(2) bases; or

(3) water (including wastewaters) resulting in a pH greater than two but less than 12.5 as measured in the aqueous residuals.

O. NLDBR: no land disposal based on recycling.

P. PRECP: chemical precipitation of metals and other inorganics as insoluble precipitates of oxides, hydroxides, carbonates, sulfides, sulfates, chlorides, fluorides, or phosphates. The following reagents (or waste reagents) are typically used alone or in combination:

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(1) lime (i.e., containing oxides and/or hydroxides of calcium and/or magnesium);

(2) caustic (i.e., sodium and/or potassium hydroxides);

(3) soda ash (i.e., sodium carbonate);

(4) sodium sulfide;

(5) ferric sulfate or ferric chloride;

(6) alum; or

(7) sodium sulfate.

Additional floculating, coagulation, or similar reagents/processes that enhance sludge dewatering characteristics are not precluded from use.

Q. RBERY: thermal recovery of beryllium.

R. RCGAS: recovery/reuse of compressed gases including techniques such as reprocessing of the gases for reuse/resale; filtering/adsorption of impurities; remixing for direct reuse of resale; and use of the gas as a fuel source.

S. RCORR: recovery of acids or bases using one or more of the following recovery technologies:

(1) distillation (i.e., thermal concentration);

(2) ion exchange;

(3) resin or solid adsorption;

(4) reverse osmosis; and/or

(5) incineration for the recovery of acid.

Note: this does not preclude the use of other physical phase separation or concentration techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the recovery technologies in subitems (1) to (5).

T. RLEAD: thermal recovery of lead in secondary lead smelters.

U. RMERC: retorting or roasting in a thermal processing unit capable of volatilizing mercury and subsequently condensing the volatilized mercury for recovery. The retorting or roasting unit or facility must be subject to one or more of the following:

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(1) a National Emissions Standard for Hazardous Air Pollutants (NESHAP) for mercury;

(2) a Best Available Control Technology (BACT) or a Lowest Achievable Emission Rate (LAER) standard for mercury imposed pursuant to a Prevention of Significant Deterioration (PSD) permit; or

(3) a state permit that establishes emission limitations for mercury within meaning of section 302 of the Clean Air Act. All wastewater and nonwastewater residues derived from this process must comply with the corresponding treatment standards per waste code with consideration of any applicable subcategories (e.g., high or low mercury subcategories).

V. RMETL: recovery of metals or inorganics using one or more of the following direct physical/removal technologies:

(1) ion exchange;

(2) resin or solid (i.e., zeolites) adsorption;

(3) reverse osmosis;

(4) chelation/solvent extraction;

(5) freeze crystallization;

(6) ultrafiltration; and/or

(7) simple precipitation (i.e., crystallization).

NOTE: This does not preclude the use of other physical phase separation or concentration techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the recovery technologies in subitems (1) to (7).

W. RORGS: recovery of organics using one or more of the following technologies:

(1) distillation;

(2) thin film evaporation;

(3) steam stripping;

(4) carbon adsorption;

(5) critical fluid extraction;

(6) liquid-liquid extraction;

(7) precipitation/crystallization (including

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freeze crystallization); or

(8) chemical phase separation techniques (i.e., addition of acids, bases, demulsifiers, or similar chemicals).

NOTE: This does not preclude the use of other physical phase separation techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the recovery technologies in subitems (1) to (8).

X. RTHRM: thermal recovery of metals or inorganics from nonwastewaters in units defined in part 7045.0020, under the definition of industrial furnaces.

Y. RZINC: resmelting for the purpose of recovery of zinc high temperature metal recovery units.

Z. STABL: stabilization with the following reagents (or waste reagents) or combinations of reagents:

(1) portland cement; or

(2) lime/pozzolans (e.g., fly fish and cement kiln dust).

NOTE: This does not preclude the addition of reagents (e.g., iron salts, silicates, and clays) designed to enhance the set/cure time and/or compressive strength, or to overall reduce the leachability of the metal or inorganic.

AA. SSTRP: steam stripping of organics from liquid wastes using direct application of steam to the wastes operated so that liquid and vapor flow rates and temperature and pressure ranges have been optimized, monitored, and maintained. These operating parameters are dependent on the design parameters of the unit, such as the number of separation stages and the internal column design, thus resulting in a condensed extract high in organics that must undergo incineration, reuse as a fuel, or other recovery/reuse and an extracted wastewater that must undergo further treatment as specified in the standard.

BB. WETOX: wet air oxidation performed in units operated so that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon can often be used as an indicator parameter for the oxidation of many organic constituents that

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cannot be directly analyzed in wastewater residues).

CC. WTRRX: controlled reaction with water for highly reactive inorganic or organic chemicals with precautionary controls for protection of workers from potential violent reactions and precautionary controls for potential emissions of toxic/ignitable levels of gases released during the reaction.

Subp. 4. **Technology-based standards by RCRA waste code.** Governed by technology-based standards listed in Code of Federal Regulations, title 40, part 268.42, Table 2.

Subp. 5. **Technology-based standards for specific radioactive hazardous mixed waste.** Governed by standards listed in Code of Federal Regulations, title 40, part 268.42, Table 3.

Subp. 6. **Application for alternative treatment methods.** A person may submit an application to the commissioner demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achievable by methods specified in subparts 1, 7, and 8. The applicant must submit information demonstrating that the applicant's treatment method complies with federal, state, and local requirements and is protective of human health and the environment. On the basis of all available information, the commissioner may approve the use of an alternative treatment method. The approval must be stated in writing and contain provisions and conditions the commissioner considers appropriate. The person to whom the approval is issued must comply with all limitations contained in the determination.

Subp. 7. **Exceptions for lab packs.** As an alternative to the otherwise applicable treatment standards under parts 7045.1350 to 7045.1360, lab packs are eligible for land disposal, provided the following requirements are met:

A. the lab packs comply with parts 7045.0538 and 7045.0638;

B. all hazardous wastes contained in the lab packs are specified in subpart 9 or 10;

C. the lab packs are incinerated according to part 7045.0542 or 7045.0640; and

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D. any incinerator residues from lab packs containing D004, D005, D006, D007, D008, D010, and D011 are treated in compliance with the applicable treatment standards specified for the wastes in parts 7045.1350 to 7045.1360.

Subp. 8. **Exceptions for radioactive hazardous mixed wastes.** Radioactive hazardous mixed wastes with treatment standards specified in subpart 5 are not subject to any treatment standards specified in subpart 4 or part 7045.1355 or 7045.1358. Radioactive hazardous mixed wastes not subject to treatment standards in subpart 1 remain subject to all applicable treatment standards specified in subpart 4 and parts 7045.1355 and 7045.1358.

Subp. 9. **Organometallic lab packs.** Hazardous waste with the following EPA Hazardous Waste Nos. may be placed in an organometallic lab pack: P001; P002; P003; P004; P005; P006; P007; P008; P009; P013; P014; P015; P016; P017; P018; P020; P022; P023; P024; P025; P026; P027; P028; P031; P034; P036; P037; P038; P039; P040; P041; P042; P043; P044; P045; P047; P048; P049; P050; P051; P054; P056; P057; P058; P059; P060; P062; P063; P064; P065; P066; P067; P068; P069; P070; P071; P072; P073; P074; P075; P077; P081; P082; P084; P085; P087; P088; P089; P092; P093; P094; P095; P096; P097; P098; P099; P101; P102; P103; P104; P105; P108; P109; P110; P112; P113; P114; P115; P116; P118; P119; P120; P122; P123; U001; U002; U003; U004; U005; U006; U007; U008; U009; U010; U011; U012; U014; U015; U016; U017; U018; U019; U020; U021; U022; U023; U024; U025; U026; U027; U028; U029; U030; U031; U032; U033; U034; U035; U036; U037; U038; U039; U041; U042; U043; U044; U045; U046; U047; U048; U049; U050; U051; U052; U053; U055; U056; U057; U058; U059; U060; U061; U062; U063; U064; U066; U067; U068; U069; U070; U071; U072; U073; U074; U075; U076; U077; U078; U079; U080; U081; U082; U083; U084; U085; U086; U087; U088; U089; U090; U091; U092; U093; U094; U095; U096; U097; U098; U099; U101; U102; U103; U105; U106; U107; U108; U109; U110; U111; U112; U113; U114; U115; U116; U117; U118; U119; U120; U121; U122; U123; U124; U125; U126; U127; U128;

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U129; U130; U131; U132; U133; U134; U135; U136; U137; U138; U139; U140; U141; U142; U143; U144; U145; U146; U147; U148; U149; U150; U152; U153; U154; U155; U156; U157; U158; U159; U160; U161; U162; U163; U164; U165; U166; U167; U168; U169; U170; U171; U172; U173; U174; U176; U177; U178; U179; U180; U181; U182; U183; U184; U185; U186; U187; U188; U189; U190; U191; U192; U193; U194; U196; U197; U200; U201; U202; U203; U204; U205; U206; U207; U208; U209; U210; U211; U213; U214; U215; U216; U217; U218; U219; U220; U221; U222; U223; U225; U226; U227; U228; U234; U235; U236; U237; U238; U239; U240; U243; U244; U246; U247; U248; U249; U328; U353; U359; F001; F002; F003; F004; F005; F006; F010; F020; F021; F023; F024; F026; F027; F028; K001; K002; K008; K009; K010; K011; K013; K014; K015; K016; K017; K018; K019; K020; K021; K022; K023; K024; K025; K026; K027; K028; K029; K030; K031; K032; K033; K034; K035; K036; K037; K038; K039; K040; K041; K042; K043; K044; K045; K046; K047; K048; K049; K050; K051; K052; K054; K060; K061; K064; K065; K066; K069; K071; K073; K083; K084; K085; K086; K087; K093; K094; K095; K096; K097; K098; K099; K101; K102; K103; K104; K105; K111; K112; K113; K114; K115; K116; K117; K118; K123; K124; K125; K126; K136; D001; D002; D003; D004; D005; D006; D007; D008; D010; D011; D012; D013; D014; D015; D016; and D017.

Subp. 10. **Organic lab packs.** Hazardous wastes with the following EPA Hazardous Waste Nos. may be placed in an organic lab pack: P001; P002; P003; P004; P005; P006; P007; P008; P009; P013; P014; P015; P016; P017; P018; P020; P022; P023; P024; P025; P026; P027; P028; P031; P034; P036; P037; P038; P039; P040; P041; P042; P043; P044; P045; P046; P047; P048; P049; P050; P051; P054; P057; P058; P059; P060; P062; P063; P064; P065; P066; P067; P068; P069; P070; P071; P072; P073; P074; P075; P077; P081; P082; P084; P085; P087; P088; P089; P092; P093; P094; P095; P096; P097; P098; P099; P101; P102; P103; P104; P105; P108; P109; P110; P111; P112; P113; P114; P115; P116; P118; P119; P120; P122; P123; U001; U002; U003; U004; U005; U006; U007; U008; U009; U010; U011; U012; U014; U015;

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U016; U017; U018; U019; U020; U021; U022; U023; U024; U025; U026; U027; U028; U029; U030; U031; U033; U034; U035; U036; U037; U038; U039; U041; U042; U043; U044; U045; U046; U047; U048; U049; U050; U051; U052; U053; U055; U056; U057; U058; U059; U060; U061; U062; U063; U064; U066; U067; U068; U069; U070; U071; U072; U073; U074; U075; U076; U077; U078; U079; U080; U081; U082; U083; U084; U085; U086; U087; U088; U089; U090; U091; U092; U093; U094; U095; U096; U097; U098; U099; U101; U102; U103; U105; U106; U107; U108; U109; U110; U111; U112; U113; U114; U115; U116; U117; U118; U119; U120; U121; U122; U123; U124; U125; U126; U127; U128; U129; U130; U131; U132; U133; U135; U137; U138; U139; U140; U141; U142; U143; U147; U148; U149; U150; U153; U154; U155; U156; U157; U158; U159; U160; U161; U162; U163; U164; U165; U166; U167; U168; U169; U170; U171; U172; U173; U174; U176; U177; U178; U179; U180; U181; U182; U183; U184; U185; U186; U187; U188; U189; U190; U191; U192; U193; U194; U196; U197; U200; U201; U202; U203; U205; U206; U207; U208; U209; U210; U211; U213; U214; U218; U219; U220; U221; U222; U223; U225; U226; U227; U228; U234; U235; U236; U237; U238; U239; U240; U243; U244; U246; U247; U248; U249; U328; U353; U359; F001; F002; F003; F004; F005; F010; F020; F021; F023; F024; F026; F027; F028; K001; K009; K010; K011; K013; K014; K015; K016; K017; K018; K019; K020; K021; K022; K023; K024; K025; K026; K027; K029; K030; K031; K032; K033; K034; K035; K036; K037; K038; K039; K040; K041; K042; K043; K044; K045; K046; K047; K048; K049; K050; K051; K052; K054; K060; K065; K073; K083; K084; K085; K086; K087; K093; K094; K095; K096; K097; K098; K099; K101; K102; K103; K104; K105; K111; K112; K113; K114; K115; K116; K117; K118; K123; K124; K125; K126; K136; D001; D012; D013; D014; D015; D016; and D017.

Subp. 11. **Recommended technologies to achieve deactivation of characteristics.** The treatment standard for many subcategories of the EPA Hazardous Waste Nos. D001, D002, D003, K044, K045, and K047 wastes is listed simply as "Deactivation to remove the characteristics of ignitability, corrosivity, and

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reactivity." EPA has determined that many technologies, when used alone or in combination, can achieve this standard. The following appendix presents a partial list of these technologies, using the five-letter technology codes established in subpart 3. Use of these specific technologies is not mandatory and does not preclude direct reuse, recovery, or the use of other pretreatment technologies, provided deactivation is achieved and these alternative methods are not performed in units designated as land disposal.

7045.1380 PROHIBITIONS ON STORAGE OF RESTRICTED WASTES.

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

Subp. 4. **Exemptions.** If a generator's waste is exempt from a prohibition on the type of land disposal used for the waste, because of an approved case-by-case extension under part 7045.0075, subpart 6, an approved petition under part 7045.0075, subparts 8 and 9, or a national capacity variance under parts 7045.1320 to 7045.1330, the prohibition in subpart 1 does not apply during the period of the exemption.

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

APPROVED AS TO FORM AND LEGALITY
March 19 1992
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 19 1992
Joan Anderson Growe
Secretary of State

3:00 PM
PRB

Approved
by Revisor _____

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing Land Disposal of Untreated Hazardous Waste, Minn. Rules pts. 7001.0520, 7001.0650, 7045.0020, 7045.0075, 7045.0131, 7045.0135, 7045.0139, 7045.0214, 7045.0292, 7045.0458, 7045.0478, 7045.0532, 7045.0534, 7045.0536, 7045.0538, 7045.0552, 7045.0564, 7045.0584, 7045.0630, 7045.0632, 7045.0634, 7045.0638, 7045.0665, 7045.1300, 7045.1305, 7045.1308, 7045.1309, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1333, 7045.1334, 7045.1335, 7045.1339, 7045.1350, 7045.1355, 7045.1358, 7045.1360, and 7045.1380

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came off public notice on the seventh day of November, 1991. After affording all interested persons the opportunity to present written and oral data, statements, and arguments to the Minnesota Pollution Control Agency (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 commissioner, 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 October 7, 1991 (16 S.R. 834), and was sent by mail to all persons on a mailing list maintained by the MPCA pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1990) on October 4, 1991.

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 following notice of the proposed rulemaking. The 30-day comment period, as set out in the notice, expired on November 7, 1991.

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

5. One request for notice of submission of the adopted rule amendments to the Attorney General was received by the MPCA. It came from Chemical Waste Management, Inc., 2000 South Balavia Avenue, Geneva, Illinois, 60134. The

requester will be sent a prepared notice at the time these Findings of Fact are submitted to the Attorney General. An affidavit of this notice will be placed in the administrative record.

6. The MPCA received two comment letters regarding the proposed rules. One comment was from Chemical Waste Management, Inc., 2000 South Balavia Avenue, Geneva, Illinois, 60134. The second set of comments were received from the U.S. Environmental Protection Agency (EPA) as part of that agency's normal review. The MPCA staff also proposes changes based on its review.

(6) This entire rulemaking is intended to make this portion of Minn. Rules "equivalent" to federal regulations (no less restrictive). This was done by adopting amendments and revisions to Minn. Rules based on changes in federal regulations which are already in effect in Minnesota under federal authority. The MPCA finds that modifications to the proposed rule amendments are justified by the record in this proceeding. These modifications are presented in the order of their appearance in the rules as follows:

A. Comment from EPA.

FACTS: In Minn. Rules pt. 7045.0135 (Lists of Hazardous Wastes), subp. 2 (Hazardous wastes from nonspecific sources), item V, the MPCA adopts a federal provision defining waste code F039 as multi-source leachate from disposal facilities.

ISSUE: The EPA requires state rules to be equivalent to federal regulations in order for the MPCA to obtain and keep its program authorization. The proposed amendment inadvertently missed a minor portion of the federal language.

RESOLVED: The state proposes to include the missing phrase.

CORRECTION: Minn. Rules pt. 7045.0135, item V is modified to read in part, "V. F039, leachate resulting from the treatment, storage, or disposal of more than one restricted waste...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantial change because it corrects the rule to read the same as the already governing federal language. The stated goal of equivalence with federal provisions is achieved.

B. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.0292 (Accumulation of Hazardous Waste), subp. 1 (When allowed without a permit), item H was revised to include a citation to Minn. Rules pt. 7045.1315 (Waste Analysis for Restricted Wastes).

ISSUE: The existing citation could be made more specific, adding clarity.

RESOLVED: The MPCA proposes to make the citation more specific as below.

CORRECTION: Minn. Rules pt. 7045.0292, Item H is modified to read in part, "H. the requirements of parts 7045.0558, 7045.0566 to 7045.0576, and 7045.1315, subp. 1, item D, are fulfilled...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it merely provides more specificity to the citation.

C. Comment from MPCA staff.

FACTS: This entire part, Minn. Rules pt. 7045.1308 (Landfill and Surface Impoundment Disposal Restrictions), is newly adopted based on federal provisions. The adopted federal language states in part that, "As of May 8, 1990, this part is no longer in effect."

ISSUE: The MPCA staff sought opinion from its Attorney General staff and determined that the state should not adopt provisions which are no longer in effect--especially since it was not authorized for enforcing those provisions at the time they were in effect under federal authority.

RESOLVED: The MPCA proposes removing Minn. Rules pt. 7045.1308 from the rules as proposed and changing references from 7045.1308 to Code of Federal Regulations, title 40, part 268.8, the governing federal regulation.

CORRECTION: The entire Minn. Rules pt. 7045.1308 is removed. All citations in other Minn. Rules which reference 7045.1308 are changed so that they instead refer to the Code of Federal Regulations, title 40, part 268.8. These are shown in their order of appearance as follows:

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item M is changed to read, "M. Records of the quantities and date of placement for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 8, a petition under subpart 9, or a certification under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, and the applicable notice required of a generator under part 7045.1315, subpart 1."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item N is changed to read, "N. For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner under Code of Federal Regulations, title 40, section 268.8, or part 7045.1315, subpart 1, item A~~, or 7045.1308~~."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item O is changed to read, "O. For an on-site treatment facility, the information contained in the notice, except the manifest number, and the certification and demonstration, if applicable, required of the generator or owner or operator under Code of Federal Regulations, title 40, section 268.8, or part 7045.1315, subpart 1, item A~~, or 7045.1308~~."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item P is changed to read, "P. For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under ~~parts~~ Code of Federal Regulations, title 40, section 268.8, and part 7045.1315 ~~and 7045.1308~~, whichever is applicable."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item Q is changed to read, "Q. For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under part 7045.1315, except for the manifest number, and the certification and demonstration, if applicable, required under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, whichever is applicable."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item R is changed to read, "R. For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required of the generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item S is changed to read, "S. For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required of the generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item J is changed to read, "J. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 8 or 9, monitoring data required pursuant to a petition under 7045.0075, subpart 9, or a certification and demonstration under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, and the notice required by a generator under part 7045.1315, subpart 1, item C."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item K is changed to read, "K. For an off-site treatment facility, the notice, and the certification and demonstration, if applicable, required by a generator or the owner or operator under ~~parts 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, and part 7045.1315, subpart 1, item A."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item L is changed to read, "L. For an on-site treatment facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator under ~~parts 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, and part 7045.1315, subpart 1, item A, except for the manifest number required under part 7045.1315, subpart 1, item A, subitem (3)."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item M is changed to read, "M. For an off-site land disposal facility, the notice, certification and demonstration if applicable required by the generator, owner or operator of a treatment facility under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315, subpart 2, items A and B, for the facility or part 7045.1315, subpart 1, item B, for the generator, whichever is applicable."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item N is changed to read, "N. For an on-site land disposal facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315 except for the manifest number, whichever is applicable."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item O is changed to read, "O. For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item P is changed to read, "P. For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315."

7045.1308 (LANDFILL AND SURFACE IMPOUNDMENT DISPOSAL RESTRICTIONS) is removed from the rules as proposed, indicated as follows, "~~7045.1308 LANDFILL AND SURFACE IMPOUNDMENT DISPOSAL RESTRICTIONS...Subpart 1. Generator Requirements...Subp. 2. Certification Review...Subp. 3. Facility Requirements...Subp. 4. Land Disposal Authorized...unless otherwise prohibited by the commissioner.~~"

7045.1310 (TREATMENT SURFACE IMPOUNDMENT EXEMPTION), subp. 1 (Conditions), item B (The following conditions are met:), subitem (2) (Removal) is changed to read in part, "(2)...residues which are the subject of a valid certification under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, made no later than a year after placement of the wastes in an impoundment are not required to be removed annually...."

7045.1310 (TREATMENT SURFACE IMPOUNDMENT EXEMPTION), subp. 1 (Conditions), item B (The following conditions are met:), subitem (3) (Subsequent management), is changed to read, "(3) Treatment residues may not be placed in any other surface impoundment for subsequent management unless the residues are the subject of a valid certification under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, that allows disposal in surface impoundments meeting the requirements of ~~part 7045.1308, subpart 1~~ Code of Federal Regulations, title 40, section 268.8."

7045.1315 (WASTE ANALYSIS FOR RESTRICTED WASTES), subp. 3 (Facility requirements), item A is changed to read, "A. have copies of the notice and certifications specified in subpart 1 or 2 and the certification specified in ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, if applicable; and"

7045.1334 (WASTE SPECIFIC PROHIBITION; SECOND THIRD WASTES), subp. 2 (Exceptions), item D is changed to read in part, "D...the wastes specified...are prohibited from disposal in a landfill or surface

impoundment unless the wastes are the subject of a valid demonstration and certification under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8.

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because the provision is not currently in effect and any enforcement for past violations would be the responsibility of federal authorities.

D. Comment from EPA.

FACTS: In Minn. Rules pt. 7045.0584 (Operating Record), subp. 3 (Record information), the MPCA adopts federal revisions. Item N addresses information retention requirements for on-site land disposal facilities.

ISSUE: The proposed Minn. Rules are missing a phrase which was in the federal language. The EPA requires the MPCA's rules to be equivalent in order for the MPCA to maintain its program authorization. This phrase was inadvertently omitted.

RESOLVED: The MPCA proposes to include the phrase described below.

CORRECTION: Minn. Rules pt. 7045.0584, subp. 3, item N is modified to read in part, "N. For an on-site land disposal facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it adds the requirement to retain any certification statement which is required by other rules. This is equivalent to the federal language which is already in effect in the state. Also, this correction provides consistency with several other areas of the rule where this same phrase was not omitted.

E. Comment from Chemical Waste Management, Inc.

FACTS: In Minn. Rules pt. 7045.1315 (Waste Analysis for Restricted Wastes) the MPCA adopts revisions requiring generators of hazardous waste to supply "certification statements" to treatment, storage, and disposal facilities under certain conditions. The state adopted the corresponding federal language; however, citations within the certification statements were changed to reflect corresponding Minnesota rules.

ISSUE: The proposed rule would require non-Minnesota waste management companies to redesign existing certification statements containing the federal citations. This adds unneeded burden and the potential for confusion and error. Also, staff noticed that the range of a citation to Minn. Rules needed to be extended because a rulepart was added under another rulemaking.

RESOLVED: The MPCA proposes to follow the recommendation in the comment and insert language in Minn. Rules pt. 7045.1300 which allows the use of certification statements with federal citations which are equivalent to the Minn. Rule citations. The MPCA also proposes correcting the incorrect range of Minn. Rules provided as shown below.

CORRECTION: Minn. Rules pt. 7045.1300, subp. 1 is changed to read in part, "Subpart 1. Applicability...Except as specifically provided in subpart 2 or parts 7045.0100 to ~~7045.0141~~ 7045.0143, the requirements of this part apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities. For purposes of this part, a certification statement that complies with Code of Federal Regulations, title 40, part 268, also complies with the certification statement requirements under this part."

NEED/REASONABLENESS: The proposed changes are needed to address the stated issues. It reasonably addresses the issues without substantially changing the intent of the certification statement requirement.

F. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.1310 (Treatment Surface Impoundment Exemption), subp. 1 (Conditions [for exemption]), item D requires that the generator submit to the commissioner a written certification that the requirements of item C of this part were met.

ISSUE: Other provisions require that these certifications be signed by an authorized representative, and use the statement provided in the rule.

RESOLVED: The MPCA proposes to specify using an authorized signature and the provided language when certifications are required.

CORRECTION: Minn. Rules pt. 7045.1310, Item D is modified to read in part, "...The ~~following~~ certification ~~is required~~ must be signed by an authorized representative, and must use the following statement:...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it provides more specificity to better convey the intent of the rule and improves consistency with other certification provisions in the rules.

G. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.1315 (Waste Analysis for Restricted Wastes), subp. 1 (Applicability), item A (notice to treatment or storage facilities of appropriate treatment standards), subitem (2) provides additional information requirements. Subpart 2 (Testing of wastes), item D (notice to the land disposal facilities), subitem (2) adds similar requirements. For cases of specified technologies, a five-letter treatment code is required.

ISSUE: Examples of the five-letter treatment codes are provided in the federal regulations as parenthetical notes. Minnesota does not provide parenthetical notes or examples in the rule text. They are not considered necessary by the Minnesota Office of the Revisor of Statutes who provides consistency review of the rules. These parenthetical notes were inadvertently imported with the adopted federal language.

RESOLVED: The MPCA proposes to remove the parenthetical examples provided.

CORRECTION: Minn. Rules pt. 7045.1315, subps. 1 and 2 are both revised to read in part, "...the applicable five-letter treatment code in part 7045.1360 ~~(e.g., INCIN, WETOX)~~ also must be listed in the notification...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it does not affect the meaning or stringency of the rule.

H. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.1315 (Waste Analysis For Restricted Wastes), subp. 2 (Testing of Wastes), item E (Treatment facility certification requirements), new subitem (3) is added. It provides conditions under which treatment facilities must submit a written certification of treatment to the commissioner.

ISSUE: Other provisions require that these certifications be signed by an authorized representative.

RESOLVED: The MPCA proposes to specify that the certification be signed by an authorized person.

CORRECTION: Minn. Rules pt. 7045.1315, subp. 2, item E, subitem (3) is modified to read in part, "...certification ~~also~~ must be signed by an authorized representative, and must state the following...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it provides more specificity to better convey the intent of the rule and improves consistency with other certification provisions in the rules.

I. Comment from MPCA staff.

FACTS: In Minn. Rules part 7045.1315 (Waste Analysis For Restricted Wastes), subp. 2 (Testing of Wastes), new item G is added. It governs when wastes are recyclable materials used in a manner constituting disposal.

ISSUE: The phrase "the recycler" was taken from a parenthetical note in EPA language. The MPCA staff attempted to convert the parenthetical note to a phrase set off by commas. However, this neither reads well nor adds clarity to the sentence. Minnesota has a policy of avoiding parenthetical notes or examples in its rule text. These are not considered necessary by the Minnesota Office of the Revisor of Statutes who provides consistency review of the rules.

RESOLVED: The MPCA proposes to remove the indicated phrase.

CORRECTION: Minn. Rules part 7045.1315, subp. 2, item G is modified to read in part, "G. When the wastes are recyclable materials used in a manner constituting disposal subject to part 7045.0665, subpart 1, item C, regarding treatment standards and prohibition levels, the owner or operator of a treatment facility~~, the recycler,~~ is not required to notify the receiving facility...."

NEED/REASONABLENESS: This correction is needed to address the stated issues. It reasonably addresses the issues without substantially changing the rule because it does not affect the meaning or stringency of the rule and helps its readability.

J. Comment from MPCA staff.

FACTS: The proposed rule refers to Code of Federal Regulations, title 40, section 268.5(h)(2). This is the federal citation which provides criteria for surface impoundments. The state has adopted provisions equivalent to the standards identified by these federal regulations.

ISSUE: When the state rules are equivalent, the state citation is usually preferred in Minn. Rules to improve readability and clarity.

RESOLVED: The MPCA proposes changing the federal citation to the state citation for each of the eight occurrences in the proposed rules.

CORRECTION: Each occurrence of the federal citation, "Code of Federal Regulations, title 40, section 268.5(h)(2)" is changed to the equivalent state citation, "[Minn. Rules] part 7045.0532" as shown below:

7045.1320 (WASTE SPECIFIC PROHIBITIONS; SOLVENT WASTES), subp. 2. (Effective date) is revised to read in part, "...Between November 8, 1988, and November 8, 1990, these wastes may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1325 (WASTE SPECIFIC PROHIBITION; DIOXIN-CONTAINING WASTES), subp. 3 (Effective Date) is revised to read in part, "...Between November 8, 1988, and November 8, 1990, wastes included in subpart 2, item A, may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532...."

7045.1330 (WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES), subp. 2. (Exceptions), item A is revised to read in part, "...Between July 8, 1987 and July 8, 1989, the wastes may be disposed of in a landfill or surface impoundment only if the disposal is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1330 (WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES), subp. 2. (Exceptions), item B is revised to read in part, "...Between November 8, 1988, and November 8, 1990, the wastes may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1330 (WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES), subp. 2. (Exceptions), item C is revised to read, "Between July 8, 1987 and November 8, 1988, the wastes included in subpart 1, items D and E may be

disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1333 (WASTE SPECIFIC PROHIBITIONS; FIRST THIRD WASTES), subp. 2 (Exceptions), item C is revised to read, "Between November 8, 1988, and August 8, 1990, wastes included in items A and B may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1334 (WASTE SPECIFIC PROHIBITION; SECOND THIRD WASTES), subp. 2 (Exceptions), item B is revised to read, "Between June 8, 1989, and June 8, 1991, (for wastes F007, F008, F009, F011, and F012 between June 8, 1989, and July 8, 1989), wastes included in item A and subpart 1, item C, may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the technical requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1335 (WASTE SPECIFIC PROHIBITIONS; THIRD THIRD WASTES), subp. 8 (Exceptions Between May 8, 1990 and May 8, 1992) is revised to read, "Between May 8, 1990, and May 8, 1992, the wastes in subparts 3 to 5 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

NEED/REASONABLENESS: These corrections are needed to address the stated issue. They reasonably address the issue without substantially changing the rule because the rule language is equivalent. This does not affect the meaning or stringency of the rule and helps readability since the citation is to rules that are in Minn. Rules.

K. Comment from MPCA staff

FACTS: In Minn. Rules pt. 7045.1333 (Waste Specific Prohibitions [to land disposal]; First One-Third Of Regulated Wastes), subp. 2 (Exceptions To subp. 1) the state adopts federal conditions for when the prohibitions in subp. 1 do not apply.

ISSUE: Items A and B of subp. 2 reflect conditions when the land disposal prohibitions DO apply instead of EXCEPTIONS to when it applies. The federal regulation appears to be in error, these two items belong in subp. 1.

RESOLVED: The MPCA proposes to relocate these two items.

CORRECTION: Minn. Rules pt. 7045.1333, subp. 2, items A and B are relocated and relettered to become items C and D of subp. 1. As a result of this change, items C and D of subp. 2 must be relettered as items A and B. The references in the title paragraph of subp. 1, and in renumerated item A of subp. 2, are revised to reflect these changes.

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it corrects the organization of these provisions without affecting the meaning or stringency of the rule and helps its readability.

L. Comment from MPCA staff.

FACTS: Minn. Rules pt. 7045.1334 (Waste Specific Prohibition; Second One-Third of Regulated Wastes), subp. 2 (Exceptions [to prohibitions in subp. 1]), item A provides the effective date for certain wastes with an incineration based treatment standard.

ISSUE: The proposed state rules are equivalent to federal language; however, there is a clause which should be separated by commas to clarify the sentence and improve its readability.

RESOLVED: The MPCA proposes adding two commas to item A.

CORRECTION: Minn. Rules pt. 7045.1334, subp. 2, item A is revised to read, "A. Effective June 8, 1991, the wastes specified in this part, having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration, that are contaminated soil and debris are prohibited from land disposal."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it adds punctuation which improves clarity and readability. This does not effect the meaning or stringency of the rule.

M. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.1334 (Waste Specific Prohibition; Second One-Third of Regulated Wastes), subp. 3 (Waste analysis) the state adopts the new federal provision.

ISSUE: The proposed rule reads in part, "...extract of the waste..." compared with "...extract or the waste..." in the parent federal language. Since, either a representative sample of the waste, OR of an extract of the waste may be tested, the objective of making Minn. Rules equivalent to the parent federal regulation is not met unless this is corrected.

RESOLVED: The MPCA proposes changing the "of" to "or."

CORRECTION: Minn. Rules pt. 7045.1334, subp. 3 is changed to read in part, "...the initial generator must test a representative sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract ~~of~~ or the waste,...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it corrects the rule to be equivalent with the governing federal language.

N. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.1335 (Waste Specific Prohibition; Third One-Third of Regulated Wastes), subp. 6 (Exceptions between May 8, 1990, and August 8, 1990) and subp. 7 (Exceptions between May 8, 1990, and November 8, 1990) as proposed, both subps. read in part, "...requirements in part 7045.0075, subpart 8."

ISSUE: The quoted citation is incorrect. This error was inadvertent. The proposed rules are not equivalent to effective federal law unless corrected. Also, it is standard to use the term "of" rather than "in" when referencing the requirements of a part.

RESOLVED: The MPCA proposes correcting the citations and changing the term "in" to "of" as shown.

CORRECTION: Minn. Rules pt. 7045.1335, subps. 6 and 7, are both changed to read in part, "...may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements ~~in~~ of part ~~7045.0075, subpart 8~~ 7045.0532."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it corrects the citation to be equivalent with the governing federal language. The word "in" is changed to "of" for consistency purposes.

O. Comment from EPA.

FACTS: In Minn. Rules pt. 7045.1350 (Treatment Standards), subp. 1 (Concentration standard for waste extract), the state adopts federal test methods for determining whether a waste may be land disposed.

ISSUE: A citation provided for a federal test method is incorrect--it does not exist. The EPA requires that MPCA rules be equivalent to federal regulations in order for the State to obtain and keep its program authorization.

RESOLVED: The MPCA proposes correcting the citation.

CORRECTION: Minn. Rules pt. 7045.1350, subp. 1 is revised to read in part, "These wastes may be land disposed only if an extract of the waste or of the treatment residue of the waste developed using either the test method in Code of Federal Regulations, title 40, part 261, Appendix II, or the test method in Code of Federal Regulations, title 40, part 268, Appendix ~~IX~~ I, does not exceed the concentrations shown...."

NEED/REASONABLENESS: This correction is needed to address the stated issues. It reasonably addresses the issues without substantially changing the rule because it corrects an erroneous citation by adopting the existing federal citation as originally intended. The other citation in the proposed rule directs the reader to a valid and equivalent test method.

P. Comment from EPA.

FACTS: Minn. Rules pt. 7045.1358 (Treatment Standards Expressed As Waste Concentrations), subp. 5 (Demonstrating compliance with treatment standards for organic constituents), item A discusses how treatment standards are determined for organic waste constituents.

ISSUE: EPA commented that a MPCA staff attempt to rephrase this provision appears awkward. The attempt at rephrasing failed, resulting in hybridized language.

RESOLVED: The MPCA proposes correcting the error so that the rules correspond to the original federal language.

CORRECTION: Minn. Rules pt. 7045.1358, subp. 5 is modified to read in part, "...or based on combustion in fuel substitution units operating in ~~according to~~ accordance with applicable technical requirements;"

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it simply adds clarity in conveying the original intent.

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.

9. A copy of the Statement of Need and Reasonableness for this rulemaking was sent to the Legislative Commission to Review Administrative Rules as required by the 1990 amendments to the Administrative Procedures Act, Minnesota Statutes, chapter 14.

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 governing the land disposal of untreated hazardous waste, are adopted pursuant to the authority vested in the MPCA by Minn. Stat. §116.07, subd. 4 (1990).

Dated: 2/28/92

Charles W. Williams
Commissioner

Extra

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing Land Disposal Restrictions for Hazardous Waste, Minn. Rules Parts 7001.0520, 7001.0650, 7045.0020, 7045.0075, 7045.0131, 7045.0135, 7045.0139, 7045.0214, 7045.0292, 7045.0458, 7045.0478, 7045.0532, 7045.0534, 7045.0536, 7045.0538, 7045.0552, 7045.0564, 7045.0584, 7045.0630, 7045.0632, 7045.0634, 7045.0638, 7045.0665, 7045.1300, 7045.1305, 7045.1308, 7045.1309, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1333, 7045.1335, 7045.1339, 7045.1340, 7045.1350, 7045.1355, 7045.1358, 7045.1360, and 7045.1380

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The subject of this proceeding is the amendment of Minnesota Rules governing hazardous wastes. The Minnesota Pollution Control Agency (hereinafter "MPCA") proposes to incorporate federal hazardous waste program amendments restricting the land disposal of untreated hazardous wastes (hereinafter "Land Disposal Restrictions" or "LDR").

When the U.S. Congress enacted the Hazardous and Solid Waste Amendments of 1984 (hereinafter "HSWA") to the Resource Conservation and Recovery Act (hereinafter "RCRA"), it prohibited the land disposal of untreated hazardous wastes beyond specified dates. This led the U.S. Environmental Protection Agency (hereinafter "EPA") to conduct five major rulemakings. The first two rulemakings promulgated two sets of LDRs for certain high priority wastes and the overall regulatory framework for future LDRs. The MPCA incorporated these amendments into Minnesota Rules in 1988. The EPA divided the remaining wastes

to be LDR regulated into the remaining three rulemakings called first, second, or third thirds. This rulemaking addresses these three "thirds" and the amendments and corrections thereto.

The EPA promulgated the LDR amendments under authority of HSWA except for two minor provisions dealing with permits which are under RCRA authority. Under federal law, amendments promulgated under HSWA are effective in the states under federal authority on their effective date. At this time, the LDRs are effective in Minnesota under federal authority. The effect of incorporating these LDRs into Minnesota Rules is to shift the primary enforcement authority to the state.

The MPCA applied for and received EPA authorization to administer the state's hazardous waste program as equivalent to, and in lieu of, the federal program. The EPA requires the MPCA to revise its program by adopting those federal program elements which are more stringent in order to maintain the state's hazardous waste program authorization. In this rulemaking, the MPCA is incorporating the LDR amendments as required with minor changes as needed for consistency with Minnesota Rules.

This Statement of Need and Reasonableness is divided into seven parts. Following this introduction, Part II contains the MPCA's explanation of the need for the proposed amendments. Part III discusses the reasonableness of the proposed amendments. Part IV documents how the MPCA has considered the methods of reducing the impact of the proposed amendments on small businesses as required by Minn. Stat. § 14.115 (1990). Part V discusses the economic factors the MPCA considered in adopting the amendments as required by Minn. Stat. § 116.07, subd. 6 (1990). Part VI sets forth the MPCA's conclusion regarding the amendments. Part VII contains a list of exhibits relied on by the MPCA to

support the proposed amendments. The exhibits are available for review at the MPCA's offices at 520 Lafayette Road North, St. Paul, Minnesota 55155.

Minn. Stat. ch. 14 (1990) 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.

II. NEED FOR THE PROPOSED AMENDMENTS

Need is a broad test that does not lend itself to evaluation of each proposed revision. Broadly, the need to amend Minnesota's hazardous waste rules governing LDR is based in the RCRA, as amended. The RCRA allows EPA to delegate authority to the states to administer their hazardous waste programs in lieu of the federal program when they are determined to be equivalent to EPA's program (here, equivalent means the state program is at least as restrictive and broad in scope as its federal counterpart). Program authorization facilitates shared and coordinated law enforcement between the MPCA and EPA which results in greater program effectiveness.

Through application, the EPA has determined Minnesota's hazardous waste program to be equivalent to the federal program and has authorized the MPCA to administer its program in lieu of EPA's program. Incorporating these amendments is necessary in order to maintain equivalency following changes in the EPA's program establishing the LDR regulations. The MPCA must make its program equivalent in order to maintain EPA authorization.

III. REASONABLENESS OF THE PROPOSED AMENDMENTS

The MPCA is required by Minn. Stat. ch. 14 (1990) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. The EPA promulgated the LDR regulations under due public process and they are effective in Minnesota under federal authority. Since the EPA made a presentation of facts in promulgating these regulations and, since the MPCA is incorporating these regulations without substantive change, the MPCA refers the reader to the preamble published in the Federal Register for each regulation, amendment, or correction for the presentation of need, reasonableness, and economic impact. The appropriate Federal Registers are listed below. The affected Minnesota Rule parts, also listed below, refer the reader to the applicable Federal Register(s) via the letter assigned. These Federal Registers are available for review at the MPCA and can be obtained through local libraries. The MPCA provides its own discussion of reasonableness in this document where the MPCA program differs substantively from the federal program.

In general, minor modifications to federal language which make it appropriate in the context of Minnesota Rules is reasonable to make the language clear and understandable. Where required, it is reasonable to renumber Minnesota Rule subparts, items, subitems, units, and subunits to accommodate resequencing and insertion of appropriate language in order to maintain readability and clarity. Also, Minnesota is more stringent than EPA in that it has not allowed underground injection of hazardous waste and it is reasonable that Minnesota would not adopt LDR language regarding injection since it does not apply.

FEDERAL REGISTERS GOVERNING LDR IN THE PERIOD COVERED BY THIS RULEMAKING:

Volume	Pages	Date	Title	Checklist
(A) 53	31138-31222	8/17/88	LDR for First Third Scheduled Wastes	50
(B) 54	8264-8266	2/27/89	LDR (Amendment)	50
(C) 54	9596-9609	3/7/89	Changes to Interim Status Facilities for Hazardous Waste Management; Modifications of Hazardous Waste Management Permits; Procedures for Post-Closure Permitting	61
(D) 54	18836-18838	5/2/89	LDR (Amendments to First Third Scheduled Wastes)	62
(E) 54	25416-25423	6/14/89	Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions, Additional Effective Dates; First Third Wastes	NA
(F) 54	26594-26652	6/23/89	LDR for Second Third Scheduled Wastes	63
(G) 54	36967-36972	9/6/89	LDR; Correction to First Third Scheduled Wastes	66
(H) 55	22520-22720	6/1/90	LDR for Third Third Scheduled Wastes	78
(J) 55	23935	6/13/90	LDR (Amendments)	66
(K) 55	33693-33694	8/17/90	Underground Injection Control Program; Hazardous Waste Injection Restrictions, LDR for Third Third Scheduled Wastes; Correction	NA
(L) 55	3864-3928	1/31/91	LDR for Third Third Scheduled Wastes; Corrections	83

Following is a sequential listing of the Minnesota Rule parts affected by this rulemaking and the corresponding Federal Register(s) from the above list (reasonableness is discussed where Minnesota differs substantially from the EPA):

A. MINNESOTA RULES CHAPTER 7001--PERMITS

1. Rules Governing Hazardous Waste Facility Permits:

a. MINN. RULES PT. 7001.0520 PERMIT REQUIREMENTS: (C). Subpart 7 adds conditions under which the commissioner may deny permits.

b. MINN. RULES PT. 7001.0650 INTERIM STATUS: (C). Subpart 5 cites are corrected to accommodate new item F and language is clarified. Item B incorporates conditions under which the commissioner will approve

design capacity under interim status. Item E adds conditions under which changes may be made for interim treatment, storage, or disposal under federal authority. Item F adds conditions under which reconstruction is allowed. Subpart 7 incorporates a cite correction.

B. MINNESOTA RULES CHAPTER 7045--HAZARDOUS WASTE

1. Rules Governing Definitions, References, & Other Standards:

a. MINN. RULES PT. 7045.0020 DEFINITIONS: (H). Definitions for the following terms are added: inorganic solid debris, installation inspector, nonwastewater, onground tank, and wastewater in subparts 45a, 45b, 59b, 59d, and 102c, respectively. Subpart 59b is renumbered to 59c.

b. MINN. RULES PT. 7045.0075 PETITIONS: (A) & (B). Subpart 9 and item B add requirements for monitoring plans to be provided in petitions to allow land disposal of a prohibited waste. Item C adds a requirement to report changes in conditions affecting petitions. Item D adds requirements applicable in the event of migration of hazardous constituents from a regulated unit. Subsequent items are renumbered.

2. Identification and Listing of Hazardous Waste:

a. MINN. RULES PT. 7045.0131 CHARACTERISTICS OF HAZARDOUS WASTE: (H). Subpart 1 adds a requirement that generators must use all applicable hazardous waste numbers. Subpart 2, item C deletes the previous exception to the requirement to assign hazardous waste numbers for ignitable listed wastes (wastes exhibiting the characteristic of ignitability are assigned a waste number even if listed). Subpart 3, item B deletes the previous exception to the requirement to assign hazardous waste numbers for oxidizing listed wastes. Subpart 4, item B deletes the previous exception to the requirement to assign hazardous waste numbers for corrosive listed wastes. Subpart 5, item H deletes

the previous exception to the requirement to assign hazardous waste numbers for reactive listed wastes. Subpart 6, item A, subitem (4) corrects a language error of redundancy; this is reasonable in order to provide clarity in the rules and does not change the intent of the original rule. Subpart 6, item D deletes the previous exception to the requirement to assign hazardous waste numbers for lethal listed wastes. Subpart 7, item B deletes the previous exception to the requirement to assign hazardous waste numbers for toxic listed wastes.

b. MINN. RULES PT. 7045.0135 LISTS OF HAZARDOUS WASTE: (H). Subpart 2 incorporates a cite correction. Items T and U correct renumbering. Item V adds a new waste to the list of wastes from nonspecific sources. The newly added waste, number F039, addresses leachate resulting from more than one restricted waste.

c. MINN. RULES PT. 7045.0139 BASIS FOR LISTING HAZARDOUS WASTES: (H). Subpart 2, item A, subitems (20) and (21) are corrected to address renumbering. Subitem (22) provides the basis for listing F039 wastes.

3. Standards Applicable to Generators of Hazardous Waste:

a. MINN. RULES PT. 7045.0214 EVALUATING OF WASTES: (H). In subpart 2, both item B and subitem (1) are clarified with improved language.

b. MINN. RULES PT. 7045.0292 ACCUMULATION OF HAZARDOUS WASTE: (H). In subpart 1, item H adds requirements of Minn. Rules pt. 7045.1315 to the conditions for accumulating hazardous waste on-site without a permit.

4. Facility Standards:

a. MINN. RULES PT. 7045.0458 WASTE ANALYSIS REQUIREMENTS: (A), (B), & (H). Subpart 2, item H, subitem (3) is modified to prohibit the land disposal of certain residues removed annually from surface impoundments.

b. MINN. RULES PT. 7045.0478 OPERATING RECORD: (A) & (B). Subpart 3, item M clarifies language and adds to the records required to be maintained for the certification and demonstration requirement under Minn. Rules pt. 7045.1308, along with notice requirements under Minn. Rules pt. 7045.1315 for an extension to an effective date under LDR. Items N, O, P, and Q are similarly modified to address Minn. Rules pt. 7045.1308 certification and demonstration requirement and to clarify language for off-site and on-site treatment facilities and for off-site and on-site land disposal facilities, respectively. New items R and S are added to address these requirements for off-site and on-site storage facilities.

c. MINN. RULES PT. 7045.0532 SURFACE IMPOUNDMENTS: (H). Subpart 8 adds the requirement that the waste and the surface impoundment must meet the LDR requirements of Minn. Rules pts. 7045.1300 to 7045.1380.

d. MINN. RULES PT. 7045.0534 WASTE PILES: (H). Subpart 8 adds the requirement that ignitable or reactive wastes may only be placed in a waste pile if the waste and the pile meet the LDR requirements of Minn. Rules pts. 7045.1300 to 7045.1380.

e. MINN. RULES PT. 7045.0536 LAND TREATMENT: (H). Subpart 9 adds the requirement that ignitable or reactive wastes may only be applied to a land treatment zone if the waste and the treatment zone meet the LDR requirements of Minn. Rules pts. 7045.1300 to 7045.1380.

f. MINN. RULES PT. 7045.0538 LANDFILLS: (H). Subpart 8, item A replaces the conditions which allowed treatment of ignitable or reactive waste to remove hazardous characteristics with the LDR requirement to comply with Minn. Rules pts. 7045.1300 to 7045.1380. Item B incorporates an exception that ignitable wastes, that might otherwise be land disposed in accordance with

item B, but which are prohibited wastes subject to LDR treatment standards under Minn. Rules pts. 7045.1350 to 7045.1360, cannot be so disposed. Subpart 12, new item F adds the requirement to dispose of lab-packs in compliance with Minn. Rules pts. 7045.1300 to 7045.1380 and adds conditions for the use of fiber drums and their incineration.

5. Interim Status Standards:

a. MINN. RULES PT. 7045.0552 FACILITIES GOVERNED BY INTERIM STATUS: (H). Subpart 1 incorporates language clarifying that LDR requirements are considered "material conditions" for all interim status rules, Minn. Rules pts. 7045.0552 to 7045.0642.

b. MINN. RULES PT. 7045.0564 WASTE ANALYSIS REQUIREMENTS: (A) & (B). Subpart 2, item H, subitem (3) is modified to prohibit the land disposal of certain residues removed annually from surface impoundments.

c. MINN. RULES PT. 7045.0584 OPERATING RECORD: (A) & (B). Subpart 3, item J incorporates requirements to keep records from petition conditions under Minn. Rules pt. 7045.0075, subp. 9, certificate and demonstration records required under Minn. Rules pt. 7045.1308, and notice records required under Minn. Rules pt. 7045.1315. Items K, L, M, and N are similarly modified to address Minn. Rules pt. 7045.1308 certification and demonstration requirements and the waste analysis requirements under Minn. Rules pt. 7045.1315, and to clarify language for off-site and on-site treatment facilities and for off-site and on-site land disposal facilities, respectively. New items O and P are added to address these requirements for off-site and on-site storage facilities.

d. MINN. RULES PT. 7045.0630 SURFACE IMPOUNDMENTS: (H). Subpart 5, item B corrects Minnesota Rule language to be gender neutral; this

is reasonable because these rules do not have a gender neutral disclaimer and should portray the gender neutrality intended in the rules. Subpart 7 adds the requirement that both the waste and the surface impoundment must meet the LDR requirements of Minn. Rules pts. 7045.1300 to 7045.1380.

e. MINN. RULES PT. 7045.0632 WASTE PILES: (H). Subpart 5 adds the requirement that ignitable or reactive wastes may only be placed in a waste pile if the waste and the pile meet the LDR requirements of Minn. Rules pts. 7045.1300 to 7045.1380.

f. MINN. RULES PT. 7045.0634 LAND TREATMENT: (H). Subpart 9 adds the requirement that ignitable or reactive wastes may only be applied to a land treatment zone if the waste and the treatment zone meet the LDR requirements of Minn. Rules pts. 7045.1300 to 7045.1380.

g. MINN. RULES PT. 7045.0638 LANDFILLS: (H). Subpart 5, item A replaces the conditions which allowed treatment of ignitable or reactive waste to remove hazardous characteristics with the requirement to comply with Minn. Rules pts. 7045.1300 to 7045.1380. Item B incorporates an exception that ignitable wastes, that might otherwise be land disposed in accordance with item B, but which are prohibited wastes subject to LDR treatment standards under Minn. Rules pts. 7045.1350 to 7045.1360, cannot be so disposed. Subpart 9, new item F adds the requirement to dispose of lab-packs in compliance with Minn. Rules pts. 7045.1300 to 7045.1380 and adds conditions for the use of fiber drums and their incineration.

6. Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities:

a. MINN. RULES PT. 7045.0665 USE CONSTITUTING DISPOSAL: (A) & (B). Subpart 1 is restructured by combining items A and B into the text of the

first paragraph. Language is also clarified by changing an out of context noun to its verb form. This is reasonable for improved clarity. The second paragraph incorporates clarifications and language requiring products containing chemically incorporated and bound recyclable materials to conform with treatment standards in Minn. Rules pts. 7045.1350 to 7045.1360 or prohibition levels in Minn. Rules pt. 7045.1330 or RCRA section 3004(d). Commercially produced fertilizers are not subject to regulation provided they meet the specified treatment or prohibition levels. The rules provide one exception. Fertilizers containing zinc from the use of K061 hazardous wastes are exempt without meeting those levels at this time.

7. Land Disposal Restrictions:

a. MINN. RULES PT. 7045.1300 LAND DISPOSAL RESTRICTIONS; APPLICABILITY AND EXEMPTIONS: (A), (B), & (H). Subpart 2 is clarified and the word prohibited is replaced with the word "restricted". Items C, D, and E listing are deleted. Subpart 3 is added to provide the term "other exemptions."

b. MINN. RULES PT. 7045.1305 DILUTION PROHIBITED AS A SUBSTITUTE FOR TREATMENT: (H). The first paragraph is turned into item A and refers to exceptions provided in added item B which describes conditions for dilution under the U.S. Clean Water Act.

c. MINN. RULES PT. 7045.1308 LANDFILL AND SURFACE IMPOUNDMENT DISPOSAL RESTRICTIONS: (A), (B), & (H). Subpart 1 adds requirements for wastes generated prior to May 8, 1990. Subpart 2 adds requirements for the review of certification demonstrations. Subpart 3 adds requirements for facilities subject to certification demonstrations. Subpart 4 adds conditions for when land disposal is authorized.

d. MINN. RULES PT. 7045.1309 SPECIAL RULES REGARDING WASTES THAT EXHIBIT A CHARACTERISTIC: (H). Subpart 1 adds requirements for when to assign applicable waste codes. Subpart 2 adds conditions for meeting treatment standards. Subpart 3 adds conditions for land disposal. Subpart 4 adds waste analysis requirements.

e. MINN. RULES PT. 7045.1310 TREATMENT SURFACE IMPOUNDMENT EXEMPTION: (A) & (B). Subpart 1 is modified to incorporate better organization and clarifying language; this is reasonable because it clarifies the rule and makes it more understandable; language also specifies when residues must be removed annually and when they may be transferred to another surface impoundment.

f. MINN. RULES PT. 7045.1315 WASTE ANALYSIS FOR RESTRICTED WASTES: (A), (B), & (H). Subpart 1 adds and corrects language to clarify when and how this part applies. Requirements are also added for generators to develop and follow a waste management plan, when and how to retain testing records, certification for lab packs, and tolling agreements for small quantity generators. Subpart 2 is reorganized and renumbered for clarity and language is added and corrected to provide conditions for treatment facilities testing their wastes. Notice conditions and information are also clarified and corrected and a new category for certification of wastes with treatment standards expressed as concentrations in the waste is added. The newly added language extends the notice and certification requirements for generators to facilities that send a waste off-site, and provides conditions for notice and certification for recyclers. Subpart 3 similarly clarifies and corrects waste analysis conditions for land disposal facilities.

g. MINN. RULES PT. 7045.1320 WASTE SPECIFIC PROHIBITIONS; SOLVENT WASTES: (A) & (B). Subpart 1 clarifies the dates of applicability and extends applicability to solids that contain solvent. Subpart 2 incorporates updated conditions and effective dates for F001-F005 solvent contaminated waste corrective actions under CERCLA or RCRA. Subpart 3 corrects and clarifies language governing exceptions to prior subparts.

h. MINN. RULES PT. 7045.1325 WASTE SPECIFIC PROHIBITIONS; DIOXIN CONTAINING WASTES: (A) & (B). Subpart 1 corrects punctuation. Subpart 2 adds an exception to applicability for certain wastes generated from CERCLA or RCRA corrective actions. Subpart 3 updates conditions and corrects cites and language regarding effective dates.

i. MINN. RULES PT. 7045.1330 WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES: (A) & (B). Subpart 1 incorporates an effective date, and adds two categories of wastes containing halogenated organic compounds to the categories of wastes prohibited from land disposal. Subpart 2 clarifies and updates conditions and effective dates for exceptions to subpart 1.

j. MINN. RULES PT. 7045.1333 WASTE SPECIFIC PROHIBITIONS; FIRST THIRD WASTES: (A) & (B). Subpart 1 adds lists of hazardous waste numbers (waste codes) which are prohibited from land disposal under the first one-third of wastes prohibited under LDR and their effective dates. Subpart 2 provides exceptions to subpart 1. Subpart 3 provides effective dates and conditions for the prohibitions between August 8, 1988, and May 8, 1990. Subpart 4 provides conditions for waste analysis.

k. MINN. RULES PT. 7045.1334 WASTE SPECIFIC PROHIBITION; SECOND THIRD WASTES: (F). Subpart 1 adds lists of hazardous waste numbers (waste codes) which are prohibited from land disposal under the second one-third of

wastes prohibited under LDR and their effective dates. Subpart 2 lists general exceptions to prohibitions. Subpart 3 provides conditions for waste analysis.

l. MINN. RULES PT. 7045.1335 WASTE SPECIFIC PROHIBITIONS; THIRD THIRD WASTES: (H). Subpart 1 adds lists of hazardous waste numbers (waste codes and wastes) which are prohibited from land disposal under the third one-third of wastes prohibited under LDR and their effective dates as of August 8, 1990. Subpart 2 similarly explains the applicability of the LDR as of November 8, 1990. Subpart 3 similarly explains LDR applicability as of May 8, 1992. Subpart 4 addresses mixed radioactive and hazardous wastes. Subpart 5 addresses contaminated soil or debris. Subparts 6 to 8 list conditions for exceptions to prohibitions for the wastes in subparts 1 to 5. Subpart 9 lists general exceptions to prohibitions. Subpart 10 provides conditions for waste analysis.

m. MINN. RULES PT. 7045.1339 EFFECTIVE DATES OF SURFACE DISPOSED WASTES REGULATED IN THE LAND DISPOSAL RESTRICTIONS: (H). Subpart 1 refers readers to the federal comprehensive list of effective dates of surface disposed wastes regulated in the LDR in Code of Federal Regulations, title 40, section 268, appendix VII.

n. MINN. RULES PT. 7045.1350 TREATMENT STANDARDS: (A), (B), & (H). Subpart 1 incorporates language providing conditions for land disposal of wastes identified in part 7045.1355, methods for analyzing constituent concentrations in waste extract, and exceptions to restrictions. Subpart 3 provides similar conditions for land disposal contingent on constituent concentrations in the waste itself or its treatment residue.

o. MINN. RULES PT. 7045.1355 TREATMENT STANDARDS EXPRESSED AS CONCENTRATIONS IN WASTE EXTRACT: (A), (B), (F), & (H). Subpart 1 incorporates corrections and clarifying language, provides conditions and methods for analysis, and refers to Code of Federal Regulations, title 40, part 268.41, Table for Constituent Concentration in Waste Extract (Table CCWE) for land disposal. Table CCWE is the first of several federal tables incorporated by reference in this rulemaking due to their size and configuration.

p. MINN. RULES PT. 7045.1358 TREATMENT STANDARDS EXPRESSED AS WASTE CONCENTRATIONS: (A), (B), (D), (F), & (H). Subpart 1 discusses when concentrations in waste or treatment residue, not their extract, apply for land disposal. Subpart 2 addresses combined wastes. Subpart 3 refers to Code of Federal Regulations, title 40, part 268.43, Table for Constituent Concentration in Waste (Table CCW) or waste residue for land disposal. Subpart 4 lists wastes and dates after which there may not be land disposal. Subpart 5 provides conditions for demonstrating compliance with treatment standards for organic constituents.

q. MINN. RULES PT. 7045.1360 TREATMENT STANDARDS EXPRESSED AS SPECIFIED TECHNOLOGIES: (A), (B), (F), & (H). Subpart 1 provides conditions for treating certain wastes and references the reorganized part. Item B corrects cites and adds incineration conditions. Subpart 2 provides conditions for using alternatives to specified technologies. Subpart 3 provides a list of specified technologies and their codes, and instructions for interpreting and applying sequential technologies or choosing from multiple listed technologies. Subpart 4 refers to Code of Federal Regulations, title 40, part 268.42, Table 2--Technology Based Standards by RCRA Waste Code. Subpart 5 similarly refers to Code of Federal Regulations, title 40, part 268.42,

Table 3--Technology Based Standards for Specific Radioactive Hazardous Mixed Waste. Subpart 6 adds conditions for application for alternative treatment methods. Subpart 7 provides conditions for exceptions based on the use of lab packs. Subpart 8 provides conditions for exceptions for radioactive hazardous mixed wastes. Subpart 9 lists wastes which may be placed in organometallic lab packs. Subpart 10 lists wastes which may be placed in organic lab packs. Subpart 11 refers to Code of Federal Regulations, title 40, part 268.42, appendix for a partial list of technologies which used alone or in combination may "deactivate" specified characteristics.

r. MINN. RULES PT. 7045.1380 PROHIBITIONS ON STORAGE OF RESTRICTED WASTES: (A) & (B). Subpart 4 replaces petition conditions with exemption conditions for situations of approved case-by-case extensions under part 7045.0075, subpart 6, approved petitions under part 7045.0075, subpart 8 or 9, or a national capacity variance under Minn. Rules pts. 7045.1320 to 7045.1330.

