

Department of State
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For Department of State Use Only

Sequence Number: 11-13-09
 Notice ID(s): 1157
 File Date: 11/12/2009

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Environment and Conservation
Division:	Solid Waste Management
Contact Person:	Robert S. Nakamoto
Address:	5th Floor, L & C Tower 401 Church Street Nashville, Tennessee
Phone:	37243-1535
Email:	robert.nakamoto@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	12 th Floor L&C Tower 401 Church Street Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service at 1-800-848-0298.
Email:	Beverly.Evans@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	5 th Floor L & C Annex, Large Conference Room		
Address 2:	401 Church Street		
City:	Nashville, Tennessee		
Zip:	37243-1535		
Hearing Date :	01/06/10		
Hearing Time:	9:30 AM	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Additional Hearing Information:

The Division prepared an initial set of draft rules for public review and comment. Copies of these initial draft rules are available for review at the Tennessee Department of Environment and Conservation's (TDEC's) Environmental Field Offices located as follows:

Memphis Environmental Field Office
 Suite E-645, Perimeter Park
 2510 Mount Moriah Road
 Memphis, TN 38115-1520
 (901) 368-7939/ 1-888-891-8332

Cookeville Environmental Field Office
 1221 South Willow Avenue
 Cookeville, TN 38506
 (931) 432-4015/ 1-888-891-8332

Jackson Environmental Field Office
 1625 Hollywood Drive
 Jackson, TN 38305

Chattanooga Environmental Field Office
 Suite 550 - State Office Building
 540 McCallie Avenue

(731) 512-1300/ 1-888-891-8332

Chattanooga, TN 37402-2013
(423) 634-5745/ 1-888-891-8332

Columbia Environmental Field Office
1421 Hampshire Pike
Columbia, TN 38401
(931) 380-3371/ 1-888-891-8332

Knoxville Environmental Field Office
3711 Middlebrook Pike
Knoxville, TN 37921-5602
(865)594-6035/ 1-888-891-8332

Nashville Environmental Field Office
711 R. S. Gass Blvd.
Nashville, TN 37243-1550
(615) 687-7000/1-888-891-8332

Johnson City Environmental Field Office
2305 Silverdale Road
Johnson City, TN 37601-2162
(423) 854-5400/1-888-891-8332

The "Draft" rules may also be accessed for review using <http://state.tn.us/environment/swm/ppo>.

Draft copies are also available for review at the Nashville Central Office (see address below).

Tennessee Department of Environment and Conservation
Division of Solid Waste Management
5th Floor, L&C Tower
401 Church Street
Nashville, Tennessee 37243-1535
(615) 532-0780

Office hours for the Division's offices are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to: Division of Solid Waste Management; Tennessee Department of Environment and Conservation; Attention: Mr. Robert S. Nakamoto; 5th Floor, L & C Tower; 401 Church Street; Nashville, Tennessee 37243-1535; telephone 615-532-0868 or fax 615-532-0886. However, such written comments must be received by the Division by 4:30 PM CST, January 8, 2010 in order to assure consideration. For further information, please contact Mr. Robert S. Nakamoto at the above address or telephone number or by e-mail at robert.nakamoto@tn.gov.

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-01-11	Hazardous Waste Management
Rule Number	Rule Title
1200-01-11-.08	Fee System for Transporters, Stors, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-01-11
Hazardous Waste Management

Amendment

The Table of Contents for Chapter 1200-01-11 Hazardous Waste Management is amended deleting the title to Rule 1200-01-11-.08 and replacing it with a new title to read as follows:

1200-01-11-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters and Universal Waste Facilities

Rule 1200-01-11-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and replacing it so that, as amended, the rule shall read as follows:

1200-01-11-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters and Universal Waste Facilities.

(1) General

(a) Purpose

The purpose of this Rule is to establish a system and schedule whereby certain fees shall be levied and collected by the Commissioner. Expenditures of such fees collected shall be restricted to operation of the hazardous waste management program established pursuant to the Act. Any unencumbered and any unexpended balance shall be maintained in the Tennessee Environmental Protection Fund (the "Fund").

