

7045.0214 EVALUATION OF WASTES.

Subpart 1. **General requirement.** Any person who produces a waste within the state of Minnesota or any person who produces a waste outside the state of Minnesota that is managed within the state of Minnesota, must evaluate the waste to determine if it is hazardous within 60 days of initially generating the waste. The generation start date must be recorded and available for inspection. Waste that is not evaluated within 60 days of the generation start date must be managed as a hazardous waste and the person who produces the waste must be considered a generator until the waste is determined to be nonhazardous under parts 7045.0214 to 7045.0218. A material is determined to be a waste in accordance with the conditions specified under the definition of other waste material in part 7045.0020. Any waste evaluated and exempted under part 7045.0075 or 7045.0120 does not need to be reevaluated under this part. If the waste is determined to be hazardous, the generator must refer to parts 7045.0075, 7045.0450 to 7045.0990, 7045.1390, and 7045.1400 for possible exclusions or restrictions relating to management of the specific waste.

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

A. the waste is listed in part 7045.0135; or

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

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

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

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 to E, or in part 7045.0102, 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 runoff, 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.

B. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from iron and steel industry facilities which are classified as number 331 or 332 facilities under the Office of Management and Budget Standard Industrial Classification Manual, is not a hazardous waste unless it exhibits one or more characteristics of hazardous waste under part 7045.0131.

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.

E. Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations, or industrial furnaces that are blast furnaces or smelting, melting, and refining furnaces, including pyrometallurgical devices, such as cupolas, reverberator furnaces, sintering machines, roasters, or foundry furnaces, or that are other devices that the commissioner determines qualify for inclusion as an industrial furnace under part 7045.0020, subpart 43b, that are disposed in solid waste disposal units, provided that these residues meet the generic exclusion levels identified in the tables in this item for all constituents, and exhibit no characteristics of hazardous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan. At a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

The generic exclusion levels for K061 and K062 nonwastewater HTMR residues are as follows:

Constituent	Maximum for any single composite sample (mg/l)
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0

Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

The generic exclusion levels for F006 nonwastewater HTMR residues are as follows:

Constituent	Maximum for any single composite sample (mg/l)
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total)	1.8 (mg/kg)
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

For K061, K062, or F006 HTMR residues sent to solid waste disposal units, the treatment facility must prepare and send to the commissioner a onetime notification and certification certifying that the residues meet the generic exclusion levels for all constituents and do not exhibit any characteristics of hazardous waste. The notification and certification must also be kept in the facility's files. The notification and certification must be updated if the process or operation generating the waste changes or if the solid waste disposal unit receiving the waste changes. However, the treatment facility need only notify the commissioner on an annual basis if these changes occur. The notification and

certification must be sent to the commissioner no later than December 31. The notification and certification must include the following information:

- (1) the name and address of the solid waste disposal unit receiving the waste shipments;
- (2) the EPA hazardous waste numbers and treatability groups at the initial point of generation; and
- (3) the treatment standards applicable to the waste at the initial point of generation.

The certification must be signed by an authorized representative of the treatment facility and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

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

History: *9 SR 115; 10 SR 70; 10 SR 1688; 11 SR 1832; L 1987 c 186 s 15; 13 SR 1238; 14 SR 1718; 16 SR 2239; 18 SR 1565; 18 SR 1886; 22 SR 5; 30 SR 43; 33 SR 2042*

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