

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 and 2, see M R]

Subp 2a. **Closed system.** A "closed system" means a conveyance system for waste that consists entirely of permanent and rigid components where no human handling is needed to convey the waste from the point where it becomes a waste to the point of discharge to a sewer system

[For text of subps 3 to 5, see M R]

Subp 6 **Hazardous waste.** "Hazardous waste" has the meaning given in Minnesota Statutes, section 116 06, subdivision 11

[For text of subps 7 to 16, see M R.]

Subp. 17b **Sewer system.** "Sewer system" means a tributary or tributaries to a publicly owned treatment works or to a facility holding a National Pollutant Discharge Elimination System (NPDES) permit or State Disposal System (SDS) permit

Subp. 18 **Sewered wastes.** "Sewered wastes" means wastes that are discharged to a sewer system and that are hazardous wastes at the point of generation before treatment or commingling with other wastewater which may or may not render them nonhazardous.

[For text of subps 18a to 23, see M R]

Subp 24 [Repealed, 18 SR 1665]

[For text of subps 24a and 25, see M.R.]

Statutory Authority: *MS s 116 12*

History: *18 SR 1665*

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 items A to D

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

Facility fees for fiscal year 1994 are as provided in items A to D Beginning July 1, 1994, fees will be examined annually and adjusted, as necessary, under part 7046 0060, steps 1 to 6.

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	Permit Application Fee	Annual Facility Fee
A Storage		
Tanks and containers indoors		
Total capacity greater than 550 gallons	\$ 2,410	\$ 3,540
Total capacity 550 gallons or less	1,610	1,560
Tanks and containers outdoors		
Total capacity greater than 550 gallons	4,820	7,080
Total capacity 550 gallons or less	3,220	2,820
Piles	14,480	20,280
Surface impoundment	24,120	20,280
B Disposal and treatment.		
Surface impoundment	28,950	27,990
Treatment (not otherwise specified including open burning)	28,950	14,150
Thermal treatment (not including open burning)	72,390	49,230
Land treatment	72,390	49,230
Land disposal		
Active facilities	72,390	49,230
Closed facilities (includes all facilities in which waste remains after closure)	36,190	32,820

C. Permit reissuance fee The permit reissuance fee is 50 percent of the facility's permit application fee in item A or B rounded to the nearest ten-dollar increment

D. Major modification fee. The major modification fee is 33 percent of the facility's permit application fee in item A or B rounded to the nearest ten-dollar increment. A person applying for a major modification concurrent with a permit reissuance application will not be assessed a major modification fee

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[For text of subs 2 to 4, see M R]

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

[For text of item A, see M R]

B The owner or operator shall submit the annual facility fee postmarked or hand-delivered not later than June 15 of each year

[For text of item C, see M R]

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

[For text of item A, see M R]

B The facility owner or operator 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 facility fee for each of the first two 30-day periods, and 15 percent of the annual facility fee for each 30-day period or fraction of a 30-day period thereafter

[For text of item C, see M R.]

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

Statutory Authority: MS s 116 12

History: 18 SR 1665

7046.0031 NONMETROPOLITAN AREA GENERATOR FEES.

Subpart 1 **Basis of fees.** Nonmetropolitan area generators must pay a hazardous waste generator fee that consists of an annual fee under subpart 4 and a statewide program fee under part 7046 0040 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 Beginning July 1, 1994, fees will be examined annually and adjusted, as necessary, under part 7046 0060

Subp 2 [Repealed, 18 SR 1665]

Subp 2a [Repealed, 18 SR 1665]

Subp 4 **Annual fees.** The annual fee is the minimum fee in item A or the total waste generation quantity fees in item B, whichever is greater. Very small quantity generators pay the minimum fee and are exempt from quantity fees

A **Minimum fee.** The minimum fee for fiscal year 1994 is \$66 Beginning July 1, 1994, the minimum fee will be examined annually and adjusted, if necessary, under part 7046 0060, step 16