(b) Applicability

The requirements of this Rule apply as specified to the following persons:

1. All transporters having a hazardous waste transporter permit issued under the Act and all new or existing transporters subject to the transporter permit requirements of Rule 1200-01-11-.04(2);
2. Owners and operators of all hazardous waste storage, treatment, and disposal facilities who are subject to the facility permit requirements of Rule 1200-01-11-.07, except for those subject solely to the permit-by-rule requirements of Rule 1200-01-11-.07(1)(c);
3. All generators of hazardous wastes;
4. Persons requesting that the Solid Waste Disposal Control Board review an action of the Commissioner;
5. All transporters, marketers, processors/re-refiners of used oil, or burners of off-specification used oil;
6. Persons carrying out closure activities, post-closure activities and/or corrective action activities, under permits or other enforceable documents;
7. Persons responsible for spills or accidental discharges (of hazardous waste or other material which, when spilled or discharged, becomes a hazardous waste) requiring investigation and/or remediation of soil, groundwater, or surface water and/or sediment;
8. All hazardous waste transfer facilities; and
9. All universal waste destination facilities.

(c) Payment of Fees

Any person required to pay a fee under this Rule shall submit the fee by check or money order or other method approved by the Commissioner in the specified amount, made payable to the Treasurer, State of Tennessee for deposit in the Tennessee Environmental Protection Fund.

- (d) No permit or other authorization shall be issued or renewed by the Division of Solid Waste Management pursuant to Rule Chapter 1200-01-11 or 1200-01-14 until all fees and/or penalties owed by the applicant to the Division are paid in full, unless a time schedule for payments has been approved and all payments are current or contested fees or penalties are under appeal.

(2) Installation Identification Number Application Fee

Any person who applies to the Department for an Installation Identification Number on the Notification Forms provided by the Department shall submit as part of the request a fee of 150 dollars. Generators updating their facility notification file by adding a new hazardous waste stream shall submit a fee of 100 dollars with the new hazardous waste stream form.

(3) Permit Application Fees

(a) Transporters

Any person who applies for a permit or modification to a permit to transport hazardous wastes in Tennessee must submit as part of said application an application fee of 200 dollars.

- (b) Treatment, Storage, and Disposal Facilities (TSDF) including facilities conducting corrective action and post-closure under permits, orders, or other enforceable documents.

1. Part A application

Any person who applies for a permit for a hazardous waste storage, treatment, or disposal facility must submit, as part of his Part A application and prior to application review, an application fee for each new or revised application as set forth below:

600 dollars for an existing facility; or

2,800 dollars for a new facility.

2. Part B application

Any person who applies for a permit, or permit renewal, for a hazardous waste storage, treatment, or disposal facility must submit, as part of his Part B application and prior to application review, an application fee for each new or revised application as set forth below:

- (i) Part B application for an on-site hazardous waste facility:

15,000 dollars for a storage facility;

15,000 dollars for a treatment facility;

30,000 dollars for a disposal facility; and

30,000 dollars for a landfill site.

- (ii) Part B application for a commercial hazardous waste facility:

37,500 dollars for a storage facility;

37,500 dollars for a treatment facility;
75,000 dollars for a disposal facility; and
75,000 dollars for a landfill site.

(iii) Part B application for a post-closure unit pursuant to a permit, order or other enforceable document:

30,000 dollars for a unit not previously permitted under a hazardous waste operating permit; and

15,000 dollars for a unit which previously operated under a hazardous waste operating permit.

(iv) Part B application for corrective action:

15,000 dollars for a facility, as defined under Rule 1200-01-11-.01(2)(a), implementing corrective action under Rule 1200-01-11-.06(6)(l) not already included in subparts (i), (ii) or (iii) of this part.

(c) Special Case: Modification of Existing Facility Permit

Any person who applies for modification or reissuance (following revocation) of his existing facility permit, order, or other enforceable document [refer to Rule 1200-01-11-.07(9)] must submit, as part of his Part B application and prior to modification review, an application fee as set forth below:

1. For owners or operators applying for a Class 1 permit modification, the fee shall be 600 dollars;
2. For owners or operators applying for a Class ¹1 permit modification with changes other than, or in addition to, changes in part 1 above, the fee shall be 4,200 dollars; the Class ¹1 permit modification fee for Maximum Achievable Control Technology (MACT) modifications shall be 8,000 dollars.
3. For owners or operators applying for a change in ownership or operational control of a facility pursuant to Rule 1200-01-11-.07(9)(b)3, the fee shall be 3,800 dollars.
4. For owners or operators applying for a Class 2 permit modification, the fee shall be:
 - 9,700 dollars for modification of a container or tank storage and/or treatment unit, thermal treatment unit, or drip pad, storage and/or treatment unit;
 - 12,500 dollars for modification of a disposal unit, waste pile storage unit, containment building storage and/or treatment unit, surface impoundment storage and/or treatment unit, or other miscellaneous unit; and
 - 15,000 dollars for modification of a post-closure unit.
5. For owners or operators applying for a Class 3 permit modification, the fee shall be:
 - 15,000 dollars for modification of a container or tank storage and/or treatment unit, thermal treatment unit, or drip pad, storage, and/or treatment unit;
 - 15,000 dollars for modification of any permit to include the final remedy for Solid Waste Management Units under corrective action requiring remediation and/or maintenance activities;

30,000 dollars for modification of a disposal unit, waste pile storage unit, containment building storage and/or treatment unit, surface impoundment storage and/or treatment unit, or other miscellaneous unit; and

20,000 dollars for modification of a post-closure unit.

(d) Closure and Post-Closure Plans

Any person required to submit a closure plan or post-closure plan [refer to Rule 1200-01-11-.05(7) and -.06(7)] for a hazardous waste facility must submit, as part of the closure or post-closure plan, and prior to plan review, an application fee, unless the above plan was reviewed as part of a permit application package, as set forth below:

2,800 dollars for a closure plan;

2,800 dollars for a post-closure plan.

(e) Modification of Approved Closure and Post-Closure Plan

Any person who submits a modification to an approved closure plan or post-closure plan must submit, as part of the modification and prior to modification review, a modification fee, unless the above plan was reviewed as part of a permit application package, as set forth below:

300 dollars for Class 1 Modification;

850 dollars for Class 1¹ Modification;

1,100 dollars for Class 2 Modification; and

1,700 dollars for Class 3 Modification.

(f) Emergency Permit

Any person who applies for an emergency permit (refer to Rule 1200-01-11-.07(1)(d)) must submit, as part of the emergency permit application, an application fee of 2,400 dollars.

(g) Research, Demonstration, and Development Permit

Any person who applies for a research, demonstration, and development permit (refer to Rule 1200-01-11-.07(1)(g)) must submit, as part of the research, demonstration, and development permit application, an application fee of 2,800 dollars. An additional fee of 2,800 dollars is assessed for each renewal pursuant to Rule 1200-01-11-.07(1)(g)4.

(h) Temporary Authorization

Any person who applies for a temporary authorization pursuant to Rule 1200-01-11-.07(9)(c)5(v) must submit as part of the temporary authorization request, an application fee of 3,000 dollars. An additional fee of 300 dollars is assessed for the renewal pursuant to Rule 1200-01-11-.07(9)(c)5(v)(IV).

(i) Schedule for Timely Action on Permit Applications/Permit Modifications

1. The following documents, when submitted separately, must be reviewed and the applicant notified within the following time frames:

- | | | |
|-----|---|----------|
| (i) | Hydrogeologic Report
(Assessment Plan, Sampling and
Analysis Plans, Groundwater Annual
Reports, and Groundwater Monitoring Plan) | 180 days |
|-----|---|----------|

(ii)	Closure Plan	180 days
(iii)	Post-Closure Plan	180 days
(iv)	Review of Part A Application for Completeness	45 days
(v)	Initial Review of Part B Application and Class 3 Permit Modifications	180 days
(vi)	Initial Review of Class 1 and ¹ 1 Modification	60 days

2. Applications, closure plans, post-closure plans, and modifications shall be acted upon (issued or denied) by the Department within the time frames required by Rule 1200-01-11-.07 beginning with the end of the public comment period(s) specified in each public notice.

3. The above timely action periods shall be stayed if:

- (i) The applicant requests that review be suspended;
- (ii) The department issues a written notice of deficiency and until the applicant adequately addresses said deficiency;
- (iii) Priorities set by the Environmental Protection Agency (EPA) require a delay;
- (iv) The review process has been halted due to pending judicial and/or administrative actions;
- (v) Applicable regulations change;
- (vi) The Department requests a delay in the review process to which the applicant agrees; or
- (vii) Multiple (5 or more) Class 1 or ¹1 modifications from a single applicant are received.

