

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

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7046.0010 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following words have the meanings given them.

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

Subp. 3. **Director.** "Director" means the executive director of the 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. 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 that is not on-site in relation to another location owned or controlled by the same person.

Subp. 6. **Hazardous waste.** "Hazardous waste" has the meaning given in Minnesota Statutes, section 116.06, subdivision 13.

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. 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. **Project estimated cost.** "Project estimated cost" means the cost 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 cost of permanent fixtures.

Subp. 18. **Sewered liquid wastes.** "Sewered liquid wastes" means wastes that are discharged to a sewer system which is tributary 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, 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. 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, man-made 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 man-made 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. **Unsewered liquid wastes.** "Unsewered liquid wastes" means liquid hazardous wastes or hazardous wastes that contain free liquid which are not sewered liquid wastes.

Statutory Authority: *MS s 116.12*

History: *8 SR 1781*

7046.0020 HAZARDOUS WASTE FACILITY FEES.

Subpart 1. **Fee schedule for five-year permits.** A facility owner or operator who seeks a five-year permit shall remit fees as follows:

	Permit Application Fee	Annual Facility Operator's Fee	Permit Reissuance Fee
A. Storage			
Tanks and containers indoors			
Total capacity greater than 550 gallons	\$ 750	\$ 225	\$ 375
Total capacity 550 gallons or less	500	100	250
Tanks and containers outdoors			
Total capacity greater than 550 gallons	1,500	450	750
Total capacity 550 gallons or less	1,000	180	500
Piles	4,500	1,300	2,250
Surface impoundment	7,500	1,300	3,750
B. Disposal and treatment			
Surface impoundment	9,000	1,800	4,500
Treatment (not otherwise specified)	9,000	900	4,500
Thermal treatment	22,500	3,150	11,250
Land treatment	22,500	3,150	11,250
Land disposal (includes surface impoundments in which waste remains after closure)	22,500	3,150	11,250

Subp. 2. **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 operator's fee is the applicable fee listed in table 1 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 for application fees and annual operator's fees:

Facility Description	Fee Calculation	Permit Reissuance Fee
A. Thermal treatment + treatment + storage	Thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage	All facilities 50 percent of application fee as calculated according to schedule
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	

Subp. 4. Environmental review costs. The following additional fees are required for a hazardous waste facility project that requires an environmental review under Minnesota Statutes, chapter 116D:

A. for projects that require only an environmental assessment worksheet (EAW), the fee is \$200 plus 0.10 percent of the project estimated costs; and

B. for projects with a project estimated cost of less than \$1,000,000, the environmental impact statement (EIS) assessed cost is 0.30 percent of the project estimated cost.

Nothing in this part precludes the applicability of the EIS cost assessment system as described in the rules of the Environmental Quality Board, parts 4410.6000 to 4410.6500.

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

A. For facilities which have submitted the part B application as described in Code of Federal Regulations, title 40, parts 122 and 264 prior to February 6, 1984, the owner or operator shall remit payment of the appropriate fees within 60 days of February 6, 1984, provided permits have not been issued as of February 6, 1984.

B. For facilities which have not submitted the part B application, the owner or operator shall remit the fee when he or she submits the application or facility plans and specifications for a new facility.

C. The owner or operator shall submit the annual facility operator's fee not later than June 30 of each year.

D. Permit reissuance fees must be submitted with the application for permit reissuance.

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

A. A facility application submitted without the facility application fee is incomplete. The director shall suspend further processing of the permit application until the appropriate fee is received by the director.

B. The facility owner or operator shall pay a late fee of 20 percent of the annual facility fee for failure to submit the appropriate fees within 30 days of the required date. An additional ten percent of the annual fee must be paid for each 30-day period or fraction thereof that the fee remains unpaid.

C. The director 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 director, the agency shall refund to the applicant 75 percent of the application fee.

Statutory Authority: *MS s 116.12*

History: *8 SR 1781*

7046.0030 NONMETROPOLITAN AREA GENERATOR FEES.

Subpart 1. Basis of fees. The agency shall charge nonmetropolitan area generator fees that are based on the annual reports submitted by generators, disclosures, or other appropriate information available to the agency.

Subp. 2. **Small generator exemption.** Nonmetropolitan area generators that generate less than ten gallons or 100 pounds of hazardous waste per year are exempt from the generator fee requirements of this part.

Subp. 3. **Initial fees.** Initial fees must be paid by a nonmetropolitan generator who is a new generator after the effective date of parts 7046.0010 to 7046.0070, or who has failed to submit a disclosure prior to July 1, 1983, or who has added a waste not previously listed on a disclosure.

Initial fees for nonmetropolitan area generators are as follows:

A. For unsewered liquid waste, the initial fee is \$60 plus \$40 for each additional waste stream over one.

B. For sewered liquid waste, the initial fee is \$30.

C. For unsewered solid waste, the initial fee is \$60 plus \$40 for each additional waste stream over one.

Subp. 4. **Fee for previously unreported waste.** If a generator adds a waste that has not been previously reported to the agency, the generator shall pay a fee of \$40 to the agency for each new waste stream.

