

WEST VIRGINIA CODE: §22-19-4

§22-19-4. Fee assessments; tonnage fees; due dates of payments; interest on unpaid fees.

(a) Each generator of hazardous waste within this state shall pay an annual fee based upon the amount of hazardous waste generated as reported to the director by the generator on a fee assessment form prescribed by the director submitted pursuant to article eighteen of this chapter. The director shall establish a fee schedule according to the following: Full assessment for generated hazardous waste disposed or treated off-site; ninety percent of the full assessment for generated hazardous waste either treated or disposed on-site; seventy-five percent of the full assessment for generated hazardous waste treated off-site so that such waste is rendered nonhazardous; and twenty-five percent of the full assessment for generated hazardous waste treated on-site so that such waste is rendered nonhazardous: Provided, That the generator fee assessment does not apply to the following: (1) Sludge from any publicly owned treatment works in the state; (2) any discharge to waters of the state of hazardous waste pursuant to a valid water pollution control permit issued under federal or state law; (3) any hazardous wastes beneficially used or reused or legitimately recycled or reclaimed; (4) hazardous wastes which are created or retrieved pursuant to an emergency or remedial action plan; (5) hazardous wastes whose sole characteristic as a hazardous waste is based on corrosivity and which are subjected to on-site elementary neutralization in containers or tanks; (6) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; (7) solid waste from the extraction, beneficiation, and processing of ores and minerals, including coal, phosphate rock and overburden from the mining of uranium ore; (8) cement kiln dust waste; (9) drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geo-thermal energy; and (10) any other material that is exempted or excluded from hazardous waste regulation pursuant to the federal Resource Conservation and Recovery Act and the rules promulgated thereunder, including, but not limited to, the exemptions and exclusions set forth in 40 CFR 261.4 and 261.6, or the state hazardous waste management act, article eighteen of this chapter, and the rules promulgated thereunder.

(b) Each generator of hazardous waste within the state subject to a fee assessment under subsection (a) of this section shall pay a fee based on its annual tonnage of generated hazardous waste. Any unexpended balance of such collected fees shall not be transferred to the General Revenue Fund, but shall remain in the fund. Whenever the balance in the fund is less than \$1 million, the director is authorized to impose a fee assessment as provided in this article, but in no event shall the fees established be set to produce revenue exceeding \$500,000 in any year.

(c) Generator fee assessments are due and payable to the Division of Environmental Protection on January 15, of each year. Such payments shall be accompanied by information

in such form as the director may prescribe.

(d) If the fees or any portion thereof are not paid by the date prescribed, interest accrues upon the unpaid amount at the rate of ten percent per annum from the date due until payment is actually made. Such interest payments shall be deposited in the fund. If any generator fails to pay the fees imposed before April 1 of the year in which they are due, there is imposed in addition to the fee and interest determined to be owed a surcharge equivalent to the total amount of the fee which shall also be collected and deposited in the fund.