

CHAPTER 7045
MINNESOTA POLLUTION CONTROL AGENCY
SOLID AND HAZARDOUS WASTE DIVISION
HAZARDOUS WASTE

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7045.0020 DEFINITIONS.

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

Subp. 6a. Boiler. "Boiler" means an enclosed device using controlled flame combustion and having the characteristics specified in item A or B. If used oil or hazardous waste is to be used as a fuel in an industrial boiler or a utility boiler, these boilers must meet the additional criteria in items C and D.

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

C. An industrial boiler burning used oil or hazardous waste as a fuel must be located on the site of an establishment engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical processes.

D. A utility boiler burning used oil or hazardous waste as a fuel must be one that is used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

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

Subp. 6c. Burner. "Burner" means an owner or operator of an industrial furnace, industrial boiler, or utility boiler meeting the definition of industrial furnace in subpart 43a or boiler in subpart 6a.

[For text of subs 7 to 9, see M.R.]

Subp. 9a. Collector. "Collector" means an initial transporter who receives used oil only from generators and does not market the used oil directly to a person who burns it for energy recovery.

Subp. 9b. Combustible liquid. "Combustible liquid" has the meaning given in Code of Federal Regulations, title 49, section 173.115.

Subp. 9c. Commissioner. "Commissioner" means the commissioner of the Minnesota Pollution Control Agency or the commissioner's designee.

Subp. 9d. Component. "Component" means either the tank or ancillary equipment of a tank system.

[For text of subps 10 to 21a, see M.R.]

Subp. 21b. EPA identification number. "EPA identification number" means the number assigned by the Environmental Protection Agency to each generator, transporter, and treatment, storage and disposal facility.

[For text of subps 22 to 24a, see M.R.]

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

[For text of subps 25 to 34, see M.R.]

Subp. 34a. Hazardous waste fuel. "Hazardous waste fuel" means a hazardous waste that is burned for energy recovery and includes fuel that is produced from hazardous waste by processing, blending, or other treatment, except for those blended fuels described in part 7045.0102, subpart 3.

[For text of subps 35 to 40, see M.R.]

Subp. 40a. Incidental burner. "Incidental burner" means a person who burns some used oil fuel for purposes of processing other used oil or treating other used oil to produce used oil fuel for marketing. These persons are considered to be burning incidentally to processing.

[For text of subps 41 to 48, see M.R.]

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

[For text of subps 50 to 55, see M.R.]

Subp. 55a. Marketer. "Marketer" means a generator who markets hazardous waste fuel or used oil directly to a burner; a person who receives hazardous waste or used oil from generators and produces, processes, or blends hazardous waste fuel from these hazardous wastes, or blends used oil from these oils; a person who distributes but does not process or blend hazardous waste fuel or used oil; and a person who sends blended or processed used oils to brokers or other intermediaries.

[For text of subps 56 to 58, see M.R.]

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

Subp. 58b. Mixed municipal solid waste. "Mixed municipal solid waste" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 21.

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

Subp. 59b. 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. **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 subp 60, see M.R.]

Subp. 60a. **On-specification used oil.** "On-specification used oil" means used oil fuel that does not exceed the specification levels for the constituents in subpart 59b, and has a flash point equal to or greater than 100 degrees Fahrenheit.

[For text of subps 61 to 96, see M.R.]

Subp. 96a. **Treatability study.** "Treatability study" means a study in which a hazardous waste is subjected to a treatment process to determine:

- A. whether the waste is amenable to the treatment process;
- B. what pretreatment might be required;
- C. the optimal process conditions needed to achieve the desired treatment;
- D. the efficiency of a treatment process for a specific waste or wastes; or
- E. the characteristics and volumes of residuals from a particular treatment process.

Also included in this definition, for the purpose of the exemptions of part 7045.0121, are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A treatability study is not a means to commercially treat or dispose of hazardous waste.

[For text of subps 97 to 100a, see M.R.]

Subp. 100b. **Used oil fuel.** "Used oil fuel" means used oil that is burned for energy recovery, and includes fuel produced from used oil by processing, blending, or other treatment, except for those blended fuels described in part 7045.0102, subpart 3.

[For text of subps 101 to 109, see M.R.]

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 2761; 14 SR 1718; 14 SR 2248*

7045.0065 AVAILABILITY OF REFERENCES.

The documents referred to in this chapter may be obtained by contacting the appropriate offices as listed in this part.

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

G. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, publication number SW 846 (Second Edition, 1982, as amended by Update I, April 1984, and Update II, April 1985) of the Office of Solid Waste, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. The Second Edition of SW-846 and Updates I and II available at the Minnesota Law Library and from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161, (703) 487-4600 as Document number PB 87-120-291; and

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

Statutory Authority: *MS s 116.07*

History: *14 SR 976*

7045.0075 PETITIONS.

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

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

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

H. After receiving a petition for an exclusion, the agency or the commissioner may request any additional information which may reasonably be required to evaluate the petition. An exclusion will only apply to the waste generated at the individual facility and covered by the demonstration and will not apply to waste from any other facility. The agency may limit the exclusion to portions of the waste for which sufficient affirmative demonstration is provided when it has reason to believe that the hazardous characteristics may not be consistent throughout the waste or that the demonstration may not be representative of the entire petitioned waste.

[For text of subps 3 to 10, see M.R.]

Subp. 11. Petition for additional treatability study quantities. The commissioner may grant requests for quantity limits in excess of those specified in part 7045.0121, subpart 2, item A, for up to an additional 500 kilograms of nonacute hazardous waste, one kilogram of acute hazardous waste, and 250 kilograms of soils, water, or debris contaminated with acute hazardous waste, to conduct further treatability study evaluation. Item A of this subpart prescribes the conditions which the petitioner must meet in order for the commissioner to grant a petition to increase the quantity limits for waste, destined for use in treatability studies, to a maximum of the limits described in this subpart. Item B of this subpart prescribes what the petition must contain.

