

**REPORT OF THE DEPARTMENT OF HEALTH ON**

**A FEE RECOVERY SYSTEM FOR THE**

**HAZARDOUS WASTE MANAGEMENT PROGRAM**

**TO**

**THE GOVERNOR**

**AND**

**THE GENERAL ASSEMBLY OF VIRGINIA**



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## EXECUTIVE SUMMARY

The study, mandated by the General Assembly as part of its consideration of Item 422 in the budget bill for FY's 83 and 84, provides an overall review of experience in other states in application of fees to hazardous waste programs. Increased resource requirements are identified for the hazardous waste management program to undertake a full permitting program, facility inspection with a 1-4 year frequency, emergency response and program administration. Current staffing, responsibilities and program tasks are reviewed.

Issues that have been identified with regards to fee systems are the impact on enforcement, equity of fee distribution, setting fees by level of service, full vs. partial funding, declining federal program funding, and inaccuracy of revenue projections because of waste projection errors. All of these considerations are used in the evaluation of fees and will be essential modifiers in the final rate setting for any fee system authorized. The fees proposed would be for permitting, monitoring and surveillance and hazardous waste response.

The report concludes that a fee system for funding a portion of the hazardous waste management program is possible and can be implemented by July 1, 1984, that legislative authority is required, and that additional general fund appropriations are required for FY 1983-84 with increased full time employee requirements of 10 positions in FY 1983-84 and 6 positions in FY 1984-85.

The report proposes an implementation schedule, with the initial fee collections scheduled for July 1984, a report to the 1985 General Assembly and annual review of fee schedules in April-May, 1985 and every year thereafter.

The report recommends:

- o Amendment to Title 32.1, Section 32.1-178 authorizing the Board of Health to assess fees on generators, transporters and treatment/storage/disposal facility operators for the financing of the hazardous waste management program.
- o Continued general fund appropriation.
- o Authorization of 10 positions for the permitting program with funding from the general fund, the special fund based on fee collections and EPA federal funds appropriated for future years.
- o Board of Health adoption of regulations and fee schedule to be effective by July 1984.
- o Increased general fund authorization of \$221,700 for FY 1983-84 to initiate and fund the permitting program to allow for implementation of a fee system in the FY 1984-85.
- o Implementation of funding for the hazardous waste management program by the funding alternative of general fund appropriations and special fees with EPA matching grants.

## FUNDING REQUIREMENTS FOR HAZARDOUS WASTE MANAGEMENT

### I. INTRODUCTION

The Department of Health is assigned the responsibility to supervise and manage the hazardous waste program for the Commonwealth of Virginia as set forth in Title 32.1, Section 32.1-177 et al, Code of Virginia (1950) as amended. The program has been designed to be consistent with the federal Resource Conservation and Recovery Act program and has been developed with limited state resources supplemented by EPA grant funds earmarked for program development. During the 1982 session of the General Assembly, a request for funding of additional positions for the program was not approved but a study was directed to explore the feasibility of establishing a fee recovery system which would defray expenses for part or all of the Hazardous Waste Management program through fees paid by those benefitting from the service.

### II. AUTHORITY

The General Assembly of 1982 amended Item 422 of the Appropriations Act for Land Management to require the Commissioner of Health to conduct and submit a study of hazardous waste fees for part or all of the Hazardous Waste Management program. The amendment reads as follows:

"The Commissioner shall develop a plan and prepare legislation to fund all or part of the hazardous waste management program through special fees and charges. The Commissioner shall submit his report to the 1983 General Assembly for consideration."

### III. SCOPE OF STUDY

The Study examined hazardous waste management program requirements, funding alternatives, fee schedules, and experience in other states. The study provides a means for alternate funding. The fee schedule study is not applied to solid waste activities as these primarily involve local governmental entities.

### IV. PROGRAM REQUIREMENTS

The hazardous waste management program as established in Section 32.1-177 et seq., of the Code of Virginia, provides for the following Board of Health duties and responsibilities in hazardous waste management:

- o Provide general supervision and control of hazardous waste management activities in the Commonwealth;
- o Provide technical assistance and advice concerning all aspects of hazardous waste management;
- o Collect data and information on identification of and amounts of waste generated, transported, stored, treated or disposed of or recovered;
- o Require persons who generate, collect, transport, store or provide treatment or disposal to maintain records, manifests and report;
- o Designate hazardous wastes;
- o Consult and coordinate with other State/Federal agencies;
- o Apply for federal funds available to support the program;
- o Promulgate regulations to carry out intent of statute and the Federal Acts;
- o Permit transport, storage, treatment or disposal of hazardous wastes;

- o Collect fees for perpetual custody and maintenance of hazardous waste management facilities;
- o Develop and promulgate hazardous materials transportation regulations.

These duties and responsibilities require a program with the following functions:

Program Administration - Supervision of program; planning; clerical support; development of regulations; processing of reports, notifications, permits, and correspondence; EPA grant administration; scheduling; public participation; and contract administration.

Surveillance - Surveillance of hazardous waste generation, treatment, storage, disposal and transportation including inspection of facilities, reports, records, waste sampling and analysis, and investigation of complaints or program irregularities.

Enforcement - Initiation of legal actions to insure compliance; litigation; site and operational investigations; coordination with law enforcement agencies and prosecutors; chemical analyses; and public notice.

Technical Assistance - Development and maintenance of technical resources; assistance to regulated community in disposal requirements; identification of hazardous wastes; acquisition of consultant services on unique situations; coordination with other agencies; and guidance or information to local government or the public.



Field Investigation - Investigation of complaints; illegal disposal operations, dump sites, spills and other releases of hazardous waste.

Hazardous Waste Response - Assistance to other agencies in response to hazardous materials and hazardous waste emergencies; disposal guidance for response actions; coordination of site cleanup actions; laboratory support; coordination of technical assistance or study assistance with other agencies; and support of enforcement actions arising from response.

Hazardous Materials Transportation - Technical expertise to implement and maintain current hazardous materials transportation regulations and assistance in the law enforcement agency implementation of regulations through technical assistance, training and response.

Hazardous Waste Permitting - Development and coordination of permits on all existing and new hazardous waste management facilities and transporters, including public participation on all proposed permits; establishment of technical and administrative conditions for each specific permit; preparation of final permits and reissuance of permits in accordance with Federal/State regulatory requirements; detailed technical assessment of permit application, facility operation and facility site; coordination with other Federal/State agencies on permit review and approval and coordination with other permits.

Superfund Site Coordination - Evaluation of abandoned sites for potential Superfund cleanup or response; coordination of superfund activities by other state agencies and with the EPA Superfund program; coordination of public participation activities associated with site evaluation and remedial actions.

V. EXISTING HAZARDOUS WASTE PROGRAM RESOURCES

The Department of Health has implemented the hazardous waste management program by the establishment of the Bureau of Hazardous Waste Management in the Division of Solid and Hazardous Waste Management. The Bureau is staffed as follows:

Bureau of Hazardous Waste

Administration

Bureau Director

Secretary

Clerk

Clerk

Technical Assistance

Technical Services Chief

Environmentalist

Surveillance

Public Health Engineer

Public Health Engineer

Public Health Engineer

Solid Waste Consultant

Enforcement

Assistant Attorney General 1/

Hazardous Waste Response

Biologist

Chemist

Chemist

1/ Assigned by the Attorney General for program support.

Funding for the hazardous waste management program as part of Land Management in Item 422 is indicated in Table 1.

TABLE 1

## CURRENT HAZARDOUS WASTE FUNDING AUTHORIZATION

	FY 82/83	FY 83/84
Total Personal Services	\$ 288,900	\$ 296,400
FTE	13	13
Supplies	800	900
Contractural Services	290,010	523,500
Continuous Charges	1,600	1,900
Indirect Costs	36,690	37,600
Total	618,000	860,300
General Fund	170,000	205,300
Federal Contribution	\$ 448,000	\$ 655,000 <sup>1/</sup>
Total	\$618,000	\$ 860,300

<sup>1/</sup> Based on reauthorization and funding of RCRA at original planned levels but is expected to be reduced to \$448,000 based upon a 20% reduction in the current year grant.

