

1 Pollution Control Agency

2 Adopted Permanent Rules Relating to Hazardous Waste Fees

3 7046.0010 DEFINITIONS.

4 [For text of subps 1 to 10a, see M.R.]

5 Subp. 10b. Metropolitan area generator. "Metropolitan
6 area generator" means a generator whose hazardous waste
7 generation site is located in Anoka, Carver, Dakota, Hennepin,
8 Ramsey, Scott, or Washington County.

9 [For text of subps 11 to 25, see M.R.]

10 7046.0020 HAZARDOUS WASTE FACILITY FEES.

11 Subpart 1. Fee schedule for five-year permits. A person
12 applying for issuance, reissuance, or major modification under
13 part 7001.0190, subpart 1, of a five-year permit for a hazardous
14 waste facility shall remit the applicable fee given in items A
15 to D.

16 A person who owns or operates a hazardous waste facility
17 shall remit an annual facility fee for the fiscal year beginning
18 on July 1 and ending on June 30, if during that year the
19 facility was treating, storing, or disposing of hazardous waste,
20 had not obtained closure approval, or had closed as a land
21 disposal facility with hazardous waste remaining in place. A
22 facility that meets the annual facility fee payment criteria for
23 less than a full year shall be assessed a prorated facility fee.

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

1 Facility fees are as provided in items A to D. Fees will
2 be examined annually and adjusted, as necessary, under part
3 7046.0060, subpart 1, steps 1 to 7.

4 Permit Annual
5 Application Fee Facility Fee
6

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

8 [For text of subps 2 to 8, see M.R.]

9 7046.0031 NONMETROPOLITAN AREA GENERATOR FEES.

10 Subpart 1. Basis of fees. Nonmetropolitan area generators
11 must pay a hazardous waste generator fee that consists of an
12 annual fee under subpart 4. The agency shall charge
13 nonmetropolitan area generator fees based on the license
14 application and licensing reports submitted by generators or
15 other appropriate information available to the agency. Fees
16 will be examined annually and adjusted, as necessary, under part
17 7046.0060.

18 Subp. 4. Annual fees. The annual fee is the sum of the
19 base fee in item A and the quantity fee in item B. Very small
20 quantity generators pay the base fee and are exempt from the
21 quantity fee.

22 A. The base fee shall be calculated annually and
23 adjusted, if necessary, under part 7046.0060, subpart 1, step 19.

24 B. The quantity fee is calculated annually using the
25 per pound quantity rate under part 7046.0060, subpart 1, step
26 20, and the total amount of waste that counts toward the
27 generator's size determination under part 7045.0206 that is
28 generated in a year, based on the most recent license

1 application and licensing reports submitted by the generator or
2 other appropriate information available to the agency. To
3 determine the quantity fee, the per pound quantity rate under
4 part 7046.0060, subpart 1, step 20, is multiplied by the total
5 quantity of waste that counts toward the generator's size.

6 Subp. 6. **Payment schedule.** Large and small quantity
7 generators must submit fees within 50 days of the postmark date
8 of the notice from the commissioner that the fees are due. Very
9 small quantity generators must submit fees within 35 days of the
10 postmark date of the notice from the commissioner that fees are
11 due.

12 A nonmetropolitan area generator must submit a check for
13 the required amount as directed on the invoice. The fee
14 submittal must be postmarked or hand-delivered not later than
15 the due date on the invoice.

16 Subp. 7. **Penalty for late payment of fees.** If a
17 nonmetropolitan area generator fails to submit the required fees
18 by the due date provided on the invoice, the generator shall pay
19 the fees plus a late fee as provided in items A and B.

20 A. Generators will be assessed a late fee for each
21 30-day period or fraction of that period that the fee remains
22 unpaid. The late fee is calculated as a percentage of the
23 annual fee as follows: ten percent of the annual fee for each
24 of the first two 30-day periods, and 15 percent of the annual
25 fee for each 30-day period, or fraction of a 30-day period,
26 thereafter.

27 B. If a nonmetropolitan area generator fails to

1 submit the required fees by the due date, the generator is
2 liable for reasonable additional expenses the agency incurs in
3 collection of the fee, in addition to the annual fee and any
4 applicable late fees.