B **Quantity fee** The quantity fee is assessed for each waste stream according to the quantity rate table and management method factors To determine the quantity fee, the applicable rate from the table in subitem (1) is applied to each waste stream quantity, and the result multiplied by the applicable management factor in subitem (2) for that waste stream The quantity fee for a sewerage waste stream is determined under item C

(1) **Quantity rate table** A generator may report quantities in pounds or gallons For the purposes of this part, one gallon of hazardous waste equals ten pounds of hazardous waste

	POUNDS/GALLONS	POUNDS	GALLONS
STEP 1	\$0 052 / \$0 52	0 – 4,000	0 – 400
STEP 2	One-fourth of step 1 rate	4,001 – 26,400	401 – 2,640
STEP 3	One-half of step 2 rate	26,401 – 100,000	2,641 – 10,000
STEP 4	One-tenth of step 3 rate	100,001 – 500,000	10,001 – 50,000
STEP 5	\$0 00 / \$0 00	> than 500,000	> than 50,000

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Beginning July 1, 1994, the quantity rate table will be examined annually and step 1 will be adjusted, if necessary, under part 7046.0060, step 18.

(2) Management method factors The commissioner will reduce fees for generators who use hazardous waste management methods that are environmentally beneficial by the following factors:

(a) hazardous waste managed in the following ways has a management method factor of 0.5: recycled, neutralized and is not hazardous for any other reason or burned for fuel under part 7045.0692,

(b) hazardous waste managed in the following way has a management method factor of 0.7: items containing hazardous waste laundered by a commercial service, and

(c) all other management methods have a management factor of 1.0.

C Sewered waste streams The quantity fee for hazardous waste that is discharged to a sewer system is assessed according to subitems (1) to (5).

(1) For hazardous waste that is not pretreated prior to discharge, the quantity fee is assessed under item A or B, whichever is greater

(2) For hazardous waste that is managed in a closed system and that is pretreated to a nonhazardous state prior to discharge where the pretreatment process produces residuals classified as hazardous, the quantity fee is assessed based on the quantity of the residuals. The quantity fee is determined under item B using the quantity of the residuals after pretreatment and not the quantity of hazardous waste generated before pretreatment

(3) For hazardous waste that is managed in a closed system and that is pretreated to a nonhazardous state prior to discharge where the pretreatment process does not produce residuals or produces residuals that are nonhazardous, the quantity fee is determined by dividing the quantity of hazardous waste generated before pretreatment by a factor of 600. The quantity rates in item B are then applied to the result to determine the quantity fee

(4) For hazardous waste that is not managed in a closed system and that is pretreated to a nonhazardous state prior to discharge, the quantity fee is assessed under item A or B, whichever is greater. If assessed under item B using the quantity rate table, the fee for that sewered waste stream will be reduced by a management factor of 0.5

(5) For hazardous waste that is managed in either a closed or an open system and that is pretreated and remains hazardous prior to discharge, the quantity fee is assessed under item A or B, whichever is greater. If assessed under item B using the quantity rate table, the fee for that sewered waste stream will be reduced by a management factor of 0.7

If the quantity fee for pretreated sewered waste is assessed on the quantity of hazardous waste generated before pretreatment, the portion of the residual attributable to that waste stream is exempt from fees under this chapter

Pretreated sewered waste is presumed to be hazardous until the generator provides adequate documentation to the commissioner that the waste is pretreated to a nonhazardous state. The generator may provide documentation under the licensing procedures provided in parts 7045.0225 to 7045.0250 or under the appeal procedure provided in part 7046.0070

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

A nonmetropolitan area generator must submit a check for the required amount to the commissioner, made payable to the Minnesota Pollution Control Agency. The fee submittal must be postmarked or hand-delivered not later than the due date in this subpart

Subp 7. Penalty for late payment of 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.

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

Subp 8. Penalty for late submittal of license renewal. If a large or small quantity nonmetropolitan area generator fails to submit the license renewal required under part 7045.0248, subpart 1, by the date specified by the commissioner, the generator must pay a

nonrefundable late fee of \$25. The late fee will be assessed at the time annual fees under this part are assessed.