## VI. FULL HAZARDOUS WASTE PROGRAM REQUIREMENTS

If the Department of Health is to achieve full program approval by EPA, it must implement a hazardous waste management program consistent with requirements of the Federal Act and provide the necessary level of support to perform the duties and functions assigned the Board of Health. Therefore, an increase of 16 full-time employees in the Division of Solid and Hazardous Waste Management will be required. Of the 16 positions, 10 will be required for the permitting of hazardous waste treatment, storage, disposal and transportation as illustrated in Table 2. The assumption is that permitting will be achieved for all existing and new facilities in a period of 7 to 10 years. Since permits will be issued on a 10-year basis, the cycle would be repeated. An additional three inspectors are required based upon the inspection of generators every four years, the inspection of transporters

TABLE 2  
HAZARDOUS WASTE PERMITTING  
MANYEAR REQUIREMENTS

	# IN VA. FY 82	EPA MANPOWER ESTIMATES								VIRGINIA MANPOWER ESTIMATES					
		NUMBER			UNIT	MAN-DAYS			UNIT	NUMBER			MAN-DAYS		
		FY84	FY85	FY86	PRICE	FY84	FY85	FY86	PRICE	FY84	FY85	FY86	FY84	FY85	FY86
Process Part A Applications	237	5	5	5	0.1	-	-	-	0.1	5	5	5	-	-	-
Process Part B Permit Applications	237	24	34	35	20	480	680	700	20	27	32	33	540	640	660
Tech Evaluation:															
Land Disposal	4	2	2	-	152	304	304	-	152	2	1	1	304	304	304
Off-Site Treatment/Disposal	4	1	1	1	138	138	138	138	138	1	1	1	138	138	138
On-Site Treatment/Disposal	20	1	3	5	73	73	219	365	73	1	2	3	73	146	219
Off-Site Storage	10	4	3	2	29	116	87	58	29	3	3	3	87	87	87
On-Site Storage	199	16	20	22	29	464	580	638	29	20	20	20	588	588	588
New Facility	-	-	5	5	61	-	305	305	61	-	5	5	-	305	305
Issuance:															
Land Disposal	4	2	2	-	44	88	88	-	44	1	1	2	44	44	88
Off-Site Treatment/Disposal	4		1	1	40	-	40	40	40	-	1	1	-	40	40
On-Site Treatment/Disposal	20		1	3	20	-	20	60	20	-	1	2	-	20	40
Off-Site Storage	10	4	3	2	5	20	15	10	5	3	3	3	15	15	15
On-Site Storage	199	16	20	22	5	80	100	110	5	20	20	20	100	100	100
New Facility	-	-	5	5	15	-	75	75	15	-	5	5	-	75	75
Appeals:		10	15	17	20	200	300	340	20	-	10	15	200	200	300
Total Man-Days						1963	2871	2799					2089	2702	2959
Total Man-Years (needed)						7.6	11.0	10.8					8.1	10.4	11.4



every five years, the inspection of major treatment, storage, and disposal facilities annually, and the inspection of minor treatment, storage and disposal facilities biennially. The requirements for inspection of existing facilities are shown in Table 3. One position each would be assigned to superfund coordination, dump site investigations and hazardous waste response.

## VII. PROGRAM FUNDING ALTERNATIVES

The funding alternatives available for the full program are:

- a. General Fund appropriation with EPA matching grants;
- b. General Fund appropriation and a special fund fee system with EPA matching grants;
- c. Partial General Fund with balance by special fund fee system;
- d. Full appropriation from the General Fund;
- e. Special Fund Fee System.

Alternative "a" is the present funding arrangement with EPA providing matching funds up to 75% of program total. For the FY 1983 period, EPA has reduced its funding by 20% with the EPA policy stated as supporting continued reduction of grant funds. EPA funds, therefore, cannot be relied upon to support State Funds for full program implementation as described in Section VI.

Alternative "b" is the funding method now employed to varying degrees in twenty states with user fees generating revenues from two percent of a state's matching share up to 100 percent of a state's matching share. Partial funding through user fees for those actual costs associated with a specific user service appears to offer an equitable fee distribution. Only three states now have user fees funding 100 percent of the state's matching funds. Even there,

the fees collected are insufficient, so that these states are still dependent upon substantial RCRA federal funding for the total program. Alternative "b" represents the most frequent and effective funding mechanism.

Alternative "c" is an available alternative best considered when federal grant funds for program development are no longer available. At that time, any established user fee system would provide the means for implementing such an alternative, but established fees would have to be increased substantially.

Alternative "d" represents the greatest expense to the general fund. It places the least burden on generators of hazardous waste and on those who transport, treat, store or dispose. The fear expressed in many states was that fees can undermine enforcement by encouraging midnight dumping through added operational costs, particularly with the less capitalized facilities.

Alternative "e" places the full burden for funding the program on hazardous waste generators, treaters, storers, disposers and transporters. Adoption of Alternative "e" should be taken only with the recognition of the fact that a full fee system will cause many facilities to find means of exemption from application of hazardous waste regulations, thus avoiding payment of fees. Since surveillance and enforcement activities would continue at the same level, the full program burden would be borne by a limited group of users. Under such a system, user fees for full program funding could become an impediment to industrial growth or new development where hazardous wastes might become involved. Overhead costs for fee collection and fund management would represent a higher percentage of total program costs.

## VIII. SURVEY OF STATE FEE SYSTEMS

Attached as Appendix B are tables taken from EPA contractor surveys summarizing the status of fee initiatives in the various states, the reported revenues generated through state fees, the types of hazardous waste management program fees currently implemented, the facility fee criteria, the transporter fee criteria, and the generator fee criteria.

Twenty states have established some form of fee system with only three recovering 100 percent of the state's matching funds. No state provides for full funding by fees but continues to rely in part upon EPA RCRA grant funds. An additional six states are establishing, or have under development, a fee system. Only seventeen states do not have a fee system or are not evaluating the possibility of establishing some form of fees for service.

Of the twenty states with fee systems, eighteen apply them to permitting, twelve apply them to permit renewal or annual fees on permitted facilities, four have surveillance fees, and fourteen apply fees to transporters of hazardous waste. Of the eighteen states with permit fees, twelve implement them as base fees with various combinations of size, management type, technology, volume or commercial status considered in the overall permit fee.

Fourteen states have a fee on transporters. This includes five states with per vehicle charges only, four with base fee charges, four with both per vehicle and base fees combined. Tennessee charges according to the quantity transported.



Of only four states making charges on generators, three charge generators tipping fees or fees for off-site disposal. Only one state, Kentucky, charges all generators a fee based on the quantity generated, rather than quantity disposed.

Most fees in other states are directly related to specific services, such as permit application.

To better illustrate the variations in fees, summary sheets for fee systems in West Virginia, Tennessee and Maryland are included in Appendix C. The Tennessee system establishes permit fees and annual maintenance fees. West Virginia uses lesser levels of fees for permits, permit renewals and annual maintenance fees. The Maryland fees are for permit application and annual operation. With the Maryland summary is a Facility Permit Fee Assessment work sheet from which annual fees are developed. Not only does the permit fee include a service fee but adds an environmental fee, a contingency fee and a program development fee.

Appendix D, also taken from the EPA survey report, provides several case studies of states undertaking fee recovery and provides more detailed program highlights.

## IX. EVALUATION OF FEES

The assessment of fees for the support of hazardous waste management programs is becoming an increasingly popular mechanism for the equitable distribution of the costs of state services. Those persons deriving the greatest benefit from the service pay the highest proportion of the costs. The most common fees considered are:

- o Facility Fees (Permits)

- o Generator Fees
- o Transporter Fees
- o Annual Operating Fees

As previously discussed, combinations of fee types are the most common fee systems in place. For an equitable distribution of fees according to services rendered, fees for permits, which require the more extensive and technical services, would be the highest. Total fees charged would range from \$6,000 for storage permits to \$26,000 for land disposal permits to provide the state match for federal RCRA grants, assuming a 50/50 match ratio in FY 1984. Table 4 illustrates the current numbers of units for which permit fees in Virginia would be forecasted.

TABLE 4

HAZARDOUS WASTE FEE UNITS

Type	Number
Generators	893
Transporters	175
Major Treatment/Storage/Disposal	28
Other Treatment/Storage/Disposal	209

The facilities indicated in Table 4 would be permitted at the rate indicated in Table 2. Based on the manpower costs associated with the permitting program full recovery of total state expenditures would require fees with unit costs as follows:

Type Permit	Unit Cost
Land Disposal Permit	\$ 26,000
Off-Site Treatment/Disposal Permit	\$ 22,000
On-Site Treatment/Disposal Permit	\$ 18,000
Off-Site Storage Permit	\$ 6,000
On-Site Storage Permit	\$ 6,000
New Facility Permit	\$ 10,000
Transporter Permit	\$ 100

For monitoring and surveillance fees to be equitable, consideration must be given to the complexity of inspections, the size of the facility or operation inspected, and the support costs of inspections such as laboratory analysis, program development, administration, and indirect costs. Total annual fees would be at the following levels:

Unit of Monitoring	Total Unit Cost
Generators	\$ 300
Transporters	\$ 250
Major Treatment/Storage/Disposal	\$ 1,100
Other Treatment/Storage/Disposal	\$ 600

This system would not provide funding for response to hazardous waste emergencies or for response to illegal dumps. The only fee system logically available for this type of response requirement would be an added annual fee for transporters apportioned by volume of material transported and for generators apportioned by hazardous waste volumes generated. For an estimated initial requirement of \$100,000 per year for these activities, the average annual fee would be \$150 for transporters and \$90 per generator. Since at

least one previous illegal dump in the state resulted from an out-of-state source, the true burden is not necessarily borne equitably. Transporters moving through the state would not pay, yet might contribute to a release. However, there are no other means available for providing funds for this type of response, which is an essential service to protect the health and welfare of the people of the Commonwealth.

The size of all the fees collected to cover State expenses depends greatly on the level of the federal support for the program. Based on the recent trends, the level of the federal grants is expected to decrease gradually and eventually will be discontinued. The uncertainties associated with the federal funding require that the fees be reevaluated annually to assume the shortfall created by the reductions. Eventually, the fee system will have to assume a greater share full program costs based on discontinuance of Federal funding.

Some states have indicated that imposition of fees has the potential for encouraging migration of wastes to a neighboring nonfee state causing an increased funding burden for remaining facilities. There is the fear also that fees on smaller generators and less capitalized facilities may cause some closures or increased midnight dumping. This has not been documented in states with some fee structures. The neighboring states of Maryland, West Virginia, Kentucky and Tennessee have some form of fee structure as shown in Appendix C.