A. Conditions for granting a petition to increase quantity limits of waste for use in a treatability study are:

- (1) there has been an equipment or mechanical failure during the conduct of a treatability study;
- (2) there is a need to verify the results of a previously conducted treatability study;
- (3) there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or
- (4) there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

B. The generator or sample collector must apply to the commissioner and provide in writing the following information:

- (1) the reason why the generator or sample collector requires additional quantity of sample for the treatability study evaluation and the additional quantity needed;
- (2) documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(3) a description of the technical modifications or change in specifications that will be evaluated and the expected results;

(4) if a further study is required due to equipment or mechanical failure, the applicant shall include information regarding the reason for the failure or breakdown and include what procedures or equipment improvements have been made to protect against further breakdowns; and

(5) any additional information requested by the commissioner which may reasonably be required to evaluate the petition.

C. Upon receiving approval of the petition, the generator must manage the additional samples as specified in part 7045.0121:

Statutory Authority: *MS s 116.07*

History: *14 SR 2248*

7045.0100 [Repealed, 14 SR 1718]

7045.0102 MIXTURES OF WASTES.

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

Subp. 2. **Mixtures of hazardous and nonhazardous wastes.**

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

Subp. 3. **Mixtures of used oil and hazardous waste.** Items A and B apply to used oil that is intentionally mixed with hazardous waste.

A. Used oil mixed with a hazardous waste that exhibits any of the characteristics of part 7045.0131, subparts 2 to 7, is regulated as hazardous waste. If it is burned for energy recovery, it is regulated as a hazardous waste fuel under part 7045.0692 provided the mixture continues to exhibit any of those characteristics. If the mixture no longer exhibits any of those characteristics and is to be burned for energy recovery, it is regulated as a used oil fuel under part 7045.0695. If the mixture no longer exhibits any of those characteristics and is not burned for energy recovery, it is subject to the requirements of part 7045.0125.

B. Used oil mixed with hazardous waste listed in part 7045.0135 is a hazardous waste. If it is to be burned for energy recovery, it is regulated as a hazardous waste fuel under part 7045.0692.

Statutory Authority: *MS s 115.03; 116.07*

History: *14 SR 1718*

7045.0120 EXEMPT WASTES.

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

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

J. wastes resulting from spills if the exemption is determined by the commissioner to be necessary to expedite the proper management of the spilled material and to prevent, abate, or control pollution as an immediate response to an emergency provided the waste is ultimately taken to a hazardous waste facility as specified in part 7045.0219, subpart 5, item B, subitem (8);

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

M. a sample of waste, water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition when:

[For text of subitems (1) to (6), see M.R.]

N. pulping liquors (for example, black liquor) that are reclaimed in a

pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in part 7045.0020;

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

P. secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided that:

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

Statutory Authority: *MS s 115.03; 116.07*

History: *14 SR 1718; 14 SR 2248*

7045.0121 TREATABILITY STUDY EXEMPTIONS.

Subpart 1. **Applicability.** Except as provided in subpart 2, persons who generate or collect samples for the purpose of conducting treatability studies, as defined in part 7045.0020, are not subject to any requirement of parts 7045.0100 to 7045.0397, or to the notification requirements of the Resource Conservation and Recovery Act, United States Code, title 42, section 6930, nor are such samples included in the quantity determinations of part 7045.0219 when:

A. the sample is being collected and prepared for transportation by the generator or sample collector;

B. the sample is being accumulated or stored by the generator or sample collector before transportation to a laboratory or testing facility; or

C. the sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

Subp. 2. **Conditions of exemption.** The exemption in subpart 1 is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

A. no more than 1,000 kilograms of nonacute hazardous waste, one kilogram of acute hazardous waste, or 250 kilograms of soils, water, or debris contaminated with acute hazardous waste is used for each process being evaluated for each generated waste stream;

B. each sample shipment does not exceed 1,000 kilograms of nonacute hazardous waste, one kilogram of acute hazardous waste, or 250 kilograms of soils, water, or debris contaminated with acute hazardous waste;

C. the sample is packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of either of the following subitems are met:

(1) the transportation of each sample shipment complies with United States Department of Transportation, United States Postal Service, and any other applicable shipping requirements; or

(2) if the United States Department of Transportation, United States Postal Service, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: the name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of shipment; and a description of the sample, including its Environmental Protection Agency hazardous waste number;

D. the sample is shipped to a laboratory or testing facility that is exempt under this part, or has an appropriate permit under the Resource Conservation and Recovery Act, United States Code, title 42, section 6901 et seq., or interim status;

E. the generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

- (1) copies of shipping documents;
- (2) a copy of the contract with the facility conducting the treatability study; and
- (3) documentation showing the amount of waste shipped under this exemption; the name, address, and Environmental Protection Agency identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator.

F. the generator reports the information required under item E, subitem (3), in its report to the commissioner as specified in part 7045.0296.

Subp. 3. Facilities and sample handling. A mobile treatment unit may qualify as a laboratory or testing facility subject to requirements of this subpart. Where a group of mobile treatment units are located at the same site, the limitations specified in this subpart apply to the entire group of mobile treatment units involved in treatability studies collectively as if the group were one mobile treatment unit. Samples undergoing treatability studies and the laboratory or testing facility conducting the treatability studies, to the extent the facilities are engaged directly in treatability studies and are not otherwise subject to the Resource Conservation and Recovery Act, United States Code, title 42, section 6901 et seq. requirements, are not subject to any requirements of Code of Federal Regulations, title 40, part 124; parts 7045.0100 to 7045.0685 except this part and applicable references; parts 7045.1300 to 7045.1380; chapter 7001; or to the notification requirements of the Resource Conservation and Recovery Act, United States Code, title 42, section 6930, providing that the conditions in items A to K are met.

A. No less than 45 days before conducting treatability studies, the facility operator notifies the commissioner in writing that it intends to conduct treatability studies under this item.

B. The laboratory or testing facility conducting the treatability study has an Environmental Protection Agency identification number.

C. No more than a total of 250 kilograms of hazardous waste sample of which no more than one kilogram may be acute hazardous waste, as received, is subjected to initiation of treatment in all treatability studies in any single day. The term "as received" refers to the hazardous waste sample in the form received in the shipment from the generator or sample collector for the purpose of evaluation in treatability studies.

