

# CHAPTER 7046

## MINNESOTA POLLUTION CONTROL AGENCY

### HAZARDOUS WASTE DIVISION

### FACILITY AND GENERATOR FEES

7046.0010 DEFINITIONS.  
 7046.0020 HAZARDOUS WASTE FACILITY FEES.  
 7046.0031 NONMETROPOLITAN AREA  
 GENERATOR FEES.  
 7046.0040 GENERATOR STATEWIDE PROGRAM  
 FEE.

7046.0045 RETROACTIVE FEE  
 7046.0050 GENERATOR FEE EXEMPTIONS.  
 7046.0060 FEE FORMULA.  
 7046.0065 ADOPTION OF FEE MODIFICATION  
 SCHEDULE.  
 7046.0070 APPEAL PROCEDURE.

#### 7046.0010 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 7046.0010 to 7046.0070, the following words have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

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.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Pollution Control Agency or his or her designee.

Subp. 4. **Facility.** "Facility" means all contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units, such as one or more landfills, surface impoundments, or combinations thereof.

Subp. 4a. **Free liquids.** "Free liquids" means liquids that readily separate from the solid portion of the waste under ambient temperature and pressure.

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.

Subp. 6. **Hazardous waste.** "Hazardous waste" has the meaning given in Minnesota Statutes, section 116.06, subdivision 11.

Subp. 7. **Indoor tank.** "Indoor tank" means a tank completely enclosed within a building or sheltered from the elements within a roofed structure with no fewer than three complete solid walls.

Subp. 8. **Injection well.** "Injection well" means a shaft or pit generally of a cylindrical form, dug or bored into the earth and often walled with bricks or tubing to prevent the earth from caving in into which fluids are injected.

Subp. 9. **Land treatment facility.** "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface. A land treatment facility is a disposal facility if the waste will remain after closure.

Subp. 10. **Landfill.** "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

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

Subp. 11. **Nonmetropolitan area generator.** "Nonmetropolitan area generator" means a generator whose hazardous waste generation site is located in a Minnesota county other than Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.

Subp. 12. **Operator.** "Operator" means the person responsible for the overall operation of a facility.

Subp. 13. **On-site.** "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit be-

tween the properties is at a crossroads intersection, and access is by crossing as opposed to going along the right-of-way. Noncontiguous property owned by the same person but connected by a right-of-way which he or she controls and to which the public does not have access is also considered on-site property.

Subp. 14. **Outdoor tank.** "Outdoor tank" means a tank not enclosed within another structure or which is sheltered within a structure with fewer than three complete walls and which may or may not have a roof.

Subp. 15. **Owner.** "Owner" means the owner of a facility or part of a facility.

Subp. 16. **Pile.** "Pile" means a noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

Subp. 17. [Repealed, 16 SR 1646]

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

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.

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

Subp. 19. **Storage.** "Storage" means the holding or accumulation of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

Subp. 20. **Surface impoundment, impoundment.** "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, artificial excavation, or diked area formed primarily of earthen materials which is designed to hold an accumulation of liquid hazardous wastes or hazardous wastes containing free liquids and which is not an injection well or seepage facility. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons. Impoundments may be lined with synthetic materials.

Subp. 21. **Tank.** "Tank" means a stationary device which is designed to contain an accumulation of hazardous wastes and which is constructed primarily of nonearthen materials such as wood, concrete, steel, and plastic, which provide structural support.

Subp. 22. **Thermal treatment.** "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. "Thermal treatment" includes the processes of incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

Subp. 23. **Treatment.** "Treatment" means any method, technique, or process, including neutralization, that is designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, so as to recover energy or material resources from the waste, or so as to render the waste nonhazardous, or less hazardous, safer to transport, store, or dispose of, or amenable for recovery, amenable for storage, or reduced in volume.