One area of concern exists in imposition of the type fees outlined. To be effective, accurate revenue projections are essential where full program funding is expected. With partial funding from the general fund, over-estimation of revenues based upon inaccurate waste generation estimates would

have a less severe impact. Possible errors in projecting revenue can result if:

- o Wastes are disposed at out-of-state facilities
- o Permit applications are withdrawn by applying resource recovery exemptions
- o Storage is discontinued because of a change in shipping policies
- o Hazardous waste are delisted
- o Fees are not paid
- o Annual report data is inaccurate.

It will take one to three years of experience on a new fee recovery system to develop an accurate data base. Using the projected unit costs for each fee system element described, the total revenues achievable are estimated in Table 5 for FY 83/84 using the projected work units of Table 2. This does not envision full coverage of program support by fees alone.

#### X. PLAN FOR IMPLEMENTATION

Implementation of a fee recovery system for hazardous waste management could be initiated in FY 84/85; it would require legislative authorization through an amendment to Section 32.1-178, Code of Virginia. The Board of Health would develop a detailed fee schedule and adopt it as a regulation. An annual review of the fee structure, a determination of its appropriateness and an evaluation of the whether the of financial burdens are distributed equitably would be the basis for future adjustments of the fee system. The proposed schedule for implementation is as follows:

- a. Amendment of Section 32.1-178 by General Assembly during the 1983 session.

TABLE 5  
TOTAL FEE REVENUES

HAZARDOUS WASTE MANAGEMENT  
FY 83/84

	<u>Permit</u>		<u>Monitoring Fees</u>		Response Fees	Total
	Number	Fees	Number	Fees		
On-Site Treatment/Disposal	1	\$ 18,000	28 <u>1/</u>	\$ 30,800	\$	\$ 48,800
Off-Site Treatment/Disposal	3	66,000				66,000
On-Site Storage	4	24,000	110 <u>2/</u>	66,000		90,000
Off-Site Storage	16	96,000				96,000
Generator	893		224	67,200	80,370	147,570
Transporter	175	17,500	50	12,500	26,250	56,250
Total		\$221,500		176,500	\$106,620	\$ 504,620

1/ Major treatment, storage, disposal facilities inspected per year

2/ All other treatment, storage, disposal facilities inspected per year

- b. Draft regulations and fee schedule presented to Board of Health, June 1983.
- c. Public Hearing on proposed regulation and fee schedule, September 1983.
- d. Promulgation of regulation and of fee schedule, November 1983.
- e. Legislative review of regulation and fee schedule for 90 day period, December 1983-March 1, 1984.
- f. Notification of hazardous waste generators, transporters, treaters, storers, and disposers of assessed fees, May 1984.
- g. Effective date of regulations and collection of initial fees, July 1, 1984.
- h. Report on initial fee collections to 1985 session of the General Assembly with annual reports thereafter.
- i. Public hearings by Board of Health on proposed new fee schedules in April 1985 and every year thereafter.
- j. Notification of revised assessed fees in May 1985 and every year thereafter.

## XI. CONCLUSIONS

Implementation of a fee system for funding a portion of the hazardous waste management program is a feasible alternative that can be implemented by July 1, 1984. Legislative authority for collection of hazardous waste management fees will be required before the system can be implemented.

The program requires the addition of 10 positions in FY 1983-84 and 6 positions in FY 1984-85 for a total program level of 29 positions in hazardous waste management.

The experience in other states supports the use of fees for partial funding of program requirements. The funding alternatives of general fund appropriation and a special fund fee system with EPA matching grnts was found to be the most effective funding mechanism and the means most frequently used in all other states.

The following Table 6 indicates the general fund appropriation requirements for initiating a permitting program in FY 83-84 as compared with current authorization since implementation of a fee system will not be possible before the FY 1984-85.

TABLE 6

LAND MANAGEMENT PROGRAM (503)  
Solid Waste Disposal Regulation (5030800)

Cost Code: Hazardous Waste Management (503 0800 655)	Current Authorized 1983-84	Requested 1983-84	Requested Increase 1983-84
1100 Personal Services	\$ 296,400	\$ 511,200	\$ 214,800
Authorized Employment-FTE	13	23	10
1200 Contractual Services	316,500	316,500	-
1300 Supplies and Materials	900	900	-
1400 Transfer Payments	-	-	-
1500 Continuous Charges	1,900	1,900	-
2200 Equipment	-	-	-
8700 Indirect Costs	32,668	64,900	81,800
Total Operating Expense	\$ 653,300	\$ 875,000	\$ 221,700
General Fund	205,300	427,000	221,700
Non-General Fund	448,000	448,000	-
Special	-	-	-
Federal Trust	448,000	448,000	-



## XII. RECOMMENDATIONS

The following actions are recommended to initiate the implementation plan for hazardous waste fees:

- a. Provide legislative authorization of the Board of Health to assess fees on generators, transporters and treatment/storage/disposal facility operators for financing of the hazardous waste management by amendment of Section 32.1-178, Code of Virginia (1950), as amended, as proposed in Appendix A to this report.
- b. Continue general fund appropriations for hazardous waste management for the Fiscal Year 1983-1984, authorize an additional 10 positions for initiation of a full permit program, increase general fund appropriation by \$221,700 for 1983-1984 only, create a special fund to be replenished in later fiscal years by fee collections and continue supplementation with EPA federal trust grants appropriated in future years. The detailed budget is shown in Table 7.

TABLE 7

LAND MANAGEMENT PROGRAM (503)  
Solid Waste Disposal Regulation (5030800)

Cost Code:	APPROPRIATIONS		
	CURRENT	REQUESTED	
Hazardous Waste Management (503 0800 655)	1982-83	1983-84	1984-85
1100 Personal Services	\$ 288,900	\$ 511,200	\$ 644,500
Authorized Employment-FTE	13	23	29
1200 Contractual Services	284,032	316,500	223,000
1300 Supplies and Materials	800	900	1,200
1400 Transfer Payments	-	-	-
1500 Continuous Charges	1,600	1,900	2,100
2200 Equipment	-	-	-
8700 Indirect Costs	32,668	44,500	81,800
<b>Total Operating Expense</b>	<b>\$ 618,000</b>	<b>\$ 875,000</b>	<b>\$ 952,600</b>
General Fund	170,000	427,000	205,300
Non-General Fund	448,000	448,000	952,600
Special	-	-	299,300
Federal Trust	448,000	448,000	448,000

REMARKS: Federal trust funding is assumed to remain level.

## APPENDIX A

PROPOSED LEGISLATION

§32.1-178. Power and duties of Board.-A

15. *Collect, from any person operating or proposing to operate a hazardous waste treatment storage, or disposal facility or any person transporting hazardous waste, fees sufficient to finance the issue of permits as required in §32.1-180.*

16. *Collect, from any person generating hazardous waste not exempted by §32.1-180 or any person operating hazardous waste treatment, storage or disposal facilities or any person transporting hazardous wastes, fees sufficient to finance the responsibilities of the Board for surveillance, monitoring and general supervision and control of hazardous waste management activities and laboratory support. Such fees shall be adjusted by the Board annually to reflect the most current cost basis for the hazardous waste management program.*

B. *All fees received by the Board pursuant to paragraph A 14 of this Section shall be used exclusively to satisfy the responsibilities assumed by the Board for the perpetual custody and maintenance of hazardous waste management facilities. All fees received by the Board pursuant to paragraphs A 15 and 16 are hereby appropriated for the hazardous waste management program as set forth herein.*

## APPENDIX B

RELATIVE STATE PROGRAM SIZE

<u>State</u>	<u>Size*</u> <u>Category</u>	<u>State</u>	<u>Size*</u> <u>Category</u>
Alabama	D	Montana	B
Alaska	C	Nebraska	A
America Somoa	A	Nevada	A
Arizona	C	New Hampshire	A
Arkansas	B	New Jersey	D
California	E	New Mexico	A
Colorado	C	New York	E
Connecticut	C	Northern Marianas	A
Delaware	A	North Carolina	D
District of Columbia	A	North Dakota	A
Florida	D	Ohio	E
Georgia	D	Oklahoma	C
Guam	A	Oregon	C
Hawaii	A	Pennsylvania	E
Idaho	B	Puerto Rico	B
Illinois	E	Rhode Island	B
Indiana	D	South Carolina	C
Iowa	C	South Dakota	A
Kansas	C	Tennessee	D
Kentucky	D	Texas	E
Louisiana	D	Utah	B
Maine	A	Vermont	A
Maryland	C	Virginia	C
Massachusetts	D	Virgin Islands	A
Michigan	E	Washington	C
Minnesota	C	West Virginia	D
Mississippi	B	Wisconsin	D
Missouri	C	Wyoming	A

\*Based on grant formula 40 CFR 35.706(a)

- 40% - relative population
- 40% - relative amounts of hazardous waste generated
- 15% - relative number of generators
- 5% - relative land area

Programs range from A (the smallest) to E (the largest)