IV. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 14.115, subd. 2 (1990) requires the MPCA, when proposing amendments to existing rules which may affect small businesses, to consider the impact of the rule amendments on small business.

Generally, the federally promulgated LDRs increased the cost of managing hazardous wastes by requiring proper testing and treatment prior to land disposal. The U.S. Congress determined this additional expense was necessary to achieve the additional level of environmental protection provided by the LDRs. EPA went through elaborate rulemaking procedures and public scrutiny, which included consideration of economic factors, to promulgate the LDR regulations.

These federal amendments were promulgated under authority of HSWA. Regulations so promulgated are immediately effective in states. The LDRs are currently effective in Minnesota under federal authority. The state's assumption of primary enforcement authority will not change the applicability to the regulated community.

Neither the proposed state rules nor the federal LDR regulations make special provision for reduced regulation for the management of wastes generated from small businesses. The size of a business has no relation to the degree of environmental risk presented by the wastes generated if those wastes are mismanaged. The MPCA cannot provide less stringent regulation than is provided under the federal program and therefore is not able to provide special consideration for small businesses. Further, the MPCA believes that the LDR are reasonable conditions on the disposal of waste and that the application of less stringent regulations to small businesses that generate hazardous waste would be environmentally irresponsible.

V. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the MPCA is required by Minn. Stat. § 116.07, subd. 6 (1990) 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, practical under the circumstances.

The EPA considers economic impact during the federal process for promulgating regulations. The EPA successfully promulgated these regulations under the authority of the HSWA with due public participation and consideration of the economic impact. The EPA determined this impact to be necessary and reasonable in order to have a program that was protective of human health and the environment. The rules promulgated under HSWA are immediately in effect in Minnesota. There will be no increase in numbers of regulated community or level of regulation as a result of the MPCA adopting equivalent rule language.

VI. CONCLUSION

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

VII. LIST OF EXHIBITS

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

MPCA Ex. No.	Title
1	See Federal Registers listed on page 5 of this document.

Date: 9/13/91

Charles W. Williams
Commissioner

Pollution Control Agency

Proposed Permanent Rules Relating to Land Disposal Restrictions for Hazardous Wastes

Rules as Proposed

7001.0520 PERMIT REQUIREMENTS.

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

Subp. 7. **Permit denial.** The commissioner may deny the permit application, whether or not the application is complete, either in its entirety or as to the active life of a hazardous waste management facility or unit only. The denial does not affect the requirement to obtain a postclosure permit under this part.

7001.0650 INTERIM STATUS.

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

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

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

B. The owner or operator may increase the design capacity of the facility if, before implementation of the increase, the owner or operator submits a revised Part A of the permit application and an explanation of the need for the change, and if the commissioner approves the increase in writing. The commissioner shall approve the change if the commissioner finds that:

(1) there is a lack of available treatment, storage, or disposal capacity at other permitted hazardous waste facilities; or

(2) the change is necessary to comply with a federal, state, or local requirement.

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

E. Changes may be made according to an interim status

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corrective action order issued by EPA under United States Code, title 42, section 3008(h), or other federal authority, by the agency, or by a court in a judicial action brought by EPA or the agency. Changes under this item are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

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

(1) changes made only for complying with parts 7045.0528, subpart 4, and 7045.0628, subpart 4, for tanks and ancillary equipment;

(2) if necessary to comply with federal, state, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of RCRA section 3004(o);

(3) changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility before the effective date of the rule establishing the new listing or identification;

(4) changes during closure of a facility or of a unit within a facility made according to an approved closure plan;

(5) changes necessary to comply with an interim status corrective action order issued by EPA under RCRA section 3008(h) or other federal authority, by an authorized state under comparable state authority, or by a court in judicial proceeding brought by EPA or an authorized state, provided that the changes are limited to the treatment, storage, or disposal of solid

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waste from releases that originate within the boundary of the facility; and

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

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

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

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

7045.0020 DEFINITIONS.

[For text of subps 1 to 45, see M.R.]

Subp. 45a. **Inorganic solid debris.** "Inorganic solid debris" means nonfriable inorganic solids contaminated with D004-D011 hazardous wastes that are incapable of passing through a 9.5 millimeter standard sieve; that require cutting or crushing and grinding in mechanical sizing equipment prior to stabilization; and that are limited to the following inorganic or metal materials:

A. metal slags, either dross or scoria;

B. glassified slag;

C. glass;

D. concrete, excluding cementitious or pozzolanic stabilized hazardous wastes;

E. masonry and refractory bricks;

F. metal cans, containers, drums, or tanks;

G. metal nuts, bolts, pipes, pumps, valves; appliances, or industrial equipment; and

H. scrap metal as defined in subpart 79a.

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Subp. ~~45a~~ 45b. **Installation inspector.** "Installation inspector" means a person who, by ~~reason of his~~ knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

[For text of subps 46 to 59a, see M.R.]

Subp. 59b. **Nonwastewater.** "Nonwastewater" means hazardous waste that is not wastewater as defined in subpart 102c.

Subp. ~~59b~~ 59c. **Off-specification used oil.** "Off-specification used oil" means a used oil fuel that exceeds any of the specification levels for the following constituents or has a flash point less than 100 degrees Fahrenheit.

Constituent	Allowable level
Arsenic, total	5 parts per million maximum
Cadmium, total	2 parts per million maximum
Chromium, total	10 parts per million maximum
Lead, total	100 parts per million maximum
Total Halogens	4,000 parts per million maximum

Subp. ~~59c~~ 59d. **Onground tank.** "Onground tank" means a device meeting the definition of "tank" in subpart 90 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

[For text of subps 60 to 73, see M.R.]

Subp. 73a. **RCRA or Resource Conservation and Recovery Act.** "RCRA" or "Resource Conservation and Recovery Act" means the Resource Conservation and Recovery Act.

Subp. ~~73a~~ 73b. **Receiving country.** "Receiving country" means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage, or disposal, except short-term storage incidental to transportation.

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

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

[For text of subps 74 to 102b, see M.R.]

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

A. F001, F002, F003, F004, or F005 wastewaters are solvent-water mixtures that contain less than one percent by weight total organic carbon or less than one percent by weight total F001, F002, F003, F004, or F005 solvent constituents listed in part 7045.1355;

B. K011, K013, or K014 wastewaters that contain less than five percent by weight total organic carbon and less than one percent by weight total suspended solids as generated; or

C. K0103 or K0104 wastewaters that contain less than four percent by weight total organic carbon and less than one percent by weight total suspended solids.

[For text of subps 103 to 109, see M.R.]

7045.0075 PETITIONS.

[For text of subps 1 to 8, see M.R.]

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

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practicable time, and sufficient information to assure the commissioner that the owner or operator of a land disposal unit receiving restricted wastes will comply with other applicable federal, state, and local laws. The person seeking the exemption must also comply with items A to L.

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

B. Each petition referred to in this subpart must include information described in subitems (1) to (5):

(1) A monitoring plan that describes the monitoring program installed at and around the unit to verify continued compliance with the conditions of the variance. This monitoring plan must provide information on the monitoring of the unit and the environment around the unit. The following specific information must be included in the plan:

(a) the media monitored in the cases where monitoring of the environment around the unit is required;

(b) the type of monitoring conducted at the unit, in the cases where monitoring of the unit is required;

(c) the location of the monitoring stations;

(d) the frequency of monitoring at each station;

(e) the specific hazardous constituents to be monitored;

(f) the implementation schedule for the monitoring program;

(g) the equipment used at the monitoring stations;

(h) the sampling and analytical techniques employed; and

(i) the data recording and reporting procedures.

(2) Where applicable, the monitoring program must be in place for a period of time specified by the commissioner, as part of the commissioner's approval of the petition, before receipt of prohibited waste at the unit.

(3) The monitoring data collected according to

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the monitoring plan must be sent to the commissioner according to a format and schedule specified and approved in the monitoring plan.

(4) A copy of the monitoring data collected under the monitoring plan must be kept on-site at the facility in the operating record.

(5) The monitoring program in subitem (1) must meet the following criteria:

(a) all sampling, testing, and analytical data must be approved by the commissioner and must provide data that is accurate and reproducible;

(b) all estimation and monitoring techniques must be approved by the commissioner; and

(c) a quality assurance and quality control plan addressing all aspects of the monitoring program must be provided to and approved by the commissioner.

C. After a petition has been approved, the owner or operator must report any changes in conditions at the unit and the environment around the unit that significantly depart from the conditions described in the variance and affect the potential for migration of hazardous constituents from the units as follows:

(1) If the owner or operator plans to make changes to the unit design, construction, or operation, the change must be proposed, in writing, and the owner or operator must submit a demonstration to the commissioner at least 30 days before making the change. The commissioner shall determine whether the proposed change invalidates the terms of the petition and will determine the appropriate response. Any change must be approved by the commissioner before being made.

(2) If the owner or operator discovers that a condition at the site which was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the commissioner within ten days of discovering the change. The commissioner shall determine whether the reported change from the terms of the petition

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requires further action, which may include termination of waste acceptance and revocation of the petition, petition modifications, or other responses.

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

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

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

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

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

~~E.~~ H. The commissioner will give public notice in the

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

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

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

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

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

[For text of subps 10 to 12, see M.R.]

7045.0131 CHARACTERISTICS OF HAZARDOUS WASTE.

Subpart 1. **In general.** A waste which is not excluded from regulation as a hazardous waste under part 7045.0120 is a hazardous waste if it exhibits ignitability, corrosivity, reactivity, toxicity, lethality, or is an oxidizer, as described in subparts 2 to 7. A hazardous waste which is identified by a characteristic in this part is assigned every hazardous waste number that is applicable. This number must be used in complying with the notification requirements of section 3010 of the federal Resource Conservation and Recovery Act and all applicable record keeping and reporting requirements under parts

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7045.0205 to 7045.0642 and 7045.1300, and chapter 7001. For purposes of this part, the commissioner shall consider a sample obtained using any of the applicable sampling methods specified in Code of Federal Regulations, title 40, part 260, Appendix I or part 261, Appendix II, to be a representative sample.

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

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

C. it is an ignitable compressed gas as defined in Code of Federal Regulations, title 49, section 173.300 (1983) and as determined by the test methods described in that regulation or equivalent test methods approved by the commissioner under part 7045.0075, subpart 1.

A waste that exhibits the characteristic of ignitability~~, but is not listed as a hazardous waste in part 7045.0135~~ has the hazardous waste number of D001.

Subp. 3. **Oxidizers.** A waste exhibits the characteristics of an oxidizer if a representative sample of the waste has the following properties:

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

B. it readily supplies oxygen to a reaction in the absence of air. Oxidative materials include, but are not limited to, oxides, organic and inorganic peroxides, permanganates, perrhenates, chlorates, perchlorates, persulfates, nitric acid, organic and inorganic nitrates, iodates, periodates, bromates, perselenates, perbromates, chromates, dichromates, ozone, and perborates. Bromine, chlorine, fluorine, and iodine react similarly to oxygen under some conditions and are therefore also oxidative materials.

A waste that exhibits the characteristics of an oxidizer~~, but is not listed as a hazardous waste in part 7045.0135~~ has the hazardous waste number of D001.

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

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

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

A waste that exhibits the characteristic of corrosivity~~, but is not listed as a hazardous waste in part 7045.0135~~ has the hazardous waste number of D002.

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

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

H. it is a forbidden explosive as defined in Code of Federal Regulations, title 49, section 173.51 (1983), a Class A explosive as defined in Code of Federal Regulations, title 49, section 173.53 (1983), or a Class B explosive as defined in Code of Federal Regulations, title 49, Section 173.88 (1983).

A waste that exhibits the characteristic of reactivity~~, but is not listed as a hazardous waste in part 7045.0135~~ has the hazardous waste number of D003.

Subp. 6. **Lethality.** Lethality is determined as follows:

A. A waste exhibits the characteristic of lethality as determined in item B, if a representative sample of the waste has any one of the following properties:

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

(4) an inhalation median lethal concentration of less than 1,000 parts per million of material ~~per million parts~~ of in air, if the material or component may be inhaled as gas or

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vapor.

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

D. A waste that exhibits the characteristics of lethality~~,-but-is-not-listed-as-a-hazardous-waste-in-part 7045.0135~~ has the hazardous waste number MN01.

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

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

B. A waste that exhibits the characteristic of toxicity~~,-but-is-not-listed-as-a-hazardous-waste-in-part 7045.0135~~ has the hazardous waste number specified in subpart 8 which corresponds to the toxic contaminant causing it to be hazardous.

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

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

7045.0135 LISTS OF HAZARDOUS WASTES.

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

Subp. 2. **Hazardous wastes from nonspecific sources.** Hazardous wastes from nonspecific sources are listed with the generic hazardous waste number and hazard code in items A to ~~U~~ V.

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

T. F027, discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component: (H); ~~and~~

U. F028, residues resulting from the incineration or thermal treatment of soil contaminated with hazardous waste Nos. F020, F021, F022, F023, F026, and F027: (T); and

V. F039, leachate resulting from the disposal of more than one restricted waste classified as hazardous under part 7045.0131 and this part. Leachate resulting from the management of one or more of the following EPA hazardous wastes and no other hazardous wastes retains its EPA hazardous waste numbers: F020, F021, F022, F023, F026, F027, or F028: (T).

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

7045.0139 BASIS FOR LISTING HAZARDOUS WASTES.

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

Subp. 2. **Constituents.** The constituents which are the basis for listing the wastes identified in part 7045.0135, subparts 2 and 3 are listed in items A and B.

A. Constituents of wastes identified in part 7045.0135, subpart 2 are listed in subitems (1) to (21).

[For text of subitems (1) to (19), see M.R.]

(20) F027: Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans; tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine, and other salts; ~~and~~

(21) F028: Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans; tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine, and other salts; and

(22) F039: Constituents for which treatment standards are specified for multisource leachate, wastewaters, and nonwastewaters under part 7045.1358.

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

7045.0214 EVALUATION OF WASTES.

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

Subp. 2. **Method for evaluation.** The person evaluating the waste must determine if the waste meets any of the following criteria for a hazardous waste:

A. the waste is listed in part 7045.0135; or

B. if the waste ~~exhibits any of the characteristics of hazardous waste~~ is not listed in part 7045.0135, the person must then determine whether the waste is identified in part 7045.0131 by either:

(1) testing the waste according to the methods ~~set forth~~ in part 7045.0131 or according to an equivalent method

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approved by the commissioner pursuant to part 7045.0075, subpart 1; or

(2) applying knowledge of the hazard characteristics of the waste in light of the materials or the processes used.

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

7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

Subpart 1. **When allowed without a permit.** A generator may accumulate hazardous waste on-site without a permit or without having interim status if:

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

H. the requirements of parts 7045.0558 ~~and~~, 7045.0566 to 7045.0576, and 7045.1315 are fulfilled regarding personnel training, preparedness, prevention, and contingency planning; and

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

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

7045.0458 WASTE ANALYSIS REQUIREMENTS.

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

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

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

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

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues ~~that~~ which are not delisted under part 7045.0075, subpart 2, ~~and do not~~ or which exhibit a characteristic of hazardous waste under part 7045.0131, and ~~that~~ either do not meet the treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment

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standards have been established, ~~the annual removal of residues that do not meet the applicable prohibition levels in~~ such residues are prohibited from land disposal under parts 7045.1320 to ~~7045.1330~~ 7045.1333 or RCRA section 3004(d).

7045.0478 OPERATING RECORD.

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

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:

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

M. Records of the quantities and date of placement ~~of~~ for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 8 ~~or~~, a petition under part 7045.0075, subpart 9, or a certification under part 7045.1308, and the applicable notice required ~~by~~ of a generator under part 7045.1315, subpart ~~1, item C~~.

N. For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required ~~by a~~ of the generator or the owner under part 7045.1315, subpart 1, item A, or 7045.1308.

O. For an on-site treatment facility, the information contained in the notice, except the manifest number, and the certification and demonstration, if applicable, required ~~by~~ of the generator or owner or operator under part 7045.1315, subpart 1, item A, ~~except for the manifest number required under subitem (3)~~ or 7045.1308.

P. For an off-site land disposal facility, a copy of the notice, and the certification and demonstration, if applicable, required ~~by~~ of the generator or the owner or operator of a treatment facility under ~~part~~ parts 7045.1315, ~~subpart 2, items A and B, or a copy of the notice and certification required by the generator under part 7045.1315, subpart 1, item B~~ and 7045.1308, whichever is applicable.

Q. For an on-site land disposal facility, the

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information contained in the notice required of the generator or owner or operator of a treatment facility under part 7045.1315, ~~subpart 1, item B~~ except for the manifest number, ~~or the information contained in the notice required by a treater under part 7045.1315, subpart 2, item A, except the manifest~~ number and the certification and demonstration, if applicable, required under ~~subitem (3)~~ part 7045.1308, whichever is applicable.

R. For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required of the generator or the owner or operator under part 7045.1308 or 7045.1315.

S. For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required of the generator or the owner or operator under part 7045.1308 or 7045.1315.

7045.0532 SURFACE IMPOUNDMENTS.

[For text of subps 1 to 7, see M.R.]

Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

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

7045.0534 WASTE PILES.

[For text of subps 1 to 7, see M.R.]

Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a waste pile unless the waste and waste pile satisfy all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

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

7045.0536 LAND TREATMENT.

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[For text of subps 1 to 8, see M.R.]

Subp. 9. **Ignitable or reactive waste.** The owner or operator shall not apply ignitable or reactive waste to the treatment zone unless the waste and the treatment zone meet all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

[For text of subps 10 and 11, see M.R.]

7045.0538 LANDFILLS.

[For text of subps 1 to 7, see M.R.]

Subp. 8. **Special requirements for ignitable or reactive waste.** Special requirements for ignitable or reactive waste are as follows:

A. Except as provided in item B and subpart 12, ignitable or reactive waste must not be placed in a landfill, unless the waste ~~is treated, rendered, or mixed before or immediately after placement in a landfill so that~~ and landfill meet all applicable requirements of parts 7045.1300 to 7045.1380, and the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under part 7045.0131, ~~subparts~~ subpart 2 ~~and~~ or 5, and compliance with part 7045.0456, subpart 2 is maintained.

B. Except for prohibited wastes which remain subject to treatment standards in parts 7045.1350 to 7045.1360, ignitable wastes in containers may be landfilled without meeting the requirements of item A, provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes must be disposed of in nonleaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

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

Subp. 12. **Disposal of small containers of hazardous waste in overpacked drums.** Small containers of hazardous waste in overpacked drums, or laboratory packs, may be placed in a landfill if the requirements of items A to ~~E~~ F are met:

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

F. The disposal is in compliance with parts 7045.1300 to 7045.1380. Persons who incinerate lab packs according to part 7045.1360 may use fiber drums in place of metal outer containers. The fiber drums must meet United States Department of Transportation specifications in Code of Federal Regulations, title 49, section 173.12, and be overpacked according to the requirements in item B.

[For text of subp 13, see M.R.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

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

For existing facilities which were not required to obtain federal interim status under the Resource Conservation and Recovery Act, United States Code, title 42, sections 6901 to 6986, as amended through June 30, 1983, but are required to obtain state interim status, the requirements of parts 7045.0590; 7045.0592; 7045.0632, subpart 4, items A and B;

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7045.0634, subpart 2; 7045.0638, subparts 2, 7, and 8, become effective 12 months after July 16, 1984, and the requirements of parts 7045.0608 to 7045.0624 become effective 90 days after July 16, 1984.

Parts 7045.0552 to 7045.0642 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380, land disposal restrictions, and those restrictions are considered material conditions or requirements of parts 7045.0552 to 7045.0642, interim status standards.

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

7045.0564 WASTE ANALYSIS REQUIREMENTS.

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

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

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

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

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues ~~that~~ which are not delisted under part 7045.0075, subpart 2, ~~and do not~~ or which exhibit a characteristic of hazardous waste under part 7045.0131, and ~~that~~ either do not meet ~~the~~ applicable treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, ~~the annual removal of residues that do not meet the applicable prohibition levels~~ in such residues are prohibited from land disposal under parts 7045.1320 to ~~7045.1330~~ 7045.1333 or RCRA section 3004(d).

7045.0584 OPERATING RECORD.

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

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

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

J. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 8 or 9, monitoring data required pursuant to a petition under part 7045.0075, subpart 9, or a certificate and demonstration under part 7045.1308 and the notice required by a generator under part 7045.1315, subpart 1, item C.

K. For an off-site treatment facility, the notice, and the certification and demonstration, if applicable, required by a generator or the owner or operator under ~~part~~ parts 7045.1308 and 7045.1315, subpart 1, item A.

L. For an on-site treatment facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator under ~~part~~ parts 7045.1308 and 7045.1315, subpart 1, item A, except for the manifest number required under part 7045.1315, subpart 1, item A, subitem (3).

M. For an off-site land disposal facility, the notice ~~and~~, certification and demonstration, if applicable, required by the generator, owner or operator of a treatment facility under part 7045.1308 or 7045.1315, subpart 2, items A and B, for the facility or ~~the certification required by the generator under~~ part 7045.1315, subpart 1, item B, for the generator, whichever is applicable.

N. For an on-site land disposal facility, the information contained in the notice required by a generator or the owner or operator under part 7045.1308 or 7045.1315~~, subpart 1, item B~~ except for the manifest number, ~~or the information contained in the notice required by the treatment facility under part 7045.1315, subpart 2, item A, except the manifest number required under subitem (3)~~ whichever is applicable.

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O. For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under part 7045.1308 or 7045.1315.

P. For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under part 7045.1308 or 7045.1315.

7045.0630 SURFACE IMPOUNDMENTS.

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

Subp. 5. **Inspections.** The owner or operator shall inspect:

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

B. the surface impoundment, including dikes and vegetation surrounding the dike, at least once a week to detect any leaks, deterioration, or failures in the impoundment. As required by part 7045.0556, subpart 5, the owner or operator shall remedy any deterioration or malfunction ~~he finds~~ found.

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

Subp. 7. **Special requirements for ignitable or reactive wastes.** Ignitable or reactive waste must not be placed in a surface impoundment unless the waste and the impoundment satisfy all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

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

7045.0632 WASTE PILES.

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

Subp. 5. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a pile unless the waste and pile satisfy all applicable requirements of parts 7045.1300 to 7045.1380:

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

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

7045.0634 LAND TREATMENT.

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

Subp. 7. **Special requirements for ignitable or reactive waste.** Ignitable or reactive wastes must not be land treated, unless the waste and treatment zone meet all applicable requirements of parts 7045.1300 to 7045.1380, and the waste is immediately incorporated into the soil so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under parts 7045.0131, subpart 2 or 5; and 7045.0562, subpart 2 is complied with.

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

7045.0638 LANDFILLS.

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

Subp. 5. **Special requirements for ignitable or reactive waste.** Special requirements for ignitable or reactive waste are as follows:

A. Except as provided in item B, and subparts 7 and 9, ignitable or reactive waste must not be placed in a landfill unless the waste ~~is treated, rendered, or mixed before or immediately after placement in the~~ and landfill ~~so that~~ meet all applicable requirements of parts 7045.1300 to 7045.1380, and the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under ~~parts~~ part 7045.0131, subpart 2 or 5, and compliance with part 7045.0562, subpart 2, is ~~complied with~~ maintained.

B. Except for prohibited wastes which remain subject to treatment standards in parts 7045.1350 to 7045.1360, ignitable wastes in containers may be landfilled without meeting the requirements of item A if the wastes are disposed so that they are protected from any material or conditions which may cause them to ignite. Ignitable wastes must be disposed in nonleaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed in cells

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that contain or will contain other wastes which may generate heat sufficient to cause ignition of the wastes.

[For text of subp 6 to 8, see M.R.]

Subp. 9. **Special requirements for disposal of laboratory packs.** Small containers of hazardous waste in overpacked drums, or laboratory packs, may be placed in a landfill if the requirements of items A to ~~E~~ F are met:

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

F. The disposal complies with parts 7045.1300 to 7045.1380. Persons who incinerate lab packs according to part 7045.1360 may use fiber drums in place of metal outer containers. The fiber drums must meet the United States Department of Transportation specifications in Code of Federal Regulation, title 49, section 173.12, and be overpacked according to item B.

7045.0665 USE CONSTITUTING DISPOSAL.

Subpart 1. **Scope.** ~~This part applies~~ Items A and B apply to hazardous wastes that are used in a manner constituting disposal.

A. 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~~ combining with any other substances.

~~Products~~ B. Hazardous wastes are not used in a manner constituting disposal if:

(1) they are a product produced for the general public's use ~~that are used in a manner constituting disposal and that~~;

(2) they contain recyclable hazardous wastes ~~that~~; and if the recyclable hazardous wastes have undergone a chemical reaction in the course of producing ~~a product~~ the products so as to become inseparable by physical means ~~are exempt from regulation under this part~~; and

(3) the products meet the applicable treatment

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standards in parts 7045.1350 to 7045.1360 or applicable prohibition levels in part 7045.1330 or RCRA section 3004(d) where no treatment standards have been established, for each recyclable material that they contain.

Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not presently subject to regulation ~~under this chapter~~ provided they meet the same treatment standards or prohibition levels for each recyclable material that they contain. However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation.

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

7045.1300 LAND DISPOSAL RESTRICTIONS; APPLICABILITY AND EXEMPTIONS.

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

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

A. if an extension has been granted from the effective date of a prohibition under part 7045.0075, subpart 8, with respect to those wastes covered by the extension; and

B. if an exemption has been granted from a prohibition as a result of a petition under part 7045.0075, subpart 9, with respect to those wastes and units covered by the petition;

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

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

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

Subp. 3. **Other exemptions.** The following hazardous wastes are not subject to parts 7045.1300 to 7045.1380:

A. waste generated by small quantity generators of less than 100 kilograms of nonacute hazardous waste per month, or less than one kilogram of acute hazardous waste per month, as defined in part 7045.0206;

B. waste pesticides that a farmer disposes of according to part 7045.0213; and

C. waste identified or listed as hazardous after November 8, 1984, for which no land disposal prohibitions or treatment standards have been adopted.

Subp. 4. **Waivers.** The requirements of this part shall not affect the availability of a waiver under section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

7045.1305 DILUTION PROHIBITED AS A SUBSTITUTE FOR TREATMENT.

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

B. Dilution of wastes that are hazardous only because they exhibit a characteristic in a treatment system that treats wastes subsequently discharged to a water of the United States pursuant to a permit issued under section 402 of the Clean Water Act (CWA), or that treats wastes for purposes of pretreatment requirements under section 307 of the CWA is not impermissible dilution for purposes of this part unless a method has been specified as the treatment standard in part 7045.1360.

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7045.1308 LANDFILL AND SURFACE IMPOUNDMENT DISPOSAL RESTRICTIONS.

Subpart 1. **Generator requirements.** As of May 8, 1990, this part is no longer in effect. Before May 8, 1990, wastes that are otherwise prohibited from land disposal under part 7045.1333, subpart 2, item C, may be disposed in a landfill or surface impoundment in compliance with Code of Federal Regulations, title 40, section 268.5(h)(2), provided that the generator meets the requirements in items A to D.

A. Before disposal, the generator has made a good faith effort to locate and contract with treatment and recovery facilities practically available that provide the greatest environmental benefit.

B. If a generator determines that there is no practically available treatment for a waste, the generator must fulfill the requirements in subitems (1) and (2).

(1) Before the initial shipment of waste, the generator must submit a demonstration to the commissioner that includes a list of facilities and facility officials contacted, addresses, telephone numbers, and contact dates, as well as a written discussion of why the generator was not able to obtain treatment or recovery for that waste. The generator must also provide the following certification:

"I certify under penalty of law that the requirements of Minnesota Rules, part 7045.1308, subpart 1, item A, have been met and that disposal in a landfill or surface impoundment is the only practical alternative to treatment currently available. I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The generator does not need to wait for commissioner approval of the demonstration or certification before shipment of the waste. However, if the commissioner invalidates the demonstration or certification for the reasons outlined in part

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7045.1308, subpart 2, item B, the generator must immediately cease further shipments of the waste, inform all facilities that received the waste of the invalidation, and keep records of the communication on-site in the generator's files.

(2) With the initial shipment of waste, the generator must submit a copy of the demonstration and the certification in subitem (1) to the receiving facility. With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged. The generator must retain on-site a copy of the demonstration, if applicable, and certification required for each waste shipment for at least five years from the date that the waste that is the subject of the documentation was last sent to on-site or off-site disposal. The five-year record retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

C. If a generator determines that there are practically available treatments for a waste, the generator must contract to use the practically available technology that yields the greatest environmental benefit. The generator must also fulfill the requirements in subitems (1) and (2).

(1) Before the initial shipment of waste, the generator must submit a demonstration to the commissioner that includes a list of facilities and facility officials contacted, addresses, telephone numbers, and contact dates, as well as a written discussion explaining why the treatment or recovery technology chosen provides the greatest environmental benefit. The generator must also provide the following certification:

"I certify under penalty of law that the requirements of Minnesota Rules, part 7045.1308, subpart 1, item A, have been met and that I have contracted to treat my waste, or otherwise provide treatment, by the practically available technology that yields the greatest environmental benefit, as indicated in my demonstration. I believe that the information

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submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The generator does not need to wait for commissioner approval of the demonstration or certification before shipment of the waste.

(2) With the initial shipment of waste, the generator must submit to the receiving facility a copy of the demonstration and the certification in subitem (1). With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged. The generator must retain on-site a copy of the demonstration, if applicable, and certification required for each waste shipment for at least five years from the date that the waste that is the subject of the documentation was last sent to on-site or off-site disposal. The five-year record retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

D. When the generator has determined that there is practically available treatment for a waste before disposal, with the initial shipment of waste, the generator must submit a copy of the demonstration and the certification required in subpart 1, item B, subitem (2), to the receiving facility. With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged. The generator must retain on-site a copy of the demonstration, if applicable, and certification required for each waste shipment for at least five years from the date that the waste that is the subject of the documentation was last sent to on-site or off-site disposal. The five-year record retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

Subp. 2. **Certification review.**

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A. After receiving the demonstration and certification, the commissioner may request any additional information which the commissioner considers necessary to evaluate the certification.

B. A generator who has submitted a certification under this part must immediately notify the commissioner when the generator has knowledge of any change in the conditions that formed the basis of the generator's certification, and submit a new demonstration and certification as provided in part 7045.1308, subpart 1, to the receiving facility.

C. If, after review of the certification, the commissioner determines that practically available treatment exists where the generator has certified otherwise, or that there exists some other method of practically available treatment yielding greater environmental benefit than that which the generator has certified, the commissioner may invalidate the certification.

D. If the commissioner invalidates a certification, the generator must immediately cease further shipments of the waste, and inform all facilities that received the waste of the invalidation, and keep records of such communication on-site in the generator's files.

Subp. 3. **Facility requirements.**

A. A treatment, recovery, or storage facility receiving wastes subject to a valid certification must keep copies of the generator's demonstration, if applicable, and certification in the facility's operating record.

B. The owner or operator of a treatment or recovery facility must certify that the facility has treated the waste according to the generator's demonstration. The following certification is required:

"I certify under penalty of law that I have personally examined and am familiar with the treatment, technology, and operation of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately

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responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly and complies with treatment as specified in the generator's demonstration. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

C. The owner or operator of a treatment, recovery, or storage facility must, for each initial shipment of waste, send a copy of the generator's demonstration, if applicable, and certification under part 7045.1308, subpart 1, item B, subitem (1) or item C, subitem (1), and certification under subpart 3, item B, if applicable, to the facility receiving the waste or treatment residues. With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged.

D. The owner or operator of a disposal facility must ensure that those wastes prohibited under part 7034.1333, subpart 2, item D, are subject to a certification according to the requirements of this part before disposal in a landfill or surface impoundment, and that the units receiving the wastes must meet the minimum technological requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

Subp. 4. **Land disposal authorized.** When the certification is received by the commissioner, and provided that the wastes have been treated by the treatment, if any, determined by the generator to yield the greatest environmental benefit practically available, the wastes or treatment residuals may be disposed in a landfill or surface impoundment unit meeting the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2), unless otherwise prohibited by the commissioner.

7045.1309 SPECIAL RULES REGARDING WASTES THAT EXHIBIT A CHARACTERISTIC.

Subpart 1. **Applicable treatment standards.** The initial generator of a solid waste must determine each EPA hazardous

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waste number applicable to the waste to determine the applicable treatment standards under parts 7045.1350 to 7045.1360. For purposes of parts 7045.1300 to 7045.1380, the waste will carry the waste code for any applicable listing under part 7045.0135 and also one or more waste codes under part 7045.0131 where the waste exhibits a characteristic, except when the treatment standard for the waste code listed in part 7045.0135 operates in lieu of the standard for the waste code under part 7045.0131 as provided in subpart 2.

Subp. 2. **Conditions of meeting treatment standards.** When a prohibited waste is listed under part 7045.0135 and exhibits a characteristic under part 7045.0131, the treatment standard for the waste code listed in part 7045.0135 will operate in lieu of the standard for the waste code under part 7045.0131, provided that the treatment standard for the waste includes a treatment standard for the constituent that causes the waste to exhibit the characteristic. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

Subp. 3. **Land disposal.** In addition to any applicable standards determined from the initial point of generation, no prohibited waste that exhibits a characteristic under part 7045.0131 may be land disposed unless the waste complies with the treatment standards under parts 7045.1350 to 7045.1360.

Subp. 4. **Waste analysis.**

A. Wastes that exhibit a characteristic under part 7045.0131 are also subject to the requirements of part 7045.1315, except that when the waste is no longer hazardous, for each shipment of the wastes to a solid waste facility under chapter 7035, the initial generator or the treatment facility need not send a notification as required in part 7045.1315 to the facility. In those circumstances, a notification and certification must be sent to the commissioner.

B. The notification must include the following information:

(1) the name and address of the solid waste

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facility receiving the waste shipment under chapter 7035;

(2) a description of the waste as initially generated, including the applicable EPA hazardous waste numbers, the applicable wastewater or nonwastewater category as defined in part 7045.0020, and the subdivisions made within a waste code based on waste specific criteria; and

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

C. The certification must be signed by an authorized representative, and must use the following statement:

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

7045.1310 TREATMENT SURFACE IMPOUNDMENT EXEMPTION.

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

A. treatment of the wastes occurs in the impoundments ~~.~~;

B. the following conditions are met:

(1) For wastes with treatment standards in parts 7045.1350 to 7045.1360 or prohibition levels in parts 7045.1320 to 7045.1350 or RCRA section 3004(d), the residues ~~of the~~ from

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treatment are analyzed, as ~~provided~~ specified in part 7045.1315 or 7045.1330 to determine if they meet the applicable treatment standards ~~in parts 7045.1350 to 7045.1360~~, or, where no treatment standards have been established for the waste, the applicable prohibition levels ~~in parts 7045.1320 to 7045.1330 or RCRA section 3004(d)~~. The sampling method, specified in the waste analysis plan under part 7045.0458 or 7045.0564 must be designed so the representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples.

(2) The following treatment residues, including any liquid waste, ~~that~~ must be removed at least annually: residues that do not meet the treatment standards adopted under parts 7045.1350 to 7045.1360~~, or~~; residues that do not meet the ~~applicable~~ prohibition levels adopted under parts 7045.1320 to ~~7045.1330~~ 7045.1350, or imposed by statute where no treatment standards have been established~~, or that~~; residues that are from the treatment of wastes prohibited from land disposal under parts 7045.1320 to 7045.1350 where no treatment standards have been established and no prohibition levels apply; or residues from managing listed wastes that are not delisted under part 7045.0075, subpart 2~~, and no longer exhibit a characteristic of hazardous waste, must~~. However, residues that are the subject of a valid certification under part 7045.1308 made no later than one year after placement of the wastes in an impoundment are not required to be removed ~~at least~~ annually. ~~These~~ If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, the flow-through constitutes removal of the supernatant for the purpose of this requirement.

(3) Treatment residues may not be placed in any other surface impoundment for ~~later~~ subsequent management~~. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this~~

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~~requirement~~ unless the residues are the subject of a valid certification under part 7045.1308 that allows disposal in surface impoundments meeting the requirements of part 7045.1308, subpart 1.

(4) The procedures and schedule for the sampling of impoundment contents, the analysis of test data, and the annual removal of ~~residue that does~~ residues that do not meet the treatment standards ~~in parts 7045.1350 to 7045.1360~~, or, prohibition levels where no treatment standards have been established, ~~the prohibition levels in~~ or that are from the treatment of wastes prohibited from land disposal under parts 7045.1320 to ~~7045.1330 or RCRA section 3004(d)~~, 7045.1350 where no treatment standards have been established and no prohibition levels apply, must be specified in the facility's waste analysis plan as required under ~~part~~ parts 7045.0458 ~~or~~ and 7045.0564~~,~~;

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

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

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

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

7045.1315 WASTE ANALYSIS FOR RESTRICTED WASTES.

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Subpart 1. **Applicability.** Except as provided in part 7045.1330 or 7045.1358, if a waste is listed in part 7045.0135, the generator must test the waste, or test an extract ~~developed~~ using the test method described in Code of Federal Regulations, title 40, part ~~268~~ 261, Appendix ~~I~~ II, or use knowledge of the waste, to determine if the waste is restricted from land disposal. Except as specified in part 7045.1330, if a generator's waste exhibits one or more of the characteristics in part 7045.0131, the generator must test an extract using the test method in Code of Federal Regulations, title 40, part 268, Appendix IX, or use knowledge of the waste to determine if the waste is restricted from land disposal under this part.

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

(1) EPA Hazardous Waste Number;

(2) the corresponding treatment standards ~~and all applicable prohibitions in~~ for wastes F001-F005, F039, and wastes prohibited under part 7045.1330 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part

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7045.1360 (e.g., INCIN, WETOX) also must be listed on the notification;

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

(4) waste analysis data, where available.

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

(1) The notice must include the following information:

(a) EPA Hazardous Waste Number~~,~~;

(b) the corresponding treatment standards for wastes F001-F005, F039, and ~~all applicable prohibitions in~~ wastes prohibited under part 7045.1330 or RCRA section 3004(d)~~,~~. Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part 7045.1360 also must be listed on the notification;

(c) the manifest number associated with the shipment of waste~~,~~; and

(d) waste analysis data, where available.

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

"I certify under penalty of law that I personally have examined and am familiar with the waste through

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

C. If a generator's waste is subject to an exemption from a prohibition on the type of land disposal method used for the waste, including, but not limited to, a case-by-case extension under part 7045.0075, subpart 8, an exemption under part 7045.0075, subpart 9, ~~an extension under part 7045.1300, subpart 2, item C~~, or a nationwide capacity variance under Code of Federal Regulations, title 40, part 268, subpart C, with each shipment of wastes, the generator must submit a notice ~~must be forwarded with the waste~~ to the ~~land disposal~~ facility receiving the waste, stating that the waste is ~~exempt~~ not prohibited from ~~the~~ land disposal ~~restrictions~~. The notice must include the following information:

(1) the EPA Hazardous Waste Number;

(2) the corresponding treatment standards for wastes F001-F005, F039, and wastes prohibited in part 7045.1330 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part 7045.1360 also must be listed on the notification;

(3) the manifest number associated with the

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shipment of waste;

(4) waste analysis data, where available; and

(5) the date the waste is subject to the prohibitions.

D. If a ~~generator's decision~~ generator is managing a prohibited waste in tanks or containers under part 7045.0292, and is treating the waste in tanks or containers to meet applicable treatment standards under parts 7045.1350 to 7045.1360, the generator must develop and follow a written waste analysis plan that describes the procedures the generator will carry out to comply with the treatment standards. The plan must be kept on-site in the generator's records, and the following requirements must be met:

(1) the waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited wastes being treated, and contain all information necessary to treat the wastes according to parts 7045.1300 to 7045.1380, including the selected testing frequency;

(2) the plans must be filed with the commissioner at least 30 days before treatment activity, with delivery verified; and

(3) wastes shipped off-site must comply with the notification requirements of subpart 1.

E. If a generator determines that a waste is restricted ~~is~~ based solely on the generator's knowledge of the waste, all supporting data used to make this determination must be ~~maintained~~ retained on-site in the generator's files. If a generator determines that a waste is restricted based on testing the waste or an extract developed using the test method described in Code of Federal Regulations, title 40, part 261, Appendix II, all waste analysis data must be retained on-site in the generator's files.

F. If a generator determines that the generator is managing a restricted waste that is excluded from the definition of hazardous or solid waste or exempt from hazardous waste

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regulation under Code of Federal Regulations, title 40, sections 261.2 to 261.6, subsequent to the point of generation, the generator must place a one-time notice stating the generation, subsequent exclusion from the definition of hazardous or solid waste, or exemption from the hazardous waste regulation, and the disposition of the waste in the facility's file.

G. Generators must retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced under this part for at least five years from the date that the waste that is the subject of the documentation was last sent to on-site or off-site treatment, storage, or disposal. The five-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner. The requirements of this item apply to solid wastes even when the hazardous characteristic is removed before disposal or when the waste is excluded from the definition of hazardous or solid waste or exempted from hazardous waste regulation, subsequent to the point of generation.

H. If a generator is managing a lab pack that contains wastes identified under part 7045.1380 and wishes to use the alternative treatment standard under part 7045.1360, with each shipment of waste, the generator must submit a notice to the treatment facility according to this subpart. The generator must also submit the following certification, which must be signed by an authorized representative:

"I certify under penalty of law that I personally have examined and am familiar with the waste and that the lab pack contains only the wastes specified in Code of Federal Regulations, title 40, part 268, Appendix IV, or solid wastes not subject to regulation under Code of Federal Regulations, title 40, part 261. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment."

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I. If a generator is managing a lab pack that contains organic wastes and wishes to use the alternate treatment standards in part 7045.1360, with each shipment of waste, the generator must submit a notice to the treatment facility according to this subpart. The generator also must submit the following certification, which must be signed by an authorized representative:

"I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste and that the lab pack contains only organic waste specified in Code of Federal Regulations, title 40, part 268, Appendix V, or solid wastes not subject to regulation under Code of Federal Regulations, title 40, part 261. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment."

J. Small quantity generators with tolling agreements must comply with the applicable notification and certification requirements of this subpart for the initial shipment of the waste subject to the agreement. The generators must retain on-site a copy of the notification and certification, together with the tolling agreement, for at least three years after termination or expiration of the agreement. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

Subp. 2. **Testing of wastes.** Treatment facilities must test their wastes according to the frequency specified in their waste analysis plans under part 7045.0458 or 7045.0564. The testing must be performed as provided in items A to C.

A. For wastes with treatment standards expressed as concentrations in the waste extract in part 7045.1355, the owner or operator of the treatment facility must test the treatment residues or an extract of the residues developed using the test method described in Code of Federal Regulations, title 40,

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part ~~268~~ 261, Appendix ~~I~~ II, to assure that the treatment residues or extract meet the applicable treatment standards.

B. For wastes prohibited under part 7045.1330 or RCRA section 3004(d) which are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the owner or operator of the treatment facility must test the treatment residues according to the generator testing requirements in part 7045.1330 to assure that the treatment residues comply with the applicable prohibitions. ~~For both circumstances described above, the testing must be performed according to the frequency specified in the facility's waste analysis plan as required by part 7045.0458 or 7045.0564. Where the treatment residues do not comply with the applicable treatment standards or prohibitions, the treatment facility must comply with the notice requirements applicable to generators in subpart I, item A, if the treatment residues will be further managed at a different treatment facility.~~

~~A.~~ C. For wastes with treatment standards expressed as concentrations in the waste under part 7045.1358, the owner or operator of the treatment facility must test the treatment residues, not an extract of the residues, to assure that the treatment residues meet the applicable treatment standards.

D. A notice must be sent with each waste shipment to the land disposal facility that includes the following information:

(1) the EPA Hazardous Waste Number;

(2) the corresponding treatment standards ~~and all applicable prohibitions in~~ for wastes F001-F005, F039, and wastes prohibited under part 7045.1330 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment

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standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part 7045.1360 (e.g., INCIN, WETOX) also must be listed on the notification;

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

(4) waste analysis data, where available.

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

(1) For wastes with treatment standards expressed as concentrations in the waste extract ~~in part 7045.1355~~ or in the waste, under part 7045.1355 or 7045.1358, or for wastes prohibited under part 7045.1330 or RCRA section 3004(d) ~~which~~ that are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the certification must be signed by an authorized representative and must state the following:

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

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

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

(3) For wastes with treatment standards expressed as concentrations in the waste under part 7045.1358, if compliance with the treatment standards in parts 7045.1350 to 7045.1360 is based in whole or in part on the analytical detection limit alternative specified in part 7045.1358, the certification also must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by incineration in units operated according to Code of Federal Regulations, title 40, part 264, subpart O, or part 265, subpart O, or by combustion in fuel substitution units operating according to applicable technical requirements, and I have been unable to detect the nonwastewater organic constituents despite having used my best good faith efforts to analyze for the constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

F. If the waste or treatment residue will be further managed at a different treatment or storage facility, the

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treatment, storage, or disposal facility sending the waste or treatment residue off-site must comply with the notice and certification requirements applicable to generators under this part.

G. When the wastes are recyclable materials used in a manner constituting disposal subject to part 7045.0665, subpart 1, item C, regarding treatment standards and prohibition levels, the owner or operator of a treatment facility, the recycler, is not required to notify the receiving facility under item D. With each shipment of the wastes, the owner or operator of the recycling facility must submit the certification in item E, and a notice that includes the information in item D, except the manifest number, to the commissioner's delegated representative. The recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

Subp. 3. **Facility requirements.** Except when the owner or operator is disposing of waste that is a recyclable material used in a manner constituting disposal under part 7045.0665, subpart 1, the owner or operator of ~~any~~ a land disposal facility disposing any waste subject to restrictions under parts 7045.1300 to 7045.1380 must:

A. have ~~records~~ copies of the notice and ~~certification required~~ certifications specified in subpart 1 or 2~~.--The owner or operator of the land disposal facility must~~ and the certification specified in part 7045.1308, if applicable; and

B. test the waste, or an extract of the waste or treatment residue developed using the test method ~~described~~ in Code of Federal Regulations, title 40, part ~~268~~ 261, Appendix ~~I~~ II, or using any methods required by generators under part 7045.1330, to assure that the wastes or treatment residues are in compliance with the applicable treatment standards in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d). The testing must be performed according to the frequency specified in the facility's

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waste analysis plan as required in part 7045.0458 or 7045.0564.

7045.1320 WASTE SPECIFIC PROHIBITIONS; SOLVENT WASTES.

Subpart 1. **Applicability.** Effective November 8, 1986, the spent solvent wastes specified in part 7045.0135 as Hazardous Waste Nos. F001, F002, F003, F004, and F005~~,~~ are prohibited from land disposal unless one or more of the following conditions apply:

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

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

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

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

Subp. 2. **Effective date.** Effective November 8, 1988, the F001-F005 solvent wastes listed in subpart 1, items A to ~~C~~ D, are prohibited from land disposal. ~~Until~~ Effective November 8, ~~1988~~ 1990, the F001-F005 solvent wastes ~~included in subpart 1, items A to C~~, that are contaminated soil and debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under RCRA, subtitle C, and the residues from treating these wastes

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are prohibited from land disposal. Between November 8, 1988, and November 8, 1990, these wastes may be disposed of in a landfill or surface impoundment only if the ~~facility~~ unit is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

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

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

B. persons have been granted an exemption from a prohibition pursuant to a petition under part 7045.0075, ~~subpart 9~~, with respect to those wastes and units covered by ~~repetition~~ the petition; or

C. persons have been granted an extension to ~~an~~ the effective date of a prohibition under part 7045.0075, subpart ~~8~~ 6, with respect to those wastes and units covered by the extension.

7045.1325 WASTE SPECIFIC PROHIBITION; DIOXIN-CONTAINING WASTES.

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

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

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

B. persons have been granted an exemption from a prohibition under part 7045.0075, subpart 9, with respect to those wastes or units covered by the petition; ~~or~~

C. persons have been granted an extension to ~~an~~ the effective date of a prohibition under part 7045.0075, subpart 8, with respect to those wastes covered by the extension; or

D. the F020-F023 and F026-F028 dioxin-containing wastes are contaminated soil and debris resulting from a response action taken under section 104 or 106 of the

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Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or a corrective action taken under RCRA, subtitle C.

Subp. 3. **Effective date.** ~~Until~~ Effective November 8, 1990, the F020-F023 and F026-F028 dioxin-containing wastes in subpart 2, item D, are prohibited from land disposal. Between November 8, 1988, and November 8, 1990, wastes included in subpart ~~1~~ 2, item A, may be disposed of in a landfill or surface impoundment only if the ~~facility~~ unit is in compliance with the requirements of Code of Federal Regulations, title 40, part 268.5(h)(2) and all other applicable requirements of parts 7045.0450 to 7045.0642.

7045.1330 WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES.

Subpart 1. **Application.** Effective July 8, 1987, the following hazardous wastes are prohibited from land disposal:

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

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

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

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

E. nonliquid hazardous wastes containing HOC's in total concentration greater than or equal to 1,000 mg/kg and are not wastes described in subpart 2, items A and B.

Subp. 2. **Exceptions.** The ~~following items are an exception from the prohibitions in~~ requirements of subpart 1, items A to E, do not apply until:

A. ~~The requirements of subpart 1 do not apply until~~ November July 8, ~~1988~~ 1989, where the wastes are contaminated

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soil or debris not resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action ~~required~~ taken under RCRA, subtitle C. Between July 8, 1987, and July 8, 1989, the wastes may be disposed of in a landfill or surface impoundment only if the disposal is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

B. ~~Effective July~~ November 8, ~~1989~~ 1990, where the ~~following hazardous~~ wastes are ~~prohibited from land disposal:~~

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

~~(2) nonliquid hazardous wastes containing HOC's in total concentration greater than or equal to 1,000 mg/kg~~ contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action taken under RCRA, subtitle C. Between November 8, 1988, and November 8, 1990, the wastes may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

C. ~~Until~~ Between July 8, ~~1989~~ 1987, and November 8, 1988, the wastes ~~described~~ included in ~~item~~ B subpart 1, items D and E, may be disposed of in a landfill or surface impoundment only if the ~~facility~~ unit is in compliance with the requirements of Code of Federal Regulations, title 40, part 268.5(h)(2).

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

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

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

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7045.1333 WASTE SPECIFIC PROHIBITIONS; FIRST ONE-THIRD OF REGULATED WASTES.

Subpart 1. **Application.** The hazardous wastes in items A and B are prohibited from land disposal.

A. Effective August 8, 1988, the wastes specified as EPA Hazardous Waste Nos. F006 (nonwastewater) in part 7045.0135; K001 and K004 wastes specified in part 7045.1358, subpart 1; K008 wastes specified in part 7045.1358, subpart 1; K016, K018, K019, K020 and K021 wastes specified in part 7045.1358, subpart 1; K022 (nonwastewater), K024, and K025 nonwastewaters specified in part 7045.1358, subpart 1; K030, K036 (nonwastewater), K037, K044, K045, nonexplosive K046 (nonwastewater), K047, K060 (nonwastewater), K061 (nonwastewaters containing less than 15 percent zinc), K062, non $CaSO_4$ K069 (nonwastewaters), K086 (solvent washes), K087, K099, and K100 nonwastewaters specified in part 7045.1358, subpart 1; K101 (wastewater), K101 (nonwastewater, low arsenic subcategory less than one percent total arsenic), K102 (wastewater), K102 (nonwastewater, low arsenic subcategory less than one percent total arsenic), K103, and K104 are prohibited from land disposal.

B. Effective August 8, 1988, and continuing until August 7, 1990, K061 wastes containing 15 percent zinc or greater are prohibited from land disposal under the treatment standards specified in part 7045.1355 applicable to K061 wastes that contain less than 15 percent zinc.

Subp. 2. **Exceptions.** Items A to D are exceptions from the prohibitions in subpart 1.

A. Effective August 8, 1990, the waste specified in part 7045.0135, subpart 3, as EPA Hazardous Waste No. K071 is prohibited from land disposal.

B. Effective August 8, 1990, the wastes specified in Code of Federal Regulations, title 40, section 268.10, having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration that are contaminated soil and debris are prohibited from land disposal.

C. Between November 8, 1988, and August 8, 1990,

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wastes included in items A and B may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

D. The requirements of this subpart and subpart 1 do not apply if:

(1) the wastes meet the applicable standards in part 7045.1355;

(2) persons have been granted an exemption to an effective date of a prohibition under part 7045.0075, subpart 7, with respect to those wastes and units covered by the petition; or

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

Subp. 3. **Applicability between August 8, 1988, and May 8, 1990.** Between August 8, 1988, and May 8, 1990, the wastes specified in Code of Federal Regulations, title 40, section 268.10, for which treatment standards under part 7045.1355 have not been adopted, including wastes that are subject to the statutory prohibitions of RCRA section 3004(d) or codified prohibitions under part 7045.0135, subpart 3, but not including wastes subject to a treatment standard under part 7045.1360, are prohibited from disposal in a landfill or surface impoundment unless a demonstration and certification have been submitted.

Subp. 4. **Waste analysis.** To determine whether a hazardous waste listed in Code of Federal Regulations, title 40, section 268.10, exceeds the applicable treatment standards in parts 7045.1355 and 7045.1358, the initial generator must test a representative sample of the waste extract or the entire waste depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable subpart D levels, the waste is prohibited from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise

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specified.

7045.1334 WASTE SPECIFIC PROHIBITION; SECOND ONE-THIRD OF REGULATED WASTES.

Subpart 1. **Application.** The wastes in items A to E are prohibited from land disposal.

A. Effective June 8, 1989, the wastes specified in part 7045.0135 as EPA Hazardous Waste Nos. F010; F024; K005; K007; K009 (nonwastewaters); K010; K023; K027; K028; K029 (nonwastewaters); K036 (wastewaters); K038; K039; K040; K043; K093; K094; K095 (nonwastewaters); K096 (nonwastewaters); K113; K114; K115; K116; P013; P021; P029; P030; P039; P040; P041; P043; P044; P062; P063; P071; P074; P085; P089; P094; P097; P098; P099; P104; P106; P109; P111; P121; U028; U058; U069; U087; U088; U102; U107; U221; U223; and U235 are prohibited from land disposal.

B. Effective June 8, 1989, the wastes specified in part 7045.0135 as EPA Hazardous Waste Nos. K009 (wastewaters); K011 (nonwastewaters); K013 (nonwastewaters); and K014 (nonwastewaters) are prohibited from land disposal.

C. Effective July 8, 1989, the wastes specified in part 7045.0135 as EPA Hazardous Waste Nos. F006--cyanide (nonwastewater); F008; F009; F011 (wastewaters); and F012 (wastewaters) are prohibited from land disposal.

D. Effective July 8, 1989, the waste specified in Code of Federal Regulations, title 40, section 261.31, as EPA Hazardous Waste No. F007 is prohibited from land disposal.

E. Effective July 8, 1989 through December 8, 1989, F011 (nonwastewaters) and F012 (nonwastewaters) are prohibited from land disposal pursuant to the treatment standards in parts 7045.1355 and 7045.1358 applicable to EPA Hazardous Waste Nos. F007, F008, and F009 nonwastewaters. Effective December 8, 1989, F011 (nonwastewaters) and F012 (nonwastewaters) are prohibited from land disposal pursuant to the treatment standards in parts 7045.1355 and 7045.1358 applicable to F011 (nonwastewaters) and F012 (nonwastewaters).

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Subp. 2. **Exceptions.** Items A to D are exceptions from the prohibitions in subpart 1.

A. Effective June 8, 1991, the wastes specified in this part having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration that are contaminated soil and debris are prohibited from land disposal.

B. Between June 8, 1989, and June 8, 1991, (for EPA Hazardous Waste Nos. F007, F008, F009, F011, and F012 between June 8, 1989, and July 8, 1989) wastes included in item A and subpart 1, item C, may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the technical requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

C. The requirements of item A and subpart 1, items A to C, do not apply if:

(1) the wastes meet the applicable standards in parts 7045.1350 to 7045.1360;

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

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

D. Between June 8, 1989, and May 8, 1990, the wastes specified in Code of Federal Regulations, title 40, section 268.11, for which treatment standards under parts 7045.1350 to 7045.1360 are not applicable, including California list wastes subject to the statutory prohibitions of RCRA section 3004(d) or codified prohibitions under part 7045.0135, subpart 3, are prohibited from disposal in a landfill or surface impoundment unless the wastes are the subject of a valid demonstration and certification under part 7045.1308.

Subp. 3. **Waste analysis.** To determine whether a hazardous waste listed in Code of Federal Regulations, title 40, sections 268.10 to 268.12, exceeds the applicable treatment standards

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specified in parts 7045.1355 and 7045.1358, the initial generator must test a representative sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract of the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable levels specified in parts 7045.1350 to 7045.1360, the waste is prohibited from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise specified.