D. The quantity of as received hazardous waste sample stored at the facility for the purpose of evaluation in treatability studies does not exceed 1,000 kilograms, the total of which can include 500 kilograms of soils, water, or debris contaminated with acute hazardous waste or one kilogram of acute hazardous waste. This quantity limitation does not include:

- (1) treatability study residues; and
- (2) treatment materials, including nonhazardous solid waste, added to as received hazardous waste sample.

E. Any unused sample or residues generated from the treatability study must be returned to the generator or sample collector, or must be sent to a designated facility with a current Environmental Protection Agency identification number within 90 days after completion of the treatability study or within one year of the date the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date occurs first.

F. The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

G. The facility maintains records for three years following completion of each treatability study conducted and these records track compliance with the limits on treatment rate, storage time, and quantity and also include the following information:

(1) the name, address, and Environmental Protection Agency identification number of the generator or sample collector of each hazardous waste sample;

(2) the date the waste sample shipment was received;

(3) the quantity of waste sample accepted;

(4) the quantity of as received waste sample in storage each day;

(5) the date the treatment study was initiated, and the amount of as received waste sample introduced to treatment each day;

(6) the date the treatability study was concluded; and

(7) the date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and its Environmental Protection Agency identification number.

H. The facility must keep, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

I. The facility prepares and submits a report to the commissioner by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year and includes the following information for the previous calendar year:

(1) the name, address, and Environmental Protection Agency identification number of the facility conducting the treatability studies;

(2) the types, by process, of treatability studies conducted;

(3) the names and addresses of persons for whom studies have been conducted, including their Environmental Protection Agency identification numbers;

(4) the total quantity of waste in storage each day;

(5) the quantity and types of waste subjected to treatability studies;

(6) when each treatability study was conducted; and

(7) the final disposition of residues and unused sample from each treatability study.

J. The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under parts 7045.0100 to 7045.0143, and, if so, are subject to chapters 7001 and 7045, unless the residues and unused samples are returned to the sample originator, in which case the sample originator is responsible to make this determination.

K. The facility notifies the commissioner by letter when the facility is no longer planning to conduct any treatability studies at the site.

Statutory Authority: *MS s 116.07*

History: *14 SR 2248*

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

Subpart 1. **Scope.** This part regulates hazardous waste and used oil that is to be recycled except for use constituting disposal as provided in part 7045.0665, hazardous waste used for precious metals recovery as provided in part 7045.0675; spent lead-acid batteries being reclaimed as provided in part 7045.0685; hazardous waste fuel being burned for energy recovery as provided in part 7045.0692; or used oil fuel being burned for energy recovery as provided in part 7045.0695.

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

Subp. 3a. Management requirements for used oil.

A. Used oil that is recycled in some other manner than being burned for energy recovery is not subject to the requirements of parts 7045.0205 to 7045.0695 and 7045.1300 to 7045.1380.

B. Used oil that is not recycled is regulated as a hazardous waste and is subject to the applicable requirements of parts 7045.0205 to 7045.0695 and 7045.1300 to 7045.1380.

C. Used oil that is to be burned for energy recovery is regulated under part 7045.0695. Used oil that is mixed with hazardous waste and is burned for energy recovery is regulated under part 7045.0692 and the applicable requirements of part 7045.0102.

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

A. industrial ethyl alcohol that is reclaimed, except as provided in subpart 12;

B. used batteries or used battery cells returned to a battery manufacturer for regeneration;

C. scrap metal;

D. fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if the wastes result from normal petroleum refining, production, and transportation practices;

E. oil that is reclaimed from hazardous wastes that are generated from normal petroleum refining, production, and transportation practices, and that is to be refined along with normal process streams at a petroleum refining facility;

F. coke and coal tar from the iron and steel industry that contain EPA Hazardous Waste No. K087 listed under part 7045.0135, subpart 3, item L, subitem (2), (decant tank tar sludge from coking operations) from the iron and steel production process;

G. hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from the hazardous wastes, where the hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil if the resulting fuel meets the used oil specification under part 7045.0695, subpart 1, item B, subitem (1), and no other hazardous wastes are used to produce the hazardous waste fuel;

H. hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining, production, and transportation practices, where the hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, if the fuel meets the used oil fuel specification under part 7045.0695, subpart 1, item B, subitem (1);

I. oil that is reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, and is burned as a fuel without reintroduction to a refining process, if the reclaimed oil meets the used oil fuel specification under part 7045.0695, subpart 1, item B, subitem (1); and

J. petroleum coke produced from petroleum refinery hazardous wastes containing oil at the same facility at which the wastes were generated, unless the resulting coke product exhibits one or more of the characteristics of hazardous waste in part 7045.0131.

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

A. Except as provided in items B to D, hazardous wastes that are shown to be recycled by being used in a manner specified in subitems (1) to (3), are not subject to regulation under parts 7045.0205 to 7045.0695 and 7045.1300 to 7045.1380. This subpart does not apply to wastes being accumulated specula-

tively as defined in part 7045.0020, or being managed by use constituting disposal as regulated under part 7045.0665 or burning for energy recovery, as regulated in part 7045.0692. Hazardous wastes are considered to be used as feedstock if they are:

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

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

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

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

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

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

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

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

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

B. This subpart does not apply to hazardous wastes being accumulated speculatively as defined in part 7045.0020 or being managed by use constituting disposal, as regulated under part 7045.0665 or being burned for energy recovery as regulated by part 7045.0692.

Subp. 7. **Generator requirements.** Except as provided in subpart 3a, 4, 5, or 6, or part 7045.0695, generators of hazardous waste destined for recycle are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 8. **Transporter requirements.** Except as provided in subpart 3a, 4, 5, or 6, or part 7045.0695, transporters of hazardous waste destined for recycle are subject to the requirements of parts 7045.0351 to 7045.0397.

Subp. 9. **Facility requirements.** Except as provided in subpart 3a, 4, 5, or 6, or parts 7045.0692 and 7045.0695, owners or operators of facilities which recycle hazardous waste are subject to the following requirements:

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

Subp. 10. [Repealed, 14 SR 1718]

Subp. 11. [Repealed, 14 SR 1718]

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

Statutory Authority: *MS s 115.03; 116.07*

History: *14 SR 976; 14 SR 1718*

7045.0135 LISTS OF HAZARDOUS WASTES.

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

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

[For text of subp 3, items A to G, see M.R.]

