

7045.0120 EXEMPTIONS AND SPECIAL REQUIREMENTS.

Subpart 1. **Exempt types of waste.** The following waste may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

- A. household waste except as provided for under subpart 2, items A and B;
- B. sewage and any mixture of untreated sanitary sewage and other wastes that is formed by the combination of untreated sanitary sewage and one or more other wastes discharged through a sewage system to a publicly owned treatment works for treatment, except that this exemption does not include any of the individual wastes which form the composite wastewater;
- C. garbage, rubbish, and demolition debris from nonhousehold sources;
- D. mining overburden returned to the mine site;
- E. an air contaminant or emission emitted pursuant to an emission facility operating permit;
- F. fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated from the combustion of fuel which is at least 51 percent coal or other fossil fuels and the balance of the fuel does not contain hazardous waste;
- G. wastes discharged pursuant to a national pollutant discharge elimination system permit;
- H. drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy;
- I. waste from the extraction, beneficiation, and processing of ores and minerals, including coal, phosphate rock, and overburden from the mining of uranium ore. For purposes of this item, beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting, autoclaving, or chlorination in preparation for leaching (except where the roasting, autoclaving, or chlorination/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching. For the purposes of this item, waste from the processing of ores and minerals includes only the following wastes as generated:
 - (1) slag from primary copper processing;
 - (2) slag from primary lead processing;

- (3) red and brown muds from bauxite refining;
- (4) phosphogypsum from phosphoric acid production;
- (5) slag from elemental phosphorus production;
- (6) gasifier ash from coal gasification;
- (7) process wastewater from coal gasification;
- (8) calcium sulfate wastewater treatment plant sludge from primary copper processing;
- (9) slag tailings from primary copper processing;
- (10) fluorogypsum from hydrofluoric acid production;
- (11) process wastewater from hydrofluoric acid production;
- (12) air pollution control dust or sludge from iron blast furnaces;
- (13) iron blast furnace slag;
- (14) treated residue from the roasting/leaching of chrome ore;
- (15) process wastewater from primary magnesium processing by the anhydrous process;
- (16) process wastewater from phosphoric acid production;
- (17) basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
- (18) basic oxygen furnace and open hearth furnace slag from carbon steel production;
- (19) chloride process waste solids from titanium tetrachloride production;
- and
- (20) slag from primary zinc processing.

A residue derived from coprocessing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subpart if the owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials and legitimately reclaims the secondary mineral processing materials;

J. waste resulting from spills or emergency response actions if the exemption is determined by the commissioner to be necessary to expedite the proper management of the waste and to prevent, abate, or control pollution as an immediate response to an emergency provided the waste, if hazardous, is ultimately managed as a hazardous waste;

K. a waste which contains chromium and which is not hazardous because of another component or because of a hazardous characteristic if it is shown by a generator that:

(1) the chromium in the waste is exclusively or nearly exclusively trivalent chromium;

(2) the waste is generated from an industrial process which used trivalent chromium exclusively or nearly exclusively and the process does not generate hexavalent chromium; and

(3) the waste is typically and frequently managed in nonoxidizing environments;

L. a hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials;

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:

(1) the sample is being transported to a laboratory for the purpose of testing;

or

(2) the sample is being transported back to the sample collector after testing;

or

(3) the sample is being stored by the sample collector before transport to a laboratory for testing; or

(4) the sample is being stored in a laboratory before testing; or

(5) the sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

(6) the sample is being stored temporarily in the laboratory after testing for a specific purpose such as the conclusion of a court case or other ongoing enforcement action where further testing of the sample may be necessary.

In all cases a sample collector who ships samples to a laboratory and a laboratory that returns samples to a sample collector must comply with United States Department of Transportation, United States Postal Service, or any other applicable shipping requirements. If the sample collector or laboratory determines that the United States Department of Transportation, United States Postal Service, or other shipping requirements do not apply to

the shipment of the sample, then the collector or laboratory must assure that the following information accompanies the sample: the sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample. The sample must be packaged so that it does not leak, spill, or vaporize from its packaging. This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions specified in subitems (1) to (6);

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, subpart 84a;

O. spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in part 7045.0020, subpart 84a;

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:

(1) only tank storage is involved and the entire process, through completion of reclamation, is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(2) reclamation does not involve controlled flame combustion such as occurs in boilers, industrial furnaces, or incinerators;

(3) the secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and

(4) the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal;

Q. petroleum-contaminated media and debris that fail the test for the toxicity characteristic in part 7045.0131, subpart 7 (hazardous waste codes D018 to D043 only), and are subject to corrective action regulations under Code of Federal Regulations, title 40, part 280, as amended;

R. pesticides as provided in part 7045.0213, subpart 2;

S. samples of hazardous waste being collected or shipped for the purpose of conducting treatability studies as provided in part 7045.0121;