7045.1335 WASTE SPECIFIC PROHIBITIONS; THIRD ONE-THIRD OF REGULATED WASTES.

Subpart 1. **Applicability as of August 8, 1990.** Effective August 8, 1990, the following wastes are prohibited from land disposal:

A. wastes specified in part 7045.1325 as EPA Hazardous Waste Nos. F002 (1,1,2-trichloroethane); F005 (benzene); F005 (2-ethoxy ethanol); F005 (2-nitro-propane); F006 (wastewaters); F019; F025; and F039 (wastewaters);

B. wastes specified in part 7045.1330 as EPA Hazardous Waste Nos. K002; K003; K004 (wastewaters); K005 (wastewaters); K006; K008 (wastewaters); K011 (wastewaters); K013 (wastewaters); K014 (wastewaters); K015 (nonwastewaters); K017; K021 (wastewaters); K022 (wastewaters); K025 (wastewaters); K026; K029 (wastewaters); K031 (wastewaters); K032; K033; K034; K035; K041; K042; K046 (wastewaters, reactive nonwastewaters); K048 (wastewaters); K049 (wastewaters); K050 (wastewaters); K051 (wastewaters); K052 (wastewaters); K060 (wastewaters); K061 (wastewaters and high zinc subcategory > 15 percent zinc); K069 (wastewaters, calcium sulfate nonwastewaters); K073; K083; K084 (wastewaters); K085; K095 (wastewaters); K096 (wastewaters); K097; K098; K100 (wastewaters); K101 (wastewaters); K102 (wastewaters); K105; and K106 (wastewaters);

C. wastes specified in part 7045.1333, subpart 2, as

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EPA Hazardous Waste Nos. P001; P002; P003; P004; P005; P006; P007; P008; P009; P010 (wastewaters); P011 (wastewaters); P012 (wastewaters); P014; P015; P016; P017; P018; P020; P022; P023; P024; P026; P027; P028; P031; P033; P034; P036 (wastewaters); P037; P038 (wastewaters); P042; P045; P046; P047; P048; P049; P050; P051; P054; P056; P057; P058; P059; P060; P064; P065 (wastewaters); P066; P067; P068; P069; P070; P072; P073; P075; P076; P077; P078; P081; P082; P084; P088; P092 (wastewaters); P093; P095; P096; P101; P102; P103; P105; P108; P110; P112; P113; P114; P115; P116; P118; P119; P120; P122; and P123;

D. wastes specified in part 7045.1333, subpart 3, as EPA Hazardous Waste Nos. U001; U002; U003; U004; U005; U006; U007; U008; U009; U010; U011; U012; U014; U015; U016; U017; U018; U019; U020; U021; U022; U023; U024; U025; U026; U027; U029; U030; U031; U032; U033; U034; U035; U036; U037; U038; U039; U041; U042; U043; U044; U045; U046; U047; U048; U049; U050; U051; U052; U053; U055; U056; U057; U059; U060; U061; U062; U063; U064; U066; U067; U068; U070; U071; U072; U073; U074; U075; U076; U077; U078; U079; U080; U081; U082; U083; U084; U085; U086; U089; U090; U091; U092; U093; U094; U095; U096; U097; U098; U099; U101; U103; U105; U106; U108; U109; U110; U111; U112; U113; U114; U115; U116; U117; U118; U119; U120; U121; U122; U123; U124; U125; U126; U127; U128; U129; U130; U131; U132; U133; U134; U135; U136 (wastewaters); U137; U138; U140; U141; U142; U143; U144; U145; U146; U147; U148; U149; U150; U151 (wastewaters); U152; U153; U154; U155; U156; U157; U158; U159; U160; U161; U162; U163; U164; U165; U166; U167; U168; U169; U170; U171; U172; U173; U174; U176; U177; U178; U179; U180; U181; U182; U183; U184; U185; U186; U187; U188; U189; U191; U192; U193; U194; U196; U197; U200; U201; U202; U203; U204; U205; U206; U207; U208; U209; U210; U211; U213; U214; U215; U216; U217; U218; U219; U220; U222; U225; U226; U227; U228; U234; U236; U237; U238; U239; U240; U243; U244; U246; U247; U248; and U249; and

E. the following wastes identified as hazardous based on a characteristic alone: D001; D002; D003; D004

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(wastewaters); D005; D006; D007; D008 (except for lead materials stored before secondary smelting); D009 (wastewaters); D010; D011; D012; D013; D014; D015; D016; and D017.

Subp. 2. **Applicability as of November 8, 1990.** Effective November 8, 1990, the wastes specified in part 7045.1330 as EPA Hazardous Waste Nos. K048 (nonwastewaters); K049 (nonwastewaters); K050 (nonwastewaters); K051 (nonwastewaters); and K052 (nonwastewaters) are prohibited from land disposal.

Subp. 3. **Applicability as of May 8, 1992.** Effective May 8, 1992, the following wastes are prohibited from land disposal:

A. waste specified in part 7045.1325 as EPA Hazardous Waste No. F039 (nonwastewaters);

B. wastes specified in part 7045.1330 as EPA Hazardous Waste Nos. K031 (nonwastewaters); K084 (nonwastewaters); K101 (nonwastewaters); K102 (nonwastewaters); and K106 (nonwastewaters);

C. wastes specified in part 7045.1333, subpart 2, as EPA Hazardous Waste Nos. P010 (nonwastewaters); P011 (nonwastewaters); P012 (nonwastewaters); P036 (nonwastewaters); P038 (nonwastewaters); P065 (nonwastewaters); P087; and P092 (nonwastewaters);

D. wastes specified in part 7045.1333, subpart 3, as EPA Hazardous Waste Nos. U136 (nonwastewaters); and U151 (nonwastewaters); and

E. the following wastes identified as hazardous based on a characteristic alone: D004 (nonwastewaters); D008 (lead materials stored before secondary smelting), and D009 (nonwastewaters); inorganic solids debris as defined in part 7045.0020, subpart 45a (which also applies to chromium refractory bricks carrying the EPA Hazardous Waste Nos. K048-K052); and RCRA hazardous wastes that contain naturally occurring radioactive materials.

Subp. 4. **Mixed radioactive/hazardous wastes.** Effective May 8, 1992, hazardous wastes listed in Code of Federal Regulations, title 40, sections 268.10, 268.11, and 268.12, that are mixed radioactive/hazardous wastes, and soil or debris

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contaminated with the hazardous wastes, are prohibited from land disposal.

Subp. 5. **Contaminated soil or debris.** Effective May 8, 1992, the wastes specified in this part having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration, mercury retorting, vitrification, acid leaching followed by chemical precipitation, or thermal recovery of metals, and which are contaminated soil or debris, are prohibited from land disposal.

Subp. 6. **Exceptions between May 8, 1990, and August 8, 1990.** Between May 8, 1990, and August 8, 1990, the wastes in subpart 1 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements in part 7045.0075, subpart 8.

Subp. 7. **Exceptions between May 8, 1990, and November 8, 1990.** Between May 8, 1990, and November 8, 1990, the wastes in subpart 2 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements in part 7045.0075, subpart 8.

Subp. 8. **Exceptions between May 8, 1990, and May 8, 1992.** Between May 8, 1990, and May 8, 1992, the wastes in subparts 3 to 5 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

Subp. 9. **General exceptions.** The requirements of subparts 1 to 5 do not apply if:

A. the wastes meet the applicable standards in parts 7045.1350 to 7045.1360;

B. persons have been granted an exemption from a prohibition pursuant to a petition under part 7045.0075, subpart 9, with respect to wastes and units covered by the petition;

C. the wastes meet the applicable alternate standards established pursuant to a petition granted under Code of Federal Regulations, title 40, section 268.44; and

D. persons have been granted an extension to the effective date of a prohibition under part 7045.0075, subpart 8,

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with respect to wastes covered by the extension.

Subp. 10. **Waste analysis.** To determine whether a hazardous waste listed in Code of Federal Regulations, title 40, sections 268.10, 268.11, and 268.12, exceeds the applicable treatment standards in parts 7045.1355 and 7045.1358, the initial generator must test a representative sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable levels listed in parts 7045.1350 to 7045.1360, the waste is prohibited from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise specified.

7045.1339 EFFECTIVE DATES OF SURFACE DISPOSED WASTES REGULATED IN THE LAND DISPOSAL RESTRICTIONS.

The comprehensive list of effective dates of surface disposed wastes regulated in the land disposal restrictions is found in Code of Federal Regulations, title 40, section 268, Appendix VII, Tables 1 and 2. This table does not include mixed radioactive wastes which are receiving a national capacity variance until May 8, 1992, for all applicable treatment technologies.

7045.1350 TREATMENT STANDARDS.

Subpart 1. **Concentration standard for waste extract.** A restricted waste identified in ~~this subpart~~ part 7045.1355 may be land disposed ~~without further treatment~~ only if an extract of the waste or of the treatment residue of the waste developed using the test method in Code of Federal Regulations, title 40, part ~~268~~ 261, Appendix ~~I~~ II, does not exceed the value shown in Code of Federal Regulations, title 40, part ~~7045.1355, subpart 3~~ 268.41, Table CCWE, for any hazardous constituent listed for that waste, with the following exceptions: D004; D008; K031; K084; K101; K102; P010; P011; P012; P036; P038; and U136. These wastes may be land disposed only if an extract of

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the waste or of the treatment residue of the waste developed using either the test method in Code of Federal Regulations, title 40, part 261, Appendix II, or the test method in Code of Federal Regulations, title 40, part 268, Appendix IX, does not exceed the concentrations shown in Code of Federal Regulations, title 40, part 268.41, Table CCWE, for any hazardous constituent listed for that waste.

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

Subp. 3. **Concentration standard for waste or treatment residue.** Except as otherwise specified in part 7045.1358, a restricted waste identified in part 7045.1358 may be land disposed only if the constituent concentrations in the waste or treatment residue of the waste do not exceed the value shown in Code of Federal Regulations, title 40, part 268.43, Table CCW, for any hazardous constituents listed for that waste.

7045.1355 TREATMENT STANDARDS EXPRESSED AS CONCENTRATIONS IN WASTE EXTRACT.

Subpart 1. **Applicability.** ~~Subpart 3~~ Code of Federal Regulations, title 40, part 268.41, Table CCWE, identifies the restricted wastes and the concentrations of their associated ~~hazardous~~ constituents that may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in ~~Appendix I of~~ Code of Federal Regulations, title 40, part ~~268~~ 261, Appendix II, for the allowable land disposal of ~~the waste~~ such wastes, with the exception of EPA Hazardous Waste Nos. D004, D008, K031, K084, K101, K102, P010, P011, P012, P036, P038, and U136. Table CCWE also identifies the restricted EPA Hazardous Waste Nos. D004, D008, K031, K084, K101, K102, P010, P011, P012, P036, P038, and U136 and the concentrations of their associated constituents which may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in Code of Federal Regulations, title 40, part 261, Appendix II, for the allowable land disposal of such wastes. Code of Federal Regulations, title 40, part 268, Appendix II, provides agency

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guidance on treatment methods that have been shown to achieve the Table CCWE levels for the respective wastes. This guidance is provided to assist generators and owners or operators in their selection of appropriate treatment methods. Compliance with these concentrations is required based on grab samples.

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

Subp. 3. ~~Constituents~~ Constituent concentrations in waste extract. Constituents in waste extracts are listed with the applicable concentration limits in Code of Federal Regulations, title 40, part 268.41, Table CCWE.

~~F001-F005-spent-solvents~~	~~Concentration (in mg/l) Wastewaters containing spent-solvents~~	~~All other spent-solvent wastes~~
~~Acetone~~	~~0.05~~	~~0.59~~
~~n-Butyl alcohol~~	~~5.0~~	~~5.0~~
~~Carbon disulfide~~	~~1.05~~	~~4.81~~
~~Carbon tetrachloride~~	~~0.05~~	~~0.96~~
~~Chlorobenzene~~	~~0.15~~	~~0.05~~
~~Cresols (and cresylic acid)~~	~~2.82~~	~~0.75~~
~~Cyclohexanone~~	~~0.1125~~	~~0.75~~
~~1,2-Dichlorobenzene~~	~~0.65~~	~~0.1125~~
~~Ethyl acetate~~	~~0.05~~	~~0.75~~
~~Ethylbenzene~~	~~0.05~~	~~0.053~~
~~Ethyl ether~~	~~0.05~~	~~0.75~~
~~Isobutanol~~	~~5.0~~	~~5.0~~
~~Methanol~~	~~0.25~~	~~0.75~~
~~Methylene chloride~~	~~0.20~~	~~0.96~~
~~Methylene chloride (from the pharmaceutical industry)~~	~~12.7~~	~~0.96~~
~~Methyl ethyl ketone~~	~~0.05~~	~~0.75~~
~~Methyl isobutyl ketone~~	~~0.05~~	~~0.33~~
~~Nitrobenzene~~	~~0.66~~	~~0.1125~~
~~Pyridine~~	~~1.12~~	~~0.33~~
~~Tetrachloroethylene~~	~~0.079~~	~~0.05~~
~~Toluene~~	~~1.12~~	~~0.33~~
~~1,1,1-Trichloroethane~~	~~1.05~~	~~0.41~~
~~1,1,2-Trichloro-1,2,2-Trifluoroethane~~	~~1.05~~	~~0.96~~
~~Trichloroethylene~~	~~0.062~~	~~0.091~
~~Trichlorofluoromethane~~	~~0.05~~	~~0.96~~
~~Xylene~~	~~0.05~~	~~0.15~~

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

7045.1358 TREATMENT STANDARDS EXPRESSED AS WASTE CONCENTRATIONS.

Subpart 1. Applicability. Subpart 3 identifies the

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restricted wastes and the concentrations of their associated hazardous constituents that may not be exceeded by the waste or treatment residual, not an extract of the waste or residual, for the allowable land disposal of the waste or residual. Compliance with these concentrations is required based on grab samples, unless otherwise noted in subpart 3. Limits are expressed in milligrams per kilogram (mg/kg) for nonwastewaters and in milligrams per liter (mg/l) for wastewaters.

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

Subp. 3. **Constituent concentrations in wastes.** Constituent concentrations in wastes are listed with the applicable concentration limits in Code of Federal Regulations, title 40, section 268.43, Table CCW.

Subp. 4. **No land disposal.** The nonwastewater forms of the following wastes generated by the processes described in the waste listing description applies only to wastes generated and disposed after the dates shown, if a date is shown, and not generated in the course of treating wastewater forms of these wastes based on no generation, except as noted, are prohibited from land disposal:

A. K004, after August 17, 1988;

B. K005, after June 8, 1989;

C. K007, after June 8, 1989;

D. K008, after August 17, 1988;

E. K015, after May 8, 1990, based on no ash;

F. K021, after August 17, 1988;

G. K025, after August 17, 1988;

H. K036, after August 17, 1988;

I. K044, based on reactivity;

J. K045, based on reactivity;

K. K047, based on reactivity;

L. K060, after August 17, 1988;

M. K061 - high zinc subcategory, greater than or

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equal to 15 percent total zinc, after August 17, 1990, based on recycling, effective August 8, 1990;

N. K069 - noncalcium sulfate subcategory, after August 17, 1988, based on recycling;

O. K083 - no ash subcategory, less than 0.01 percent total ash, after May 8, 1990, based on no ash; and

P. K100, after August 17, 1988.

Subp. 5. **Demonstrating compliance with treatment standards for organic constituents.** Notwithstanding the prohibitions in subpart 1, treatment and disposal facilities may demonstrate, and certify under part 7045.1315, subpart 2, item E, compliance with the treatment standards for organic constituents specified by a footnote in Code of Federal Regulations, title 40, section 268.43, Table CCW, provided the following conditions are satisfied:

A. the treatment standards for the organic constituents were established based on incineration in units operated according to the technical requirements of part 7045.0542 or 7045.0640, or based on combustion in fuel substitution units operating in according to applicable technical requirements;

B. the treatment or disposal facility has used the methods referenced in item A to treat the organic constituents; and

C. the treatment or disposal facility has been unable to detect the organic constituents despite using its best good faith efforts as defined by applicable guidance or standards. Until the guidance or standards are developed, the treatment or disposal facility may demonstrate such good faith efforts by achieving detection limits for the regulated organic constituents that do not exceed an order of magnitude of the treatment standards specified in this part.

7045.1360 TREATMENT STANDARDS EXPRESSED AS SPECIFIED TECHNOLOGIES.

~~The following wastes must be treated using the identified~~

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~~technology or technologies, or an equivalent method approved under part 7045.0075, subpart 10.~~

Subpart 1. **Applicability.** The wastes in items A and B and subparts 4 and 5 must be treated using the technology or technologies specified in items A to C and subpart 3.

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

B. Nonliquid hazardous wastes containing halogenated organic compounds (HOC's) in total ~~concentrations~~ concentration greater than or equal to 1,000 mg/kg and liquid HOC-containing wastes that are prohibited under part 7045.1330, subpart ~~2~~ 1, item B D, ~~subitem (1),~~ must be incinerated in accordance with the requirements of part 7045.0542 or 7045.0640. These treatment standards do not apply if the waste is subject to a treatment standard in parts ~~7045.1320~~ 7045.1350 to ~~7045.1330~~ 7045.1360 for a specific HOC.

C. A mixture consisting of wastewater, the discharge of which is subject to regulation under either section 307(b) or 402 of the Clean Water Act, and de minimis losses of materials from manufacturing operations in which these materials are used as raw materials or are produced as products in the manufacturing process, and that meet the criteria of the D001 ignitable liquids containing greater than ten percent total organic constituents (TOC) subcategory, is subject to the DEACT treatment standard described in subpart 3. For purposes of this item, de minimis losses include those from normal material handling operations such as spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials; minor leaks from process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; and relief device discharges.

Subp. 2. **Alternative technology.** A person may submit an application to the commissioner demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achievable by methods specified in subpart 1. The applicant must submit information

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demonstrating that the alternative treatment method complies with federal, state, and local requirements and is protective of human health and the environment. On the basis of all available information, the commissioner may approve the use of the alternative treatment method if the commissioner finds that the alternative treatment method provides a measure of performance equivalent to that achieved by methods specified in subpart 1. An approval must be stated in writing and contain provisions and conditions the commissioner considers appropriate. The person to whom the approval is issued must comply with all limitations contained in the determination.

Subp. 3. **Technology codes and description of technology-based standards.** The items in this subpart list the five-letter technology codes for use in notifications and the description of each technology-based standard.

When a combination of these technologies, called a treatment train, is specified as a single treatment standard, the order of application is specified in subpart 4 by indicating the five-letter technology code that must be applied first, then the designation "fb," which is an abbreviation for "followed by," then the five-letter technology code for the technology that must be applied next, and so on.

When more than one technology or treatment train are specified as alternative treatment standards, the five-letter technology codes or the treatment trains are separated by a semicolon (;) with the last technology preceded by the word "OR." This indicates that any one of these BDAT technologies or treatment trains can be used for compliance with the standard.

A. ADGAS: venting of compressed gases into an absorbing or reacting media (i.e., solid or liquid). Venting can be accomplished through physical release using values/piping; physical penetration of the container; or penetration through detonation.

B. AMLGM: amalgamation of liquid, elemental mercury contaminated with radioactive materials using inorganic reagents such as copper, zinc, nickel, gold, and sulfur that result in a

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nonliquid, semisolid amalgam and thereby reducing potential emissions of elemental mercury vapors to the air.

C. BIODG: biodegradation of organics or nonmetallic inorganics (i.e., degradable inorganics that contain the elements of phosphorus, nitrogen, and sulfur) in units operated under either aerobic or anaerobic conditions so that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon can often be used as an indicator parameter for the biodegradation of many organic constituents that cannot be directly analyzed in wastewater residues).

D. CARBN: carbon adsorption (granulated or powdered) of nonmetallic inorganics, organo metallics, and/or organic constituents, operated so that a surrogate compound or indicator parameter has not undergone breakthrough (e.g., total organic carbon can often be used as an indicator parameter for the adsorption of many organic constituents that cannot be directly analyzed in wastewater residues). Breakthrough occurs when the carbon has become saturated with the constituent (or indicator parameter) and substantial change in adsorption rate associated with that constituent occurs.

E. CHOXD: chemical or electrolytic oxidation using the following oxidation reagents (or waste reagents) or combinations or reagents:

(1) hypochlorite (e.g., bleach);

(2) chlorine;

(3) chlorine dioxide;

(4) ozone or ultraviolet light assisted ozone;

(5) peroxides;

(6) persulfates;

(7) perchlorates;

(8) permangantes; and/or

(9) other oxidizing reagents of equivalent efficiency, performed in units operated so that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon

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can often be used as an indicator parameter for the oxidation of many organic constituents that cannot be directly analyzed in wastewater residues). Chemical oxidation specifically includes what is commonly referred to as alkaline chlorination.

F. CHRED: chemical reduction using the following reducing reagents (or waste reagents) or combinations of reagents:

(1) sulfur dioxide;

(2) sodium, potassium, or alkali salts of sulfites, bisulfites, metabisulfites, and polyethylene glycols (e.g., NaPEG and KPEG);

(3) sodium hydrosulfide;

(4) ferrous salts; and/or

(5) other reducing reagents of equivalent efficiency, performed in units operated such that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic halogens can often be used as an indicator parameter for the reduction of many halogenated organic constituents that cannot be directly analyzed in wastewater residues). Chemical reduction is commonly used for the reduction of hexavalent chromium to the trivalent state.

G. DEACT: deactivation to remove the hazardous characteristics of a waste due to its ignitability, corrosivity, and/or reactivity.

H. FSUBS: fuel substitution in units operated according to applicable technical operating requirements.

I. HLVIT: vitrification of high level mixed radioactive wastes in units in compliance with all applicable radioactive protection requirements under control of the Nuclear Regulatory Commission.

J. IMERC: incineration of wastes containing organics and mercury in units operated according to the technical operating requirements of parts 7045.0542 and 7045.0640. All wastewater and nonwastewater residues derived from this process must comply with the corresponding treatment standards per waste

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code with consideration of any applicable subcategories (e.g., high or low mercury subcategories).

K. INCIN: incineration units operated according to the technical operating requirements of parts 7045.0542 and 7045.0640.

L. LLEXT: liquid-liquid extraction (often referred to as solvent extraction) of organics from liquid wastes into an immiscible solvent for which the hazardous constituents have a greater solvent affinity, resulting in an extract high in organics that must undergo either incineration, reuse as a fuel, or other recovery/reuse and a raffinate (extracted liquid waste) proportionately low in organics that must undergo further treatment as specified in the standard.

M. MACRO: macroencapsulation with surface coating materials such as polymeric organics (e.g., resins and plastics) or with a jacket of inert inorganic materials to substantially reduce surface exposure to potential leaching media. Macroencapsulation specifically does not include any material that would be classified as a tank or container according to part 7045.0020.

N. NEUTR: neutralization with the following reagents (or waste reagents) or combinations of reagents:

(1) acids;

(2) bases; or

(3) water (including wastewaters) resulting in a pH greater than two but less than 12.5 as measured in the aqueous residuals.

O. NLDBR: no land disposal based on recycling.

P. PRECP: chemical precipitation of metals and other inorganics as insoluble precipitates of oxides, hydroxides, carbonates, sulfides, sulfates, chlorides, fluorides, or phosphates. The following reagents (or waste reagents) are typically used alone or in combination:

(1) lime (i.e., containing oxides and/or hydroxides of calcium and/or magnesium);

(2) caustic (i.e., sodium and/or potassium

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hydroxides);

(3) soda ash (i.e., sodium carbonate);

(4) sodium sulfide;

(5) ferric sulfate or ferric chloride;

(6) alum; or

(7) sodium sulfate.

Additional floculating, coagulation, or similar reagents/processes that enhance sludge dewatering characteristics are not precluded from use.

Q. RBERY: thermal recovery of beryllium.

R. RCGAS: recovery/reuse of compressed gases including techniques such as reprocessing of the gases for reuse/resale; filtering/adsorption of impurities; remixing for direct reuse of resale; and use of the gas as a fuel source.

S. RCORR: recovery of acids or bases using one or more of the following recovery technologies:

(1) distillation (i.e., thermal concentration);

(2) ion exchange;

(3) resin or solid adsorption;

(4) reverse osmosis; and/or

(5) incineration for the recovery of acid.

Note: this does not preclude the use of other physical phase separation or concentration techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the recovery technologies in subitems (1) to (5).

T. RLEAD: thermal recovery of lead in secondary lead smelters.

U. RMERC: retorting or roasting in a thermal processing unit capable of volatilizing mercury and subsequently condensing the volatilized mercury for recovery. The retorting or roasting unit or facility must be subject to one or more of the following:

(1) a National Emissions Standard for Hazardous Air Pollutants (NESHAP) for mercury;

(2) a Best Available Control Technology (BACT) or

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a Lowest Achievable Emission Rate (LAER) standard for mercury imposed pursuant to a Prevention of Significant Deterioration (PSD) permit; or

(3) a state permit that establishes emission limitations for mercury within meaning of section 302 of the Clean Air Act. All wastewater and nonwastewater residues derived from this process must comply with the corresponding treatment standards per waste code with consideration of any applicable subcategories (e.g., high or low mercury subcategories).

V. RMETL: recovery of metals or inorganics using one or more of the following direct physical/removal technologies:

(1) ion exchange;

(2) resin or solid (i.e., zeolites) adsorption;

(3) reverse osmosis;

(4) chelation/solvent extraction;

(5) freeze crystallization;

(6) ultrafiltration; and/or

(7) simple precipitation (i.e., crystallization).

NOTE: This does not preclude the use of other physical phase separation or concentration techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the recovery technologies in subitems (1) to (7).

W. RORGS: recovery of organics using one or more of the following technologies:

(1) distillation;

(2) thin film evaporation;

(3) steam stripping;

(4) carbon adsorption;

(5) critical fluid extraction;

(6) liquid-liquid extraction;

(7) precipitation/crystallization (including freeze crystallization); or

(8) chemical phase separation techniques (i.e., addition of acids, bases, demulsifiers, or similar chemicals).

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NOTE: This does not preclude the use of other physical phase separation techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the recovery technologies in subitems (1) to (8).

X. RTHRM: thermal recovery of metals or inorganics from nonwastewaters in units defined in part 7045.0020, under the definition of industrial furnaces.

Y. RZINC: resmelting for the purpose of recovery of zinc high temperature metal recovery units.

Z. STABL: stabilization with the following reagents (or waste reagents) or combinations of reagents:

(1) portland cement; or

(2) lime/pozzolans (e.g., fly fish and cement kiln dust).

NOTE: This does not preclude the addition of reagents (e.g., iron salts, silicates, and clays) designed to enhance the set/cure time and/or compressive strength, or to overall reduce the leachability of the metal or inorganic.

AA. SSTRP: steam stripping of organics from liquid wastes using direct application of steam to the wastes operated so that liquid and vapor flow rates and temperature and pressure ranges have been optimized, monitored, and maintained. These operating parameters are dependent on the design parameters of the unit, such as the number of separation stages and the internal column design, thus resulting in a condensed extract high in organics that must undergo incineration, reuse as a fuel, or other recovery/reuse and an extracted wastewater that must undergo further treatment as specified in the standard.

BB. WETOX: wet air oxidation performed in units operated so that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon can often be used as an indicator parameter for the oxidation of many organic constituents that cannot be directly analyzed in wastewater residues).

CC. WTRRX: controlled reaction with water for highly reactive inorganic or organic chemicals with precautionary

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controls for protection of workers from potential violent reactions and precautionary controls for potential emissions of toxic/ignitable levels of gases released during the reaction.

Subp. 4. **Technology-based standards by RCRA waste code.** Governed by technology-based standards listed in Code of Federal Regulations, title 40, part 268.42, Table 2.

Subp. 5. **Technology-based standards for specific radioactive hazardous mixed waste.** Governed by standards listed in Code of Federal Regulations, title 40, part 268.42, Table 3.

Subp. 6. **Application for alternative treatment methods.** A person may submit an application to the commissioner demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achievable by methods specified in subparts 1, 7, and 8. The applicant must submit information demonstrating that the applicant's treatment method complies with federal, state, and local requirements and is protective of human health and the environment. On the basis of all available information, the commissioner may approve the use of an alternative treatment method. The approval must be stated in writing and contain provisions and conditions the commissioner considers appropriate. The person to whom the approval is issued must comply with all limitations contained in the determination.

Subp. 7. **Exceptions for lab packs.** As an alternative to the otherwise applicable treatment standards under parts 7045.1350 to 7045.1360, lab packs are eligible for land disposal, provided the following requirements are met:

A. the lab packs comply with parts 7045.0538 and 7045.0638;

B. all hazardous wastes contained in the lab packs are specified in subpart 9 or 10;

C. the lab packs are incinerated according to part 7045.0542 or 7045.0640; and

D. any incinerator residues from lab packs containing D004, D005, D006, D007, D008, D010, and D011 are treated in compliance with the applicable treatment standards specified for

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the wastes in parts 7045.1350 to 7045.1360.

Subp. 8. **Exceptions for radioactive hazardous mixed wastes.** Radioactive hazardous mixed wastes with treatment standards specified in subpart 5 are not subject to any treatment standards specified in subpart 4 or part 7045.1355 or 7045.1358. Radioactive hazardous mixed wastes not subject to treatment standards in subpart 1 remain subject to all applicable treatment standards specified in subpart 4 and parts 7045.1355 and 7045.1358.

Subp. 9. **Organometallic lab packs.** Hazardous waste with the following EPA Hazardous Waste Nos. may be placed in an organometallic lab pack: P001; P002; P003; P004; P005; P006; P007; P008; P009; P013; P014; P015; P016; P017; P018; P020; P022; P023; P024; P025; P026; P027; P028; P031; P034; P036; P037; P038; P039; P040; P041; P042; P043; P044; P045; P047; P048; P049; P050; P051; P054; P056; P057; P058; P059; P060; P062; P063; P064; P065; P066; P067; P068; P069; P070; P071; P072; P073; P074; P075; P077; P081; P082; P084; P085; P087; P088; P089; P092; P093; P094; P095; P096; P097; P098; P099; P101; P102; P103; P104; P105; P108; P109; P110; P112; P113; P114; P115; P116; P118; P119; P120; P122; P123; U001; U002; U003; U004; U005; U006; U007; U008; U009; U010; U011; U012; U014; U015; U016; U017; U018; U019; U020; U021; U022; U023; U024; U025; U026; U027; U028; U029; U030; U031; U032; U033; U034; U035; U036; U037; U038; U039; U041; U042; U043; U044; U045; U046; U047; U048; U049; U050; U051; U052; U053; U055; U056; U057; U058; U059; U060; U061; U062; U063; U064; U066; U067; U068; U069; U070; U071; U072; U073; U074; U075; U076; U077; U078; U079; U080; U081; U082; U083; U084; U085; U086; U087; U088; U089; U090; U091; U092; U093; U094; U095; U096; U097; U098; U099; U101; U102; U103; U105; U106; U107; U108; U109; U110; U111; U112; U113; U114; U115; U116; U117; U118; U119; U120; U121; U122; U123; U124; U125; U126; U127; U128; U129; U130; U131; U132; U133; U134; U135; U136; U137; U138; U139; U140; U141; U142; U143; U144; U145; U146; U147; U148; U149; U150; U152; U153; U154; U155; U156; U157; U158; U159;

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U160; U161; U162; U163; U164; U165; U166; U167; U168; U169; U170; U171; U172; U173; U174; U176; U177; U178; U179; U180; U181; U182; U183; U184; U185; U186; U187; U188; U189; U190; U191; U192; U193; U194; U196; U197; U200; U201; U202; U203; U204; U205; U206; U207; U208; U209; U210; U211; U213; U214; U215; U216; U217; U218; U219; U220; U221; U222; U223; U225; U226; U227; U228; U234; U235; U236; U237; U238; U239; U240; U243; U244; U246; U247; U248; U249; U328; U353; U359; F001; F002; F003; F004; F005; F006; F010; F020; F021; F023; F024; F026; F027; F028; K001; K002; K008; K009; K010; K011; K013; K014; K015; K016; K017; K018; K019; K020; K021; K022; K023; K024; K025; K026; K027; K028; K029; K030; K031; K032; K033; K034; K035; K036; K037; K038; K039; K040; K041; K042; K043; K044; K045; K046; K047; K048; K049; K050; K051; K052; K054; K060; K061; K064; K065; K066; K069; K071; K073; K083; K084; K085; K086; K087; K093; K094; K095; K096; K097; K098; K099; K101; K102; K103; K104; K105; K111; K112; K113; K114; K115; K116; K117; K118; K123; K124; K125; K126; K136; D001; D002; D003; D004; D005; D006; D007; D008; D010; D011; D012; D013; D014; D015; D016; and D017.

Subp. 10. **Organic lab packs.** Hazardous wastes with the following EPA Hazardous Waste Nos. may be placed in an organic lab pack: P001; P002; P003; P004; P005; P006; P007; P008; P009; P013; P014; P015; P016; P017; P018; P020; P022; P023; P024; P025; P026; P027; P028; P031; P034; P036; P037; P038; P039; P040; P041; P042; P043; P044; P045; P046; P047; P048; P049; P050; P051; P054; P057; P058; P059; P060; P062; P063; P064; P065; P066; P067; P068; P069; P070; P071; P072; P073; P074; P075; P077; P081; P082; P084; P085; P087; P088; P089; P092; P093; P094; P095; P096; P097; P098; P099; P101; P102; P103; P104; P105; P108; P109; P110; P111; P112; P113; P114; P115; P116; P118; P119; P120; P122; P123; U001; U002; U003; U004; U005; U006; U007; U008; U009; U010; U011; U012; U014; U015; U016; U017; U018; U019; U020; U021; U022; U023; U024; U025; U026; U027; U028; U029; U030; U031; U033; U034; U035; U036; U037; U038; U039; U041; U042; U043; U044; U045; U046; U047;

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U048; U049; U050; U051; U052; U053; U055; U056; U057; U058; U059; U060; U061; U062; U063; U064; U066; U067; U068; U069; U070; U071; U072; U073; U074; U075; U076; U077; U078; U079; U080; U081; U082; U083; U084; U085; U086; U087; U088; U089; U090; U091; U092; U093; U094; U095; U096; U097; U098; U099; U101; U102; U103; U105; U106; U107; U108; U109; U110; U111; U112; U113; U114; U115; U116; U117; U118; U119; U120; U121; U122; U123; U124; U125; U126; U127; U128; U129; U130; U131; U132; U133; U135; U137; U138; U139; U140; U141; U142; U143; U147; U148; U149; U150; U153; U154; U155; U156; U157; U158; U159; U160; U161; U162; U163; U164; U165; U166; U167; U168; U169; U170; U171; U172; U173; U174; U176; U177; U178; U179; U180; U181; U182; U183; U184; U185; U186; U187; U188; U189; U190; U191; U192; U193; U194; U196; U197; U200; U201; U202; U203; U205; U206; U207; U208; U209; U210; U211; U213; U214; U218; U219; U220; U221; U222; U223; U225; U226; U227; U228; U234; U235; U236; U237; U238; U239; U240; U243; U244; U246; U247; U248; U249; U328; U353; U359; F001; F002; F003; F004; F005; F010; F020; F021; F023; F024; F026; F027; F028; K001; K009; K010; K011; K013; K014; K015; K016; K017; K018; K019; K020; K021; K022; K023; K024; K025; K026; K027; K029; K030; K031; K032; K033; K034; K035; K036; K037; K038; K039; K040; K041; K042; K043; K044; K045; K046; K047; K048; K049; K050; K051; K052; K054; K060; K065; K073; K083; K084; K085; K086; K087; K093; K094; K095; K096; K097; K098; K099; K101; K102; K103; K104; K105; K111; K112; K113; K114; K115; K116; K117; K118; K123; K124; K125; K126; K136; D001; D012; D013; D014; D015; D016; and D017.

Subp. 11. **Recommended technologies to achieve deactivation of characteristics.** The treatment standard for many subcategories of the EPA Hazardous Waste Nos. D001, D002, D003, K044, K045, and K047 wastes is listed simply as "Deactivation to remove the characteristics of ignitability, corrosivity, and reactivity." EPA has determined that many technologies, when used alone or in combination, can achieve this standard. The following appendix presents a partial list of these

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technologies, using the five-letter technology codes established in subpart 3. Use of these specific technologies is not mandatory and does not preclude direct reuse, recovery, or the use of other pretreatment technologies, provided deactivation is achieved and these alternative methods are not performed in units designated as land disposal.

7045.1380 PROHIBITIONS ON STORAGE OF RESTRICTED WASTES.

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

Subp. 4. **Petition Exemptions.** ~~The~~ If a ~~generators~~ generator's waste is exempt from a prohibition ~~in subpart 1 does not apply to the wastes that are the subject~~ on the type of land disposal used for the waste, because of an approved case-by-case extension under part 7045.0075, subpart 6, an approved petition under part 7045.0075, subparts 8 and 9, or a national capacity variance ~~contained in~~ under parts 7045.1320 to 7045.1330, the prohibition in subpart 1 does not apply during the period of the exemption.

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

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Land Disposal Restrictions for Hazardous Wastes

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapters 7001 and 7045

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

Minnesota Pollution Control Agency
520 Lafayette Road, Saint Paul, Minnesota 55155
Telephone (612) 296-6300

Celebrate MINNESOTA 1990

March 10, 1992

Ms. Patty Nolte
Attorney General's Office
525 Park Street, Suite 500
St. Paul, Minnesota 55103

Dear Ms. Nolte:

RE: In the Matter of the Proposed Amendments of Rules Pertaining to Governing the Land Disposal of Untreated Hazardous Waste, Minn. Rules pts.: 7001.0520, 7001.0650, 7045.0020, 7045.0075, 7045.0131, 7045.0135, 7045.0139, 7045.0214, 7045.0292, 7045.0458, 7045.0478, 7045.0532, 7045.0534, 7045.0536, 7045.0538, 7045.0552, 7045.0564, 7045.0584, 7045.0630, 7045.0632, 7045.0634, 7045.0638, 7045.0665, 7045.1300, 7045.1305, 7045.1308, 7045.1309, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1333, 7045.1334, 7045.1335, 7045.1339, 7045.1350, 7045.1355, 7045.1358, 7045.1360, and 7045.1380.

On February 28, 1992, the Minnesota Pollution Control Agency adopted amendments affecting the above Minn. Rule parts governing the land disposal of untreated hazardous waste. Enclosed for your review are the following:

1. [x] RULES AS ADOPTED (original and copies totaling 4 attached).

2. [x] FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES (two copies attached).

3. [ ] CERTIFICATE OF RESOLUTION ADOPTING RULES or [x] AFFIDAVIT OF COMPLIANCE WITH REQUIREMENTS FOR RULE ADOPTION BY DELEGATED AUTHORITY and OCTOBER 22, 1991 BOARD DELEGATION OF AUTHORITY.

4. [x] NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION (published in vol. 15, State Register, p. 631, on September 10, 1990).

5. [ ] Comments received pursuant to NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION and/or [x] AFFIDAVIT REGARDING COMMENTS RECEIVED: no comments were received subsequent to this notice.

6. [x] CERTIFICATE OF AUTHORIZING RESOLUTION or [ ] AFFIDAVIT OF COMPLIANCE WITH REQUIREMENTS FOR DELEGATED RULEMAKING AUTHORIZATION and OCTOBER 22, 1991 BOARD DELEGATION OF AUTHORITY.

7. [x] State Register article containing NOTICE OF INTENT TO ADOPT RULE AMENDMENTS WITHOUT A PUBLIC HEARING and RULE AMENDMENTS AS PROPOSED (State Register, vol. 16, p. 834, October 7, 1991).

8. [x] Comments received during the comment period: 1) Chemical Waste Management, Inc., 2000 South Batavia Ave., Geneva, Illinois, 60134; and 2) U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard., Chicago, Illinois, 60604-3590.

9. [x] NOTICE OF INTENT TO ADOPT RULE AMENDMENTS WITHOUT A PUBLIC HEARING as mailed.

10. [x] AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST.

11. [x] RULES AS PROPOSED from the Revisor of Minnesota Statutes.

12. [x] STATEMENT OF NEED AND REASONABLENESS.

13. [x] DECLARATION OF COUNSEL that administrative procedures were followed.

14. [x] NOTICE OF SUBMISSION OF RULE AMENDMENTS ADOPTED WITHOUT A PUBLIC HEARING TO THE ATTORNEY GENERAL to Chemical Waste Management, Inc., 2000 South Batavia Ave., Geneva, Illinois, 60134.

15. [x] AFFIDAVIT OF MAILING OF NOTICE OF SUBMISSION OF RULE AMENDMENTS ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL.

Sincerely,

Nathan Brooks Cooley

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Rules Unit
Program Development Section
Hazardous Waste Division
(612/297-7544)

NBC:jao

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing Land Disposal of Untreated Hazardous Waste, Minn. Rules pts. 7001.0520, 7001.0650, 7045.0020, 7045.0075, 7045.0131, 7045.0135, 7045.0139, 7045.0214, 7045.0292, 7045.0458, 7045.0478, 7045.0532, 7045.0534, 7045.0536, 7045.0538, 7045.0552, 7045.0564, 7045.0584, 7045.0630, 7045.0632, 7045.0634, 7045.0638, 7045.0665, 7045.1300, 7045.1305, 7045.1308, 7045.1309, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1333, 7045.1334, 7045.1335, 7045.1339, 7045.1350, 7045.1355, 7045.1358, 7045.1360, and 7045.1380

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came off public notice on the seventh day of November, 1991. After affording all interested persons the opportunity to present written and oral data, statements, and arguments to the Minnesota Pollution Control Agency (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 commissioner, 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 October 7, 1991 (16 S.R. 834), and was sent by mail to all persons on a mailing list maintained by the MPCA pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1990) on October 4, 1991.

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 following notice of the proposed rulemaking. The 30-day comment period, as set out in the notice, expired on November 7, 1991.

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

5. One request for notice of submission of the adopted rule amendments to the Attorney General was received by the MPCA. It came from Chemical Waste Management, Inc., 2000 South Balavia Avenue, Geneva, Illinois, 60134. The

requester will be sent a prepared notice at the time these Findings of Fact are submitted to the Attorney General. An affidavit of this notice will be placed in the administrative record.

6. The MPCA received two comment letters regarding the proposed rules. One comment was from Chemical Waste Management, Inc., 2000 South Balavia Avenue, Geneva, Illinois, 60134. The second set of comments were received from the U.S. Environmental Protection Agency (EPA) as part of that agency's normal review. The MPCA staff also proposes changes based on its review.

This entire rulemaking is intended to make this portion of Minn. Rules "equivalent" to federal regulations (no less restrictive). This was done by adopting amendments and revisions to Minn. Rules based on changes in federal regulations which are already in effect in Minnesota under federal authority. The MPCA finds that modifications to the proposed rule amendments are justified by the record in this proceeding. These modifications are presented in the order of their appearance in the rules as follows:

A. Comment from EPA.

FACTS: In Minn. Rules pt. 7045.0135 (Lists of Hazardous Wastes), subp. 2 (Hazardous wastes from nonspecific sources), item V, the MPCA adopts a federal provision defining waste code F039 as multi-source leachate from disposal facilities.

ISSUE: The EPA requires state rules to be equivalent to federal regulations in order for the MPCA to obtain and keep its program authorization. The proposed amendment inadvertently missed a minor portion of the federal language.

RESOLVED: The state proposes to include the missing phrase.

CORRECTION: Minn. Rules pt. 7045.0135, item V is modified to read in part, "V. F039, leachate resulting from the treatment, storage, or disposal of more than one restricted waste...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantial change because it corrects the rule to read the same as the already governing federal language. The stated goal of equivalence with federal provisions is achieved.

B. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.0292 (Accumulation of Hazardous Waste), subp. 1 (When allowed without a permit), item H was revised to include a citation to Minn. Rules pt. 7045.1315 (Waste Analysis for Restricted Wastes).

ISSUE: The existing citation could be made more specific, adding clarity.

RESOLVED: The MPCA proposes to make the citation more specific as below.

CORRECTION: Minn. Rules pt. 7045.0292, Item H is modified to read in part, "H. the requirements of parts 7045.0558, 7045.0566 to 7045.0576, and 7045.1315, subp. 1, item D, are fulfilled...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it merely provides more specificity to the citation.

C. Comment from MPCA staff.

FACTS: This entire part, Minn. Rules pt. 7045.1308 (Landfill and Surface Impoundment Disposal Restrictions), is newly adopted based on federal provisions. The adopted federal language states in part that, "As of May 8, 1990, this part is no longer in effect."

ISSUE: The MPCA staff sought opinion from its Attorney General staff and determined that the state should not adopt provisions which are no longer in effect--especially since it was not authorized for enforcing those provisions at the time they were in effect under federal authority.

RESOLVED: The MPCA proposes removing Minn. Rules pt. 7045.1308 from the rules as proposed and changing references from 7045.1308 to Code of Federal Regulations, title 40, part 268.8, the governing federal regulation.

CORRECTION: The entire Minn. Rules pt. 7045.1308 is removed. All citations in other Minn. Rules which reference 7045.1308 are changed so that they instead refer to the Code of Federal Regulations, title 40, part 268.8. These are shown in their order of appearance as follows:

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item M is changed to read, "M. Records of the quantities and date of placement for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 8, a petition under subpart 9, or a certification under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, and the applicable notice required of a generator under part 7045.1315, subpart 1."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item N is changed to read, "N. For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner under Code of Federal Regulations, title 40, section 268.8, or part 7045.1315, subpart 1, item A~~, or 7045.1308~~."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item O is changed to read, "O. For an on-site treatment facility, the information contained in the notice, except the manifest number, and the certification and demonstration, if applicable, required of the generator or owner or operator under Code of Federal Regulations, title 40, section 268.8, or part 7045.1315, subpart 1, item A~~, or 7045.1308~~."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item P is changed to read, "P. For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under ~~parts~~ Code of Federal Regulations, title 40, section 268.8, and part 7045.1315 ~~and 7045.1308~~, whichever is applicable."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item Q is changed to read, "Q. For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under part 7045.1315, except for the manifest number, and the certification and demonstration, if applicable, required under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, whichever is applicable."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item R is changed to read, "R. For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required of the generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315."

7045.0478 (OPERATING RECORD), subp. 3 (Record information), item S is changed to read, "S. For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required of the generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item J is changed to read, "J. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 8 or 9, monitoring data required pursuant to a petition under 7045.0075, subpart 9, or a certification and demonstration under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, and the notice required by a generator under part 7045.1315, subpart 1, item C."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item K is changed to read, "K. For an off-site treatment facility, the notice, and the certification and demonstration, if applicable, required by a generator or the owner or operator under ~~parts 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, and part 7045.1315, subpart 1, item A."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item L is changed to read, "L. For an on-site treatment facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator under ~~parts 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, and part 7045.1315, subpart 1, item A, except for the manifest number required under part 7045.1315, subpart 1, item A, subitem (3)."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item M is changed to read, "M. For an off-site land disposal facility, the notice, certification and demonstration if applicable required by the generator, owner or operator of a treatment facility under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315, subpart 2, items A and B, for the facility or part 7045.1315, subpart 1, item B, for the generator, whichever is applicable."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item N is changed to read, "N. For an on-site land disposal facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315 except for the manifest number, whichever is applicable."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item O is changed to read, "O. For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315."

7045.0584 (OPERATING RECORD), subp. 3 (Record information), item P is changed to read, "P. For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under Code of Federal Regulations, title 40, section 268.8, or part ~~7045.1308 or~~ 7045.1315."

7045.1308 (LANDFILL AND SURFACE IMPOUNDMENT DISPOSAL RESTRICTIONS) is removed from the rules as proposed, indicated as follows, "~~7045.1308 LANDFILL AND SURFACE IMPOUNDMENT DISPOSAL RESTRICTIONS...Subpart 1. Generator Requirements...Subp. 2. Certification Review...Subp. 3. Facility Requirements...Subp. 4. Land Disposal Authorized...unless otherwise prohibited by the commissioner.~~"

7045.1310 (TREATMENT SURFACE IMPOUNDMENT EXEMPTION), subp. 1 (Conditions), item B (The following conditions are met:), subitem (2) (Removal) is changed to read in part, "(2)...residues which are the subject of a valid certification under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, made no later than a year after placement of the wastes in an impoundment are not required to be removed annually...."

7045.1310 (TREATMENT SURFACE IMPOUNDMENT EXEMPTION), subp. 1 (Conditions), item B (The following conditions are met:), subitem (3) (Subsequent management), is changed to read, "(3) Treatment residues may not be placed in any other surface impoundment for subsequent management unless the residues are the subject of a valid certification under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, that allows disposal in surface impoundments meeting the requirements of ~~part 7045.1308, subpart 1~~ Code of Federal Regulations, title 40, section 268.8."

7045.1315 (WASTE ANALYSIS FOR RESTRICTED WASTES), subp. 3 (Facility requirements), item A is changed to read, "A. have copies of the notice and certifications specified in subpart 1 or 2 and the certification specified in ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8, if applicable; and"

7045.1334 (WASTE SPECIFIC PROHIBITION; SECOND THIRD WASTES), subp. 2 (Exceptions), item D is changed to read in part, "D...the wastes specified...are prohibited from disposal in a landfill or surface

impoundment unless the wastes are the subject of a valid demonstration and certification under ~~part 7045.1308~~ Code of Federal Regulations, title 40, section 268.8.

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because the provision is not currently in effect and any enforcement for past violations would be the responsibility of federal authorities.

D. Comment from EPA.

FACTS: In Minn. Rules pt. 7045.0584 (Operating Record), subp. 3 (Record information), the MPCA adopts federal revisions. Item N addresses information retention requirements for on-site land disposal facilities.

ISSUE: The proposed Minn. Rules are missing a phrase which was in the federal language. The EPA requires the MPCA's rules to be equivalent in order for the MPCA to maintain its program authorization. This phrase was inadvertently omitted.

RESOLVED: The MPCA proposes to include the phrase described below.

CORRECTION: Minn. Rules pt. 7045.0584, subp. 3, item N is modified to read in part, "N. For an on-site land disposal facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it adds the requirement to retain any certification statement which is required by other rules. This is equivalent to the federal language which is already in effect in the state. Also, this correction provides consistency with several other areas of the rule where this same phrase was not omitted.

E. Comment from Chemical Waste Management, Inc.

FACTS: In Minn. Rules pt. 7045.1315 (Waste Analysis for Restricted Wastes) the MPCA adopts revisions requiring generators of hazardous waste to supply "certification statements" to treatment, storage, and disposal facilities under certain conditions. The state adopted the corresponding federal language; however, citations within the certification statements were changed to reflect corresponding Minnesota rules.

ISSUE: The proposed rule would require non-Minnesota waste management companies to redesign existing certification statements containing the federal citations. This adds unneeded burden and the potential for confusion and error. Also, staff noticed that the range of a citation to Minn. Rules needed to be extended because a rulepart was added under another rulemaking.

RESOLVED: The MPCA proposes to follow the recommendation in the comment and insert language in Minn. Rules pt. 7045.1300 which allows the use of certification statements with federal citations which are equivalent to the Minn. Rule citations. The MPCA also proposes correcting the incorrect range of Minn. Rules provided as shown below.

CORRECTION: Minn. Rules pt. 7045.1300, subp. 1 is changed to read in part, "Subpart 1. Applicability...Except as specifically provided in subpart 2 or parts 7045.0100 to ~~7045.0141~~ 7045.0143, the requirements of this part apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities. For purposes of this part, a certification statement that complies with Code of Federal Regulations, title 40, part 268, also complies with the certification statement requirements under this part."

NEED/REASONABLENESS: The proposed changes are needed to address the stated issues. It reasonably addresses the issues without substantially changing the intent of the certification statement requirement.

F. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.1310 (Treatment Surface Impoundment Exemption), subp. 1 (Conditions [for exemption]), item D requires that the generator submit to the commissioner a written certification that the requirements of item C of this part were met.

ISSUE: Other provisions require that these certifications be signed by an authorized representative, and use the statement provided in the rule.

RESOLVED: The MPCA proposes to specify using an authorized signature and the provided language when certifications are required.

CORRECTION: Minn. Rules pt. 7045.1310, Item D is modified to read in part, "...The ~~following~~ certification ~~is required~~ must be signed by an authorized representative, and must use the following statement:...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it provides more specificity to better convey the intent of the rule and improves consistency with other certification provisions in the rules.

G. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.1315 (Waste Analysis for Restricted Wastes), subp. 1 (Applicability), item A (notice to treatment or storage facilities of appropriate treatment standards), subitem (2) provides additional information requirements. Subpart 2 (Testing of wastes), item D (notice to the land disposal facilities), subitem (2) adds similar requirements. For cases of specified technologies, a five-letter treatment code is required.

ISSUE: Examples of the five-letter treatment codes are provided in the federal regulations as parenthetical notes. Minnesota does not provide parenthetical notes or examples in the rule text. They are not considered necessary by the Minnesota Office of the Revisor of Statutes who provides consistency review of the rules. These parenthetical notes were inadvertently imported with the adopted federal language.

RESOLVED: The MPCA proposes to remove the parenthetical examples provided.

CORRECTION: Minn. Rules pt. 7045.1315, subps. 1 and 2 are both revised to read in part, "...the applicable five-letter treatment code in part 7045.1360 ~~(e.g., INCIN, WETOX)~~ also must be listed in the notification...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it does not affect the meaning or stringency of the rule.

H. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.1315 (Waste Analysis For Restricted Wastes), subp. 2 (Testing of Wastes), item E (Treatment facility certification requirements), new subitem (3) is added. It provides conditions under which treatment facilities must submit a written certification of treatment to the commissioner.

ISSUE: Other provisions require that these certifications be signed by an authorized representative.

RESOLVED: The MPCA proposes to specify that the certification be signed by an authorized person.

CORRECTION: Minn. Rules pt. 7045.1315, subp. 2, item E, subitem (3) is modified to read in part, "...certification ~~also~~ must be signed by an authorized representative, and must state the following...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it provides more specificity to better convey the intent of the rule and improves consistency with other certification provisions in the rules.

I. Comment from MPCA staff.

FACTS: In Minn. Rules part 7045.1315 (Waste Analysis For Restricted Wastes), subp. 2 (Testing of Wastes), new item G is added. It governs when wastes are recyclable materials used in a manner constituting disposal.

ISSUE: The phrase "the recycler" was taken from a parenthetical note in EPA language. The MPCA staff attempted to convert the parenthetical note to a phrase set off by commas. However, this neither reads well nor adds clarity to the sentence. Minnesota has a policy of avoiding parenthetical notes or examples in its rule text. These are not considered necessary by the Minnesota Office of the Revisor of Statutes who provides consistency review of the rules.

RESOLVED: The MPCA proposes to remove the indicated phrase.

CORRECTION: Minn. Rules part 7045.1315, subp. 2, item G is modified to read in part, "G. When the wastes are recyclable materials used in a manner constituting disposal subject to part 7045.0665, subpart 1, item C, regarding treatment standards and prohibition levels, the owner or operator of a treatment facility~~, the recycler,~~ is not required to notify the receiving facility...."

NEED/REASONABLENESS: This correction is needed to address the stated issues. It reasonably addresses the issues without substantially changing the rule because it does not affect the meaning or stringency of the rule and helps its readability.

J. Comment from MPCA staff.

FACTS: The proposed rule refers to Code of Federal Regulations, title 40, section 268.5(h)(2). This is the federal citation which provides criteria for surface impoundments. The state has adopted provisions equivalent to the standards identified by these federal regulations.

ISSUE: When the state rules are equivalent, the state citation is usually preferred in Minn. Rules to improve readability and clarity.

RESOLVED: The MPCA proposes changing the federal citation to the state citation for each of the eight occurrences in the proposed rules.

CORRECTION: Each occurrence of the federal citation, "Code of Federal Regulations, title 40, section 268.5(h)(2)" is changed to the equivalent state citation, "[Minn. Rules] part 7045.0532" as shown below:

7045.1320 (WASTE SPECIFIC PROHIBITIONS; SOLVENT WASTES), subp. 2. (Effective date) is revised to read in part, "...Between November 8, 1988, and November 8, 1990, these wastes may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1325 (WASTE SPECIFIC PROHIBITION; DIOXIN-CONTAINING WASTES), subp. 3 (Effective Date) is revised to read in part, "...Between November 8, 1988, and November 8, 1990, wastes included in subpart 2, item A, may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532...."

7045.1330 (WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES), subp. 2. (Exceptions), item A is revised to read in part, "...Between July 8, 1987 and July 8, 1989, the wastes may be disposed of in a landfill or surface impoundment only if the disposal is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1330 (WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES), subp. 2. (Exceptions), item B is revised to read in part, "...Between November 8, 1988, and November 8, 1990, the wastes may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1330 (WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES), subp. 2. (Exceptions), item C is revised to read, "Between July 8, 1987 and November 8, 1988, the wastes included in subpart 1, items D and E may be

disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1333 (WASTE SPECIFIC PROHIBITIONS; FIRST THIRD WASTES), subp. 2 (Exceptions), item C is revised to read, "Between November 8, 1988, and August 8, 1990, wastes included in items A and B may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1334 (WASTE SPECIFIC PROHIBITION; SECOND THIRD WASTES), subp. 2 (Exceptions), item B is revised to read, "Between June 8, 1989, and June 8, 1991, (for wastes F007, F008, F009, F011, and F012 between June 8, 1989, and July 8, 1989), wastes included in item A and subpart 1, item C, may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the technical requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

7045.1335 (WASTE SPECIFIC PROHIBITIONS; THIRD THIRD WASTES), subp. 8 (Exceptions Between May 8, 1990 and May 8, 1992) is revised to read, "Between May 8, 1990, and May 8, 1992, the wastes in subparts 3 to 5 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of ~~Code of Federal Regulations, title 40, section 268.5(h)(2)~~ part 7045.0532."

NEED/REASONABLENESS: These corrections are needed to address the stated issue. They reasonably address the issue without substantially changing the rule because the rule language is equivalent. This does not affect the meaning or stringency of the rule and helps readability since the citation is to rules that are in Minn. Rules.

K. Comment from MPCA staff

FACTS: In Minn. Rules pt. 7045.1333 (Waste Specific Prohibitions [to land disposal]; First One-Third Of Regulated Wastes), subp. 2 (Exceptions To subp. 1) the state adopts federal conditions for when the prohibitions in subp. 1 do not apply.

ISSUE: Items A and B of subp. 2 reflect conditions when the land disposal prohibitions DO apply instead of EXCEPTIONS to when it applies. The federal regulation appears to be in error, these two items belong in subp. 1.

RESOLVED: The MPCA proposes to relocate these two items.

CORRECTION: Minn. Rules pt. 7045.1333, subp. 2, items A and B are relocated and relettered to become items C and D of subp. 1. As a result of this change, items C and D of subp. 2 must be relettered as items A and B. The references in the title paragraph of subp. 1, and in renumerated item A of subp. 2, are revised to reflect these changes.

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it corrects the organization of these provisions without affecting the meaning or stringency of the rule and helps its readability.

L. Comment from MPCA staff.

FACTS: Minn. Rules pt. 7045.1334 (Waste Specific Prohibition; Second One-Third of Regulated Wastes), subp. 2 (Exceptions [to prohibitions in subp. 1]), item A provides the effective date for certain wastes with an incineration based treatment standard.

ISSUE: The proposed state rules are equivalent to federal language; however, there is a clause which should be separated by commas to clarify the sentence and improve its readability.

RESOLVED: The MPCA proposes adding two commas to item A.

