

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 7045.0885.

Subp. 2. [Repealed, 10 SR 1688]

Subp. 3. **Out-of-state waste.** Hazardous waste from an out-of-state generator that is to be beneficially used, reused, or legitimately recycled or reclaimed by methods other than burning, is exempt from the requirements of parts 7045.0221 to 7045.0255.

Subp. 3a. **Management requirements for used oil.** Used oil that is recycled by reuse, rerefining, reclamation, reprocessing, or burning for energy recovery, is subject only to parts 7045.0790 to 7045.0990, unless otherwise specified in that part. "Burning for energy recovery" means the combustion of used oil with a heating value of over 5,000 Btus per pound to recover an energy value from it. Used oil that is not recycled is hazardous waste and is subject to this chapter and chapter 7046.

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 7045.1390:

- 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 and excluded 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. EPA Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic, specified in part 7045.0131, subpart 7, when, subsequent to generation, these materials are recycled to coke ovens, recycled to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the

tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens, tar recovery, or refining processes or mixed with coal tar;

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 7045.0840, 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 7045.0840;

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 7045.0840;

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;

K. nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums, if shipped, and not land disposed before recovery;

L. pipeline interface material, provided that the material is transported solely in a pipeline system as defined in Code of Federal Regulations, title 49, part 195, as amended, and is:

- (1) used as an ingredient in fuel;
- (2) sent to a refinery for use as an ingredient in a refining process; or
- (3) sent to a processing location for reclamation;

M. mixtures of different petroleum fuel products that met all fuel specifications required by Minnesota Statutes, section 239.761, before being mixed together, and that contain no other added water or waste, provided the mixtures are:

- (1) used as an ingredient in fuel;
- (2) sent to a refinery for use as an ingredient in a refining process; or
- (3) sent to a processing location for reclamation;

N. recyclable fuel, if the following conditions are met:

(1) the recyclable fuel is immediately removed from the generation site by a transporter in compliance with all applicable Minnesota Department of Transportation requirements in Minnesota Statutes, sections 221.033 to 221.0355, and Code of Federal Regulations, title 49, parts 171 to 199;

(2) the recyclable fuel is delivered to a registered fuel recycling facility or managed as provided in part 7045.0208 within five calendar days of being accepted by the transporter. If the recyclable fuel is rejected after delivery to a recyclable fuel recycling facility, the time it is held at the facility before it is rejected shall not count as part of the allowed five calendar days;

(3) the recyclable fuel is not transferred, stored, or off-loaded between pickup and delivery;

(4) the recyclable fuel is placed into the recycling process within 24 hours of receipt by a registered fuel recycling facility or, if managed under part 7045.0208, in accordance with the applicable requirements of that part; and

(5) if, because of a need to conduct waste analysis, recyclable fuel cannot be placed into the recycling process within 24 hours of receipt, the owner or operator of the fuel recycling facility shall contact the commissioner to request an extension of the storage time. A request for an extension can be for a single event or to address an ongoing need for additional time. A request for an extension must be submitted in writing to the commissioner and must include:

(a) the amount and type of waste being accepted;

(b) the amount of time that will be necessary to conduct waste evaluation; and

(c) a description of how the waste will be managed during the storage period, including the measures that will be in place to prevent releases and how spills will be contained and cleaned up.

The commissioner's decision to approve holding the waste longer than 24 hours will be based on an evaluation of whether the owner or operator of the recycling facility can provide adequate protection of human health and the environment until the recyclable fuel is placed into the recycling process;

O. petroleum fuel filters if they are burned for energy recovery under subpart 3a, or recycled as scrap metal under item C, and are managed during accumulation and transportation in accordance with the requirements of part 7045.0990, subparts 3 to 5; and

- P. circuit boards or shredded circuit boards being recycled, provided that they are:
- (1) stored in containers sufficient to prevent a release to the environment prior to recovery; and
 - (2) free of mercury switches, mercury relays, and nickel-cadmium batteries and lithium batteries.

Subp. 5. Requirements for use of hazardous waste 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 7045.0990 and 7045.1390. This subpart does not apply to wastes being accumulated speculatively as defined in part 7045.0020, subpart 84a, 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:

- (1) used or reused as ingredients in an industrial process to make a product, provided the hazardous wastes are not being reclaimed;
- (2) used or reused as effective substitutes for commercial products; or
- (3) returned to the original process from which they are generated, without first being reclaimed. The hazardous waste must be returned as a substitute for raw material feedstock, and the process must use raw materials as principal feedstocks.

B. A generator of hazardous waste for use as feedstock is subject to the following generator requirements:

- (1) parts 7045.0214 to 7045.0217 for waste evaluation requirements;
- (2) part 7045.0221 for identification number requirements;
- (3) parts 7045.0225 to 7045.0250 for licensing and license reporting requirements;
- (4) the generator must maintain records at the licensed site for at least three years confirming that the hazardous waste was received at the designated facility as indicated in the management plan required by part 7045.0230; and
- (5) the generator must keep records showing: the volume of these wastes stored at the beginning of the calendar year; the amount of these hazardous wastes generated during the calendar year; the amount of these hazardous wastes used as a feedstock during the calendar year; and the amount of these hazardous wastes remaining at the end of the calendar year.

C. Transporters of hazardous wastes for use as feedstock must comply with all applicable requirements of Minnesota Statutes, sections 221.033 and 221.0341, and with

221.0355 if applicable, and Code of Federal Regulations, title 49, parts 171 to 199, as amended.