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

6 7046.0040 METROPOLITAN AREA GENERATOR FEE.

7 Subpart 1. **Basis for fees.** Metropolitan area generators
8 must pay a hazardous waste generator fee that consists of an
9 annual fee under subpart 2. The agency shall charge
10 metropolitan area generator fees based on the license
11 application and licensing reports submitted by generators to the
12 county where the hazardous waste generation site is located or
13 other appropriate information available to the agency. The
14 metropolitan counties must provide this data to the agency in
15 the time and manner required by the agency to facilitate
16 collection of the fees. Fees shall be examined annually and
17 adjusted, as necessary, under part 7046.0060.

18 Subp. 2. **Annual fees.** The annual fee is the sum of the
19 base fee in item A and the quantity fee in item B. Very small
20 quantity generators pay the minimum base fee and are exempt from
21 the quantity fee.

22 A. The base fee is calculated annually and adjusted,
23 if necessary, under part 7046.0060, subpart 1, step 13.

24 B. The quantity fee is calculated annually using the
25 per pound quantity rate under part 7046.0060, subpart 1, step
26 14, and the total amount of waste that counts toward the
27 generator's size determination under part 7045.0206 that is

1 generated in a year based on the most recent license application
2 and licensing reports submitted by the generator or other
3 appropriate information available to the agency. To determine
4 the quantity fee, the per pound quantity rate under part
5 7046.0060, subpart 1, step 14, is multiplied by the total
6 quantity of waste that counts toward a generator's size.

7 **Subp. 3. Payment schedule.**

8 A. Large and small quantity generators must submit
9 fees within 50 days of the postmark date of the notice from the
10 commissioner that the fees are due. Very small quantity
11 generators must submit fees within 35 days of the postmark date
12 of the notice from the commissioner that fees are due.

13 B. A metropolitan area generator must submit a check
14 for the required amount as directed on the invoice. The fee
15 submittal must be postmarked or hand-delivered not later than
16 the due date on the invoice.

17 **Subp. 4. Penalty for late payment of fees.** If a
18 metropolitan area generator fails to submit the required fees by
19 the due date provided on the invoice, the generator shall pay
20 the fees plus a late fee as provided in items A and B.

21 A. Generators shall be assessed a late fee for each
22 30-day period or fraction of that period that the fee remains
23 unpaid. The late fee is calculated as a percentage of the
24 annual fee as follows: ten percent of the annual fee for each
25 of the first two 30-day periods and 15 percent of the annual fee
26 for each 30-day period, or fraction of a 30-day period,
27 thereafter.

1 B. If a metropolitan area generator fails to submit
2 the required fees by the due date, the generator is liable for
3 reasonable additional expenses the agency incurs in collection
4 of the fee, in addition to the annual fee and any applicable
5 late fees.

6 7046.0045 RETROACTIVE FEE.

7 Subpart 1. **Applicability.** For large quantity and small
8 quantity generators, the commissioner shall assess annual fees
9 retroactively for each calendar year, up to a maximum of three
10 calendar years, prior to the most recent calendar year subject
11 to fees. Retroactive fees for waste produced for less than the
12 maximum retroactive period may be prorated based on actual
13 months of production if documented by the generator under the
14 notification of error procedure provided in part 7046.0070.
15 Retroactive fees apply according to items A to C.

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

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

19 A. For persons subject to fees under subpart 1, item
20 A, the fee is calculated by multiplying the most recent annual
21 fee by the number of retroactive calendar years established
22 under subpart 1.

23 B. For persons subject to fees under subpart 1, item
24 B, the fee is calculated by multiplying the most recent annual
25 fee that would be required for the waste omitted from the
26 license by the number of retroactive calendar years established
27 under subpart 1.

1 C. For persons subject to fees under subpart 1, item
2 C, the fee is calculated by subtracting the base fee from the
3 quantity fee under part 7046.0031 or 7046.0040. If the result
4 is less than zero, no retroactive fee is due. If the result is
5 greater than zero, a fee shall be applied to the resulting
6 difference. The resulting fee shall be multiplied by the number
7 of retroactive calendar years established under subpart 1.

8 7046.0050 GENERATOR FEE EXEMPTIONS.