Source: ORIA, EPA - April 1980

TABLE 1  
STATUS OF FEE INITIATIVES

State	Fee Systems?	Comments	State	Fee Systems?	Comments
Alabama	No		Montana	No	Expect to
Alaska	No		Nebraska	No	Under investigation
Am. Somoa	No data		Nevada	No	System under dev.
Arizona	No		N. Hampshire	Yes	
Arkansas	Yes		New Jersey	Yes	
CA.	Yes	Revisions proposed	New Mexico	No	System under dev.
Colorado	No	Reg. being drafted	New York	No	
Conn.	No	Under Consideration	N. Marianas	No	
Delaware	No	System under dev.	N.C.	No	
D.C.	No		N. Dakota	No	
Florida	No	System under dev.	Ohio	Yes	
Georgia	No		Ok.	No	
Guam	No		Oregon	Yes	
Hawaii	Yes		PA.	No	System under dev.
Idaho	No	Under investigation	P.R.	Yes	
Illinois	No	Under consideration	Rhode Is.	Yes	
Indiana	Yes	Expansion under consid.	S.C.	No	
Iowa	No		S. Dakota	No	
Kansas	Yes		Tenn.	Yes	
Kentucky	Yes		Texas	No	
LA.	Yes		Utah	No	Agency trying to get authorization
Maine	No		Vermont	No	
MD.	Yes		Va.	No	Under investigation
Mass.	Yes	Revisions underway	Virgin Is.	No data	
Mich.	Yes	Some fees to be phased out	Wash.	No	May consider next yr.
Minn.	No	Under consideration	W. Va.	Yes	
Miss.	No		Wisc.	Yes	
MO.	Yes		Wyo.	No	

Source: NGA/ASTSWMO Survey (March 1982)

TABLE 2

STATE FEE REVENUES  
(AS OF APRIL 1, 1982)

	FY 82 Hazardous Waste Program Budget		FY 82 RCRA Hazardous Waste Program Fees		
	Total	State Share	Revenue Collected	As a % of Total Program Budget	As a % of State Matching Share
Arkansas	\$ 347,669	\$ 65,777	\$ 20,000	6%	30%
California	7,686,012	4,384,628	4,384,628 <sup>1</sup>	57	100
Hawaii	97,500	15,000	Very Minor	Very Minor	Very Minor
Indiana	1,172,587	293,147	Not Collected	0	0
			Yet		
Kansas	504,100	135,000	80,000	16	59
Kentucky	872,883	149,805	87,000 <sup>2</sup>	10	58
Louisiana	2,000,000	960,000	900,000	45	94
Maryland	564,000	300,000	300,000	53	100
Massachusetts	1,547,000	803,000	18,000	1	2
Michigan	2,277,664	569,632	*	*	*
Missouri	797,082	147,082	208,100	26	100
New Hampshire	531,000	325,000	*	*	*
New Jersey	1,981,929	740,520	200,000 <sup>3</sup>	*	*
Ohio	3,123,540	953,592	558,000 <sup>2</sup>	18	59
Oregon	599,285	127,211	76,128	13	60
Puerto Rico	720,302	233,827	Insign.	Insign.	Insign.
Rhode Island	271,884	235,000	Not Collected	0	0
			Yet		
Tennessee	1,839,000	768,000	495,000 <sup>4</sup>	27	64
West Virginia	792,000	198,000	*	*	*
Wisconsin	1,055,300	263,843	70,000 <sup>5</sup>	7	27

\*Data not available

## Notes:

- 1 Agency budget proposed for next fiscal year includes expected fee revenue of \$7.8 million. See Case Study.
- 2 Annualized estimate based on Case Study analysis.
- 3 Includes solid waste fee revenue
- 4 No fees collected yet. This is the expected revenue for the fiscal year with collections starting in April 1982. In FY 83 the portion funded by fees is expected to increase to 40% of total program funding.
- 5 No fees collected yet. Expected yearly hazardous waste revenues.

Sources: NGA/ASTSWMO Survey, March 1982  
US Environmental Protection Agency  
Individual States



TABLE 3  
 TYPES OF HAZARDOUS WASTE MANAGEMNT PROGRAM FEES  
 CURRENTLY BEING IMPLEMENTED BY THE STATES

State	FACILITY FEES		TRANSPORTER FEES		GENERATOR FEES		Waste Generation Fee	OTHER FEES	
	Permit Application Facility Construction	Permit Renewal or Annual Operating Fees	Permit Modification Fee	Monitoring Surveillance Fee	Tipping Fee	Registration			
1. Massachusetts	X	X	X	X		X		X	
2. California					X	X			
3. Hawaii	X								
4. Indiana					X			X	
5. Kansas	X			X					
6. Kentucky	X		X			X			
7. Louisiana	X	X							
8. Maryland	X	X							
9. Massachusetts	X				X				
10. Michigan	X	X			X				
11. Missouri	X	X			X	X	X		
12. New Hampshire	X	X			X				
13. New Jersey	X			X	X				
14. Ohio	X	X			X	X			
15. Oregon	X			X					
16. Puerto Rico	X	X	X		X			X	
17. Rhode Island	X	X			X				
18. Tennessee	X	X			X				
19. West Virginia	X	X							
20. Wisconsin	X	X			X				
Number Implementing	18	12	3	4	14	3	1	1	3

Source: Fred C. Hart Associates, June 1982

TABLE 4  
FACILITY FEE CRITERIA

State	Base Fee	Commercial or On/Off-Site Status	Size	Management Type	Technology Type	Volume or Quantity
1. Arkansas	X	X	X		X	
2. Hawaii	X					
3. Kansas	X					
4. Kentucky				X		
5. Louisiana	X	X				X
6. Maryland	X					
7. Massachusetts	X					
8. Michigan	X				X	X
9. Missouri			X	X		
10. New Hampshire				X		
11. New Jersey	X		X			
12. Ohio	X	X	X	X	X	
13. Oregon				X		
14. Puerto Rico	X	X	X		X	X
15. Rhode Island	X					
16. Tennessee	X	X	X		X	
17. West Virginia		X	X			
18. Wisconsin					X	
Number Implementing	12	6	7	5	6	3

Source: Fred C. Hart Associates, June 1982

TABLE 5

TRANSPORTER FEE CRITERIA

	Per Vehicle Charge	Base Fee	Other Basis
1. Arkansas		X	
2. California	X	X	Inspection
3. Indiana	X	X	
4. Kansas		X	
5. Massachusetts	X		
6. Michigan	X		
7. Missouri	X		
8. New Hampshire	X	X	
9. New Jersey	X		
10. Ohio	X	X	
11. Puerto Rico		X	
12. Rhode Island	X		
13. Tennessee			Quantity of Waste Transported
14. Wisconsin		X	
Number Implementing	9	8	2

Source: Fred C. Hart Associates, June 1982

TABLE 6  
GENERATOR FEE CRITERIA

State	Tipping Fee	Registration	Waste Generation Fee
1. California	X		
2. Kentucky		X	
3. Missouri	X		X
4. Ohio	X		
Number Implementing	3	1	1

Source: Fred C. Hart Associates, June 1982

## APPENDIX C

## MARYLAND

### Authority

Statute: Maryland Natural Resources Code, Title 3, Environmental Programs, Subtitle 7 - Hazardous Waste Facility Siting Program.

#### Regulation:

- o Code of Maryland Regulations, Title 10, Department of Health and Mental Hygiene, Subtitle 51 - Disposal of Designated Hazardous Substances (DHS).
- o Code of Maryland Regulations, Title 14, Independent Agencies, Subtitle 14 - Hazardous Waste Facilities Siting Board.

### Government Entity Implementing the Program

Statute: Department of Natural Resources  
Regulations: Department of Health and Mental Hygiene

### Description of User Fee

The regulation Title 10 establishes a permit fee applicable to the operation or maintenance of a TSD facility. Fees are based on acreage, nature and quantity of wastes, potential threat, anticipated costs of monitoring and regulating, etc.

Title 14 of the Regulations sets an application fee for a TSDF.

### Fee Schedule

The annual operation permit fee is \$50 as a minimum. The application fee is set at \$10,000.

### Impact/Intent for State Financing

The law says that the fees are to be used "... to recover the costs of processing applications and issuing certificates."

DHS Facility Permit Fee Assessment

The DHS Facility Permit Fee shall be computed in the manner outlined below:

$$\text{Permit Fee} = \text{Service Fee} + \text{Environmental Fees} + \text{Contingency Fee} + \text{Program Development Fee} + \text{Cost of Publication}$$

Each portion of the fee shall be calculated using the attached forms and values specified in the attached tables.

Service Fee

1. Monitoring

Analyses to be performed by Regulatory Agency:

<u>Parameter</u>	<u>Cost/Analysis</u>	<u>#/Analyses</u>	<u>Total</u>

2. Regulating

Site review and evaluation:

Project Manager:

Section Head:

\_\_\_\_\_ man years @ \_\_\_\_\_ / man year = \_\_\_\_\_ x 1.25 = \_\_\_\_\_  
 1 man-day = .004 man years

\_\_\_\_\_ site inspections by staff personnel for sample collection and  
 facility compliance check \_\_\_\_\_  
 man years @ \_\_\_\_\_ / man year = \_\_\_\_\_

3. Overhead 50% of 1 & 2 = \_\_\_\_\_

TOTAL = \_\_\_\_\_

Environmental Fee Collection

I. Size Factor \_\_\_\_\_

II. Location Factor \_\_\_\_\_

land use \_\_\_\_\_  
 air quality \_\_\_\_\_  
 unconfined aquifer \_\_\_\_\_  
 surface water \_\_\_\_\_

Product \_\_\_\_\_

III. Design factor

		Hazard factor			
storage	_____	x	_____	x	quantity _____
treatment	_____	x	_____	x	quantity _____
disposal	_____	x	_____	x	quantity _____

Sum \_\_\_\_\_

Environmental fee = design factor x location factor x size factor \_\_\_\_\_

A. Environmental fee \_\_\_\_\_

B. Service fee \_\_\_\_\_

C. Program Development & Contingency Fees (10% of A & B) \_\_\_\_\_

D. Cost of Publication (Billed Separately) \_\_\_\_\_

Permit Fee = A + B + C + D \_\_\_\_\_

Environmental Fee

The Environmental Fee shall be computed as follows:

$$\text{Environmental Fee} = (\text{size factor}) (\text{location factor}) (\text{design factor})$$

Each factor shall be selected from the following tables. If a particular factor is not applicable, a value of 1.0 shall be used in calculations. For facilities with multiple portions, the environmental fee shall be the sum of the fees calculated for the individual components of the operation.