Subp. 5. **Annual fees.** Nonmetropolitan area generators shall submit annual fees as follows:

Waste Category

	11-55 gallons per year	56-500 gallons per year	501-1000 gallons per year	1000 + gallons per year
Unsewered liquid waste	\$30	\$60 + \$20 for each additional waste stream over one	\$90 + \$20 for each additional waste stream over one	\$90 + \$20 for each additional waste stream over one plus \$12 for each additional 1000 gallons
Sewered liquid waste	All volumes - \$75 per year all waste streams			
	101-550 pounds per year	551-5000 pounds per year	over 5000 pounds per year	
Unsewered solid waste	\$30	\$60 + \$20 for each additional waste stream over one	\$90 + \$20 for each additional waste stream over one plus \$5 for each additional 5000 pounds or fraction thereof	

Subp. 6. **Payment schedule.** In the fiscal year ending June 30, 1984, a nonmetropolitan area generator shall submit fees within 60 days upon receipt of the notice from the director that the fees are due. Fees submitted later than 30 days after the due date are deemed late.

Following the first annual payment, a nonmetropolitan area generator shall remit fees according to the following schedule based on the "Standard Industrial Classification" (SIC) as designated in the Standard Industrial Classification

Manual (1972), Executive Office of the President, Office of Management and Budget, United States Government Printing Office. If a generator has more than one SIC number, that number which occurs first in the table determines the date fees are due.

Standard Industrial
Classification

	Type of Activity	Date Due
29	Petroleum and coal	July 1
31	Tanning	July 1
33	Primary Metal	July 1
36	Electric machinery	July 1
49	Electric power generating	July 1
80	Health services	July 1
82	Education services	July 1
91	Government	July 1
26	Paper	October 1
28	Chemicals	October 1
34	Fabricated metal	October 1
35	Machinery (except electrical)	October 1
20	Food	January 1
22	Textiles	January 1
24	Lumber and wood	January 1
27	Printing	January 1
32	Stone, clay, and glass	January 1
40	Railroads	January 1
45	Airlines	January 1
25	Furniture	April 1
30	Rubber and plastic	April 1
37	Transportation equipment	April 1
38	Measuring instruments	April 1
39	Miscellaneous manufacturing	April 1
51	Wholesale nondurables	April 1
55	Automotive sales	April 1
75	Automotive repair	April 1
	All others not listed above	April 1

A nonmetropolitan area generator shall submit a check for the required amount to the director, made payable to the state treasurer.

Subp. 7. Failure to submit fees. If a nonmetropolitan area generator fails to submit the required fees within 30 days of the due date, the generator shall pay a late fee of ten percent of the annual fee and the unpaid penalty for each 30-day period or fraction that the fee remains unpaid, up to 90 days. Beyond 90 days, the late fee is 15 percent of the annual fee and the unpaid penalty for each 30-day period or fraction that the fee remains unpaid.

Statutory Authority: *MS s 116.12*

History: *8 SR 1781*

7046.0040 GENERATOR SURCHARGE.

Subpart 1. In general. All generators in Minnesota are subject to an annual surcharge equal to 17.5 percent of the annual fee. Payment must be made as provided in subparts 2 and 3.

Subp. 2. Nonmetropolitan area generators. Nonmetropolitan area generators shall pay the surcharge to the director at the time of payment of the annual fee. A nonmetropolitan area generator who fails to pay the annual

surcharge is considered delinquent and subject to the late fee penalty provided in part 7046.0030, subpart 7.

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

Statutory Authority: *MS s 116.12*

History: *8 SR 1781*

7046.0050 GENERATOR FEE EXEMPTIONS.

Subpart 1. **Waste oil exemption.** Generators of waste oil are not subject to generator fees for waste oil if the waste oil is beneficially reused and does not contain hazardous wastes listed in Code of Federal Regulations, title 40, part 261, subpart D. If the director has information that the waste oil contains any listed hazardous wastes, the generator shall be subject to the appropriate fees.

Subp. 2. **On-site recovery, reuse, or recycle of waste.** A generator who recycles, reuses, or recovers a hazardous waste stream for his own use is exempt from the generator fee for the waste stream that is recycled, reused, or recovered. Any sludges or residues from a recovery process that are hazardous are subject to the generator fee.

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.

Statutory Authority: *MS s 116.12*

History: *8 SR 1781*

7046.0070 APPEAL PROCEDURE.

A generator who believes that the fee requested by the director is in error may appeal the fee levy. Within ten days of receipt of the fee statement from the director, the generator shall provide written notice of the error in fee calculation, the fee the generator has calculated, and the method used by the generator in calculating the fee. If the director finds, upon reviewing the data, that the new data presented by the generator is correct, no penalty fee will be assessed. However, if the director finds that the original calculated fee was correct, the generator shall be assessed any applicable penalty as provided in part 7046.0030, subpart 7 from the date of the director's decision regarding the fee adjustment appeal.

Statutory Authority: *MS s 116.12*

History: *8 SR 1781*