

1 Pollution Control Agency

2 Hazardous Waste Division

3

4 Adopted Permanent Rules Relating to Hazardous Waste Facility and

5 Generator Fees

6

7 Rules as Adopted

8 7046.0010 DEFINITIONS.

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

10 Subp. 5. **Generator.** "Generator" means any person, by
11 site, whose act or process produces a hazardous waste or whose
12 act first causes a hazardous waste to become subject to
13 regulation. "By site" means by each location required to have a
14 unique identification number.

15 [For text of subps 6 to 10, see M.R.]

16 Subp. 10a. **Large quantity generator.** "Large quantity
17 generator" has the meaning given in part 7045.0206.

18 [For text of subps 11 to 16, see M.R.]

19 Subp. 17. [See repealer.]

20 Subp. 17a. [See repealer.]

21 [For text of subp 18, see M.R.]

22 Subp. 18a. **Small quantity generator.** "Small quantity
23 generator" has the meaning given in part 7045.0206.

24 [For text of subps 19 to 24, see M.R.]

25 Subp. 24a. **Very small quantity generator.** "Very small
26 quantity generator" has the meaning given in part 7045.0206.

27 Subp. 25. **Waste stream.** "Waste stream" means wastes
28 generated by the same process at a generator's site.

29 7046.0020 HAZARDOUS WASTE FACILITY FEES.

30 Subpart 1. **Fee schedule for five-year permits.** A person
31 applying for issuance, reissuance, or major modification under
32 part 7001.0190, subpart 1, of a five-year permit for a hazardous
33 waste facility shall remit the applicable fee given in item A or
34 B. A person applying for a major modification concurrent with a
35 permit reissuance application shall not be assessed a major

1 modification fee.

2 A person who owns or operates a hazardous waste facility
 3 shall remit an annual facility fee for the fiscal year beginning
 4 on July 1 and ending on June 30, if during that year the
 5 facility was treating, storing, or disposing of hazardous waste,
 6 had not obtained closure approval, or had closed as a land
 7 disposal facility with hazardous waste remaining in place. A
 8 facility that meets the annual facility fee payment criteria for
 9 less than a full year shall be assessed a prorated facility fee.

10 A facility in which hazardous waste remains after closure
 11 continues to be subject to the annual facility fee until the
 12 owner or operator is exempted under subpart 8.

	Permit	Annual	Permit	Major
	Application	Facility	Reissuance	Modification
	Fee	Fee	Fee	Fee

17 A. Storage

18 Tanks and
 19 containers
 20 indoors

21				
22	Total capacity	\$ 2,140	\$ 3,150	\$ 1,070
23	greater than			\$ 710
24	550 gallons			

25				
26	Total capacity	1,430	1,390	720
27	550 gallons or			470
28	less			

29
 30 Tanks and containers
 31 outdoors

32				
33	Total capacity	4,290	6,300	2,150
34	greater than			1,420
35	550 gallons			

36				
37	Total capacity	2,860	2,510	1,430
38	550 gallons or			940
39	less			

40				
41	Piles	12,880	18,040	6,640
42				<u>6,440</u>

43				
44	Surface impoundment	21,460	18,040	10,730
45				7,080

46 B. Disposal and treatment

47	Surface impoundment	25,760	24,900	12,880
48				8,500

49	Treatment (not	25,760	12,590	12,880
50	otherwise specified			8,500
51	including open			
52	burning)			

53				
54	Thermal treatment	64,400	43,800	32,200
55	(not including			21,250
56	open burning)			

57

1	Land treatment	64,400	43,800	32,200	21,250
2					
3	Land disposal				
4					
5	Active facilities	64,400	43,800	32,400	21,250
6					
7	Closed facilities	32,200	29,200	16,100	10,630
8	(includes all				
9	facilities in				
10	which waste remains				
11	after closure)				

12
 13 **Subp. 2. Application fee schedule for permits less than**
 14 **five-year term.** The following schedule must be used to
 15 calculate the application fee for a permit term of less than
 16 five years.

17	Term of Permit	Permit Application Fee
18		
19	1 year	35 percent of application
20		fee in subpart 1 or subpart 3
21		
22	2 years	60 percent of application
23		fee in subpart 1 or subpart 3
24		
25	3 years	75 percent of application
26		fee in subpart 1 or subpart 3
27		
28	4 years	90 percent of application
29		fee in subpart 1 or subpart 3
30		

31 The annual facility fee is the applicable fee listed in
 32 subpart 1.

33 **Subp. 3. Combination facilities.** An application fee for a
 34 facility consisting of several treatment, storage, or disposal
 35 functions must be calculated according to the following schedule.