4. Should the Department not comply with the timely review periods specified in subparagraph (h) of this paragraph, the application fee shall be refunded. The Board shall be provided a quarterly update on the timeliness of permit processing.

(4) Annual Maintenance Fees

(a) Transporters

- 1. Each person having a hazardous waste transporter permit issued under the Act must submit to the Commissioner, by December 31 of each year, an annual permit maintenance and renewal fee of 350 dollars.
- 2. Each person operating a hazardous waste transfer facility shall submit to the Commissioner by December 31 of each year, an annual facility maintenance fee of 850 dollars.
- 3. Each person transporting used oil and that is required to submit an annual report under Rule 1200-01-11-.11 shall submit to the Commissioner, by March 1 of each year, an annual maintenance fee of 200 dollars.
- 4. Each person operating a used oil transfer facility under Rule 1200-01-11-.11 shall submit to the Commissioner, by March 1 of each year, an annual facility maintenance fee of 1,000 dollars.

- (b) Treatment, Storage, and Disposal Facilities (TSDF) including facilities conducting corrective action and post-closure.

The owner or operator of each hazardous waste treatment, storage, or disposal facility in Tennessee having either a permit issued under the Act or interim status as provided under Rule 1200-01-11-.07(3) must submit to the Commissioner, by March 1 of each year, an annual permit maintenance fee as provided in this subparagraph provided however that for the year 2010, persons who paid the annual permit maintenance fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this Rule.

1. General

- (i) An annual fee shall be assessed consisting of a base amount plus an additional charge calculated on the facility's total constructed design capacity during the previous calendar year.
- (ii) The owner or operator of each treatment, storage, or disposal facility shall be assessed an annual fee each year until all closure, post-closure, and corrective action activities are complete and the facility is closed in accordance with the appropriate standards of Rules 1200-01-11-.05 or 1200-01-11-.06, as applicable.
- (iii) For purposes of this subparagraph, a facility that receives hazardous wastes from off-site, other than from contiguous properties, is determined to be an off-site facility for the calendar year in which the off-site hazardous waste is received.

2. Storage Operations

- (i) The owner or operator of each facility shall be assessed a base amount plus an additional charge calculated on the total constructed design capacity in gallons (gal.) of the facility's hazardous waste storage operations as set forth below, except as provided for in subpart (iii) of this part:

- (I) For facilities which receive only hazardous waste which are generated on-site, a base amount of 4,700 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gal.	\$1,450
5,001 - 10,000 gal.	2,150
10,001 - 50,000 gal.	4,250
50,001 - 100,000 gal.	5,000
100,001 - 500,000 gal.	5,700
500,001 - 1,000,000 gal.	6,400
over 1,000,000 gal.	7,100

- (II) For facilities which receive hazardous wastes from off-site generators, a base amount of 9,350 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gal.	\$ 2,850
5,001 - 10,000 gal.	4,250
10,001 - 50,000 gal.	8,850
50,001 - 100,000 gal.	9,950
100,001 - 500,000 gal.	11,400
500,001 - 1,000,000 gal.	12,800
over 1,000,000 gal.	14,250

- (ii) Only the incremental constructed design capacity fee and not the base fee in Item (i)(I) of this part shall apply to facilities with only one on-site storage unit with a capacity less than 10,000 gallons which receives waste only from on-site.

3. Treatment Operations

- (i) The owner or operator of each facility shall be assessed a base amount plus an additional charge calculated on the total constructed design capacity in gallons per day (gpd) of the facility's hazardous waste treatment operations as set forth below:

- (I) For facilities which receive only hazardous wastes which are generated on-site, a base amount of 7,000 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gpd	\$2,850
5,001 - 10,000 gpd	3,550
10,001 - 50,000 gpd	4,250
50,001 - 100,000 gpd	5,000
100,001 - 500,000 gpd	5,700
500,001 - 1,000,000 gpd	6,400
over 1,000,000 gpd	7,100

