

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Waste Management
Department of Environmental Protection, DWWM TITLE NUMBER: 33

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 24

TITLE OF RULE BEING AMENDED: Hazardous Waste Management Fee

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 153

SECTION §64-3-1(d), PASSED ON April 8, 2009

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE

FOLLOWING DATE: June 1, 2009



Authorized Signature

FILED

TITLE 33
LEGISLATIVE RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WASTE MANAGEMENT

2009 MAY 11 PM 2: 29

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 24
HAZARDOUS WASTE MANAGEMENT FEE

§33-24-1. General.

1.1. Scope. -- The purpose of this rule is to establish procedures for the assessment and collection of hazardous waste management fund fees pursuant to W. Va. Code §§22-18-22-(b) and (c).

1.2. Authority. -- W. Va. Code §§22-18-22(b), (c), and 29A-1, et seq.

1.3. Filing Date. -- May 11, 2009.

1.4. Effective Date. -- June 1, 2009.

1.5. Incorporation by Reference. -- Whenever either federal statutes or rules or state statutes or rules are incorporated by reference into this rule, the reference is to the statute in effect on July 1, 2008.

§33-24-2. Definitions.

2.1. Definitions of all terms used shall have the meaning prescribed in the State Hazardous Waste Management Act, W. Va. Code §22-18-1 et seq. and the rules promulgated thereunder.

§33-24-3. Fee Assessment and Deposits.

3.1. An annual certification fee shall be assessed for all facilities that manage hazardous waste. Calculation of the certification fee assessment shall be in accordance with the requirements of section five of this rule. If a fee schedule projection for any year shows the annual certification assessment would generate an amount in excess of that authorized by WV Code §22-18-22(b), the assessment will be equitably prorated to ensure compliance with the statute.

3.2. Deposits to the Fund.

3.2.a. All monies collected from the fees assessed pursuant to this rule shall be deposited in the State Treasury in a special fund designated "The Hazardous Waste Management Fee Fund."

3.2.b. Deposits shall include all certification fee assessments and all interest accruing on investments and deposits of the Fund.

§33-24-4. Information and Reporting Requirements.

4.1. Annual Reporting.

Each calendar year, all large quantity generators (LQG), small quantity generators (SQG), conditionally exempt small quantity generators (CESQG), and treatment, storage and disposal facilities (TSD) shall provide the information to the Secretary on the form identified as Appendix I attached to this

rule and shall submit the completed form to the department, along with the required fee payment, by the first day of October.

4.2. Review of Information. All information submitted pursuant to this rule is subject to review by the Secretary to ensure that accurate and verifiable information is obtained. The Secretary may request clarifications, corrections, or additional information to supplement the information received to enable the department to properly calculate or recalculate fee assessments.

4.3. Exemptions.

4.3.a. No fee shall be assessed on the management of any wastes that have been excluded from classification as a hazardous waste by state or federal law or rule.

4.3.b. No fee shall be assessed on the management of waste from any underground storage tanks containing regulated substances that are registered pursuant to the requirements of Title 33 CSR Series 30 and which are otherwise subject to this rule; Provided however, that other management of hazardous waste at facilities containing such underground storage tanks is subject to the requirements of this rule.

§33-24-5. Fee Assessment.

5.1. All persons subject to this rule shall annually pay the hazardous waste management fee in accordance with the following schedule:

<u>Category</u>	<u>Fee</u>
TSD	\$3,000 per facility
Large Quantity Generator	\$2,200 per facility or a maximum of \$5,600 for multiple facilities owned by the same person, whichever is lower
Small Quantity Generator	\$500 per facility or a maximum of \$5,000 for multiple facilities owned by the same person, whichever is lower
Conditionally Exempt Small Quantity Generator	\$100 per facility

5.2. Payment of Fees.

5.2.a. Fee assessments shall be remitted in accordance with the form identified as Appendix I and attached to this rule.

5.2.b. A fee assessment paid pursuant to this rule shall be made by submitting a money order, check, or electronic funds transfer made payable to the Hazardous Waste Management Fee Fund along with the completed Appendix I form. Such fee payment must be transmitted to the Secretary. If such fee payment is mailed, then the payment must be postmarked by the date specified by these rules. Electronic funds transfers shall be made in accordance with procedures established by the State Treasurers Office.

5.2.c. If the facility of a person subject to this rule is described by more than one of the categories identified in section 5.1, only the category resulting in the highest fee shall apply. No person shall be required to pay more than one category of fees for each facility listed in section 5.1.

5.2.d. If a person owns or operates more than one facility in the large quantity generator or small quantity generator category, such person shall be required to pay the fee established in section 5.1 for each facility or the maximum amount for multiple facilities, whichever is less.

5.3. Fees submitted after November 15 of each calendar year are subject to a late charge of twenty-five percent of the fee assessed. Persons with a facility subject to this rule who have not paid the fee assessment and any late charge by December 31 of each calendar year may be subject to the provisions of W. Va. Code §22-18.