Statutory Authority: *MS s 116.12*

History: *18 SR 1665*

7046.0040 GENERATOR STATEWIDE PROGRAM FEE.

Subpart 1. **In general.** All generators in Minnesota are subject to an annual statewide program fee equal to a percentage 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. The statewide program fee for fiscal year 1994 is 51 percent. Beginning July 1, 1994, the statewide program fee will be examined annually and adjusted, if necessary, under part 7046.0060, step 10.

[For text of subps 2 and 3, see M.R.]

Statutory Authority: *MS s 116.12*

History: *18 SR 1665*

7046.0045 RETROACTIVE FEE.

Subpart 1. **Applicability.** For large quantity and small quantity generators, the commissioner shall assess annual and statewide program fees retroactively for each calendar year, up to a maximum of three calendar years, prior to the most recent calendar year subject to fees. 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 7046.0070. Retroactive fees apply according to items A to C.

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

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 quantity generated exceeded the maximum quantity amounts for a very small quantity generator.

Subp. 2. *[Repealed, 18 SR 1665]*

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 1.

B. For persons subject to fees under subpart 1, item B, the fee is calculated by multiplying the sum of the most recent quantity 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 1.

C. For persons subject to fees under subpart 1, item C, the fee is calculated by subtracting the minimum fee from the quantity fee under part 7046.0031, subpart 4, item B. If the result is less than zero, no retroactive fee is due. If the result is greater than zero, the statewide program fee shall be applied to the resulting difference. The sum of the resulting difference and the applicable statewide program fee shall be multiplied by the number of retroactive calendar years established under subpart 1.

Statutory Authority: *MS s 116.12*

History: *18 SR 1665*

7046.0050 GENERATOR FEE EXEMPTIONS.

Subp. 1a. **Exemption for 100 pounds or less.** Nonmetropolitan area generators that generate less than or equal to 100 pounds or ten gallons of hazardous waste per year are exempt from the fees under this chapter.

Subp. 2a. **Special waste.** For nonmetropolitan generators, the following waste is exempt from fees under this chapter:

A. fluorescent lamps and high intensity density lamps;

- B. batteries;
- C wastes containing elemental mercury, which means waste electrical relays or switches, thermostats, thermometers, thermocouples, manometers, and gauges containing elemental mercury,
- D. elemental mercury;
- E. antifreeze;
- F circuit boards, printed circuit boards, and circuit board trimmings,
- G. photographic negatives,
- H. fluorescent light ballasts;
- I capacitors from white goods;
- J. waste that is exempt from regulation under part 7045.0120, subpart 1; and
- K waste that is exempt from regulation under part 7045 0125, subparts 3a, items A and C, and 4.

[For text of subps 3 to 6, see M.R.]

Statutory Authority: *MS s 116.12*

History: *18 SR 1665*

7046.0060 FEE FORMULA.

Beginning July 1, 1994, the commissioner shall follow the steps in this part to determine the fee assessment under this chapter for facilities and generators.

Step 1. The total amount appropriated by the legislature to the agency for the hazardous waste program for facilities and generators for the new fiscal year (fiscal year target) is obtained. If the agency determines that projected program expenditures will be less than the legislative appropriation, the commissioner will use the lesser expenditure amount as the new fiscal year target.

Step 2. The carryover from the previous fiscal year is determined and the carryover out of the new fiscal year is estimated. Both carryovers are applied to the step 1 amount. This amount is the adjusted fiscal year target for the hazardous waste program.

Step 3 (a) The total hazardous waste program staff time in terms of full-time employees for the new fiscal year is estimated and the percentage of staff time allocated between facilities and generators is determined.

(b) The percentage of staff time within the generator category allocated between metropolitan and nonmetropolitan generators is determined.

(c) Under the nonmetropolitan generator category, the percentage of time allocated among large, small, and very small quantity generators is determined.

Step 4. The amount of revenue that would be generated by existing facilities using baseline facility fees in part 7046 0020 is estimated.

Step 5. The new fiscal year target for facilities is calculated by multiplying the adjusted fiscal year target (step 2) by the percentage of staff time estimated for facilities under step 3(a).