CORRECTION: Minn. Rules pt. 7045.1334, subp. 2, item A is revised to read, "A. Effective June 8, 1991, the wastes specified in this part, having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration, that are contaminated soil and debris are prohibited from land disposal."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it adds punctuation which improves clarity and readability. This does not effect the meaning or stringency of the rule.

M. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.1334 (Waste Specific Prohibition; Second One-Third of Regulated Wastes), subp. 3 (Waste analysis) the state adopts the new federal provision.

ISSUE: The proposed rule reads in part, "...extract of the waste..." compared with "...extract or the waste..." in the parent federal language. Since, either a representative sample of the waste, OR of an extract of the waste may be tested, the objective of making Minn. Rules equivalent to the parent federal regulation is not met unless this is corrected.

RESOLVED: The MPCA proposes changing the "of" to "or."

CORRECTION: Minn. Rules pt. 7045.1334, subp. 3 is changed to read in part, "...the initial generator must test a representative sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract ~~of~~ or the waste,...."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it corrects the rule to be equivalent with the governing federal language.

N. Comment from MPCA staff.

FACTS: In Minn. Rules pt. 7045.1335 (Waste Specific Prohibition; Third One-Third of Regulated Wastes), subp. 6 (Exceptions between May 8, 1990, and August 8, 1990) and subp. 7 (Exceptions between May 8, 1990, and November 8, 1990) as proposed, both subps. read in part, "...requirements in part 7045.0075, subpart 8."

ISSUE: The quoted citation is incorrect. This error was inadvertent. The proposed rules are not equivalent to effective federal law unless corrected. Also, it is standard to use the term "of" rather than "in" when referencing the requirements of a part.

RESOLVED: The MPCA proposes correcting the citations and changing the term "in" to "of" as shown.

CORRECTION: Minn. Rules pt. 7045.1335, subps. 6 and 7, are both changed to read in part, "...may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements ~~in~~ of part ~~7045.0075, subpart 8~~ 7045.0532."

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it corrects the citation to be equivalent with the governing federal language. The word "in" is changed to "of" for consistency purposes.

O. Comment from EPA.

FACTS: In Minn. Rules pt. 7045.1350 (Treatment Standards), subp. 1 (Concentration standard for waste extract), the state adopts federal test methods for determining whether a waste may be land disposed.

ISSUE: A citation provided for a federal test method is incorrect--it does not exist. The EPA requires that MPCA rules be equivalent to federal regulations in order for the State to obtain and keep its program authorization.

RESOLVED: The MPCA proposes correcting the citation.

CORRECTION: Minn. Rules pt. 7045.1350, subp. 1 is revised to read in part, "These wastes may be land disposed only if an extract of the waste or of the treatment residue of the waste developed using either the test method in Code of Federal Regulations, title 40, part 261, Appendix II, or the test method in Code of Federal Regulations, title 40, part 268, Appendix ~~IX~~ I, does not exceed the concentrations shown...."

NEED/REASONABLENESS: This correction is needed to address the stated issues. It reasonably addresses the issues without substantially changing the rule because it corrects an erroneous citation by adopting the existing federal citation as originally intended. The other citation in the proposed rule directs the reader to a valid and equivalent test method.

P. Comment from EPA.

FACTS: Minn. Rules pt. 7045.1358 (Treatment Standards Expressed As Waste Concentrations), subp. 5 (Demonstrating compliance with treatment standards for organic constituents), item A discusses how treatment standards are determined for organic waste constituents.

ISSUE: EPA commented that a MPCA staff attempt to rephrase this provision appears awkward. The attempt at rephrasing failed, resulting in hybridized language.

RESOLVED: The MPCA proposes correcting the error so that the rules correspond to the original federal language.

CORRECTION: Minn. Rules pt. 7045.1358, subp. 5 is modified to read in part, "...or based on combustion in fuel substitution units operating in ~~according to~~ accordance with applicable technical requirements;"

NEED/REASONABLENESS: This correction is needed to address the stated issue. It reasonably addresses the issue without substantially changing the rule because it simply adds clarity in conveying the original intent.

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.

9. A copy of the Statement of Need and Reasonableness for this rulemaking was sent to the Legislative Commission to Review Administrative Rules as required by the 1990 amendments to the Administrative Procedures Act, Minnesota Statutes, chapter 14.

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 governing the land disposal of untreated hazardous waste, are adopted pursuant to the authority vested in the MPCA by Minn. Stat. §116.07, subd. 4 (1990).

Dated: 2/28/92

Charles W. Williams
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Land Disposal of Untreated Hazardous Waste, Minnesota Rules Chs. 7001 and 7045; Minn. Rules Pts.: 7001.0520, 7001.0650, 7045.0020, 7045.0075, 7045.0131, 7045.0135, 7045.0139, 7045.0214, 7045.0292, 7045.0458, 7045.0478, 7045.0532, 7045.0534, 7045.0536, 7045.0538, 7045.0552, 7045.0564, 7045.0584, 7045.0630, 7045.0632, 7045.0634, 7045.0638, 7045.0665, 7045.1300, 7045.1305, 7045.1308, 7045.1309, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1333, 7045.1334, 7045.1335, 7045.1339, 7045.1350, 7045.1355, 7045.1358, 7045.1360, and 7045.1380.

AFFIDAVIT OF COMPLIANCE WITH REQUIREMENTS FOR RULE ADOPTION BY DELEGATED AUTHORITY

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Gordon Wegwart, being duly sworn says:

WHEREAS, the above amendments are required to maintain authorization of Minnesota's hazardous waste program pursuant to RCRA; and

WHEREAS, a hearing was not required pursuant to Minn. Stat. ch. 14 in commection with the adoption of such rules; and

WHEREAS, the rules as initially proposed for adoption have been modified pursuant to comments received on said proposed rules, but said modifications do not result in a substantial change to the rules as proposed; and

WHEREAS, all applicable statutes and rules governing the adoption of rules, and the provisions of the delegation of authority by the Board of the Minnesota Pollution Control Agency to the Commissioner, have been complied with;

NOW, THEREFORE, Affiant hereby certifies that the above-referenced rules have been adopted as hereinabove set forth and as permitted by the delegation of authority dated October 22, 1991, a copy of which is attached hereto.

Subscribed and sworn to before me
this 28th day of February, 1992.

Joanne C. Johnson
Notary Public

JOANNE C. JOHNSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires FEB. 20, 1995

Gordon E. Wegwart
Gordon E. Wegwart, Director,
Hazardous Waste Division
Affiant

DELEGATION OF AUTHORITY
FROM THE MINNESOTA POLLUTION CONTROL AGENCY
TO THE COMMISSIONER TO AUTHORIZE THE INITIATION OF
RULEMAKING PROCEEDINGS AND ADOPT AMENDMENTS
TO THE HAZARDOUS WASTE RULES

WHEREAS, the Minnesota Pollution Control Agency (Agency) is authorized by Minn. Stat. § 116.07, subd. 4, to adopt rules for the generators of hazardous waste and for the management, identification, labeling, classification, storage, collection, transportation, processing and disposal of hazardous waste and the location of hazardous waste facilities;

WHEREAS, the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq., established procedures for the United States Environmental Protection Agency (EPA) to grant authority for states to administer the state hazardous waste regulatory program in lieu of the federal program;

WHEREAS, to receive and maintain authorization, the state program must be at least as stringent as the federal program and consistent with federal or state programs applicable to other states;

WHEREAS, pursuant to RCRA, Minnesota received final authorization from EPA to administer its hazardous waste regulatory program in lieu of the federal program effective February 11, 1985;

WHEREAS, in order to maintain authorization to administer the state program in lieu of the federal program, a State must enact equivalent requirements within specific time frames when new or more stringent federal requirements are promulgated by EPA;

WHEREAS, the Agency has authorized and adopted amendments to the hazardous waste rules which make the rules equivalent to the federal regulations adopted by EPA pursuant to RCRA as a routine matter;

WHEREAS, the authorization and adoption of amendments to the hazardous waste rules that are required to maintain RCRA authorization is more of a ministerial task than one of policy or substance; and

WHEREAS, the delegation of this authority under limited conditions and for a specific period of time will alleviate the time contraints of the Agency's dealing with essentially ministerial tasks.

THEREFORE BE IT RESOLVED THAT:

The Minnesota Pollution Control Agency Board delegates its authority to authorize the initiation of rulemaking procedures for and to adopt amendments to the hazardous waste rules to the Commissioner or his designee(s) until October 31, 1992 unless terminated by the Board at an earlier date, subject to the following limitations:

1. The amendments are required to maintain authorization of Minnesota's hazardous waste program pursuant to RCRA;

2. A hearing was not required pursuant to Minn. Stat. ch. 14;

3. Any changes to the rules to be adopted as a result of comments received on the proposed rules do not result in a substantial change from the proposed rules;

4. All applicable statutes and rules governing the adoption of rules have been complied with.

If any of the above limitations has not been met, the request for authorization to initiate rulemaking or to adopt rules shall be presented to the Agency Board for approval or denial.

If the amendments make Minnesota's hazardous waste rules less stringent than the rules would be without the amendments, the Commissioner or his designee is authorized to adopt the rules only if the initiation of rulemaking was authorized by the Agency Board.

The Commissioner shall provide the MPCA Board with a report on all rules adopted pursuant to this delegation on a quarterly basis.

VAN R. ELLIG
Chairperson

Date: October 22, 1991

DANIEL D. FOLEY, M.D.
Vice-Chairperson

Date: October 22, 1991

Department of Health shall become a part of the rulemaking record to be submitted to the attorney general or administrative law judge if the rule is adopted.

Connie Krmpotich
Assistant Section Chief
Quality Assurance and Review
Health Resources Division
Department of Health

Department of Human Services

Health Care Management Division

Public Notice Regarding Changes to the Medical Assistance (MA) and General Assistance Medical Care (GAMC) Program

NOTICE IS HEREBY GIVEN to providers of Minnesota Medical Assistance (MA) and General Assistance Medical Care (GAMC) and to the public of certain administrative dental services program changes. This notice is published pursuant to *Minnesota Statutes*, section 256B.0625, subdivision 25, which governs Medical Assistance. The purpose of this notice is to inform MA and GAMC providers and the public of changes in the process to request specific dental services which require prior authorization.

Effective October 1, prior authorization by telephone will be available for MA and GAMC dental services providers to request any of the following specific health services:

- Outpatient dental general anesthesia
  Service code limited to: 09999
- Emergency tooth extractions
  Service codes limited to: 07210, 07220, 07230
- Initial full denture(s) placement
  Service codes limited to: 05110, 05120, 05130, 05140
- Lost or broken full denture(s) replacement
  Service codes limited to: 05110, 05120, 05130, 05140

Telephones will be staffed during the hours of 8 a.m. to 4:30 p.m., Monday through Friday. The telephone number available in the metro area is (612) 297-2947. The toll-free telephone number available elsewhere in Minnesota is 1-800-657-3616.

Minnesota Pollution Control Agency

Hazardous Waste Division

Notice of Intent to Solicit Outside Information Regarding Proposed Rules Governing Land Disposal of Hazardous Waste, *Minnesota Rules* chs. 7001 and 7045

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking information or opinions from outside sources in preparing to propose the amendment and adoption of rules governing land disposal restrictions (LDR) for hazardous wastes. The Agency rules governing LDR will correspond to federal rules promulgated by the U.S. Environmental Protection Agency. The federal rules governing LDR were published as follows: LDR for First Third Scheduled Wastes [Volume 53, *Federal Register* (F.R.), page 31138] August 17, 1988; LDR for Second Third Scheduled Wastes [54 F.R. 26594] June 23, 1989; and LDR for Third Third Scheduled Wastes [55 F.R. 22520] June 1, 1990. The amendment and adoption of these rules is required in order to maintain federal authorization of the Agency's hazardous waste program and is authorized by *Minnesota Statute* § 116.07, subd. 4 (1988), which allows the Agency to adopt rules relating to the regulation of hazardous waste.

The Agency requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to: Nathan B. Cooley, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, MN 55155 (telephone 612/643-3477).

Oral statements will be received during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. All statements of information and opinion will be accepted until October 10, 1990. Any written materials received by the Agency shall become part of the rulemaking record in the event that the rule is adopted and amended.

Gerald L. Willet, Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing Land Disposal 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)

Nathan B. Cooley, being duly sworn on oath deposes and says:

1. That he is the person named in the Notice of Intent to Solicit Outside Opinion (15 S.R. 631, September 10, 1990) 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 October 10, 1990.

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

Nathan B. Cooley
Nathan B. Cooley

Subscribed and sworn to before me this third day of July, 1991.

Joanne C. Johnson
Notary Public

JOANNE C. JOHNSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires FEB. 20, 1995

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Charles Williams, 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-fourth day of September 1991, 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 of hazardous waste, Minn. Rules pts. 7001.0520, 7001.0650, 7045.0020, 7045.0075, 7045.0131, 7045.0135, 7045.0139, 7045.0214, 7045.0292, 7045.0458, 7045.0478, 7045.0532, 7045.0534, 7045.0536, 7045.0538, 7045.0552, 7045.0564, 7045.0584, 7045.0630, 7045.0632, 7045.0634, 7045.0638, 7045.0665, 7045.1300, 7045.1305, 7045.1308, 7045.1309, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1333, 7045.1334, 7045.1335, 7045.1339, 7045.1350, 7045.1355, 7045.1358, 7045.1360, and 7045.1380 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 (1990).

BE IT FURTHER RESOLVED that in the event a public hearing becomes necessary, the Commissioner is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rule amendments as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for the 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 24 day of September, 1991.

Charles W. Williams
Commissioner

The Minnesota
State Register

Department of Administration—Print Communications Division



Rules edition
Published every Monday
(Tuesday if Monday is a holiday)

Monday 7 October 1991

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State Register

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

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official and revenue notices, state and non-state contracts, contract awards, grants, a monthly calendar of cases to be heard by the state supreme court, and announcements.

***A Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.**

Printing Schedule and Submission Deadlines

Vol. 16 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
15	Monday 23 September	Monday 30 September	Monday 7 October
16	Monday 30 September	Monday 7 October	Monday 14 October
17	Monday 7 October	Monday 14 October	Monday 21 October
18	Monday 14 October	Monday 21 October	Monday 28 October

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the ***State Register*** editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The ***State Register*** is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A ***State Register*** *Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme court; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the ***State Register*** be self-supporting, the following subscription rates have been established: the Monday edition costs $140.00 per year and includes an index issue published in August (single issues are available at the address listed above for $3.50 per copy); the combined Monday and Thursday editions cost $195.00 (subscriptions are not available for just the *Contracts Supplement)*; trial subscriptions are available for $60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

Subscribers who do not receive a copy of an issue should notify the ***State Register*** circulation manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

Arne H. Carlson, Governor

Dana B. Badgerow, Commissioner
Department of Administration

Stephen A. Ordahl, Director
Print Communications Division

Robin PanLener, Editor
Katherine Artishon, Acting Editor

Paul Hoffman, Assistant Editor

Debbie George, Circulation Manager

Bonita Karels, Staff Assistant

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

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

The ***State Register*** is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the ***State Register***. Published every Monday, the ***State Register*** makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific ***Minnesota Rule*** chapter numbers. Every odd-numbered year the ***Minnesota Rules*** are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the ***State Register***.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the ***Official Notices*** section of the ***State Register***. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the ***State Register***. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the ***State Register*** as **Adopted Rules**. These final adopted rules are not printed in their entirety in the ***State Register,*** only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the ***State Register***, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the ***Minnesota Guidebook to State Agency Services.***

The ***State Register*** features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the ***State Register***, a subscription, the annual index, the ***Minnesota Rules*** or the ***Minnesota Guidebook to State Agency Services***, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-9747.

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Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Labor and Industry

Proposed Permanent Rules Relating to the Rehabilitation of Persons with Work-Related Injuries

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry 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*, sections 14.22 to 14.28. The statutory authority to amend the rule is *Minnesota Statutes* § 176.83 and 176.102.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rule. Public 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 within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request 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 addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

David Sherwood-Gabrielson, Director
Rehabilitation and Medical Affairs
443 Lafayette Road
St. Paul, Minnesota 55155
612-297-4598

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

The rule amendments proposed for adoption relate to the following matters and are set forth below. A comprehensive rewrite of most rehabilitation rules including revised and expanded definitions, changes in the rehabilitation referral process, change of time frames for rehabilitation plan submission, clarification of transfer of information by rehabilitation providers among the parties, clarification of Qualified Rehabilitation Consultant change procedures, requirements for retraining and on the job training plans, further information defining professional conduct and accountability standards and others.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each proposed amendment of the rules and identifies the data and information relied upon to support the proposed amendment has been prepared and is available upon request from David Sherwood-Gabrielson.

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The proposed rule amendments do not affect small businesses directly other than Qualified Rehabilitation Consultant firms and vendor firms that will be notified through the Department mailing list if they have asked to be listed.

If no hearing is required, upon adoption of the rule amendments, the amendments and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule amendments, must submit the written request to David Sherwood-Gabrielson, Director Rehabilitation and Medical Affairs, 443 Lafayette Road, St. Paul, Minnesota, 55155.

Dated: 12 September 1991

John B. Lennes, Jr.
Commissioner

Rules as Proposed

REHABILITATION OF PERSONS WITH WORK-RELATED INJURIES INCLUDING REQUIREMENTS TO BE A QUALIFIED REHABILITATION CONSULTANT OR REGISTERED REHABILITATION VENDOR

5220.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5220.0100 to 5220.1910, the following terms have the meanings given them.

Subp. ~~1b.~~ 2. **Approved claims handler.** "Approved claims handler" means a claims handler who meets the requirements of part 5220.1910.

Subp. 3. **Assigned qualified rehabilitation consultant.** "Assigned qualified rehabilitation consultant" means the qualified rehabilitation consultant responsible for consultation, development, and implementation of the rehabilitation plan, whether the qualified rehabilitation consultant is:

A. selected by the insurer if the employee does not choose;

B. chosen by the employee if the employee exercises a choice under part 5220.0710, subpart 1; or

C. determined by a documented agreement of the parties or by the commissioner or a compensation judge in the event of a dispute.

Subp. ~~2.~~ 4. **Commissioner.** "Commissioner" means commissioner of the Department of Labor and Industry.

Subp. 5. **Department.** "Department" means the Department of Labor and Industry.

Subp. ~~3.~~ 9. **Employer.** "Employer" means the employer at the time of injury of qualified employees ~~and includes the insurer providing workers' compensation insurance required by *Minnesota Statutes*, chapter 176 to this employer~~, unless the context clearly indicates otherwise.

Subp. 10. **Formal course of study.** "Formal course of study" means a program described by a published syllabus with established time parameters for completion which results in a diploma or other certification that is accepted as a credential of basic competence in a vocation.

Subp. 12. **Identifying information.** "Identifying information" refers to the name, current mailing address, and current phone number of a person or entity. For employees, identifying information also includes the department file number and date of injury. For employers and insurers, identifying information also includes the name of the individual to contact about the claim. For rehabilitation providers, identifying information includes the rehabilitation provider registration number.

Subp. 12a. **Insurer.** "Insurer" includes self-insured employers.

Subp. 13. **Job analysis.** "Job analysis" means a systematic study that reports work activity as follows:

A. what the worker does in the job being analyzed in relation to data, people, and things;

B. what methods and techniques are employed by the worker;

C. what machines, tools, equipment, and work aids are used;

D. what materials, products, subject matter, or services result; and

E. what traits are required of the worker.

Depending upon the purpose for which the analysis is completed, a job analysis may describe a group of positions that are sufficiently alike to justify being covered by a single analysis or, if necessary, may describe a position that is the total work assignment of a single worker.

Subp. 16. **Job development.** "Job development" means systematic contact with prospective employers resulting in opportunities for interviews and employment that might not otherwise have existed. Job development facilitates a prospective employer's consideration of a qualified employee for employment.

Subp. 17. **Job modification.** "Job modification" means altering the work environment to accommodate physical or mental limitations by making changes in equipment, in the methods of completing tasks, or in job duties.

Subp. 18. **Job placement.** "Job placement" means activities that support a qualified employee's search for work, including the identification of job leads, arranging for job interviews, the preparation of a client to conduct an effective job search, and communication of information about, but not limited to, the labor market, programs or laws offering employment incentives and the qualified employee's physical limitations and capabilities as permitted by data privacy laws.

Subp. 19. **Job seeking skills training.** "Job seeking skills training" means the formal teaching of independent work search skills including, but not limited to, the completion of applications, preparation of resumes, effectiveness in job interviews, and techniques for obtaining job leads.

Subp. 20. **Medical management.** "Medical management" by a qualified rehabilitation consultant means rehabilitation services that assist communication of information among parties about the employee's medical condition and treatment, and rehabilitation services that coordinate the employee's medical treatment with the employee's vocational rehabilitation services. Medical management refers only to those rehabilitation services necessary to facilitate the employee's return to work.

Subp. 21. **On-the-job training.** "On-the-job training" means training while employed at a workplace where the employee receives instruction from an experienced worker and which is likely to result in employment with the on-the-job training employer upon its completion.

Subp. ~~4.~~ 22. **Qualified employee.** "Qualified employee" means an employee who, because of the effects of a work-related injury or disease, whether or not combined with the effects of a prior injury or disability:

A. is permanently precluded or is likely to be precluded from engaging in the usual and customary occupation or ~~position~~ in ~~which~~ the job the individual ~~was engaged~~ held at the time of injury; and

B. can reasonably be expected to ~~benefit from~~ return to suitable gainful employment through the provision of rehabilitation services ~~which could significantly reduce or eliminate the decrease in employability~~.

Subp. ~~5.~~ 23. **Qualified rehabilitation consultant.** "Qualified rehabilitation consultant" means a person who is professionally trained and experienced and who is ~~approved~~ registered by the commissioner to provide an eligibility consultation and to develop and ~~monitor~~ implement an appropriate plan ~~for evaluation and provision~~ of ~~physical and vocational~~ rehabilitation services for an employee entitled to rehabilitation benefits under *Minnesota Statutes*, section 176.102. ~~A qualified rehabilitation consultant must be either affiliated as defined in subpart 6 or independent as defined in subpart 7.~~

Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

Subp. 8. [See repealer.]

Subp. ~~8a.~~ 24. **Qualified rehabilitation consultant firm ~~or firm~~.** "Qualified rehabilitation consultant firm" ~~or "firm"~~ means a public or private business, whether organized as a sole proprietorship, partnership, association, corporation, or other form, which is held out to the public as a business entity engaged in rehabilitation consultation and services. ~~Only a qualified rehabilitation consultant independent shall be associated with or employed by a firm as defined in this subpart.~~

Subp. 25. **Registered rehabilitation vendor.** "Registered rehabilitation vendor" means a public or private entity registered by the commissioner and existing wholly or in part for the provision of rehabilitation services in accord with an approved rehabilitation plan.

Subp. 26. **Rehabilitation consultation.** "Rehabilitation consultation" means one or both of the following consistent with *Minnesota Statutes*, section 176.102, subdivision 4, and parts 5220.0110 to 5220.0130.

A. "Claim screening consultation" means an assessment of the likelihood that an injured employee will uneventfully return to work without rehabilitation services. A claim screening consultation uses a report which refers the employee for an eligibility consultation, rehabilitation services, or both, or requests a waiver of rehabilitation services.

B. "Eligibility consultation" means a meeting of the employee and assigned qualified rehabilitation consultant to determine whether the employee is a qualified employee, as defined in subpart 22, to receive rehabilitation services, as defined in subpart 29.

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Subp. ~~9.~~ 27. **Rehabilitation plan.** "Rehabilitation plan" means a written document completed by ~~a~~ the assigned qualified rehabilitation consultant ~~and which describes the manner and means by which it is proposed that a qualified employee may be returned to suitable, gainful employment through the use of rehabilitation service. The plan shall take into consideration the qualified employee's unique disabilities and assets~~ on a form prescribed by the commissioner describing a vocational goal and the specific services by which the qualified employee will be returned to suitable gainful employment.

Subp. ~~9a.~~ 28. **Rehabilitation provider.** "Rehabilitation provider" means the following four categories of rehabilitation professionals:

A. qualified rehabilitation consultants;

B. qualified rehabilitation consultant interns;

C. qualified rehabilitation consultant firms; and

D. registered rehabilitation vendors.

Subp. ~~10.~~ 29. **Rehabilitation ~~service~~ services.** "Rehabilitation ~~service~~ services" means ~~service required to determine an employee's eligibility as a qualified employee, and service designed to return an individual to suitable, gainful employment by returning the individual to a job with the former employer or to a job related to the individual's former employment, or by placing the individual in a job in another work field, or by placing the individual in a job with higher economic status than would have occurred without the disability if it can be demonstrated that this is necessary to increase the likelihood of reemployment. The service may include, but is not limited to, medical evaluation, medically prescribed physical rehabilitation, work evaluation, counseling, job analysis, job modification, job placement, on-the-job training, or retraining.~~ a program of vocational rehabilitation, including medical management, designed to return an individual to work consistent with *Minnesota Statutes*, section 176.102, subdivision 1. The program begins with the first in-person visit of the employee by the assigned qualified rehabilitation consultant, including a visit for purposes of an eligibility consultation. The program consists of the sequential delivery and coordination of services by rehabilitation providers under an individualized plan. Specific services under this program may include, but are not limited to, vocational evaluation, counseling, job analysis, job modification, job development, job placement, labor market survey, vocational testing, transferable skills analysis, work adjustment, job seeking skills training, on-the-job training, and retraining.

Subp. 10a. [See repealer.]

Subp. 11. [See repealer.]

Subp. 30. **Required progress record.** "Required progress record" means a record maintained by the rehabilitation provider that documents the rehabilitation provider's services and the employee's rehabilitation progress. The record shall include all case notes and written reports whether or not they are submitted to the commissioner and all correspondence received or prepared by the rehabilitation provider about an employee's rehabilitation.

Subp. 31. **Required rehabilitation report.** "Required rehabilitation report" means the claim screening consultation report, the eligibility consultation report and any other report that must be submitted to the commissioner whenever a rehabilitation plan is initiated, proposed to be amended, suspended or closed, or when a change of assigned qualified rehabilitation consultant occurs on a case.

Subp. 32. **Retraining plan.** "Retraining plan" means an individualized written plan describing the formal course of study through which the goal of the rehabilitation plan may be accomplished. Adult basic education or remedial programs may be a component of a retraining plan but do not constitute retraining in and of themselves.

Subp. ~~12.~~ 33. **Review panel.** "Review panel" means the rehabilitation review panel created by *Minnesota Statutes*, section 176.102, subdivision 3.

Subp. ~~13.~~ 34. **Suitable gainful employment.** "Suitable gainful employment" means employment which is reasonably attainable and which offers an opportunity to restore the injured employee as soon as possible and as nearly as possible to employment which produces an economic status as close as possible to that which the employee would have enjoyed without disability. Consideration shall be given to the employee's former employment and the employee's qualifications, including, but not limited to, the employee's age, education, previous work history, interests, and skills.

Subp. 14. [See repealer.]

Subp. 15. [See repealer.]

Subp. 35. **Transferable skills analysis.** "Transferable skills analysis" means identifying and comparing skills learned in previous vocational or avocational activities with those required by occupations which are within the qualified employee's physical and mental capabilities.

Subp. 36. **Vocational evaluation.** "Vocational evaluation" means the comprehensive assessment of vocational aptitudes and potential, using information about a qualified employee's past history, medical and psychological status, and information from appropriate vocational testing. The testing may use paper and pencil instruments, work samples, simulated work stations, or assessment

in a real work environment.

Subp. 37. **Vocational rehabilitation.** "Vocational rehabilitation" means the sequential delivery and coordination of services by rehabilitation providers under a rehabilitation plan to achieve the goal of suitable gainful employment.

Subp. 38. **Vocational testing.** "Vocational testing" means the measurement of vocational interests, aptitudes, and ability using standardized, professionally accepted psychometric procedures.

Subp. 39. **Work adjustment.** "Work adjustment" means the use of real or simulated work activity under close supervision at a rehabilitation facility or other work setting to develop appropriate work behaviors, attitudes, or personal characteristics.

Subp. 40. **Work hardening.** "Work hardening" means a physical conditioning program in a clinical setting designed to develop strength and tolerance for work or a schedule of graduated resumption of employment consistent with the employee's physical condition.

5220.0105 INCORPORATION BY REFERENCE.

The following documents are incorporated by reference only to the extent specifically referenced in parts 5220.0100 to 5220.1910. The documents in items A and B are not subject to frequent change, although new editions may occasionally be published. The documents in item C are revised annually. All documents are available through the Minitex interlibrary loan system.

A. The Dictionary of Occupational Titles, fourth edition, 1977, United States Department of Labor, is available for purchase through the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. A revised edition is planned for late 1991.

B. The *Guide to Job Analysis*, March 1982, is published by and available for purchase through the Materials Development Center, Stout Vocational Rehabilitation Institute, University of Wisconsin-Stout, Menomonie, WI 54751.

C. The Commission on Accreditation of Rehabilitation Facilities (CARF) Directory of Accredited Organizations Serving People With Disabilities and its *Standards Manual for Organizations Serving People With Disabilities*, 1991, are revised annually and available for purchase at 101 North Wilmot Road, Suite 500, Tucson, Arizona 85711.

5220.0110 REHABILITATION CONSULTATION; CLAIM SCREENING CONSULTATION.

Subpart 1. **Purpose.** A claim screening consultation is used to assess whether an employee will return to work in the near future and to report the status of the employee with respect to rehabilitation referral.

Subp. 2. **Criteria.** An insurer shall provide a claim screening consultation so that the entire rehabilitation consultation takes place no later than five days after an employee has accumulated 60 days of lost work time due to a work injury. If an employee has a work injury to the back, the entire rehabilitation consultation shall be provided no later than five days after an employee has accumulated 30 days of lost work time. The claim screening consultation shall be provided before the lost work time requirements above in cases where an employer receives information that indicates that the employee will be unable to return to work at the job held at the time of injury. The claim screening consultation shall then be provided within five days of receipt of the information.

Subp. 3. **Procedure and documentation.** The insurer, in consultation with the employee and the medical provider, shall make an assessment of the need for rehabilitation and indicate on the claim screening consultation report, the rehabilitation referral status of the employee as listed in item C. The claim screening consultation and supplementary information shall be documented by the insurer on a claim screening consultation report form prescribed by the commissioner.

A. Time for filing. The claim screening consultation report shall be filed with the commissioner and mailed to the employee within five days of the claim screening consultation.

B. Contents. The claim screening consultation report shall contain substantially the following:

(1) identifying information on the employee, employer, and insurer;

(2) information describing the employee's physical limitations and capabilities and medical status;

(3) a description of the job held at time of injury, including the physical demands of the job; and

(4) information about the likelihood of the employee's return to the preinjury job in the absence of a rehabilitation plan.

C. Recommendations. The claim screening consultation report shall indicate the rehabilitation referral status of the employee by:

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(1) referring the employee to a qualified rehabilitation consultant or to the employee's selection of a qualified rehabilitation consultant, if one is selected by the employee, to provide eligibility consultation;

(2) referring the employee to a qualified rehabilitation consultant or to the employee's selection of a qualified rehabilitation consultant, if one is selected by the employee, to begin rehabilitation services;

(3) requesting to waive referral for eligibility consultation and rehabilitation services, if the employee meets the criteria for a waiver of rehabilitation services under part 5220.0120, subpart 2; or

(4) indicating if there exists a dispute about medical causation or whether the injury arose out of and in the course and scope of employment, so that the commissioner may make appropriate referral under *Minnesota Statutes*, section 176.104, subdivision 1.

D. Objection or waiver. The employee may object to the insurer's recommendation or request a waiver of consultation and rehabilitation services by filing a rehabilitation request for assistance with the commissioner.

Subp. 4. **Commissioner's authority.** If a claim screening consultation report is not filed according to this part, the commissioner may refer the employee for an eligibility consultation by a qualified rehabilitation consultant at the insurer's expense according to *Minnesota Statutes*, section 176.102, subdivision 4, paragraph (b).

Subp. 5. **Penalties.** The commissioner or compensation judge may assess a penalty of $300 against an insurer who fails to provide a rehabilitation consultation to an employee who meets any of the criteria in subpart 2. The insurer may object to the penalty as provided in *Minnesota Statutes*, section 176.84 and part 5220.2870.

5220.0120 WAIVER OF ELIGIBILITY CONSULTATION AND REHABILITATION SERVICES.

Subpart 1. **Purpose.** The rehabilitation waiver is used where appropriate to defer the initiation of eligibility consultation and rehabilitation services.

Subp. 2. **Criteria.** A rehabilitation waiver may be requested when (1) the employee meets the lost time requirement for a rehabilitation consultation, but there is a reasonable expectation that the employee will return to the preinjury job in the near future without rehabilitation services, or (2) information indicates that the employee would not benefit at that time from rehabilitation services.

Subp. 3. **Procedure and documentation.** Provision for a waiver request is included in the claim screening consultation report. Any waiver requested on the claim screening consultation report shall be according to the requirements of parts 5220.0110 to 5220.0130.

Subp. 4. **Effective period of waiver.** A waiver of rehabilitation services is effective for 60 days from the date of the commissioner's receipt of the request for waiver unless the commissioner denies the request.

Subp. 5. **Renewal of waiver.** If the employee does not return to work during the waiver period, the insurer shall, at the expiration of the waiver period, make a new determination and file another claim screening consultation report referring the employee for an eligibility consultation or requesting renewal of the waiver. The approval of a renewal of waiver requires a showing of the existence of one of the criteria in subpart 2. The commissioner may permit a waiver for periods longer than 60 days if good cause is shown.

5220.0130 REHABILITATION CONSULTATION; ELIGIBILITY CONSULTATION.

Subpart 1. **Purpose.** An eligibility consultation is used to determine whether an employee is a qualified employee as defined by part 5220.0100, subpart 22, and, if so, to begin the development of a rehabilitation plan with the employee.

Subp. 2. **Criteria.** An insurer shall provide an eligibility consultation by a qualified rehabilitation consultant if the criteria of part 5220.0110, subpart 2, have been met, and:

A. a waiver has not been requested;

B. a request for a waiver has been denied;

C. there is no longer a basis for a waiver;

D. a waiver period has expired without renewal; or

E. it is ordered by the commissioner.

Subp. 3. **Consultation.** The procedure and documentation for an eligibility consultation are contained in items A to E.

A. Time for referral. When an insurer refers an employee to a qualified rehabilitation consultant for an eligibility consultation or rehabilitation services, the insurer shall make that referral at the same time the claim screening consultation report is filed.

The claim screening consultation report and a copy of the first report of injury shall be sent by the insurer to the assigned qualified rehabilitation consultant for the eligibility consultation.

B. Actions. During the first in-person meeting with the employee for purposes of completing the eligibility consultation, the assigned qualified rehabilitation consultation shall:

(1) meet with the employee and, including those items in part 5220.1803, subparts 1 and 1a, explain the employee's rights and all responsibilities regarding rehabilitation, including the employee's right to choose qualified rehabilitation consultants; and

(2) gather information which will permit a determination of the employee's eligibility for rehabilitation.

C. Contents of report. The eligibility consultation and supplementary information shall be documented by the assigned qualified rehabilitation consultant on an eligibility consultation report form prescribed by the commissioner containing substantially the following:

(1) identifying information of the employee, employer, insurer, and qualified rehabilitation consultant;

(2) the eligibility consultation date;

(3) the employee's work status;

(4) information indicating the presence of factors that affect the employee's ability to return to the preinjury job, including the identification of barriers to successful rehabilitation; and

(5) a professional opinion about whether the employee can reasonably be expected to return to suitable gainful employment through the provision of rehabilitation services at this time and the basis for that opinion.

D. Time for filing. An eligibility consultation report shall be completed by the assigned qualified rehabilitation consultant in all cases. The assigned qualified rehabilitation consultant shall file the eligibility consultation report within 30 days of the first in-person meeting with the employee and concurrently mail a copy to the insurer and the employee.

E. Employee's objection. The employee may object to the qualified rehabilitation consultant's recommendations by filing a rehabilitation request for assistance with the commissioner.

Subp. 4. **Penalty.** The commissioner or compensation judge may assess a penalty of $300 against an insurer who fails to provide a rehabilitation eligibility consultation to an employee who meets the criteria in part 5220.0130, subpart 2, unless the commissioner or a compensation judge determines the eligibility consultation is not required. The insurer may object to the penalty as provided in *Minnesota Statutes*, section 176.84, and part 5220.2870.

5220.0410 REHABILITATION PLAN.

Subpart 1. **Purpose.** The purpose of the rehabilitation plan is to communicate to all interested parties the vocational goal, the rehabilitation services, and the projected amounts of time and money that will be needed to achieve the vocational goal.

Subp. 2. **Requirements.** If an employee is a qualified employee under part 5220.0100, subpart 22, the assigned qualified rehabilitation consultant shall, in consultation with the parties, develop, record, and file a rehabilitation plan on the form prescribed by the commissioner containing substantially the following:

A. information identifying the employee, employer, insurer, and assigned qualified rehabilitation consultant;

B. the employee's occupation at time of injury, the Dictionary of Occupational Titles, which is incorporated by reference in part 5220.0105, code for that occupation, and the vocational goal of the rehabilitation plan;

C. itemization of the rehabilitation services to be provided including any vendor names, anticipated dates of service initiation, anticipated service completion dates, estimated service costs, and projected total plan cost and plan completion date;

D. a summary of planned treatment or physical rehabilitation, including the treating doctor's name, the employee's diagnoses and physical restrictions, relevant medical reports documenting the restrictions or the estimated date on which restrictions will be available, other complicating factors to be considered and methods of dealing with those factors;

E. the dated signatures of the employee, insurer, and assigned qualified rehabilitation consultant if the parties are in agreement with the plan;

F. employee comments, if any; and

G. instructions to the parties that if they disagree with the plan they have 21 days from their receipt of the proposed plan to resolve the disagreement or object to the proposed plan, and that an objection must be sent to the Department of Labor and Industry for resolution.

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Authoritative references for describing a vocational history and a vocational goal in the plan, and for analyzing jobs are the Dictionary of Occupational Titles and the Guide to Job Analysis. These documents are incorporated by reference in part 5220.0105.

Subp. 3. **Process.** Upon preparation of the proposed plan, and within 60 days of the first in-person contact between the assigned qualified rehabilitation consultant and the employee, the qualified rehabilitation consultant shall provide to all parties a copy of the proposed rehabilitation plan on a form prescribed by the commissioner.

Subp. 4. **Party's response.** Upon receipt of the proposed rehabilitation plan, each party must, within 21 days, either:

A. sign the plan signifying agreement and return it to the assigned qualified rehabilitation consultant; or

B. promptly notify the assigned qualified rehabilitation consultant of any objection to the plan and work with the assigned qualified rehabilitation consultant to resolve the objection by agreement.

However, if the objection is not resolved, the objecting party must file a rehabilitation request for assistance with the commissioner within 21 days of receipt of the proposed plan. These disputes will be resolved according to part 5220.0950.

If no rehabilitation request for assistance objecting to the plan is filed within 21 days of the party's receipt, the plan approval process will occur as provided in subpart 6.

Subp. 5. **Filing the plan.** The assigned qualified rehabilitation consultant shall file the rehabilitation plan and the initial evaluation narrative report, as required by part 5220.1803, subpart 5, with the commissioner within 90 days of the first in-person contact between the qualified rehabilitation consultant and the employee or within 30 days of circulation to the parties, whichever is earlier.

Subp. 6. **Plan approval.** A rehabilitation plan that all parties have signed is deemed approved by the commissioner upon filing.

If a party fails to sign the plan or fails to file a rehabilitation request for assistance objecting to the proposed plan within the 21 days specified in subpart 4, item B, it shall be presumed that the party is in substantial agreement with the plan's vocational objective and the services that are proposed. In this event the plan, with evidence of the date it was sent to each party, shall be filed with the department by the assigned qualified rehabilitation consultant and, upon receipt, the plan will be deemed approved. A party's failure to sign a plan shall not constitute a waiver of any right to subsequently dispute the plan or to dispute payment of rehabilitation fees relative to the plan.

The commissioner may at any time request additional information, confer with the parties, recommend modifications, and otherwise seek agreement about the plan. The commissioner may approve or modify the plan, schedule an administrative conference, or refer the matter to a compensation judge to approve or modify the plan.

Commencement of a plan without objection from the commissioner shall not constitute a waiver or an estoppel of the commissioner's or compensation judge's authority over the plan.

Subp. 7. **Communication with treating doctor.** Upon filing of the rehabilitation plan with the commissioner, the assigned qualified rehabilitation consultant shall, within the limitations of part 5220.1802, subpart 5, send a copy of the employee's rehabilitation plan to the employee's treating doctor.

Subp. 8. **Adherence to plan.** The services provided by rehabilitation providers shall be according to the approved rehabilitation plan.

Subp. 9. **Administration of plan.** All rehabilitation services shall be provided to an employee pursuant to *Minnesota Statutes*, section 176.102, as stated in the rehabilitation plan and any subsequent amendments, and shall be administered exclusively by a person or business entity registered and approved by the commissioner as a qualified rehabilitation consultant or a qualified rehabilitation consultant firm.

The assigned qualified rehabilitation consultant shall monitor registered rehabilitation vendor compliance with the rehabilitation plan.

Job placement services shall be provided by rehabilitation providers registered by the commissioner or a facility accredited by the National Commission on Accreditation of Rehabilitation Facilities (CARF), Tucson, Arizona. The CARF Directory of Accredited Organizations Serving People with Disabilities and its Standards Manual for Organizations Serving People with Disabilities are incorporated by reference in part 5220.0105.

Subp. 10. **Disputes.** In the case of a dispute about a rehabilitation plan, any party may file a rehabilitation request for assistance according to *Minnesota Statutes*, chapter 176, or part 5220.0950.

5220.0510 PLAN AMENDMENT AND CLOSURE.

Subpart 1. **Reasons for amendment.** Whenever circumstances indicate that the rehabilitation plan objectives are not likely to be achieved, proposals for plan amendment may be considered by the parties. A rehabilitation plan may be amended for good cause, including but not limited to:

A. a new or continuing physical limitation that significantly interferes with the implementation of the plan;

B. the employee is not participating effectively in the implementation of the plan;

C. a need to change the vocational goal of the rehabilitation plan;

D. the projected rehabilitation cost or duration, as stated in the rehabilitation plan, will be exceeded; or

E. the employee feels ill-suited for the type of work for which rehabilitation is being provided.

Subp. 2. **Procedure and responsibilities.** The assigned qualified rehabilitation consultant may recommend a plan amendment when reasons for amendment are present. Parties other than the assigned qualified rehabilitation consultant may propose amendments. It is the responsibility of the assigned qualified rehabilitation consultant to facilitate discussion of proposed amendments.

The assigned qualified rehabilitation consultant shall promptly report any agreed upon amendment of the plan on the form prescribed by the commissioner. If the parties are not able to privately resolve disagreements about plan amendment, a party may request amendment of the rehabilitation plan on a form prescribed by the commissioner and the dispute shall be resolved according to subpart 8.

Subp. 3. **Requirements.** The rehabilitation plan amendment shall be filed on the form prescribed by the commissioner. The prescribed form shall contain substantially the following:

A. identifying information on the employee, employer, insurer, and assigned qualified rehabilitation consultant;

B. the proposed amendment;

C. a rationale for the amendment;

D. if the amendment adds rehabilitation services, an itemization of each additional rehabilitation service to be provided including any registered rehabilitation vendor names, dates of initiation and completion, and estimated costs of each service;

E. if the amendment will result in a change in the projected plan completion date, the new completion date;

F. if the amendment will result in a change in the projected plan cost, the new estimated cost;

G. employee comments, if any; and

H. the dated signatures of the employee, insurer, and assigned qualified rehabilitation consultant.

Subp. 4. **Amendment by commissioner.** At the discretion of the commissioner, the commissioner may amend the rehabilitation plan pursuant to *Minnesota Statutes*, sections 176.102 and 176.106, and the rules that implement those sections.

Subp. 5. **Request for closure before plan completion.** At any time, the insurer or employee may request the closure of rehabilitation services by filing a rehabilitation request for assistance with the commissioner. The commissioner or a compensation judge may close rehabilitation services for good cause, including, but not limited to:

A. a new or continuing physical limitation that significantly interferes with the implementation of the plan;

B. the employee's performance indicates that the employee is unlikely to successfully complete the plan;

C. the employee is not participating effectively in the implementation of the plan; and

D. the employee is not likely to benefit from further rehabilitation services.

Subp. 6. **Commissioner's authority to initiate closure.** The commissioner may initiate and order closure of rehabilitation services for good cause after notice to the parties of the proposed closure and after an opportunity for interested parties to submit information. The submission may be written or at an in-person meeting at the discretion of the commissioner.

Subp. 7. **Closure report by assigned qualified rehabilitation consultant.** When an employee's rehabilitation plan is completed and closure of rehabilitation services is not disputed, the assigned qualified rehabilitation consultant shall file a report on a form prescribed by the commissioner. When the reason for the closure is a return to work, the qualified rehabilitation consultant shall not complete and file the closure report until the employee has continued working for at least 30 calendar days following the return to work. The form reporting plan closure must be sent to the employee and the insurer when filed with the commissioner. The form shall contain substantially the following:

A. identifying information on the employee, employer, insurer, and assigned qualified rehabilitation consultant;

B. the outcome of the rehabilitation plan;

C. the employee's employment status:

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(1) if the employee is working, information identifying the employer with whom the employee returned to work, the job title and Dictionary of Occupational Titles code, the return to work date, the weekly wage, and whether the employee has continued working for 30 calendar days; or

(2) if the employee is not working, information explaining why the plan should be closed or whether additional rehabilitation services would be of benefit;

D. a summary of the rehabilitation services provided and rehabilitation costs by all qualified rehabilitation consultants, qualified rehabilitation consultant firms, and registered rehabilitation vendors; and

E. the assigned qualified rehabilitation consultant's dated signature.

Subp. 8. **Disputes.** In the case of a dispute about a plan amendment or closure, any party may file a rehabilitation request for assistance according to *Minnesota Statutes*, chapter 176, and part 5220.0950.

5220.0710 EMPLOYEE CHOICE OF QUALIFIED REHABILITATION CONSULTANT; CHANGE OF QUALIFIED REHABILITATION CONSULTANT.

Subpart 1. **Employee right to choose.** Pursuant to *Minnesota Statutes*, section 176.102, subdivision 4, the qualified employee has a right to choose an assigned qualified rehabilitation consultant as defined in part 5220.0100, subpart 3:

A. once:

(1) when the employee selects a qualified rehabilitation consultant before a referral by the insurer to a qualified rehabilitation consultant, or before a first in-person visit between a qualified rehabilitation consultant and the employee; or

(2) when the employee selects a qualified rehabilitation consultant before the end of 60 days following the first in-person visit between the employee and a qualified rehabilitation consultant selected by the insurer, in which case the employee shall notify the insurer and commissioner in writing of the name, address, and telephone number of the qualified rehabilitation consultant chosen; and

B. once when the employee selects a qualified rehabilitation consultant after 60 days following the first in-person visit between the employee and the assigned qualified rehabilitation consultant.

Subp. 2. **Documentation.** The new assigned qualified rehabilitation consultant shall promptly inform the commissioner of the change in assigned qualified rehabilitation consultant by filing the prescribed form with the commissioner. The prescribed form shall contain identifying information on the employee, employer, insurer, the new qualified rehabilitation consultant, and the former qualified rehabilitation consultant.

Subp. 3. **Dispute resolution.** After exhaustion of the employee's choices in subpart 1, any party may propose a change of assigned qualified rehabilitation consultant. The parties may at any time agree to a change and select a new qualified rehabilitation consultant. If a dispute about change or selection arises, and the parties are not able to resolve that dispute, the dispute shall be resolved by a determination of the commissioner or a compensation judge as provided in *Minnesota Statutes*, chapter 176, and part 5220.0950. If the employee's choices have not been exhausted, the determination shall be made according to the employee's choice. If the employee's choices have been exhausted, the determination shall be made according to the best interest of the parties, consistent with the objectives of *Minnesota Statutes*, section 176.102, subdivision 1.

Subp. 4. **Penalty.** A frivolous objection to or interference with the employee's choice of assigned qualified rehabilitation consultant under subpart 1 and *Minnesota Statutes*, section 176.102, subdivision 4, may subject the insurer to penalties under part 5220.2780, or a qualified rehabilitation consultant to disciplinary action pursuant to *Minnesota Statutes*, section 176.102, subdivisions 3 and 3a.

Subp. 5. **Employee residing or moving out of Minnesota.** Qualified employees who reside outside of Minnesota or who move out of Minnesota may receive services from a rehabilitation professional qualified under that jurisdiction's workers' compensation law to provide rehabilitation services. This subpart does not require the assignment of another rehabilitation professional if the services can be reasonably furnished by a rehabilitation provider registered in Minnesota. When services are provided outside of Minnesota by a rehabilitation professional qualified in that jurisdiction, an assigned qualified rehabilitation consultant in Minnesota shall monitor the provision of services, taking reasonable care to ensure that services are rendered according to Minnesota workers' compensation law and rules.

Subp. 6. **Change of consultant not an exercise of choice by employee.** A change of assigned qualified rehabilitation consultant necessitated by circumstances outside the control of the employee is not a choice by the employee and does not exhaust the employee's right to choice. Such circumstances include, but are not limited to, the assigned qualified rehabilitation consultant leaving practice or the extended illness of the assigned qualified rehabilitation consultant. Disputes about changes shall be resolved according to subpart 3.

5220.0750 RETRAINING.

Subpart 1. **Purpose.** The purpose of retraining is to return the employee to suitable gainful employment through a formal course

of study. Retraining is to be given equal consideration with other rehabilitation services, and proposed for approval if other considered services are not likely to lead to suitable gainful employment.

Subp. 2. **Plan submission.** A proposed retraining plan shall be filed on a form prescribed by the commissioner and must contain substantially the following:

A. identifying information on the employee, employer, insurer, and assigned qualified rehabilitation consultant;

B. the retraining goal;

C. information about the formal course of study required by the retraining plan, including:

(1) the name of the school;

(2) titles of classes;

(3) the course's length in weeks, listing beginning and ending dates of attendance;

(4) an itemized cost of tuition, books, and other necessary school charges;

(5) mileage costs; and

(6) other required costs;

D. starting and completion dates;

E. preinjury job title and economic status, including, but not limited to preinjury wage;

F. a narrative rationale describing the reasons why retraining is proposed, including a summary comparative analysis of other rehabilitation alternatives and information documenting the likelihood that the proposed retraining plan will result in the employee's return to suitable gainful employment;

G. dated signatures of the employee, insurer, and assigned qualified rehabilitation consultant signifying an agreement to the retraining plan; and

H. an attached copy of the published course syllabus, physical requirements of the work for which the retraining will prepare the employee, medical documentation that the proposed training and field of work is within the employee's physical restrictions, reports of all vocational testing or evaluation, and a recent labor market survey of the field for which the training is proposed.

Subp. 3. **Amendment.** The commissioner or a compensation judge may amend a retraining plan at the request of an employee if the employee believes that the occupation the employee is being trained for is not suitable, and if the employee's request is made within 90 days from the commencement date of the retraining. No more than one change shall be permitted for this reason. Other amendments may be requested by the parties according to part 5220.0510.

Subp. 4. **Compensation.** An employee who has been approved for retraining under *Minnesota Statutes*, section 176.102, subdivision 11, may petition the commissioner or a compensation judge for additional compensation, not to exceed 25 percent of the compensation otherwise payable, if the employee will incur a special, unusual, or unique circumstance during the retraining period that would otherwise reduce the likelihood that the retraining plan will be successfully completed. Additional compensation is not warranted under this subpart if the circumstance on which the request is based is compensable as a cost of the rehabilitation plan under *Minnesota Statutes*, section 176.102, subdivision 9. The commissioner or a compensation judge may order an award of additional compensation and specify the amount to be awarded. When the employee is entitled to additional compensation for retraining, the compensation shall begin on the first day the special, unusual, or unique circumstance of the retraining is present but not before the start of the retraining program, and shall stop at any time the special, unusual, or unique circumstance is no longer present. The commissioner or compensation judge may determine the date of commencement and the date of discontinuance of the additional compensation.

Subp. 5. **Retraining plan approval.** When the retraining plan is submitted to the commissioner, the commissioner shall review the proposed retraining plan within 30 days of its submission and notify the parties of plan approval or denial. The commissioner may also request additional information from the parties, confer with the parties, recommend modifications and otherwise seek agreement about the plan. The commissioner may make a determination or pursue resolution of questions regarding the plan consistent with part 5220.0950, subpart 3.

Subp. 6. **Disputes.** In the case of a dispute about a retraining plan, any party may file a rehabilitation request for assistance according to *Minnesota Statutes*, chapter 176 or part 5220.0950.

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5220.0850 ON-THE-JOB TRAINING.

Subpart 1. **Objective of on-the-job training.** The primary objective of on-the-job training as defined in part 5220.0100, subpart 22, is gainful employment with the on-the-job training employer that is likely to restore the employee as close as possible to preinjury economic status. A proposed on-the-job training plan may be rejected by the commissioner or compensation judge if the plan is unlikely to achieve this primary objective. However, documentation that the training will increase employability with other employers may be a basis for approval.

Subp. 2. **Plan submission.** A proposed on-the-job training plan shall be filed on a form prescribed by the commissioner and must contain substantially the following:

A. identifying information on the employee, employer, insurer, and assigned qualified rehabilitation consultant;

B. information identifying the on-the-job training employer;

C. the title of the job for which the employee is being trained and its Dictionary of Occupational Titles code number;

D. a job analysis of the training position;

E. information documenting that the training position is within the employee's physical restrictions;

F. a description of the skills the employee will acquire as a result of the training;

G. training commencement and completion dates;

H. the intervals at which the plan progress will be assessed;

I. information indicating whether the on-the-job training employer will provide employment to the employee upon completion of the training;

J. the employee's wage during and after training;

K. supplies and tools required by the plan and their cost;

L. weekly workers' compensation benefits to be paid by the insurer during the training;

M. dated signatures of the employee, insurer, assigned qualified rehabilitation consultant, on-the-job training employer, and training instructor signifying agreement with the plan; and

N. a narrative rationale describing the reasons why on-the-job training is proposed, including information that demonstrates that the on-the-job training will result in the employee's return to a job that produces, as close as possible, the preinjury economic status.

Subp. 3. **Duration of plan.** A plan for on-the-job training that will last longer than six months may be justified by information that a plan that exceeds six months is needed to master required skills, or that training that exceeds six months will significantly increase the likelihood that the employee will recover preinjury economic status.

Subp. 4. **On-the-job training plan approval.** When an on-the-job training plan is submitted to the commissioner, the commissioner shall review the proposed plan within 30 days of its submission and notify the parties of plan approval or rejection. The commissioner may also request additional information from any of the parties, confer with the parties, recommend modifications, and otherwise seek agreement about the plan. The commissioner may make a determination or pursue resolution of questions regarding the plan consistent with part 5220.0950, subpart 3.

Subp. 5. **Disputes.** In the case of a dispute about an on-the-job training plan, any party may request resolution according to *Minnesota Statutes*, chapter 176 and part 5220.0950.

5220.0950 DISPUTES.

Subpart 1. **Request for assistance.** Where issues exist about an employee's entitlement to rehabilitation services, the appropriateness of a proposed plan, or any other dispute about rehabilitation, a party may request assistance to resolve the disputed issues by filing a form prescribed by the commissioner. The form with all its attachments must be served on all parties and be filed with the commissioner. The form must contain substantially the following:

A. identifying information on the employee, employer, insurer, and assigned qualified rehabilitation consultant;

B. a statement of the rehabilitation issues to be resolved;

C. a statement of what the requester wants and supporting evidence and arguments;

D. a list showing that all parties were served and the date they were served;

E. the requester's name and signature; and

F. instructions for completion of the form.

Subp. 2. **Action by commissioner.** The commissioner may refer the dispute to a compensation judge, or, based on the written submissions of the parties, determine the issue or schedule an administrative conference prior to a determination. The commissioner may request that the parties meet and confer informally before a conference.

The commissioner may order reasonable medical examinations and rehabilitation evaluations at the expense of the insurer before a determination.

When the commissioner or compensation judge makes a determination on the issues in dispute, copies shall be served on the parties. No determination will be made by the commissioner under *Minnesota Statutes*, section 176.106, with respect to rehabilitation entitlement if primary liability has been denied.

Subp. 3. **Commissioner discretion to initiate dispute resolution.** The commissioner may independently determine that issues exist about an employee's entitlement to rehabilitation, the appropriateness of a proposed plan, or any other disputes involving rehabilitation. The commissioner may initiate the dispute resolution process under subpart 2 by serving notice on the parties of the rehabilitation issues to be resolved.

Subp. 4. **Formal hearing.** A party that disagrees with a decision of the commissioner may request a formal hearing pursuant to part 5220.1010.

5220.1010 REQUEST FOR A FORMAL HEARING.

Any party who disagrees with a decision of the commissioner about rehabilitation under *Minnesota Statutes*, section 176.106 and part 5220.0950 may request a new, formal hearing by filing a form prescribed by the commissioner within 30 days of the service and filing of the commissioner's decision. The request must state what issues continue to be in dispute and must be received by the commissioner within 30 days of service and filing of the commissioner's decision. A copy of the request for hearing shall be served on all parties at the time of filing.

5220.1100 LEGAL REPRESENTATION.

When an employee or ~~employer~~ insurer is represented by an attorney ~~in rehabilitation matters before the commissioner,~~ and if a notice of representation has not already been filed, the attorney shall notify the commissioner ~~shall, at the earliest possible date, be notified in writing of the name, address, and telephone number of said representative~~ as provided in part 1415.0800. The attorney will receive notices as provided in part 5220.2890. The value of rehabilitation services shall not be used in the calculation of attorney's fees. The legal fees shall be calculated in the manner provided by law. ~~Any representative~~ An attorney who has so advised the commissioner will be notified of any ~~meetings~~ proceedings, and will receive ~~any reports~~ rehabilitation reports as provided by part 5220.1802, subpart 3.

5220.1200 ~~MANDATORY~~ REHABILITATION SERVICES~~;~~, SETTLEMENT AGREEMENTS.

~~Rehabilitation services pursuant to an approved rehabilitation plan are mandatory for qualified employees. A qualified~~ An employee's right to rehabilitation services shall not be subject to compromise and shall not be convertible into cash or other benefits by settlement and release agreement or otherwise. When a good faith dispute exists ~~as to qualified employee status~~, however, the possible right to rehabilitation services may be converted into cash by settlement agreement. Any settlement agreement purporting to ~~limit or~~ compromise ~~access to~~ all rehabilitation services must be approved by the commissioner, a compensation judge, or the workers' compensation court of appeals. ~~The value of rehabilitation services shall not be used in calculation of attorneys' fees. The legal fees shall be calculated in the same manner as in other types of cases.~~

5220.1250 QUALIFIED REHABILITATION CONSULTANT AND REGISTERED REHABILITATION VENDOR.

An entity may be approved either to provide rehabilitation services as a registered rehabilitation vendor or as a qualified rehabilitation consultant. The roles of vendor and consultant are distinct and, therefore, a qualified rehabilitation consultant may not be, or function as, a registered rehabilitation vendor or the agent of a vendor. There shall be no ownership or financial relationships of any kind between any registered rehabilitation vendor and qualified rehabilitation consultant or qualified rehabilitation consultant.