- (II) For facilities which receive hazardous waste from off-site generators, a base amount of 11,700 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gpd	\$ 5,700
5,001 - 10,000 gpd	7,100
10,001 - 50,000 gpd	8,550
50,001 - 100,000 gpd	9,950
100,001 - 500,000 gpd	11,400
500,001 - 1,000,000 gpd	12,800
over 1,000,000 gpd	14,250

- (ii) Facilities paying a base amount for Treatment Operations shall not be assessed a separate base amount for Storage Operations located on contiguous property.
- (iii) The combined Annual Maintenance Fees for Treatment and Storage for on-site facilities shall not exceed 16,000 dollars per facility, and for off-site facilities this fee shall not exceed 32,000 dollars.

4. Disposal Operations

These fees are applicable only to facilities which require a permit under Rule 1200-01-11-.07 of the Rules governing hazardous waste management for the State of Tennessee. The owner or operator of each facility shall be assessed an annual fee as set forth below:

- (i) For non-commercial facilities, a base fee of 8,000 dollars plus an additional:
 - 700 dollars per each acre-foot of remaining design capacity of landfill operations (to include waste piles and surface impoundments used for disposal and subject to closure as landfills);
 - 700 dollars per each acre of remaining design capacity of land application operations; and

1.50 dollars per gallon per day (gpd) for the permitted injection capacity of injection well operations;

(Note: This fee shall not exceed \$22,500 in accordance with T.C.A. §68-203-103(h)(19).)

(ii) For commercial facilities, a base fee of 30,000 dollars plus an additional:

1,450 dollars per each acre-foot of remaining design capacity of landfill operations (to include waste piles and surface impoundments used for disposal and subject to closure as landfills);

1,450 dollars per each acre of remaining design capacity of land application operations; and

1.50 dollars per gallon per day (gpd) for the permitted injection capacity of injection well operations.

(Note: This fee shall not exceed \$75,000 in accordance with T.C.A. §68-203-103(h)(15).)

5. Post-Closure Activity

These fees are applicable to facilities that require a permit, order, or other enforceable document under Rule 1200-01-11-.07 of the Rules governing hazardous waste management for the State of Tennessee. The owner or operator shall be assessed an annual fee set forth below:

(i) For facilities conducting post-closure activities a base fee of 3,600 dollars for each permit, order, or other enforceable document plus an additional:

1,200 dollars for each remediation system conducting active remediation for contaminated media.

6. Corrective Action Activity

These fees are applicable to facilities that require corrective action for Solid Waste Management Units (SWMUs) under Rule 1200-01-11-.07(5)(e) and Rule 1200-01-11-.06(6)(l). The owner or operator shall be assessed an annual fee set forth below:

(i) For facilities conducting corrective action activities under the authority listed above, a base fee of 6,000 dollars plus an additional fee for review of the following types of corrective action at the facility during the past year.

2,400 dollars for Confirmatory Sampling
4,800 dollars for RCRA Facility Investigation
3,600 dollars for Corrective Measures
2,400 dollars for Interim Measures

(Note: This fee does not apply to facilities that are reimbursing the State, pursuant to the Department of Defense/State Memorandum of Agreement, costs incurred by the State for corrective action activities at those facilities.)

(c) Universal Waste

The owner or operator of a universal waste destination facility, as defined in Rule 1200-01-11-.12, shall submit to the Commissioner, by March 1 of each year, an annual maintenance fee of 2,000 dollars.

(d) Used Oil Processors and Re-refiners

The owner of operator of a facility that processes and/or re-refines used oil, as defined in Rule 1200-01-11-.11, shall submit to the Commissioner, by March 1 of each year, an annual maintenance fee of 2,000 dollars.

(5) Generator Fees

(a) Annual Generator Fees

(Note: Rules 1200-01-11-.02(1)(d)3(ii) and 1200-01-11-.02(1)(e)3 and 4 are applicable in determining generator status for fee purposes.)

1. Except as provided in subparagraph (b) of this paragraph., the Annual Generator Fee for Small Quantity Generators shall consist of a base amount of 1,200 dollars plus an off-site shipping fee determined in accordance with subparagraphs (c) and (d) of this paragraph.

