

MINNESOTA RULES 1991

6887

FACILITY AND GENERATOR FEES 7046.0010

CHAPTER 7046

MINNESOTA POLLUTION CONTROL AGENCY

HAZARDOUS WASTE DIVISION

FACILITY AND GENERATOR FEES

7046.0010 DEFINITIONS.
7046.0020 HAZARDOUS WASTE FACILITY
FEES.
7046.0031 NONMETROPOLITAN AREA
GENERATOR FEES.

7046.0040 GENERATOR STATEWIDE
PROGRAM FEE.
7046.0050 GENERATOR FEE EXEMPTIONS.
7046.0070 APPEAL PROCEDURE.

7046.0010 DEFINITIONS.

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

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

Subp. 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 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, non-flowing 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.

MINNESOTA RULES 1991

6889

FACILITY AND GENERATOR FEES 7046.0020

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; L 1987 c 186 s 15*

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 shall remit the annual facility fee for that fiscal year if on July 1, the facility is treating, storing, or disposing of hazardous waste or has hazardous waste remaining after closure. 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.

	Permit Application Fee	Annual Facility Fee	Permit Reissuance Fee
A. Storage			
Tanks and containers indoors			
Total capacity greater than 550 gallons	\$ 1,820	\$ 2,670	\$ 910
Total capacity 550 gallons or less	1,210	1,180	610
Tanks and containers outdoors			
Total capacity greater than 550 gallons	3,640	5,350	1,820
Total capacity 550 gallons or less	2,430	2,130	1,210
Piles	10,930	15,310	5,470
Surface impoundment	18,220	15,310	9,110
B. Disposal and treatment			
Surface impoundment	21,870	21,140	10,930
Treatment (not otherwise specified including open burning)	21,870	10,690	10,930

MINNESOTA RULES 1991

7046.0020 FACILITY AND GENERATOR FEES

6890

Thermal treatment (not including open burning)	54,670	37,180	27,340
Land treatment	54,670	37,180	27,340
Land disposal			
Active facilities	54,670	37,180	27,340
Closed facilities (includes all facilities in which waste remains after closure)	27,330	24,790	13,670

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 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 facility 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	

MINNESOTA RULES 1991

6891

FACILITY AND GENERATOR FEES 7046.0020

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| 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.

Nothing in this part precludes the applicability of the Environmental Impact Statement (EIS) cost assessment system as described in the rules of the Environmental Quality Board.

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

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

B. The owner or operator shall submit the annual facility fee 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 commissioner shall suspend further processing of the permit application until the appropriate fee is received by the commissioner.

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 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*

7046.0030 [Repealed, 11 SR 1993]

7046.0031 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 annual fees of this part.

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

Subp. 3. Retroactive fee collection. Retroactive fees must be paid by the generator for each year in which hazardous waste was generated but not disclosed, for each waste stream for a maximum retroactive period of two calendar years prior to the most current calendar year subject to fees. The retroactive fee is calculated by multiplying the statewide program fee and the current annual fee or flat annual fee, whichever applies, times the number of years, up to a maximum of two years, the generator had generated the waste. If a newly disclosed waste stream subjects a generator to a retroactive fee, the retroactive fee must be assessed as described above on the appropriate volume fee associated with the newly disclosed waste stream. If the newly disclosed waste stream subjects the generator to a higher base fee in the most recent calendar year, then the retroactive fee must be assessed as described above on the difference between the higher base fee and the lower base fee. Retroactive fees for waste produced for less than two years prior to the most current calendar year shall be calculated according to the closest number of years of production.

Subp. 4. Annual fees. An annual fee is the sum of the waste generation volume fees and the base fee. Nonmetropolitan area generators shall submit annual fees as follows:

A. A waste generation volume fee must be paid by all nonmetropolitan generators based on the amount of unsewered hazardous waste generated and method of waste management or disposal used in the calendar year. The volume

MINNESOTA RULES 1991

6893

FACILITY AND GENERATOR FEES 7046.0031

fee is assessed on a per gallon basis for liquid waste streams or a per pound basis for nonliquid waste streams. The volume fee is \$0.09 per gallon and \$0.009 per pound for each gallon and pound produced under 2,640 gallons or 26,400 pounds. The volume fee for each gallon and pound equal to or exceeding 2,640 gallons or 26,400 pounds is \$0.04 per gallon and \$0.004 per pound. The volume fee shall be multiplied by the following factors for waste streams managed by the following methods:

Management Method	Factor
Recycle, feedstock, or by-product on-site	0
Recycle, feedstock, or by-product off-site	0.67
Burned for fuel	0.67
Neutralization	0.67
Incineration	0.67
Disposal and other methods	1.00

Any sludges or residues of recycling, burning for fuel, neutralization, or incineration are subject to the volume fee.