Table I - Size Factors:

The size factor shall be equal to 1.0 plus 0.1 times the number of acres used for DHS disposal, storage or treatment.



Table II - Location Factor

1.	<u>Adjacent land use</u> (as shown on zoning maps)	<u>Factor</u>
	Residential/Institutional . . . . .	1.2
	Industrial . . . . .	0.6
	Agricultural . . . . .	1.0
	Recreational . . . . .	0.8
2.	<u>Air Quality Considerations:</u> Only for those operations that produce air contaminants.	
	For particulate:	
	a. Primary non-attainment area	.6
	b. Secondary non-attainment area	.8
	c. Attainment area	1.0
	For hydrocarbons (ozone): Non attainment area	.7
	Includes Prince Georges, Montgomery, Washington, Baltimore, Harford, Carroll, Anne Arundel, Howard Counties and Baltimore City.	
	Attainment area	1.0
	(remainder of State)	
	For operations that produce both hydrocarbons and particulates:	
	Primary non-attainment area	.6
	Secondary non-attainment area	1.0
	Attainment area	1.2
3.	<u>Water factors</u>	
	<u>Unconfined (water table) aquifer</u>	<u>Factor</u>
	Type I . . . . .	1.2
	Type II . . . . .	.8
	Type III . . . . .	.6
	<u>Surface Water</u> , (within 500 feet of site in same drainage basin)	
	Class I . . . . .	.6
	Class II. . . . .	.8
	Class III . . . . .	1.2
	Class IV . . . . .	1.0
	Aquifer types are defined and surface water classification are specified in WRA Regulations .08.05.04.04 and .08.05.04.09.	

Table III - Design Factor

1. Storage Facilities

Containment provided for stored hazardous waste:

10% containment	1.5
10 - 24% containment	1.0
25 - 50% containment	.5

2. Treatment facilities

(Based on degree of inactivation or volume reduction)

waste composting . . . . .	5-1.0
chem precipitation of waste, no sludge condition . . . . .	1.5
chem precipitation with sludge conditioning such as dewatering	.7
complete inactivation by process such as thermal destruction,	
chem. fixation etc., . . . . .	.1

3. Disposal facilities

confinement with leachate collection . . . . .	.6
confinement without leachate collection . . . . .	1.7
no confinement . . . . .	2.5

4. Hazard factor

Waste class treated, stored and/or disposed:

Acute hazardous . . . . .	50
Hazardous . . . . .	1

5. Quantity

Storage Facility

Factor shall be equal to the capacity of the storage facility (tons)

Treatment Facility

Factor shall be equal to the maximum quantity of DHS treated on any given day (tons)

Disposal Facility

A factor equal to the tons (actual or estimated) of DHS received during a one year period. For inactive sites, this quantity shall be .001 times the total quantity of DHS disposed of. After 10 years, from closure of the facility, this quantity shall be zero.

\*\*\* Note: Environmental Fee may not exceed \$1/ton of Hazardous Waste nor \$50/ton of Acute Hazardous Waste.

## TENNESSEE

### Authority

Statute: "Tennessee Hazardous Waste Management Act," Tennessee Code, Title 53, Health and Safety, Chapter 63 - Hazardous Waste Management (TCA) 53-6301 et seq.)

Regulation: Regulations do not mention user fees. (Tennessee Department of Public Health, Division of Solid Waste Management Rules, Chapter 1200 - Hazardous Waste Management.)

### Government Entity Implementing the Program

Division of Solid Waste Management  
Bureau of Environmental Health Science  
Tennessee Department of Public Health

### Description of User Fee

There are three (3) kinds of fees:

1. Application fees for permits to transport, store, treat or dispose of hazardous waste;
2. Annual maintenance fees from permitted transporters, storers, treaters, and disposers; and
3. Annual maintenance fees from generators who ship hazardous waste off-site for storage, treatment or disposal.

### Fee Schedule

The Act establishes maximum and minimum amounts and tasks a board to establish a fee schedule. The State is in the process of developing a fee system similar to the Arkansas system. An earlier tonnage fee that assessed only commercial sites has been dropped.

The maximum amount of the permit application fee for storers, treaters, or disposers shall not exceed \$5,000.00 and for transporters shall not exceed \$100.00.

The maximum amount of the maintenance fees collected annually from any permitted hazardous waste storage, treatment, or disposal facility shall not exceed \$10,000.00 and from any permitted transporters shall not exceed \$1,000.00. The minimum amount of the maintenance fee collected annually from any permitted facility shall not be less than \$100.00. The annual maintenance fee collected from any permitted transporter shall not be less than \$25.00 and the amount shall be based on the quantity of hazardous waste transported.

The maintenance fee collected annually from generators who ship hazardous waste off-site for storage, treatment, or disposal shall not exceed \$100.00 per generator.

Impact/Intent for State Financing

Expenditure of fees collected shall be restricted to operation of the hazardous waste management program established pursuant to this Chapter 63.

WEST VIRGINIA

Authority

Statute: West Virginia Code, Chapter 20, Natural Resources, Article 5E - Hazardous Waste Management Act.

Regulation: West Virginia Regulations Chapter 20 - 5E

Government Entity Implementing the Program

Department of Natural Resources

Description of User Fee

See Fee Schedule

Fee Schedule

For hazardous waste management facilities the schedule is:

(1) Commercial Facility Initial Permit \$10,000	Ten (10) year renewal \$5,000 Annual evaluation 1,000
(2) Major Facility Initial Permit \$5,000	Ten (10) year renewal \$1,000 Annual evaluation 500
(3) Minor Facility Initial Permit \$1,000	Ten (10) year renewal \$ 500 Annual evaluation 100

Impact/Intent for State Financing

All permit application fees will be paid into the state treasury into "The Hazardous Waste Management Fund" which is used to help defray the cost of administering the Act.

APPENDIX D

CASE STUDY - MISSOURI

Enabling Authority

Statute: Missouri Hazardous Waste Management Law (MRS. Chap. 260, Environmental Control, Section 350 et. seq. - Hazardous Waste Management).

Regulation: Title 10 - Department of Natural Resources, Division 25 - Hazardous Waste Management Commission.

Program Description

The Water Management Program within the Department of Natural Resources Division of Environmental Quality Administers the hazardous waste fees.

Generators of hazardous waste pay a fee based on the quantity of waste generated. Generators are sent a billing annually. Transporters pay an annual fee based on the number of vehicles. Facility owners pay permit application and renewal fees. Permits are issued for up to five years but the application fee is paid for every year of the life of the permit.

In addition, the statute requires that hazardous waste landfill operators collect on behalf of the state from each generator or transporter a tax equal to 2% of the gross charges or fees charged for disposal of hazardous waste at the landfill site.

Missouri's hazardous waste community is made up of:

Generators

Generators Paying Fee	143
Generators Exempt from Fees (small quantity exemption)	714
Waste Oil Generators	1184
Resource Recovery Exemptions	<u>97</u>
Total	2138

Transporters 275

Facilities

On-Site	121
Off-Site (including resource recovery)	<u>10</u>
Total	131

Description of the Fee Mechanism

A Waste Generation Fee paid by generators of \$1 per metric ton of hazardous waste generated. The statute puts a cap of \$10,000 on the fee that any one generator must pay. It is important to note that "generator" is a corporate distinction. That is, a firm with eight plants generating waste all over the state faces a maximum \$10,000 fee and not \$80,000. Generators of

less than 10 tons of waste per year and waste sent to certified resource recovery facilities are exempt. Fees are calculated based on the expected volume of waste to be generated in the coming year and are due on each January 1st. This year's collections total about \$112,000 from the generator fee as of March, 1982.

A Landfill Tax is assessed on generators that send their wastes to landfills. Landfill operators collect a 2% tax based on the disposal charges and forward the receipts to the Hazardous Waste Program. Fees based on charges over each previous calendar year must be submitted by January 1st. About \$22,000 has been collected from the landfill tax as of March, 1982.

The Transporter Fee is a per vehicle charge. The statute sets a maximum of \$100 per vehicle per year. Current regulations are based on gross vehicle weights and vehicle equivalents for firms not exclusively in the hazardous waste transportation business. A vehicle equivalent is the portion of vehicles annual load devoted to hazardous waste. For example, two vehicles which carry hazardous wastes 50% of the time equal one vehicle equivalent. The fee schedule is:

For motor vehicles:	\$5-20/vehicle/year
For railroads:	\$25/vehicle equivalent/year
For other haulers:	\$25/vehicle equivalent/year

Two hundred seventy-five transporters have paid fees for hazardous waste transportation. Approximately \$12,600 has been collected in this fiscal year so far.