5.4. Reconsideration of Assessed Fees.

5.4.a. Any person assessed a fee for a facility pursuant to this rule may request the Secretary to reconsider the amount of fee assessed. Such request, accompanied by supporting documentation, must be submitted to the Secretary, in writing, by August 15 of the year for which the assessment is due, and must specify the reasons for requesting such reconsideration.

5.4.b. Upon reviewing a request submitted pursuant to subdivision 5.4.a., the Secretary shall reconsider the applicable calculations and shall respond in writing. If the fee assessment is revised, the Secretary shall issue a revised fee assessment invoice.

5.4.c. Any person aggrieved or adversely affected by a decision of the Secretary made and entered in accordance with the provisions of this section or by the failure or refusal of the Secretary to act pursuant to this section may appeal to the environmental quality board in accordance with the provisions of W. Va. Code §22b-1.

5.5. Reassessment of Fee.

The Secretary shall not be authorized to recalculate the fee assessments provided for by section 5.1. of this rule, except as provided for by section 5.4 of this rule.

33CSR24

West Virginia Department of Environmental Protection
 Hazardous Waste Management Program
 Hazardous Waste Management Fee Fund Appendix I

Generator:
EPA Identification Number:
Location:
Mailing Address:

Operation Manager's Name & Title: _____
 Mailing Address: _____

Telephone Number: _____ E-Mail Addr: _____

Contact Person Name & Title: _____
 Mailing Address: _____

Telephone Number: _____ E-Mail Addr: _____

Has your facility ceased generating hazardous waste? Yes _____ No _____
 If so, what is the date that your facility ceased generating waste? _____

Please review the categories below and mark an "X" next to the category that represents your facility's current hazardous waste generating status.

Place an "X" in one of the categories below	Generating Category	Fee Amount Per Facility
	Treatment, Storage or Disposal Facility (Permitted)	\$3,000
	Large Quantity Generator (LQG) Generates 1000 kg (about 2,200 pounds or 300 gallons) or more of hazardous waste, or more than 1 kg of acutely hazardous waste in a month	\$2,200
	Small Quantity Generator (SQG) Generates more than 100 and less than 1,000 kg (between 220 and 2,200 pounds or about 25 to under 300 gallons) of hazardous waste, or no more than 1 kg acutely hazardous waste in a month	\$500
	Conditionally Exempt Small Quantity (CESQG) Generates no more than 100 kg (about 220 pounds or 25 gallons) of hazardous waste or no more than 1 kg of acutely hazardous waste in a month	\$100
	No longer generating hazardous waste, but still in business	
	No longer in business, closed	

Fee payments are due October 1 of each calendar year. Fees submitted after November 15 of each calendar year are subject to a late charge of twenty-five percent (25%) of the fee assessed. Persons with a facility subject to this rule who have not paid the fee assessment and any late charge by December 31 of each calendar year may be subject to the provisions of chapter twenty-two, article eighteen of the West Virginia Code. Persons with multiple facilities subject to this rule may utilize copies of the attachment to Appendix I to comply with this rule.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assume that qualified personnel properly gather and evaluate the information as submitted. Based on my inquiry of the person or persons who manage the system, as the person directly responsible for gathering this information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NAME: _____ **TITLE:** _____ **DATE:** _____

**West Virginia Department of Environmental Protection
Hazardous Waste Management Program
Hazardous Waste Management Fee Fund - Appendix I – Multiple Site Form**

Company Name:	Responsible Corporate Official:
Mailing Address:	Title: Telephone No: E-mail Address:

Site Name & Location: Physical Address: EPA ID No:	Site Contact Person: Title: Mailing Address: Telephone No: E-Mail Address:
Current Status (mark applicable box)	
<input type="checkbox"/> TSD <input type="checkbox"/> LQG <input type="checkbox"/> SQG <input type="checkbox"/> CESQG <input type="checkbox"/> No Longer a generator of hazardous waste, but still in business <input type="checkbox"/> No longer in business	

Site Name & Location: Physical Address: EPA ID No:	Site Contact Person: Title: Mailing Address: Telephone No: E-Mail Address:
Current Status (mark applicable box)	
<input type="checkbox"/> TSD <input type="checkbox"/> LQG <input type="checkbox"/> SQG <input type="checkbox"/> CESQG <input type="checkbox"/> No Longer a generator of hazardous waste, but still in business <input type="checkbox"/> No longer in business	

Site Name & Location: Physical Address: EPA ID No:	Site Contact Person: Title: Mailing Address: Telephone No: E-Mail Address:
Current Status (mark applicable box)	
<input type="checkbox"/> TSD <input type="checkbox"/> LQG <input type="checkbox"/> SQG <input type="checkbox"/> CESQG <input type="checkbox"/> No Longer a generator of hazardous waste, but still in business <input type="checkbox"/> No longer in business	