36 Permit reissuance fees shall be assessed at 50 percent of
 37 the application fee as calculated under this subpart. Permit
 38 major modification fees shall be assessed at 33 percent of the
 39 application fee under subpart 1 for the component of the
 40 facility being modified. For major modifications not associated
 41 with a specific component of a combination facility, the permit
 42 major modification fee shall be assessed at 33 percent of the
 43 application fee as calculated under this subpart for the
 44 combination facility. A person applying for a major
 45 modification concurrent with a permit reissuance application
 46 shall not be assessed a major modification fee.

47	Facility	Application Fee
48	Description	and Annual
49		Facility Fee
50		Calculation
51		

1	A.	Thermal	Thermal treatment
2		treatment	+ 0.2 x fee for
3		+ treatment	treatment + 0.2 x
4		+ storage	fee for storage
5			
6	B.	Disposal	Disposal + 0.2 x
7		+ storage	fee for storage
8			
9	C.	Thermal	Treatment + 0.2 x
10		treatment	fee for storage
11		+ storage	
12			
13	D.	Disposal	Disposal + 0.2 x
14		+ thermal	fee for thermal
15		treatment	treatment
16			
17	E.	Thermal	Disposal + 0.8 x
18		treatment	fee for thermal
19		+ disposal +	treatment + 0.2 x
20		treatment +	fee for treatment
21		storage	+ 0.2 x fee for
22			storage
23			
24	F.	Disposal	Disposal + 0.8 x
25		+ land	fee for land
26		treatment	treatment
27			
28	G.	Land	Land treatment +
29		treatment +	0.2 x fee for
30		storage	storage
31			
32	H.	Treatment	Treatment + 0.2 x
33		+ storage	fee for storage
34			

35 Subp. 4. **Environmental review costs.** The following
36 additional fee is required for a hazardous waste facility
37 project that requires only an environmental assessment worksheet
38 under Minnesota Statutes, chapter 116D: the fee is \$200 plus
39 0.10 percent of the project estimated costs. The project
40 estimated costs are the costs of the entire project to complete
41 a hazardous waste facility including the current market value of
42 all the land interests, owned or to be owned by the facility
43 owner, which are included in the boundaries of the project;
44 costs of engineering and architecture for the project;
45 expenditures necessary to begin physical construction or
46 operation of the project; construction required to implement the
47 project including costs of essential public service facilities;
48 and the costs of permanent fixtures.

49 Nothing in this part precludes the applicability of the
50 Environmental Impact Statement (EIS) cost assessment system as
51 described in the rules of the Environmental Quality Board.

52 Subp. 5. **Payment schedule.** Fees must be made payable to
53 the state treasurer and submitted to the commissioner as follows:

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

2 C. Permit reissuance and permit major modification
3 fees must be submitted with the reissuance or major modification
4 application.

5 Subp. 6. **Failure to submit fees.** Failure to submit fees
6 by the required date results in the following penalties:

7 A. A facility permit, permit reissuance, or permit
8 major modification application submitted without the applicable
9 fee is incomplete. The commissioner shall suspend further
10 processing of the application until the appropriate fee is
11 received by the commissioner.

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

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

14 7046.0031 NONMETROPOLITAN AREA GENERATOR FEES.

15 Subpart 1. **Basis of fees.** The agency shall charge
16 nonmetropolitan area generator fees based on the license
17 application and licensing reports submitted by generators or
18 other appropriate information available to the agency.

19 For the purposes of this part, one gallon of hazardous
20 waste equals ten pounds of hazardous waste.

21 Subp. 2. **Fee exemption.** Nonmetropolitan area generators
22 that generate a total of less than or equal to ten gallons or
23 100 pounds of hazardous waste per year are exempt from the
24 annual fees of this part.

25 Subp. 2a. **Fee adjustment.** For very small quantity
26 generators who submit their fee payments with their annual
27 license renewal application required under part 7045.0248, the
28 commissioner shall adjust the fee amount if the generator no
29 longer qualifies as a very small quantity generator. Subparts 6
30 and 7 also apply to any adjusted fee statement.

31 Subp. 3. [See repealer.]

32 Subp. 4. **Annual fees.** An annual fee is the sum of the
33 waste generation volume fees and the base fee. Nonmetropolitan
34 area generators shall submit annual fees as described in items A
35 and B.

1 A. A volume fee must be paid by all nonmetropolitan
2 generators based on the amount of unsewered hazardous waste
3 generated and method of waste management or disposal used in the
4 calendar year. A volume fee is not assessed for sewerage liquid
5 waste. Very small quantity generators are exempt from volume
6 fees.