9 Subp. 1a. Exemption for 100 pounds or less.

10 Nonmetropolitan and metropolitan area generators that generate
11 less than or equal to 100 pounds or ten gallons of hazardous
12 waste and no acute hazardous waste per year are exempt from the
13 fees under this chapter.

14 Subp. 1b. Metropolitan area generator quantity rate cap
15 exemption. An individual metropolitan area generator shall not
16 be charged a quantity rate fee on any wastes generated in excess
17 of 2,000,000 pounds.

18 Subp. 1c. Nonmetropolitan area generator quantity rate cap
19 exemption. An individual nonmetropolitan area generator shall
20 not be charged a quantity rate fee on any wastes generated in
21 excess of 1,000,000 pounds.

22 Subp. 2a. PCB waiver. Polychlorinated biphenyl (PCB)
23 waste associated with oil-filled electric equipment is eligible
24 for a waiver from annual hazardous waste fees according to
25 Minnesota Statutes, section 116.07, subdivision 2b, paragraph
26 (b).

27 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.20, or the Comprehensive Environmental Response,
6 Compensation, and Liability Act, United States Code, part 42,
7 sections 9601, et seq.

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

9 Subp. 7. Waste exempt from size determination. The agency
10 bases the generator fees in this chapter only on those wastes
11 used to determine generator size.

12 7046.0060 FEE FORMULA.

13 Subpart 1. Formula. Beginning February 1, 2006, the
14 commissioner shall follow the steps in this part to determine
15 the fee assessment under this chapter for facilities and
16 generators.

17 Step 1. The total amount appropriated by the legislature
18 for the new fiscal year (fiscal year target) is obtained.

19 Step 2. \$2,000,000 is added to the amount appropriated by
20 the legislature according to Laws 2003, chapter 128, article 2,
21 section 55 54.

22 Step 3. For any year, the commissioner may increase the
23 fiscal year target by up to five percent to reflect the
24 anticipated fee nonpayment rate.

25 Step 4. The carryover from the previous fiscal year is
26 determined and the carryover out of the new fiscal year is
27 estimated. Both carryovers are applied to the step 3 amount.

1 This amount is the adjusted fiscal year target for the hazardous
2 waste program.

3 Step 5. The amount of revenue that would be generated by
4 existing facilities using baseline facility fees in part
5 7046.0020 is estimated.

6 Step 6. The new fiscal year target for facilities is
7 calculated by multiplying the adjusted fiscal year target (step
8 4) by 0.19.

9 Step 7. The fee assessment for facilities for the new
10 fiscal year is calculated by dividing the new fiscal year target
11 for facilities (step 6) by the estimated amount of revenue for
12 facilities (step 5). The resulting ratio is multiplied by each
13 of the baseline fee amounts in part 7046.0020 to determine the
14 new fee amounts. Each fee amount is rounded up to the nearest
15 ten-dollar increment.

16 Step 8. The new fiscal year target for all generators is
17 calculated by subtracting the new fiscal year target for
18 facilities (step 6) from the adjusted fiscal year target (step
19 4).

20 Step 9. The new fiscal year target for metropolitan county
21 generators is calculated by multiplying the new fiscal year
22 target for all generators (step 8) by 0.40.

23 Step 10. The total amount of waste in pounds generated by
24 metropolitan area small and large quantity generators that are
25 subject to a fee under this part is estimated.

26 Step 11. The total number of metropolitan area generators
27 that are subject to a fee under this part is estimated.

1 Step 12. The total amount of base fee collections for all
2 metropolitan area generators is calculated by multiplying the
3 new fiscal year target for metropolitan area generators (step 9)
4 by 0.52.

5 Step 13. The individual base fee for each metropolitan
6 area generator is calculated by dividing the total amount of
7 base fee collections for all metropolitan area generators (step
8 12) by the total number of metropolitan area generators that are
9 subject to a fee under this part (step 11). This number is
10 rounded to the nearest dollar.

11 Step 14. The per pound quantity rate for metropolitan area
12 small and large quantity generators is determined by using the
13 following formula:

$$14 \quad \$P = [n - [(x)(b)]] / q$$

15 where:

16 \$P = per pound dollar amount for metropolitan county generators
17 n = metropolitan county generator new fiscal year target (step 9)
18 x = total number of metropolitan county generators (step 11)
19 b = metropolitan area generator base fee (step 13)
20 q = total pounds of waste generated by metropolitan area small
21 and large quantity generators (step 10).

