

CHAPTER 7046
MINNESOTA POLLUTION CONTROL AGENCY
HAZARDOUS WASTE DIVISION
FACILITY AND GENERATOR FEES

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7046.0010 DEFINITIONS.

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

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

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

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

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

Subp. 17. [Repealed, 16 SR 1646]

Subp. 17a. [Repealed, 16 SR 1646]

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

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

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

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

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

Statutory Authority: *MS s 116.12*

History: *16 SR 1646*

7046.0020 HAZARDOUS WASTE FACILITY FEES.

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

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

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

| | Permit Application Fee | Annual Facility Fee | Permit Reissuance Fee | Major Modification Fee |
|--|------------------------------|---------------------------|-----------------------------|------------------------------|
| A. Storage | | | | |
| Tanks and containers indoors | | | | |
| Total capacity greater than 550 gallons | \$ 2,140 | \$ 3,150 | \$ 1,070 | \$ 710 |
| Total capacity 550 gallons or less | 1,430 | 1,390 | 720 | 470 |
| Tanks and containers outdoors | | | | |
| Total capacity greater than 550 gallons | 4,290 | 6,300 | 2,150 | 1,420 |
| Total capacity 550 gallons or less | 2,860 | 2,510 | 1,430 | 940 |
| Piles | 12,880 | 18,040 | 6,440 | 4,250 |
| Surface impoundment | 21,460 | 18,040 | 10,730 | 7,080 |
| B. Disposal and treatment | | | | |
| Surface impoundment | 25,760 | 24,900 | 12,880 | 8,500 |
| Treatment (not otherwise specified including open burning) | 25,760 | 12,590 | 12,880 | 8,500 |
| Thermal treatment (not including open burning) | 64,400 | 43,800 | 32,200 | 21,250 |
| Land treatment | 64,400 | 43,800 | 32,200 | 21,250 |
| Land disposal | | | | |
| Active facilities | 64,400 | 43,800 | 32,200 | 21,250 |

| | | | | |
|--|--------|--------|--------|--------|
| Closed facilities (includes all facilities in which waste remains after closure) | 32,200 | 29,200 | 16,100 | 10,630 |
|--|--------|--------|--------|--------|

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

| Term of Permit | Permit Application Fee |
|----------------|---|
| 1 year | 35 percent of application fee in subpart 1 or subpart 3 |
| 2 years | 60 percent of application fee in subpart 1 or subpart 3 |
| 3 years | 75 percent of application fee in subpart 1 or subpart 3 |
| 4 years | 90 percent of application fee in subpart 1 or subpart 3 |

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

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

Permit reissuance fees shall be assessed at 50 percent of the application fee as calculated under this subpart. Permit major modification fees shall be assessed at 33 percent of the application fee under subpart 1 for the component of the facility being modified. For major modifications not associated with a specific component of a combination facility, the permit major modification fee shall be assessed at 33 percent of the application fee as calculated under this subpart for the combination facility. A person applying for a major modification concurrent with a permit reissuance application shall not be assessed a major modification fee.

| Facility Description | Application Fee and Annual Facility Fee Calculation |
|--|---|
| A. Thermal treatment + treatment + storage | Thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage |
| B. Disposal + storage | Disposal + 0.2 x fee for storage |
| C. Thermal treatment + storage | Treatment + 0.2 x fee for storage |
| D. Disposal + thermal treatment | Disposal + 0.2 x fee for thermal treatment |

- | | | |
|----|--|--|
| E. | Thermal treatment + disposal + treatment + storage | Disposal + 0.8 x fee for thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage |
| F. | Disposal + land treatment | Disposal + 0.8 x fee for land treatment |
| G. | Land treatment + storage | Land treatment + 0.2 x fee for storage |
| H. | Treatment + storage | Treatment + 0.2 x fee for storage |

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

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

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

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

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

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

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

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

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

Statutory Authority: *MS s 116.12*

History: *16 SR 1646*

7046.0031 NONMETROPOLITAN AREA GENERATOR FEES.

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

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

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

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

Subp. 3. [Repealed, 16 SR 1646]

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

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

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

| Management Method | Factor |
|--|--------|
| Recycle, feedstock, or by-product on-site | 0 |
| Recycle, feedstock, or by-product off-site | 0.67 |
| Burned for fuel | 0.67 |
| Neutralization | 0.67 |
| Incineration | 0.67 |
| Disposal and other methods | 1.00 |

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

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

- (1) a large quantity generator must pay a base fee of \$350;
- (2) a small quantity generator must pay a base fee of \$130; and
- (3) a very small quantity generator must pay a base fee of \$62.

Subp. 5. [Repealed, 16 SR 1646; 16 SR 2102]

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

A nonmetropolitan area generator shall submit a check for the required amount to the commissioner, made payable to the Minnesota Pollution Control Agency.

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

A. Large quantity and small quantity generators will be assessed a late fee for each 30-day period or fraction of that period that the fee remains unpaid. The late fee is calculated as a percentage of the annual fee as follows: ten percent

of the annual fee for each of the first two 30-day periods, and 15 percent of the annual fee for each 30-day period, or fraction of a 30-day period, thereafter.

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

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

Statutory Authority: *MS s 116.12*

History: *16 SR 1646*

7046.0040 GENERATOR STATEWIDE PROGRAM FEE.

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

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

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

Statutory Authority: *MS s 116.12*

History: *16 SR 1646*

7046.0045 RETROACTIVE FEE.

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

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

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

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

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

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

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

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

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

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

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

Statutory Authority: *MS s 116.12*

History: *16 SR 1646*

7046.0050 GENERATOR FEE EXEMPTIONS.

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

Subp. 4. [Repealed, 16 SR 1646; 16 SR 2102]

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

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

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

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

Statutory Authority: *MS s 116.12*

History: *16 SR 1646*

7046.0070 APPEAL PROCEDURE.

If a generator believes that the fee requested by the commissioner is in error or exceeds the hazardous waste generator fees assessed by the metropolitan area county with the highest fee structure, then the generator may appeal the fee levy.

Within ten days of receipt of the fee statement from the commissioner, the generator shall provide a written appeal which includes the fee the generator has calculated and the method used by the generator in calculating the fee. After review of the appeal, the commissioner shall send the generator a decision letter regarding the appeal. In the decision letter, the commissioner shall specify the fee to be remitted by the generator. The generator shall submit the specified fee within 30 days of receipt of the commissioner's decision letter or by the original due date, whichever is later. A generator who fails to submit the specified fee by the required date is delinquent and must pay the late fee, specified in part 7046.0031, subpart 7.

Statutory Authority: *MS s 116.12*

History: *16 SR 1646*