

Hazardous Waste Fees for Remediation Wastes



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Document Development

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1. Purpose

This Internal Management Directive (IMD) clarifies and supersedes previous Department of Environmental Quality (DEQ) policies (including policy 2000-PO-003, 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 undertaken or approved by DEQ or the federal Environmental Protection Agency (EPA).

This IMD establishes when and how DEQ will charge the \$200 RCRA Site ID fee. DEQ occasionally issues provisional RCRA Site Identification numbers after hours and for emergency cleanups. EPA authorized a procedure for rapid issuance of EPA Site Identification numbers to hazardous waste generators and transporters during spills and other unanticipated events. EPA regional offices or states can issue provisional numbers to hazardous waste generators and transporters who do not obtain identification numbers through standard procedures during emergencies and other unusual circumstances to streamline the transport of hazardous waste to authorized hazardous waste management facilities.¹ Historically, DEQ has not transferred these provisional numbers to Your DEQ Online; therefore, DEQ has not charged a \$200 fee for a provisional RCRA number. This IMD creates a process for DEQ staff to input provisional numbers into Your DEQ Online, and ensures that DEQ or EPA pay the fee, as required by Oregon Revised Statute (ORS) 465.077.

The purpose of this IMD is 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) generated and managed on-site, and reducing fees for IDW managed at off-site treatment, storage or disposal facilities. This IMD aligns the DEQ's generator fee structure with the level of effort required by the DEQ's Resource, Conservation and Recovery Act (RCRA) program in overseeing on- and off-site management activities.

The DEQ Cleanup Program employs EPA's Area of Contamination Policy for on-site remedial action involving consolidation and containment of contaminated soil that may contain RCRA hazardous waste constituents. Under this policy, EPA has not defined this contaminated media as solid waste provided the party undertaking the cleanup is a federal or state agency and/or a private party performing or under DEQ formal agreement or order.

¹ 45 FR 85022, 85023 (December 24, 1980), rule related notice from Douglas M. Costle, Administrator Environmental Protection Agency on Availability of Provisional EPA Identification Numbers.

2. Applicability

This IMD applies to the collection of fees for hazardous wastes generated from site remediation activities. This IMD does not apply to voluntary letter agreement or independent cleanup program agreements.

DEQ RCRA and Cleanup Staff will use this IMD to determine when to charge the \$200 application fee for the RCRA Site ID number. This IMD establishes the process for Cleanup Staff issuing provisional numbers and how to coordinate with the Hazardous Waste Program to pay for these numbers. This IMD also applies to RCRA and Cleanup staff charging EPA for RCRA site ID numbers.

The \$200 fee applies to anyone requesting a new RCRA Site ID number including:

- Hazardous waste generators applying for a new ID number to ship manifested waste.
Note: Conditionally Exempt Generators (CEGs) are not required to obtain an ID number but will be charged the application fee for new numbers if requested.
- Hazardous waste remediation site owners/contractors who generate or transport regulated amounts of Hazardous Waste as a result of their cleanup activities.
- Businesses generating regulated amounts of hazardous waste chemicals at their facility.
- Hazardous Waste Transporters.
- Hazardous Waste Transfer Facilities.
- Hazardous Waste Treatment, Storage or Disposal Facilities.
- Recyclers of Hazardous Waste.
- Marketer or Burners of Hazardous Waste Fuel.
- Used Oil Collection Centers, Transporters, Transfer Facilities, Marketers, Off-Speculation Used Oil Burners or Used Oil Processors/Re-refiners.
- Large Quantity Handlers of Universal Waste, Off-Site Universal Waste Collection Sites, Pesticide Collection Programs or Destination Facilities for Universal Waste.
- Department of Environmental Quality Remediation Removal Activities.
- Environmental Protection Agency Remediation Removal Activities.

DEQ issues the RCRA Site Identification Number to a business at the location specified on the application; the business cannot transfer the number to a new location. Businesses that move will have to pay the \$200 fee for a new number at the new location.

The \$200 fee applies unless specifically exempted by ORS 465, Oregon Administrative Rule (OAR) § 100-106 and this IMD.