22 Step 15. The new fiscal year target for nonmetropolitan
23 area generators is calculated by multiplying the new fiscal year
24 target for all generators (step 8) by 0.60.

25 Step 16. The total amount of waste (pounds) generated by
26 nonmetropolitan area small and large quantity generators that
27 are subject to a fee under this part is estimated.

1 Step 17. The total number of nonmetropolitan area
2 generators that are subject to a fee under this part is
3 estimated.

4 Step 18. The total amount of base fee collections for all
5 nonmetropolitan area generators is calculated by multiplying the
6 new fiscal year target for nonmetropolitan area generators (step
7 15) by 0.53.

8 Step 19. The individual base fee for each nonmetropolitan
9 area generator is calculated by dividing the total amount of
10 base fee collections for all nonmetropolitan area generators
11 (step 18) by the total number of nonmetropolitan area generators
12 that are subject to a fee (step 17). This number is rounded to
13 the nearest dollar.

14 Step 20. The per pound quantity rate for nonmetropolitan
15 area small and large quantity generators is determined by using
16 the following formula:

$$17 \quad \$P = [n - [(x)(b)]] / q$$

18 where:

19 \$P = per pound dollar amount for nonmetropolitan area generators

20 n = nonmetropolitan area generator new fiscal year target (step
21 15)

22 x = total number of nonmetropolitan area generators (step 17)

23 b = nonmetropolitan area generator base fee (step 19)

24 q = total pounds of waste generated by nonmetropolitan area
25 small and large quantity generators (step 16).

26 Subp. 2. Phase-in effects of revised fee formula.

27 A. For a period of four billing cycles after the

1 effective date of this part, the agency must adjust the annual
2 fees charged to metropolitan and nonmetropolitan area small and
3 large quantity generators to ensure that no individual small or
4 large quantity generator's fee increases by more than 100
5 percent per year, from the initial year's base baseline fee, as
6 a result of the revised fee formula and collect the resulting
7 shortfall from generators whose fees were reduced by 25 percent
8 or more as a result of the revised formula. The following steps
9 shall be followed to collect the resulting shortfall from
10 generators whose fees were reduced by 25 percent or more as a
11 result of the revised fee formula:

12 Step 1. The total dollar amount not collected by limiting
13 the fee increases to 100 percent is calculated.

14 Step 2. The total pounds generated by generators whose
15 fees were reduced by 25 percent or more is calculated.

16 Step 3. The supplemental quantity rate is calculated by
17 dividing step 1 by step 2.

18 Step 4. For each generator identified in step 2, the
19 supplemental quantity rate (step 3) is multiplied by the pounds
20 generated and the result is added to the generator's fee.

21 B. Only those generators whose fees increased by more
22 than 100 percent as a result of the new formula in the first
23 year of implementation are eligible for this annual adjustment
24 and only those generators whose fees decreased by more than 25
25 percent as a result of the new fee formula in the first year of
26 implementation are eligible for this annual adjustment. During
27 the second, third, and fourth billing cycle following the

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1 effective date of this part, the agency shall apply the phase-in
2 provisions to those generators who both qualified during the
3 first billing cycle and still qualify for the phase-in
4 provisions based on their fees calculated during the second and
5 third billing cycle.

6 7046.0065 CHANGES TO FEE FORMULA.

7 Modification to the fee formula must be made through rule
8 amendments.

9 7046.0070 NOTIFICATION OF ERROR.

10 A generator or facility owner or operator that believes
11 that the assessed annual fee is in error shall submit a written
12 explanation of the person's position to the commissioner within
13 ten days of receipt of the invoice. The assessed fee shall be
14 paid as required in part 7046.0020, 7046.0031, or 7046.0040
15 within the deadline for payment. The commissioner shall, within
16 60 days of the timely receipt of the person's written
17 explanation, either provide a written explanation of why the fee
18 was not in error and will not be refunded or refund the
19 overpayment if the commissioner finds that the assessed fee was
20 in error.