

1 Pollution Control Agency

2

3 Adopted Rules 6 MCAR SS 4.9701-4.9706, Hazardous Waste Facility
4 and Generator Fee Rules

5

6 Rules as Adopted

7 6 MCAR S 4.9701 Definitions.

8 A. Scope. As used in 6 MCAR SS 4.9701-4.9706, the following
9 words have the meanings given them.

10 B. Agency. "Agency" means the Minnesota Pollution Control
11 Agency.

12 C. Director. "Director" means the executive director of the
13 agency or his or her designee.

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

20 E. Generator. "Generator" means any person, by site, whose
21 act or process produces a hazardous waste or whose act first
22 causes a hazardous waste to become subject to regulation. "By
23 site" means by each location that is not on-site in relation to
24 another location owned or controlled by the same person.

25 F. Hazardous waste. "Hazardous waste" has the meaning given
26 in Minnesota Statutes, section 116.06, subdivision 13.

27 G. Indoor tank. "Indoor tank" means a tank completely
28 enclosed within a building or sheltered from the elements within
29 a roofed structure with no fewer than three complete solid walls.

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

34 I. Land treatment facility. "Land treatment facility" means
35 a facility or part of a facility at which hazardous waste is
36 applied onto or incorporated into the soil surface. A land

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1 treatment facility is a disposal facility if the waste will
2 remain after closure.

3 J. Landfill. "Landfill" means a disposal facility or part
4 of a facility where hazardous waste is placed in or on land and
5 which is not a land treatment facility, a surface impoundment,
6 or an injection well.

7 K. Nonmetropolitan area generator. "Nonmetropolitan area
8 generator" means a generator whose hazardous waste generation
9 site is located in a Minnesota county other than Anoka, Carver,
10 Dakota, Hennepin, Ramsey, Scott, or Washington.

11 L. Operator. "Operator" means the person responsible for
12 the overall operation of a facility.

13 M. On-site. "On-site" means the same or geographically
14 contiguous property which may be divided by public or private
15 right-of-way, provided the entrance and exit between the
16 properties is at a crossroads intersection, and access is by
17 crossing as opposed to going along the right-of-way.

18 Noncontiguous property owned by the same person but connected by
19 a right-of-way which he or she controls and to which the public
20 does not have access is also considered on-site property.

21 N. Outdoor tank. "Outdoor tank" means a tank not enclosed
22 within another structure or which is sheltered within a
23 structure with fewer than three complete walls and which may or
24 may not have a roof.

25 O. Owner. "Owner" means the owner of a facility or part of
26 a facility.

27 P. Pile. "Pile" means a noncontainerized accumulation of
28 solid, nonflowing hazardous waste that is used for treatment or
29 storage.

30 Q. Project estimated cost. "Project estimated cost" means
31 the cost of the entire project to complete a hazardous waste
32 facility including the current market value of all the land
33 interests, owned or to be owned by the facility owner, which are
34 included in the boundaries of the project; costs of engineering
35 and architecture for the project; expenditures necessary to
36 begin physical construction or operation of the project;

1 construction required to implement the project including costs
2 of essential public service facilities; and the cost of
3 permanent fixtures.

4 R. Sewered liquid wastes. "Sewered liquid wastes" means
5 wastes that are discharged to a sewer system which is tributary
6 to a publicly-owned treatment works or to a facility holding a
7 National Pollutant Discharge Elimination System (NPDES) permit
8 or State Disposal System (SDS) permit, and that are hazardous
9 wastes at the point of generation before treatment or
10 commingling with other wastewater which may or may not render
11 them nonhazardous.

12 S. Storage. "Storage" means the holding or accumulation of
13 hazardous waste for a temporary period at the end of which the
14 hazardous waste is treated, disposed of, or stored elsewhere.

