

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 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. 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. 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 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

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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. 17a. Response action. "Response action" means removal or remedial action taken according to the provisions of 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. 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.

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Subp. 24. **Unsewered liquid wastes.** "Unsewered liquid wastes" means liquid hazardous wastes or hazardous wastes that contain free liquid which are not sewer liquid wastes.

Subp. 25. **Waste stream.** "Waste stream" means all wastes of a particular composition generated by the same process at a generator's site.

Statutory Authority: *MS s 116.12*

History: 8 SR 1781; 9 SR 2341

7046.0020 HAZARDOUS WASTE FACILITY FEES.

Subpart 1. **Fee schedule for five-year permits.** A person applying for issuance or reissuance of a five-year permit for a hazardous waste facility shall remit the permit application fee or permit reissuance fee given in item A or B. A person who owns or operates a hazardous waste facility that is in operation on July 1 in any year shall remit the annual facility operator's fee for that fiscal year.

	Permit Application Fee	Annual Facility Operator's Fee	Permit Reissuance Fee
A. Storage			
Tanks and containers indoors			
Total capacity greater than 550 gallons	\$ 750	\$ 1,100	\$ 375
Total capacity 550 gallons or less	500	485	250
Tanks and containers outdoors			
Total capacity greater than 550 gallons	1,500	2,200	750
Total capacity 550 gallons or less	1,000	875	500
Piles	4,500	6,300	2,250
Surface impoundment	7,500	6,300	3,750
B. Disposal and treatment			
Surface impoundment	9,000	8,700	4,500
Treatment (not otherwise specified including open burning)	9,000	4,400	4,500

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Thermal treatment (not including open burning)	22,500	15,300	11,250
Land treatment	22,500	15,300	11,250
Land disposal (includes surface impoundments in which waste remains after closure)	22,500	15,300	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 +	Disposal + 0.8 x fee for thermal	

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treatment + storage	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 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. 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 operator's fee not later than June 30 of each year.

C. 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 permit 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; 9 SR 2341

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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, and other appropriate information available to the agency.

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

For purposes of this part, a conversion factor of one gallon of hazardous waste equals ten pounds of hazardous waste will be used.

Subp. 2a. **Retroactive fee collection.** Annual fees, generator surcharges, and initial fees must be paid by generators for each fiscal year beginning July 1, 1983, for those years in which the generator generated hazardous wastes according to the fee schedules in effect for each of those fiscal years.

Subp. 3. **Initial fees.** Initial fees must be paid by a nonmetropolitan generator who is a new generator after February 5, 1984, 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. Waste streams consisting of less than 165 gallons per year or 1,650 pounds per year of unsewered solid or liquid waste which is recycled, reused, or recovered off-site are not subject to the initial fees for that waste stream.

Initial fees for nonmetropolitan area generators are as follows:

A. For unsewered liquid waste, the initial fee is \$100 plus \$50 for each additional waste stream over one.

B. For sewerred liquid waste, the initial fee is \$40.

C. For unsewered solid waste, the initial fee is \$100 plus \$50 for each additional waste stream over one.

Subp. 4. **Fee for previously unreported waste.** If a generator had filed a disclosure and had been producing a waste that was not listed on the disclosure, the generator shall pay a fee of \$40 plus the annual fees and surcharges according to the fee schedules in effect for each year in which that waste had been produced.

Subp. 4a. **Fee for new process wastes.** If a generator had previously filed a disclosure and begins a new process that had not previously been listed on the disclosure, 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	\$40	\$90 + \$25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	\$130 + \$25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	\$130 + \$25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one plus \$16 for each additional 1000 gallons

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Sewered liquid waste	11 or more total gallons of sewered waste - \$100 per year		
	101-550 pounds per year	551-5000 pounds per year	over 5000 pounds per year
Unsewered solid waste (solid waste reported in terms of volume, e.g. 55 gallon drums, will be converted to weight units by a conversion factor of 10 pounds per gallon reported)	\$40	\$90 + \$25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	\$130 + \$25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one plus \$7 for each additional 5000 pounds or fraction thereof

Subp. 6. **Payment schedule.** 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.

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 the fees plus late fees for each 30-day period or fraction that the fee remains unpaid. The late fee for each of the three 30-day periods or fraction between the due date and 90 days beyond the due date is ten percent of the total of the annual fee. Beyond 90 days, the late fee for each 30-day period or fraction beyond 90 days is 15 percent of the annual fee.

If a nonmetropolitan area generator fails to submit the requested fees within 90 days of the due date, the generator becomes liable for reasonable additional expenses the agency incurs in collection of the fee, in addition to the fees and late fees.

Statutory Authority: *MS s 116.12*

History: *8 SR 1781; 9 SR 2341*

7046.0040 GENERATOR SURCHARGE.

Subpart 1. **In general.** All generators in Minnesota are subject to an annual surcharge equal to 50 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

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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; 9 SR 2341

7046.0050 GENERATOR FEE EXEMPTIONS.

Subpart 1. [Repealed, 9 SR 2341]

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