

Program Implementation Policy

Hazardous Waste/Toxics Use Reduction

Policy Title: Hazardous Waste Fees for Remediation Wastes – Interim Policy

Policy Number: 2000-PO-003 [Supersedes 2000-PO-001, 1999-PO-003, 1997-PO-001]

Effective Date: November 2, 2000

Purpose

This policy clarifies and supersedes previous Department of Environmental Quality (DEQ) policies (including policy 2000-PO-001, 1999-PO-003 and 1997-PO-001) regarding the collection of fees for hazardous wastes that are generated from site remediation activities approved by DEQ or the federal Environmental Protection Agency (EPA) under a formal agreement or order.

This policy is intended to facilitate remediation of contaminated sites through cleanup actions implemented under DEQ or EPA oversight by exempting hazardous waste generator fees for remediation waste and investigation-derived waste (IDW) that are generated and managed on-site and reducing fees for IDW managed at off-site treatment, storage or disposal facilities. This policy is also intended to align the DEQ's generator fee structure with the level of effort required of the State's RCRA program to oversee on-site and off-site management activities.

Discussion

Under Oregon's current hazardous waste regulations, generators of hazardous wastes are required to pay annual fees, based on the volumes of wastes that are generated in each year. There are actually two types of annual fees that apply to hazardous waste generators: the annual "hazardous waste activity verification fee," commonly referred to as the generator fee, which is assessed based on generator status (i.e., large or small quantity generator), and the "hazardous waste generation fee," referred to as the waste management fee, which is assessed on

waste streams based on quantity and management method.

Current rules provide no exemption or consideration for media contaminated with hazardous waste that are generated from cleanup actions, i.e., "remediation waste" and "investigation-derived waste" (see definitions page 3), as opposed to hazardous wastes generated on an ongoing basis from industrial or commercial operations. However, DEQ has determined that remediation wastes deserve special consideration with regard to the levy of hazardous waste generator fees.

DEQ will waive all generator fees for "remediation waste" and "investigation-derived waste (IDW) that are generated and managed only on-site (see definitions, page 3). Remediation waste and IDW that are managed off-site will still be subject to certain of these generator fees. **Note: Hazardous waste that is generated from cleanup activities that are not subject to DEQ or EPA oversight and approval, and "as generated" hazardous wastes (i.e., wastes from ongoing industrial or commercial operations) will continue to be subject to all generator fees.**

Conditions for Fee Exemption

Table 1 clarifies which generator fees apply to remediation waste based on several conditions: whether the waste is managed on-site or shipped off-site for treatment, storage or disposal, and whether it was generated from cleanup activities conducted under DEQ or EPA oversight through a formal agreement or order. The table also notes the applicable waste management requirements.



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Last Updated: 10/08/09

**Table 1
Generator Fees Applicable to IDW and Remediation Waste**

	MANAGED ON-SITE	MANAGED OFF-SITE
REMIEDIATION WASTE	<ul style="list-style-type: none"> ◆ Do not count towards generator status. ◆ Report waste generation and management in annual HAZARDOUS WASTE report. ◆ No fees apply. ◆ Wastes are managed under site-specific requirements of cleanup program order or formal agreement; does not apply to voluntary letter agreement or independent cleanup program agreement. 	<ul style="list-style-type: none"> ◆ Count toward generator status. ◆ Report waste generation and management in annual HW report. ◆ Annual HW activity verification fee (based on generator status) and HW generation fee (based on quantity and management method) apply. ◆ Generator must manage as hazardous wastes (e.g., manifesting, use of a TSD facility).
INVESTIGATION-DERIVED WASTE	<ul style="list-style-type: none"> ◆ Do not count towards generator status. ◆ Report waste generation and management in annual HAZARDOUS WASTE report. ◆ No fees apply. ◆ Wastes are managed under site-specific requirements of cleanup program order or formal agreement; does not apply to voluntary letter agreement or independent cleanup program agreement. 	<ul style="list-style-type: none"> ◆ Count toward generator status. ◆ Report waste generation and management in annual HW report. ◆ Annual HW activity verification fee applies; HW generation fee does not apply if cleanup is conducted under formal State/Federal agreement or order. ◆ Generator must manage wastes as hazardous waste.

Waste Management

Remediation waste and IDW that is generated and managed on-site is subject to a site-specific cleanup order or agreement of DEQ’s Cleanup Program. IDW and remediation wastes that are managed on-site need not be counted to determine generator status or pay generator fees. However, on-site waste management must be reported to DEQ in the annual hazardous waste report.

Generators of IDW and/or remediation waste that is shipped off-site must count these wastes to determine their accurate generator status, and are subject to the annual activity verification fee based on their true generator status. Put simply, all hazardous wastes that are managed off-site apply to a site’s generator status. So, if a site generates more than 220 pounds (either IDW or remediation waste, or a combination of cleanup and industrial hazardous waste) and sends it off-site in a calendar month, the site would be a regulated generator under RCRA, and would be required to manifest the waste and ensure appropriate management and disposal at a permitted TSD facility. In addition, generators of remediation wastes that are managed at off-

site TSD facilities are subject to hazardous waste generation fees.

Analysis

This policy is adopted to facilitate cleanup of contaminated sites under DEQ or EPA oversight by removing fee-related disincentives. DEQ recognizes that the waste characterization and counting necessary for determining generator fees on remediation wastes that are managed on-site could needlessly complicate cleanups. To encourage thorough site investigations, DEQ exempts all investigation-derived wastes, whether managed on-site or off-site, from the annual hazardous waste generation fee. The annual activity verification fee will still apply to regulated quantities of waste managed off-site.

This policy also aligns the generator fee structure with the level of effort required by the State’s RCRA program to oversee on-site and off-site management activities. Remediation wastes that are not managed on-site must be managed at off-site RCRA-regulated treatment, storage and disposal facilities, and the fees will be used to support DEQ’s oversight of those facilities and activities.

Definitions

Remediation wastes are defined as all solid and hazardous waste and all media (including groundwater, surface water, soils and sediments) and debris that contain listed hazardous waste or that themselves exhibit a hazardous characteristic and are managed for implementing cleanup. For purposes of this policy, remediation wastes subject to the exemption are those that are generated as a result of cleanup actions conducted under a formal agreement or order with DEQ or Federal EPA. This includes waste generated from removal or remedial activities (including spill response activities) being conducted under the authority of Oregon's Cleanup Program through a formal agreement or order, RCRA corrective actions, and Federal Superfund actions.

Investigation-derived wastes (IDW), which are often considered a subset of remediation wastes, are wastes that are generated from field investigation activities, approved and overseen by DEQ or EPA, specifically designed to determine the nature and extent of contamination. IDW is typically generated during the site assessment or remedial investigation and feasibility study stage of a cleanup. The critical determination to be made prior to categorizing waste as IDW is whether the waste was generated from an activity which determines the nature and extent of contamination. IDW includes, but is not limited to: drilling mud, cuttings, and purge water from test borings and well installation; purge water, soil and other materials from collection of samples; contaminated personnel protective equipment, and solutions used to decontaminate non-disposable protective clothing and equipment used during field investigation activities. IDW does not include wastes that are generated from actual removal or remedial activities.

On-site is defined under DEQ's Cleanup Program rules (OAR 340-122-115).