15 T. Surface impoundment or impoundments. "Surface
16 impoundment" or "impoundment" means a facility or part of a
17 facility which is a natural topographic depression, man-made
18 excavation, or diked area formed primarily of earthen materials
19 which is designed to hold an accumulation of liquid hazardous
20 wastes or hazardous wastes containing free liquids and which is
21 not an injection well or seepage facility. Examples of surface
22 impoundments are holding, storage, settling and aeration pits,
23 ponds, and lagoons. Impoundments may be lined with man-made
24 materials.

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

29 V. Thermal treatment. "Thermal treatment" means the
30 treatment of hazardous waste in a device which uses elevated
31 temperatures as the primary means to change the chemical,
32 physical, or biological character or composition of the
33 hazardous waste. "Thermal treatment" includes the processes of
34 incineration, molten salt, pyrolysis, calcination, wet air
35 oxidation, and microwave discharge.

36 W. Treatment. "Treatment" means any method, technique, or

1 process, including neutralization, that is designed to change
 2 the physical, chemical, or biological character or composition
 3 of any hazardous waste so as to neutralize the waste, so as to
 4 recover energy or material resources from the waste, or so as to
 5 render the waste nonhazardous, or less hazardous, safer to
 6 transport, store, or dispose of, or amenable for recovery,
 7 amenable for storage, or reduced in volume.

8 X. Unsewered liquid wastes. "Unsewered liquid wastes" means
 9 liquid hazardous wastes or hazardous wastes that contain free
 10 liquid which are not sewerred liquid wastes.

11 6 MCAR S 4.9702 Hazardous waste facility fees.

12 A. Fee schedule for five-year permits. A facility owner or
 13 operator who seeks a five-year permit shall remit fees as
 14 follows:

15 Table 1: Hazardous Waste Facility Five-Year Permits

16	17	18	19	20
	Permit	Annual	Permit	
	Application	Facility	Reissuance	
	Fee	Operator's	Fee	
		Fee		
21				
22	a. Storage			
23				
24	Tanks and			
25	containers			
26	indoors			
27				
28	Total capacity	\$ 750	\$ 225	\$ 375
29	greater than			
30	550 gallons			
31				
32	Total capacity	500	100	250
33	550 gallons or			
34	less			
35				
36	Tanks and containers			
37	outdoors			
38				
39	Total capacity	1,500	450	750
40	greater than			
41	550 gallons			
42				
43	Total capacity	1,000	180	500
44	550 gallons or			
45	less			
46				
47	Piles	4,500	1,300	2,250
48				
49	Surface impoundment	7,500	1,300	3,750
50				
51	b. Disposal and treatment			
52				
53	Surface impoundment	9,000	1,800	4,500
54				
55	Treatment (not	9,000	900	4,500

1	otherwise specified)			
2				
3	Thermal treatment	22,500	3,150	11,250
4				
5	Land treatment	22,500	3,150	11,250
6				
7	Land disposal	22,500	3,150	11,250
8	(includes surface			
9	impoundments in			
10	which waste			
11	remains after			
12	closure)			

13 B. Fee schedule for permits less than five-year term. The
 14 following schedule must be used to calculate the application fee
 15 for a permit term of less than five years:

16 Table 2: Application Fees

17 Permits Less than Five-Year Term

18	Term of Permit	Permit Application Fee
19		
20	1 year	35 percent of application
21		fee in table 1 or table 3
22		
23	2 years	60 percent of application
24		fee in table 1 or table 3
25		
26	3 years	75 percent of application
27		fee in table 1 or table 3
28		
29	4 years	90 percent of application
30		fee in table 1 or table 3

31 The annual facility operator's fee is the applicable fee
 32 listed in table 1 in A.

33 C. Combination facilities. An application fee for a
 34 facility consisting of several treatment, storage, or disposal
 35 functions must be calculated according to the following schedule
 36 for application fees and annual operator's fees:

37 Table 3: Combination Facilities

38	Facility	Fee	Permit
39	Description	Calculation	Reissuance
40			Fee
41			
42			
43	a. Thermal treatment	Thermal treatment	All facilities
44	+ treatment	+ 0.2 x fee for	50 percent of
45	+ storage	treatment + 0.2 x	application fee
46		fee for storage	as calculated
47			according to
48			schedule
49			
50	b. Disposal + storage	Disposal + 0.2 x	
51		fee for storage	
52			
53	c. Thermal treatment	Treatment + 0.2 x	
54	+ storage	fee for storage	
55			
56	d. Disposal + thermal	Disposal + 0.2 x	
57	treatment	fee for thermal	

- 1 treatment
- 2
- 3 e. Thermal treatment Disposal + 0.8 x
- 4 + disposal + fee for thermal
- 5 treatment + treatment + 0.2 x
- 6 storage fee for treatment
- 7 + 0.2 x fee for
- 8 storage
- 9
- 10 f. Disposal + land Disposal + 0.8 x
- 11 treatment fee for land
- 12 treatment
- 13
- 14 g. Land treatment + Land treatment +
- 15 storage 0.2 x fee for
- 16 storage

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

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

24 2. For projects with a project estimated cost of less
 25 than \$1,000,000, the environmental impact statement (EIS)
 26 assessed cost is 0.30 percent of the project estimated cost.

27 Nothing in this rule precludes the applicability of the EIS
 28 cost assessment system as described in chapter 17 of the rules
 29 of the Environmental Quality Board, 6 MCAR SS 3.049-3.054.

30 E. Payment schedule. Fees must be made payable to the state
 31 treasurer and submitted to the director as follows:

32 1. For facilities which have submitted the Part B
 33 application as described in Code of Federal Regulations, title
 34 40, parts 122 and 264 prior to the effective date of 6 MCAR SS
 35 4.9701-4.9706, the owner or operator shall remit payment of the
 36 appropriate fees within 60 days of the effective date of 6 MCAR
 37 SS 4.9701-4.9706, provided permits have not been issued as of
 38 the effective date of 6 MCAR SS 4.9701-4.9706.

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

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

1 4. Permit reissuance fees must be submitted with the
2 application for permit reissuance.

3 F. Failure to submit fees. Failure to submit fees by the
4 required date results in the following penalties:

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

9 2. The facility owner or operator shall pay a late fee of
10 20 percent of the annual facility fee for failure to submit the
11 appropriate fees within 30 days of the required date. An
12 additional ten percent of the annual fee must be paid for each
13 30-day period or fraction thereof that the fee remains unpaid.

14 3. The director may commence proceedings to suspend or
15 revoke a permit if fees are not paid within 180 days after the
16 required date.

17 G. Refund of facility permit application fee. If an
18 applicant submits an application fee for a permit and the agency
19 issues a permit with an effective term of less than the term in
20 the permit applied for, the agency shall refund to the applicant
21 the application fee minus the appropriate fee in B.

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

26 6 MCAR S 4.9703 Nonmetropolitan area generator fees.

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

31 B. Small generator exemption. Nonmetropolitan area
32 generators that generate less than ten gallons or 100 pounds of
33 hazardous waste per year are exempt from the generator fee
34 requirements of this rule.

35 C. Initial fees. Initial fees must be paid by a
36 nonmetropolitan generator who is a new generator after the

1 effective date of 6 MCAR SS 4.9701-4.9706, or who has failed to
2 submit a disclosure prior to July 1, 1983, or who has added a
3 waste not previously listed on a disclosure.

4 Initial fees for nonmetropolitan area generators are as
5 follows:

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

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

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

11 D. Fee for previously unreported waste. If a generator adds
12 a waste that has not been previously reported to the agency, the
13 generator shall pay a fee of \$40 to the agency for each new
14 waste stream.