3. Summary

Under Oregon's current hazardous waste regulations, DEQ requires generators of hazardous waste to pay certain annual fees, based on the volumes of wastes generated annually. There are two types of annual fees that apply to hazardous waste generators: (1) The annual “*hazardous waste activity verification fee*,” commonly referred to as the generator fee, which is assessed based on generator status (i.e., large quantity- or small quantity generator), and (2) the “*hazardous waste generation fee*,” referred on DEQ invoices as the waste management fee, which is assessed on individual waste streams based on the quantity and management method.

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

DEQ intends to waive all generator fees for “remediation waste” and “investigation-derived waste” (IDW) generated and managed only *on-site* (see definitions). Remediation waste and IDW managed *off site* will still be subject to certain generator fees. **Note: Hazardous waste 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, commercial operations) will continue to be subject to all generator fees.**

This IMD examines which generator fees apply to remediation waste based on two conditions: 1) Whether the waste is managed on-site or shipped off-site for treatment, storage or disposal, and 2) whether it was generated from cleanup activities conducted under DEQ or EPA oversight through a formal agreement or order. The IMD also notes the applicable waste management requirements to on- and off-site remediation waste.

4. Background

The \$200 application fee for the RCRA Site ID Number began on October 1, 2003 with passage of Senate Bill 196. This Bill raised hazardous waste generator fees and created a \$200 application fee for processing new RCRA Site Identification Numbers. The RCRA Site Identification number is also known as the Generator ID Number or U.S. EPA ID Number.

The applicable law includes ORS 466.077 Fee for generators of hazardous waste to obtain identification number. (1) Generators of hazardous waste who are required to obtain an EPA identification number from the DEQ pursuant to 40 C.F.R. 262.12 shall pay to the department a one-time processing fee of \$200 at the time of submitting an application for the identification number. (2) Fees paid under this section are continuously appropriated to the department to pay the costs of implementing ORS 466.005 to 466.385.

The Federal Regulations have three requirements to obtain an identification number.

The generator requirement of 40 CFR § 262.12 the EPA identification numbers. (a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator. (b) A generator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700-12. Upon receiving the request the Administrator will assign an EPA identification number to the generator. (c) A generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

The transporter requirement of 40 CFR § 263.11 EPA identification number. (a) A transporter must not transport hazardous wastes without having received an EPA identification number from the Administrator. (b) A transporter who has not received an EPA identification number may obtain one by applying to the Administrator using EPA Form 8700-12. Upon receiving the request, the Administrator will assign an EPA identification number to the transporter.

The Treatment Storage and Disposal Facility (TSDF) requirement of 40 CFR § 265.11 Identification number. Every facility owner or operator must apply to EPA for an EPA identification number in accordance with the EPA notification procedures.

5. Definitions

Area of Contamination Policy: In what is typically referred to as the area of contamination (AOC) policy, EPA interprets RCRA to allow certain discrete areas of generally dispersed contamination to be considered RCRA units (usually landfills). Because an AOC is equated to a RCRA land-based unit, consolidation and *in situ* treatment of hazardous waste within the AOC does not create a new point of hazardous waste generation for purposes of RCRA. This interpretation allows waste to be consolidated or treated *in situ* within an AOC without triggering land disposal restrictions or minimum technology requirements. The AOC interpretation may be applied to any hazardous remediation waste (including non-media wastes) that is in or on the land. Note that the AOC policy only covers consolidation and other *in situ* waste management techniques carried out within an AOC. For *ex situ* waste management or transfer of wastes from one AOC to another, see discussion of corrective action management units, below. The AOC Policy was first articulated in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). See 53 FR 51444 for detailed discussion in proposed NCP preamble; 55 FR 8758-8760, March 8, 1990 for final NCP preamble discussion. See also, most recent EPA guidance, March 13, 1996 EPA memo, "Use of the Area of Contamination Concept During RCRA Cleanups."