7 The volume fee is assessed on a per gallon basis or a per
8 pound basis for each waste stream. The volume fee is \$0.18 per
9 gallon and \$0.018 per pound for each gallon and pound produced
10 under 2,640 gallons or 26,400 pounds. The volume fee for each
11 gallon and pound equal to or exceeding 2,640 gallons or 26,400
12 pounds is \$0.05 per gallon and \$0.005 per pound. The volume fee
13 shall be multiplied by the following factors for waste streams
14 managed by the following methods:

15 Management Method	Factor
16 Recycle, feedstock, or by-product on-site	0
17 Recycle, feedstock, or by-product off-site	0.67
18 Burned for fuel	0.67
19 Neutralization	0.67
20 Incineration	0.67
21 Disposal and other methods	1.00

22 Any sludges or residues of recycling, burning for fuel,
23
24 neutralization, or incineration are subject to the volume fee.

25 B. A base fee must be paid by all nonmetropolitan
26 area generators based on generator size as follows:

27 (1) a large quantity generator must pay a base
28 fee of \$350;

29 (2) a small quantity generator must pay a base
30 fee of \$130; and

31 (3) a very small quantity generator must pay a
32 base fee of \$62.

33 Subp. 5. [See repealer.]

34 Subp. 6. **Payment schedule.** A nonmetropolitan area
35 generator shall submit fees within 30 days after receipt of the
36 notice from the commissioner that the fees are due or by the
37 first day of the following calendar quarter, whichever occurs
38 later.
39

40 A nonmetropolitan area generator shall submit a check for

1 the required amount to the commissioner, made payable to the
2 Minnesota Pollution Control Agency.

3 Subp. 7. **Late fees.** If a nonmetropolitan area generator
4 fails to submit the required fees by the due date provided in
5 subpart 6, the generator shall pay the fees plus a late fee as
6 provided in item A or B and item C.

7 A. Large quantity and small quantity generators will
8 be assessed a late fee for each 30 day period or fraction of
9 that period that the fee remains unpaid. The late fee is
10 calculated as a percentage of the annual fee as follows: ten
11 percent of the annual fee for each of the first two 30 day
12 periods, and 15 percent of the annual fee for each 30 day
13 period, or fraction of a 30 day period, thereafter.

14 B. Very small quantity generators shall be assessed a
15 one-time late fee of 50 percent of the annual fee.

16 C. If a nonmetropolitan area generator fails to
17 submit the required fees by the due date, the generator is
18 liable for reasonable additional expenses the agency incurs in
19 collection of the fee, in addition to the annual fee and any
20 applicable late fees.

21 7046.0040 GENERATOR STATEWIDE PROGRAM FEE.

22 Subpart 1. **In general.** All generators in Minnesota are
23 subject to an annual statewide program fee equal to 52 percent
24 of the hazardous waste fee paid annually to the agency under
25 part 7046.0031 or to the metropolitan counties under their
26 respective hazardous waste ordinances. Payment must be made as
27 provided in subparts 2 and 3.

28 Subp. 2. **Nonmetropolitan area generators.** Nonmetropolitan
29 area generators shall pay the statewide program fee to the
30 commissioner at the time of payment of the annual fee. A
31 nonmetropolitan area generator who fails to pay the annual
32 statewide program fee is considered delinquent and subject to
33 the late fee provided in part 7046.0031, subpart 7.

34 Subp. 3. **Metropolitan area generators.** Metropolitan area
35 generators shall pay the statewide program fee to the county in

1 which the generating site is located along with the hazardous
2 waste fee collected annually by that county. The metropolitan
3 area counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott,
4 and Washington) that are responsible for collecting the
5 statewide program fee shall remit the statewide program fee to
6 the commissioner not later than the last day of the month
7 following the month of collection.

8 7046.0045 RETROACTIVE FEE.

9 Subpart 1. **Applicability.** The commissioner shall assess
10 annual and statewide program fees retroactively for each
11 calendar year prior to the most recent calendar year subject to
12 fees to which item A, B, or C applies.

13 A. A person generated hazardous waste without a
14 license as required under part 7045.0225.

15 B. A licensed large quantity or small quantity
16 generator produced a hazardous waste that was not identified and
17 approved as part of the license and license renewal process
18 under parts 7045.0225 to 7045.0250.

19 C. A licensed very small quantity generator produced
20 a hazardous waste that was not identified and approved as part
21 of the license and license renewal process under parts 7045.0225
22 to 7045.0250 and the total volume generated exceeded the maximum
23 volume amounts for a very small quantity generator.