H. Iron and steel:

[For text of subp 3, item H, subitem (1), see M.R.]

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

[For text of subp 3, items I to L, see M.R.]

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

[For text of subp 4, items A to F, see M.R.]

[For text of subp 5, see M.R.]

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0214 EVALUATION OF WASTES.

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

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

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

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

C. Materials that have been reclaimed from hazardous wastes and from wastes that have been reclaimed that are beneficially used are not hazardous wastes unless the reclaimed material is used in a manner constituting disposal under part 7045.0665 or burned for energy recovery under part 7045.0692.

D. Wastes from burning any of the materials exempted from regulation by part 7045.0125, subpart 4, items D to J, are not hazardous wastes.

Statutory Authority: *MS s 115.03; 116.07*

History: *14 SR 1718*

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. Applicability; quantities. A generator is a small quantity generator

subject to the requirements of subparts 2 to 6 if, in a calendar month, he or she generates less than:

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

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

Subp. 4. Accumulation on-site. A small quantity generator who does not have a permit or interim status may accumulate hazardous waste on-site under the following conditions: if the quantity of hazardous waste accumulated at any time exceeds the quantities in item A or B, whichever applies, the small quantity generator must manage all of the accumulated waste in accordance with all the generator requirements in parts 7045.0205 to 7045.0304, excluding this part, but does not lose the small quantity generator status.

A. The following provisions apply to waste not listed as acute hazardous waste:

(1) A small quantity generator who in a calendar month generates at least 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E, may accumulate that waste on-site for 180 days or less if the quantity of waste accumulated on-site never exceeds 3,000 kilograms and the small quantity generator meets all the requirements of subpart 5. For purposes of this subitem, the time period for accumulation begins when the generator begins accumulation in a container or tank. If the small quantity generators regulated under this subitem mix used oil with hazardous waste, they must meet the requirements under part 7045.0102, subpart 3.

(2) A small quantity generator who in a calendar month generates less than 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site indefinitely until 1,000 kilograms of waste are accumulated, at which point the small quantity generator may only store the waste on-site for a period of 180 days following the date the 1,000 kilogram limit is reached. A small quantity generator accumulating waste under this subitem must meet the requirements of subpart 5, except for subpart 5, item B, subitems (2) to (5). If the small quantity generators regulated under this subitem mix used oil with characteristic hazardous waste, they must meet the requirements under subpart 6. Small quantity generators regulated under this subitem who mix used oil with listed hazardous waste must meet the hazardous waste fuel requirements under part 7045.0692 if the waste is to be burned for energy recovery.

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

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

Subp. 5. Management requirements.

A. Small quantity generators shall comply with the following requirements of this chapter:

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

(6) parts 7045.0566 and 7045.0568;

(7) parts 7045.0626 and 7045.0629; and

(8) as applicable, parts 7045.0692 and 7045.0695.

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

Subp. 6. Mixtures. A small quantity generator's hazardous waste may be mixed as specified in items A to C and be subject to the reduced requirements of this rule.

A. Hazardous waste may be mixed with nonhazardous waste pursuant to part 7045.0102 and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity generation and accumulation limitations identified in this rule unless the resultant mixture is hazardous pursuant to part 7045.0102.

B. A waste that is hazardous solely for the characteristic of ignitability may be mixed with used oil that is generated on-site and regulated as used oil fuel under part 7045.0695 if the waste mixed is hazardous solely for the characteristic of ignitability under part 7045.0131, subpart 2, and the following conditions are met:

(1) the ignitable waste is generated by a small quantity generator who in a calendar month generates a total of less than 100 kilograms of hazardous waste;

(2) the ignitable waste has a flash point of 100 degrees Fahrenheit or greater, is not a metal bearing paint waste, or is not gasoline; and

(3) the concentration of ignitable waste in the used oil does not exceed ten percent by volume.

C. Mixtures that do not meet the criteria in item B are subject to part 7045.0102, subpart 3.

Statutory Authority: *MS s 115.03; 116.07*

History: *14 SR 1718*

7045.0255 ONE-TIME DISPOSAL REQUIREMENTS.

Except for persons who are generators under part 7045.0205, subparts 2 and 3, a person having hazardous waste subject to regulation under these parts who is only a hazardous waste generator for the one-time disposal of hazardous waste which is not currently being produced, must comply with this chapter except parts 7045.0205, subpart 3; 7045.0211; 7045.0212; 7045.0292; and 7045.0296. This kind of hazardous waste generator is exempt from parts 7045.0220 to 7045.0249 except that the generator must obtain an identification number and a management plan must be submitted to the commissioner for approval on the forms provided.

Statutory Authority: *MS s 116.07*

History: *14 SR 2248*

7045.0290 HAZARDOUS WASTE MANAGEMENT.

Subpart 1. Proper hazardous waste management. The generator shall ensure treatment, storage, or disposal of its hazardous waste in an on-site facility or delivery to an off-site treatment, storage, or disposal facility in accordance with all applicable requirements. The generator shall ensure that any off-site facility to which the waste is being shipped for treatment, storage, or disposal is capable of managing the waste and is authorized to receive the waste. If located in the United States, the facility used must be:

A. permitted to accept hazardous waste under the agency's permitting procedures;

B. in interim status under parts 7045.0552 to 7045.0642;

C. authorized to manage hazardous waste by the United States Environmental Protection Agency or by a state with a hazardous waste management program authorized by the Environmental Protection Agency; or

D. a facility that under part 7045.0125 beneficially uses, reuses, legitimately recycles, or reclaims the waste or treats the waste before beneficial use, reuse, legitimate recycling, or reclamation.

Subp. 2. Improper hazardous waste management. No generator shall relinquish control of a hazardous waste when the generator has reason to believe that the hazardous waste is not being properly managed.

Subp. 3. **Effect on liability.** Nothing in subpart 1 or 2 is intended to restrict or enlarge or affect in any way, any liability the generator may have to correct the mismanagement of the hazardous waste or pay for damages or alleviate any pollution caused by the mismanagement of the hazardous waste.

Statutory Authority: *MS s 116.07*

History: *14 SR 2248*

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 item A, see M.R.]