T. spent wood preserving solutions that have been reclaimed and reused for their original intended purpose, and wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood if, prior to reuse, the wood preserving

wastewaters and spent wood preserving solutions described in this item meet all of the following conditions:

(1) the wood preserving wastewaters and spent wood preserving solutions are reused on site at waterborne plants in the production process for their original intended purpose;

(2) prior to reuse, the wood preserving wastewaters and spent wood preserving solutions are managed to prevent release to land resources or waters of the state;

(3) any unit used to manage wood preserving wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(4) any drip pad used to manage the wood preserving wastewaters or spent wood preserving solutions prior to reuse complies with the standards governing drip pads in part 7045.0644; and

(5) prior to operating pursuant to this exclusion, the plant owner or operator submits to the commissioner a onetime notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, the plant owner or operator may apply to the commissioner for reinstatement. Reinstatement is conditioned on the commissioner finding that the plant has returned to compliance with all conditions and that violations are not likely to recur;

U. used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use;

V. used oil rerefining distillation bottoms that are used as feedstock to manufacture asphalt products;

W. sorbents, soil, and debris contaminated with petroleum fuel from spills and emergencies that are contained and reported in accordance with Minnesota Statutes, section 115.061, except for used oil spills and emergencies; or

X. spent materials, other than hazardous wastes listed in part 7045.0135, generated within the primary mineral processing industry from which minerals, acids,

cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that:

(1) the spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;

(2) the spent material is not accumulated speculatively;

(3) except as provided in subitem (4), the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof, all of which are made of nonearthen materials providing structural support (except smelter buildings may have partially earthen floors provided the spent material is stored on the nonearthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be freestanding, not be a surface impoundment, and be manufactured of a material suitable for containment of its contents; a container must be freestanding and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate that may be subject to wind dispersal, the owner or operator must operate these units in a manner that controls fugitive dust. Tanks, containers, and buildings must be designed, constructed, and operated to prevent releases to the environment of these materials;

(4) the commissioner may make a site-specific determination, upon application by the owner or operator and after public review and comment, that only solid mineral processing spent material may be placed on pads rather than in tanks, containers, or buildings. Solid mineral processing spent materials must not contain any free liquid. The commissioner must affirm that pads are designed, constructed, and operated to prevent releases of the spent material into the environment. Pads must provide the same degree of containment afforded by the tanks, containers, and buildings eligible for exclusion in subitem (3):

(a) the commissioner must also consider if storage on pads poses the potential for releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways are the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway;

(b) pads must meet the following minimum standards: be designed of nonearthen material that is compatible with the chemical nature of the mineral processing spent material, be capable of withstanding physical stresses associated with placement and

removal, have run-on/runoff controls, be operated in a manner that controls fugitive dust, and have integrity assurance through inspections and maintenance programs; and

(c) before making a determination under this subitem, the commissioner must provide notice and the opportunity for comment to all persons potentially interested in the determination in accordance with part 7001.0100, subpart 5;

(5) the owner or operator provides a notice to the commissioner, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process; and

(6) for purposes of this item, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by nonmineral processing industries are not eligible for the exemption in this item.

Subp. 2. **Special requirements.** The following waste is exempt from the general requirements of this chapter if managed as specified:

A. waste collected as a result of a household hazardous waste management program under part 7045.0310;

B. spent or waste household batteries collected under part 7045.0686;

C. waste collected as a result of a very small quantity generator hazardous waste collection program under part 7045.0320;

D. feedstocks and by-products under part 7045.0125, subparts 5 and 6;

E. comparable fuels or comparable syngas fuels that meet the specifications and other requirements of Code of Federal Regulations, title 40, section 261.38, as amended, which is adopted and incorporated by reference;

F. universal waste managed under part 7045.1400; and

G. hazardous waste containing radioactive waste when it meets the eligibility criteria and conditions of Code of Federal Regulations, title 40, part 266, subpart N, Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal, as amended. This exemption also pertains to:

(1) any mixture of a waste and an eligible radioactive mixed waste; and

(2) any waste generated from treating, storing, or disposing of an eligible radioactive mixed waste.

Waste exempted under this item must meet the eligibility criteria and specified conditions in Code of Federal Regulations, title 40, sections 266.225 and 266.230 (for

storage and treatment), as amended, and 266.310 and 266.315 (for transportation and disposal), as amended. Waste that fails to satisfy these eligibility criteria and conditions is regulated as hazardous waste.

Statutory Authority: *MS s 115.03; 116.07; 116.37*

History: *9 SR 115; 10 SR 1688; 11 SR 1832; L 1987 c 186 s 15; 13 SR 259; 14 SR 1718; 14 SR 2248; 15 SR 801; 15 SR 1515; 15 SR 1877; 15 SR 1878; 16 SR 197; 16 SR 2102; 17 SR 285; 18 SR 1565; 18 SR 2195; 20 SR 715; 22 SR 5; 28 SR 1482; 30 SR 43; 33 SR 2042*

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