

CHAPTER 7046
MINNESOTA POLLUTION CONTROL AGENCY
FACILITY AND GENERATOR FEES

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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. 10b. **Metropolitan area generator.** “Metropolitan area generator” means a generator whose hazardous waste generation site is located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington County.

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 between 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; 31 SR 985*

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

	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

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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.

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

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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 commissioner of finance 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; L 2003 c 112 art 2 s 50; 31 SR 985*

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. 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. 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 sum of the base fee in item A and the quantity fee in item B. Very small quantity generators pay the base fee and are exempt from the quantity fee.

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

B. The quantity fee is calculated annually using the per pound quantity rate under part 7046.0060, subpart 1, step 20, and the total amount of waste that counts toward the generator's size determination under part 7045.0206 that is generated in a year, based on the most recent license application and licensing reports submitted by the generator or other appropriate information available to the agency. To determine the quantity fee, the per pound quantity rate under part 7046.0060, subpart 1, step 20, is multiplied by the total quantity of waste that counts toward the generator's size.

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 as directed on the invoice. The fee submittal must be postmarked or hand-delivered not later than the due date on the invoice.

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

A. 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. 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; 31 SR 985*

7046.0040 METROPOLITAN AREA GENERATOR FEE.

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

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

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

B. The quantity fee is calculated annually using the per pound quantity rate under part 7046.0060, subpart 1, step 14, and the total amount of waste that counts toward the generator's size determination under part 7045.0206 that is generated in a year based on the most recent license application and licensing reports submitted by the generator or other appropriate information available to the agency. To determine the quantity fee, the per pound quantity rate under part 7046.0060, subpart 1, step 14, is multiplied by the total quantity of waste that counts toward a generator's size.

Subp. 3. **Payment schedule.**

A. 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.

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

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

A. Generators shall 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. If a metropolitan 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 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; 31 SR 985

7046.0045 RETROACTIVE FEE.

Subpart 1. **Applicability.** For large quantity and small quantity generators, the commissioner shall assess annual 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 notification of error 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 most recent annual fee 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 most recent annual 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 base fee from the quantity fee under part 7046.0031 or 7046.0040. If the result is less than zero, no retroactive fee is due. If the result is greater than zero, a fee shall be applied to the resulting difference. The resulting 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; 31 SR 985

7046.0050 GENERATOR FEE EXEMPTIONS.

Subpart 1. [Repealed, 9 SR 2341]

Subp. 1a. **Exemption for 100 pounds or less.** Nonmetropolitan and metropolitan area generators that generate less than or equal to 100 pounds or ten gallons of hazardous waste and no acute hazardous waste per year are exempt from the fees under this chapter.

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

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

Subp. 2. [Repealed, 11 SR 1993]

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

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

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.

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

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; 31 SR 985*

7046.0060 FEE FORMULA.

Subpart 1. **Formula.** Beginning February 1, 2006, 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 for the new fiscal year (fiscal year target) is obtained.

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

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

Step 4. 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 3 amount. This amount is the adjusted fiscal year target for the hazardous waste program.

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

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

Step 7. The fee assessment for facilities for the new fiscal year is calculated by dividing the new fiscal year target for facilities (step 6) by the estimated amount of revenue for facilities (step 5). 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 up to the nearest ten-dollar increment.

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

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

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

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

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

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

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

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

where:

\$P = per pound dollar amount for metropolitan county generators

n = metropolitan county generator new fiscal year target (step 9)

x = total number of metropolitan county generators (step 11)

b = metropolitan area generator base fee (step 13)

q = total pounds of waste generated by metropolitan area small and large quantity generators (step 10).

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

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

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

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

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

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

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

where:

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

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

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

b = nonmetropolitan area generator base fee (step 19)

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

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

A. For a period of four billing cycles after February 12, 2007, the agency must adjust the annual fees charged to metropolitan and nonmetropolitan area small and large quantity generators to ensure that no individual small or large quantity generator's fee increases by more than 100 percent per year, from the initial year's baseline fee, as a result of the revised fee formula and collect the resulting shortfall from generators whose fees were reduced by 25 percent or more as a result of the revised formula. The following steps shall be followed

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to collect the resulting shortfall from generators whose fees were reduced by 25 percent or more as a result of the revised fee formula:

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

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

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

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

B. Only those generators whose fees increased by more than 100 percent as a result of the new formula in the first year of implementation are eligible for this annual adjustment and only those generators whose fees decreased by more than 25 percent as a result of the new fee formula in the first year of implementation are eligible for this annual adjustment. During the second, third, and fourth billing cycle following February 12, 2007, the agency shall apply the phase-in provisions to those generators who both qualified during the first billing cycle and still qualify for the phase-in provisions based on their fees calculated during the second and third billing cycle.

Statutory Authority: *MS s 116.12*

History: *18 SR 1665; 31 SR 985*

7046.0065 CHANGES TO FEE FORMULA.

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

Statutory Authority: *MS s 116.12; 31 SR 985*

History: *18 SR 1665*

7046.0070 NOTIFICATION OF ERROR.

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

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; 31 SR 985*