(i) For the purpose of this subparagraph Small Quantity Generator shall mean:

(I) Any generator who generates greater than 100 kilograms, but less than 1000 kilograms of hazardous waste in any calendar month of the previous calendar year; or

(II) Any Conditionally Exempt Small Quantity Generator who accumulates at any time more than 1000 kilograms of non-acute hazardous waste in the previous calendar year.

2. Except as provided in subparagraph (b) of this paragraph, the Annual Generator Fee for Large Quantity Generators shall consist of a base amount of 2,000 dollars plus an off-site shipping fee determined in accordance with subparagraphs (c) and (d) of this paragraph.

(i) For the purpose of this subparagraph Large Quantity Generator shall mean:

(I) Any generator who generates 1000 kilograms or more of hazardous waste in any calendar month of the previous calendar year; or

(II) Any generator who generates 1 kilogram or more of acute hazardous waste, or 100 kilograms or more of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of an acute hazardous waste, in any calendar month of the previous calendar year; or

(b) Exclusions from Base Fee Assessment

1. Hazardous wastes generated from remediation or corrective actions required by the Tennessee Hazardous Waste Management Act of 1977 and 1983; the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) shall not be subject to the fee calculations in parts (a) 1 or (a) 2 of this paragraph.

2. A Conditionally Exempt Small Quantity Generator does not owe this fee if neither part (a) 1 nor (a) 2 of this paragraph is applicable.

(c) Off-site Shipping Fee

1. Hazardous waste with a thermal heating value greater than 5000 BTU per pound that are subject to energy recovery as defined by handling codes for treatment methods T50 and T80 through T93 are assessed an off-site shipping fee of \$0.0012 per pound.

2. Hazardous wastewaters, defined as containing less than 1 percent total organic carbon and less than 1 percent total suspended solids, shall be assessed an off-site shipping fee of \$0.0047 per pound.

3. Except for those hazardous wastes excluded from off-site shipment fees as provided in subparagraphs (d) of this paragraph, all remaining waste not claimed in part 1 or 2 above shall be assessed an off-site shipping fee of \$0.0088 per pound.
4. The off-site shipping fee for any single generator shall not exceed \$29,200 in any calendar year.

(d) Exclusions from Off-site Shipping Fees

1. Hazardous wastes that are recycled/recovered as defined by handling codes for treatment methods T30, T54, and T63, lead smelting, precious metals recovery, and/or high temperature metals recovery are exempt from off-site shipping fees.
2. Hazardous wastes generated from remediation or corrective actions required by the Tennessee Hazardous Waste Management Act of 1977 and 1983; the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) shall not be subject to off-site shipping fees.
3. A Conditionally Exempt Small Quantity Generator does not owe this fee, if neither part (a)1 nor (a)2 of this paragraph is applicable.
4. Universal Wastes identified in Rule 1200-01-11-.12, and spent lead-acid batteries managed under Rule 1200-01-11-.09(7), are exempt from off-site shipping fees.

(e) Director's Option, case-by-case

The Director may include other handling codes for waste treatment methods in part (c)1 or part (d)1 of this paragraph on a case-by-case basis, based upon application by a generator.

(f) Date for Payment of Fees

These generator fees shall be paid no later than March 1 of each year for hazardous waste activities conducted the previous calendar year; provided however that for the year 2010, persons who paid the generator fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this Rule.

(6) Construction Inspection Fee

Prior to the beginning of any construction, at any unit, a permittee shall pay a Construction Inspection Fee for each item to be constructed based upon the class of modification of the item using Appendix I, Classification of Permit Modification, in Rule 1200-01-11-.07(10), as follows:

	Class 3*	Class 2	Class ¹ 1	Class 1
Storage Unit	\$2,700	\$2,000	\$1,300	\$300
Treatment Unit	\$5,350	\$4,000	\$2,700	\$550
Disposal Unit	\$5,350	\$4,000	\$2,700	\$550
Post Closure Unit	\$5,350	\$4,000	\$2,700	\$550

*Also applies to newly permitted units not as yet constructed.