Step 6. The fee assessment for facilities for the new fiscal year is calculated by dividing the new fiscal year target for facilities (step 5) by the estimated amount of revenue for facilities (step 4). The resulting ratio is multiplied by each of the baseline fee amounts in part 7046.0020 to determine the new fee amounts. Each fee amount is rounded to the nearest ten-dollar increment.

Step 7. The new year target for all generators is calculated by multiplying the adjusted fiscal year target (step 2) by the percentage of staff time estimated for generators under step 3(a).

Step 8. The total annual fees that metropolitan counties will collect from their generators in the new fiscal year is estimated.

Step 9. The new fiscal year target for metropolitan county generators is calculated by multiplying the new fiscal year target for all generators (step 7) by the percentage for metropolitan generators estimated under step 3(b).

Step 10. The statewide program fee rate is calculated by dividing the metropolitan county generators' new fiscal year target (step 9) by the estimated metropolitan counties'

annual fee revenues (step 8) This figure is rounded to the next highest whole percentage point

Step 11 The new fiscal year target for nonmetropolitan county generators is calculated by multiplying the new fiscal year target for all generators (step 7) by the percentage for nonmetropolitan generators estimated under step 3(b)

Step 12 The new fiscal year target for nonmetropolitan county generators' annual fees is calculated by dividing the new fiscal year target for nonmetropolitan county generators (step 11) by a factor of 1 plus the statewide program fee rate (step 10).

Step 13. The new fiscal year target for small and large quantity nonmetropolitan county generators is calculated by multiplying the new fiscal year target for all sizes of nonmetropolitan county generators (step 11) by the percentage for small and large quantity nonmetropolitan generators estimated under step 3(c).

Step 14 The new fiscal year target for very small quantity nonmetropolitan county generators is calculated by multiplying the new fiscal year target for all sizes of nonmetropolitan county generators (step 11) by the percentage for very small quantity nonmetropolitan generators estimated under step 3(c)

Step 15. The number of nonexempt nonmetropolitan area very small quantity generators is estimated for the new fiscal year

Step 16 The minimum fee is calculated by dividing the new fiscal year target for very small quantity generators (step 14) by the estimated number of nonexempt nonmetropolitan area very small quantity generators (step 15) The result is divided by a factor of 1 plus the statewide program fee rate (step 11), then rounded to the nearest whole dollar

Step 17. New fiscal year revenue from small and large quantity generators is estimated under part 7046 0031, subpart 4, using the baseline quantity rates from part 7046 0031, subpart 4

Step 18 Determine quantity rates for small and large quantity generators by dividing the new fiscal year target for small and large quantity generators (step 13) by the estimated fiscal year revenue from small and large quantity generators in (step 17) This ratio is then multiplied by the step 1 quantity rate under part 7046.0031, subpart 4, item B, subitem (1), and rounded to two significant digits

Step 19 The total fee for very small quantity generators is determined by multiplying the minimum fee for very small quantity generators (step 16) by a factor of 1 plus the statewide program fee (step 10). This figure is rounded to the nearest whole dollar.

Statutory Authority: *MS s 116.12*

History: *18 SR 1665*

7046.0065 ADOPTION OF FEE MODIFICATION SCHEDULE.

The agency must approve and adopt fee adjustments under part 7046.0060. Beginning July 1, 1994, the commissioner will annually apply the fee formula in part 7046.0060 to determine if the fee revenues will equal or nearly equal the legislative appropriation for the new fiscal year The fees must be adjusted if the fee revenues will not equal or nearly equal the legislative appropriation. If an adjustment to fees is necessary, the commissioner will prepare a fee modification schedule The fee modification proposal will include the proposed new rates for facilities and generators and will be published in the State Register at least 20 days before the proposal is presented to the agency board for approval Procedural rules for agency meetings are in chapter 7000

Statutory Authority: *MS s 116 12*

History: *18 SR 1665*

7046.0070 APPEAL PROCEDURE.

If a generator believes that the fee requested by the commissioner is in error, 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

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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: *18 SR 1665*