B. the waste is placed in containers which meet the standards of part 7045.0270, subpart 4, and are managed in accordance with part 7045.0626; or in tanks provided the generator complies with the requirements of part 7045.0628 except part 7045.0628, subpart 9, item C, and subpart 12;

C. tanks and containers are clearly labeled with the waste accumulation start date; alternatively, containers are so labeled while a clearly designated and legible log of tank transactions which includes accumulation start dates is maintained; all of these dates must be available for inspection;

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

F. containers in outdoor storage areas which hold free liquids are placed on a curbed containment surface which is impermeable to the wastes stored;

G. containers holding hazardous wastes which exhibit the characteristics of ignitability or reactivity or which exhibit the potential for creating vapor pressures capable of causing containers to leak, deform, or otherwise fail if not shaded are shaded from direct sunlight; however, nothing in this item shall relieve the generator from the obligation to comply with any local, state, or federal law governing storage of these wastes;

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

I. all waste containers and tanks are labeled with the words "Hazardous Waste" and a description that clearly identifies their contents to employees and emergency personnel.

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

Subp. 3. **Accumulation requiring a permit.** A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of parts 7045.0450 to 7045.0642 and the agency's permitting procedures in chapter 7001 unless the generator has been granted an extension to the 90-day period. An extension may be granted by the commissioner if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the commissioner on a case-by-case basis.

Subp. 4. **Accumulation of waste by generator.** The following apply to generators of hazardous waste:

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

B. The generator must:

(1) comply with part 7045.0626;

(2) clearly label each container with the words "Hazardous Waste"

and a description which clearly identifies its contents to employees and emergency personnel; and

(3) clearly label each container with the earliest of either the date on which the container became full or the date on which the volume limits prescribed in item A are reached.

C. A generator who accumulates either hazardous waste or acutely hazardous waste listed in part 7045.0135, subpart 4, item E, in excess of the amounts listed in item A of this subpart at or near any point of generation must, with respect to the amount of excess waste, comply within three days with subpart 1 or, if applicable, part 7045.0219 or other applicable provisions of this chapter. During the three-day period for compliance the generator must continue to comply with item B.

Statutory Authority: *MS s 116.07*

History: *14 SR 2248*

7045.0371 TRANSPORTATION OF HAZARDOUS WASTE.

Hazardous waste shall be transported in accordance with all applicable requirements of Minnesota Statutes, sections 221.033 and 221.034, and with 221.035 if applicable, and Code of Federal Regulations, title 49, parts 171 to 179 (1983).

Statutory Authority: *MS s 116.07*

History: *14 SR 976*

7045.0452 GENERAL FACILITY STANDARDS.

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

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

[For text of subp 5, items A and B, see M.R.]

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

[For text of subp 5, items D and E, see M.R.]

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0454 PERSONNEL TRAINING.

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

Subp. 6. Personnel records. The following documents and records must be maintained at the facility:

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

D. records that document that the training or job experience required under subparts 1 to 5 has been given to, and completed by, facility personnel.

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

Statutory Authority: *MS s 116.07*

History: *14 SR 2248*

7045.0460 LOCATION STANDARDS.

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

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

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

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

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

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

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 subp 3, items A to G, see M.R.]

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

[For text of subp 3, items I to Q, see M.R.]

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0484 GROUNDWATER PROTECTION.

[For text of subps 1 to 13, see M.R.]

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

[For text of subp 14, items A to D, see M.R.]

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

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

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

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

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

[For text of subp 14, items F to H, see M.R.]

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0485 CORRECTIVE ACTION FOR SOLID AND HAZARDOUS WASTE MANAGEMENT UNITS.

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

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

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0486 CLOSURE.

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

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

Subp. 3. Submittal and contents of closure plan. The owner or operator of a hazardous waste facility shall submit a closure plan with the permit application,

and the closure plan must be approved by the agency as part of the permit issuance procedure. The approved closure plan shall become a condition of any permit. The agency's approval must ensure that the approved closure plan is consistent with subparts 2, 4, and 5, and part 7045.0488, and the applicable closure requirements of parts 7045.0526, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subpart 2; and 7045.0542, subpart 8.

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

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

[For text of subp 3, items B to F, see M.R.]

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

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0488 CLOSURE ACTIVITIES.

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

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

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

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0490 POSTCLOSURE.

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

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

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

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

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

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0492 POSTCLOSURE CARE AND USE OF PROPERTY.

Subpart 1. Postclosure care requirements. Postclosure care requirements are as follows:

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

[For text of subpart 1, items B to D, see M.R.]

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

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0502 COST ESTIMATE FOR FACILITY CLOSURE.

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

[For text of subpart 1, items A to C, see M.R.]

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

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0506 COST ESTIMATE FOR POSTCLOSURE CARE.

Subpart 1. Cost estimate requirements. The owner or operator of a facility subject to postclosure monitoring or maintenance requirements shall have a written estimate, in current dollars, of the annual cost of postclosure monitoring and maintenance of the facility in accordance with the applicable postclosure requirements in parts 7045.0490 to 7045.0496; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; and 7045.0539, subpart 4. The postclosure cost estimate is calculated by multiplying the annual postclosure cost estimate by the number of years of postclosure care required under part

7045.0492. The postclosure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct postclosure care activities. A third party is neither a parent nor a subsidiary of the owner or operator.

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

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0518 LIABILITY REQUIREMENTS.

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

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

[For text of subp 2, items A to D, see M.R.]

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

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0526 USE AND MANAGEMENT OF CONTAINERS.

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

Subp. 7. Special requirements for ignitable or reactive waste. Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line. Nothing in this subpart shall relieve the facility owner or operator from the obligation to comply with any local, state, or federal law governing storage of these wastes.

[For text of subps 8 and 9, see M.R.]

Statutory Authority: *MS s 116.07*

History: *14 SR 2248*

7045.0539 MISCELLANEOUS UNITS.

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

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

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

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

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

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

(4) the quantity and direction of groundwater flow;

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

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

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

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

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

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

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

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

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

(4) the patterns of precipitation in the region;

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

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

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

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

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

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

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

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

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

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

(3) the operating characteristics of the unit;

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

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

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

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

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

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

Statutory Authority: *MS s 116.07 subd 4*

History: *13 SR 2761*

7045.0558 PERSONNEL TRAINING.

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

Subp. 6. Personnel records. The following documents and records must be maintained at the facility:

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

D. Records that document that the training or job experience required under subparts 1 to 5 has been given to, and completed by, facility personnel.