Subp. 24. [Repealed, 18 SR 1665]

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:** 8 SR 1781; 9 SR 2341; L 1987 c 186 s 15; 16 SR 1646; 17 SR 1279; 18 SR 1665

# MINNESOTA RULES 1995

963

## FACILITY AND GENERATOR FEES 7046.0020

### 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.

	Permit Application Fee	Annual Facility Fee
<b>A. Storage.</b>		
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>B. Disposal and treatment.</b>		
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

# MINNESOTA RULES 1995

## 7046.0020 FACILITY AND GENERATOR FEES

964

### 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.

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:

A. The owner or operator of a facility shall remit the permit application fee when he or she submits the application.

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

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.

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.

C. The commissioner may commence proceedings to suspend or revoke a permit if fees are not paid within 180 days after the required date.

Subp. 7. **Refund of facility permit application fee.** If an applicant submits an application fee for a permit and the agency issues a permit with an effective term of less than the term in the permit applied for, the agency shall refund to the applicant the application fee minus the appropriate fee in subpart 2.

If a facility operator or owner submits an application fee and then withdraws the application within 60 days of receipt by the commissioner, the agency shall refund to the applicant 75 percent of the application fee.

Subp. 8. **Exemption for closed land disposal facilities from annual facility fee.** The owner or operator of a closed land disposal facility may petition the commissioner, at any time after two years have passed since the last wastes were disposed of at the facility, to release the owner or operator from the requirement to pay an annual facility fee. The petition shall include all available leachate and groundwater monitoring data for the facility, a description of the characteristics of the wastes in the facility, a description of the technology applied to secure the facility and avoid migration of the wastes, a description of anticipated future monitoring, an evaluation of the potential for future environmental problems, and any additional information the owner or operator has to support the petition. The commissioner shall grant the petition and exempt the owner or operator from the requirement to pay the annual facility fee if the commissioner determines that, based on the information contained in the petition, groundwater contamination has not occurred and is not likely to occur and the facility will not require significant agency oversight. The exemption shall continue until such time as the commissioner determines, after notice to the owner or operator, that the facility does require significant agency oversight. The exemption shall expire if the owner or operator adds or allows to be added additional wastes to the facility. The exemption from the requirement to pay the annual facility fee does not exempt the owner or operator from the requirement to pay the permit reissuance fee.

**Statutory Authority:** *MS s 16A.128; 116.12*

**History:** 8 SR 1781; 9 SR 2341; L 1987 c 186 s 15; 13 SR 1821; 14 SR 2249; 16 SR 1646; 18 SR 1665

**7046.0030** [Repealed, 11 SR 1993]

#### **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. 3. [Repealed, 16 SR 1646]

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.

# MINNESOTA RULES 1995

967

## FACILITY AND GENERATOR FEES 7046.0031

	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

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 sewerage 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 sewerage waste stream will be reduced by a management factor of 0.7.

If the quantity fee for pretreated sewerage 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 sewerage 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. 5. [Repealed, 16 SR 1646; 16 SR 2102]

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.

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.

**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 16A.128; 116.12*

**History:** *11 SR 1993; L 1987 c 186 s 15; 13 SR 1821; 16 SR 1646; 16 SR 2102; 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.

**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 16A.128; 116.12*

**History:** *8 SR 1781; 9 SR 2341; 11 SR 1993; L 1987 c 186 s 15; 13 SR 1821; 16 SR 1646; 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.

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 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:** 16 SR 1646; 18 SR 1665

#### **7046.0050 GENERATOR FEE EXEMPTIONS.**

Subpart 1. [Repealed, 9 SR 2341]

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. 2. [Repealed, 11 SR 1993]

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.

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]

Subp. 5. **Wastes generated as a result of household hazardous waste collections.** A waste that is generated as a result of a household hazardous waste collection program under Minnesota Statutes, section 115A.95, is exempt from the generator fee.

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 16A.128; 116.12*

**History:** 8 SR 1781; 11 SR 1993; L 1987 c 186 s 15; 13 SR 1821; 16 SR 1646; 16 SR 2102; 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. 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

# MINNESOTA RULES 1995

## 7046.0070 FACILITY AND GENERATOR FEES

972

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 16A.128; 116.12*

**History:** 8 SR 1781; 11 SR 1993; L 1987 c 186 s 15; 13 SR 1821; 16 SR 1646; 18 SR 1665