Facility Fees are charged for applications and renewals. A technology type criterion is used to set the fee levels with landfills singled out for higher fees. All other types of facilities pay a smaller amount:

Application fee:	Landfills	\$1000
	All other facilities	500
Renewal fee:	Landfills	\$1000
	All other facilities	500

The fee levels are set in the statute.

In addition facilities are directly billed for engineering and geological analysis associated with the staff time assigned to the application reviews. This assessment enables the Program to recoup what are often major costs of permit issuance.

The State processed three landfill applications in the previous fiscal year for \$3000 revenue. No application fees have been collected this fiscal year. Approximately \$500 has been collected from applicants for geological and technical review.



## Background in Development of the Fee Mechanism

Missouri's hazardous waste law was initially enacted in 1977 and rules and regulations implementing this law became effective in January of 1980. The regulations set a July, 1980 compliance date. Generator fees were a choice of the legislature for the major fee mechanism to meet the hazardous waste program funding needs. Generators must register with the department under Missouri regulations. Thus identified, sending invoices was perceived to be a relatively simple matter.

The fees serve two purposes. The generator fee rule, as adopted by the Hazardous Waste Management Commissioner is aimed at promoting resource recovery and discouraging hazardous waste disposal. Permit fees are set up to potentially recover permit processing and review costs. Here too, though, the differential rates for disposal and other facilities points up the policy of the Commission of discouraging disposal. The transporter fee is set up to recoup the costs of yearly registrations.

In the summer of 1980 the Department of Natural Resources (DNR) received two applications for hazardous waste landfills. Public pressure against these facilities become so intense that the Governor called a special session of the legislature to deal with the issue. The 2% landfill tax and the previously discussed generator fee were two results of this session.

## Administrative Experience

The Hazardous Waste Program within DNR's Division of Environmental Quality administers the fees. With the exception of the direct billing for technical review services, fee levels are set or capped by statute. The program sends out invoices and processes the receipts. The revenues are then deposited into an earmarked fund.

The initial notice for the generator fee went out to 330 generators. Roughly 140 actually paid. A few paid the \$10,000 maximum. Roughly \$200,000 was originally expected from the generator fee. This estimate has been revised downward to \$160 - \$180,000 based on the 7/80 - 6/81 rate.

A number of reasons were presented to explain this revenue shortfall. First, successful "delisting petitions (exclusion of certain wastes at specific sites from regulation as hazardous waste) to the USEPA and have had an effect. Second, more firms have chosen resource recovery than had been expected. Third, some generators have since gone out of business. Fourth, the initial registration data may have overstated the actual amount of waste generated because accurate records weren't required previously of the generators.

The fees collected are placed in the Hazardous Waste Fund. They are used for the administrative costs of the program. The Program does not segregate the individual fee incomes and apply them to specific Program activities.

### Summary of Program Highlights

- o One fee mechanism was set up to create disincentives for land disposal and incentives for resource recovery as well as to provide additional revenue to regulate such facilities under the program.
- o Projecting generator fee revenues has been difficult due to the impact of the incentives and disincentives in the fee structure and other influences.
- o The statute puts caps on fees with the exception of direct billing for technical and geological reviews.
- o The act (and, therefore, the fee system) is scheduled for review in 1984 by the legislature. No revisions are expected before then.

## CASE STUDY - KENTUCKY

### Enabling Authority

Statute: Kentucky Revised Statutes, Chapter 224 - Environmental Protection

Regulation: Kentucky Administrative Rules 401, KAR2:080 Fees

### Program Description

The Department of Natural Resources and Environmental Protection administers Kentucky's hazardous waste program and its associated fees.

The state charges two fees: a generator registration fee and a facility permit application fee. Generators notify the State of their hazardous waste management activity annually. The state considers each hazardous waste management activity at a site to be a facility and a separate application is required for each. For example, one site has eight facilities. Permits are issued for one year.

The regulated hazardous waste community consists of approximately:

214 generators, and  
100 facilities,  
5 landfills  
95 treatment, storage and incineration facilities

### Description of the Fee Mechanisms

The Generator Fee is an annual registration fee based on the quantity of waste generated:

Quantity in tons	Annual Fee
13.3-100	\$200
101-300	\$300
301-500	\$400
501 or more	\$500

The Permit Application Fee is charged to hazardous waste management facilities. They receive a one-year permit. The fee is based on a management type criterion and a size criterion which captures the amount of activity by assessing the number of facilities per site. The fee schedule is:

Disposal facility - \$5000  
Treatment, incineration, storage facility - \$1000

Each facility on the site requires a separate permit.

Permit modifications cost \$100 for major modifications and \$50 for minor modifications.

In the first year (7/79-6/80) \$11,850 was collected. In the second year collections were up to \$177,900. In this third year, through March, \$64,250 had been collected. This works out to a yearly rate of \$87,000. The reasons for the fluctuations could not be determined.

#### Background in Development of the Fee Mechanisms

The Kentucky program's original emphasis was in solid waste. The State charges permit review/processing fees for five categories of landfills:

Contained landfills:	\$800
Residual Landfills (case-by-case design)	500
Residential Landfills	500
Inert Waste Landfill	200
Landfarms	500

Permit renewals and modifications are levied a \$250 charge. These fees are based on actual program records of past permit reviews. The fees accurately reflect the costs of permit review and processing. This close tying of the fee level to specific services was important in gaining industry acceptance of the fees.

The State developed hazardous generator fees for the purpose of remedial action cleanups following the revelation of the "Valley of the Drums" in the national media. It became clear that the State had to explore funding alternatives for remedial action and hazardous waste management in general. The general assessment, a per volume charge, for remedial response has the explicit purpose of discouraging disposal and encouraging reuse. In the push to develop the Superfund charge, it was decided to charge fees for hazardous waste program. The State was already charging fees for its solid waste program. The statutory authority for the hazardous waste management program includes the assessment of application and registration fees.

Fees collected from generator registration and facility permits are to cover the costs of review and verifying data. Site inspection in support of permit review can be covered. Compliance monitoring and enforcement activities are not recoverable from fees.

The State expects to change its regulations to a one time generator notification with a notification fee and an annual report processing fee.

The State also expects to go to a 10-year permit and a per-site permit and fee (note this would not preclude a sliding fee schedule based on the number of facilities as in Louisiana's program).

#### Administrative Experience

The fee system is administered by the Department of Natural Resources and Environmental Protection. The agency collects and processes the fee revenues as they are received with applications and notifications. The money is deposited into the general fund and credited to DNREP in the agency's budget process. Hazardous waste registration and permit application fees have been collected for three years.

The fees are set by regulation. The agency had significant input from industry in setting the fees. The agency can meet with an Advisory Group, made up of manufacturers and the disposal community. This is done before official filing of the proposed regulations. In addition, the Environmental Quality Commission has oversight responsibility. It meets every 1-2 months.

Fees were collected for the permits-by-rule issued by the State after receiving a facility's initial, nontechnical application (analogous to interim status conferred under the Federal RCRA program). This will be credited toward the later in-depth, technical review.

The biggest problem with the fee system has become the setting of the levels. The agency does not expect that the fee as established will meet the costs of permit review, yet industry will only "accept" fees based on actual costs. To address this, the agency is carefully monitoring the level of effort currently being required to complete the in-depth review of the technical portions of two applications. Both are for new facilities, an incinerator and a storage facility. While the State can't legally charge directly by the hour as Missouri can, (see the Missouri case study) it will use this tracking mechanism to determine actual costs.

#### Summary of Program Highlights

- o Fees cover notification processing and permit review.
- o The agency is tracking review activities in effort to accurately set a fee level that captures all relevant costs. This approach to setting the fee levels was used to implement the solid waste program fee mechanisms.
- o Fees must be closely tied to the services rendered and accurately reflect the costs of those services to gain industry acceptance.
- o Fee revenues are deposited into the General Revenue Fund and "credited" to the agency during the budget appropriation process.

CASE STUDY - CALIFORNIA

Enabling Authority

Statute: California Health and Safety Code, Division 20, Chapter 6.5 Hazardous Waste Control. Assembly Bill No. 1012, an act to amend the Vehicle Code relating to hazardous material.

Regulation: California Administrative Code, Title 22, Social Security, Division 4, Environmental Health, Chapter 30 - Minimum Standards for Management of Hazardous and Extremely Hazardous Wastes.

Program Description

The hazardous waste fees are administered by the Department of Health Services (disposal fees) and by the Highway Patrol (transporter fees).

The disposal site fee is a monthly generator tipping fee. It is charged to the facility owner and passed back to the generator.

Transporters are assessed an annual registration fee and an annual inspection fee.

California's regulated community includes:

Facilities	895
Off-Site Storage	60
Off-Site Treatment	30
Off-Site Disposal	35
On-Site All Types	770
Transporters	2760
Generators	6366

Description of the Fee Mechanisms

The California program has established three types of hazardous waste fees. A facility fee, a transporter registration fee and a transporter inspection/certification fee.

The Disposal Fee is segmented by an on/off-site criterion. The off-site fee is essentially a generator tipping fee for land disposal. The State explicitly expects the fee to be passed back to the generator. The on-site disposal fee is a volume charge as well.