24 Subp. 2. **Schedule.** The commissioner shall assess
25 retroactive fees as provided in item A or B. Retroactive fees
26 for waste produced for less than the maximum retroactive period
27 may be prorated based on actual months of production if
28 documented by the generator under the appeal procedure provided
29 in part 7045.0070.

30 A. For large quantity and small quantity generators,
31 retroactive fees shall be assessed for a maximum retroactive
32 period of two calendar years prior to the most recent calendar
33 year subject to fees until June 30, 1992. Effective July 1,
34 1992, retroactive fees shall be assessed for a maximum
35 retroactive period of three calendar years prior to the most

1 recent calendar year subject to fees.

2 B. For very small quantity generators, effective July
3 1, 1992, retroactive fees shall be assessed for a maximum
4 retroactive period of three calendar years prior to the most
5 recent calendar year subject to fees. Retroactive fees shall
6 not be assessed for the period prior to January 1, 1991.

7 Subp. 3. **Fee calculation.** Retroactive fees shall be
8 calculated as described in item A, B, or C.

9 A. For persons subject to fees under subpart 1, item
10 A, the fee is calculated by multiplying the sum of the most
11 recent annual fee and the statewide program fee that would be
12 required under the license by the number of retroactive calendar
13 years established under subpart 2.

14 B. For persons subject to fees under subpart 1, item
15 B, the fee is calculated by multiplying the sum of the most
16 recent volume fee and statewide program fee that would be
17 required for the waste omitted from the license by the number of
18 retroactive calendar years established under subpart 2. If the
19 additional volume changes the generator's size category used in
20 determining the base fee under part 7046.0031, subpart 4, item
21 B, an additional retroactive fee shall be assessed for the
22 difference between the higher base fee and the lower base fee.
23 The statewide program fee shall be applied to the difference in
24 the base fee. The base fee revision and the statewide program
25 fee shall be multiplied by the number of retroactive calendar
26 years established under subpart 2.

27 C. For persons subject to fees under subpart 1, item
28 C, the fee is calculated by determining the difference between
29 the higher base fee and the lower base fee. The statewide
30 program fee shall be applied to the difference in the base fee.
31 The base fee revision and the statewide program fee shall be
32 multiplied by the number of retroactive calendar years
33 established under subpart 2.

34 7046.0050 GENERATOR FEE EXEMPTIONS.

35 Subp. 3. **Wastes generated as a result of response action.**

1 A waste that is generated as a result of a response action is
2 exempt from the generator fee. A response action is removal or
3 remedial action taken according to the Environmental Response
4 and Liability Act, Minnesota Statutes, sections 115B.01 to
5 115B.24, or the Comprehensive Environmental Response,
6 Compensation, and Liability Act of 1980, Public Law Number
7 96-510.

8 Subp. 4. [See repealer.]

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

10 Subp. 6. **Waste collected as a result of a very small**
11 **quantity generator hazardous waste collection program.** An
12 operator of a very small quantity generator hazardous waste
13 collection program is exempt from generator fees for waste
14 collected under part 7045.0320.

15 An operator who is also a generator is not exempt from
16 generator fees for the waste that the operator generates as
17 distinct from the waste that the operator collects from other
18 generators.

19 A very small quantity generator participating in a
20 collection program under part 7045.0320 is not exempt from
21 generator fees.

22 7046.0070 APPEAL PROCEDURE.

23 If a generator believes that the fee requested by the
24 commissioner is in error or exceeds the hazardous waste
25 generator fees assessed by the metropolitan area county with the
26 highest fee structure, then the generator may appeal the fee
27 levy. Within ten days of receipt of the fee statement from the
28 commissioner, the generator shall provide a written appeal which
29 includes the fee the generator has calculated and the method
30 used by the generator in calculating the fee. After review of
31 the appeal, the commissioner shall send the generator a decision
32 letter regarding the appeal. In the decision letter, the
33 commissioner shall specify the fee to be remitted by the
34 generator. The generator shall submit the specified fee within
35 30 days of receipt of the commissioner's decision letter or by

1 the original due date, whichever is later. A generator who
2 fails to submit the specified fee by the required date is
3 delinquent and must pay the late fee, specified in part
4 7046.0031, subpart 7.

5 STATE REGISTER CITATIONS. The references to parts 7045.0206,
6 7045.0225 to 7045.0250, 7045.0320, and 7046.0031 in these
7 proposed rules are to those parts as they are proposed at 16
8 State Register, pages 323 to 349, August 19, 1991, and later
9 adopted.

10 REPEALER. Minnesota Rules, parts 7046.0010, subparts 17 and
11 17a; 7046.0031, subparts 3 and 5; and 7046.0050, subpart 4, are
12 repealed.