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

Statutory Authority: *MS s 116.07*

History: *14 SR 2248*

7045.0574 EMERGENCY PROCEDURES.

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

Subp. 5. Report on released material. If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment outside the facility, the findings must be reported as provided in items A and B:

A. If the assessment indicates that evacuation of local areas may be advisable, the appropriate local authorities must be immediately notified, and the emergency coordinator shall be available to help appropriate officials decide whether local areas should be evacuated.

B. The agency's emergency response unit must be immediately notified at the 24-hour telephone number, (612) 296-8100, and notification must also be given to either the governmental official designated as the on-scene coordinator for that geographical area in the applicable regional contingency plan under Code of Federal Regulations, title 40, part 1510 (1983) or to the National Response

Center using their 24-hour toll free telephone number, (800) 424-8802. The report must include:

- (1) name and telephone number of reporter;
- (2) name and address of facility;
- (3) time and type of incident;
- (4) name and quantity of material involved, to the extent known;
- (5) the extent of injuries, if any; and
- (6) the possible hazards to human health or the environment outside the facility.

Subp. 6. Duty to notify. The emergency coordinator shall immediately notify the agency if the released hazardous waste may cause pollution of the air, land resources, or waters of the state. The emergency coordinator shall use the agency's 24-hour telephone number (612) 296-8100.

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

Statutory Authority: *MS s 116.07*

History: *14 SR 2248*

7045.0626 USE AND MANAGEMENT OF CONTAINERS.

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

Subp. 5. Inspections. The owner or operator shall inspect hazardous waste containers and areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors and shall keep a written record of the dates and findings of these inspections.

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

Subp. 7. Special requirements for ignitable or reactive waste. Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line. Nothing in this subpart shall relieve the facility owner or operator from the obligation to comply with any local, state, or federal law governing storage of these wastes.

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

Statutory Authority: *MS s 116.07*

History: *14 SR 2248*

7045.0665 USE CONSTITUTING DISPOSAL.

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

- A. without mixing with other substances; or
- B. after mixing or combination with any other substances.

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

Subp. 1a. Land application prohibition.

A. The following materials may not be placed in mixed municipal solid waste or applied as a dust suppressant or used for road treatment:

- (1) waste oil; ~

- (2) used oil;
- (3) hazardous waste; and
- (4) a mixture of hazardous waste and other material, waste oil, or

used oil.

B. A person may not otherwise place used or waste oil in or on the land, unless approved by the commissioner. The application of used or waste oil in or on the land shall only be approved in the case of an accidental spill.

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

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 2761; 14 SR 1718*

7045.0692 HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY.

Subpart 1. Scope. This part applies to hazardous wastes that are burned for energy recovery in a boiler or industrial furnace that is not regulated by the thermal treatment standards in part 7045.0542 or 7045.0640, except:

A. Gaseous emissions recovered from hazardous waste management activities when the gas is burned for energy recovery.

B. Used oil that exhibits a characteristic of hazardous waste as identified in part 7045.0131, provided that it has not been intentionally mixed with a characteristic hazardous waste, and is regulated as a used oil fuel in part 7045.0695.

C. Hazardous wastes that are exempt from regulation under part 7045.0125, subparts 3a and 4, items D to J.

D. Mixtures of used oil and waste that is hazardous solely for the characteristic of ignitability in part 7045.0131, subpart 2, provided the waste is generated by a person who in a calendar month generates less than 100 kilograms of hazardous waste. This mixture is regulated as provided in part 7045.0219, subpart 6. If the waste is generated by a person who in a calendar month generates at least 100 kilograms of hazardous waste, part 7045.0102, subpart 3, item A, applies.

E. Used oil being burned for energy recovery as regulated in part 7045.0695.

Subp. 2. Prohibitions.

A. A person may market hazardous waste fuel only:

(1) to persons who have notified the Environmental Protection Agency of their hazardous waste fuel activities and have an EPA identification number; and

(2) if the fuel is to be burned, to persons who burn the fuel in boilers or industrial furnaces identified in item B.

B. Hazardous waste fuel may be burned for energy recovery only in industrial furnaces as defined in part 7045.0020, or boilers as defined in part 7045.0020, or as provided in part 7045.0075, subpart 4, that meet one of the following criteria:

(1) industrial boilers located on the site of an establishment engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(2) utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

C. Hazardous waste or a fuel that contains a hazardous waste may not be burned in a cement kiln unless the kiln fully complies with the thermal treatment standards of part 7045.0542.

Subp. 3. Standards applicable to generators of hazardous waste fuel. Genera-

tors of hazardous waste that is used as a fuel or used to produce a fuel are subject to parts 7045.0205 to 7045.0304. Generators who market hazardous waste fuel to a burner are also subject to subpart 5. Generators who are burners are also subject to subpart 6.

Subp. 4. Standards applicable to transporters of hazardous waste fuel. Transporters of hazardous waste fuel and hazardous waste that is used to produce a fuel are subject to parts 7045.0351 to 7045.0397.

Subp. 5. Standards applicable to marketers of hazardous waste fuel. Marketers are subject to the requirements in items A to F.

A. A marketer of hazardous waste that is used as a fuel or used to produce a fuel must notify the Environmental Protection Agency to identify hazardous waste fuel activities. Even if a marketer has previously notified the Environmental Protection Agency of hazardous waste management activities other than hazardous waste fuel activities, a marketer must renotify specifically to identify hazardous waste fuel activities.

B. A marketer must comply with the prohibitions in subpart 2, item A.

C. If a marketer is a generator, or becomes a generator by initiating a shipment of hazardous waste fuel, the marketer must comply with parts 7045.0205 to 7045.0304. If the marketer operates a facility, the marketer must comply with parts 7045.0450 to 7045.0534. If the marketer is operating a facility under interim status, the marketer must comply with parts 7045.0552 to 7045.0632. If the marketer stores hazardous waste, the marketer must comply with the agency's permitting procedures in chapter 7001 for storage of hazardous waste.

