

CHAPTER 7046
MINNESOTA POLLUTION CONTROL AGENCY
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. **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. 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. 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. 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. **Unsewered liquid wastes.** "Unsewered liquid wastes" means liquid hazardous wastes or hazardous wastes that contain free liquid which are not sewer liquid wastes.

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

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 item A or B. A person applying for a major modification concurrent with a permit reissuance application shall not be assessed a major modification fee.

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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.

	Permit Application Fee	Annual Facility Fee	Permit Reissuance Fee	Major Modification Fee
A. Storage				
Tanks and containers indoors				
Total capacity greater than 550 gallons	\$ 2,140	\$ 3,150	\$ 1,070	\$ 710
Total capacity 550 gallons or less	1,430	1,390	720	470
Tanks and containers outdoors				
Total capacity greater than 550 gallons	4,290	6,300	2,150	1,420
Total capacity 550 gallons or less	2,860	2,510	1,430	940
Piles	12,880	18,040	6,440	4,250
Surface impoundment	21,460	18,040	10,730	7,080
B. Disposal and treatment				
Surface impoundment	25,760	24,900	12,880	8,500
Treatment (not otherwise specified including open burning)	25,760	12,590	12,880	8,500
Thermal treatment (not including open burning)	64,400	43,800	32,200	21,250
Land treatment	64,400	43,800	32,200	21,250

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Land disposal

Active facilities	64,400	43,800	32,200	21,250
Closed facilities (includes all facilities in which waste remains after closure)	32,200	29,200	16,100	10,630

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
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 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 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 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; 16 SR 1646

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 based on the license application and licensing reports submitted by generators or other appropriate information available to the agency.

For the purposes of this part, one gallon of hazardous waste equals ten pounds of hazardous waste.

Subp. 2. Fee exemption. Nonmetropolitan area generators that generate a total of less than or equal to ten gallons or 100 pounds of hazardous waste per year are exempt from the annual fees of this part.

Subp. 2a. Fee adjustment. For very small quantity generators who submit their fee payments with their annual license renewal application required under part 7045.0248, the commissioner shall adjust the fee amount if the generator no longer qualifies as a very small quantity generator. Subparts 6 and 7 also apply to any adjusted fee statement.

Subp. 3. [Repealed, 16 SR 1646]

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 described in items A and B.

A. A 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. A volume fee is not assessed for sewer liquid waste. Very small quantity generators are exempt from volume fees.

The volume fee is assessed on a per gallon basis or a per pound basis for each waste stream. The volume fee is \$0.18 per gallon and \$0.018 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 \$0.05 per gallon and \$0.005 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 based on generator size as follows:

- (1) a large quantity generator must pay a base fee of \$350;
- (2) a small quantity generator must pay a base fee of \$130; and
- (3) a very small quantity generator must pay a base fee of \$62.

Subp. 5. [Repealed, 16 SR 1646; 16 SR 2102]

Subp. 6. **Payment schedule.** A nonmetropolitan area generator shall submit fees within 30 days after receipt of the notice from the commissioner that the fees are due or by the first day of the following calendar quarter, whichever occurs later.

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. **Late fees.** If a nonmetropolitan area generator fails to submit the required fees by the due date provided in subpart 6, the generator shall pay the fees plus a late fee as provided in item A or B and item C.

A. Large quantity and small quantity 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. Very small quantity generators shall be assessed a one-time late fee of 50 percent of the annual fee.

C. 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.

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*

7046.0040 GENERATOR STATEWIDE PROGRAM FEE.

Subpart 1. **In general.** All generators in Minnesota are subject to an annual statewide program fee equal to 52 percent of the hazardous waste fee paid annually to the agency under part 7046.0031 or to the metropolitan counties under their respective hazardous waste ordinances. 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. A nonmetropolitan area generator who fails to pay the annual statewide program fee is considered delinquent and subject to the late fee provided in part 7046.0031, subpart 7.

Subp. 3. **Metropolitan area generators.** Metropolitan area generators shall pay the statewide program fee to the county in which the generating site is located along with the hazardous waste fee collected annually by that county. The metropolitan area counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington) that are responsible for col-

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lecting 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; 16 SR 1646

7046.0045 RETROACTIVE FEE.

Subpart 1. **Applicability.** The commissioner shall assess annual and statewide program fees retroactively for each calendar year prior to the most recent calendar year subject to fees to which item A, B, or C applies.

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 volume generated exceeded the maximum volume amounts for a very small quantity generator.

Subp. 2. **Schedule.** The commissioner shall assess retroactive fees as provided in item A or B. 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 appeal procedure provided in part 7045.0070.

A. For large quantity and small quantity generators, retroactive fees shall be assessed for a maximum retroactive period of two calendar years prior to the most recent calendar year subject to fees until June 30, 1992. Effective July 1, 1992, retroactive fees shall be assessed for a maximum retroactive period of three calendar years prior to the most recent calendar year subject to fees.

B. For very small quantity generators, effective July 1, 1992, retroactive fees shall be assessed for a maximum retroactive period of three calendar years prior to the most recent calendar year subject to fees. Retroactive fees shall not be assessed for the period prior to January 1, 1991.

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 sum of the most recent annual fee and the statewide program fee that would be required under the license by the number of retroactive calendar years established under subpart 2.

B. For persons subject to fees under subpart 1, item B, the fee is calculated by multiplying the sum of the most recent volume fee and statewide program fee that would be required for the waste omitted from the license by the number of retroactive calendar years established under subpart 2. If the additional volume changes the generator's size category used in determining the base fee under part 7046.0031, subpart 4, item B, an additional retroactive fee shall be assessed for the difference between the higher base fee and the lower base fee. The statewide program fee shall be applied to the difference in the base fee. The base fee revision and the statewide program fee shall be multiplied by the number of retroactive calendar years established under subpart 2.

C. For persons subject to fees under subpart 1, item C, the fee is calculated by determining the difference between the higher base fee and the lower base fee. The statewide program fee shall be applied to the difference in the base fee. The base fee revision and the statewide program fee shall be multiplied by the number of retroactive calendar years established under subpart 2.

Statutory Authority: *MS s 116.12*

History: 16 SR 1646

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. A response action is removal or remedial action taken according to 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. 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.

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*

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 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, 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; 16 SR 1646*