D. Owners or operators of facilities that manage hazardous wastes for use as feedstock are subject to the following requirements:

(1) prior to receiving the waste, as a designated facility, the owner or operator must provide the commissioner with written evidence to document that the hazardous waste is used as specified in item A and that the facility has the equipment necessary to manage the hazardous waste; and

(2) the owner or operator must keep records showing: the volume of these hazardous wastes stored at the beginning of the calendar year; the amount of these wastes received during the calendar year; the amount of these hazardous wastes used as a feedstock during the calendar year; and the amount of these hazardous wastes remaining at the end of the calendar year.

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

A. A by-product or a sludge that is hazardous only because it exhibits a characteristic of hazardous waste as defined in part 7045.0131 and is reclaimed is subject to only the following requirements:

(1) A generator of such a hazardous waste is subject to the requirements of subpart 5, item B.

(2) Transporters of such a hazardous waste must comply with all applicable requirements of Minnesota Statutes, sections 221.033 and 221.0341, and with 221.0355 if applicable, and Code of Federal Regulations, title 49, parts 171 to 199, as amended.

(3) Owners or operators of designated facilities receiving a hazardous characteristic by-product or sludge must provide written evidence to the commissioner prior to receiving such hazardous waste that the owner or operator has the equipment and capability to reclaim such hazardous waste, and must keep records showing: the volumes of such hazardous waste stored at the beginning of the year; the amount of such hazardous waste received during the calendar year; the amount of such hazardous waste reclaimed during the calendar year; and the amount of such hazardous waste remaining at the end of the calendar year.

B. This subpart does not apply to hazardous wastes being accumulated speculatively as defined in part 7045.0020, subpart 84a, 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.** Unless exempted specifically in this part or parts 7045.0790 to 7045.0990, a generator of hazardous waste that is destined for recycling is subject to the requirements of parts 7045.0205 to 7045.0325.

Subp. 8. **Transporter requirements.** Unless exempted specifically in this part or parts 7045.0790 to 7045.0990, transporters of hazardous waste destined for recycle are subject to the requirements of parts 7045.0351 to 7045.0397.

Subp. 9. **Facility requirements.** Unless exempted specifically in this part or parts 7045.0692 and 7045.0790 to 7045.0990, owners and operators of facilities that recycle hazardous waste are subject to the following requirements:

A. If the recyclable hazardous waste is stored before it is recycled, the owners or operators are subject to the requirements of parts 7045.0450 to 7045.0534, 7045.0540, 7045.0549, 7045.0551, 7045.0552 to 7045.0632, 7045.0645, 7045.0647, 7045.0648, 7045.0652 to 7045.0686, and 7045.1390, and chapter 7001. The recycling process itself is exempt from regulation except as provided in item C.

B. If the recyclable hazardous waste is recycled without storing before recycling, the owners or operators are subject to the requirements of parts 7045.0482, subpart 2; 7045.0556, subpart 2; 7045.0580; and 7045.0582.

C. Owners or operators of facilities subject to RCRA permitting requirements with hazardous waste management units that recycle hazardous wastes are subject to the process vent and equipment leak standards in parts 7045.0549 and 7045.0551 and 7045.0647 and 7045.0648.

D. Owners and operators of fuel recycling facilities that accept recyclable fuel must register with the agency by submitting, on a form prescribed by the commissioner, a notification of the owners' or operators' intent to accept recyclable fuel. The information submitted must include the facility's name and address, a name and telephone number of a designated contact person, and a description of the process and equipment that will be used to manage the recyclable fuel. The facility will be considered to be registered to accept recyclable fuel upon receipt of written confirmation from the commissioner that the agency is aware of waste recycling activities at the facility.

Subp. 10. [Repealed, 14 SR 1718]

Subp. 11. [Repealed, 14 SR 1718]

Subp. 12. **Export of industrial ethyl alcohol.**

A. Unless provided otherwise in an international agreement as authorized by Code of Federal Regulations, title 40, section 262.58, as amended, a person initiating a shipment of industrial ethyl alcohol for reclamation in a foreign country, and any intermediary arranging for the shipment, must: (1) comply with the requirements

applicable to a primary exporter in part 7045.0302, subpart 2; subpart 6, items A to D and F; and subpart 7; (2) export industrial ethyl alcohol for reclamation only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as specified in part 7045.0302; and (3) provide a copy of the EPA Acknowledgment of Consent to the transporter transporting the shipment for export.

B. Transporters transporting a shipment for export may not accept a shipment if the shipment does not conform to the EPA Acknowledgment of Consent, and must ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment and that the shipment is delivered to the designated facility.

Subp. 13. **Exports and imports.** Hazardous waste that is exported to or imported from designated member countries of the Organization for Economic Cooperation and Development (OECD), as defined in Code of Federal Regulations, title 40, section 262.58(a)(1), for purposes of recovery is subject to the requirements of part 7045.0322 if it is subject to either the manifesting requirements of parts 7045.0261 to 7045.0265 or the universal waste management standards of part 7045.1400.

Statutory Authority: *MS s 14.07; 115.03; 116.07; 116.37*

History: *9 SR 115; 9 SR 2613; 10 SR 1688; 11 SR 1832; L 1987 c 186 s 15; 12 SR 1660; 13 SR 1238; 14 SR 976; 14 SR 1718; 16 SR 2102; 16 SR 2321; 18 SR 1565; 18 SR 1886; 18 SR 2195; 20 SR 715; 22 SR 5; 29 SR 947; 31 SR 1277; 33 SR 2042*

Published Electronically: *October 10, 2013*