D. Before a marketer initiates the first shipment of hazardous waste fuel to a burner or another marketer, a one-time written and signed notice from the burner or marketer must be obtained certifying that:

(1) the burner or marketer has notified the Environmental Protection Agency and identified the waste-as-fuel activities; and

(2) if the recipient is a burner, the burner will burn the hazardous waste fuel only in an industrial furnace or boiler identified in subpart 2, item B.

E. Before a marketer accepts the first shipment of hazardous waste fuel from another marketer, the receiving marketer must provide the other marketer with a one-time written and signed notice certifying that the receiving marketer has notified the Environmental Protection Agency and identified the receiving marketer's hazardous waste fuel activities.

F. In addition to the applicable record keeping requirements of parts 7045.0205 to 7045.0304, 7045.0450 to 7045.0534, and 7045.0552 to 7045.0632, a marketer must keep a copy of each certification notice received or sent for three years from the date the marketer last engaged in a hazardous waste fuel marketing transaction with the person who sent or received the certification notice.

Subp. 6. Standards applicable to burners of hazardous waste fuel. Owners and operators of industrial furnaces and boilers identified in subpart 2, item B, that burn hazardous fuel are subject to the requirements in items A to F.

A. A burner must notify the Environmental Protection Agency of hazardous waste fuel activities and obtain an EPA identification number. Even if a burner has previously notified the Environmental Protection Agency of the burner's hazardous waste management activities and obtained an EPA identification number, the burner must renotify the Environmental Protection Agency to identify the burner's hazardous waste fuel activities.

B. Before a burner accepts the first shipment of hazardous waste fuel from a marketer, the burner must provide the marketer with a one-time written and signed notice certifying that:

(1) the burner has notified the Environmental Protection Agency and identified the burner's waste-as-fuel activities; and

(2) the burner will burn the fuel only in a boiler or furnace identified in subpart 2, item B.

C. In addition to the applicable record keeping requirements of parts 7045.0478 to 7045.0482 and 7045.0584 to 7045.0588, a burner must keep a copy of each certification notice that the burner sends to a marketer for three years from the date the burner last receives hazardous waste fuel from that marketer.

D. Generators who accumulate hazardous waste fuel before burning on-site within the accumulation time period allowed in part 7045.0292 must comply with that part. Small quantity generators who accumulate hazardous waste fuel before burning on-site within the accumulation time period allowed in part 7045.0219 must comply with that part. Burning by the generator of a hazardous waste that is a sludge or is or contains a waste listed in part 7045.0135 for reasons other than ignitability or is or contains a waste that is toxic under part 7045.0131, subpart 6, is subject to the additional requirements of item E, subitem (2).

E. Generators who accumulate waste for longer than the time periods in item D, and burners who receive waste from off-site and store it, must comply with the following requirements:

(1) the agency's permitting procedures in chapter 7001 for hazardous waste storage facilities, parts 7045.0205 to 7045.0536, 7045.0544, 7045.0552 to 7045.0632, 7045.1000 to 7045.1030, and 7045.1300 to 7045.1380; and

(2) if the hazardous waste to be burned is a sludge or is or contains a waste listed in part 7045.0135 for reasons other than ignitability, or is or contains a waste that is toxic under part 7045.0131, subpart 6, then parts 7045.0542, excluding subparts 4, item C, and 7, item A, subitem (2); and 7045.0640 apply.

F. A burner must abide by Minnesota and federal air quality regulations, including obtaining a permit if necessary. Compliance with this part does not release a burner from any obligation to comply with local air quality ordinances or codes.

Statutory Authority: *MS s 115.03; 116.07*

History: *14 SR 1718*

7045.0695 USED OIL BURNED FOR ENERGY RECOVERY.

Subpart 1. **Scope.** The requirements of this part apply to used oil that is burned for energy recovery in a boiler or industrial furnace that is not regulated under part 7045.0542 or 7045.0640. Burning used oil as a fuel is prohibited except as provided in this part. Used oil burned for energy recovery is subject to regulation under this part rather than as hazardous waste fuel under part 7045.0692, even if it exhibits a characteristic of hazardous waste identified in part 7045.0131, provided that it has not been intentionally mixed with a characteristic hazardous waste. Used oil intentionally mixed with a characteristic hazardous waste as identified in part 7045.0131 is regulated as specified in part 7045.0102, subpart 3.

A. The requirements of this part do not apply to subitems (1) and (2), which are regulated as specified.

(1) Used oil that has been intentionally mixed with a hazardous waste listed in part 7045.0135 is regulated under part 7045.0692 if it is to be burned for energy recovery.

(2) Used oil containing more than 1,000 parts per million of total halogens is presumed to have been mixed with a halogenated hazardous waste listed in part 7045.0135 and is a hazardous waste. It is subject to the requirements of part 7045.0692 if it is to be burned for energy recovery. This presumption may be rebutted by a demonstration that the used oil does not contain hazardous waste.

B. Used oil burned for energy recovery, and any fuel produced from

used oil by processing, blending, or other treatment, is subject to regulation as off-specification used oil fuel if it exceeds any of the allowable levels of the constituents and properties in subitem (1). On-specification used oil fuel as defined in part 7045.0020, subpart 60a, is subject only to the analysis and record keeping requirements under subpart 3, item B, subitems (1) and (8).

(1) Used oil exceeding any of the following allowable levels, for the constituent or property listed, is subject to full regulation under this part when burned for energy recovery:

Constituent/property	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
Flash Point	100 degrees Fahrenheit minimum
Total Halogens	4,000 parts per million maximum

(2) The specifications in subitem (1) do not apply to used oil fuel mixed with a listed hazardous waste identified in part 7045.0135. Such wastes are regulated under part 7045.0692.

(3) If the presumption of mixing is not successfully rebutted, used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided in item A, subitem (2). This used oil is subject to part 7045.0692 rather than this part when burned for energy recovery. If the presumption of mixing is successfully rebutted and the oil is on-specification used oil, it is subject only to the reduced requirements identified in subpart 3, item B, subitems (1) and (8).

Subp. 2. Standards applicable to generators of used oil to be burned for energy recovery. Except as provided in items A and B, generators of used oil are not subject to this subpart.