5220.1400 QUALIFYING ~~ELIGIBILITY~~ CRITERIA FOR REHABILITATION CONSULTANT.

Subpart 1. **Requirement.** To become registered as a qualified rehabilitation consultant, the certification, education, and internship requirements of subparts 2 to 5 must be met.

Subp. 2. **Certification and education.** A qualified rehabilitation ~~consultant/affiliated/independent~~ consultant shall possess at least one of the following credentials ~~as applicable~~:

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A. ~~holder of~~ a baccalaureate degree, together with certification by the Board of Rehabilitation Certification as a certified rehabilitation counselor or a certified insurance rehabilitation specialist; or

B. ~~holder of~~ a baccalaureate degree together with certification by the Association of Rehabilitation Nurses as a certified rehabilitation registered nurse ~~and current licensure as a registered nurse in Minnesota~~.

Persons who ~~are~~ were qualified rehabilitation consultants on June 15, 1987, must ~~obtain~~ have obtained the certification described in item A or B by June 15, 1989. If a qualified rehabilitation consultant lacks two years or more of the experience required to meet the certifying body's minimum experience or internship requirement, the time for becoming certified shall equal the time remaining for completion of the certifying body's minimum experience or internship requirement. If a qualified rehabilitation consultant must also obtain a baccalaureate degree to meet the certifying body's minimum education requirements, the qualified rehabilitation consultant shall have an additional four years to become certified. If an examination is required for certification, the time allowed for certification under this part must include ~~at least~~ two scheduled examinations which the applicant is eligible to take. ~~The qualified rehabilitation consultant shall select on the consultant's next annual application for registration the certifying body and program under which the qualified rehabilitation consultant is seeking certification.~~ Persons who ~~are~~ were qualified rehabilitation consultant interns on June 15, 1987, may become qualified rehabilitation consultants under the requirements in place ~~prior to June 15, 1987~~ before that date. Upon becoming qualified rehabilitation consultants, such persons must obtain certification as required by this ~~paragraph~~ subpart.

Subp. 3. **Qualified rehabilitation consultant intern.** The purpose of internship is to provide a supportive, structured period of professional supervision and case review following registration. An individual who meets the requirements of subpart 2, item A or B may be registered as a qualified rehabilitation consultant intern. An individual who meets the requirements of subpart 2, item A or B, except that two years or less of internship or experience remains as a requirement for certification, may be registered as a qualified rehabilitation consultant intern. ~~The~~ A qualified rehabilitation consultant intern must ~~work for at least one year as a qualified rehabilitation consultant intern in the rehabilitation of injured workers~~ complete an introductory training session sponsored by the department within six months of approval of registration. A qualified rehabilitation consultant intern shall not be a solo practitioner. When the intern is registered, the intern's employer shall provide the commissioner with the name of the qualified rehabilitation consultant under whose direct supervision the intern will work, and shall submit a plan of supervision on forms ~~required~~ prescribed by the commissioner. Direct supervision means that the supervisor is directly responsible for the rehabilitation work on any case, and for monitoring progress toward the certification required by this subpart. The intern supervisor need not maintain an office at the same location as the intern. The supervisor shall cosign all written work being done by the intern ~~and~~. There shall be no billing by the supervisor for these supervisory duties. The supervisor shall attend all administrative conferences with the intern and shall arrange for training ~~and seminars~~ as required by the commissioner. ~~So that all parties are aware of the intern's status.~~ The intern shall be designated as an "intern" on all documents bearing the name of the intern. ~~The intern may make application for "qualified" status when the minimum requirements in subpart 2, item A or B have been met.~~

Substantiated complaints about professional ~~behavior~~ activities or services, or failure to comply with laws, rules, or ~~decisions and~~ orders under *Minnesota Statutes*, chapter 176, are grounds for denial of registration as a qualified rehabilitation consultant, discipline under *Minnesota Statutes*, section 176.102, subdivisions 3 and 3a, or delay of completion of internship. The intern may appeal the ~~denial~~ decision of the commissioner as provided in part 5220.1500, subpart 2.

In cases where an intern has been supervised by a qualified rehabilitation ~~consultant/affiliated~~ consultant who leaves the organization with which the intern has been ~~affiliated~~ employed and no other qualified rehabilitation consultant is available to supervise the intern, the intern may, with the prior written approval of the commissioner, ~~temporarily~~ sign all required documents in the capacity of a qualified rehabilitation consultant for a period of time deemed appropriate by the commissioner. Past performance and overall experience ~~will~~ shall be taken into consideration for this approval.

Subp. 4. ~~**Experience criteria**~~ **Completion of internship.** The burden of proof of experience shall be on the applicant. ~~This~~ The intern must work at least one year full time as an intern in the rehabilitation of injured workers under *Minnesota Statutes*, section 176.102. Evidence of experience shall include documentation of a history of employment in a position of ~~physical rehabilitation or~~ vocational rehabilitation. ~~The experience requirements of subpart 2 for qualified rehabilitation consultants can be met only by full-time paid employment. School internship and volunteer activities are not acceptable as employment experience.~~ For purposes of this subpart, "full-time employment" is consistent with the employment experience requirement of the certifying body chosen by the qualified rehabilitation consultant intern. Where there is no definition of full-time employment by the certifying body chosen by the qualified rehabilitation consultant intern, full-time employment means a minimum of 37 hours per week during a 52-week period. Any part-time employment will be prorated based on this definition. The intern may make application for completion of internship when the minimum requirements in subparts 2 to 5 have been met.

~~Supporting documents shall consist of signed statements by present and previous employers and insurers specifying the services, caseload, and amount of time spent in rehabilitation of work-related injuries and diseases.~~

The commissioner's action on the intern's application for completion of internship shall be based in part on the report of the qualified rehabilitation consultant intern supervisor about the competence of the intern to practice independently. The commissioner

shall also consider information about the intern's professional competence including that obtained in the course of any investigation about professional conduct, and on any substantiated complaints regarding professional conduct.

Subp. 5. **General criteria.** All persons who are qualified rehabilitation consultants shall be ~~exclusively~~ self-employed or ~~exclusively~~ employed by a single organization that is approved for the employment of qualified rehabilitation consultants as a qualified rehabilitation consultant firm or an ~~employer/insurer~~ employer or insurer. Qualified rehabilitation consultants must be available to clients, and for administrative conferences or hearings during normal business hours. A qualified rehabilitation consultant employed by an employer or insurer that is not registered as a qualified rehabilitation consultant firm is permitted to provide rehabilitation consultation and services only for the claims being handled by the entity by whom the consultant is employed. A qualified rehabilitation consultant shall notify the department immediately upon changing employment. Notification shall include the name of the former place of employment, the name, address, and telephone number of the new place of employment and the effective date of new employment.

~~All persons who are qualified rehabilitation consultants~~ Registration shall ~~be residents of~~ require Minnesota residency. ~~An organization authorized for the employment of qualified rehabilitation consultants~~ The commissioner may ~~request~~ grant an exception for ~~a consultant~~ persons who ~~lives contiguous to a Minnesota catchment area if the organization and~~ reside no more than 100 miles by road from the Minnesota border. Any such qualified rehabilitation consultant agrees, as ~~a~~ an additional condition ~~to approval~~ of registration, to appear at any administrative conference or hearing when requested, in the same manner as if ~~they had been~~ subpoenaed. ~~Failure to do so shall result in automatic revocation of the individual consultant's approval.~~ A qualified rehabilitation consultant shall notify the department immediately upon any change in residency to or from Minnesota.

~~A qualified rehabilitation consultant operating on June 15, 1987, who is registered is deemed to meet the standards of this part. Registered qualified rehabilitation consultant interns operating on February 7, 1984, must meet the minimum requirements in effect on February 6, 1984, in order to make application for qualified rehabilitation consultant registration.~~

5220.1500 PROCEDURE FOR ~~QUALIFYING~~ REGISTRATION AS QUALIFIED REHABILITATION CONSULTANT.

Subpart 1. **Application to become a qualified rehabilitation consultant intern.** An individual desiring to receive approval and registration as a qualified rehabilitation consultant intern shall submit to the commissioner, a complete application consisting of the following:

A. completed ~~and,~~ signed, and notarized application form ~~which is notarized~~;

B. copy of ~~current~~ any pertinent license or certification;

C. ~~supporting experience~~ documentation supporting any applicable experience requirements;

D. official transcripts of all ~~schools attended beyond high school~~ pertinent postsecondary education;

E. ~~list of pertinent continuing education by title, location, and date;~~

~~F.~~ list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees; ~~and~~

~~G.~~ F. the annual registration application fee of $100 ~~for each qualified rehabilitation consultant or qualified rehabilitation consultant intern~~; and

G. a plan of supervision as required by part 5220.1400, subpart 3.

Subp. 1a. **Approval of registration as qualified rehabilitation consultant intern.** Where the requirements for registration are met, the commissioner shall issue a ~~notice of acceptance or rejection~~ letter to the applicant so indicating within 60 days of ~~receipt of~~ receiving the completed application. ~~Acceptance will be provisional until the completion of an introductory training session.~~ After registration has been approved, the registration application fee is not refundable. If the requirements for qualified rehabilitation consultant intern are not met, the commissioner shall issue a decision and order denying registration to the applicant within 60 days of receipt of the completed application. If the application for registration is not approved, one-half of the registration application fee may be refunded.

Subp. 2. **Appeal process.** The appeal process provides a mechanism for applicants to request reconsideration of a ~~rejected application for registration, renewal, and reinstatement~~ decision and order denying registration or renewal of registration.

A written notice of appeal shall be filed with the commissioner within 30 days of ~~mailing~~ filing and service of ~~notice of disapproval~~ the order.

The ~~decision~~ appeal shall be ~~reviewed by~~ referred to the rehabilitation review panel according to *Minnesota Statutes*, section

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176.102, subdivision 3. ~~The applicant shall be advised of the date, time, and place of the review at least ten days prior to the hearing date, and is encouraged to be present.~~

Subp. 3. **Registration number and renewal.** ~~The applicant must complete an introductory training session before approval is final.~~ The commissioner shall assign a registration number to each ~~qualified~~ registered rehabilitation ~~consultant and consultant intern~~ provider. ~~The registration number shall be on all reports submitted by the consultant and consultant intern.~~

Registration must be renewed annually. ~~No later than~~ A rehabilitation provider shall request renewal on a form prescribed by the commissioner. Application for renewal is due 60 days before expiration of registration, ~~the consultant shall request registration renewal on a form prescribed by the commissioner~~ accompanied by the appropriate registration fee. Registration renewal applications that are not complete, are not accompanied by the registration renewal fee, or are not accompanied by documentation of certification or satisfactory documentation of continuing education will be returned to the applicant for completion. Completed registration renewal applications received later than the due date shall be assessed a $25 late fee. Registration renewal applications received more than 30 days after the due date shall be assessed an additional $10 per day late fee for each day after the request is 30 days late. No late fee in excess of $125 may be assessed.

Substantiated complaints about activities or services, or failure to comply with laws, rules, or orders under *Minnesota Statutes*, chapter 176, are grounds for denial of renewal of registration as a qualified rehabilitation consultant, discipline under *Minnesota Statutes*, section 176.102, subdivisions 3 and 3a, or delay of completion of internship. The decision of the commissioner may be appealed as provided in subpart 2.

Service and fee schedules shall be filed with the commissioner whenever there is a change ~~or~~ and no less than once each calendar year at the time of renewal of registration. This filing shall not constitute an approval or disapproval of the services and fees.

Subp. 3a. **Continuing education.** To retain registration, ~~the~~ a qualified rehabilitation consultant ~~and~~ or qualified rehabilitation consultant intern ~~must~~ shall submit satisfactory documentation of ~~approved~~ current certification required by part 5220.1400, subpart 2. A qualified rehabilitation consultant or qualified rehabilitation consultant intern who is not yet certified shall submit satisfactory documentation of continuing education pertinent to the workers' compensation rehabilitation field equivalent to ~~30~~ 20 contact hours each year at the time registration is renewed. Continuing education includes, but is not limited to, the following:

A. postsecondary course work in rehabilitation related fields, including vocational rehabilitation, medical rehabilitation, psychology of disability, and occupational safety;

B. publicly or privately sponsored training in rehabilitation related fields, including vocational rehabilitation, medical rehabilitation, psychology of disability, and occupational safety;

C. continuing legal education courses about workers' compensation law; and

D. rehabilitation related training sponsored and approved by the commissioner.

Satisfactory documentation shall include legible certificates of attendance bearing the name of the participant that are signed and dated by the sponsoring institution or organization. Receipts for tuition are not acceptable as satisfactory documentation of attendance.

Continuing education units must be obtained in the 12-month period immediately preceding the date on which registration renewal forms are due. ~~At least ten contact hours must be approved by the commissioner as directly pertinent to the Minnesota workers' compensation law; remaining contact hours must be approved by the Board of Rehabilitation Certification for continuing certification as a certified rehabilitation counselor or certified insurance rehabilitation specialist or by the Association of Rehabilitation Nurses for continuing certification as a certified rehabilitation registered nurse. Satisfactory documentation shall include original certificates of attendance signed by the institution or organization sponsoring the approved continuing education units. Receipts for tuition are not acceptable as satisfactory documentation of attendance.~~

~~A qualified rehabilitation consultant intern or newly registered vendor shall attend at least one introductory training session provided by rehabilitation and medical services within six months of being registered.~~

~~Rehabilitation and medical services~~ The department of labor and industry's annual rehabilitation provider update sessions are mandatory for all ~~qualified~~ rehabilitation ~~consultants, consultant interns, and all registered vendors~~ providers.

Nonattendance at the mandatory orientation or update sessions is prohibited conduct for rehabilitation providers, but may be allowed only for emergency situations and must be reported to the commissioner.

Subp. 4. ~~**Nonrenewal and suspension**~~ **Inactive status.** If an interval of one year occurs without providing direct case service to workers' compensation recipients or without providing supervision to qualified rehabilitation consultants or qualified rehabilitation consultant interns who provide direct case service to workers' compensation recipients, the registration ~~and approval is automatically suspended~~ will not be renewed upon expiration. A qualified rehabilitation consultant or qualified rehabilitation consultant intern may apply for reinstatement of registration by providing verification to ~~rehabilitation and medical services~~ the commissioner of ~~his or her~~ current certification as required by part 5220.1400, continued attendance at all annual update sessions, and fulfillment of continuing education requirements as provided by ~~parts 5220.0100 to 5220.1900~~ subpart 3a. The applicant must complete an ~~introductory~~

orientation training session before ~~approval~~ acceptance is final. ~~The suspension~~ An order regarding renewal of registration may be appealed to the rehabilitation review panel ~~in accordance with subpart 5, item B~~ according to *Minnesota Statutes*, section 176.102, subdivision 3.

Subp. 5. ~~**Revocation**~~ **Monitoring.** The commissioner ~~may~~ shall review the professional activities and services of ~~registered qualified~~ rehabilitation ~~consultants and vendors~~ providers to determine if they are ~~in compliance~~ reasonable and comply with ~~all rehabilitation services'~~ laws, rules, or orders under *Minnesota Statutes*, chapter 176.

~~A. When the commissioner becomes aware of an alleged violation concerning a qualified rehabilitation consultant or vendor he shall notify in writing the qualified rehabilitation consultant or vendor. The qualified rehabilitation consultant or vendor may then respond by letter or by requesting an administrative conference. If the qualified rehabilitation consultant or vendor does not request an administrative conference, the commissioner shall order that a conference occur unless the complaint is found to be frivolous or without merit. After the administrative conference, the commissioner shall determine if he should discipline the individual or firm based upon applicable rules and statutes and all evidence gathered by the conference. Regardless of the commissioner's decision, he shall issue an order setting forth the reasons for his actions. If discipline is decided on by the commissioner, it shall consist of one or more of the following:~~

~~(1) a written reprimand requesting the individual or firm to cease actions which resulted in the lack of compliance with rehabilitation services' rules;~~

~~(2) a full restitution of improperly charged fees and services by the individual or firm to the insurance carrier;~~

~~(3) an extension of intern status for up to six months beyond part 5220.1400 requirements for application;~~

~~(4) a restriction or prohibition on accepting new cases for up to six months.~~

~~If the commissioner imposes discipline twice in five years upon an individual or firm, the next alleged violation shall be referred to the rehabilitation review panel for review. An individual's discipline shall not be attributed to his employing firm unless the violation for which discipline is imposed also constitutes a violation by the firm and results in discipline to the firm.~~

~~B. An individual or firm may appeal the commissioner's disciplinary action to the rehabilitation review panel by requesting a hearing in writing to the director of rehabilitation services within 30 calendar days of the commissioner's determination.~~

~~C. Upon the commissioner's referral of a third alleged violation, the firm or individual shall be given written notice of the referral and grounds for the review.~~

~~D. The rehabilitation review panel shall follow the hearing procedures set forth in *Minnesota Statutes*, section 176.102, subdivision 3a. The panel shall take one or more of the following actions in reviewing rehabilitation providers alleged violations such as:~~

~~(1) absolving the individual or firm of any alleged rehabilitation rule violation;~~

~~(2) written reprimand;~~

~~(3) demotion of a qualified rehabilitation consultant to qualified rehabilitation consultant intern status;~~

~~(4) probation of a qualified rehabilitation consultant, qualified rehabilitation consultant intern, or vendor;~~

~~(5) revocation of qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor status.~~

~~E. Procedures to appeal the determination of the review panel shall be as follows:~~

~~(1) The panel's written decision and order shall act as a final order for purposes of implementing discipline. The decision is appealable to the Workers' Compensation Court of Appeals and must be filed in accordance with its rules; and~~

~~(2) Unless otherwise ordered by the panel, an individual or firm whose registration has been revoked must wait at least one year from the effective date of revocation to reapply for a registered status.~~

Subp. 6. **Revocation.** The revocation process shall be conducted as provided in *Minnesota Statutes*, section 176.102, subdivisions 3 and 3a.

5220.1600 PROCEDURE FOR APPROVAL AS ~~A~~ QUALIFIED REHABILITATION CONSULTANT FIRM.

Subpart 1. **Criteria.** The qualified rehabilitation consultant firm shall be licensed to do business in Minnesota and shall maintain an administrative office within the state. Each office of the qualified rehabilitation consultant firm that provides services to injured

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employees under *Minnesota Statutes*, chapter 176, shall be listed on the application described in subpart 2 and shall employ on the premises at least one qualified rehabilitation consultant or qualified rehabilitation consultant intern. The management staff shall consist of at least one member who is registered as a qualified rehabilitation consultant. Eighty percent of the nonclerical staff shall be ~~eligible,~~ qualified rehabilitation consultants or qualified rehabilitation consultant interns~~, provided that~~; any firm that is not in an office sharing arrangement with another firm may have ~~at least~~ one nonclerical employee who is not a qualified rehabilitation consultant or qualified rehabilitation consultant intern. ~~The firm shall not provide the services designated only as rehabilitation vendor services.~~ Any branch office openings or closings shall be reported to the department immediately.

Subp. 2. **Application.** A private or public entity desiring to be approved as a qualified rehabilitation consultant firm shall submit to the commissioner a complete application consisting of the following:

A. a completed ~~and~~, signed, and notarized application ~~(notarized)~~; ~~and~~

B. any data or information attached to support the application; ~~and~~

C. a list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees; and

D. the annual registration application fee of $200 per firm.

Subp. 2a. **Approval of registration as a qualified rehabilitation consultant firm.** The approval process shall be conducted the same as provided in part 5220.1500, subpart 1a.

Subp. 3. **Appeal process.** The appeal process ~~herein~~ shall be conducted the same as that provided in part 5220.1500, subpart 2.

Subp. 4. **Renewal.** The renewal process ~~herein~~ shall be conducted the same as that provided in part 5220.1500, subpart 4 3.

Subp. 5. **Revocation.** The revocation process ~~herein~~ shall be conducted ~~the same~~ as ~~that~~ provided in ~~part 5220.1500, subpart 5~~ *Minnesota Statutes*, section 176.102, subdivisions 3 and 3a.

5220.1700 PROCEDURE FOR APPROVAL AS REGISTERED REHABILITATION VENDOR.

Subpart 1. **Application.** A private or public entity desiring to be approved as a registered rehabilitation vendor shall submit to the commissioner a complete application consisting of all of the following:

A. A completed ~~and~~, signed, and notarized application.

B. Any data or information ~~attached~~ to support an application should be attached.

C. A list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees.

D. The annual registration application fee of $200 for each registered rehabilitation vendor.

Subp. 1a. **Approval as registered rehabilitation vendor.** The approval process shall be conducted the same as provided in part 5220.1500, subpart 1a.

Subp. 2. **Appeal process.** The appeal process herein shall be conducted ~~the same~~ as ~~that~~ provided in part 5220.1500, subpart 2.

Subp. 3. **Renewal.** The renewal process herein shall be conducted the same as that provided in part 5220.1500, subpart 4 3.

Subp. 4. **Revocation.** The revocation process herein shall be conducted ~~the same~~ as ~~that~~ provided in ~~part 5220.1500, subpart 5~~ *Minnesota Statutes*, section 176.102, subdivisions 3 and 3a.

Subp. 5. **Restriction.** Registered rehabilitation vendors shall not employ or otherwise engage the services of qualified rehabilitation consultants.

5220.1800 STANDARDS OF PERFORMANCE.

The standards of conduct described in parts 5220.1801 to ~~5220.1805~~ 5220.1806 establish minimum standards concerning the professional activities and services of ~~qualified~~ rehabilitation ~~consultants and rehabilitation vendors in Minnesota~~ providers. ~~The~~ Performance evaluations ~~by rehabilitation services~~ and monitoring of ~~qualified~~ rehabilitation ~~consultants and vendors~~ providers by the commissioner, and the administration of rehabilitation provider discipline under *Minnesota Statutes*, section 176.102, subdivision 3a, will be based upon these standards, as well as on ~~the~~ adherence to *Minnesota Statutes*, ~~section 176.102 and~~ chapter 176, rules adopted to administer it, and orders of the commissioner or a compensation judge.

5220.1801 PROFESSIONAL CONDUCT.

Subpart 1. **~~Services provided under the plan~~ Prompt provision of service and assessment of progress.** ~~In accord with part 5220.0100, subpart 9,~~ The ~~qualified~~ assigned qualified rehabilitation consultant ~~or vendor~~ and any registered rehabilitation vendor providing services under a plan shall provide prompt and necessary rehabilitation services ~~under a rehabilitation plan~~ to assist a qualified employee to return to suitable gainful employment. The qualified rehabilitation consultant ~~or vendor~~ shall ~~implement only those rehabilitation plans with which the employee, the employer/insurer, and the qualified rehabilitation consultant agree~~ periodically assess progress toward plan objectives on a basis agreed upon among the parties and as required by the commissioner.

Subp. 2. **Assigned qualified rehabilitation consultant.** Only the assigned qualified rehabilitation consultant, or a qualified rehabilitation consultant designated by the assigned qualified rehabilitation consultant to function in an advisory capacity to the assigned consultant, shall be involved at any given time in the employee's rehabilitation ~~effort~~ plan, except as stated in subparts ~~4~~ 6 and ~~5~~ 7. The assigned qualified rehabilitation consultant ~~must submit the rehabilitation plan to rehabilitation services and to the employer within 30 days of referral. The assigned qualified rehabilitation consultant must submit records or reports to the employer or employee as requested by the employer or employee.~~ shall advise the insurer before involving or requesting advisory services from any other qualified rehabilitation consultant. No qualified rehabilitation consultant or qualified rehabilitation consultant firm shall provide rehabilitation services to a case assigned to a qualified rehabilitation consultant employed by another qualified rehabilitation consultant firm. This subpart shall not apply to a qualified rehabilitation consultant acting on behalf of the reinsurance association in a monitoring or advisory capacity on a reinsurance claim file.

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 4a. **Objectivity.** Good faith disputes may arise among parties about rehabilitation services or about the direction of a rehabilitation plan. A rehabilitation provider shall remain professionally objective in conduct and in recommendations on all cases.

Subp. 5. **Evaluation of employee by other than assigned qualified rehabilitation consultant.** Except as provided in subpart 7, a rehabilitation provider is prohibited from performing an independent evaluation of an employee at any time unless a hearing has been scheduled before a compensation judge. If a hearing has been scheduled before a compensation judge ~~or a judicial body~~ at the office of administrative hearings, a qualified rehabilitation consultant who is not the ~~approved~~ assigned qualified rehabilitation consultant may perform an evaluation of the employee at the request of one of the parties solely for the purpose of the proceeding. ~~Rehabilitation services shall be notified in writing of the qualified rehabilitation consultant requested to do the evaluation. A copy of the evaluation report, if developed, shall be sent to rehabilitation services.~~

Subp. 6. **Qualified rehabilitation consultant as witness.** A qualified rehabilitation consultant who has testified as an expert witness for any party in a ~~judicial~~ hearing related to the employee's case before a compensation judge may not function thereafter as the ~~ongoing~~ assigned qualified rehabilitation consultant on the case unless agreed to by the employee.

Subp. 7. **Referrals.** ~~A~~ An assigned qualified rehabilitation consultant ~~or vendor~~ may make recommendations for referrals to appropriate resources.

Subp. 8. **Separate roles and functions.** The roles and functions of a claims agent and a ~~qualified~~ rehabilitation ~~consultant or vendor~~ provider are separate. A qualified rehabilitation consultant ~~or~~, qualified rehabilitation consultant intern, registered rehabilitation vendor, or an agent of a rehabilitation provider, shall engage only in those activities designated in *Minnesota Statutes*, section 176.102, and ~~its~~ rules adopted thereunder. ~~Claims adjustment and claims investigation activities such as unilaterally providing for an adverse medical, vocational, or rehabilitation examination except as provided for in subpart 5, aiding insurers in determining monetary workers' compensation benefits, or determining the reasonableness of medical or rehabilitation service are prohibited for a rehabilitation provider.~~ A qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered rehabilitation vendor shall not act as an advocate for or advise any party about a claims or entitlement issue. Qualified rehabilitation consultants, qualified rehabilitation consultant interns, and registered rehabilitation vendors shall not engage in claims adjustment, claims investigation, or related activities. Activities unrelated to rehabilitation services include, but are not limited to, making recommendations about the determination of workers' compensation monetary benefits, the reasonableness of medical charges, or arranging for an independent medical examination and are prohibited. This ~~subpart~~ part shall not prohibit a qualified rehabilitation consultant acting on behalf of the reinsurance association from consulting with the ~~primary~~ assigned qualified rehabilitation consultant regarding the rehabilitation plan.

Subp. 9. **Prohibited conduct.** The conditions and restrictions of practice as a rehabilitation provider are contained in parts 5220.0100 to 5220.1900 and *Minnesota Statutes*, section 176.102. The following conduct is specifically prohibited and is also grounds for discipline:

A. Reporting or filing false or misleading information or a statement in connection with a rehabilitation case or in procuring registration or renewal of registration as a rehabilitation provider, whether for oneself or for another.

B. Conviction of a felony or a gross misdemeanor reasonably related to the provision of rehabilitation services.

C. Conviction of crimes against persons. For purposes of this chapter, a crime against a person means a violation of any of the following sections: *Minnesota Statutes*, section 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.215, 609.221, 609.222,

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609.223, 609.224, 609.23, 609.231, 609.235, 609.24, 609.245, 609.25, 609.255, 609.265, 609.26, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.50, 609.561, 609.562, or 609.595.

D. Restriction, limitation, or other disciplinary action against the rehabilitation provider's certification, registration, or right to practice as a rehabilitation provider in another jurisdiction for offenses that would be subject to disciplinary action in this state, or failure to report to the department the charges which have been brought in another state or jurisdiction against the rehabilitation provider's certification, registration, or right to practice.

E. Failure or inability to perform professional rehabilitation services with reasonable skill because of negligence, habits, or other cause, including the failure of a qualified rehabilitation consultant to monitor a vendor or qualified rehabilitation consultant intern, or the failure of a rehabilitation provider to adequately monitor the performance of services provided by a person working at the rehabilitation provider's direction.

F. Engaging in conduct likely to deceive, defraud, or harm the public or demonstrating a willful or careless disregard for the health, welfare, or safety of a rehabilitation client.

G. Engaging in conduct with a client that is sexual or may be reasonably interpreted by the client as sexual or in any verbal behavior that is seductive or sexually demeaning to a client or engaging in sexual exploitation of a client or a former client.

H. Obtaining money, property, or services other than reasonable fees for services provided to the client through the use of undue influence, harassment, duress, deception, or fraud.

I. Engaging in fraudulent billing practice.

J. Knowingly aiding, assisting, advising, or allowing an unqualified person to engage in providing rehabilitation services.

K. Engaging in adversarial communication or activity. Adversarial communication includes, but is not limited to:

(1) requesting or reporting information not directly related to an employee's rehabilitation plan;

(2) deliberate failure or delay to report to all parties pertinent information regarding an employee's rehabilitation;

(3) misrepresentation of any fact or information about rehabilitation; or

(4) failure to comply with an authorized request for information about an employee's rehabilitation.

L. Providing an opinion on settlement and recommending entering into a settlement agreement.

M. Making a recommendation about retirement; however, a rehabilitation provider may assist an employee in contacting resources about a choice of retirement or return to work.

N. Failure to take due care to ensure that a rehabilitation client is placed in a job that is within the client's physical restrictions.

O. Failure to maintain service activity on a case without advising the parties of the reason why service activity might be stopped or reduced.

P. Failure to recommend plan amendment, closure, or another alternative when it may be reasonably known that the plan's objective is not likely to be achieved.

Q. Unlawful discrimination against any person on the basis of age, gender, religion, race, disability, nationality, or sexual preference, or the imposition on a rehabilitation client of any stereotypes of behavior related to these categories.

Subp. 10. **Professional competence.** Rehabilitation providers shall limit themselves to the performance of only those services for which they have the education, experience, and qualifications.

Rehabilitation providers shall accurately represent their level of skill and competency to the department, the public, and colleagues.

Rehabilitation providers shall not administer or interpret tests without proper training, experience, or credentials. Administration of tests must be supervised by a person who is so trained, experienced, or credentialed.

A rehabilitation provider shall understand the areas of competence of other professional persons with whom the rehabilitation client establishes relationships, and act with due regard for the needs, privileged nature, special competencies, and obligations of colleagues and other professionals and not disparage their qualifications.

Subp. 11. **Impaired objectivity.** A rehabilitation provider shall not use alcoholic beverages, medication, or controlled substances in a manner that impairs the provider's ability to perform the rehabilitation services.

Rehabilitation providers shall not use a professional relationship to further personal, religious, political, or financial interests, although adherence to ethical norms shall not be construed as personal or religious interest.

A rehabilitation provider must not undertake or continue a professional relationship in which the objectivity of the provider is or would be impaired due to a familial, social, emotional, economic, supervisory, or political interpersonal relationship.

The registered provider shall disclose any potential conflicts of interest to the parties to the case and their attorneys.

Adjudication of a rehabilitation provider as mentally incompetent, mentally ill, chemically dependent, or dangerous to the public by a court in any state is grounds for suspension or revocation of registration.

5220.1802 COMMUNICATIONS.

Subpart 1. **Legibility and content of required reports.** All required rehabilitation reports ~~submitted~~ and required progress records prepared by a ~~qualified~~ rehabilitation ~~consultant or vendor~~ provider shall be legible and show the employee's name, ~~social security~~ department file number, and date of injury~~, street address, county, zip code of residence, and legal representative, if any~~.

Subp. 2. **Submission of reports.** All required rehabilitation reports shall be submitted ~~in accordance with~~ on department forms ~~as~~ prescribed by the commissioner ~~under *Minnesota Statutes*, section 176.83, clause (j)~~.

Subp. 3. **Copies ~~to employer~~ of reports and records.** The ~~employer shall be provided with copies of all reporting forms.~~ assigned qualified rehabilitation consultant shall file all required rehabilitation reports with the commissioner, and provide copies to all parties and their attorneys as the reports are created by the consultant. The qualified rehabilitation consultant shall also provide a copy of required progress records to all parties and their attorneys upon the party's request. The qualified rehabilitation consultant may not charge for the initial copy or photocopy of required rehabilitation reports or required progress records. If additional copies are requested by any party, the qualified rehabilitation consultant is entitled to reasonable compensation for cost from the requesting party. A dispute about cost is not a basis for a provider to withhold required reports or records when requested.

The requesting party shall pay for reasonable costs incurred by a rehabilitation provider in creating a report not required by rule or requested by the commissioner or compensation judge.

Subp. 4. **~~Submission by~~ Registered rehabilitation vendor reporting.** ~~Vendors are to~~ At least each 30 days, the registered rehabilitation vendor shall submit all required progress records, required rehabilitation reports and cost information on an employee's case directly to the assigned qualified rehabilitation consultant.

Subp. 4a. **Transfer of information.** Whenever there is a change of assigned qualified rehabilitation consultants or consultant firms, the former qualified rehabilitation consultant firm shall cooperate in transferring to the new assigned qualified rehabilitation consultant or qualified rehabilitation consultant firm all data, required rehabilitation reports, required progress records, and incurred rehabilitation cost information along with other relevant information within 15 days from the receipt of notice that a new consultant is assigned under part 5220.0710. The former qualified rehabilitation consultant firm may not charge a party for the transfer of information to the new assigned qualified rehabilitation consultant or qualified consultant firm.

Subp. 5. **Data privacy.** A ~~qualified~~ rehabilitation ~~consultant or vendor~~ provider must comply with *Minnesota Statutes*, chapters 175 and 176, and all other applicable data privacy ~~acts~~ laws.

A rehabilitation provider shall not engage in communications with health care providers about an employee without the written consent of the employee.

A rehabilitation provider shall safeguard and maintain under conditions of security all information obtained in the course of providing rehabilitation consultation and services and shall limit records access to those parties for whom access is prescribed by *Minnesota Statutes*, section 176.102, subdivision 7, this chapter, or other applicable law.

When permitted by data privacy laws, disclosure of information obtained in the course of providing rehabilitation services is restricted to what is necessary, verified, and relevant to implementation of the rehabilitation plan.

A rehabilitation provider shall request only the information and data that will assist the parties in developing and carrying out the rehabilitation plan.

Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

Subp. 8. [See repealer.]

Subp. 9. [See repealer.]

Subp. 10. **Providing records.** The ~~qualified~~ rehabilitation ~~consultant or vendor~~ provider assigned to a case shall maintain all required progress records and copies of all required rehabilitation reports regarding a case and shall make these records available ~~or provide copies to rehabilitation services~~ upon request ~~by~~ to the commissioner. This subpart shall not apply to the reinsurance association, unless the reinsurance association has assumed primary responsibility for the claim pursuant to *Minnesota Statutes*, section 79.35, clause (g).

Subp. 11. **Access to medical and rehabilitation reports.** ~~A~~ The assigned qualified rehabilitation consultant shall ~~provide a vendor access to~~ furnish other rehabilitation providers designated by the rehabilitation plan with copies of all appropriate medical and rehabilitation reports ~~relating to a case~~ necessary for effective service provision by the other providers.

5220.1803 RESPONSIBILITIES.

Subpart 1. **Instruction by qualified rehabilitation consultant.** ~~A~~ The assigned qualified rehabilitation consultant ~~is to~~ shall, at the first in-person contact, instruct ~~the employee~~ employees of ~~his~~ their rights and responsibilities ~~by reviewing with him~~ relating to rehabilitation and of the purpose of rehabilitation services ~~and the rights and responsibilities of the injured workers~~. The assigned qualified rehabilitation consultant shall sign and date the prescribed rehabilitation rights and responsibilities form at the first in-person contact with the employee, and provide the employee, insurer, and commissioner with a copy.

Subp. 1a. **Disclosure of information.** The disclosures required by *Minnesota Statutes,* section 176.102, subdivision 4, must be made at the first meeting or written communication with an employee. For purposes of the disclosures the following terms shall have the meanings given them.

A. "Ownership interest" includes, but is not limited to, any partnership or holding, subsidiary, or corporate relationship as well as ordinary ownership interest.

B. "Business referral" means any referral arrangement, whether documented or not.

Subp. 2. **Knowledge of laws and rules.** A ~~qualified~~ rehabilitation ~~consultant or vendor~~ provider shall be knowledgeable and informed regarding portions of the workers' compensation law and rules that directly relate to the provision of rehabilitation services. ~~If a qualified rehabilitation consultant or vendor communicates~~ Communication of inaccurate information regarding workers' compensation ~~not directly related to rehabilitation services, the rehabilitation provider~~ is ~~subject to~~ grounds for discipline.

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. **Reporting requirements.** The assigned qualified rehabilitation consultant shall file with the commissioner, by attaching to all rehabilitation plans, an initial evaluation narrative report about the employee that includes the following information in summary fashion: medical status, vocational history, educational history, social history, relevant economic factors, transferable skills, employment barriers, and recommendations. The qualified rehabilitation consultant shall file additional progress summaries, if requested by the commissioner.

The assigned qualified rehabilitation consultant shall periodically report progress and case activity in writing to the parties at reasonable intervals or as requested by the parties.

The rehabilitation provider registration number assigned by the commissioner shall be on all reports submitted by the rehabilitation provider.

The assigned qualified rehabilitation consultant shall maintain individual employee files containing required rehabilitation reports and required progress records about an employee's case and shall provide copies to the commissioner, a compensation judge, or the parties at their request or as required by rule. Files must be maintained by the qualified rehabilitation consultant firm for five years from the date of file closure.

The assigned qualified rehabilitation consultant must provide the commissioner with any other requested pertinent information about a qualified employee's rehabilitation for purposes of rehabilitation monitoring by the department.

5220.1805 BUSINESS PRACTICES.

All ~~registered qualified~~ rehabilitation ~~consultants, qualified rehabilitation consultant interns, and vendors~~ providers shall abide by the following rules concerning a provider's business practices:

A. Rehabilitation providers shall adhere to all applicable federal, state, and local laws ~~regulating business practices~~.

B. Rehabilitation providers shall not misrepresent themselves, their duties, or credentials. ~~A~~ Rehabilitation ~~provider~~ providers must not promise or offer services or results ~~he~~ they cannot deliver or ~~has~~ have reason to believe ~~he~~ they cannot provide. ~~Competitive~~ Advertising must be factually accurate and must avoid exaggerating claims as to costs, results, and endorsements by other parties.

C. ~~If a fellow rehabilitation provider violates parts 5220.0100 to 5220.1910, a rehabilitation provider having actual personal knowledge about the violation must direct the information to rehabilitation services.~~

~~D.~~ A rehabilitation provider shall not solicit referrals directly or indirectly by offering money or gifts. De minimis gifts are not considered the offering of money or gifts. De minimis gifts are those that have a fair market value of less than $25.

D. A rehabilitation provider shall not request or authorize a rehabilitation client to solicit other business on behalf of the rehabilitation provider.

E. A rehabilitation provider shall advise the referral source and payer of its ~~fee structure~~ fees and reporting procedures in advance of rendering any services and shall also furnish, upon request, detailed and accurate time records regarding any bills in question.

Rehabilitation providers shall fully disclose to a payer the basis for computing and prorating a fee so that the payer may determine

the reasonableness of the fee charged. When more than one employee is served during the same time period, the rehabilitation provider shall prorate the fee.

F. Any fee arrangement which prevents ~~individual~~ or compromises individualized assessment and services for each employee ~~shall subject the providers to~~ is grounds for discipline. This may include any fee arrangement which provides employees with standardized services whether or not the services are necessary ~~shall also subject the rehabilitation providers to discipline~~.

G. A rehabilitation provider shall not incur profit, split fees, or have an ownership interest with another rehabilitation provider outside of ~~his or her own~~ the firm that employs the provider.

H. Qualified rehabilitation consultants shall not incur profit, split fees, or have an ownership interest with health care providers. "Health care providers" means those defined in *Minnesota Statutes*, section 176.011, subdivision 24.

I. The prohibitions of items F, G, and H shall not be construed to prevent married couples or family members from engaging simultaneously in rehabilitation or health care.

5220.1806 DISCIPLINARY ACTION.

Subpart 1. **Discipline.** A rehabilitation provider is subject to disciplinary action, including a fine as provided by statute, suspension, and revocation of registration. Discipline shall be based on substantiated complaints about activities or or that violate laws, rules, or orders under *Minnesota Statutes*, chapter 176.

Subp. 2. **Complaints.** For the purpose of determining compliance with laws, rules, or orders, the commissioner may review the activities of rehabilitation providers. Complaints about activities or services of rehabilitation providers relating to noncompliance with laws, rules, or orders shall be made in writing to the commissioner. A complaint may be submitted by any party who becomes aware of a violation, including designees of the commissioner, administrative law judges, and presiding officials at judicial proceedings.

If a rehabilitation provider violates *Minnesota Statutes*, chapter 176, or the rules adopted thereunder, a rehabilitation provider having knowledge of the violation must so advise the commissioner.

Subp. 3. **Review and investigation.** The commissioner shall review all complaints to determine if the complaint alleges violation of workers' compensation laws, rules, or orders. The commissioner may dismiss complaints or refer a matter outside the department's jurisdiction to a forum or agency that has jurisdiction. The complaining party shall be notified of a dismissal or referral. The commissioner may elect to resolve a complaint through the informal instruction of a provider.

If an investigation indicates a violation of the workers' compensation act, rules, or orders, the commissioner may begin a contested case for disciplinary action under *Minnesota Statutes*, section 176.102, subdivision 3a, and the Minnesota Administrative Procedure Act. The report of the administrative law judge shall be made to the rehabilitation review panel which shall make the determination on disciplinary action. The commissioner shall notify the complaining party of the disposition of the case.

Subp. 4. **Cooperation with disciplinary proceedings.** A rehabilitation provider who is the subject of a complaint investigated by the commissioner under *Minnesota Statutes*, section 176.102, subdivisions 3 and 3a, shall cooperate fully with the investigation. Cooperation shall include responding fully and promptly to any questions raised by the commissioner relating to the subject of the investigation, and providing copies of records, reports, logs, data, and cost information as requested by the commissioner to assist in the investigation. Cooperation shall also include attending, in person, a meeting scheduled by the commissioner for the purposes in subpart 5.

Subp. 5. **In-person meeting.** When conferring with the parties to a complaint is deemed appropriate for clarification or settlement of issues, the commissioner may schedule a meeting. The commissioner may conduct a meeting for the purpose of obtaining information, instructing parties to the complaint, or for the purpose of resolving issues.

Subp. 6. **Resolution written agreement.** The commissioner may enter into stipulated consent agreements regarding discipline with complaint subjects in lieu of initiating contested case proceedings.

5220.1900 REHABILITATION ~~SERVICES AND~~ SERVICE FEES AND COSTS.

Subpart 1. ~~Fee~~ **Monitoring.** ~~Rehabilitation services has the responsibility and jurisdiction under *Minnesota Statutes*, section 176.102, subdivisions 2 and 9 to monitor and determine reasonable rehabilitation costs, the necessity of services provided, and to resolve any disputes that may arise between the parties according to part 5220.1300.~~ The ~~employer/insurer~~ insurer has the primary

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responsibility for monitoring and paying the cost of necessary rehabilitation services provided. ~~Either the employer/insurer or a rehabilitation provider may request rehabilitation services to make a determination of reasonable costs and necessity of services.~~

The commissioner shall monitor rehabilitation services and costs and shall also conduct periodic audits of costs, services, case outcomes, and compliance with reporting and record keeping requirements. The ~~employer/insurer~~ insurer and the rehabilitation provider shall ~~provide rehabilitation services~~ furnish the commissioner with itemized listings of case services and costs upon request. ~~Rehabilitation services must~~ The commissioner may require uniform billing on a prescribed form and may contact ~~the~~ parties to discuss ~~costs and~~ services ~~deemed questionable by rehabilitation services or one of the parties~~ and costs. ~~Rehabilitation services may order an administrative conference to discuss services and fee disputes, whether initiated by one of the parties or by rehabilitation services.~~ Invoices and itemized billings for rehabilitation services shall be provided to the commissioner upon request.

Subp. 2. **Reasonable and necessary services.** A ~~qualified~~ rehabilitation ~~consultant or vendor~~ provider shall bill for only those necessary and reasonable services which are rendered in accordance with ~~rehabilitation services rules during completion of a plan~~ *Minnesota Statutes*, section 176.102 and the rules adopted to administer that section. A dispute about reasonable and necessary services and ~~fees~~ costs shall be determined by the commissioner or a compensation judge. The commissioner's or a compensation judge's review must include all the following factors:

A. the employee's unique disabilities and assets in relation to the goals, objectives, and timetable of the rehabilitation plan;

B. the type of rehabilitation services provided and the actual amount of time and expense incurred in providing the service;

C. ~~the rehabilitation providers' fee schedules on file with rehabilitation services and other fee schedules of providers on file with rehabilitation services;~~

~~D.~~ an evaluation of whether services provided were unnecessary, duplicated other services, were available at no charge to public, or were ~~excessively sophisticated for~~ excessive relative to the actual needs of the employee; and

~~E.~~ D. an evaluation of whether services rendered were expressly ~~authorized~~ called for by ~~either~~ the ~~employer, insurer, or~~ employee's rehabilitation ~~services;~~ plan.

~~F. an evaluation of whether *Minnesota Statutes*, chapter 176, and rehabilitation services' parts 5220.0100 to 5220.1910 have been followed by the provider~~.

~~No registered qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor shall attempt to collect reimbursement for an unnecessary or unreasonable procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program.~~

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 7. **Case activities requiring insurer consent for payment.** The rehabilitation provider must obtain the consent of the insurer before billing for the following case activities, however, the presence or absence of consent shall not preclude the commissioner or a compensation judge from determining the reasonable value or necessity of these case activities:

A. when not directed by the plan, phone calls, or visits to health care providers and accompanying employee to appointments or examinations;

B. follow-up activity with employers during job placement services to verify employee applications or applications not arranged by the rehabilitation provider;

C. phone calls to the department regarding general procedures or questions on rehabilitation direction not related to a specific rehabilitation plan;

D. unanswered attempted phone calls;

E. time spent for report writing not required by rules or requested by a party;

F. assigned qualified rehabilitation consultant service during vendor activity periods beyond required reporting or specific problem solving activity;

G. time for attendance at an administrative conference by the supervisor of the qualified rehabilitation consultant intern who is providing services to the employee;

H. before a determination of eligibility, services rendered when a rehabilitation waiver has been requested and was not denied or when the insurer disputes the employee's eligibility for rehabilitation services;

I. time spent reviewing the file and initial contact to establish rapport with interested parties by an assigned qualified rehabil-

itation consultant or registered rehabilitation vendor when a case has been transferred from another qualified rehabilitation consultant or vendor within the same rehabilitation firm;

J. time spent by a supervisor, another qualified rehabilitation consultant, or support staff in addition to the assigned qualified rehabilitation consultant;

K. job placement activities beyond 90 days from the start of the job placement effort without a formal plan review or case planning meeting with the employee and insurer;

L. wait time for a visit without a prearranged meeting or early arrival for a prearranged appointment;

M. services that duplicate services already provided;

N. charges beyond the hourly fee for testimony at a judicial hearing when the qualified rehabilitation consultant or registered rehabilitation vendor has provided rehabilitation services under the plan;

O. travel costs beyond those needed to develop or complete a plan; or

P. services after a request to suspend or terminate the rehabilitation plan has been filed.

Subp. 8. **Disputes.** In the event of a dispute about the reasonableness and necessity or cost of a rehabilitation service, the insurer or a rehabilitation provider may make a request for a determination by the commissioner or a compensation judge of reasonable costs and necessity of services. Such a request may be made by filing a request for resolution of a dispute according to *Minnesota Statutes*, chapter 176 or part 5220.0950.

Subp. 9. **Collection prohibited.** No rehabilitation provider shall attempt to collect a fee or reimbursement for an unnecessary or unreasonable service from any party, including the employee, another insurer, the special compensation fund, or any government program. This prohibition shall apply to any fee determined excessive in amount by the commissioner or a compensation judge.

5220.1910 APPROVED CLAIMS HANDLER.

Subpart 1. **Qualifications.** A person meeting all the requirements of this subpart is eligible for certification as an approved claims handler~~.~~:

A. at least one year of experience handling Minnesota workers' compensation claims and making decisions on acceptance or denial of Minnesota workers' compensation claims; ~~and~~

B. completion of a training session conducted by the commissioner; and

C. the person is not a rehabilitation provider as defined in part 5220.0100, subpart ~~9a~~ 28.

Subp. 2. **Procedure for obtaining approval.** The ~~employer,~~ insurer~~, or adjusting company~~ shall certify to the commissioner on a form prescribed for that purpose that the claims handler meets the requirements of this part. Approval is effective upon the commissioner's receipt of the certification. The approval remains in effect until the claims handler leaves the employ of the certifying entity, or the certification is withdrawn by the certifying entity. At the request of the commissioner, the certifying entity must consult with the commissioner regarding withdrawal of certification. The commissioner is authorized to withdraw approval if the claims handler does not meet the requirements of subpart 1.

5220.2650 RETURN TO WORK CONFERENCES.

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

Subp. 2. **Scope.** This part applies when an employee has received temporary total or temporary partial compensation for a total of at least 45 work days whether continuously or intermittently; and no rehabilitation plan in effect at the time the 14-day check is due has been approved under part ~~5220.0400~~ 5220.0410, subpart ~~2~~ 6. In addition, a return to work conference is also available when properly requested by the employee under subpart 4 and *Minnesota Statutes*, section 176.2421 because of an inability to work at least 14 work days upon the employee's return to work.

[For text of subps 3 to 8, see M.R.]

5220.2780 FAILURE TO PAY UNDER ORDER OR PROVIDE REHABILITATION; PENALTY.

Subpart 1. **Basis.** Where payment of compensation is not made within 14 days following an order as required by *Minnesota Statutes*, section 176.221, subdivisions 6a and 8, the division may assess the penalties provided in *Minnesota Statutes*, section 176.221, subdivisions 3 and 3a. Where rehabilitation services are not provided as required by *Minnesota Statutes*, sections 176.102, 176.221,

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subdivision 6a, and ~~part 5220.0300~~ parts 5220.0130, subpart 2 and 5220.0410, subpart 2, the division may assess the penalty provided in *Minnesota Statutes*, section 176.221, subdivision 3a.

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

EFFECTIVE DATE. *Minnesota Rules*, parts 5220.0105, 5220.0110, 5220.0120, 5220.0130, 5220.0410, 5220.0510, 5220.0710, 5220.0750, 5220.0850, 5220.0950, 5220.1010, 5220.1250, 5220.1806, and the amendments to parts 5220.0100, 5220.1100, 5220.1200, 5220.1400, 5220.1500, 5220.1600, 5220.1700, 5220.1800, 5220.1801, 5220.1802, 5220.1803, 5220.1805, 5220.1900, 5220.1910, 5220.2650, and 5220.2780 are effective January 2, 1992.

REPEALER. *Minnesota Rules*, parts 5220.0100, subparts 6, 7, 8, 10a, 11, 14, and 15; 5220.0210; 5220.0300; 5220.0400; 5220.0500; 5220.0600; 5220.0700; 5220.0800; 5220.0900; 5220.1000; 5220.1300; 5220.1801, subparts 3 and 4; 5220.1802, subparts 6, 7, 8, and 9; 5220.1803, subparts 3 and 4; and 5220.1900, subparts 3, 4, 5, and 6, are repealed.

Higher Education Coordinating Board

Proposed Permanent Rules Relating to Postsecondary Financial Assistance

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Higher Education Coordinating Board intends to adopt the above-entitled rule 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 (1990). The Board's authority to adopt the rule is set forth in *Minnesota Statutes* 136A.04, Subd. 1(9) and 136A.16 (1990).

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. That date would end on November 6, 1991 at 4:30 p.m. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day 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 rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* 14.131 to 14.20 (1990).

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

Mary Lou Dresbach
Minnesota Higher Education Coordinating Board
Capitol Square Building, Suite 400
550 Cedar Street
St. Paul, MN 55101

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

A copy of the proposed rule is attached to this notice.

A **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mary Lou Dresbach upon request.

If no hearing is required, upon adoption of the rule, the rule 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 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, must submit the written request to Mary Lou Dresbach.

Dated: 18 September 1991

David R. Powers
Executive Director

Rules as Proposed

4830.0100 DEFINITIONS FOR HIGHER EDUCATION PROGRAMS.

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

Subp. 1a. **Academic year.** "Academic year" means a period of time in which a full-time student is expected to complete:

A. the equivalent of at least two semesters, two trimesters, or three quarters at an institution that measures academic progress in credit hours and uses a semester, trimester, or quarter system;

B. before July 1, 1992, at least 24 semester hours or 36 quarter hours at an institution that measures academic progress in credit hours but does not use a semester, trimester, or quarter system;

C. after June 30, 1992, at least 30 semester hours or 45 quarter hours at an institution that measures academic progress in credit hours but does not use a semester, trimester, or quarter system; or

D. at least 900 clock hours at an institution that measures academic progress in clock hours.

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

Subp. 2a. **Certificate program.** After June 30, 1992, "certificate program" means a program that is:

A. offered by an eligible school as defined in part 4830.0300, subpart 1;

B. at least 12 quarter credits or the equivalent, or 300 clock hours for clock hour schools; and

C. at least ten weeks long.

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

Subp. 3a. **Designated rural area.** "Designated rural area" means the area outside the cities of Duluth, Mankato, Rochester, St. Cloud, and outside the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

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

Subp. 5. **Eligible student.** "Eligible student" means a student who meets, at a minimum, all of the following requirements:

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

E. is in good standing and making satisfactory academic progress, as ~~determined by the school~~ defined in *Minnesota Statutes*, section 136A.101, subdivision 10;

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

[For text of subps 6 to 8, see M.R.]

Subp. 8a. **Full-time.** Before July 1, 1992, "full-time" means enrollment in a minimum of 12 credits per quarter or semester, or the equivalent. After June 30, 1992, full-time means enrollment in a minimum of 15 credits per quarter or semester, or the equivalent.

[For text of subp 9, see M.R.]

Subp. 10. **Minnesota resident.** "Minnesota resident" means:

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

C. a student who graduated from a Minnesota high school, unless the student is a resident of a bordering state while attending a Minnesota high school; or

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

[For text of subps 10a to 12, see M.R.]

Higher Education Coordinating Board

Proposed Permanent Rules Relating to Postsecondary Financial Assistance

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Higher Education Coordinating Board intends to adopt the above-entitled rule 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 (1990). The Board's authority to adopt the rule is set forth in *Minnesota Statutes* 136A.04, Subd. 1(9) and 136A.16 (1990).

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.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. That date would end on November 6, 1991 at 4:30 p.m. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day 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 rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* 14.131 to 14.20 (1990).

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

Mary Lou Dresbach
Minnesota Higher Education Coordinating Board
Capitol Square Building, Suite 400
550 Cedar Street
St. Paul, MN 55101

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

A copy of the proposed rule is attached to this notice.

A **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mary Lou Dresbach upon request.

If no hearing is required, upon adoption of the rule, the rule 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 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, must submit the written request to Mary Lou Dresbach.

Dated: 18 September 1991

David R. Powers
Executive Director

Rules as Proposed

4800.8100 DEFINITIONS.

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

Subp. 2. [See repealer.]

Subp. 3. **Eligible institution.** "Eligible institution" shall be any public or private institution of higher education in Minnesota which is eligible for the state ~~grant in aid~~ grant program as defined in *Minnesota Statutes*, section 136A.101, subdivision 4 and part ~~4800.0200~~ 4830.0300 and that has foreign students enrolled.

[For text of subps 4 to 8, see M.R.]

Subp. 9. [See repealer.]

[For text of subps 10 and 11, see M.R.]

Subp. 12. **Total cost of education.** "Total cost of education" shall be defined as the institutional budget established for the state ~~grant in aid~~ grant program adjusted to include out-of-state tuition fee.

[For text of subp 13, see M.R.]

Subp. 14. [See repealer.]

4800.8300 EXECUTIVE DIRECTOR.

The executive director is hereby delegated necessary authority and responsibility for administration of the program in accordance with these rules, state law, and applicable federal laws and regulations, including issuing public information, ~~designing related forms, prescribing application procedures, prescribing procedures and terms for collection and repayment of loans, prescribing terms and conditions for agreements with eligible institutions, approving and disapproving applications,~~ and establishing such policies and practices as the executive director may deem necessary for effective administration in accordance with the purposes and requirements of the Minnesota foreign student assistance program.

4800.8400 GRANTING RESIDENT STATUS.

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

Subp. 2. **Scholarship and ~~grant in aid~~ grant recipients.** Eligible institutions shall have the authority to grant resident status to any foreign student who is a recipient of scholarship or grant funds contributed by Minnesota individuals, organizations, or corporations in sufficient amounts to cover such resident tuition fees provided that the institution documents that the scholarship or grant funds did not originate from the student or any member of the student's family.

4830.0400 APPLICATION DATES AND STUDENT ELIGIBILITY.

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

Subp. 4. **Eligibility for initial grant.** To be eligible for an initial grant a student must be an eligible student, as defined in part 4830.0100, subpart 5. ~~except E,~~ and:

A. demonstrate financial need;

B. if under 17 years old, hold a high school diploma or the equivalent;

C. ~~be enrolled in a program that is at least ten weeks long, and involves at least 12 academic credits or 300 clock hours; and~~ pursuing a program or course of study that applies to a degree, diploma, or certificate;

D. must not have received a previous Minnesota state grant; and

E. is not more than 30 days in arrears for any child support payments owed to a public agency responsible for child support enforcement or, if the student is more than 30 days in arrears, is complying with a payment plan for arrearages.

Subp. 5. **Renewal awards.** A grant is renewable for a maximum of six semesters, nine quarters, or the equivalent, but must not continue after the first of the following occurrences:

A. the recipient has obtained a baccalaureate degree; or

B. the recipient has been enrolled on a full-time basis for eight semesters, 12 quarters, or the equivalent. To be eligible to renew a grant a student must apply each year and continue to meet the requirements for an initial grant, except for subpart 4, item D. A student must have made satisfactory academic progress as ~~determined by the school~~ defined in *Minnesota Statutes*, section 136A.101, subdivision 10.

Subp. 5a. **Child support arrearages.** A grant is not renewable if the recipient is more than 30 days in arrears for any child support payment owed to a public agency responsible for child support enforcement and not subject to a payment plan for arrearages or not in compliance with a payment plan for the arrearages.

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

4830.2300 WORK-STUDY GRANTS.

A school shall determine if a student is eligible for a work-study grant. To be eligible a student must meet the requirements of part 4830.0100, subpart 5, items B ~~to~~, C, D, and F. A student employed during periods of nonenrollment must sign a statement of intent to enroll full-time the next term or provide proof of registration for the next term.

4830.2400 EMPLOYMENT TERMS; AMOUNT OF GRANTS.

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

Subp. 3. **Hourly wages.** Not less than ~~20~~ 30 percent of the amount earned by a student shall be paid by the employer, with the actual percentage determined by the school in consultation with the employer. A student shall be paid for hours actually worked at an hourly rate agreed to by the employer and the student, with the approval of the school. However, the student must be paid at least the state minimum wage, if the federal minimum wage is not applicable. Student earnings must be paid according to federal regulations governing payment of student earnings under the federal work-study program.

4830.8550 AWARDS.

The amount of the grant award is a percentage of the sum of the student's Pell grant and state grant for which the student is currently eligible. The percentage must be determined annually by the executive director based upon the money available to the program from state appropriations and the estimated financial need of the student. The minimum award amount is $100.