B. A base fee must be paid by all nonmetropolitan area generators as follows:

(1) a nonmetropolitan area generator who does not qualify as a small quantity generator in part 7045.0219 must pay a base fee of \$350;

(2) a nonmetropolitan area generator, who qualifies as a small quantity generator in part 7045.0219 and is not a small quantity generator as described in subitem (3), must pay a base fee of \$105; and

(3) a nonmetropolitan area generator, who qualifies as a small quantity generator in part 7045.0219 and generates less than 100 kilograms of hazardous waste per calendar month, must pay a base fee of \$35.

Subp. 5. Follow-up action fee. A nonmetropolitan area generator is subject to payment of a follow-up action fee if the generator fails to respond within 30 days of receipt of a certified letter from the commissioner concerning the generator's noncompliance with part 7045.0240 requiring submission of a disclosure, part 7045.0216 requiring submission of an evaluation report, or part 7045.0296 requiring submission of an annual report. The agency shall charge a follow-up action fee only if the commissioner's follow-up action involves sending the generator one or more additional certified letters or causing an authorized representative of the agency to make an inspection for the purpose of obtaining the required information. The fee for each follow-up certified letter, not to include the initial certified letter, is \$25. The fee for each follow-up inspection is \$200.

Subp. 6. Payment schedule. A nonmetropolitan area generator shall submit fees within 60 days after receipt of the notice from the commissioner that the fees are due. Fees submitted after the due date are considered late.

A nonmetropolitan area generator shall submit a check for the required amount to the commissioner, made payable to the Minnesota Pollution Control Agency.

Subp. 7. Failure to submit fees. If a nonmetropolitan area generator fails to submit the required fees by the due date, the generator shall pay the fees plus 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.

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

7046.0031 FACILITY AND GENERATOR FEES

6894

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

History: *11 SR 1993; L 1987 c 186 s 15; 13 SR 1821*

7046.0040 GENERATOR STATEWIDE PROGRAM FEE.

Subpart 1. **In general.** All generators in Minnesota are subject to an annual statewide program fee equal to 68 percent of the annual fee or flat annual fee, whichever applies. Payment must be made as provided in subparts 2 and 3.

Subp. 2. **Nonmetropolitan area generators.** Nonmetropolitan area generators shall pay the statewide program fee to the commissioner at the time of payment of the annual fee or flat annual fee. A nonmetropolitan area generator who fails to pay the annual statewide program fee is considered delinquent and subject to the late fee penalty provided in part 7046.0031, subpart 7.

Subp. 3. **Metropolitan area generators.** Metropolitan area generators shall pay the statewide program fee 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 statewide program fee shall remit the statewide program fee to the commissioner not later than the last day of the month following the month of collection.

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

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

7046.0050 GENERATOR FEE EXEMPTIONS.

Subpart 1. [Repealed, 9 SR 2341]

Subp. 2. [Repealed, 11 SR 1993]

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.

Subp. 4. **Certain nonmetro area generators.** Small quantity nonmetropolitan area generators whose sole hazardous wastes are degreasing or drycleaning solvent related wastes reclaimed off-site under a maintenance agreement, lead acid batteries, gasoline tank bottoms, and scrap metal are not subject to annual fees for those calendar years for which they submit accurate disclosures under part 7045.0240, but rather are subject to a flat annual fee of \$25. For the purposes of this part, a maintenance agreement is a written agreement acceptable to the commissioner between a generator and a transporter and a reclaimer under which waste is removed from the generator's site on a regularly scheduled basis for reclamation by distillation.

If a small quantity nonmetropolitan area generator, who qualifies for this exemption, fails to submit the annual report by March 1 under part 7045.0296, the generator shall pay a full annual fee. If the generator is also subject to retroactive fees, the retroactive fees must be based on the flat annual fee of \$25.

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.

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

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

7046.0070 APPEAL PROCEDURE.

If a generator believes that the fee requested by the commissioner is in error or exceeds the hazardous waste generator fees assessed by the metropolitan area county with the highest fee structure, then the generator may appeal the fee levy. Within ten days of receipt of the fee statement from the commissioner, the generator shall provide a written appeal which includes the fee the generator has calculated and the method used by the generator in calculating the fee. After review

MINNESOTA RULES 1991

6895

FACILITY AND GENERATOR FEES 7046.0070

of the appeal, the commissioner shall send the generator a decision letter regarding the appeal. In the decision letter, the commissioner shall specify the fee to be remitted by the generator. The generator shall submit the specified fee within 30 days of receipt of the commissioner's decision letter or by the original due date, whichever is later. A generator who fails to submit the specified fee by the required date is delinquent and must pay the late fee penalty, specified in part 7046.0031, subpart 7.

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

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