Off-site disposal facilities must pay:

1. One dollar for each load of hazardous waste, delivered to him other than by pipeline, which weighs one ton or less and which he disposes of on land or applies to land.

2. One dollar for each load or one dollar per ton, whichever is greater, for each load of hazardous waste, delivered other than by pipeline, which weighs more than one ton and which is disposed of on land or is applied to land.

3. One dollar per ton for all hazardous waste delivered to him by pipeline, based on the weight disposed of on land or applied to land.

No more than \$2,500 need be paid the Department for any amount of hazardous waste received from one specific site owned by a specific producer of hazardous waste during one month.

For on-site disposal the facilities must pay a fee of one dollar per ton to the Department for the first \$2,500 tons of hazardous waste which he disposes of, on, or onto land, or applies to land in any one month. No more than \$2,500 need be paid the Department for any amount of hazardous waste disposed of at one specific on-site hazardous waste facility in one month. Roughly 80% of the generators are paying less than the maximum \$2,500 fee each month. Disposal fee revenues for 1981-82 are estimated to be \$2,258,000.

The Transporter Registration Fee is a base fee plus a per vehicle charge for firms over a certain size:

\$50.00 to register the firm,  
\$15.00/vehicle if the company's gross annual revenues exceed \$35,000

The Transporter Inspection Fee is a base fee of \$50.00/company.

#### Background in Development of the Fee Mechanism

The State's position is that user fees on the regulated community are the only equitable way to fund the hazardous waste program. California has a statutory mandate that all hazardous waste management costs be covered by fees paid by hazardous waste disposal facilities. The fees are deposited into the Hazardous Waste Control Account in the State's General fund and continuously appropriated to the Department of Health. The present fee level has been constant for four years. Program growth has been funded by increasing Federal program grants and increases in the tonnage of hazardous wastes assessed the fees. Presently, with Federal grants and waste tonnage decreasing, a need to significantly increase the fee revenues is recognized.

The facility fee, set up as a tax on the volume of waste, met the statutory mandate that generators fund the system. Thus, even though the off-site facility pays the fee, it can easily be added to the generator's bill as a surcharge. The original facility fee level was determined by the Hazardous Waste Management Branch of the Department of Health Services. Changes in the fee levels are made by rulemaking which is ordinarily a nine-month process.

The State is currently in the process of revising the fee system. The initial proposal is calling for a four-fold increase in the tonnage fee to cover the costs of a greatly expanded program. The new proposal is for a \$4.00 per ton fee with a 2500 ton cap. That is, only the first 2500 tons would be subject to assessment. This would bring the maximum annual

assessment up to \$120,000 from \$30,000. The proposal for on-site disposers inadvertently left intact the \$2500 monetary cap. The Department estimates this will result in \$130,000 less annual revenues. Instead of repositing changes to the State's regulations they are dealing with this problem in the development of the fee system described in the next paragraph.

The Department has estimated that FY 1982-83 expenditures will be \$8.074 million. In testimony on the proposed \$4 per ton charge revenues were estimated as follows:

Tonnage Base - Seasonal Averages

Low Average = 178,000 tons/mo. (Fall/Winter)  
High Average - 203,000 tons/mo. (Spring/Summer)

7/1/82 - 8/15/82 <sup>1/</sup>

1.5 mo. x 203,000 tons x \$1.00 = \$300,000

8/15/82 - 6/30/83

10.5 mo. x 180,000 <sup>2/</sup> x \$4.00 = \$7,560,000

Total Fee Revenue        \$7,860,000

<sup>1/</sup> There is a six week lag time in collection of fees

<sup>2/</sup> Weighted average reduced by 6% to account for reduced cap

The proposed is meeting opposition from industry which fees that a fixed tonnage fee is inequitable. The argument is that a fixed tonnage fee penalizes low toxicity/high volume waste generators and subsidizes high toxicity/low volume waste generators. Industry wants a degree of hazard approach similar to that used in California's Superfund structure. This four-category structure was originally developed by the industry.

In early March, AB 1543 was signed into law requiring the Department to adopt a fee system based on degree of hazard by January 1, 1983. Work on this new system was to begin in May.

Administrative Experience

Fees are being collected from 160 off-site and 693 on-site facilities. Approximately 800 transporters paid fees last year. The number of transporters fluctuates greatly around 800 from year to year.

At first, the Health and Safety Code required operators to send disposal fees to the Department. Industry complained that enforcement of fee collections has been minimal with the result being that compliers were paying for the entire program. This poor collection experience led to a statutory change in 1981 which empowered the Board of Equalization (the State's "IRS") to collect the fees. Collections have since increased 60-90%.



The facility fees are deposited in the Hazardous Waste Control Account in the General Fund and are continuously appropriated for expenditure to the Department under mandate of law. Transporter fees are collected by the Highway Control certification. They are assessed "for the privilege of engaging in the business" (Section 25166 of the Act) and are charged for administering that part of the program (Section 25167).

There have also been some problems with California's "Proposition 13". It is being argued that the fees constitute a tax and therefore must be legislatively approved by a 2/3 majority. It is not clear where this dispute will end up as the hazardous waste statute is explicit about setting fees to fully fund the program.

There is a loophole in the fee mechanism that some firms are using to lower their assessments. Because the fee is a monthly charge on disposal, a firm may store wastes on-site for several months and eventually dispose of the accumulated waste in one month. In this way there is no charge for several months and then a maximum charge of only \$2500 in the disposal month.

#### Summary of Program Highlights

- o A major objective of the State's facility fee is to discourage land disposal of hazardous waste.
- o Revenue needs, based on the approved budget, are apportioned among sites to determine fee level (the "macro" approach towards setting fee levels).
- o Fee system is to be based on degree of hazard by January 1983.
- o Fees are now collected by the State's tax collection agency and not the hazardous waste agency. Collection efficiency increased 60-90% with this change.
- o A monthly assessment, in conjunction with a cap, may enable avoidance of some fees.

## CASE STUDY - NEW JERSEY

### Enabling Authority

New Jersey has four laws which require the collection of hazardous or solid waste fees:

#### Statute:

1. New Jersey Statutes Annotated, Title 13, Conservation and Development - Parks and Reservations, Chapter 18 - Solid Waste Management (Section 18 establishes the collection of fees).
2. The New Jersey Recycling Act (PL 1981) Solid Waste Recycling Tax (establishes the collection of a solid waste tipping fee that is under litigation).
3. The Sanitary Landfill Facility Closure and Contingency Fund Act (establishes two solid waste disposal tipping fees, and both are under litigation), one for closure and one for "contingencies".
4. The Major Hazardous Waste Facility Siting Act (establishes the collection of three fees on "major hazardous waste facilities).

Regulation: The New Jersey Administrative Code, Title 7, Chapter 26, The Solid Waste Management Rules, (Section 4.3 - 4.7 establishes the fee schedules adopted under the Solid Waste Management Act).

### Program Description

The Department of Environmental Protection administers the hazardous and solid waste fees in New Jersey. The hazardous waste program is a subset of the solid waste program. Specific hazardous waste program fees, therefore, are additional assessments under the State's solid waste fee schedule.

The State has 580 hazardous waste facilities as follows:

	<u>On-Site</u>	<u>Off-Site</u>
Treatment	31	-
Storage	318	5
Disposal	6	-
Treatment/Storage	193	7
Treatment/Disposal	2	-
Storage/Disposal	5	-
Treatment/Storage/Disposal	11	2
Total	566	14

There are approximately 590 transporters and 2865 generators. Generators must generate more than 100 kilograms per month to be included in the system.

Description of the Fee Mechanisms

Facility Fees are charges under the Solid Waste Management Act. The State has three types of fees:

- \$50 annual registration fee (a base fee). It costs an additional \$50 to transfer it.
- Up to \$500/quarter inspection and regulation fee (a monitoring/surveillance fee with a legislative cap).
- \$500 engineering design review fee (an application fee).

The above fees are not charges to on-site hazardous waste facilities but are charged to off-site hazardous waste facilities and all solid waste facilities.

Transporter Fees are assessed annually. Transporter registration fees are:

\$20.00 per vehicle (solid waste)  
\$50.00 per vehicle (hazardous waste).

Other Fees. The recently-passed solid waste tipping fees are under litigation. State fees under the Major Hazardous Waste Facility Siting Act are not yet being implemented.

Total revenues collected from facility registration, inspection and engineering design fees under the solid waste management act:

FY 80	\$248,593
FY 81	\$211,285

Background in the Development of the Fee Mechanism

New Jersey began collection solid waste fees under the Solid Waste Management Act in 1974. The registration, inspection and engineering design review fees are defined in that law with a cap on the last two. These are the only fees being collected by the State hazardous waste program. The State is not attempting to fully fund its hazardous waste program with these fees.

The Solid Waste Management Act enables fees for any service the Department of Environmental Protection performs in connection with the Act. Fees therefore can be tied to specific program activities such as permit application review, inspections, etc. In 1974 the Department audited the types of services it provided to the solid waste industry. The fee types chosen reflected some of the major services provided by the State (design review, inspection/regulation, and registration). The variable quarterly inspection fee was developed as a way to more realistically recoup the costs of State services, especially in the case of larger facilities.