(7) Mixed Wastes Treatment Plan Review Fee

Any person who requests approval by the Department of a mixed waste treatment plan is assessed a mixed waste treatment plan review fee that is equal to all cost associated with the Department's review of the initial mixed waste treatment plan, any update to the mixed waste treatment plan, and/or any revision(s) to the mixed waste treatment plan. Costs shall include, but not be limited to mileage, lab expense, the current hourly rate and benefits for the Department's employees actively involved in review activities, including preparation for and attendance at meetings, the current Department overhead rate, and costs billed by Department contractor(s). Costs shall not include Part A and Part B permit review

expenses that are recovered through other applicable fees. The Department shall provide a person subject to this rule with quarterly statements reflecting review cost posted during the previous quarter. All review costs reflected on a person's quarterly statement shall be paid to the Department within thirty (30) days of their receipt of the invoice.

(8) Hazardous Waste Tipping Fee

(a) Fee Amount per Pounds Received

In addition to all other fees imposed by this Rule Chapter, Tennessee facilities with a hazardous waste treatment, storage, or disposal permit are assessed a hazardous waste tipping fee based on the amount of hazardous waste received from off-site as set forth below:

Pounds Received	Fee Amount
1 – 100,000 pounds	\$ 1,200
100,001 – 500,000 pounds	\$ 4,700
500,001 – 1,000,000 pounds	\$ 8,200
1,000,001 – 5,000,000 pounds	\$ 11,700
5,000,001 – 10,000,000 pounds	\$ 17,550
10,000,001 – 20,000,000 pounds	\$ 23,350
over 20,000,000 pounds	\$ 29,200

(b) Recycle/Recovery Exemption

Hazardous wastes that are received for recycle/recovery as defined by handling codes for treatment methods T30, T54, and T63, lead smelting, precious metals recovery, and/or high temperature metals recovery are exempt from the hazardous waste tipping fees.

(c) Universal Waste Exemptions

Universal Wastes identified in Rule 1200-01-11-.12, and spent lead-acid batteries managed under Rule 1200-01-11-.09(7), are exempt from the hazardous waste tipping fees.

(d) Date for Payment of Fees

These hazardous waste tipping fees shall be paid no later than March 1 of each year for hazardous waste activities conducted the previous calendar year beginning with the effective date of these rules; provided however, that for the year 2010, persons who paid the hazardous waste tipping fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this Rule.

(9) Special Review Fees

Any person who submits any of the documents listed below is assessed a review fee as follows:

11,700	dollars for a Trial Burn Plan for each type of unit
11,700	dollars for a Risk Burn Plan for each type of unit
5,000	dollars for a Certificate of Compliance Plan for each type of unit
11,700	dollars for a Facility Risk Assessment and/or Risk Evaluation Plan associated with a land based unit
11,700	dollars for a Facility Risk Assessment and/or Risk Evaluation Plan associated with a combustion unit
11,700	dollars for the initial Dispersion Model and Direct Human Health Risk Assessment

5,850	dollars for Periodic Modeling and Direct Human Health Risk Assessment
3,000	dollars for each variance or waiver request regardless of whether the variance or waiver request is approved or denied.
650	dollars for each variance or waiver renewal request regardless of whether the variance or waiver request is approved or denied
500	dollars for a contained-in determination
50	dollars per hour for the staff time required to research and prepare a written response from the Division to a request of an official regulatory interpretation, including, but not limited to, waste determinations, recycling, exclusions, exemptions, etc.

(10) Initial Spill and/or Accidental Discharge Investigation Fee

2,000	dollars for each spill or accidental discharge (of hazardous waste, or other material which, when spilled or discharged, becomes a hazardous waste) requiring investigation and/or remediation of soil, groundwater, or surface water and/or sediment, provided such investigation/remediation is overseen by the Division of Solid Waste Management.
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(11) Chromium Exclusion Review Fee

2,500	dollars for each chromium waste stream applicable to the exclusion in Rule 1200-01-11-.02(1)(d)2(v).
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Authority: T.C.A. §§ 68-212-107(d), 68-212-108, 68-211-1015, and 68-203-101 et seq.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: 11-12-09

Signature: [Signature]

Name of Officer: Mike Apple

Title of Officer: Director, Division of Solid Waste Management

Subscribed and sworn to before me on: 11/12/09

Notary Public Signature: [Signature]

My commission expires on: 11/7/2012

Department of State Use Only

Filed with the Department of State on: 11/12/09

[Signature]

Tre Hargett
Secretary of State

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