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, that are specifically designed to determine the nature and extent of contamination. IDW is typically generated during the site assessment, remedial investigation or feasibility study stage of a cleanup project. The critical determination to be made prior to categorizing waste as IDW is whether the waste was generated from an activity related to determining 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 for purposes of ORS 465.315(3), means the areal extent of contamination and all suitable areas in close proximity to the contamination necessary for implementation of a removal or remedial action.

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 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.

6. Acronyms Used in This Directive

DEQ – Department of Environmental Quality

EPA – Environmental Protection Agency

IDW – Investigation derived waste

OAR – Oregon Administrative Rules

OERS – Oregon Emergency Response System

ORS – Oregon Revised Statutes

RCRA – Resource Conservation and Recovery Act

RP – Responsible Party

TSDF – Treatment, Storage and Disposal Facility

7. Directive

- 7.1 Applicability: This IMD applies to the collection of fees for hazardous wastes that are generated from site remediation activities. This IMD does not apply to voluntary letter agreement or Independent Cleanup program agreements.
- 7.2 Hazardous Waste Fees for Remediation Wastes: DEQ has determined that remediation wastes merit special consideration with regard to the levy of hazardous waste generation fees. If the conditions in 7.2.3 are met the generator is exempt from the following fees

7.2.1 Fee Exemption from “Hazardous Waste Activity Verification Fee” The annual generator fee is assessed based on generator status.

7.2.2 Fee Exemption from “Hazardous Waste Generation Fee” Invoiced as the waste management fee assessed on individual waste streams based on quantity and management method.

7.2.3 Conditions for Meeting Fee Exemption. To meet the exemption from the fees the remediation waste must be managed:

1. On-site
2. Conducted under DEQ or EPA oversight
3. Formal Agreement and Order

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 will continue to be subject to all generator fees.

7.2.4 Management of On-site Remediation Wastes.

1. Remediation waste and IDW that is generated and managed on-site is subject to the rules and/or a site-specific cleanup order or agreement of DEQ’s Cleanup Program.
2. On-Site waste management must be identified and reported to DEQ in the annual hazardous waste report.
3. IDW or remediation wastes that are managed on-site do not need to be counted for purposes of determining generator status or for paying generator fees.

7.2.5 Management of Off-site Remediation Waste.

1. Must count these wastes to determine their accurate generator status
2. Are subject to the annual activity verification fee based on their true generator status.
3. Generators of remediation wastes that are managed at off-site TSDs are subject to hazardous waste generation fees.

Note: ALL hazardous wastes that are managed off-site apply to a site's generator status.

7.3 Charging the \$200 RCRA Site ID Number Fee: Persons required to pay the \$200 RCRA Site ID Number Fee:

7.3.1. Anyone requesting a new RCRA Site ID Number including:

1. Hazardous Waste generators applying for a new ID number to ship manifested waste. Note: Conditionally Exempt Generators (CEGs) are not required to obtain an ID number but will be charged the application fee for new numbers.
2. Hazardous Waste remediation site owners/contractors who generate or transport regulated amounts of Hazardous Waste as a result of their cleanup activities.
3. Businesses generating regulated amounts of Hazardous Waste chemicals at their facility.
4. Hazardous Waste Transporters.
5. Hazardous Waste Transfer Facilities.
6. Hazardous Waste Treatment, Storage or Disposal Facilities.
7. Recyclers of Hazardous Waste.
8. Marketer or Burners of Hazardous Waste Fuel.
9. Used Oil Collection Centers, Transporters, Transfer Facilities, Marketers, Off-Speculation Used Oil Burners or Used Oil Processors/Re-refiners.
10. Large Quantity Handlers of Universal Waste, Off-Site Universal Waste Collection Sites, Pesticide Collection Programs or Destination Facilities for Universal Waste.
11. DEQ Remediation Removal Activity Sites.
12. EPA Remediation Removal Activity Sites.

7.3.2. RCRA Site ID Number Fee location. The RCRA Site Identification Number is issued to the person at the location specified on the application and cannot be transferred to a new location. Companies that move will have to pay the \$200 fee for a new number at their new location.