REPEALER. *Minnesota Rules*, parts 4800.8100, subparts 2, 9, and 14; 4800.8500; 4800.8600; 4800.8700; and 4800.8800, are repealed.

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Pollution Control Agency

Proposed Permanent Rules Relating to Land Disposal Restrictions for Hazardous Wastes

Notice of Intent to Adopt Rules 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 rule amendments without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1990). The MPCA's authority to adopt the rule amendments is set forth in *Minnesota Statutes* §§ 116.07, subd. 4 and 116.37 (1990).

All persons have until 4:30 p.m. on November 7, 1991, 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 proposed 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 (1990).

Comments or written requests for a public hearing must be submitted to: Nathan Brooks Cooley, Hazardous Waste Division, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, MN 55155-3898. Telephone 612/297-7544.

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 restricting the land disposal of untreated hazardous waste, if adopted, will incorporate several sets of federal regulations promulgated by the U.S. Environmental Protection Agency (EPA) between August 17, 1988 and January 31, 1991. The MPCA incorporated related land disposal regulations in a previous rulemaking. This rulemaking incorporates regulations restricting the land disposal of untreated hazardous wastes not previously addressed.

The proposed rule amendments are published below. The MPCA has also documented the need for and the reasonableness of the proposed rule amendments. One free copy of the rules and/or the Statement of Need and Reasonableness is available upon request at the address and telephone number stated above.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1990), "Small business considerations in rulemakings," that, except for one minor clarification, all of the proposed rule amendments were in effect in Minnesota under federal authority on their federal effective dates in lieu of this rulemaking. This rulemaking shifts primary enforcement authority for existing regulations from the EPA to the MPCA. This rulemaking has no substantive effect on any business subject to the amendments, including small businesses, since the regulations are already in effect.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and 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 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 rules, must submit the written request to Nathan Cooley at the above address.

Charles W. Williams
Commissioner

Rules as Proposed

7001.0520 PERMIT REQUIREMENTS.

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

Subp. 7. **Permit denial.** The commissioner may deny the permit application, whether or not the application is complete, either in its entirety or as to the active life of a hazardous waste management facility or unit only. The denial does not affect the requirement to obtain a postclosure permit under this part.

7001.0650 INTERIM STATUS.

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

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

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

B. The owner or operator may increase the design capacity of the facility if, before implementation of the increase, the owner or operator submits a revised Part A of the permit application and an explanation of the need for the change, and if the commissioner approves the increase in writing. The commissioner shall approve the change if the commissioner finds that:

(1) there is a lack of available treatment, storage, or disposal capacity at other permitted hazardous waste facilities; or

(2) the change is necessary to comply with a federal, state, or local requirement.

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

E. Changes may be made according to an interim status corrective action order issued by EPA under United States Code, title 42, section 3008(h), or other federal authority, by the agency, or by a court in a judicial action brought by EPA or the agency. Changes under this item are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

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

(1) changes made only for complying with parts 7045.0528, subpart 4, and 7045.0628, subpart 4, for tanks and ancillary equipment;

(2) if necessary to comply with federal, state, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of RCRA section 3004(o);

(3) changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility before the effective date of the rule establishing the new listing or identification;

(4) changes during closure of a facility or of a unit within a facility made according to an approved closure plan;

(5) changes necessary to comply with an interim status corrective action order issued by EPA under RCRA section 3008(h) or other federal authority, by an authorized state under comparable state authority, or by a court in judicial proceeding brought by EPA or an authorized state, provided that the changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility; and

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

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

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

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

7045.0020 DEFINITIONS.

[For text of subps 1 to 45, see M.R.]

Subp. 45a. **Inorganic solid debris.** "Inorganic solid debris" means nonfriable inorganic solids contaminated with D004-D011 hazardous wastes that are incapable of passing through a 9.5 millimeter standard sieve; that require cutting or crushing and grinding in mechanical sizing equipment prior to stabilization; and that are limited to the following inorganic or metal materials:

A. metal slags, either dross or scoria;

B. glassified slag;

C. glass;

D. concrete, excluding cementitious or pozzolanic stabilized hazardous wastes;

E. masonry and refractory bricks;

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F. metal cans, containers, drums, or tanks;

G. metal nuts, bolts, pipes, pumps, valves; appliances, or industrial equipment; and

H. scrap metal as defined in subpart 79a.

Subp. ~~45a~~ 45b. **Installation inspector.** "Installation inspector" means a person who, by ~~reason of his~~ knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

[For text of subps 46 to 59a, see M.R.]

Subp. 59b. **Nonwastewater.** "Nonwastewater" means hazardous waste that is not wastewater as defined in subpart 102c.

Subp. ~~59b~~ 59c. **Off-specification used oil.** "Off-specification used oil" means a used oil fuel that exceeds any of the specification levels for the following constituents or has a flash point less than 100 degrees Fahrenheit.

Constituent	Allowable level
Arsenic, total	5 parts per million maximum
Cadmium, total	2 parts per million maximum
Chromium, total	10 parts per million maximum
Lead, total	100 parts per million maximum
Total Halogens	4,000 parts per million maximum

Subp. ~~59c~~ 59d. **Onground tank.** "Onground tank" means a device meeting the definition of "tank" in subpart 90 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

[For text of subps 60 to 73, see M.R.]

Subp. 73a. **RCRA or Resource Conservation and Recovery Act.** "RCRA" or "Resource Conservation and Recovery Act" means the Resource Conservation and Recovery Act.

Subp. ~~73a.~~ 73b. **Receiving country.** "Receiving country" means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage, or disposal, except short-term storage incidental to transportation.

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

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

[For text of subps 74 to 102b, see M.R.]

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

A. F001, F002, F003, F004, or F005 wastewaters are solvent-water mixtures that contain less than one percent by weight total organic carbon or less than one percent by weight total F001, F002, F003, F004, or F005 solvent constituents listed in part 7045.1355;

B. K011, K013, or K014 wastewaters that contain less than five percent by weight total organic carbon and less than one percent by weight total suspended solids as generated; or

C. K0103 or K0104 wastewaters that contain less than four percent by weight total organic carbon and less than one percent by weight total suspended solids.

[For text of subps 103 to 109, see M.R.]

7045.0075 PETITIONS.

[For text of subps 1 to 8, see M.R.]

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

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

B. Each petition referred to in this subpart must include information described in subitems (1) to (5):

(1) A monitoring plan that describes the monitoring program installed at and around the unit to verify continued compliance with the conditions of the variance. This monitoring plan must provide information on the monitoring of the unit and the environment around the unit. The following specific information must be included in the plan:

(a) the media monitored in the cases where monitoring of the environment around the unit is required;

(b) the type of monitoring conducted at the unit, in the cases where monitoring of the unit is required;

(c) the location of the monitoring stations;

(d) the frequency of monitoring at each station;

(e) the specific hazardous constituents to be monitored;

(f) the implementation schedule for the monitoring program;

(g) the equipment used at the monitoring stations;

(h) the sampling and analytical techniques employed; and

(i) the data recording and reporting procedures.

(2) Where applicable, the monitoring program must be in place for a period of time specified by the commissioner, as part of the commissioner's approval of the petition, before receipt of prohibited waste at the unit.

(3) The monitoring data collected according to the monitoring plan must be sent to the commissioner according to a format and schedule specified and approved in the monitoring plan.

(4) A copy of the monitoring data collected under the monitoring plan must be kept on-site at the facility in the operating record.

(5) The monitoring program in subitem (1) must meet the following criteria:

(a) all sampling, testing, and analytical data must be approved by the commissioner and must provide data that is accurate and reproducible;

(b) all estimation and monitoring techniques must be approved by the commissioner; and

(c) a quality assurance and quality control plan addressing all aspects of the monitoring program must be provided to and approved by the commissioner.

C. After a petition has been approved, the owner or operator must report any changes in conditions at the unit and the environment around the unit that significantly depart from the conditions described in the variance and affect the potential for migration of hazardous constituents from the units as follows:

(1) If the owner or operator plans to make changes to the unit design, construction, or operation, the change must be proposed, in writing, and the owner or operator must submit a demonstration to the commissioner at least 30 days before making the change. The commissioner shall determine whether the proposed change invalidates the terms of the petition and will determine the appropriate response. Any change must be approved by the commissioner before being made.

(2) If the owner or operator discovers that a condition at the site which was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the commissioner within ten days of discovering the change. The commissioner shall determine whether the reported change from the terms of the petition requires further action, which may include termination of waste acceptance and revocation of the petition, petition modifications, or other responses.

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

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

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

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

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

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

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

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

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

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

[For text of subps 10 to 12, see M.R.]

7045.0131 CHARACTERISTICS OF HAZARDOUS WASTE.

Subpart 1. **In general.** A waste which is not excluded from regulation as a hazardous waste under part 7045.0120 is a hazardous waste if it exhibits ignitability, corrosivity, reactivity, toxicity, lethality, or is an oxidizer, as described in subparts 2 to 7. A hazardous waste which is identified by a characteristic in this part is assigned every hazardous waste number that is applicable. This number must be used in complying with the notification requirements of section 3010 of the federal Resource Conservation and Recovery Act and all applicable record keeping and reporting requirements under parts 7045.0205 to 7045.0642 and 7045.1300, and chapter 7001. For purposes of this part, the commissioner shall consider a sample obtained using any of the applicable sampling methods specified in Code of Federal Regulations, title 40, part 260, Appendix I or part 261, Appendix II, to be a representative sample.

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

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

C. it is an ignitable compressed gas as defined in Code of Federal Regulations, title 49, section 173.300 (1983) and as determined by the test methods described in that regulation or equivalent test methods approved by the commissioner under part 7045.0075, subpart 1.

A waste that exhibits the characteristic of ignitability~~, but is not listed as a hazardous waste in part 7045.0135,~~ has the hazardous waste number of D001.

Subp. 3. **Oxidizers.** A waste exhibits the characteristics of an oxidizer if a representative sample of the waste has the following properties:

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

B. it readily supplies oxygen to a reaction in the absence of air. Oxidative materials include, but are not limited to, oxides, organic and inorganic peroxides, permanganates, perrhenates, chlorates, perchlorates, persulfates, nitric acid, organic and inorganic nitrates, iodates, periodates, bromates, perselenates, perbromates, chromates, dichromates, ozone, and perborates. Bromine, chlorine, fluorine, and iodine react similarly to oxygen under some conditions and are therefore also oxidative materials.

A waste that exhibits the characteristics of an oxidizer~~, but is not listed as a hazardous waste in part 7045.0135,~~ has the hazardous waste number of D001.

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

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

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

A waste that exhibits the characteristic of corrosivity~~, but is not listed as a hazardous waste in part 7045.0135,~~ has the hazardous waste number of D002.

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

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

H. it is a forbidden explosive as defined in Code of Federal Regulations, title 49, section 173.51 (1983), a Class A explosive as defined in Code of Federal Regulations, title 49, section 173.53 (1983), or a Class B explosive as defined in Code of Federal Regulations, title 49, Section 173.88 (1983).

A waste that exhibits the characteristic of reactivity~~, but is not listed as a hazardous waste in part 7045.0135,~~ has the hazardous waste number of D003.

Subp. 6. **Lethality.** Lethality is determined as follows:

A. A waste exhibits the characteristic of lethality as determined in item B, if a representative sample of the waste has any one of the following properties:

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

(4) an inhalation median lethal concentration of less than 1,000 parts per million of material ~~per million parts of~~ in air, if the material or component may be inhaled as gas or vapor.

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

D. A waste that exhibits the characteristics of lethality~~, but is not listed as a hazardous waste in part 7045.0135,~~ has the hazardous waste number MN01.

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

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

B. A waste that exhibits the characteristic of toxicity~~, but is not listed as a hazardous waste in part 7045.0135,~~ has the hazardous waste number specified in subpart 8 which corresponds to the toxic contaminant causing it to be hazardous.

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

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

7045.0135 LISTS OF HAZARDOUS WASTES.

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

Subp. 2. **Hazardous wastes from nonspecific sources.** Hazardous wastes from nonspecific sources are listed with the generic hazardous waste number and hazard code in items A to ~~U~~ V.

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

T. F027, discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component: (H); ~~and~~

U. F028, residues resulting from the incineration or thermal treatment of soil contaminated with hazardous waste Nos. F020, F021, F022, F023, F026, and F027: (T); and

V. F039, leachate resulting from the disposal of more than one restricted waste classified as hazardous under part 7045.0131

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and this part. Leachate resulting from the management of one or more of the following EPA hazardous wastes and no other hazardous wastes retains its EPA hazardous waste numbers: F020, F021, F022, F023, F026, F027, or F028: (T).

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

7045.0139 BASIS FOR LISTING HAZARDOUS WASTES.

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

Subp. 2. **Constituents.** The constituents which are the basis for listing the wastes identified in part 7045.0135, subparts 2 and 3 are listed in items A and B.

A. Constituents of wastes identified in part 7045.0135, subpart 2 are listed in subitems (1) to (21).

[For text of subitems (1) to (19), see M.R.]

(20) F027: Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans; tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine, and other salts; ~~and~~

(21) F028: Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans; tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine, and other salts; and

(22) F039: Constituents for which treatment standards are specified for multisource leachate, wastewaters, and nonwastewaters under part 7045.1358.

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

7045.0214 EVALUATION OF WASTES.

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

Subp. 2. **Method for evaluation.** The person evaluating the waste must determine if the waste meets any of the following criteria for a hazardous waste:

A. the waste is listed in part 7045.0135; or

B. if the waste ~~exhibits any of the characteristics of hazardous waste~~ is not listed in part 7045.0135, the person must then determine whether the waste is identified in part 7045.0131 by either:

(1) testing the waste according to the methods ~~set forth~~ in part 7045.0131 or according to an equivalent method approved by the commissioner pursuant to part 7045.0075, subpart 1; or

(2) applying knowledge of the hazard characteristics of the waste in light of the materials or the processes used.

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

7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

Subpart 1. **When allowed without a permit.** A generator may accumulate hazardous waste on-site without a permit or without having interim status if:

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

H. the requirements of parts 7045.0558 ~~and~~, 7045.0566 to 7045.0576, and 7045.1315 are fulfilled regarding personnel training, preparedness, prevention, and contingency planning; and

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

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

7045.0458 WASTE ANALYSIS REQUIREMENTS.

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

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

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

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

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues ~~that~~ which are not delisted under part 7045.0075, subpart 2, ~~and do not~~ or which exhibit a characteristic of hazardous waste under part 7045.0131, and ~~that~~ either do not meet the treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, ~~the annual removal of residues that do not meet the applicable prohibition levels in~~ such residues are prohibited from land disposal under parts 7045.1320 to ~~7045.1330~~ 7045.1333 or RCRA section 3004(d).

7045.0478 OPERATING RECORD.

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

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:

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

M. Records of the quantities and date of placement ~~of~~ for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 8 ~~or~~, a petition under part 7045.0075, subpart 9, or a certification under part 7045.1308, and the applicable notice required ~~by~~ of a generator under part 7045.1315, subpart 1~~, item C~~.

N. For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required ~~by a~~ of the generator or the owner under part 7045.1315, subpart 1, item A, or 7045.1308.

O. For an on-site treatment facility, the information contained in the notice, except the manifest number, and the certification and demonstration, if applicable, required ~~by~~ of the generator or owner or operator under part 7045.1315, subpart 1, item A, ~~except for the manifest number required under subitem (3)~~ or 7045.1308.

P. For an off-site land disposal facility, a copy of the notice, and the certification and demonstration, if applicable, required ~~by~~ of the generator or the owner or operator of a treatment facility under ~~part~~ parts 7045.1315~~, subpart 2, items A and B, or a copy of the notice and certification required by the generator under part 7045.1315, subpart 1, item B,~~ and 7045.1308, whichever is applicable.

Q. For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under part 7045.1315, ~~subpart 1, item B,~~ except for the manifest number, ~~or the information contained in the notice required by a treater under part 7045.1315, subpart 2, item A, except the manifest number~~ and the certification and demonstration, if applicable, required under ~~subitem (3)~~ part 7045.1308, whichever is applicable.

R. For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required of the generator or the owner or operator under part 7045.1308 or 7045.1315.

S. For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required of the generator or the owner or operator under part 7045.1308 or 7045.1315.

7045.0532 SURFACE IMPOUNDMENTS.

[For text of subps 1 to 7, see M.R.]

Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

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

7045.0534 WASTE PILES.

[For text of subps 1 to 7, see M.R.]

Subp. 8. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a waste pile unless the waste and waste pile satisfy all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

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

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7045.0536 LAND TREATMENT.

[For text of subps 1 to 8, see M.R.]

Subp. 9. **Ignitable or reactive waste.** The owner or operator shall not apply ignitable or reactive waste to the treatment zone unless the waste and the treatment zone meet all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

[For text of subps 10 and 11, see M.R.]

7045.0538 LANDFILLS.

[For text of subps 1 to 7, see M.R.]

Subp. 8. **Special requirements for ignitable or reactive waste.** Special requirements for ignitable or reactive waste are as follows:

A. Except as provided in item B and subpart 12, ignitable or reactive waste must not be placed in a landfill, unless the waste ~~is treated, rendered, or mixed before or immediately after placement in a landfill so that~~ and landfill meet all applicable requirements of parts 7045.1300 to 7045.1380, and the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under part 7045.0131, ~~subparts~~ subpart 2 ~~and~~ or 5, and compliance with part 7045.0456, subpart 2 is maintained.

B. Except for prohibited wastes which remain subject to treatment standards in parts 7045.1350 to 7045.1360, ignitable wastes in containers may be landfilled without meeting the requirements of item A, provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes must be disposed of in nonleaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

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

Subp. 12. **Disposal of small containers of hazardous waste in overpacked drums.** Small containers of hazardous waste in overpacked drums, or laboratory packs, may be placed in a landfill if the requirements of items A to ~~E~~ F are met:

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

F. The disposal is in compliance with parts 7045.1300 to 7045.1380. Persons who incinerate lab packs according to part 7045.1360 may use fiber drums in place of metal outer containers. The fiber drums must meet United States Department of Transportation specifications in Code of Federal Regulations, title 49, section 173.12, and be overpacked according to the requirements in item B.

[For text of subp 13, see M.R.]

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

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

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

Parts 7045.0552 to 7045.0642 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380, land disposal restrictions, and those restrictions are considered material conditions or requirements of parts 7045.0552 to 7045.0642, interim status standards.

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

7045.0564 WASTE ANALYSIS REQUIREMENTS.

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

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

The plan must specify:

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

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

(1) the sampling of impoundment contents;

(2) the analysis of test data; and

(3) the annual removal of residues ~~that~~ which are not delisted under part 7045.0075, subpart 2, ~~and do not~~ or which exhibit a characteristic of hazardous waste under part 7045.0131, and ~~that~~ either do not meet ~~the~~ applicable treatment standards of parts 7045.1350 to 7045.1360, or, where no treatment standards have been established, ~~the annual removal of residues that do not meet the applicable prohibition levels in~~ such residues are prohibited from land disposal under parts 7045.1320 to ~~7045.1330~~ 7045.1333 or RCRA section 3004(d).

7045.0584 OPERATING RECORD.

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

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

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

J. Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under part 7045.0075, subpart 8 or 9, monitoring data required pursuant to a petition under part 7045.0075, subpart 9, or a certificate and demonstration under part 7045.1308 and the notice required by a generator under part 7045.1315, subpart 1, item C.

K. For an off-site treatment facility, the notice, and the certification and demonstration, if applicable, required by a generator or the owner or operator under ~~part~~ parts 7045.1308 and 7045.1315, subpart 1, item A.

L. For an on-site treatment facility, the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator under ~~part~~ parts 7045.1308 and 7045.1315, subpart 1, item A, except for the manifest number required under part 7045.1315, subpart 1, item A, subitem (3).

M. For an off-site land disposal facility, the notice ~~and~~, certification and demonstration, if applicable, required by the generator, owner or operator of a treatment facility under part 7045.1308 or 7045.1315, subpart 2, items A and B, for the facility or ~~the certification required by the generator under~~ part 7045.1315, subpart 1, item B, for the generator, whichever is applicable.

N. For an on-site land disposal facility, the information contained in the notice required by a generator or the owner or operator under part 7045.1308 or 7045.1315~~, subpart 1, item B,~~ except for the manifest number, ~~or the information contained in the notice required by the treatment facility under part 7045.1315, subpart 2, item A, except the manifest number required under subitem (3),~~ whichever is applicable.

O. For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under part 7045.1308 or 7045.1315.

P. For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under part 7045.1308 or 7045.1315.

7045.0630 SURFACE IMPOUNDMENTS.

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

Subp. 5. **Inspections.** The owner or operator shall inspect:

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

B. the surface impoundment, including dikes and vegetation surrounding the dike, at least once a week to detect any leaks, deterioration, or failures in the impoundment. As required by part 7045.0556, subpart 5, the owner or operator shall remedy any deterioration or malfunction ~~he finds~~ found.

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

Subp. 7. **Special requirements for ignitable or reactive wastes.** Ignitable or reactive waste must not be placed in a surface impoundment unless the waste and the impoundment satisfy all applicable requirements of parts 7045.1300 to 7045.1380, and:

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

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

7045.0632 WASTE PILES.

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

Subp. 5. **Special requirements for ignitable or reactive waste.** Ignitable or reactive waste must not be placed in a pile unless the waste and pile satisfy all applicable requirements of parts 7045.1300 to 7045.1380:

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

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

7045.0634 LAND TREATMENT.

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

Subp. 7. **Special requirements for ignitable or reactive waste.** Ignitable or reactive wastes must not be land treated, unless the waste and treatment zone meet all applicable requirements of parts 7045.1300 to 7045.1380, and the waste is immediately incorporated into the soil so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under parts 7045.0131, subpart 2 or 5; and 7045.0562, subpart 2 is complied with.

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

7045.0638 LANDFILLS.

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

Subp. 5. **Special requirements for ignitable or reactive waste.** Special requirements for ignitable or reactive waste are as follows:

A. Except as provided in item B, and subparts 7 and 9, ignitable or reactive waste must not be placed in a landfill unless the waste ~~is treated, rendered, or mixed before or immediately after placement in the~~ and landfill ~~so that~~ meet all applicable requirements of parts 7045.1300 to 7045.1380, and the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under ~~parts~~ part 7045.0131, subpart 2 or 5, and compliance with part 7045.0562, subpart 2, is ~~complied with~~ maintained.

B. Except for prohibited wastes which remain subject to treatment standards in parts 7045.1350 to 7045.1360, ignitable wastes in containers may be landfilled without meeting the requirements of item A if the wastes are disposed so that they are protected from any material or conditions which may cause them to ignite. Ignitable wastes must be disposed in nonleaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the wastes.

[For text of subp 6 to 8, see M.R.]

Subp. 9. **Special requirements for disposal of laboratory packs.** Small containers of hazardous waste in overpacked drums, or laboratory packs, may be placed in a landfill if the requirements of items A to ~~E~~ F are met:

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

F. The disposal complies with parts 7045.1300 to 7045.1380. Persons who incinerate lab packs according to part 7045.1360 may use fiber drums in place of metal outer containers. The fiber drums must meet the United States Department of Transportation specifications in Code of Federal Regulation, title 49, section 173.12, and be overpacked according to item B.

7045.0665 USE CONSTITUTING DISPOSAL.

Subpart 1. **Scope.** ~~This part applies~~ Items A and B apply to hazardous wastes that are used in a manner constituting disposal.

A. 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~~ combining with any other substances.

~~Products~~ B. Hazardous wastes are not used in a manner constituting disposal if:

(1) they are a product produced for the general public's use ~~that are used in a manner constituting disposal and that;~~

(2) they contain recyclable hazardous wastes ~~that~~; and if the recyclable hazardous wastes have undergone a chemical reaction in the course of producing ~~a product~~ the products so as to become inseparable by physical means ~~are exempt from regulation under this part~~; and

(3) the products meet the applicable treatment standards in parts 7045.1350 to 7045.1360 or applicable prohibition levels in part 7045.1330 or RCRA section 3004(d) where no treatment standards have been established, for each recyclable material that they contain.

Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not presently subject to regulation ~~under this chapter~~ provided they meet the same treatment standards or prohibition levels for each recyclable material that they contain. However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation.

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

7045.1300 LAND DISPOSAL RESTRICTIONS; APPLICABILITY AND EXEMPTIONS.

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

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

A. if an extension has been granted from the effective date of a prohibition under part 7045.0075, subpart 8, with respect to those wastes covered by the extension; and

B. if an exemption has been granted from a prohibition as a result of a petition under part 7045.0075, subpart 9, with respect to those wastes and units covered by the petition~~;~~

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

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

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

Subp. 3. **Other exemptions.** The following hazardous wastes are not subject to parts 7045.1300 to 7045.1380:

A. waste generated by small quantity generators of less than 100 kilograms of nonacute hazardous waste per month, or less than one kilogram of acute hazardous waste per month, as defined in part 7045.0206;

B. waste pesticides that a farmer disposes of according to part 7045.0213; and

C. waste identified or listed as hazardous after November 8, 1984, for which no land disposal prohibitions or treatment standards have been adopted.

Subp. 4. **Waivers.** The requirements of this part shall not affect the availability of a waiver under section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

7045.1305 DILUTION PROHIBITED AS A SUBSTITUTE FOR TREATMENT.

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

B. Dilution of wastes that are hazardous only because they exhibit a characteristic in a treatment system that treats wastes subsequently discharged to a water of the United States pursuant to a permit issued under section 402 of the Clean Water Act (CWA), or that treats wastes for purposes of pretreatment requirements under section 307 of the CWA is not impermissible dilution for purposes of this part unless a method has been specified as the treatment standard in part 7045.1360.

7045.1308 LANDFILL AND SURFACE IMPOUNDMENT DISPOSAL RESTRICTIONS.

Subpart 1. **Generator requirements.** As of May 8, 1990, this part is no longer in effect. Before May 8, 1990, wastes that are otherwise prohibited from land disposal under part 7045.1333, subpart 2, item C, may be disposed in a landfill or surface impoundment in compliance with Code of Federal Regulations, title 40, section 268.5(h)(2), provided that the generator meets the requirements in items A to D.

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A. Before disposal, the generator has made a good faith effort to locate and contract with treatment and recovery facilities practically available that provide the greatest environmental benefit.

B. If a generator determines that there is no practically available treatment for a waste, the generator must fulfill the requirements in subitems (1) and (2).

(1) Before the initial shipment of waste, the generator must submit a demonstration to the commissioner that includes a list of facilities and facility officials contacted, addresses, telephone numbers, and contact dates, as well as a written discussion of why the generator was not able to obtain treatment or recovery for that waste. The generator must also provide the following certification:

"I certify under penalty of law that the requirements of *Minnesota Rules*, part 7045.1308, subpart 1, item A, have been met and that disposal in a landfill or surface impoundment is the only practical alternative to treatment currently available. I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The generator does not need to wait for commissioner approval of the demonstration or certification before shipment of the waste. However, if the commissioner invalidates the demonstration or certification for the reasons outlined in part 7045.1308, subpart 2, item B, the generator must immediately cease further shipments of the waste, inform all facilities that received the waste of the invalidation, and keep records of the communication on-site in the generator's files.

(2) With the initial shipment of waste, the generator must submit a copy of the demonstration and the certification in subitem (1) to the receiving facility. With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged. The generator must retain on-site a copy of the demonstration, if applicable, and certification required for each waste shipment for at least five years from the date that the waste that is the subject of the documentation was last sent to on-site or off-site disposal. The five-year record retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

C. If a generator determines that there are practically available treatments for a waste, the generator must contract to use the practically available technology that yields the greatest environmental benefit. The generator must also fulfill the requirements in subitems (1) and (2).

(1) Before the initial shipment of waste, the generator must submit a demonstration to the commissioner that includes a list of facilities and facility officials contacted, addresses, telephone numbers, and contact dates, as well as a written discussion explaining why the treatment or recovery technology chosen provides the greatest environmental benefit. The generator must also provide the following certification:

"I certify under penalty of law that the requirements of *Minnesota Rules*, part 7045.1308, subpart 1, item A, have been met and that I have contracted to treat my waste, or otherwise provide treatment, by the practically available technology that yields the greatest environmental benefit, as indicated in my demonstration. I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The generator does not need to wait for commissioner approval of the demonstration or certification before shipment of the waste.

(2) With the initial shipment of waste, the generator must submit to the receiving facility a copy of the demonstration and the certification in subitem (1). With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged. The generator must retain on-site a copy of the demonstration, if applicable, and certification required for each waste shipment for at least five years from the date that the waste that is the subject of the documentation was last sent to on-site or off-site disposal. The five-year record retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

D. When the generator has determined that there is practically available treatment for a waste before disposal, with the initial shipment of waste, the generator must submit a copy of the demonstration and the certification required in subpart 1, item B, subitem (2), to the receiving facility. With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged. The generator must retain on-site a copy of the demonstration, if applicable, and certification required for each waste shipment for at least five years from the date that the waste that is the subject of the documentation was last sent to on-site or off-site disposal. The five-year record retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

Subp. 2. **Certification review.**

A. After receiving the demonstration and certification, the commissioner may request any additional information which the commissioner considers necessary to evaluate the certification.

B. A generator who has submitted a certification under this part must immediately notify the commissioner when the generator

has knowledge of any change in the conditions that formed the basis of the generator's certification, and submit a new demonstration and certification as provided in part 7045.1308, subpart 1, to the receiving facility.

C. If, after review of the certification, the commissioner determines that practically available treatment exists where the generator has certified otherwise, or that there exists some other method of practically available treatment yielding greater environmental benefit than that which the generator has certified, the commissioner may invalidate the certification.

D. If the commissioner invalidates a certification, the generator must immediately cease further shipments of the waste, and inform all facilities that received the waste of the invalidation, and keep records of such communication on-site in the generator's files.

Subp. 3. **Facility requirements.**

A. A treatment, recovery, or storage facility receiving wastes subject to a valid certification must keep copies of the generator's demonstration, if applicable, and certification in the facility's operating record.

B. The owner or operator of a treatment or recovery facility must certify that the facility has treated the waste according to the generator's demonstration. The following certification is required:

"I certify under penalty of law that I have personally examined and am familiar with the treatment, technology, and operation of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly and complies with treatment as specified in the generator's demonstration. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

C. The owner or operator of a treatment, recovery, or storage facility must, for each initial shipment of waste, send a copy of the generator's demonstration, if applicable, and certification under part 7045.1308, subpart 1, item B, subitem (1) or item C, subitem (1), and certification under subpart 3, item B, if applicable, to the facility receiving the waste or treatment residues. With each subsequent waste shipment, only the certification is required to be submitted, provided that the conditions being certified remain unchanged.

D. The owner or operator of a disposal facility must ensure that those wastes prohibited under part 7034.1333, subpart 2, item D, are subject to a certification according to the requirements of this part before disposal in a landfill or surface impoundment, and that the units receiving the wastes must meet the minimum technological requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

Subp. 4. **Land disposal authorized.** When the certification is received by the commissioner, and provided that the wastes have been treated by the treatment, if any, determined by the generator to yield the greatest environmental benefit practically available, the wastes or treatment residuals may be disposed in a landfill or surface impoundment unit meeting the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2), unless otherwise prohibited by the commissioner.

7045.1309 SPECIAL RULES REGARDING WASTES THAT EXHIBIT A CHARACTERISTIC.

Subpart 1. **Applicable treatment standards.** The initial generator of a solid waste must determine each EPA hazardous waste number applicable to the waste to determine the applicable treatment standards under parts 7045.1350 to 7045.1360. For purposes of parts 7045.1300 to 7045.1380, the waste will carry the waste code for any applicable listing under part 7045.0135 and also one or more waste codes under part 7045.0131 where the waste exhibits a characteristic, except when the treatment standard for the waste code listed in part 7045.0135 operates in lieu of the standard for the waste code under part 7045.0131 as provided in subpart 2.

Subp. 2. **Conditions of meeting treatment standards.** When a prohibited waste is listed under part 7045.0135 and exhibits a characteristic under part 7045.0131, the treatment standard for the waste code listed in part 7045.0135 will operate in lieu of the standard for the waste code under part 7045.0131, provided that the treatment standard for the waste includes a treatment standard for the constituent that causes the waste to exhibit the characteristic. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

Subp. 3. **Land disposal.** In addition to any applicable standards determined from the initial point of generation, no prohibited waste that exhibits a characteristic under part 7045.0131 may be land disposed unless the waste complies with the treatment standards under parts 7045.1350 to 7045.1360.

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Subp. 4. **Waste analysis.**

A. Wastes that exhibit a characteristic under part 7045.0131 are also subject to the requirements of part 7045.1315, except that when the waste is no longer hazardous, for each shipment of the wastes to a solid waste facility under chapter 7035, the initial generator or the treatment facility need not send a notification as required in part 7045.1315 to the facility. In those circumstances, a notification and certification must be sent to the commissioner.

B. The notification must include the following information:

(1) the name and address of the solid waste facility receiving the waste shipment under chapter 7035;

(2) a description of the waste as initially generated, including the applicable EPA hazardous waste numbers, the applicable wastewater or nonwastewater category as defined in part 7045.0020, and the subdivisions made within a waste code based on waste specific criteria; and

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

C. The certification must be signed by an authorized representative, and must use the following statement:

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

7045.1310 TREATMENT SURFACE IMPOUNDMENT EXEMPTION.

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

A. treatment of the wastes occurs in the impoundments ~~.~~;

B. the following conditions are met:

(1) For wastes with treatment standards in parts 7045.1350 to 7045.1360 or prohibition levels in parts 7045.1320 to 7045.1350 or RCRA section 3004(d), the residues ~~of the~~ from treatment are analyzed, as ~~provided~~ specified in part 7045.1315 or 7045.1330 to determine if they meet the applicable treatment standards ~~in parts 7045.1350 to 7045.1360~~, or, where no treatment standards have been established for the waste, the applicable prohibition levels ~~in parts 7045.1320 to 7045.1330 or RCRA section 3004(d)~~. The sampling method, specified in the waste analysis plan under part 7045.0458 or 7045.0564 must be designed so the representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples.

(2) The following treatment residues, including any liquid waste, ~~that~~ must be removed at least annually: residues that do not meet the treatment standards adopted under parts 7045.1350 to 7045.1360~~, or~~; residues that do not meet the ~~applicable~~ prohibition levels adopted under parts 7045.1320 to ~~7045.1330~~ 7045.1350, or imposed by statute where no treatment standards have been established~~, or that~~; residues that are from the treatment of wastes prohibited from land disposal under parts 7045.1320 to 7045.1350 where no treatment standards have been established and no prohibition levels apply; or residues from managing listed wastes that are not delisted under part 7045.0075, subpart 2~~, and no longer exhibit a characteristic of hazardous waste, must~~. However, residues that are the subject of a valid certification under part 7045.1308 made no later than one year after placement of the wastes in an impoundment are not required to be removed ~~at least~~ annually. ~~These~~ If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, the flow-through constitutes removal of the supernatant for the purpose of this requirement.

(3) Treatment residues may not be placed in any other surface impoundment for ~~later~~ subsequent management. ~~If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this requirement~~ unless the residues are the subject of a valid certification under part 7045.1308 that allows disposal in surface impoundments meeting the requirements of part 7045.1308, subpart 1.

(4) The procedures and schedule for the sampling of impoundment contents, the analysis of test data, and the annual removal of ~~residue that does~~ residues that do not meet the treatment standards ~~in parts 7045.1350 to 7045.1360~~, or, prohibition levels where no treatment standards have been established, ~~the prohibition levels in~~ or that are from the treatment of wastes prohibited from land disposal under parts 7045.1320 to ~~7045.1330 or RCRA section 3004(d),~~ 7045.1350 where no treatment standards have been established and no prohibition levels apply, must be specified in the facility's waste analysis plan as required under ~~part~~ parts 7045.0458 ~~or~~ and 7045.0564~~.~~;

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

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

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

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

7045.1315 WASTE ANALYSIS FOR RESTRICTED WASTES.

Subpart 1. **Applicability.** Except as provided in part 7045.1330 or 7045.1358, if a waste is listed in part 7045.0135, the generator must test the waste, or test an extract ~~developed~~ using the test method described in Code of Federal Regulations, title 40, part ~~268~~ 261, Appendix ~~I~~ II, or use knowledge of the waste, to determine if the waste is restricted from land disposal. Except as specified in part 7045.1330, if a generator's waste exhibits one or more of the characteristics in part 7045.0131, the generator must test an extract using the test method in Code of Federal Regulations, title 40, part 268, Appendix IX, or use knowledge of the waste to determine if the waste is restricted from land disposal under this part.

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

(1) EPA Hazardous Waste Number;

(2) the corresponding treatment standards ~~and all applicable prohibitions in~~ for wastes F001-F005, F039, and wastes prohibited under part 7045.1330 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part 7045.1360 (e.g., INCIN, WETOX) also must be listed on the notification;

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

(4) waste analysis data, where available.

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

(1) The notice must include the following information:

(a) EPA Hazardous Waste Number~~,~~;

(b) the corresponding treatment standards for wastes F001-F005, F039, and ~~all applicable prohibitions in~~ wastes prohibited under part 7045.1330 or RCRA section 3004(d)~~,~~. Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part 7045.1360 also must be listed on the notification;

(c) the manifest number associated with the shipment of waste~~,~~; and

(d) waste analysis data, where available.

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

"I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or

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

C. If a generator's waste is subject to an exemption from a prohibition on the type of land disposal method used for the waste, including, but not limited to, a case-by-case extension under part 7045.0075, subpart 8, an exemption under part 7045.0075, subpart 9, ~~an extension under part 7045.1300, subpart 2, item C,~~ or a nationwide capacity variance under Code of Federal Regulations, title 40, part 268, subpart C, with each shipment of wastes, the generator must submit a notice ~~must be forwarded with the waste~~ to the ~~land disposal~~ facility receiving the waste, stating that the waste is ~~exempt~~ not prohibited from ~~the~~ land disposal ~~restrictions~~. The notice must include the following information:

(1) the EPA Hazardous Waste Number;

(2) the corresponding treatment standards for wastes F001-F005, F039, and wastes prohibited in part 7045.1330 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part 7045.1360 also must be listed on the notification;

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

(4) waste analysis data, where available; and

(5) the date the waste is subject to the prohibitions.

D. If a ~~generator's decision~~ generator is managing a prohibited waste in tanks or containers under part 7045.0292, and is treating the waste in tanks or containers to meet applicable treatment standards under parts 7045.1350 to 7045.1360, the generator must develop and follow a written waste analysis plan that describes the procedures the generator will carry out to comply with the treatment standards. The plan must be kept on-site in the generator's records, and the following requirements must be met:

(1) the waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited wastes being treated, and contain all information necessary to treat the wastes according to parts 7045.1300 to 7045.1380, including the selected testing frequency;

(2) the plans must be filed with the commissioner at least 30 days before treatment activity, with delivery verified; and

(3) wastes shipped off-site must comply with the notification requirements of subpart 1.

E. If a generator determines that a waste is restricted ~~is~~ based solely on the generator's knowledge of the waste, all supporting data used to make this determination must be ~~maintained~~ retained on-site in the generator's files. If a generator determines that a waste is restricted based on testing the waste or an extract developed using the test method described in Code of Federal Regulations, title 40, part 261, Appendix II, all waste analysis data must be retained on-site in the generator's files.

F. If a generator determines that the generator is managing a restricted waste that is excluded from the definition of hazardous or solid waste or exempt from hazardous waste regulation under Code of Federal Regulations, title 40, sections 261.2 to 261.6, subsequent to the point of generation, the generator must place a one-time notice stating the generation, subsequent exclusion from the definition of hazardous or solid waste, or exemption from the hazardous waste regulation, and the disposition of the waste in the facility's file.

G. Generators must retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced under this part for at least five years from the date that the waste that is the subject of the documentation was last sent to on-site or off-site treatment, storage, or disposal. The five-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner. The requirements of this item apply to solid wastes even when the hazardous characteristic is removed before disposal or when the waste is excluded from the definition of hazardous or solid waste or exempted from hazardous waste regulation, subsequent to the point of generation.

H. If a generator is managing a lab pack that contains wastes identified under part 7045.1380 and wishes to use the alternative treatment standard under part 7045.1360, with each shipment of waste, the generator must submit a notice to the treatment facility according to this subpart. The generator must also submit the following certification, which must be signed by an authorized representative:

"I certify under penalty of law that I personally have examined and am familiar with the waste and that the lab pack contains only the wastes specified in Code of Federal Regulations, title 40, part 268, Appendix IV, or solid wastes not subject to regulation under Code of Federal Regulations, title 40, part 261. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment."

I. If a generator is managing a lab pack that contains organic wastes and wishes to use the alternate treatment standards in part 7045.1360, with each shipment of waste, the generator must submit a notice to the treatment facility according to this subpart. The generator also must submit the following certification, which must be signed by an authorized representative:

"I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste and that the lab pack contains only organic waste specified in Code of Federal Regulations, title 40, part 268, Appendix V, or solid wastes not subject to regulation under Code of Federal Regulations, title 40, part 261. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment."

J. Small quantity generators with tolling agreements must comply with the applicable notification and certification requirements of this subpart for the initial shipment of the waste subject to the agreement. The generators must retain on-site a copy of the notification and certification, together with the tolling agreement, for at least three years after termination or expiration of the agreement. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the commissioner.

Subp. 2. **Testing of wastes.** Treatment facilities must test their wastes according to the frequency specified in their waste analysis plans under part 7045.0458 or 7045.0564. The testing must be performed as provided in items A to C.

A. For wastes with treatment standards expressed as concentrations in the waste extract in part 7045.1355, the owner or operator of the treatment facility must test the treatment residues or an extract of the residues developed using the test method described in Code of Federal Regulations, title 40, part ~~268~~ 261, Appendix ~~I~~ II, to assure that the treatment residues or extract meet the applicable treatment standards.

B. For wastes prohibited under part 7045.1330 or RCRA section 3004(d) which are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the owner or operator of the treatment facility must test the treatment residues according to the generator testing requirements in part 7045.1330 to assure that the treatment residues comply with the applicable prohibitions. ~~For both circumstances described above, the testing must be performed according to the frequency specified in the facility's waste analysis plan as required by part 7045.0458 or 7045.0564. Where the treatment residues do not comply with the applicable treatment standards or prohibitions, the treatment facility must comply with the notice requirements applicable to generators in subpart 1, item A, if the treatment residues will be further managed at a different treatment facility.~~

~~A.~~ C. For wastes with treatment standards expressed as concentrations in the waste under part 7045.1358, the owner or operator of the treatment facility must test the treatment residues, not an extract of the residues, to assure that the treatment residues meet the applicable treatment standards.

D. A notice must be sent with each waste shipment to the land disposal facility that includes the following information:

(1) the EPA Hazardous Waste Number;

(2) the corresponding treatment standards ~~and all applicable prohibitions in~~ for wastes F001-F005, F039, and wastes prohibited under part 7045.1330 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater or nonwastewater category as defined in part 7045.0020, the applicable subdivisions made within a waste code based on waste specific criteria, and Code of Federal Regulations sections and paragraphs where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in part 7045.1360, the applicable five-letter treatment code in part 7045.1360 (e.g., INCIN, WETOX) also must be listed on the notification;

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

(4) waste analysis data, where available.

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

(1) For wastes with treatment standards expressed as concentrations in the waste extract ~~in part 7045.1355~~ or in the waste, under part 7045.1355 or 7045.1358, or for wastes prohibited under part 7045.1330 or RCRA section 3004(d) ~~which~~ that are not subject to any treatment standards under parts 7045.1350 to 7045.1360, the certification must be signed by an authorized representative and must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operations of

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

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

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

(3) For wastes with treatment standards expressed as concentrations in the waste under part 7045.1358, if compliance with the treatment standards in parts 7045.1350 to 7045.1360 is based in whole or in part on the analytical detection limit alternative specified in part 7045.1358, the certification also must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by incineration in units operated according to Code of Federal Regulations, title 40, part 264, subpart O, or part 265, subpart O, or by combustion in fuel substitution units operating according to applicable technical requirements, and I have been unable to detect the nonwastewater organic constituents despite having used my best good faith efforts to analyze for the constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

F. If the waste or treatment residue will be further managed at a different treatment or storage facility, the treatment, storage, or disposal facility sending the waste or treatment residue off-site must comply with the notice and certification requirements applicable to generators under this part.

G. When the wastes are recyclable materials used in a manner constituting disposal subject to part 7045.0665, subpart 1, item C, regarding treatment standards and prohibition levels, the owner or operator of a treatment facility, the recycler, is not required to notify the receiving facility under item D. With each shipment of the wastes, the owner or operator of the recycling facility must submit the certification in item E, and a notice that includes the information in item D, except the manifest number, to the commissioner's delegated representative. The recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

Subp. 3. **Facility requirements.** Except when the owner or operator is disposing of waste that is a recyclable material used in a manner constituting disposal under part 7045.0665, subpart 1, the owner or operator of ~~any~~ a land disposal facility disposing any waste subject to restrictions under parts 7045.1300 to 7045.1380 must:

A. have ~~records~~ copies of the notice and ~~certification required~~ certifications specified in subpart 1 or 2. ~~The owner or operator of the land disposal facility must~~ and the certification specified in part 7045.1308, if applicable; and

B. test the waste, or an extract of the waste or treatment residue developed using the test method ~~described~~ in Code of Federal Regulations, title 40, part ~~268~~ 261, Appendix ~~I~~ II, or using any methods required by generators under part 7045.1330, to assure that the wastes or treatment residues are in compliance with the applicable treatment standards in parts 7045.1350 to 7045.1360 and all applicable prohibitions in part 7045.1330 or RCRA section 3004(d). The testing must be performed according to the frequency specified in the facility's waste analysis plan as required in part 7045.0458 or 7045.0564.

7045.1320 WASTE SPECIFIC PROHIBITIONS; SOLVENT WASTES.

Subpart 1. **Applicability.** Effective November 8, 1986, the spent solvent wastes specified in part 7045.0135 as Hazardous Waste Nos. F001, F002, F003, F004, and F005~~,~~ are prohibited from land disposal unless one or more of the following conditions apply:

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

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

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

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

Subp. 2. **Effective date.** Effective November 8, 1988, the F001-F005 solvent wastes listed in subpart 1, items A to ~~C~~ D, are prohibited from land disposal. ~~Until~~ Effective November 8, ~~1988~~ 1990, the F001-F005 solvent wastes ~~included in subpart 1, items A to C,~~ that are contaminated soil and debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under RCRA, subtitle C, and the residues from treating these wastes are prohibited from land disposal. Between November 8, 1988, and November 8, 1990, these wastes may be disposed of in a landfill or surface impoundment only if the ~~facility~~ unit is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

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

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

B. persons have been granted an exemption from a prohibition pursuant to a petition under part 7045.0075, ~~subpart 9,~~ with respect to those wastes and units covered by ~~repetition~~ the petition; or

C. persons have been granted an extension to ~~an~~ the effective date of a prohibition under part 7045.0075, subpart ~~8~~ 6, with respect to those wastes and units covered by the extension.

7045.1325 WASTE SPECIFIC PROHIBITION; DIOXIN-CONTAINING WASTES.

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

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

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

B. persons have been granted an exemption from a prohibition under part 7045.0075, subpart 9, with respect to those wastes or units covered by the petition; ~~or~~

C. persons have been granted an extension to ~~an~~ the effective date of a prohibition under part 7045.0075, subpart 8, with respect to those wastes covered by the extension; or

D. the F020-F023 and F026-F028 dioxin-containing wastes are contaminated soil and debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or a corrective action taken under RCRA, subtitle C.

Subp. 3. **Effective date.** ~~Until~~ Effective November 8, 1990, the F020-F023 and F026-F028 dioxin-containing wastes in subpart 2, item D, are prohibited from land disposal. Between November 8, 1988, and November 8, 1990, wastes included in subpart ~~1~~ 2, item A, may be disposed of in a landfill or surface impoundment only if the ~~facility~~ unit is in compliance with the requirements of Code of Federal Regulations, title 40, part 268.5(h)(2) and all other applicable requirements of parts 7045.0450 to 7045.0642.

7045.1330 WASTE SPECIFIC PROHIBITIONS; CALIFORNIA LIST WASTES.

Subpart 1. **Application.** Effective July 8, 1987, the following hazardous wastes are prohibited from land disposal:

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

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

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

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

E. nonliquid hazardous wastes containing HOC's in total concentration greater than or equal to 1,000 mg/kg and are not wastes described in subpart 2, items A and B.

Subp. 2. **Exceptions.** The ~~following items are an exception from the prohibitions in~~ requirements of subpart 1, items A to E, do not apply until:

A. ~~The requirements of subpart 1 do not apply until November~~ July 8, ~~1988~~ 1989, where the wastes are contaminated soil or debris not resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compen-

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sation, and Liability Act of 1980 or a corrective action ~~required~~ taken under RCRA, subtitle C. Between July 8, 1987, and July 8, 1989, the wastes may be disposed of in a landfill or surface impoundment only if the disposal is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

B. ~~Effective July~~ November 8, ~~1989~~ 1990, where the ~~following~~ hazardous wastes are ~~prohibited from land disposal:~~

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

~~(2) nonliquid hazardous wastes containing HOC's in total concentration greater than or equal to 1,000 mg/kg~~ contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action taken under RCRA, subtitle C. Between November 8, 1988, and November 8, 1990, the wastes may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

C. ~~Until~~ Between July 8, ~~1989~~ 1987, and November 8, 1988, the wastes ~~described~~ included in ~~item B~~ subpart 1, items D and E, may be disposed of in a landfill or surface impoundment only if the ~~facility~~ unit is in compliance with the requirements of Code of Federal Regulations, title 40, part 268.5(h)(2).

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

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

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

7045.1333 WASTE SPECIFIC PROHIBITIONS; FIRST ONE-THIRD OF REGULATED WASTES.

Subpart 1. **Application.** The hazardous wastes in items A and B are prohibited from land disposal.

A. Effective August 8, 1988, the wastes specified as EPA Hazardous Waste Nos. F006 (nonwastewater) in part 7045.0135; K001 and K004 wastes specified in part 7045.1358, subpart 1; K008 wastes specified in part 7045.1358, subpart 1; K016, K018, K019, K020 and K021 wastes specified in part 7045.1358, subpart 1; K022 (nonwastewater), K024, and K025 nonwastewaters specified in part 7045.1358, subpart 1; K030, K036 (nonwastewater), K037, K044, K045, nonexplosive K046 (nonwastewater), K047, K060 (nonwastewater), K061 (nonwastewaters containing less than 15 percent zinc), K062, non $CaSO_4$, K069 (nonwastewaters), K086 (solvent washes), K087, K099, and K100 nonwastewaters specified in part 7045.1358, subpart 1; K101 (wastewater), K101 (nonwastewater, low arsenic subcategory less than one percent total arsenic), K102 (wastewater), K102 (nonwastewater, low arsenic subcategory less than one percent total arsenic), K103, and K104 are prohibited from land disposal.

B. Effective August 8, 1988, and continuing until August 7, 1990, K061 wastes containing 15 percent zinc or greater are prohibited from land disposal under the treatment standards specified in part 7045.1355 applicable to K061 wastes that contain less than 15 percent zinc.

Subp. 2. **Exceptions.** Items A to D are exceptions from the prohibitions in subpart 1.

A. Effective August 8, 1990, the waste specified in part 7045.0135, subpart 3, as EPA Hazardous Waste No. K071 is prohibited from land disposal.

B. Effective August 8, 1990, the wastes specified in Code of Federal Regulations, title 40, section 268.10, having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration that are contaminated soil and debris are prohibited from land disposal.

C. Between November 8, 1988, and August 8, 1990, wastes included in items A and B may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

D. The requirements of this subpart and subpart 1 do not apply if:

(1) the wastes meet the applicable standards in part 7045.1355;

(2) persons have been granted an exemption to an effective date of a prohibition under part 7045.0075, subpart 7, with respect to those wastes and units covered by the petition; or

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

Subp. 3. **Applicability between August 8, 1988, and May 8, 1990.** Between August 8, 1988, and May 8, 1990, the wastes specified in Code of Federal Regulations, title 40, section 268.10, for which treatment standards under part 7045.1355 have not been adopted, including wastes that are subject to the statutory prohibitions of RCRA section 3004(d) or codified prohibitions under part 7045.0135, subpart 3, but not including wastes subject to a treatment standard under part 7045.1360, are prohibited from disposal in a landfill or surface impoundment unless a demonstration and certification have been submitted.

Subp. 4. **Waste analysis.** To determine whether a hazardous waste listed in Code of Federal Regulations, title 40, section 268.10, exceeds the applicable treatment standards in parts 7045.1355 and 7045.1358, the initial generator must test a representative sample of the waste extract or the entire waste depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable subpart D levels, the waste is prohibited from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise specified.

7045.1334 WASTE SPECIFIC PROHIBITION; SECOND ONE-THIRD OF REGULATED WASTES.

Subpart 1. **Application.** The wastes in items A to E are prohibited from land disposal.

A. Effective June 8, 1989, the wastes specified in part 7045.0135 as EPA Hazardous Waste Nos. F010; F024; K005; K007; K009 (nonwastewaters); K010; K023; K027; K028; K029 (nonwastewaters); K036 (wastewaters); K038; K039; K040; K043; K093; K094; K095 (nonwastewaters); K096 (nonwastewaters); K113; K114; K115; K116; P013; P021; P029; P030; P039; P040; P041; P043; P044; P062; P063; P071; P074; P085; P089; P094; P097; P098; P099; P104; P106; P109; P111; P121; U028; U058; U069; U087; U088; U102; U107; U221; U223; and U235 are prohibited from land disposal.

B. Effective June 8, 1989, the wastes specified in part 7045.0135 as EPA Hazardous Waste Nos. K009 (wastewaters); K011 (nonwastewaters); K013 (nonwastewaters); and K014 (nonwastewaters) are prohibited from land disposal.

C. Effective July 8, 1989, the wastes specified in part 7045.0135 as EPA Hazardous Waste Nos. F006—cyanide (nonwastewater); F008; F009; F011 (wastewaters); and F012 (wastewaters) are prohibited from land disposal.

D. Effective July 8, 1989, the waste specified in Code of Federal Regulations, title 40, section 261.31, as EPA Hazardous Waste No. F007 is prohibited from land disposal.

E. Effective July 8, 1989 through December 8, 1989, F011 (nonwastewaters) and F012 (nonwastewaters) are prohibited from land disposal pursuant to the treatment standards in parts 7045.1355 and 7045.1358 applicable to EPA Hazardous Waste Nos. F007, F008, and F009 nonwastewaters. Effective December 8, 1989, F011 (nonwastewaters) and F012 (nonwastewaters) are prohibited from land disposal pursuant to the treatment standards in parts 7045.1355 and 7045.1358 applicable to F011 (nonwastewaters) and F012 (nonwastewaters).

Subp. 2. **Exceptions.** Items A to D are exceptions from the prohibitions in subpart 1.

A. Effective June 8, 1991, the wastes specified in this part having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration that are contaminated soil and debris are prohibited from land disposal.

B. Between June 8, 1989, and June 8, 1991, (for EPA Hazardous Waste Nos. F007, F008, F009, F011, and F012 between June 8, 1989, and July 8, 1989) wastes included in item A and subpart 1, item C, may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the technical requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

C. The requirements of item A and subpart 1, items A to C, do not apply if:

(1) the wastes meet the applicable standards in parts 7045.1350 to 7045.1360;

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

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

D. Between June 8, 1989, and May 8, 1990, the wastes specified in Code of Federal Regulations, title 40, section 268.11, for which treatment standards under parts 7045.1350 to 7045.1360 are not applicable, including California list wastes subject to the statutory prohibitions of RCRA section 3004(d) or codified prohibitions under part 7045.0135, subpart 3, are prohibited from disposal in a landfill or surface impoundment unless the wastes are the subject of a valid demonstration and certification under part 7045.1308.

Subp. 3. **Waste analysis.** To determine whether a hazardous waste listed in Code of Federal Regulations, title 40, sections 268.10 to 268.12, exceeds the applicable treatment standards specified in parts 7045.1355 and 7045.1358, the initial generator must test a representative sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract of the waste, or the generator may use knowledge of the waste. If the waste contains constituents

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in excess of the applicable levels specified in parts 7045.1350 to 7045.1360, the waste is prohibited from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise specified.

7045.1335 WASTE SPECIFIC PROHIBITIONS; THIRD ONE-THIRD OF REGULATED WASTES.

Subpart 1. **Applicability as of August 8, 1990.** Effective August 8, 1990, the following wastes are prohibited from land disposal:

A. wastes specified in part 7045.1325 as EPA Hazardous Waste Nos. F002 (1,1,2-trichloroethane); F005 (benzene); F005 (2-ethoxy ethanol); F005 (2-nitro-propane); F006 (wastewaters); F019; F025; and F039 (wastewaters);

B. wastes specified in part 7045.1330 as EPA Hazardous Waste Nos. K002; K003; K004 (wastewaters); K005 (wastewaters); K006; K008 (wastewaters); K011 (wastewaters); K013 (wastewaters); K014 (wastewaters); K015 (nonwastewaters); K017; K021 (wastewaters); K022 (wastewaters); K025 (wastewaters); K026; K029 (wastewaters); K031 (wastewaters); K032; K033; K034; K035; K041; K042; K046 (wastewaters, reactive nonwastewaters); K048 (wastewaters); K049 (wastewaters); K050 (wastewaters); K051 (wastewaters); K052 (wastewaters); K060 (wastewaters); K061 (wastewaters and high zinc subcategory f 15 percent zinc); K069 (wastewaters, calcium sulfate nonwastewaters); K073; K083; K084 (wastewaters); K085; K095 (wastewaters); K096 (wastewaters); K097; K098; K100 (wastewaters); K101 (wastewaters); K102 (wastewaters); K105; and K106 (wastewaters);

C. wastes specified in part 7045.1333, subpart 2, as EPA Hazardous Waste Nos. P001; P002; P003; P004; P005; P006; P007; P008; P009; P010 (wastewaters); P011 (wastewaters); P012 (wastewaters); P014; P015; P016; P017; P018; P020; P022; P023; P024; P026; P027; P028; P031; P033; P034; P036 (wastewaters); P037; P038 (wastewaters); P042; P045; P046; P047; P048; P049; P050; P051; P054; P056; P057; P058; P059; P060; P064; P065 (wastewaters); P066; P067; P068; P069; P070; P072; P073; P075; P076; P077; P078; P081; P082; P084; P088; P092 (wastewaters); P093; P095; P096; P101; P102; P103; P105; P108; P110; P112; P113; P114; P115; P116; P118; P119; P120; P122; and P123;

D. wastes specified in part 7045.1333, subpart 3, as EPA Hazardous Waste Nos. U001; U002; U003; U004; U005; U006; U007; U008; U009; U010; U011; U012; U014; U015; U016; U017; U018; U019; U020; U021; U022; U023; U024; U025; U026; U027; U029; U030; U031; U032; U033; U034; U035; U036; U037; U038; U039; U041; U042; U043; U044; U045; U046; U047; U048; U049; U050; U051; U052; U053; U055; U056; U057; U059; U060; U061; U062; U063; U064; U066; U067; U068; U070; U071; U072; U073; U074; U075; U076; U077; U078; U079; U080; U081; U082; U083; U084; U085; U086; U089; U090; U091; U092; U093; U094; U095; U096; U097; U098; U099; U101; U103; U105; U106; U108; U109; U110; U111; U112; U113; U114; U115; U116; U117; U118; U119; U120; U121; U122; U123; U124; U125; U126; U127; U128; U129; U130; U131; U132; U133; U134; U135; U136 (wastewaters); U137; U138; U140; U141; U142; U143; U144; U145; U146; U147; U148; U149; U150; U151 (wastewaters); U152; U153; U154; U155; U156; U157; U158; U159; U160; U161; U162; U163; U164; U165; U166; U167; U168; U169; U170; U171; U172; U173; U174; U176; U177; U178; U179; U180; U181; U182; U183; U184; U185; U186; U187; U188; U189; U191; U192; U193; U194; U196; U197; U200; U201; U202; U203; U204; U205; U206; U207; U208; U209; U210; U211; U213; U214; U215; U216; U217; U218; U219; U220; U222; U225; U226; U227; U228; U234; U236; U237; U238; U239; U240; U243; U244; U246; U247; U248; and U249; and

E. the following wastes identified as hazardous based on a characteristic alone: D001; D002; D003; D004 (wastewaters); D005; D006; D007; D008 (except for lead materials stored before secondary smelting); D009 (wastewaters); D010; D011; D012; D013; D014; D015; D016; and D017.