A. Generators who market used oil directly to a burner are subject to subpart 3.

B. Generators who burn used oil are subject to subpart 4.

Subp. 3. Standards applicable to marketers of used oil to be burned for energy recovery.

A. The following persons are not marketers:

(1) Used oil generators, and collectors who transport used oil received only from generators, unless the generator or collector markets the used oil directly to a person who burns it for energy recovery. Generators and collectors who market to incidental burners are not marketers subject to this subpart.

(2) Persons who market only on-specification used oil fuel and who are not the first person to claim the used oil meets the specifications of subpart 1, item B.

B. Marketers are subject to the following requirements:

(1) Used oil fuel is subject to regulation as off-specification used oil fuel under this part unless the marketer obtains analyses or other information documenting that the used oil is on-specification used oil fuel.

(2) A person may market off-specification used oil for energy recovery only:

(a) to burners or other marketers who have notified the Environmental Protection Agency of their used oil management activities stating the location and general description of those activities, and who have an EPA identification number; and

(b) to burners who burn the used oil in an industrial furnace or boiler identified in subpart 4, item A, subitems (1) and (2).

(3) Even if a marketer has previously notified the Environmental

Protection Agency of the marketer's hazardous waste management activities and obtained an EPA identification number, the marketer must renotify the Environmental Protection Agency to identify the marketer's used oil management activities.

(4) When a marketer initiates a shipment of off-specification used oil fuel, the marketer must prepare and send the receiving facility an invoice containing the following information:

- (a) a unique invoice number;
- (b) the marketer's own EPA identification number and the EPA identification number of the receiving facility;
- (c) the names and addresses of the shipping and receiving facilities;
- (d) the quantity of off-specification used oil fuel to be delivered;
- (e) the dates of shipment or delivery; and
- (f) the following statement: "This used oil is subject to EPA regulation under Code of Federal Regulations, title 40, section 266."

(5) Used oil that meets the definition of combustible liquid or flammable liquid is subject to the United States Department of Transportation hazardous materials regulations in Code of Federal Regulations, title 49, sections 100 to 177.

(6) Before a marketer initiates the first shipment of off-specification used oil fuel to a burner or other marketer, the marketer must obtain a one-time written and signed notice from the burner or marketer certifying that:

(a) the burner or marketer has notified the Environmental Protection Agency stating the location and general description of the marketer's used oil management activities; and

(b) if the recipient is a burner, the burner will burn the off-specification used oil fuel only in an industrial furnace or boiler identified in subpart 4, item A, subitems (1) and (2).

(7) Before a marketer accepts the first shipment of off-specification used oil fuel from another marketer subject to the requirements of this part, the first marketer must provide the other marketer with a one-time written and signed notice certifying that the first marketer has notified the Environmental Protection Agency of the first marketer's used oil management activities.

(8) A marketer who first claims under item B, subitem (1), that used oil fuel meets the specifications must keep copies of analysis, or other information used to make the determination, for three years from the date of analysis. That marketer must also record in an operating log and keep for three years the information in units (a) to (d) on each shipment of on-specification used oil fuel. On-specification used oil fuel is not subject to further regulation, unless it is subsequently mixed with hazardous waste or unless it is mixed with used oil so that it no longer meets the specifications:

- (a) the name and address of the facility receiving the shipment;
- (b) the quantity of used oil fuel delivered;
- (c) the date of shipment and delivery; and
- (d) a cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specifications required under this subitem.

(9) A marketer who receives or initiates an invoice under the requirements of this subpart must keep a copy of each invoice for three years from the date the invoice is received or prepared. In addition, a marketer must keep a copy of each certification notice that the marketer received or sent for three years from the date that the marketer last engaged in an off-specification used oil fuel marketing transaction with the person who sent or received the certification notice.

Subp. 4. Standards applicable to burners of used oil burned for energy recovery. Owners and operators of devices that burn used oil fuel are subject to the requirements in items A to G.

A. Off-specification used oil fuel may be burned for energy recovery only in industrial furnaces defined in part 7045.0020, or in boilers as defined in part 7045.0020, or as provided in part 7045.0075, subpart 4, that meet the following criteria:

(1) industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(2) utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale; or

(3) used oil-fired space heaters provided that:

(a) the heater burns only used oil that the owner or operator generates or used oil received from do-it-yourself oil changers who generate used oil as household waste;

(b) the heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and

(c) the combustion gases from the heater are vented to the out-of-doors.

B. Burners of off-specification used oil fuel and burners of on-specification used oil fuel who are the first to claim that the oil meets the specifications provided in subpart 1, item B, must notify the Environmental Protection Agency stating the location and general description of used oil management activities. Burners who meet the following criteria are not required to notify the Environmental Protection Agency:

(1) burners of on-specification used oil fuel who receive the oil from a marketer who has previously notified the Environmental Protection Agency;

(2) owners and operators of used oil-fired space heaters that burn used oil fuel under item A, subitem (3); and

(3) burners who burn on-specification used oil that they generate.

C. Before a burner accepts the first shipment of off-specification used oil fuel from a marketer, the burner must provide the marketer with a one-time written and signed notice certifying that:

(1) the burner has notified the Environmental Protection Agency stating the location and general description of the burner's used oil management activities; and

(2) the burner will burn the used oil only in an industrial furnace or boiler identified in item A, subitems (1) and (2).

D. A person who burns used oil fuel that has been generated on-site is subject to regulation under this subpart unless that person obtains analysis or other information documenting that the oil is on-specification used oil.

E. Burners who process, blend, or otherwise manage off-specification used oil to meet the specifications provided under subpart 1, item B, must obtain analyses or other information documenting that the oil is on-specification used oil.

F. A burner must retain a copy of the invoice given from a marketer for three years from the date the invoice is received. Burners must also keep for three years copies of all analyses of used oil fuel as may be required by items D and E. In addition, the burner must keep a copy of each certification notice that the burner sends to a marketer for three years from the date the burner last received off-specification used oil fuel from that marketer.

G. Burners must abide by Minnesota and federal air quality regulations, including obtaining a permit if necessary. Compliance with this part does not

release a burner from any obligation to comply with local air quality ordinances or codes.

Statutory Authority: *MS s 115.03; 116 07*

History: *14 SR 1718*