7.3.3. Exemptions from paying the \$200 Site ID Number fee.

1. CEGs that have previously deactivated their RCRA Site ID number and want to reactivate their original number. CEGs will not be charged the \$200 fee if they need to reactivate their ID number due to an event that causes them to become a small or large quantity generator or for other reasons.
2. Businesses with ownership changes if the existing business already has an active RCRA Site ID number. This exemption is only for a change

in ownership. It does not apply to new businesses operating where an existing business previously operated.

3. The fee will not be collected from businesses with an approved Abandoned Hazardous Waste Fee Relief form.

7.4 Provisional RCRA Site ID Numbers:

7.4.1 Issuing provisional numbers issued to DEQ's Cleanup Program. DEQ's Cleanup and Emergency Response Program can issue provisional numbers for remedial action cases with ORP prefix for Emergency Cleanup cases. DEQ can issue provisional numbers for the following types of cleanups:

1. Drug lab cleanups. Calls will go into OERS who will contact the DEQ Duty Officer. The Duty Officer will assign the next available ORP number from the provisional number log book. The Duty Officer will notify the local police of the number for the drug lab cleanup. The local or state police contact will sign and fill out the manifest.
2. Spills of hazardous material where the responsible party is unavailable, unknown or unwilling to perform cleanup. Calls will go into OERS who will contact the DEQ Duty Officer. The Duty Officer will assign the next available ORP number from the provisional number log book. DEQ's Cleanup Program will sign and fill out the manifest.

7.4.2 Entering provisional numbers into Your DEQ Online. The process for entering provisional numbers will include:

1. Once a month the Cleanup Program's Emergency Response Team will send an email to the Hazardous Waste Program's RCRA Site ID Number Contact to request the numbers be entered into Your DEQ Online. The email will include the Cleanup Project number, the provisional number issued, the address the number was issued to, and any other information available about the site.
2. The RCRA Site ID Number Contact will input the number into Your DEQ Online. If the address that is being issued a provisional number is already assigned a number in Your DEQ Online, the Multiple ID number policy should be followed to come up with an alternate address to issue the provisional number to.
3. The RCRA Site ID Number Contact will route a Memo to the Revenue Accountant through the Business Office Accounting Manager notifying DEQ's Business Office that the Cleanup Program will pay the RCRA Site ID fund the \$200 fee for the number. The Memo will include the Cleanup Project number, the provisional number issued, the fund code, and the index program cost account.
4. The Business Office will transfer the \$200 site ID fee from the Cleanup index program account to the Site ID Program and notify the Hazardous Waste and Cleanup Programs once this has been completed.

7.4.3 Closing out provisional numbers.

1. Drug lab cleanups. When the DEQ Cleanup program receives the manifest for the cleanup, the Cleanup Program will send an email to the Hazardous Waste Program requesting the Hazardous Waste Program withdraw the ORP number. The email will note the provisional number to be withdrawn.
2. Cleanup Program Cleanups. When the cleanup is completed and the site is closed, the Cleanup Program will send an email to the Hazardous Waste Program requesting the Hazardous Waste Program withdraw the number. The email will note the provisional number to be withdrawn.
3. Upon receiving an email from the Cleanup Program, the RCRA Site ID number Contact will withdraw the number from Your DEQ Online.

7.4.4 Provisional numbers issued to EPA. If EPA cleans up a site and needs a provisional number, DEQ will follow the process noted above in 7.1 through 7.4 with the following exceptions:

1. The Cleanup Program Duty Officer can issue a provisional number to EPA but will note the appropriate EPA cleanup contact as the contact for the number.
2. The RCRA Site ID number Contact will input the provisional number into Your DEQ Online with the appropriate EPA contact included.
3. DEQ will invoice the \$200 Site ID Fee to the EPA contact.
4. When the Cleanup Program has information that the cleanup is completed and the site is closed, the Cleanup Program will send an email to the Hazardous Waste Program to withdraw the number. The email will note the provisional number to be withdrawn.

8. List of tables and/or figures [if applicable]

Generator Fees Applicable to IDW and Remediation Waste

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

9. Appendices [if applicable]

10. Record of Revisions to IMD

Revision	Date	Changes	Editor
Cover page	6/2017	Address change	Acomb