Subp. 2. **Applicability as of November 8, 1990.** Effective November 8, 1990, the wastes specified in part 7045.1330 as EPA Hazardous Waste Nos. K048 (nonwastewaters); K049 (nonwastewaters); K050 (nonwastewaters); K051 (nonwastewaters); and K052 (nonwastewaters) are prohibited from land disposal.

Subp. 3. **Applicability as of May 8, 1992.** Effective May 8, 1992, the following wastes are prohibited from land disposal:

A. waste specified in part 7045.1325 as EPA Hazardous Waste No. F039 (nonwastewaters);

B. wastes specified in part 7045.1330 as EPA Hazardous Waste Nos. K031 (nonwastewaters); K084 (nonwastewaters); K101 (nonwastewaters); K102 (nonwastewaters); and K106 (nonwastewaters);

C. wastes specified in part 7045.1333, subpart 2, as EPA Hazardous Waste Nos. P010 (nonwastewaters); P011 (nonwastewaters); P012 (nonwastewaters); P036 (nonwastewaters); P038 (nonwastewaters); P065 (nonwastewaters); P087; and P092 (nonwastewaters);

D. wastes specified in part 7045.1333, subpart 3, as EPA Hazardous Waste Nos. U136 (nonwastewaters); and U151 (nonwastewaters); and

E. the following wastes identified as hazardous based on a characteristic alone: D004 (nonwastewaters); D008 (lead materials stored before secondary smelting), and D009 (nonwastewaters); inorganic solids debris as defined in part 7045.0020, subpart 45a (which also applies to chromium refractory bricks carrying the EPA Hazardous Waste Nos. K048-K052); and RCRA hazardous wastes that contain naturally occurring radioactive materials.

Subp. 4. **Mixed radioactive/hazardous wastes.** Effective May 8, 1992, hazardous wastes listed in Code of Federal Regulations,

title 40, sections 268.10, 268.11, and 268.12, that are mixed radioactive/hazardous wastes, and soil or debris contaminated with the hazardous wastes, are prohibited from land disposal.

Subp. 5. **Contaminated soil or debris.** Effective May 8, 1992, the wastes specified in this part having a treatment standard in parts 7045.1350 to 7045.1360 based on incineration, mercury retorting, vitrification, acid leaching followed by chemical precipitation, or thermal recovery of metals, and which are contaminated soil or debris, are prohibited from land disposal.

Subp. 6. **Exceptions between May 8, 1990, and August 8, 1990.** Between May 8, 1990, and August 8, 1990, the wastes in subpart 1 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements in part 7045.0075, subpart 8.

Subp. 7. **Exceptions between May 8, 1990, and November 8, 1990.** Between May 8, 1990, and November 8, 1990, the wastes in subpart 2 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements in part 7045.0075, subpart 8.

Subp. 8. **Exceptions between May 8, 1990, and May 8, 1992.** Between May 8, 1990, and May 8, 1992, the wastes in subparts 3 to 5 may be disposed of in a landfill or surface impoundment only if the unit is in compliance with the requirements of Code of Federal Regulations, title 40, section 268.5(h)(2).

Subp. 9. **General exceptions.** The requirements of subparts 1 to 5 do not apply if:

A. the wastes meet the applicable standards in parts 7045.1350 to 7045.1360;

B. persons have been granted an exemption from a prohibition pursuant to a petition under part 7045.0075, subpart 9, with respect to wastes and units covered by the petition;

C. the wastes meet the applicable alternate standards established pursuant to a petition granted under Code of Federal Regulations, title 40, section 268.44; and

D. persons have been granted an extension to the effective date of a prohibition under part 7045.0075, subpart 8, with respect to wastes covered by the extension.

Subp. 10. **Waste analysis.** To determine whether a hazardous waste listed in Code of Federal Regulations, title 40, sections 268.10, 268.11, and 268.12, exceeds the applicable treatment standards in parts 7045.1355 and 7045.1358, the initial generator must test a representative sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable levels listed in parts 7045.1350 to 7045.1360, the waste is prohibited from land disposal and all requirements of parts 7045.1300 to 7045.1380 are applicable, except as otherwise specified.

7045.1339 EFFECTIVE DATES OF SURFACE DISPOSED WASTES REGULATED IN THE LAND DISPOSAL RESTRICTIONS.

The comprehensive list of effective dates of surface disposed wastes regulated in the land disposal restrictions is found in Code of Federal Regulations, title 40, section 268, Appendix VII, Tables 1 and 2. This table does not include mixed radioactive wastes which are receiving a national capacity variance until May 8, 1992, for all applicable treatment technologies.

7045.1350 TREATMENT STANDARDS.

Subpart 1. **Concentration standard for waste extract.** A restricted waste identified in ~~this subpart~~ part 7045.1355 may be land disposed ~~without further treatment~~ only if an extract of the waste or of the treatment residue of the waste developed using the test method in Code of Federal Regulations, title 40, part ~~268~~ 261, Appendix ~~I~~ II, does not exceed the value shown in Code of Federal Regulations, title 40, part ~~7045.1355, subpart 3~~ 268.41, Table CCWE, for any hazardous constituent listed for that waste, with the following exceptions: D004; D008; K031; K084; K101; K102; P010; P011; P012; P036; P038; and U136. These wastes may be land disposed only if an extract of the waste or of the treatment residue of the waste developed using either the test method in Code of Federal Regulations, title 40, part 261, Appendix II, or the test method in Code of Federal Regulations, title 40, part 268, Appendix IX, does not exceed the concentrations shown in Code of Federal Regulations, title 40, part 268.41, Table CCWE, for any hazardous constituent listed for that waste.

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

Subp. 3. **Concentration standard for waste or treatment residue.** Except as otherwise specified in part 7045.1358, a restricted waste identified in part 7045.1358 may be land disposed only if the constituent concentrations in the waste or treatment residue of

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the waste do not exceed the value shown in Code of Federal Regulations, title 40, part 268.43, Table CCW, for any hazardous constituents listed for that waste.

7045.1355 TREATMENT STANDARDS EXPRESSED AS CONCENTRATIONS IN WASTE EXTRACT.

Subpart 1. **Applicability.** ~~Subpart 3~~ Code of Federal Regulations, title 40, part 268.41, Table CCWE, identifies the restricted wastes and the concentrations of their associated ~~hazardous~~ constituents that may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in ~~Appendix I of~~ Code of Federal Regulations, title 40, part ~~268~~ 261, Appendix II, for the allowable land disposal of ~~the waste~~ such wastes, with the exception of EPA Hazardous Waste Nos. D004, D008, K031, K084, K101, K102, P010, P011, P012, P036, P038, and U136. Table CCWE also identifies the restricted EPA Hazardous Waste Nos. D004, D008, K031, K084, K101, K102, P010, P011, P012, P036, P038, and U136 and the concentrations of their associated constituents which may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in Code of Federal Regulations, title 40, part 261, Appendix II, for the allowable land disposal of such wastes. Code of Federal Regulations, title 40, part 268, Appendix II, provides agency guidance on treatment methods that have been shown to achieve the Table CCWE levels for the respective wastes. This guidance is provided to assist generators and owners or operators in their selection of appropriate treatment methods. Compliance with these concentrations is required based on grab samples.

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

Subp. 3. **~~Constituents~~ Constituent concentrations in waste extract.** Constituents in waste extracts are listed with the applicable concentration limits in Code of Federal Regulations, title 40, part 268.41, Table CCWE.

	~~Concentration (in mg/l)~~	
~~F001–F005 spent solvents~~	~~Wastewaters containing spent solvents~~	~~All other spent solvent wastes~~
~~Acetone~~	~~0.05~~	~~0.59~~
~~n-Butyl alcohol~~	~~5.0~~	~~5.0~~
~~Carbon disulfide~~	~~1.05~~	~~4.81~~
~~Carbon tetrachloride~~	~~0.05~~	~~0.96~~
~~Chlorobenzene~~	~~0.15~~	~~0.05~~
~~Cresols (and cresylic acid)~~	~~2.82~~	~~0.75~~
~~Cyclohexanone~~	~~0.125~~	~~0.75~~
~~1,2-Dichlorobenzene~~	~~0.65~~	~~0.125~~
~~Ethyl acetate~~	~~0.05~~	~~0.75~~
~~Ethylbenzene~~	~~0.05~~	~~0.053~~
~~Ethyl ether~~	~~0.05~~	~~0.75~~
~~Isobutanol~~	~~5.0~~	~~5.0~~
~~Methanol~~	~~0.25~~	~~0.75~~
~~Methylene chloride~~	~~0.20~~	~~0.96~~
~~Methylene chloride (from the pharmaceutical industry)~~	~~12.7~~	~~0.96~~
~~Methyl ethyl ketone~~	~~0.05~~	~~0.75~~
~~Methyl isobutyl ketone~~	~~0.05~~	~~0.33~~
~~Nitrobenzene~~	~~0.66~~	~~0.125~~
~~Pyridine~~	~~1.12~~	~~0.33~~
~~Tetrachloroethylene~~	~~0.079~~	~~0.05~~
~~Toluene~~	~~1.12~~	~~0.33~~
~~1,1,1-Trichloroethane~~	~~1.05~~	~~0.41~~
~~1,1,2-Trichloro-1,2,2-Trifluoroethane~~	~~1.05~~	~~0.96~~
~~Trichloroethylene~~	~~0.062~~	~~0.091~~
~~Trichlorofluoromethane~~	~~0.05~~	~~0.96~~
~~Xylene~~	~~0.05~~	~~0.15~~

~~F020–F023 and F026–F028 dioxin containing wastes~~	~~Concentration~~
~~HxCDD—All Hexachlorodibenzo-p-dioxins~~	~~< 1 ppb~~
~~HxCDF—All Hexachlorodibenzofurans~~	~~< 1 ppb~~
~~PeCDD—All Pentachlorodibenzo-p-dioxins~~	~~< 1 ppb~~
~~PeCDF—All Pentachlorodibenzofurans~~	~~< 1 ppb~~
~~TCDD—All Tetrachlorodibenzo-p-dioxins~~	~~< 1 ppb~~
~~TCDF—All Tetrachlorodibenzofurans~~	~~< 1 ppb~~

~~F020-F023 and F026-F028 dioxin containing wastes~~ ~~Concentration~~

~~2,4,5-Trichlorophenol < 0.05 ppm~~
~~2,4,6-Trichlorophenol < 0.05 ppm~~
~~2,3,4,6-Tetrachlorophenol < 0.10 ppm~~
~~Pentachlorophenol < 0.01 ppm~~

7045.1358 TREATMENT STANDARDS EXPRESSED AS WASTE CONCENTRATIONS.

Subpart 1. **Applicability.** Subpart 3 identifies the restricted wastes and the concentrations of their associated hazardous constituents that may not be exceeded by the waste or treatment residual, not an extract of the waste or residual, for the allowable land disposal of the waste or residual. Compliance with these concentrations is required based on grab samples, unless otherwise noted in subpart 3. Limits are expressed in milligrams per kilogram (mg/kg) for nonwastewaters and in milligrams per liter (mg/l) for wastewaters.

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

Subp. 3. **Constituent concentrations in wastes.** Constituent concentrations in wastes are listed with the applicable concentration limits in Code of Federal Regulations, title 40, section 268.43, Table CCW.

Subp. 4. **No land disposal.** The nonwastewater forms of the following wastes generated by the processes described in the waste listing description applies only to wastes generated and disposed after the dates shown, if a date is shown, and not generated in the course of treating wastewater forms of these wastes based on no generation, except as noted, are prohibited from land disposal:

A. K004, after August 17, 1988;

B. K005, after June 8, 1989;

C. K007, after June 8, 1989;

D. K008, after August 17, 1988;

E. K015, after May 8, 1990, based on no ash;

F. K021, after August 17, 1988;

G. K025, after August 17, 1988;

H. K036, after August 17, 1988;

I. K044, based on reactivity;

J. K045, based on reactivity;

K. K047, based on reactivity;

L. K060, after August 17, 1988;

M. K061—high zinc subcategory, greater than or equal to 15 percent total zinc, after August 17, 1990, based on recycling, effective August 8, 1990;

N. K069—noncalcium sulfate subcategory, after August 17, 1988, based on recycling;

O. K083—no ash subcategory, less than 0.01 percent total ash, after May 8, 1990, based on no ash; and

P. K100, after August 17, 1988.

Subp. 5. **Demonstrating compliance with treatment standards for organic constituents.** Notwithstanding the prohibitions in subpart 1, treatment and disposal facilities may demonstrate, and certify under part 7045.1315, subpart 2, item E, compliance with the treatment standards for organic constituents specified by a footnote in Code of Federal Regulations, title 40, section 268.43, Table CCW, provided the following conditions are satisfied:

A. the treatment standards for the organic constituents were established based on incineration in units operated according to the technical requirements of part 7045.0542 or 7045.0640, or based on combustion in fuel substitution units operating in according to applicable technical requirements;

B. the treatment or disposal facility has used the methods referenced in item A to treat the organic constituents; and

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C. the treatment or disposal facility has been unable to detect the organic constituents despite using its best good faith efforts as defined by applicable guidance or standards. Until the guidance or standards are developed, the treatment or disposal facility may demonstrate such good faith efforts by achieving detection limits for the regulated organic constituents that do not exceed an order of magnitude of the treatment standards specified in this part.

7045.1360 TREATMENT STANDARDS EXPRESSED AS SPECIFIED TECHNOLOGIES.

~~The following wastes must be treated using the identified technology or technologies, or an equivalent method approved under part 7045.0075, subpart 10.~~

Subpart 1. **Applicability.** The wastes in items A and B and subparts 4 and 5 must be treated using the technology or technologies specified in items A to C and subpart 3.

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

B. Nonliquid hazardous wastes containing halogenated organic compounds (HOC's) in total ~~concentrations~~ concentration greater than or equal to 1,000 mg/kg and liquid HOC-containing wastes that are prohibited under part 7045.1330, subpart ~~2~~ 1, item ~~B~~ D, ~~subitem (1),~~ must be incinerated in accordance with the requirements of part 7045.0542 or 7045.0640. These treatment standards do not apply if the waste is subject to a treatment standard in parts ~~7045.1320~~ 7045.1350 to ~~7045.1330~~ 7045.1360 for a specific HOC.

C. A mixture consisting of wastewater, the discharge of which is subject to regulation under either section 307(b) or 402 of the Clean Water Act, and de minimis losses of materials from manufacturing operations in which these materials are used as raw materials or are produced as products in the manufacturing process, and that meet the criteria of the D001 ignitable liquids containing greater than ten percent total organic constituents (TOC) subcategory, is subject to the DEACT treatment standard described in subpart 3. For purposes of this item, de minimis losses include those from normal material handling operations such as spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials; minor leaks from process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; and relief device discharges.

Subp. 2. **Alternative technology.** A person may submit an application to the commissioner demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achievable by methods specified in subpart 1. The applicant must submit information demonstrating that the alternative treatment method complies with federal, state, and local requirements and is protective of human health and the environment. On the basis of all available information, the commissioner may approve the use of the alternative treatment method if the commissioner finds that the alternative treatment method provides a measure of performance equivalent to that achieved by methods specified in subpart 1. An approval must be stated in writing and contain provisions and conditions the commissioner considers appropriate. The person to whom the approval is issued must comply with all limitations contained in the determination.

Subp. 3. **Technology codes and description of technology-based standards.** The items in this subpart list the five-letter technology codes for use in notifications and the description of each technology-based standard.

When a combination of these technologies, called a treatment train, is specified as a single treatment standard, the order of application is specified in subpart 4 by indicating the five-letter technology code that must be applied first, then the designation "fb," which is an abbreviation for "followed by," then the five-letter technology code for the technology that must be applied next, and so on.

When more than one technology or treatment train are specified as alternative treatment standards, the five-letter technology codes or the treatment trains are separated by a semicolon (;) with the last technology preceded by the word "OR." This indicates that any one of these BDAT technologies or treatment trains can be used for compliance with the standard.

A. ADGAS: venting of compressed gases into an absorbing or reacting media (i.e., solid or liquid). Venting can be accomplished through physical release using values/piping; physical penetration of the container; or penetration through detonation.

B. AMLGM: amalgamation of liquid, elemental mercury contaminated with radioactive materials using inorganic reagents such as copper, zinc, nickel, gold, and sulfur that result in a nonliquid, semisolid amalgam and thereby reducing potential emissions of elemental mercury vapors to the air.

C. BIODG: biodegradation of organics or nonmetallic inorganics (i.e., degradable inorganics that contain the elements of phosphorus, nitrogen, and sulfur) in units operated under either aerobic or anaerobic conditions so that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon can often be used as an indicator parameter for the biodegradation of many organic constituents that cannot be directly analyzed in wastewater residues).

D. CARBN: carbon adsorption (granulated or powdered) of nonmetallic inorganics, organo metallics, and/or organic constituents, operated so that a surrogate compound or indicator parameter has not undergone breakthrough (e.g., total organic carbon can often be used as an indicator parameter for the adsorption of many organic constituents that cannot be directly analyzed in wastewater

residues). Breakthrough occurs when the carbon has become saturated with the constituent (or indicator parameter) and substantial change in adsorption rate associated with that constituent occurs.

E. CHOXD: chemical or electrolytic oxidation using the following oxidation reagents (or waste reagents) or combinations or reagents:

(1) hypochlorite (e.g., bleach);

(2) chlorine;

(3) chlorine dioxide;

(4) ozone or ultraviolet light assisted ozone;

(5) peroxides;

(6) persulfates;

(7) perchlorates;

(8) permangantes; and/or

(9) other oxidizing reagents of equivalent efficiency, performed in units operated so that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon can often be used as an indicator parameter for the oxidation of many organic constituents that cannot be directly analyzed in wastewater residues). Chemical oxidation specifically includes what is commonly referred to as alkaline chlorination.

F. CHRED: chemical reduction using the following reducing reagents (or waste reagents) or combinations of reagents:

(1) sulfur dioxide;

(2) sodium, potassium, or alkali salts of sulfites, bisulfites, metabisulfites, and polyethylene glycols (e.g., NaPEG and KPEG);

(3) sodium hydrosulfide;

(4) ferrous salts; and/or

(5) other reducing reagents of equivalent efficiency, performed in units operated such that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic halogens can often be used as an indicator parameter for the reduction of many halogenated organic constituents that cannot be directly analyzed in wastewater residues). Chemical reduction is commonly used for the reduction of hexavalent chromium to the trivalent state.

G. DEACT: deactivation to remove the hazardous characteristics of a waste due to its ignitability, corrosivity, and/or reactivity.

H. FSUBS: fuel substitution in units operated according to applicable technical operating requirements.

I. HLVIT: vitrification of high level mixed radioactive wastes in units in compliance with all applicable radioactive protection requirements under control of the Nuclear Regulatory Commission.

J. IMERC: incineration of wastes containing organics and mercury in units operated according to the technical operating requirements of parts 7045.0542 and 7045.0640. All wastewater and nonwastewater residues derived from this process must comply with the corresponding treatment standards per waste code with consideration of any applicable subcategories (e.g., high or low mercury subcategories).

K. INCIN: incineration units operated according to the technical operating requirements of parts 7045.0542 and 7045.0640.

L. LLEXT: liquid-liquid extraction (often referred to as solvent extraction) of organics from liquid wastes into an immiscible solvent for which the hazardous constituents have a greater solvent affinity, resulting in an extract high in organics that must undergo either incineration, reuse as a fuel, or other recovery/reuse and a raffinate (extracted liquid waste) proportionately low in organics that must undergo further treatment as specified in the standard.

M. MACRO: macroencapsulation with surface coating materials such as polymeric organics (e.g., resins and plastics) or with a jacket of inert inorganic materials to substantially reduce surface exposure to potential leaching media. Macroencapsulation specifically does not include any material that would be classified as a tank or container according to part 7045.0020.

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N. NEUTR: neutralization with the following reagents (or waste reagents) or combinations of reagents:

(1) acids;

(2) bases; or

(3) water (including wastewaters) resulting in a pH greater than two but less than 12.5 as measured in the aqueous residuals.

O. NLDBR: no land disposal based on recycling.

P. PRECP: chemical precipitation of metals and other inorganics as insoluble precipitates of oxides, hydroxides, carbonates, sulfides, sulfates, chlorides, fluorides, or phosphates. The following reagents (or waste reagents) are typically used alone or in combination:

(1) lime (i.e., containing oxides and/or hydroxides of calcium and/or magnesium);

(2) caustic (i.e., sodium and/or potassium hydroxides);

(3) soda ash (i.e., sodium carbonate);

(4) sodium sulfide;

(5) ferric sulfate or ferric chloride;

(6) alum; or

(7) sodium sulfate.

Additional floculating, coagulation, or similar reagents/processes that enhance sludge dewatering characteristics are not precluded from use.

Q. RBERY: thermal recovery of beryllium.

R. RCGAS: recovery/reuse of compressed gases including techniques such as reprocessing of the gases for reuse/resale; filtering/adsorption of impurities; remixing for direct reuse of resale; and use of the gas as a fuel source.

S. RCORR: recovery of acids or bases using one or more of the following recovery technologies:

(1) distillation (i.e., thermal concentration);

(2) ion exchange;

(3) resin or solid adsorption;

(4) reverse osmosis; and/or

(5) incineration for the recovery of acid.

Note: this does not preclude the use of other physical phase separation or concentration techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the recovery technologies in subitems (1) to (5).

T. RLEAD: thermal recovery of lead in secondary lead smelters.

U. RMERC: retorting or roasting in a thermal processing unit capable of volatilizing mercury and subsequently condensing the volatilized mercury for recovery. The retorting or roasting unit or facility must be subject to one or more of the following:

(1) a National Emissions Standard for Hazardous Air Pollutants (NESHAP) for mercury;

(2) a Best Available Control Technology (BACT) or a Lowest Achievable Emission Rate (LAER) standard for mercury imposed pursuant to a Prevention of Significant Deterioration (PSD) permit; or

(3) a state permit that establishes emission limitations for mercury within meaning of section 302 of the Clean Air Act. All wastewater and nonwastewater residues derived from this process must comply with the corresponding treatment standards per waste code with consideration of any applicable subcategories (e.g., high or low mercury subcategories).

V. RMETL: recovery of metals or inorganics using one or more of the following direct physical/removal technologies:

(1) ion exchange;

(2) resin or solid (i.e., zeolites) adsorption;

(3) reverse osmosis;

(4) chelation/solvent extraction;

(5) freeze crystallization;

(6) ultrafiltration; and/or

(7) simple precipitation (i.e., crystallization).

NOTE: This does not preclude the use of other physical phase separation or concentration techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the recovery technologies in subitems (1) to (7).

W. RORGS: recovery of organics using one or more of the following technologies:

(1) distillation;

(2) thin film evaporation;

(3) steam stripping;

(4) carbon adsorption;

(5) critical fluid extraction;

(6) liquid-liquid extraction;

(7) precipitation/crystallization (including freeze crystallization); or

(8) chemical phase separation techniques (i.e., addition of acids, bases, demulsifiers, or similar chemicals).

NOTE: This does not preclude the use of other physical phase separation techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the recovery technologies in subitems (1) to (8).

X. RTHRM: thermal recovery of metals or inorganics from nonwastewaters in units defined in part 7045.0020, under the definition of industrial furnaces.

Y. RZINC: resmelting for the purpose of recovery of zinc high temperature metal recovery units.

Z. STABL: stabilization with the following reagents (or waste reagents) or combinations of reagents:

(1) portland cement; or

(2) lime/pozzolans (e.g., fly fish and cement kiln dust).

NOTE: This does not preclude the addition of reagents (e.g., iron salts, silicates, and clays) designed to enhance the set/cure time and/or compressive strength, or to overall reduce the leachability of the metal or inorganic.

AA. SSTRP: steam stripping of organics from liquid wastes using direct application of steam to the wastes operated so that liquid and vapor flow rates and temperature and pressure ranges have been optimized, monitored, and maintained. These operating parameters are dependent on the design parameters of the unit, such as the number of separation stages and the internal column design, thus resulting in a condensed extract high in organics that must undergo incineration, reuse as a fuel, or other recovery/reuse and an extracted wastewater that must undergo further treatment as specified in the standard.

BB. WETOX: wet air oxidation performed in units operated so that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon can often be used as an indicator parameter for the oxidation of many organic constituents that cannot be directly analyzed in wastewater residues).

CC. WTRRX: controlled reaction with water for highly reactive inorganic or organic chemicals with precautionary controls for protection of workers from potential violent reactions and precautionary controls for potential emissions of toxic/ignitable levels of gases released during the reaction.

Subp. 4. **Technology-based standards by RCRA waste code.** Governed by technology-based standards listed in Code of Federal Regulations, title 40, part 268.42, Table 2.

Subp. 5. **Technology-based standards for specific radioactive hazardous mixed waste.** Governed by standards listed in Code of Federal Regulations, title 40, part 268.42, Table 3.

Subp. 6. **Application for alternative treatment methods.** A person may submit an application to the commissioner demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achievable by methods specified in subparts 1, 7, and 8. The applicant must submit information demonstrating that the applicant's treatment method complies with federal, state, and local requirements and is protective of human health and the environment. On the basis of all available information, the commissioner may approve the use of an alternative treatment method. The approval must be stated in writing and contain provisions and conditions the commissioner considers appropriate. The person to whom the approval is issued must comply with all limitations contained in the determination.

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Subp. 7. **Exceptions for lab packs.** As an alternative to the otherwise applicable treatment standards under parts 7045.1350 to 7045.1360, lab packs are eligible for land disposal, provided the following requirements are met:

A. the lab packs comply with parts 7045.0538 and 7045.0638;

B. all hazardous wastes contained in the lab packs are specified in subpart 9 or 10;

C. the lab packs are incinerated according to part 7045.0542 or 7045.0640; and

D. any incinerator residues from lab packs containing D004, D005, D006, D007, D008, D010, and D011 are treated in compliance with the applicable treatment standards specified for the wastes in parts 7045.1350 to 7045.1360.

Subp. 8. **Exceptions for radioactive hazardous mixed wastes.** Radioactive hazardous mixed wastes with treatment standards specified in subpart 5 are not subject to any treatment standards specified in subpart 4 or part 7045.1355 or 7045.1358. Radioactive hazardous mixed wastes not subject to treatment standards in subpart 1 remain subject to all applicable treatment standards specified in subpart 4 and parts 7045.1355 and 7045.1358.

Subp. 9. **Organometallic lab packs.** Hazardous waste with the following EPA Hazardous Waste Nos. may be placed in an organometallic lab pack: P001; P002; P003; P004; P005; P006; P007; P008; P009; P013; P014; P015; P016; P017; P018; P020; P022; P023; P024; P025; P026; P027; P028; P031; P034; P036; P037; P038; P039; P040; P041; P042; P043; P044; P045; P047; P048; P049; P050; P051; P054; P056; P057; P058; P059; P060; P062; P063; P064; P065; P066; P067; P068; P069; P070; P071; P072; P073; P074; P075; P077; P081; P082; P084; P085; P087; P088; P089; P092; P093; P094; P095; P096; P097; P098; P099; P101; P102; P103; P104; P105; P108; P109; P110; P112; P113; P114; P115; P116; P118; P119; P120; P122; P123; U001; U002; U003; U004; U005; U006; U007; U008; U009; U010; U011; U012; U014; U015; U016; U017; U018; U019; U020; U021; U022; U023; U024; U025; U026; U027; U028; U029; U030; U031; U032; U033; U034; U035; U036; U037; U038; U039; U041; U042; U043; U044; U045; U046; U047; U048; U049; U050; U051; U052; U053; U055; U056; U057; U058; U059; U060; U061; U062; U063; U064; U066; U067; U068; U069; U070; U071; U072; U073; U074; U075; U076; U077; U078; U079; U080; U081; U082; U083; U084; U085; U086; U087; U088; U089; U090; U091; U092; U093; U094; U095; U096; U097; U098; U099; U101; U102; U103; U105; U106; U107; U108; U109; U110; U111; U112; U113; U114; U115; U116; U117; U118; U119; U120; U121; U122; U123; U124; U125; U126; U127; U128; U129; U130; U131; U132; U133; U134; U135; U136; U137; U138; U139; U140; U141; U142; U143; U144; U145; U146; U147; U148; U149; U150; U152; U153; U154; U155; U156; U157; U158; U159; U160; U161; U162; U163; U164; U165; U166; U167; U168; U169; U170; U171; U172; U173; U174; U176; U177; U178; U179; U180; U181; U182; U183; U184; U185; U186; U187; U188; U189; U190; U191; U192; U193; U194; U196; U197; U200; U201; U202; U203; U204; U205; U206; U207; U208; U209; U210; U211; U213; U214; U215; U216; U217; U218; U219; U220; U221; U222; U223; U225; U226; U227; U228; U234; U235; U236; U237; U238; U239; U240; U243; U244; U246; U247; U248; U249; U328; U353; U359; F001; F002; F003; F004; F005; F006; F010; F020; F021; F023; F024; F026; F027; F028; K001; K002; K008; K009; K010; K011; K013; K014; K015; K016; K017; K018; K019; K020; K021; K022; K023; K024; K025; K026; K027; K028; K029; K030; K031; K032; K033; K034; K035; K036; K037; K038; K039; K040; K041; K042; K043; K044; K045; K046; K047; K048; K049; K050; K051; K052; K054; K060; K061; K064; K065; K066; K069; K071; K073; K083; K084; K085; K086; K087; K093; K094; K095; K096; K097; K098; K099; K101; K102; K103; K104; K105; K111; K112; K113; K114; K115; K116; K117; K118; K123; K124; K125; K126; K136; D001; D002; D003; D004; D005; D006; D007; D008; D010; D011; D012; D013; D014; D015; D016; and D017.

Subp. 10. **Organic lab packs.** Hazardous wastes with the following EPA Hazardous Waste Nos. may be placed in an organic lab pack: P001; P002; P003; P004; P005; P006; P007; P008; P009; P013; P014; P015; P016; P017; P018; P020; P022; P023; P024; P025; P026; P027; P028; P031; P034; P036; P037; P038; P039; P040; P041; P042; P043; P044; P045; P046; P047; P048; P049; P050; P051; P054; P057; P058; P059; P060; P062; P063; P064; P065; P066; P067; P068; P069; P070; P071; P072; P073; P074; P075; P077; P081; P082; P084; P085; P087; P088; P089; P092; P093; P094; P095; P096; P097; P098; P099; P101; P102; P103; P104; P105; P108; P109; P110; P111; P112; P113; P114; P115; P116; P118; P119; P120; P122; P123; U001; U002; U003; U004; U005; U006; U007; U008; U009; U010; U011; U012; U014; U015; U016; U017; U018; U019; U020; U021; U022; U023; U024; U025; U026; U027; U028; U029; U030; U031; U033; U034; U035; U036; U037; U038; U039; U041; U042; U043; U044; U045; U046; U047; U048; U049; U050; U051; U052; U053; U055; U056; U057; U058; U059; U060; U061; U062; U063; U064; U066; U067; U068; U069; U070; U071; U072; U073; U074; U075; U076; U077; U078; U079; U080; U081; U082; U083; U084; U085; U086; U087; U088; U089; U090; U091; U092; U093; U094; U095; U096; U097; U098; U099; U101; U102; U103; U105; U106; U107; U108; U109; U110; U111; U112; U113; U114; U115; U116; U117; U118; U119; U120; U121; U122; U123; U124; U125; U126; U127; U128; U129; U130; U131; U132; U133; U135; U137; U138; U139; U140; U141; U142; U143; U147; U148; U149; U150; U153; U154; U155; U156; U157; U158; U159; U160; U161; U162; U163; U164; U165; U166; U167; U168; U169; U170; U171; U172; U173; U174; U176; U177; U178; U179; U180; U181; U182; U183; U184; U185; U186; U187; U188; U189; U190; U191; U192; U193; U194; U196; U197; U200; U201; U202; U203; U205; U206; U207; U208; U209; U210; U211; U213; U214; U218; U219; U220; U221; U222; U223; U225; U226; U227; U228; U234; U235; U236; U237; U238; U239; U240; U243; U244; U246; U247; U248; U249; U328; U353; U359; F001; F002; F003; F004; F005; F010; F020; F021; F023; F024; F026; F027; F028; K001; K009; K010; K011; K013; K014; K015; K016; K017; K018; K019; K020; K021; K022; K023; K024; K025; K026; K027; K029; K030; K031; K032; K033; K034; K035; K036; K037; K038; K039; K040; K041; K042; K043; K044; K045; K046; K047; K048;

K049; K050; K051; K052; K054; K060; K065; K073; K083; K084; K085; K086; K087; K093; K094; K095; K096; K097; K098; K099; K101; K102; K103; K104; K105; K111; K112; K113; K114; K115; K116; K117; K118; K123; K124; K125; K126; K136; D001; D012; D013; D014; D015; D016; and D017.

Subp. 11. **Recommended technologies to achieve deactivation of characteristics.** The treatment standard for many subcategories of the EPA Hazardous Waste Nos. D001, D002, D003, K044, K045, and K047 wastes is listed simply as "Deactivation to remove the characteristics of ignitability, corrosivity, and reactivity." EPA has determined that many technologies, when used alone or in combination, can achieve this standard. The following appendix presents a partial list of these technologies, using the five-letter technology codes established in subpart 3. Use of these specific technologies is not mandatory and does not preclude direct reuse, recovery, or the use of other pretreatment technologies, provided deactivation is achieved and these alternative methods are not performed in units designated as land disposal.

7045.1380 PROHIBITIONS ON STORAGE OF RESTRICTED WASTES.

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

Subp. 4. ~~**Petition**~~ **Exemptions.** ~~The~~ If a ~~generators~~ generator's waste is exempt from a prohibition ~~in subpart 1 does not apply to the wastes that are the subject~~ on the type of land disposal used for the waste, because of an approved case-by-case extension under part 7045.0075, subpart 6, an approved petition under part 7045.0075, subparts 8 and 9, or a national capacity variance ~~contained in~~ under parts 7045.1320 to 7045.1330, the prohibition in subpart 1 does not apply during the period of the exemption.

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

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.

Board of Marriage and Family Therapy

Adopted Permanent Rules Relating to Continuing Education

The rules proposed and published at *State Register,* Volume 16, Number 2, pages 57-58, July 8, 1991 (16 SR 57); Volume 16, Number 4, page 136, July 22, 1991 (16 SR 136), are adopted as proposed.

Pollution Control Agency

Division of Air Quality

Adopted Permanent Rules Relating to Open Burning Restrictions and Permitting Requirements

The rules proposed and published at *State Register,* Volume 15, Number 18, pages 993-999, October 29, 1990 (15 SR 993); Volume 15, Number 37, pages 2035-2037, March 11, 1991 (15 SR 2035); Volume 15, Number 39, page 2141, March 25, 1991 (15 SR 2141), are adopted with the following modifications:

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.

Rules as Adopted

OPEN BURNING RESTRICTIONS AND PERMITTING REQUIREMENTS

7005.0705 DEFINITIONS.

Subp. 4. **Delegated authority.** "Delegated authority" means a town, home rule charter or statutory city or metropolitan county as defined in *Minnesota Statutes*, section 473.121, subdivision 4, authorized by the commissioner to issue open burning permits under part 7005.0767.

Subp. 6. **Land used for farming.** "Land used for farming" means land that is in agricultural use as defined in *Minnesota Statutes*, section 17.81.

Subp. 7. **Local authority.** "Local authority" means a local fire chief, fire marshal, fire warden, or local governmental official.

Subp. ~~7~~ 8. **Nonattainment area.** "Nonattainment area" means a geographic region that has been:

Subp. ~~8~~ 9. **Open burning.** "Open burning" means the burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct, or chimney.

Subp. ~~9~~ 10. **Owner or operator.** "Owner" or "operator" means a person who owns, leases, operates, controls, or supervises an open burning site, or who conducts open burning.

Subp. 11. **Practical.** "Practical" means technically feasible, available within the general area where the material to be burned is located, and available at a cost that is not prohibitive for most users.

Subp. ~~10~~ 12. **Solid waste.** "Solid waste" has the meaning given it in *Minnesota Statutes*, section 116.06, subdivision 10.

7005.0715 OPEN BURNING RESTRICTIONS.

Subpart 1. **Open burning without a permit.** Except as provided in parts 7005.0785 and 7005.0795, open burning without ~~a~~ an agency permit is allowed only on unincorporated land in attainment areas, and only if the owner or operator conducts the burning for the purposes described in subpart 3, according to the conditions in subpart 4, parts 7005.0725, 7005.0775, and 7005.0805, and prior notice has been given to the local authority.

Subp. 3. **Purposes for burning.** Open burning is allowed if conducted for the following purposes:

E. ~~activities in accordance with Department of Agriculture practices~~ consistent with *Minnesota Statutes*, section 18.024, the disposal of diseased shade trees as described in parts 1505.0230 and 1505.0320~~, and *Minnesota Statutes*, section 19.56; or~~

F. disposal of diseased or infested nursery stock, diseased bee hives under *Minnesota Statutes*, section 19.56, or dunnage as required under part 1505.1430; or

G. the disposal of burnable building material such as unpainted or untreated lumber, wood shakes, or other unpainted or untreated wood products generated by construction, where recycling, reuse, chipping, or other alternative disposal methods are not practical.

Subp. 4. **Conditions.** Open burning must be conducted according to the requirements in items A to ~~I~~ J.

A. The prevailing wind at the time of the burning must be away from nearby residences and occupied buildings. ~~Wind speed must not exceed 15 miles per hour.~~

B. The burning must be conducted ~~at least 300 feet from a highway or public road~~ as far away from a road as possible and controlled so that a traffic hazard is not created.

C. The burning must ~~not~~ be ~~located within 600 feet of an occupied building or residence other than those located on the property on which the burning is conducted unless written permission is obtained from those occupants within the 600 feet~~ conducted consistent with article 11.101(b) of the Minnesota Uniform Fire Code as adopted in part 7510.3120.

E. The burning must not be conducted during the duration of an agency-declared air pollution ~~episode~~ alert, warning, emergency, or significant harm episode as outlined in parts 7005.2950 to 7005.3006; *Minnesota Statutes*, section 116.11; Code of Federal Regulations, title 40, part 51, subpart H; or Code of Federal Regulations, title 40, section 52.1220 (c)(1).

F. The person conducting the open burning shall give notice to the local authority and to the local Department of Natural Resources representative ~~and the local authority~~ when within an area under Department of Natural Resources jurisdiction prior to any open burning. The notice must include the time and location of the fire.

I. Fires must not be allowed to smolder with no flame present, except when conducted for the purpose of managing forests, prairies, or wildlife habitats.

J. Fires set or allowed to burn for the purpose of managing forests, prairies, or wildlife habitats must be managed according to a prescribed burn plan approved by the managing agency.

7005.0725 OPEN BURNING PROHIBITIONS.

Subp. 2. **Hazardous wastes.** No person shall conduct, cause, or permit open burning of hazardous waste as classified in chapter 7045 and *Minnesota Statutes*, section 116.06, subdivision 13, except as specifically provided in part 7045.0542, subpart 9.

Subp. 4. **Demolition debris.** No person shall conduct, cause, or permit open burning of burnable building material generated from demolition of commercial or institutional structures. A farm building is not a commercial structure.

Subp. 6. **Motor vehicles.** No person shall conduct, cause, or permit the processing of motor vehicles ~~or scrap metals~~ by open burning.

7005.0735 PERMITS REQUIRED.

Subp. 3. **Application process.** In areas where there is no delegated authority, the applicant shall obtain a permit application from the commissioner. After completing the application, the applicant shall submit the application to the local authority for its approval. Following the local authority approval, the application shall be submitted to the commissioner for a decision whether to issue a permit.

In areas where there is a delegated authority, the applicant shall obtain a permit application from the delegated authority. After completing the application, the applicant shall submit the application to the local authority for its approval. Following the local authority approval, the application shall be submitted to the delegated authority for a decision whether to issue a permit.

The application process for permanent tree and brush open burning sites is described in part 7005.0815, subparts 7 and 8.

To obtain a permit for fire training, an application must be submitted by the fire department or other entity seeking to conduct fire training directly to the commissioner by May 15 of each year. The application must describe the fire department's or other entity's annual training plans and identify the estimated number of structures that will need to be burned for training purposes.

Subp. 4. **Information requests.** The commissioner or delegated authority may request, and the applicant shall provide, any information additional to that required in the application form which the commissioner or delegated authority needs to determine if the open burning can be conducted in compliance with ~~all applicable rules~~ parts 7005.0705 to 7005.0815.

7005.0745 PERMIT DENIAL.

The commissioner shall deny a permit application submitted pursuant to parts 7005.0705 to 7005.0815 if:

A. a ~~reasonable,~~ practical alternative method of disposal of the material is available, such as chipping~~,~~ or composting~~, or other method~~;

7005.0755 PERMIT REVOCATION.

A permit is subject to revocation by the commissioner, if:

A. a ~~reasonable,~~ practical method of disposal of the material is found;

C. the permittee violates parts 7005.0705 to 7005.0815; ~~or~~

D. any of the conditions of the permit are violated; or

E. a nuisance condition has resulted from the burning.

7005.0765 DEPARTMENT OF NATURAL RESOURCES JURISDICTION.

Designated Department of Natural Resources ~~forest~~ officers or fire wardens are authorized to accept applications and issue, deny, enforce, and revoke open burning permits on behalf of the commissioner for locations within their jurisdiction.

7005.0766 FIRE TRAINING.

Subpart 1. **Structure burn training.** Except for owners or operators conducting fire training in specialized industrial settings pursuant to applicable federal, state, or local standards, owners or operators conducting open burning for the purpose of instruction and training of firefighters with regard to structures must follow the techniques described in Structural Burn Training Procedures for the Minnesota Technical College System ~~used in the training of firefighting personnel at Minnesota vocational technical colleges or other qualified training facilities~~. This document is written and published by the Regional State Fire Training Coordinator Staff, June 1987, and is incorporated by reference. It is not subject to frequent change. This publication is available at the Minnesota State Law Library and at the Fire Information, Research, and Education Center, 550 Cedar Street, Saint Paul, Minnesota 55101.

Subp. 2. **Restrictions.** Flammable or combustible liquids shall not be burned during fire training unless liquid fuels or arson

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investigation training is being conducted. The use of small amounts of uncontaminated diesel fuel or kerosene for ignition of live burn fires is not prohibited.

7005.0767 DELEGATED AUTHORITY.

Subpart 1. **Delegated authority to issue permits.** A town or home rule charter or statutory city or metropolitan county may issue permits for open burning other than for fire training or permanent tree and brush burning conducted according to parts 7005.0705 to 7005.0805, if delegated authority is obtained as provided in subpart 2. Permits must be issued on a form approved by the commissioner and records must be maintained of all open burning permits issued.

Subp. 2. **Obtaining authority.** To obtain authority to issue open burning permits, a town or home rule charter or statutory city or metropolitan county must adopt parts 7005.0705 to 7005.0805 as a local ordinance governing open burning. After adopting this ordinance, the town or home rule charter or statutory city or metropolitan county must submit the following to the commissioner:

B. the name of the person or persons authorized to issue the permits on behalf of the town or home rule charter or statutory city or metropolitan county and a certified copy of the motion passed by the town or home rule charter or statutory city or metropolitan county designating such person or persons; and

7005.0785 RECREATIONAL FIRES.

Fires set for recreational, ceremonial, food preparation, or social purposes are allowed and do not require an agency permit. ~~Fires~~ The material to be burned must be limited to a pile no larger than three feet in diameter by three feet high. Only unpainted and untreated wood, coal, or charcoal may be burned.

7005.0815 PERMANENT TREE AND BRUSH OPEN BURNING SITES.

Subp. 4. **Location.** A permanent open burning site must not be located within:

D. 300 feet of a stream, river, lake, or other water body unless berms or other measures are used to ensure that ash or organic material does not enter the water body; or

Subp. 5. **Site operation.** A permanent open burning site must be developed and operated according to items A to J.

G. ~~Twenty-four hour~~ Prior notice must be given to the local authority of the time and duration of each burn.

H. Fugitive ash emissions must be controlled and ash residue must be collected periodically and disposed of in a permitted ~~sanitary landfill~~ solid waste land disposal facility or other method allowed by applicable statutes and rules.

Subp. 6. **Site termination.** A permanent open burning site must be terminated in compliance with items A to D.

A. All unburned materials must be removed and disposed of ~~in an appropriate manner~~ through burning at another permitted burnsite or by other method allowed by applicable statutes, rules, and ordinances.

B. All ash must be removed to a permitted ~~sanitary landfill or~~ solid waste land disposal facility or disposed of by other method allowed by applicable statutes, rules, and ~~rules~~ ordinances.

Subp. 7. **Application process.** Applicants for a permanent open burning site permit shall submit a complete application on a form provided by the commissioner. This application must be submitted at least 90 days before the date of the proposed operation of the permanent open burning site. The application must be submitted to the commissioner and must contain:

E. any other information relevant to the operation of the site, or as requested by the commissioner to determine if the site can be operated in compliance with ~~all applicable rules~~ parts 7005.0705 to 7005.0815.

Revenue Notices

Department of Revenue

Revenue Notice #91-14: Annual Audit of Organizations Licensed to Conduct Lawful Gambling

Minnesota Statutes § 349.19, subd. 9, as amended by 1991 legislation, states that an organization licensed to conduct lawful gambling in Minnesota must have an annual financial audit of its lawful gambling activities and funds performed by an independent accountant licensed by the state of Minnesota. The legislation requires the commissioner of revenue to prescribe the standards for the audit as well as the filing requirements related to the audit.

Annual Audit

All organizations licensed to conduct lawful gambling in the State of Minnesota must have an annual financial audit of their lawful

gambling activities, books of account, and other financial records performed by an independent certified public accountant (C.P.A.) or an independent licensed public accountant (L.P.A.) for all fiscal years ending June 30, 1991 and after. All licensed organizations must submit their annual financial audit report to the Department of Revenue no later than the last day of the sixth month following their fiscal year-end.

A. **Financial Audit Report**—The annual financial audit report shall contain:

1) "Statement of assets, liabilities and fund balance—regulatory basis of accounting" as of the organization's fiscal year-end.

2) "Statement of revenue and expense—regulatory basis of accounting" for its fiscal year then ending.

3) "Statement of changes in fund balance (profit carryover)—regulatory basis of accounting."

4) "Notes to the financial statements" as required by generally accepted accounting principles.

5) Audit report on the financial statements by the independent certified public accountant or independent licensed public accountant.

6) Supplemental schedules of:

a) Lawful purpose expenditures

b) Allowable expense percentage computation

c) Other information that the Department may require to be disclosed.

B. **Evaluation of Accounting Procedures and System of Internal Controls**—A licensed organization shall file with the Department a report of the study and evaluation conducted by the accountant regarding the accounting procedures of the licensed organization and its system of internal control, including any remedial action taken or proposed, within 60 days after the filing of the annual financial audit report.

The report concerning the organization's system of internal control shall be in the form prescribed by generally accepted auditing standards.

C. **Accounting Records**—All licensed organizations are required to maintain records that account for the assets, liabilities, and fund balance of their lawful gambling operation. These records must also account for their gambling revenue, prize pay-outs, expenses, and lawful purpose expenditures. If, in the opinion of the independent certified public accountant or the independent licensed public accountant engaged to conduct the annual financial audit, the licensed organization has not maintained proper accounting records in such a form that can be audited, the accountant must terminate the audit engagement. The accountant must notify the organization of the deficiencies that exist and the corrective action required, with an estimate of the cost to generate auditable records, or, in the alternative, the reason the cost can't be estimated. This notification must be in writing.

D. **Definition, Availability, and Maintenance of Accountant's Workpapers**—Workpapers are the records kept by the independent certified public accountant or independent licensed public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the examination of the financial statements of a licensed gambling organization. Workpapers may include work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of organization documents, and schedules or commentaries prepared or obtained by the accountant in the course of the audit and that support the accountant's opinion.

Every licensed gambling organization required to file an audited financial report shall require the accountant, through the licensed gambling organization, to make available for review by the Department of Revenue the workpapers prepared in the conduct of the audit. The licensed gambling organization shall require that the accountant retain the audit workpapers for a period of not less than five years after the period reported upon.

E. **Qualifications of Accountant**—The Department shall not accept any audit report required by *Minnesota Statute* § 349.19, subd. 9 unless the audit is performed by an independent certified public accountant or independent licensed public accountant in good standing with the Minnesota State Board of Accountancy and licensed to practice in the State of Minnesota.

F. **Termination of the Audit Engagement**—If, for any reason, the audit engagement is terminated by either the licensed organization or the independent accountant prior to its completion and filing of the annual financial audit report, the accountant is, within 10 days of termination, required to make a written report to the Department of Revenue detailing the reason or reasons for such termination.

Dated: 7 October 1991

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Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Minnesota Comprehensive Health Association

Notice of Enrollee Appeal Committee Meeting

NOTICE IS HEREBY GIVEN that an Enrollee Appeal Committee Meeting of the Minnesota Comprehensive Health Association will be held at 9:00 a.m. on Wednesday, October 16, 1991 at Minnesota Comprehensive Health Association, 5775 Wayzata Boulevard, Suite 910, St. Louis Park, Minnesota. Portions of this meeting may be closed to the public.

For additional information please call Lynn Gruber at (612) 593-9609.

Department of Health

Division of Environmental Health

Notice of Solicitation of Outside Information or Opinions in the Matter of the Proposed Adoption of the Rules of the Minnesota Department of Health Governing Clean Indoor Air, Smoking, Parts 4620.0100 to 4620.1500

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health is seeking information or opinions from sources outside the Department in preparing to revise adopted rules governing clean indoor air, smoking in public places, public meetings and places of work, parts 4620.0100 to 4620.1500. Authority to adopt rules is governed by *Minnesota Statutes,* section 144.12, subdivision 1, sections 144.411 to 144.417 and *Law of Minnesota 1984,* chapter 654, article 2, sections 18 and 113 which permits the Department to control by rule, atmospheric pollution which may be injurious or detrimental to public health; smoking in public places, and smoking in factories, warehouses and similar places of work.

The Minnesota Department of Health requests information and opinion on the subject matter of the rule. Interested or affected persons or groups may submit data or views on the subject matter of the adopted rules in writing or orally. Written statements should be addressed to:

Mary Zetterlund
Minnesota Department of Health
Division of Environmental Health
925 Southeast Delaware Street
Minneapolis, Minnesota 55459

Oral statements will be received during regular business hours over the telephone at (612) 627-5015 by Ms. Zetterlund and in person at the above address.

All statements of information and opinions will be accepted until further notice is published in the *State Register.* Any written material received by the Minnesota Department of Health becomes part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Jane A. Nelson
Rules Coordinator

Department of Health

Division of Environmental Health

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rules Governing Lead Abatement Methods and Standards for Lead in Paint, Dust, and Drinking Water, Parts 4761.0100 Through 4761.0800

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health is seeking information or opinions from sources outside

the department in preparing to propose amendment of existing rules governing lead abatement methods and standards for lead in paint, dust, and drinking water. The adoption of the amendments is authorized by *Minnesota Statutes*, section 144.878.

The Department of Health requests information and opinions on the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter in writing or orally. Written statements should be addressed to:

Douglas M. Benson
Minnesota Department of Health
925 S.E. Delaware Street
P.O. Box 59040
Minneapolis, Minnesota, 55459-0400

Oral statements will be received during regular business hours over the telephone at 612/627-5017 and in person at the above address.

Information and opinions are particularly solicited regarding: the definition of "elevated blood lead level"; requirements for health education by boards of health; the standard for lead in drinking water; requirements for assessments by boards of health; and prohibited paint abatement methods.

All statements of information and opinions will be accepted until the amendments to the rules are formally proposed for adoption. Any written material received by the Department of Health will become part of the rulemaking record to be submitted to the Office of the Attorney General of the Office of Administrative Hearings in the event that an amendment is adopted.

Raymond W. Thron, Ph.D., P.E., Director
Division of Environmental Health

Department of Health

Division of Environmental Health

Notice of Solicitation of Outside Information or Opinions in the Matter of the Proposed Adoption of the Rules of the Minnesota Department of Health Governing Public Water Supplies, Parts 4720.0010 to 4720.3970

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health is seeking information or opinions from sources outside the Department in preparing to revise adopted rules governing public water supplies, *Minnesota Rules* parts 4720.0010 to 4720.3970. Authority to adopt rules is governed by *Minnesota Statutes*, section 144.383 (e), the Minnesota Safe Drinking Water Act.

The need to revise state public water supply rules is prompted by changes to the National Primary Drinking Water Regulations contained in 40 CFR, parts 141, 142 and 143. New federal code sets maximum contaminant levels for more chemicals; establishes additional monitoring, reporting and public notification standards; and sets standards for controlling lead and copper in drinking water including corrosion control treatment, source water treatment, lead service line replacement and public education.

The Minnesota Department of Health requests information and opinion on the subject matter of the rule. Interested or affected persons or groups may submit data or views on the subject matter of the adopted rules in writing or orally. Written statements should be addressed to:

Richard Clark
Public Water Supply Unit
Minnesota Department of Health
Division of Environmental Health
925 Southeast Delaware Street
Minneapolis, Minnesota 55459-0040

Oral statements will be received during regular business hours over the telephone at (612) 627-5180 by Mr. Clark and in person at the above address.

All statements of information and opinions will be accepted until further notice is published in the *State Register.* Any written material received by the Minnesota Department of Health becomes part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Jane A. Nelson
Rules Coordinator

Department of Human Services

Health Care Management Division

Notice of Meeting of Advisory Committee on Organ and Tissue Transplants

The Advisory Committee on Organ and Tissue Transplants will meet on Tuesday, October 22, 1991 at 12:30 p.m. in the Columbine Room, first floor, Centennial Building, 658 Cedar Street, St. Paul, Minnesota.

Public Employees Retirement Association

Notice of Meetings of the Board of Trustees

The next regular monthly meeting of the Board of Trustees of the Public Employees Retirement Association (PERA) is scheduled to be held on Thursday, October 10, 1991, at 2:00 p.m. in the Association offices, 514 St. Peter Street, Suite 200-Skyway Level, St. Paul, Minnesota. It will be followed by a Town Meeting at 6:30 p.m. in the Dakota Hills Middle School, 4183 Braddock Trail, Eagan, Minnesota.

An Information Forum/Public Safety Officers' meeting will be held Wednesday, October 16, 1991, at 1:00 p.m.

A Retiree Round Table will be held in the Holiday Inn Mankato, 101 East Main Street, Mankato, Minnesota, on Wednesday, October 23, 1991, at 1:30 p.m.

Department of Revenue

Appeals, Legal Services, and Criminal Investigation Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing the Annual Audit of Organizations Licensed to Conduct Lawful Gambling

NOTICE IS HEREBY GIVEN that the Minnesota Department of Revenue is seeking information or opinions from sources outside the agency in preparing to propose the adoption of a rule governing the annual audit of organizations licensed to conduct lawful gambling. The adoption of the rule is authorized by *Minnesota Statutes*, section 270.06, subd. 13, which permits the agency to make, publish, and distribute rules for the administration and enforcement of state tax law.

The Minnesota Department of Revenue requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Patrick J. Finnegan
Minnesota Department of Revenue
Appeals, Legal Serivces, and Criminal Investigation Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220

Oral statements will be received during regular business hours over the telephone at (612) 297-5203 and in person at the above address.

All statements of information and opinions shall be accepted until November 6, 1991. Any written material received by the Department of Revenue shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event that the rule is adopted.

Dated: 30 September 1991

Patrick J. Finnegan
Attorney

Department of Revenue

Appeals and Legal Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Sales and Use Taxation Relating to Computer Software and Automatic Data Processing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Revenue is seeking information or opinions from sources outside the agency in preparing to propose the adoption of a rule governing sales and use tax on computer software and automatic data processing. The adoption of this rule is authorized by *Minnesota Statutes*, section 270.06 which requires the commissioner of revenue to make, publish, and distribute rules for the administration and enforcement of state tax laws.

The Minnesota Department of Revenue requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

John E. Streiff
Department of Revenue
Appeals, Legal Services, and
Criminal Investigation Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220

Oral statements will be received during regular business hours over the telephone at (612) 296-1902 extension 133, or (612) 296-1022 and in person at the above address.

All statements of information and opinions shall be accepted until November 8, 1991. Any written material received by the Minnesota Department of Revenue shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event that the rule is adopted.

Dated: 7 October 1991

John E. Streiff
Attorney

Department of Revenue

Notice of Counties Which Have Adopted the Local Option Sales Tax

The Commissioner of the Department of Revenue announces that the counties listed below have adopted the local option sales tax of one-half percent. The tax becomes effective in each county on January 1, 1992 at which time the state sales tax—which was increased by one-half percent effective July 1, 1991—will be reduced by one-half percent. The county boards of commissioners of all 87 Minnesota counties have passed resolutions adopting the local option sales tax. The 87 counties, in alphabetical order, are:

Aitkin	Crow Wing	Kittson
Anoka	Dakota	Koochiching
Becker	Dodge	Lac Qui Parle
Beltrami	Douglas	Lake
Benton	Faribault	Lake of the Woods
Big Stone	Fillmore	Le Sueur
Blue Earth	Freeborn	Lincoln
Brown	Goodhue	Lyon
Carlton	Grant	McLeod
Carver	Hennepin	Mahnomen
Cass	Houston	Marshall
Chippewa	Hubbard	Martin
Chisago	Isanti	Meeker
Clay	Itasca	Mille Lacs
Clearwater	Jackson	Morrison
Cook	Kanabec	Mower
Cottonwood	Kandiyohi	Murray

Nicollet	Redwood	Swift
Nobles	Renville	Todd
Norman	Rice	Traverse
Olmsted	Rock	Wabasha
Otter Tail	Roseau	Wadena
Pennington	St. Louis	Waseca
Pine	Scott	Washington
Pipestone	Sherburne	Watonwan
Polk	Sibley	Wilkin
Pope	Stearns	Winona
Ramsey	Steele	Wright
Red Lake	Stevens	Yellow Medicine

The publication of this notice is required by *Minnesota Laws of 1991*, Article 2, Section 6, Subdivision 4.