15 E. Annual fees. Nonmetropolitan area generators shall
16 submit annual fees as follows:

17 Waste Category	18 Annual Fee			
	19 11-55 20 gallons 21 per year	22 56-500 23 gallons 24 per year	25 501-1000 26 gallons 27 per year	28 1000+ 29 gallons 30 per year
31 Unsewered 32 liquid 33 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
34 Sewered 35 liquid waste	All volumes - \$75 per year all waste streams			
	36 101-550 37 pounds per year	38 551-5000 39 pounds per year	40 over 5000 41 pounds per year	
42 Unsewered 43 solid 44 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	

48 F. Payment schedule. In the fiscal year ending June 30,
49 1984, a nonmetropolitan area generator shall submit fees within
50 60 days upon receipt of the notice from the director that the

1 fees are due. Fees submitted later than 30 days after the due
 2 date are deemed late.

3 Following the first annual payment, a nonmetropolitan area
 4 generator shall remit fees according to the following schedule
 5 based on the "Standard Industrial Classification" (SIC) as
 6 designated in the Standard Industrial Classification Manual
 7 (1972), Executive Office of the President, Office of Management
 8 and Budget, United States Government Printing Office. If a
 9 generator has more than one SIC number, that number which occurs
 10 first in the table determines the date fees are due.

11	12 Standard Industrial		
13	Classification	Type of Activity	Date Due
14			
15	29	Petroleum and coal	July 1
16	31	Tanning	July 1
17	33	Primary Metal	July 1
18	36	Electric machinery	July 1
19	49	Electric power generating	July 1
20	80	Health services	July 1
21	82	Education services	July 1
22	91	Government	July 1
23			
24	26	Paper	October 1
25	28	Chemicals	October 1
26	34	Fabricated metal	October 1
27	35	Machinery (except electrical)	October 1
28			
29	20	Food	January 1
30	22	Textiles	January 1
31	24	Lumber and wood	January 1
32	27	Printing	January 1
33	32	Stone, clay, and glass	January 1
34	40	Railroads	January 1
35	45	Airlines	January 1
36			
37	25	Furniture	April 1
38	30	Rubber and plastic	April 1
39	37	Transportation equipment	April 1
40	38	Measuring instruments	April 1
41	39	Miscellaneous manufacturing	April 1
42	51	Wholesale nondurables	April 1
43	55	Automotive sales	April 1
44	75	Automotive repair	April 1
45		All others not listed above	April 1

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

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

1 90 days, the late fee is 15 percent of the annual fee and the
2 unpaid penalty for each 30-day period or fraction that the fee
3 remains unpaid.

4 6 MCAR S 4.9704 Generator surcharge.

5 All generators in Minnesota are subject to an annual
6 surcharge equal to 17.5 percent of the annual fee. Payment must
7 be made as follows:

8 A. Nonmetropolitan area generators shall pay the surcharge
9 to the director at the time of payment of the annual fee. A
10 nonmetropolitan area generator who fails to pay the annual
11 surcharge is considered delinquent and subject to the late fee
12 penalty provided in 6 MCAR S 4.9703 G.

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

20 6 MCAR S 4.9705 Generator fee exemptions.

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

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

34 C. Wastes generated as a result of response action. A waste
35 that is generated as a result of a response action is exempt

1 from the generator fee.

2 6 MCAR S 4.9706 Appeal procedure.

3 A generator who believes that the fee requested by the
4 director is in error may appeal the fee levy. Within ten days
5 of receipt of the fee statement from the director, the generator
6 shall provide written notice of the error in fee calculation,
7 the fee the generator has calculated, and the method used by the
8 generator in calculating the fee. If the director finds, upon
9 reviewing the data, that the new data presented by the generator
10 is correct, no penalty fee will be assessed. However, if the
11 director finds that the original calculated fee was correct, the
12 generator shall be assessed any applicable penalty as provided
13 in 6 MCAR S 4.9703 G. from the date of the director's decision
14 regarding the fee adjustment appeal.