The New Jersey fee approach gradually evolved to its present form. Fees for solid waste facilities were initially established in 1974. A few interested members of the legislature were involved in drafting the original

fee levels. Because solid waste management had a low profile in the State, the establishment of the original fee approach was not considered controversial. These fees are now assessed against solid and hazardous waste facilities except on-site hazardous waste facilities which do not pay the fee.

State officials visited expressed an interest in charging fees to waste generators to get them to help pay for the program. The U.S. Supreme Court ruled against New Jersey regarding their ban of shipments of waste into the State, yet DEP estimates that 40% of the wastes disposed in New Jersey come from out of state. These out-of-state generators do not contribute to the general fund in New Jersey through regular channels of taxation. User fees are being argued as a mechanism which could protect general revenues from problems caused by out-of-state entities.

The State has two other broad initiatives in the area of fees that are worthy of note: those enabled under the Major Hazardous Waste Facility Siting Act and "tipping fees." The following discussion of these fee approaches provides an important background to the development of hazardous waste fees in New Jersey in the future.

The Major Hazardous Waste Facility Siting Act. This law was passed on January 1, 1982. The State fees enabled under the Act will be tied to State services provided to "major" hazardous waste facilities. A major facility is defined as having a 250,000 gallon capacity. There currently are approximately 11 of them in New Jersey. These facilities are required to pay 5% of their gross receipts from their year's sales to reimburse local municipalities for the costs added to local services, including:

1. extra police and fire costs made necessary by the major hazardous waste facility;
2. local inspection program costs incurred by local board of health or county health department;
3. road construction or repair costs; and
4. other expenses directly related to the impact of the facility on the municipality.

This 5% fee/tax is apparently being paid.

The Siting Act also provides authority to collect fees from major facilities to recover the costs of weekly State inspections and the "reasonable" costs in the review of applications. Also allowed is the reimbursement of local government for the cost of their review of major facility applications (up to \$15,000). All these fees are not yet being collected. The State has appropriated \$500,000 for the preparation and adoption of a fee schedule which was proposed in State regulations but is not yet adopted.

State Tipping Fees. The first State tipping fee for municipal wastes was instituted in 1976. The fee's major purpose was to have the facility operator pass aback the fee through the waste hauler to the generator. A State court ruled that such automatic pass-through of fees was unconstitutional under State law. The fee was terminated and the revenues collected were returned.

The State legislature passed two laws containing three more tipping fees effective January 1, 1982:

1. The Sanitary Landfill Facility Closure and Contingency Fund Act established a \$.45 per cubic yard fee for solid waste disposed in landfills. Two thirds of the fee is to go to an escrow fund to pay for the closure of the facility. One third goes to the State Treasury into a contingency fund to pay for "damages for property" caused by sanitary landfills in general. The State Treasury Department collects this fee which, in some ways, replaces the solid waste tipping fee that was overruled by the courts in 1977.
2. The New Jersey Recycling Act (PL 1981) Solid Waste Recycling Tax requires a fee of \$.12 per cubic yard tipping fee (\$.06 in 1986) be assessed at the landfill. The fees are placed in a nonlapsing, revolving fund to be jointly administered for the promotion of recycling by the Department and the State Energy Agency. The fund will be used as follows:
  - o 45% for recycling grants to municipalities,
  - o at least 20% for loan guarantee and low interest loans for recycling businesses and industries,
  - o not more than 10% for program funding and administration,
  - o not more than 10% for county and municipal administration expenses, and
  - o at least 15% for public information.

Litigation challenging these tipping fees is pending. The main question at issue is whether out-of-state industries should pay fees for which they claim they would not receive a benefit.

The State recently considered a \$.15 per cubic yard fee which would be charged for all solid (including hazardous) waste disposed in New Jersey landfills. Revenues would go to counties for planning (about 37%,) and the remainder would go to DEP. The proposed legislation (A 2282) provided that the fee revenues would be made available for monitoring, regulating and enforcing both solid and hazardous waste activities. Opposition to using the revenues for funding hazardous waste management controls prevented passage.

### Administrative Experience

When the State's Tipping fee was in operation in 1976, daily record books were kept at landfills. Each truck, its cubic yard capacity and its license number was entered into the log. These records were subject to inspections and the operators provided monthly totals and payments to the Department.

In general, the DEP collects the facility-related fees. They are recorded and then sent to the Treasury. The Agency cannot draw on these funds directly because dedicated funds are not usually established as part of the normal State budgetary process. DEP keeps an accounting of revenues collected and uses these figures to support the program's budget requests.

Fee payments for operation and collection/hauler registration are due on July 1 of each year. Using the previous year's fee statements, notices are sent to all operators and haulers announcing the amount of fee payment due in the next year. Following quarterly billing notices, landfills and special waste facilities pay inspection and regulation fees before July 1, October 1, January 1, and April 1 of each year. Landfills and special waste facilities pay one-time engineering design review fees at the time they submit their application.

Presently, fees are only payable by check to the Department. Check amounts are logged-in, then the checks are transferred to the Treasurer to be deposited in the general treasury. Information system. The fee billing system will be fully computerized in July, 1982.

Facilities which are late or refuse to pay the fees are subject to late fees and penalties, respectively. Cases of nonpayment of fees are submitted to the State Attorney General's Office for action if fees remain unpaid. It is highly unlikely that a facility would be closed because of nonpayment of fees because facilities are public utilities and are perceived as fulfilling a public need by staying open.

### Summary of Program Highlights

- o The State's fee system is to be fully computerized in July, 1982.
- o The State's current purpose is to partially fund its hazardous waste program with fees.
- o The State currently charges quarterly inspection/regulation fees.
- o The State does not assess fees on on-site hazardous waste facilities.

## ATTACHMENT 4

### Generic Job Function Descriptions

The following new positions have been added since the Phase I Authorization Application has been submitted:

a. Special Studies Coordinator for Hazardous Waste Management

Functions:

1. Performs studies of solid and hazardous waste facilities or sites and reports on the environmental impact and outlines alternative solutions.
2. Inspects hazardous waste management facilities (emphasizing recordkeeping and contingency planning) and initiates actions to bring these facilities into compliance.
3. Develops hazardous or unknown hazardous site investigation plans.
4. Develops contracts, or parts of contracts, not of a technical nature and manages their implementation including coordinating of multicontract efforts.
5. Acts as liaison to Virginia and other waste exchange programs.
6. Develops statistical summaries and lists related to solid and hazardous waste activities and facilities.
7. Coordinates the Division public information and participation program including development of advertisements and arranges for public hearings.

b. Toxic Substances Biologist for Hazardous Waste Management

Functions:

1. Responds to hazardous waste emergencies providing biological response to toxic materials expertise and supervises biological sampling.
2. Inspects hazardous waste management facilities (particularly transporters of wastes) and initiates action to bring these facilities into compliance.
3. Supervises the Bureau's regulatory effort regarding transportation of hazardous materials including issuance of hazardous waste transporter permits.
4. Coordinates transportation hazards technical assistance to the State Police, including developing seminars and materials.
5. Acts as liaison to schools, the Department of Education and other small quantity generators who have hazardous waste problems.

6. Performs literature reviews and other passive research to determine the environmental effect of hazardous waste.

c. Assistant Attorney General

Functions:

An Attorney admitted to practice before the Supreme Court of Virginia who is on the staff of the Attorney General. An assistant is assigned to one or more state agencies to which he provides a broad range of legal services. He serves as counsel to the agency in any action brought on behalf of or against the agency in both judicial and legal forums. Additionally, he represents the agency in any appeal from a judicial or administrative decision. He advises the agency with respect to the legal requirements and implications within the agency's area of responsibility. Moreover, he provides general legal advice, much as a corporate counsel, in areas such as contracts, personnel, freedom of information and privacy protection, conflicts of interest, and other similar functions.

d. Legal Intern.

Functions:

A second or third year law student who works directly for and under the supervision of the assistant attorney general. He does general legal research and assists in the preparation of legal memoranda and briefs. Additionally, he may interview witnesses and do factual research in preparation for hearings.



RELATIVE STATE PROGRAM SIZE

<u>State</u>	<u>Size*</u> <u>Category</u>	<u>State</u>	<u>Size*</u> <u>Category</u>
Alabama	D	Montana	B
Alaska	C	Nebraska	A
America Somoa	A	Nevada	A
Arizona	C	New Hampshire	A
Arkansas	B	New Jersey	D
California	E	New Mexico	A
Colorado	C	New York	E
Connecticut	C	Northern Marianas	A
Delaware	A	North Carolina	D
District of Columbia	A	North Dakota	A
Florida	D	Ohio	E
Georgia	D	Oklahoma	C
Guam	A	Oregon	C
Hawaii	A	Pennsylvania	E
Idaho	B	Puerto Rico	B
Illinois	E	Rhode Island	B
Indiana	D	South Carolina	C
Iowa	C	South Dakota	A
Kansas	C	Tennessee	D
Kentucky	D	Texas	E
Louisiana	D	Utah	B
Maine	A	Vermont	A
Maryland	C	Virginia	C
Massachusetts	D	Virgin Islands	A
Michigan	E	Washington	C
Minnesota	C	West Virginia	D
Mississippi	B	Wisconsin	D
Missouri	C	Wyoming	A

\*Based on grant formula 40 CFR 35.706(a)

- 40% - relative population
- 40% - relative amounts of hazardous waste generated
- 15% - relative number of generators
- 5% - relative land area

Programs range from A (the smallest) to E (the largest)

Source: ORIA, EPA - April 1980