State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Minnesota Trade Office

Request for Proposals for International Cultural/Educational Grants Program (First Phase)

Definitions:

Nonprofit organization means a corporation or organization that is formed for a purpose not involving pecuniary gain to its members. It does not include cities, counties, school districts, or other subdivisions, units or agencies of state or local government, but these may comprise the membership of a nonprofit organization.

Nonpublic funds means funds from sources other than state, local or federal government appropriations.

Long term trading relations means fostered or improved economic relations between Minnesota and another country.

Cultural and educational exchange program means reciprocal face-to-face exchanges including but not limited to the areas of the humanities, sciences, law, business, labor, agriculture, education, research, environment, government and administration.

History:

In May 1990, the Minnesota Legislature approved an appropriation of $50,000 for Fiscal Year 1991 to the Minnesota Trade Office for awarding grants to nonprofit organizations to support cultural and educational exchange programs that may have the potential to lead to long-term international trading relations. Grants must be matched with at least $3 of nonpublic funds for every dollar of state grant funds awarded under this provision. (See *Laws of Minnesota 1990*, Chapter 594, Sec. 24, Subdiv. 1 c.)

The 1991 legislature appropriated $100,000 to the Minnesota Trade Office for FY92 for both the Cultural/Educational Grants and an International Business Partnership Program. The MTO has assigned half the appropriation for the Cultural/Educational Grants.

Purpose:

Cultural and educational exchanges possess the capacity to foster or improve trading relations between the nations and peoples of the world. The purpose of this program is to increase these exchanges, thereby increasing Minnesota's long-term economic relationships with the rest of the world.

Request for Proposal:

The Minnesota Trade Office (MTO), a division of the Minnesota Department of Trade and Economic Development (DTED), invites applications from eligible existing nonprofit organizations, as defined above, for grants under the International Cultural and Educational Grants Program (ICEGP). The ICEGP will have the following basic parameters:

a) The maximum amount of grant(s) to any one nonprofit organization shall be $5,000 per state fiscal year.

b) The applicant must show evidence of matching funds committed from nonpublic sources of $3 for each dollar received under ICEGP.

c) The grant must be used solely for cultural or educational exchange with international groups from other countries.

d) The application should outline benefits of the proposed exchange, including any long-term trade benefits.

Application Process:

Eligible nonprofit organizations may request the prescribed application form from the Minnesota Trade Office after publication of this RFP in the *State Register* by writing:

Minnesota Trade Office
Attn: ICEGP
1000 Minnesota World Trade Center
30 East Seventh Street
St. Paul, MN 55101

or by calling 612/297-4222, or by fax at 612/296-3555.

$25,000 of grant funds will be made available in the first phase of this program, to be executed in October/November, 1991. The balance of $25,000 will be made available in the second phase, to be executed in February/March, 1992.

Completed applications for the first phase must be received by the Minnesota Trade Office at the above address by 4:30 p.m. on Friday, November 15, 1991, for consideration.

Evaluation of Grant Application:

The Commissioner of DTED shall make grant awards following a review of the applications in accordance with the following criteria:

a) Past experience of applicant in conducting/organizing international exchange programs—25 points

b) Completeness and adequacy of proposed exchange program for which grant is sought, including:

i) evidence of interest by host country organizations in the proposed exchange.

ii) proposed itinerary including dates and plates.

iii) link to long term trade development

40 points

c) Amount and diversity of matching funds—20 points

d) Clarity, conciseness and completeness of the application—15 points

Total Points—100

The Department will endeavor to ensure a regional statewide balance in the distribution of these grants.

Notification:

Applications for the first phase grants will be reviewed, and approved applicants notified by Friday, December 20, 1991. Approved applicants will be required to conclude a grant agreement before any disbursement of funds.

For more information, please contact Mr. Noor Doja at the Minnesota Trade Office at 612/297-4658.

Professional, Technical & Consulting Contracts

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Minnesota Historical Society

Notice of Request for Proposals for Consulting and Design Work for Museum Shops at the Minnesota History Center

The Minnesota Historical Society is seeking proposals from qualified firms and individuals to provide professional and technical services in the areas of merchandise selection, store location and sizing and store design for its Minnesota History Center.

The work will be performed under contract. The Request for Proposals is available by calling or writing Gary W. Goldsmith, Contracting Officer, Minnesota Historical Society, 690 Cedar Street, St. Paul, MN 55101. Telephone (612) 296-2155.

Proposals will be due October 28, 1991 at 2:00 p.m. Details on submission requirements are included in the Request for Proposals.

Minnesota Historical Society

Notice of Request for Proposals for Design and Project Management Sign System for Minnesota History Center

The Minnesota Historical Society is seeking proposals from qualified firms and individuals to provide professional and technical services in the areas of sign system design, construction and installation for its Minnesota History Center.

The work will be performed under contract. The Request for Proposals is available by calling or writing Gary W. Goldsmith, Contracting Officer, Minnesota Historical Society, 690 Cedar Street, St. Paul, MN 55101. Telephone (612) 296-2155.

Proposals will be due October 28, 1991 at 2:00 p.m. Details on submission requirements are included in the Request for Proposals.

Minnesota Historical Society

Request for Statements of Interest for Contract Consultant

The Minnesota Historical Society anticipates the need for a contract consultant to act as a liaison between the Society and the various branches and agencies of the State of Minnesota during the first six months of 1992. Assistance will be required in such areas as governmental relations and legislative matters.

Interested individuals or firms should submit a letter of interest along with their credentials to Nina Archabal, Director, Minnesota Historical Society, 690 Cedar Street, St. Paul, MN 55101 not later than October 31, 1991.

Further information may be obtained from John B. Lilja, Assistant Director for Finance and Administration at the above address or by telephone at (612) 296-2155.

This solicitation is for the purpose of assessing the interest and qualifications of potential contractors and does not obligate the Society to proceed with an engagement of a consultant as described herein.

Department of Human Services

Chemical Dependency Program Division

Request for Proposals to Conduct an Assessment of the Federal Medicaid Waiver for the Minnesota Chemical Dependency Treatment Fund

I. INTRODUCTION

The Minnesota Department of Human Services, Chemical Dependency Program Division (CDPD), is soliciting proposals from qualified consultants to conduct an assessment of the federal Medicaid waiver for the Minnesota Consolidated Chemical Dependency Treatment Fund.

The Health Care Financing Administration (HCFA) of the U.S. Department of Health and Human Services has waived certain limitations concerning requirements for Medicaid recipients in Minnesota so that those recipients can participate in the State's Consolidated Chemical Dependency Treatment Fund (CCDTF). The CCDTF pays for chemical dependency (CD) treatment and receives some reimbursement from Medicaid.

The Medicaid waiver requires that the State of Minnesota arrange for an independent assessment of the cost-effectiveness of the waiver and its impact on recipient access to care of adequate quality. The purpose of this request for proposals is to accomplish this independent assessment. A copy of the full Request for Proposals may be obtained by contacting the CDPD.

II. QUALIFICATIONS OF RESPONDENTS

Respondents must be able to demonstrate experience and expertise in secondary data analysis, computer programming and processing, and preparation of professional reports of a publishable quality. Experience in fiscal analysis and knowledge of chemical dependency and health care programs is desirable.

III. SCOPE OF THE PROJECT

The project will be initiated upon selection of a proposal and finalizing a contract. The project must be completed and a report submitted to CDPD by February 14, 1992.

The proposed study will be based primarily on secondary data analysis. The Department of Human Services operates several automated information systems which can be used to evaluate the impact of the HCFA waiver. These systems include a reimbursement system for Minnesota counties, Indian reservations, and CD service providers which allows the State to make payments to providers and monitor client placements. Data from the CDPD's Drug and Alcohol Abuse Normative Evaluation System (DAANES) also will be available.

The secondary analysis will address the issues of whether there have been cost savings due to the waiver, whether Medical Assistance (MA) recipients have had the same access to care as other clients, and whether the quality of the care received has been comparable to that of non-MA clients.

IV. PROPOSAL CONTENTS

A. A description of the respondent's background and experience in performing this type of a project;

B. A description of the methodology to be used and tasks to be performed in meeting the objectives of the project;

C. A timetable and budget for the project;

D. A description of the respondent's computing resources, including statistical packages available for the project;

E. Resumes/qualifications of staff who will be assigned to the project; and

F. Assurances that the respondent will comply with state and federal laws and regulations on data privacy.

Proposals are to be submitted on the CDPD's Grant Application Form, which will be sent to those requesting a copy of the full RFP. All responses must be received by October 25, 1991.

V. SELECTION CRITERIA

A. Proposed methodology for achieving the project's objectives, including a clear plan of action for each activity, and documentation of all resources and expertise to be used;

B. Demonstrated understanding of the project's objectives;

C. Qualifications and experience of the person(s) assigned to complete the analysis and report;

D. Cost of the proposed project; and

E. Proposed timetable.

For a Copy of the Full Request for Proposals and Grant Application Form Contact:

Dorrie Hennagir
Chemical Dependency Program Division
444 Lafayette Road
St. Paul, MN 55155-3823
612/296-4617

Department of Public Safety

Office of Traffic Safety

Request for Proposals for Young Driver/Alcohol Program

The Department of Public Safety has received a grant from the National Highway Traffic Safety Administration to conduct an anti-drunken driving program for young drivers. The Department is seeking proposals to develop and produce a broadcast (or videotaped) program about the dangers of drinking and driving that will be shown to 15-to-19 year old drivers, to conduct discussions about the program among the drivers in that age group, and to produce materials to support the program and discussions. The goal is to provide a program that will reach the majority of 15-to-19 year old drivers with a strong "Don't Drink and Drive" message that will mesh with existing alcohol and traffic safety programs available to this age group.

Details are contained in a request for proposals which may be obtained by calling or writing:

Kathryn Swanson
Office of Traffic Safety
Department of Public Safety

207 Transportation Bldg.
395 John Ireland Blvd.
St. Paul, MN 55155
(612) 296-9507

The estimated cost of the contract is $80,000.00. Final date for submitting proposals is October 28, 1991.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over $2,000.

Commodities contracts with an estimated value of $15,000 or more are listed under the Materials Management Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

Materials Management Division—Department of Administration:

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: UDS modem adapter
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 9
Agency: Intertechnologies Group
Deliver to: St. Paul
Requisition #: B 02410-23328

Commodity: Miscellaneous computer equipment
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 9
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23151

Commodity: 386/25 computer
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 9
Agency: Minnesota Academy for the Blind
Deliver to: Faribault
Requisition #: B 37001-20139

Commodity: Nox monitor
Contact: Pam Anderson 296-1053
Bid due date at 2pm: October 11
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32200-30678

Commodity: Ozone monitors
Contact: Pam Anderson 296-1053
Bid due date at 2pm: October 11
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32200-30684

Commodity: Roofing & insulation
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: October 9
Agency: Minnesota Department of Transportation
Deliver to: Various places
Requisition #: B 79000-21908

Commodity: Repair garage door
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: October 9
Agency: Minnesota Department of Transportation
Deliver to: Various places
Requisition #: B 79500-22506

Commodity: Maintenance on computer systems
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 9
Agency: Department of Gaming
Deliver to: Various places
Requisition #: B 09300-31132

Commodity: Kewaunee lab table
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 9
Agency: Lakewood Community College
Deliver to: White Bear Lake
Requisition #: B 27154-47256

Commodity: Sulfur dioxide monitor
Contact: Pam Anderson 296-1053
Bid due date at 2pm: October 11
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32200-30677

Commodity: Carbon monoxide monitor
Contact: Pam Anderson 296-1053
Bid due date at 2pm: October 11
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32200-30680

Commodity: Water sampling equipment
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: October 11
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32600-30637

Commodity: Lumber, siding & hardware
Contact: Pam Anderson 296-1053
Bid due date at 2pm: October 8
Agency: Minnesota Department of Transportation
Deliver to: Various places
Requisition #: B 79050-27603

Commodity: Cable junction box
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 10
Agency: Facilities Management Office
Deliver to: Little Falls
Requisition #: B 01000-06806

Commodity: Aluminum cable
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 8
Agency: Department of Military Affairs
Deliver to: Little Falls
Requisition #: B 01000-06811

Commodity: Installation of tables in vans
Contact: Brenda Thielen 296-9075
Bid due date at 4:30pm: October 8
Agency: Department of Public Safety/ Finance
Deliver to: Various places
Requisition #: B 07500-27054

Commodity: Piano tuning service
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 9
Agency: Southwest State University
Deliver to: Marshall
Requisition #: B 26175-02240

Commodity: Miscellaneous safety clothing
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 9
Agency: Department of Natural Resources—Southern Service Center
Deliver to: St. Paul
Requisition #: B 29008-80481

Commodity: Dictation equipment
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 9
Agency: Minnesota Department of Jobs & Training
Deliver to: Minneapolis
Requisition #: B 21200-41756

Commodity: High skid gear for Bell helicopter
Contact: Mary Jo Bruski 296-3772
Bid due date at 4:30pm: October 4
Agency: Department of Public Safety/ Finance
Deliver to: St. Paul
Requisition #: B 07500-27059

Commodity: Pose data diagrammer software
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 8
Agency: Minnesota Department of Transportation
Deliver to: St. Paul
Requisition #: B 79000-21988

Commodity: Grass seed
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 9
Agency: Facilities Management Office
Deliver to: Little Falls
Requisition #: B 01000-06803

Commodity: Hockey equipment
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 9
Agency: Rainy River Community College
Deliver to: International Falls
Requisition #: B 27155-55174

Commodity: Winter mukluks
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 9
Agency: Thistledew Youth Camp
Deliver to: Togo
Requisition #: B 78780-05007

Commodity: Flitesteps for Bell helicopter
Contact: Mary Jo Bruski 296-3772
Bid due date at 4:30pm: October 4
Agency: Department of Safety/Finance
Deliver to: St. Paul
Requisition #: B 07500-27058

Commodity: Nightsun search light system helicopter
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: October 11
Agency: Department of Public Safety/ Finance
Deliver to: St. Paul
Requisition #: B 07500-27061

Commodity: Breathing/hearing protection supplies
Contact: Teresa Manzella 296-7556
Bid due date at 4:30pm: October 14
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12600-82478

Commodity: QMS postscript printer
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Department of Public Safety/ Finance
Deliver to: St. Paul
Requisition #: B 07020-27062

Commodity: Xircom Ethernet adaptor
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Department of Public Safety/ Finance
Deliver to: South St. Paul, MN 55075
Requisition #: B 07500-27056

Commodity: 486DX/33 computer
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12200-82506

Commodity: Desk top scanner
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12500-82291

Commodity: Mac classic
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Minnesota Department of Jobs & Training
Deliver to: Various places
Requisition #: B 21607-29010

Commodity: Miscellaneous computer equipment
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Moorhead State University
Deliver to: Moorhead
Requisition #: B 26072-03454

Commodity: Biomed service—2nd request
Contact: Teresa Manzella 296-7556
Bid due date at 4:30pm: October 10
Agency: St. Peter Regional Treatment Center
Deliver to: St. Peter
Requisition #: B 55105-08993-1

Commodity: Radius monitor
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Department of Public Safety/ Finance
Deliver to: St. Paul
Requisition #: B 07020-27063

Commodity: Printer
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12200-82503

Commodity: Regulator
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12400-82332

Commodity: Express 386/25
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Minnesota Department of Jobs & Training
Deliver to: Various places
Requisition #: B 21605-87313

Commodity: Furnish & install PC network
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 14
Agency: Bemidji State University
Deliver to: Bemidji
Requisition #: B 26070-14549

Commodity: Quantum board
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23145

Commodity: CD ROM drive
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23150

Commodity: Netmodem
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23158

Commodity: 386SX-30 computer
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Winona State University
Deliver to: Winona
Requisition #: B 26074-14160

Commodity: Refurbish Nikon microscope
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 14
Agency: Winona State University
Deliver to: Winona
Requisition #: B 26074-14165

Commodity: Strip chart recorder
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 14
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32200-30676

Commodity: Automated hematology instrument
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 14
Agency: Willmar R.T.C.
Deliver to: Willmar
Requisition #: B 55106-02135

Commodity: Trash can reinforcements
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 14
Agency: Facilities Management Office
Deliver to: Little Falls
Requisition #: B 01000-06810

Commodity: Telemetry system
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 14
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23155

Commodity: Data general server
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Winona State University
Deliver to: Winona
Requisition #: B 26074-14153

Commodity: 386/25 computer
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Winona State University
Deliver to: Winona
Requisition #: B 26074-14161

Commodity: Nuvista video board
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Lakewood Community College
Deliver to: White Bear Lake
Requisition #: B 27154-47261

Commodity: LCD projection panel
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Minnesota Department of Education/Accounts Payable
Deliver to: St. Paul
Requisition #: B 37080-93357

Commodity: Blood collection chair
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 10
Agency: Willmar R.T.C.
Deliver to: Willmar
Requisition #: B 55106-02136

Commodity: Reflective backs to lamps
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 10
Agency: Department of Public Safety
Deliver to: St. Paul
Requisition #: B 07300-26127

Commodity: Detector tubes
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 10
Agency: Department of Employee Relations
Deliver to: St. Paul
Requisition #: B 24500-20555

Commodity: V-3M-9
Contact: Brenda Thielen 296-9075
Bid due date at 2pm: October 9
Agency: Minnesota Correctional Facility
Deliver to: Oak Park Heights
Requisition #: B 78630-10407

Commodity: Pintle hooks
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 9
Agency: Minnesota Department of Transportation
Deliver to: Fort Snelling
Requisition #: B 79990-00341

Commodity: Paper shredder
Contact: Jack Bauer 296-2621
Bid due date at 2pm: October 14
Agency: Department of Gaming
Deliver to: Roseville
Requisition #: B 09200-92023

Commodity: Survey equipment
Contact: Jack Bauer 296-2621
Bid due date at 2pm: October 17
Agency: Minnesota Department of Transportation
Deliver to: St. Paul
Requisition #: B 79000-21985

Commodity: Skid type loader bobcat
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: October 11
Agency: Department of Military Affairs
Deliver to: St. Paul
Requisition #: B 01000-06819

Commodity: Laboratory gases
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 10
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32200-30652

Commodity: Embroidered emblems for uniforms
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 9
Agency: Department of Natural Resources—Northern Service Center
Deliver to: Grand Rapids
Requisition #: B 29007-10423

Commodity: Minimizer front fenders
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 9
Agency: Minnesota Department of Transportation
Deliver to: Fort Snelling
Requisition #: B 79990-00342

Commodity: Welders
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 14
Agency: Minnesota Department of Transportation
Deliver to: Various places
Requisition #: B 79000-21898

Commodity: Survey equipment
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 17
Agency: Minnesota Department of Transportation
Deliver to: St. Paul
Requisition #: B 79000-21999

Commodity: Boat, motor & trailer packages
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: October 11
Agency: Department of Natural Resources—Regional Headquarters
Deliver to: Various places
Requisition #: B 29000-57107-1

Commodity: Computer disaster recovery facility for InterTechnology Group, Department of Administration
Contact: Don Olson 296-3771
Bid due date at 2pm: October 13
Agency: InterTechnology Group, Department of Administration
Deliver to: St. Paul
Requisition #: Request for proposal—draft

Commodity: Digital key telephone system
Contact: Teresa Manzella 296-7556
Bid due date at 2pm: October 21
Agency: Minnesota Department of Transportation
Deliver to: St. Paul
Requisition #: B 79000-22000

Commodity: Dismantle, move and reinstall Philips
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 11
Agency: Winona State University
Deliver to: Winona
Requisition #: B 26074-14166

Commodity: Atomic absorption spectrometer
Contact: Pam Anderson 296-1053
Bid due date at 2pm: October 11
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32200-30679

Commodity: Mamiya system
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 15
Agency: Moorhead State University
Deliver to: Moorhead
Requisition #: B 26072-03458

Commodity: Embroidered hunter education emblems
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 11
Agency: Department of Natural Resources—Division of Enforcement
Deliver to: St. Paul
Requisition #: B 29000-57290

Commodity: Roll-away tool chest
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 11
Agency: Minnesota Department of Transportation
Deliver to: St. Cloud
Requisition #: B 79000-21892

Commodity: Fire detection maintenance
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 7
Agency: Department of Military Affairs
Deliver to: St. Paul
Requisition #: B 01000-06820

Commodity: Used Mettler scale
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 11
Agency: Bemidji State University
Deliver to: Bemidji
Requisition #: B 26070-14554

Commodity: Impact tester
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: October 11
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-64184

Commodity: Fluorescence detector
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: October 15
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32200-30681

Commodity: 1991 Olds Cutlass Supreme, Buick or Pontiac equivalent
Contact: Brenda Thielen 296-9075
Bid due date at 2pm: October 10
Agency: Department of Public Safety
Deliver to: St. Paul
Requisition #: B 07300-26147

Commodity: Commercial laundry equipment
Contact: Linda Parkos 296-3725
Bid due date at 2pm: October 15
Agency: Brainerd Regional Human Services Center
Deliver to: Various places
Requisition #: B 55304-09147

Commodity: Heavy duty Boyer hammer
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 11
Agency: Minnesota Department of Transportation
Deliver to: St. Cloud
Requisition #: B 79000-21895

Commodity: Oil tank removal
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 14
Agency: Department of Administration
Deliver to: St. Paul
Requisition #: B 02307-24229

Commodity: Dictation equipment
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 14
Agency: Department of Gaming
Deliver to: Roseville
Requisition #: B 09200-92025

Commodity: Copier lease purchase
Contact: Jack Bauer 296-2621
Bid due date at 2pm: October 10
Agency: Department of Public Service
Deliver to: St. Paul
Requisition #: B 80400-92161

Commodity: Fiber fuel pellets
Contact: Dale Meyer 296-3773
Bid due date at 2pm: October 16
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Department of Administration: Print Communications Division

Printing vendors for the fol!owing printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Printing vendors NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

Commodity: Application for AFDC, GA, FS, MA & MSA—form no. DHS-2852, camera ready copy, 2-sided, head to head, 400M sets, 3 parts, 3 pps, 8½"x11", stub, 3-parts carbonless, perf, 2-hole punch, shrink wrap, see special instructions, see sample
Contact: Printing Buyer's Office
Bids are due at 2pm: October 10
Agency: Department of Human Services
Deliver to: St. Paul
Requisition #: 18876

Commodity: Weekly construction diary statement, camera ready copy, negs avail, 2-sided, h to h, 5M sets, glue, top stub, carbonless and carbon interleave, 4 parts, perf, shrink wrap
Contact: Printing Buyer's Office
Bids are due: October 10
Agency: Department of Transportation
Deliver to: St. Paul
Requisition #: 19056

Commodity: Parent Information Packet Folder, camera ready copy, 1-sided, 2500 each, 1 fold, 9" x 12" (18" x 12" open) folder with 4" gummed pockets (gummed on outer edges only). Business card die cut on left pocket.
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Department of Health
Deliver to: Minneapolis
Requisition #: 19070

Commodity: 1991 Snowmobile Maps NE, NW, SE & SW, camera ready copy, negs avail, 2-sided, 37,500, fold 8 accordian/2, 24″ x 36″ to 4″ x 8″
Contact: Printing Buyer's Office
Bids are due: October 10
Agency: Department of Natural Resources
Deliver to: St. Paul
Requisition #: 19186

Announcements

Placement Services Expand for People With Disabilities: Placement services for people with disabilities has begun October 1 in Brainerd, Faribault and Monticello for the federally funded Projects With Industry program, Commissioner R. Jane Brown of the Minnesota Department of Jobs and Training announced today. PWI services are funded by a $300,000 federal grant awarded to the Department of Jobs and Training's Rehabilitation Services Division. • Projects With Industry (PWI) offer placement services free of charge to people with disabilities who experience difficulty finding employment. PWI staff work with employers in their area to identify locations needing employees where their clients' skills and abilities fit the need. • Employers interested in membership on the PWI Business Advisory Council or wanting further information should contact Cathy Carlson, PWI Staff Support, Central Office, Division of Rehabilitation Services, at (612) 296-0535.

Frederick Appointed to Mississippi River Commission: Former State Senator Mel Frederick of Owatonna has been appointed to the Mississippi River Parkway Commission as a representative of the Minnesota Department of Transportation. Frederick was appointed by former Commissioner John H. Riley during the last days of his tenure at Mn/DOT. • Mr. Frederick represented Senate District 30 during his 20 years of public service. His committee assignments included Transportation, Finance, and Rules and Administration. Mr. Frederick is currently a Vice President for Dain Bosworth, Inc. in Rochester. • The Mississippi River Parkway Commission was inaugurated in 1938 by Governor's Executive Order and is comprised of ten members. The Commission's objective is to promote, preserve, and enhance the resources of the Mississippi River Valley and to develop the national, scenic, and historic parkway known as the Great River Road.

DNR License Bureau Offering Longer Hours: The Minnesota Department of Natural Resources (DNR) License Bureau is now open for walk-in business Mondays through Fridays from 8 a.m. until 5:30 p.m., according to License Bureau Administrator Margaret Winkel. (Previously, the DNR License Bureau ended its business day at 4:30 p.m.) The License Bureau sells game and fish licenses, watercraft, snowmobile and ATV registrations, cross-country ski passes, state park vehicle stickers, and watercraft titles. • The DNR License Bureau is located at 500 Lafayette Road in St. Paul. Phone-in hours remain 8 a.m. to 4:30 p.m. Mondays through Fridays.

DNR Explains New Deer Baiting Regulation: Department of Natural Resources (DNR) officials said this week that they have been receiving numerous questions from deer hunters regarding the new restrictions on use of bait for deer hunting. "While most hunters have not objected to the baiting regulations, many have questioned whether the new rule affects their particular hunting situation," explained Ed Boggess, resource manager for the DNR Section of Wildlife. "Many hunters who are feeding deer, pheasants and other wildlife on the same property where they are hunting deer want to make sure that does not constitute baiting," Boggess said. The new regulation states that **hunters may not place or use bait for the purpose of taking deer.** It defines bait as grain, fruit, vegetables, nuts, hay, or other food transported and placed for the purpose of attracting or enticing deer. Bait does not include salt, minerals, liquid scents, or such things as standing agricultural crops or other foods that result from agricultural or other land management activities. "The baiting regulation is not intended to prevent individuals from feeding deer," explained Boggess. "However, if hunters wish to hunt deer near feeding areas, they should consider waiting until they have finished hunting before placing out feed, or they should avoid hunting at the actual feeding site," he said. Hunters have also asked the DNR about the use of scented or flavored "deer blocks." Boggess indicated that if the blocks contain some food but are primarily scented or flavored salt or mineral blocks, they would not constitute bait. However, if they are made up primarily of grains, apples or other foods, they would be considered bait. This year's restriction on baiting is in response to problems in other Midwestern states where baiting has become widespread. Those problems include pre-emption of and confrontations over hunting spots on public lands,

litter and aesthetic impacts, shifting of deer movements and behavior based on baiting patterns, and increases in illegal activities associated with baiting. While baiting for deer is not currently a common practice in Minnesota, it is beginning to become more prevalent here, Boggess said. "We wanted to restrict baiting before it became firmly established in the state," explained Boggess. "Once baiting begins in an area, it tends to increase rapidly because other hunters then feel that they must also bait to compete for deer." At least a dozen other states have established regulations prohibiting the use of bait for deer, according to Boggess. Further support for the baiting ban resulted from discussions at public input meetings and publicity through various media outlets. "The general response from deer hunters has been supportive or neutral, with many of them expressing a strong concern about maintaining the quality and integrity of the deer hunting experience," Boggess said. Hunters with questions about the baiting regulation are urged by the DNR to contact their local conservation officer before hunting this fall.

Minnesota Manufacturer's Directory 1991



NEW: In the directory this year are two titles (where applicable) Chief Engineer and Data Processing Manager.

UPDATED: Name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2. $85.00.





TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6½% sales tax. On all orders, add $2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone and through mail. ***Prices are subject to change.*** FAX: (612) 296-2265.

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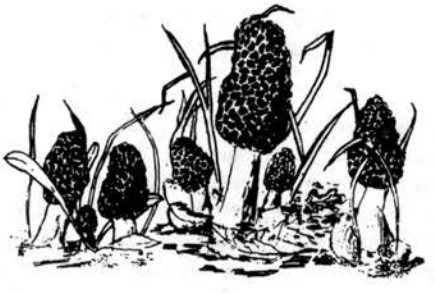

Morel: Minnesota's mushroom

The Mushroom Hunter's Field Guide. An all-color guide by Alexander Smith and Nancy Smith Weber with clear and orderly facts, explicit pictures and scientific accuracy. Stock #9-10, $16.95.

Edible Mushrooms, a classic guide to safe mushrooms, describes 60 species in detail, with photographs (many in color) to show each in its natural habitat. Advice to amateur mushroom hunters. Paperbound, 118 pp. Code #19-11, $12.95.

Malfred Ferndock's Morel Cookbook, brim full of morel lore, interesting and tall tales, recounts of the hunt, and many savory recipes. Spiral bound, 117 pgs., black & white photos and drawings. Code #19-83, $8.50.

Northland Wildflowers, the perfect mushroomers companion. An excellent guide for identification and enjoyment of wildflowers, with 308 color photographs and descriptions of 300 species. Paperbound. 236 pp. Code #19-9, $16.95.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6½% sales tax. On all orders, add $2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone and through mail. ***Prices are subject to change.*** FAX: (612) 296-2265.

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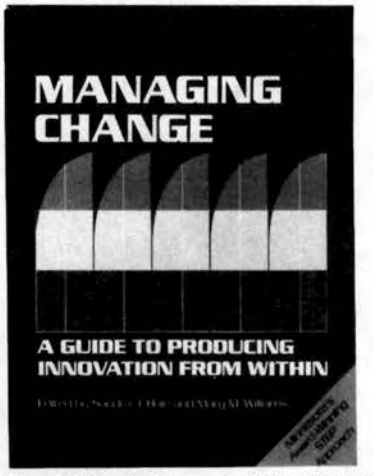
Manage Change and Information Plans



Managing Change. A guide to managing change from *within* an organization, it combines common sense with solid theory about organizational behavior and change. Based on the premise: for an enterprise to succeed, employees must be involved as active partners. Operating in an environment of change, government adapts to newly elected officials, new political appointees, new economic conditions, new laws and rules, new managers and employees, and new mandates and priorities. Through the STEP plan, government capitalizes on that change by emphasizing closeness to the customer, employee participation, managerial discretion, partnerships, productivity improvement and work measurement. Contains a project directory and glossary. Paperbound, 181 pages. Stock #19-64, $19.00.

Charting Your Course. Strategic information planning for the 90s, shows how to chart and navigate the changing currents of the Information Age. Bibliography, 54 pages. Stock #10-14, $5.50.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6½% sales tax. On all orders, add $2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone and through mail. FAX: (612) 296-2265. ***Prices subject to change.***

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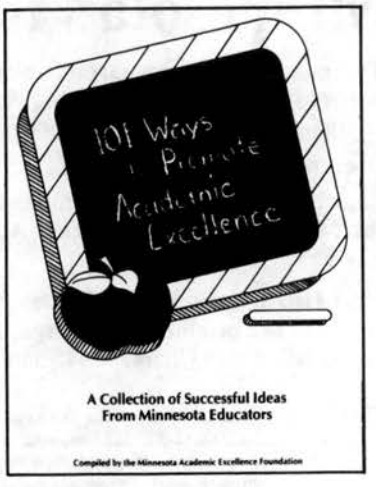
Minnesota: national leader in education

101 Ways to Promote Academic Excellence

A collection of nuts-and-bolts methods educators have successfully used to foster academic achievement. These are techniques that directly help students, can be replicated easily, are cost-effective, and that work in meeting the public educations' great challenge: helping every single child learn. Code #5-1, $4.50.

Education Directory, 1990-91

This popular comprehensive directory contains Minnesota school districts, superintendents, principals, addresses, phone numbers and enrollment. 170 pages, paperbound. Code #1-93, $9.95.



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MAILING LISTS GALORE

Successful business means successful sales

The Print Communications Division has a variety of mailing lists of licensed professionals and permit holders that will enable you to focus your marketing efforts on a targeted audience.

Types of lists available are: registered nurses, real estate agents, physicians, insurance agents, boatowners, hunters, cosmetologists, teachers, and many more! And you can get them on printouts, cheshire/pressure sensitive labels, as well as 9-track magnetic tapes.

What's more, you can choose from several selection capabilities. You will find our selections most helpful and beneficial to your business when you learn that you can acquire names and addresses of individuals in the areas you need to target most.

Find out more about our mailing lists by writing for our free mailing list catalog. In a hurry? Call (612) 296-0930 for more information. Requests can be sent to: Print Communications Division, Mailing List Service, 117 University Avenue, St. Paul, MN 55155. FAX: (612) 296-2265.

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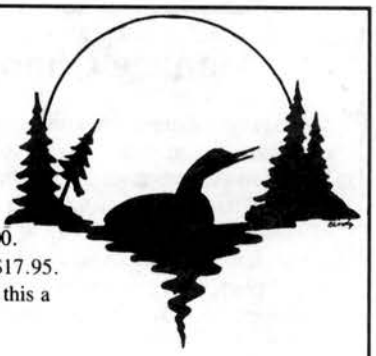
Voices of the Loon



Its voice severs the bonds to the world of cities, traffic, crowds, lights and noise. The lyrical magic of the loon, sometimes hauntingly eerie, makes the skin tingle, and the hair on the back of the neck stand on edge, awakening a primitive response. Its solitary wail turns the shadowy wilderness into a mysterious path into eternity.

Voices of the Loon, cassette tape, includes introduction and loon call identification, chorus from a distant lake, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during a thunderstorm, and coyotes calling with loons. Code #19-73, $12.00.

The Loon: Voice of the Wilderness, hardbound with color plates and illustrations, 143 pages. Code #19-54, $17.95.

Love of Loons. A Voyageur Wilderness Book, with color photos and lore of this delightful state bird make this a beautiful gift. Stock #9-22, $12.95 + tax.

Loon Lapel Pin. Code #15-30, $2.49.

Loon Windsock, 56 inches long in full color. Code #15-29, $19.95.

Loon Nature Print, full-color poster 16″ × 22″, Code #15-18, $3.00.

Loon with Baby–poster, 16″ × 20″. Code #15-48, $3.00.

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Minnesota's future environment



The issue of environmental protection is of continuing interest to both Minnesota business and the general public. Stay abreast of changes in state government regulations with these publications.

1989 Pollution Control Laws

Laws dealing with water pollution, disposal facilities, solid waste management, the MN Environmental Rights Act, recycling, and more. Code No. 2-21. $24.95.

1991 Hazardous Waste Rules

Governs the production, storage, transportation and disposal of hazardous waste. MN Rules Chapter 7045 and 7046. Code No. 3-71. $17.95.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6½% sales tax. On all orders, add $2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone and through mail. ***Prices are subject to change.*** FAX: (612) 296-2265.

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For Real Estate Professionals:



REAL ESTATE RULES 1991

Chapters 2800, 2805, and 2810 from the Minnesota Rules. *Essential* for both students and established brokers and salespersons. It contains all education and licensing requirements. Code No. 3-99. $6.00

REAL ESTATE LAWS 1990

Includes all the changes made by the 1986 State Legislature. Complete and up-to-date. Code No. 2-92. $8.00

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6½% sales tax. On all orders, add $2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone and through mail. ***Prices are subject to change.*** FAX: (612) 296-2265.

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Minnesota's Bookstore

Publications, Services, Subscriptions

Order Form on Back—For Information, Call 297-3000

1991 Minnesota Rules. Eleven volume set includes 1992 Supplement as a subscription service. Stock #18-100, $200 + tax (Minnesota residents only). Individual volumes can be purchased at $20.00 + tax.

1990 Minnesota Session Laws. Two volume set includes laws passed during the 1990 session and the 1989 Special Session. Stock #18-6, $40.00 + tax.

101 Ways to Promote Academic Excellence. A collection of nuts-and-bolts methods educators have successfully used to foster academic achievement. These are techniques that directly help students, can be replicated easily, are cost-effective, and that work in meeting the public education's great challenge: helping every single child learn. Code #5-1, $4.50.

1989 Pollution Control Laws. Laws dealing with water pollution, disposal facilities, solid waste management, the Minnesota Environmental Rights Act, recycling, and more. Code #2-21, $24.95.

1991 Hazardous Waste Rules. Governs the production, storage, transportation and disposal of hazardous waste. *Minnesota Rules* Chapter 7045 and 7046. Code #3-71, $17.95.

Real Estate Rules 1991. Chapters 2800, 2805 and 2810 from the *Minnesota Rules*. Essential for both students and established brokers and salespersons. It contains all education and licensing requirements. Code #3-99, $6.00.

Police Report Writing Style Manual 1989. A common framework for report writing throughout the state. Discusses the general purpose of police reports, reviews field notetaking, offers instructions on completing common report forms and introduces the Data Practices Law. Code #14-13, $15.00.

1990 State of Minnesota Telephone Directory. Contains names, numbers and agencies in the executive, legislative and judicial branches of state government. Alphabetically listed name, agency and region sections. Cross reference index. Code #1-87, $12.95.

OTHER PUBLICATIONS

Voices of the Loon. Includes introduction, loon call identification, distant chorus, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during thunderstorm and coyotes calling with loons. Cassette tape. Code #19-73, $12.00.

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RECEIVED
JAN 0 1 1992
MPCA HAZARDOUS WASTE DIVISION

REPLY TO THE ATTENTION OF:

DEC 2 7 1991

Ms. Sharon Meyer
Manager, Program Development Section
Hazardous Waste Division
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155

Dear Ms. Meyer:

Thank you for the opportunity to review and comment on Minnesota's proposed rules that are analogous to the Federal First, Second and Third Third land disposal restriction rules.

Your October 2, 1991, rules package proposed State analogs to Federal rules promulgated on August 17, 1988, March 7, 1989, May 2, 1989, June 23, 1989, June 1, 1990, and January 31, 1991. Our comments have previously been discussed with Nathan Cooley, of your staff.

Please contact Christine Klemme, of my staff, at (312) 886-3715, if you have any questions.

Sincerely yours,

William E. Muno
Associate Division Director
Office of RCRA

Enclosure

Printed on Recycled Paper

U.S. EPA Region V
Comments regarding Land Disposal Restriction Regulations
(First, Second and Third Third Rules)

MISCELLANEOUS COMMENTS

1) Wherever you indicate "Not Applicable", please list an appropriate Minnesota (MN) citation which would allow you to indicate "Not Applicable". For instance, on Page 10 of Checklist 78, for 40 CFR Part 268.1(c)(3) and 268.1(c)(3)(ii), please reference MN citations 7045.0065/7045.1330 which do not allow UIC in Minnesota.

2) Where the State incorporates by reference, please do the following: a) use the wording "as incorporated by reference" in referencing the text; and, b) list the latest version of the text you are using. Also, please be sure to reference any exceptions of the text you do not want to incorporate. An example of incorporation by reference used by (the territory of) Guam has been enclosed for your review. Please note that, for example, on Page 13, Part VI, A, and Page 16, Part VII, A, you will see two references where they use the words "incorporated by reference", indicate the version (year) of the text they are using, and indicate what they are excluding from incorporation.

Be sure to list the guidance manual or text incorporated by reference in the MN section 7045.0065, entitled "Availability of References". In this way, the general public be informed as to which books/manuals have been used for incorporation by reference.

3) Page 20, line 31 of the proposed rules. (Reference Page 5 of the 8-17-88 Checklist, 40 CFR Part 265.73(b)(12) and Minnesota citation 7045.0584(3)(N)). "For an on-site land disposal facility the information contained in the notice and the certification and demonstration, if applicable, required by a generator or the owner or operator..." The words "certification and demonstration, if applicable" are missing in this reference.

4) Please check page 54, line 23 of the proposed rules. The U code "U120" should be listed as "U120(wastewaters). The word "wastewaters" is missing.

5) Page 58, line 4 of the proposed rules. The citation should read 268, Appendix II. You currently list the citation as 268, Appendix IX.

6) Page 61, line 20 of the proposed rules. You list "operating in according to applicable technical requirements".... The correct wording should be "operating in accordance to applicable technical requirements."

7) Page 30, line 18 of the proposed rules should read 7045.1333, rather than the current citation of 7034.1333.

8) Page 12, line 30 of the proposed rules should read "F039, leachate resulting from the treatment, storage or disposal of more than one restricted waste..." The words "treatment, storage or" are missing.

SPECIFIC COMMENTS ON THE CHECKLISTS

CHECKLIST 50 (8-17-88)

1) Page 20 of the Checklist. Please change your citation for 40 CFR Part 268.33(a)(b)(d) and (e) to MN citation 7045.1333, from 7045.1335. For 268.33(c), please reference MN citation 7045.1333(2)(B).

2) Page 15 of the Checklist. If Minnesota is incorporating by reference 40 CFR Part 268.12(a)(e), please indicate the equivalent State citation.

CHECKLIST 61 (3-7-89)

1) On Page 1 of the Checklist, you list certain sections (40 CFR Part 124.1; 124.15; and 124.19), as "Not Applicable". However, please list MN cite 7001.0100/7001.0520(7) in these sections. This MN citation states the Commissioner may deny the requested application which is equivalent to the Federal requirement.

2) Page 2 of the Checklist. Please indicate the State equivalent to 40 CFR Part 270.1(c).

3) Page 2 of the Checklist. Please indicate where the equivalent Minnesota citation of 7001.0190 and 7001.0720 (270.42 Appendix I) can be found in the rules.

CHECKLIST 63 (6-23-89)

1) Page 3 of Checklist. Your reference to MN 7045.1340 should be corrected to read MN 7045.1334.

2) Page 4 of the Checklist. 40 CFR Part 268.41(a) should refer to the MN citation of 7045.1355(3), rather than 7045.1355(4).

3) Page 5 of the Checklist. 40 CFR Part 268.43(a) should reference MN 7045.1350(3), rather than 7045.1358.

CHECKLIST 66 (9-6-89)

Page 3 of the Checklist. 40 CFR Part 268(a)(2)(ii) should read as MN 7045.1308(1)(c)(i).

CHECKLIST 78 (6-1-90)

1) Please change your references to reflect the following:

40 CFR Part 268.7(a)(7)	MN citation 7045.1315(1)(H)
268.7(a)(8)	7045.1315(1)(I)
268.7(a)(9)	7045.1315(1)(J)
268.7(b)(4)(ii)	7045.1315(2)(D)

2) Page 11 of the Checklist. Please note that 40 CFR Part 268.2(f) should reference MN 7045.0020(102C a-c), rather than 7045.0020(103Aa-c).

3) Page 23 of the Checklist. Please list the equivalent citation to 40 CFR Part 268.42(d) as MN 7045.1360(8) rather than 7045.1360(4).

4) Page 25 of the Checklist. Please reference the MN citation 7045.1330 for Appendix VIII which explains that UIC is not allowed within the State.

5) Page 25 of the Checklist. Regarding 40 CFR Part 270.42 Appendix I, please indicate that Minnesota did not pick up the optional Checklist 54, and therefore, a State citation is not required.

6) Page 3 of the Checklist. Regarding 40 CFR Part 261.33(c), MN citation 7045.0135(4)(C), please include "or F" after the phrase "having the generic names listed in item E."

7) Page 8 of the Checklist. Please indicate why there is no equivalent MN citation for 40 CFR Part 265.13(a). In previous years Minnesota referenced an analogous citation for 265.13 rules as being 7045.0564 (b). If you concur that this citation is appropriate, please indicate this on the Checklist.

CHECKLIST 83 (1-31-91)

1) Page 1 of the Checklist. Please list 261.3(d)(1) as Minnesota rule 7045.0129/7045.0070.

2) Page 1 of the Checklist. Please indicate why there is no Minnesota equivalent to 40 CFR Part 262.10 Note 2.

Chemical Waste Management, Inc.

Midwest Region
2000 South Batavia Avenue
Geneva, Illinois 60134
708/513-4500

November 6, 1991

RECEIVED
NOV 07 1991
MPCA, HAZARDOUS
WASTE DIVISION

Mr. Nathan Brooks Cooley
Hazardous Waste Division
Minnesota Pollution Control Agency
520 Layafette Road
St. Paul, MN 55155-3898

Dear Mr. Cooley:

Enclosed are comments on the Proposed Permanent Rules Relating to Land Disposal Restrictions for Hazardous Wastes as published in the October 7, 1991 Minnesota State Register. These comments are submitted on behalf of Chemical Waste Management, Inc. (CWM). CMW provides hazardous waste management services to Minnesota hazardous waste generators. CWM's comments relate to the potential inconsistency caused by requiring certification statements to reference Minnesota regulations.

Also, please consider this a request to notify me, at the above address, of the date of submission of this rule to the Attorney General and of any other proceedings concerning this rulemaking.

If I can answer any question on CWM's comments, please contact me at the above address or at (708) 513-4587.

Sincerely,

Melissa A Manuel

Melissa Manuel
Environmental Engineer

MM:rv
Enclosures

Nat, Pam,
I agree with Pam's comment and don't believe it would be a substantial change.
Carol

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COMMENTS ON PROPOSED PERMANENT RULES RELATING TO LAND DISPOSAL RESTRICTIONS FOR HAZARDOUS WASTES

Chemical Waste Management Inc. is a nationwide provider of hazardous waste management services. Our customers include hazardous waste generators in the state of Minnesota who send their waste to CWM facilities which are located throughout the United States. CWM would like to take this opportunity to discuss potential inconsistencies between the federal land disposal restriction regulations and existing and proposed Minnesota land disposal restrictions regulations.

The federal land disposal restrictions program establishes a system which requires generators, treaters and disposal facilities to follow certain certification requirements. The exact wording of the specific certifications is specified in 40 CFR Part 268. For example, a generator who is managing a restricted waste which does not require further treatment must submit a notice to the land disposal facility managing the waste. The notice must contain a certification which states the following:

> I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in 40 CFR Part 268 Subpart D and all applicable prohibitions set forth in 40 CFR 268.32 or RCRA section 3004(d). I believe that the information I submitted is true, accurate and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment.

(40 CFR 268.7 (a)(2)(ii)). However, the Minnesota regulations require the same generator to provide a notice containing the following certification statement:

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

(Minnesota Rules, Ch. 7045.1315 Subp. 1.A.(2)).

Because Minnesota has not yet been authorized to administer the entire land disposal restrictions program, Minnesota generators are subject to both the federal and state requirements. In most cases, these requirements are identical. However, the certification requirement is inconsistent because certain Minnesota certification statements reference Minnesota regulations while the federal certification statements reference federal regulations.

This proposed rule would adopt or amend certification statements referencing Minnesota regulations at 7045.1308 Supb. 1.(B)(1), 7045.1308 Subp. 1.(C)(1), 7045.1309 Subp. 4.(C), 7045.1310 Subp. 1.D., 7045.1315 Supb. 1.B.(2), 7045.1315 Supb. 2.E.(1), and 7045.1315 Supb. 2.E.(2).

This inconsistency is potentially problematic because many notifications are typically made using preprinted forms which track the federal language. These forms are used by commercial hazardous waste facilities throughout the country. A copy of a

preprinted form used by CWM is attached. (Attachment 1). State specific certification statements would require the use of a special form for Minnesota generators which would include both the Minnesota certification (to comply with Minnesota rules) and the federal certification (to comply with federal regulation). A state-specific form would result in dual certifications on the part of Minnesota generators and usage of two forms when Minnesota-generated waste is sent out-of-state.

In order to alleviate this potential inconsistency, CWM requests that the MPCA consider the addition of a statement which allows use of federal certification statements in lieu of state certifications. An amendment could be made to supb. 1 of 7045.1300 stating that "for purposes of this part, a certification statement which complies with 40 CFR Part 268 requirements will comply with the certification statement requirements under this part." Inclusion of this statement would remove the inconsistency and avoid the need to modify each certification requirement individually.

LAND DISPOSAL NOTIFICATION AND CERTIFICATION FORM

Generator Name:_____ _____ Manifest Doc. No.: | | | | | | |

CWM Profile Number: | | | | | | | State Manifest No.:

1. Is this waste a non-wastewater or a wastewater? (See 40 CFR 268.2) Check ONE: ☐ Non-Wastewater ☐ Wastewater
2. If this waste is subject to any California List restrictions enter the letter from below (either A, B1, or B2) next to each restriction that is applicable: _____HOCs, _____PCBs, _____Acid, _____Metals, _____Cyanides.
3. Identify **ALL** USEPA hazardous waste codes that apply to this waste shipment, as defined by 40 CFR 261. For each waste code, identify the corresponding subcategory, or check NONE if the waste code has no subcategory. Also check which treatment standards apply. Spent solvent and California List treatment standards are listed on the back of this form. If F039, multi-source leachate applies, those standards must be attached by the generator.

REF #	4. US EPA HAZARDOUS WASTE CODE(S)	5. SUBCATEGORY ENTER THE SUBCATEGORY DESCRIPTION IF NOT APPLICABLE SIMPLY CHECK NONE		6. APPLICABLE TREATMENT STANDARDS			7. HOW MUST THE WASTE BE MANAGED ENTER THE LETTER FROM BELOW
				6.a - PERFORMANCE-BASED: CHECK AS APPLICABLE		6.b - SPECIFIED TECHNOLOGY: IF APPLICABLE ENTER THE 40 CFR 268.42-TABLE 1 TREATMENT CODE(S)	
		DESCRIPTION	NONE	268.41(a)	268.43(a)	268.42(a)	
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

To list additional USEPA waste code(s) and subcategory(s), use the supplemental sheet provided (CWM-2001-B) and check here: ☐

HOW MUST THE WASTE BE MANAGED? In column 7 above, enter the letter (A, B1, B2, B3, C, or D) below that describes how the waste must be managed to comply with the land disposal regulations (40 CFR 268.7). Please understand that if you enter the letter B1, B2, B3, or D, you are making the appropriate certification as provided below.

A. RESTRICTED WASTE REQUIRES TREATMENT

This waste must be treated to the applicable treatment standards set forth in 40 CFR Part 268 Subpart D, 268.32, or RCRA Section 3004(d).

B.1 RESTRICTED WASTE TREATED TO PERFORMANCE STANDARDS

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and that, based upon my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the performance levels specified in 40 CFR part 268 Subpart D and all applicable prohibitions set forth in 40 CFR 268.32 or RCRA Section 3004(d) without impermissible dilution of the prohibited waste. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment."

B.2 RESTRICTED WASTES FOR WHICH THE TREATMENT STANDARD IS EXPRESSED AS A SPECIFIED TECHNOLOGY (AND THE WASTE HAS BEEN TREATED BY THAT TECHNOLOGY)

"I certify under penalty of law that the waste has been treated in accordance with the requirements of 40 CFR 268.42. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

B.3 GOOD FAITH ANALYTICAL CERTIFICATION - FOR INCINERATED ORGANICS

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by incineration in units operated in accordance with 40 CFR Part 264 Subpart O or Part 265 Subpart O, or by combustion in fuel substitution units operating in accordance with applicable technical requirements, and I have been unable to detect the nonwastewater organic constituents despite having used best good faith efforts to analyze for such constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

C. RESTRICTED WASTE SUBJECT TO A VARIANCE

This waste is subject to a national capacity variance, a treatability variance, or a case-by-case extension. Enter the effective date of prohibition in column 7 above.

D. RESTRICTED WASTE CAN BE LAND DISPOSED WITHOUT FURTHER TREATMENT

"I have determined that this waste meets all applicable treatment standards set forth in 40 CFR Part 268 Subpart D, and all applicable prohibition levels set forth in Section 268.32 or RCRA Section 3004(d), and therefore, can be land disposed without further treatment. A copy of all applicable treatment standards and specified treatment methods is maintained at the treatment, storage and disposal facility named above. "I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in 40 CFR Part 268 Subpart D and all applicable prohibitions set forth on 40 CFR 268.32 or RCRA section 3004(d). I believe that the information I submitted is true, accurate and complete. I am aware that there are significant penalties for submitting false certification, including the possibility of a fine and imprisonment."

I hereby certify that all information submitted in this and all associated documents is complete and accurate, to the best of my knowledge and information.

Signature_____ Title_____ Date_____

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```
******************************
HW$PDS:[RULES_UNIT.MN_RULES]7001_0070.TXT;1

     4   following certification:  "I certify under penalty of law that

******************************
HW$PDS:[RULES_UNIT.MN_RULES]7045_0075.TXT;2

   170  >   "I certify under penalty of law that I have personally
   686  >     "I certify under penalty of law that I have personally

******************************
HW$PDS:[RULES_UNIT.MN_RULES]7045_0302.TXT;2

   180  >     "I certify under penalty of law that I have personally

******************************
HW$PDS:[RULES_UNIT.MN_RULES]7045_1310.TXT;2

    47  >     "I certify under penalty of law that the requirements

******************************
HW$PDS:[RULES_UNIT.MN_RULES]7045_1315.TXT;2

    40  >     "I certify under penalty of law that I personally have
   108  >     "I certify under penalty of law that I have personally
   126  >     "I certify under penalty of law that the waste has
```

other certs

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule
Amendments Governing the Land
Disposal of Untreated Hazardous Waste
Minnesota Rules Chapters 7001 and 7045

NOTICE OF INTENT TO
ADOPT RULES 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 rule amendments without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1990). The MPCA's authority to adopt the rule amendments is set forth in Minn. Stat. §§ 116.07, subd. 4 and 116.37 (1990).

All persons have until 4:30 p.m. on November 7, 1991, 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 proposed 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 (1990).

Comments or written requests for a public hearing must be submitted to: Nathan Brooks Cooley, Hazardous Waste Division, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, MN 55155-3898. Telephone 612/297-7544.

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 restricting the land disposal of untreated hazardous waste, if adopted, will incorporate several sets of federal regulations promulgated by the U.S. Environmental Protection Agency (EPA) between August 17, 1988 and January 31, 1991. The MPCA incorporated related land disposal regulations in a previous rulemaking. This rulemaking incorporates regulations restricting the land disposal of untreated hazardous wastes not previously addressed.

The MPCA has documented the need for and the reasonableness of the proposed rule amendments. One free copy of the rules and/or the Statement of Need and Reasonableness is available upon request at the address and telephone number stated above.

(14) You are hereby advised, pursuant to Minn. Stat. § 14.115 (1990), "Small business considerations in rulemakings," that, except for one minor clarification, all of the proposed rule amendments were in effect in Minnesota under federal authority on their federal effective dates in lieu of this rulemaking. This rulemaking shifts primary enforcement authority for existing regulations from the EPA to the MPCA. This rulemaking has no substantive effect on any business subject to the amendments, including small businesses, since the regulations are already in effect.

(9) If no hearing is required, upon adoption of the rule amendments, the rule amendments and 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 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 rules, must submit the written request to Nathan Cooley at the above address.

Date: October 4, 1991

for Ann Glumac
Charles W. Williams
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments of Rules Governing the Land Disposal of Untreated Hazardous Waste, Minn. Rules Chs. 7001 and 7045

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)

Nathan B. Cooley, 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 (1990) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this fourth day of October, 1991.

That on the fourth day of October, 1991, 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.

Subscribed and sworn to before me this ~~fourth day of October, 1991.~~ 14th day of November, 1991.

Diane Fox
Notary Public

DIANE FOX
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires 2-25-96

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Land Disposal of Untreated Hazardous Waste, Minn. Rules Pts. 7001.0520, 7001.0650, 7045.0020, 7045.0075, 7045.0131, 7045.0135, 7045.0139, 7045.0214, 7045.0292, 7045.0458, 7045.0478, 7045.0532, 7045.0534, 7045.0536, 7045.0538, 7045.0552, 7045.0564, 7045.0584, 7045.0630, 7045.0632, 7045.0634, 7045.0638, 7045.0665, 7045.1300, 7045.1305, 7045.1308, 7045.1309, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1333, 7045.1334, 7045.1335, 7045.1339, 7045.1350, 7045.1355, 7045.1358, 7045.1360, and 7045.1380

DECLARATION OF COUNSEL

I, Kris Hulsebus, 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.

Kris Hulsebus

Kris Hulsebus, Attorney
Special Assistant
Attorney General

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Land Disposal of Hazardous Waste, Minn. Rules Pts. 7001.0520, 7001.0650, 7045.0020, 7045.0075, 7045.0131, 7045.0135, 7045.0139, 7045.0214, 7045.0292, 7045.0458, 7045.0478, 7045.0532, 7045.0534, 7045.0536, 7045.0538, 7045.0552, 7045.0564, 7045.0584, 7045.0630, 7045.0632, 7045.0634, 7045.0638, 7045.0665, 7045.1300, 7045.1305, 7045.1308, 7045.1309, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1333, 7045.1334, 7045.1335, 7045.1339, 7045.1350, 7045.1355, 7045.1358, 7045.1360, and 7045.1380.

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

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, March 10, 1992, 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 requests 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 (16 SR 834) and made available to the public on October 7, 1991, have been modified. A copy of the rules as modified is enclosed with this notice. A free copy of the the findings of fact, conclusions, and order explaining the amendments and adopting the rules is available on request from Nathan Cooley, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, Minnesota 55155, telephone (612) 297-7544.

The rules must be approved or disapproved by the Attorney General within 14 calendar days of the date after 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:

Ms. Patty Nolte
Office of the Attorney General
525 Park Street, Suite 500
St. Paul, Minnesota 55103
Telephone: 297-2040

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

Dated: March 10, 1992

Carol R. Nankivel

Carol R. Nankivel, Supervisor
Rules Unit, Program Development
Hazardous Waste Division

Minnesota Pollution Control Agency

INFORMATION TRANSMITTAL SLIP

DATE: March 10, 1992

TO: Melissa Manuel
Chemical Waste Mgmt/Mid Region
2000 South Batavia Ave
Geneva, IL 60134

FROM: Nathan Cooley

PHONE: 612/297-7544

ADDRESS: MINNESOTA POLLUTION CONTROL AGENCY
Hazardous Waste Division
520 Lafayette Road North
St. Paul, Minnesota 55155

SUBJECT: As requested in your 11/6/91 letter - notice of submitting rule to AG is enclosed. We adopted the suggestion you provided. Thanks.

FOR: ____ INFORMATION

X AS YOU REQUESTED

OTHER ____

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PQ-00574-02 (01/89)

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing the Land Disposal of Hazardous Waste, Minn. Rules Pts. 7001.0520, 7001.0650, 7045.0020, 7045.0075, 7045.0131, 7045.0135, 7045.0139, 7045.0214, 7045.0292, 7045.0458, 7045.0478, 7045.0532, 7045.0534, 7045.0536, 7045.0538, 7045.0552, 7045.0564, 7045.0584, 7045.0630, 7045.0632, 7045.0634, 7045.0638, 7045.0665, 7045.1300, 7045.1305, 7045.1308, 7045.1309, 7045.1310, 7045.1315, 7045.1320, 7045.1325, 7045.1330, 7045.1333, 7045.1334, 7045.1335, 7045.1339, 7045.1350, 7045.1355, 7045.1358, 7045.1360, and 7045.1380.

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I, Nathan Brooks Cooley, being duly sworn say:

That on the tenth day of March, 1992, in the City of St. Paul, County of Ramsey, State of Minnesota, I deposited the attached "Notice of Submission to the Attorney General of Rule Adopted Without Public Hearing" in the United States Mail system, with first class postage prepaid, addressed to all persons and associations requesting notice that the rules in the above-entitled matter have been submitted to the Attorney General for review. This noticing requirement is provided by Minn. Stat. ch. 14.

Subscribed and sworn to before me
this tenth day of March, 1992.

Diane Fox
Notary Public

Nathan Brooks Cooley
Nathan Brooks Cooley
Affiant

DIANE FOX
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires 2-25-96