

# HAZARDOUS WASTE USER CHARGES STAKEHOLDERS WORK GROUP

## RECOMMENDATIONS

### Executive Summary

Based on experiences with the first two billing cycles, the new hazardous waste user charges collection system can be burdensome for both the Department of Environmental Quality (DEQ) and the regulated community, and it is not generating enough revenue to achieve the statutory target revenue projection each year. Therefore, as part of its strategic plan for Fiscal Year 2004 (FY04), the DEQ committed to convening a stakeholders work group to make recommendations for improving the user charges collection system. The DEQ convened the work group in August 2004. After a series of meetings and deliberation, the work group developed the following recommendations:

1. Improve the invoice package by doing all of the following:
  - a. Eliminate the certification and signature requirement for the manifest confirmation report.
  - b. Eliminate the requirement to return the manifest confirmation report unless the number of manifests invoiced is incorrect.
  - c. Eliminate the requirement to return the site identification verification report unless changes to the invoiced activity are necessary or unless the handler wants to make other changes (contact person, mailing address, etc.).
  - d. Modify the invoice form.
  - e. Simplify the certification statement on the invoice form and be less restrictive as to who can sign it.
  - f. Simplify the invoice package instructions and make more detailed instructions available on the Internet.
2. Eliminate the requirement to submit the site identification verification form (EQP 5150) and allow handlers to indicate on the invoice form changes to the invoiced site activity.
3. Following legislative approval, synchronize the handler and manifest processing user charge billing cycles, setting both to the calendar year.
4. Automate collection of the manifest processing user charges for out-of-state manifests.

The recommended improvements to the invoice package (Item 1, above) have been implemented and are reflected in the invoices that were mailed in February 2005. The DEQ and stakeholders agreed to pursue legislation to synchronize the billing periods for manifests and handler activity (Item 3, above) at the appropriate time. Because the recommendations to eliminate altogether the requirement for the site identification verification form (Item 2, above), to synchronize the billing periods (Item 3, above), and to automate the charge for out-of-state manifests (Item 4, above) all require substantial redesign of the user charges software application, the DEQ will pursue one redesign project incorporating all of those changes, subject to resource availability and legislative approval, where needed.

The work group was not prepared at this time to pursue any increases in the user charges to make up the shortfall between actual collections, of approximately \$1.3 million, each year and the statutory target revenue projection of \$1.6 million. That target was established by the Legislature to ensure sufficient state matching funds for the Hazardous Waste Program's (HWP) federal grant.

As summarized in this report, the work group conducted a comprehensive review of the user charges collection system and developed a rational basis for the recommendations. Their efforts are greatly appreciated and will result in greater efficiencies to the user charges collection system. Members of the work group included:

- Ms. Jennifer Baker, Philip Services Corporation
- Ms. Julie Blanchard, WHMD, DEQ
- Ms. Ronda Blayer, WHMD, DEQ
- Ms. Elizabeth Bols, WHMD, DEQ
- Mr. Gary Brannock, Young's Environmental Cleanup, Inc.
- Mr. George Bruchmann, WHMD, DEQ
- Mr. Stephen Buda, WHMD, DEQ
- Mr. Gene Cieply, SQS Incorporated
- Ms. Susan Lynn Johnson, Soave Enterprises
- Mr. Michael Johnston, Michigan Manufacturers Association
- Ms. Melinda Keillor, EQ - The Environmental Quality Company
- Mr. Scott Maris, EQ - The Environmental Quality Company
- Ms. Connie Pennell, WHMD, DEQ
- Ms. Liane Shekter Smith, WHMD, DEQ
- Mr. Steve Sliver, WHMD, DEQ
- Mr. Andrew Such, Michigan Chemistry Council
- Mr. Ward Wilson, Consumers Energy Company
- Mr. Patrick Zombo, Consumers Energy Company

Lastly, the development of this report is a preliminary step to developing a report on the effectiveness and adequacy of the user charges, which is due to the Legislature in April 2006 {Michigan Compiled Laws 324.11135(6) and 324.11153(8)}.

## Issue

The hazardous waste user charges collection system can be burdensome for both the DEQ and the regulated community and is not generating enough revenue to achieve the statutory target revenue projection each year.

## Background

### ***Hazardous Waste Program Description***

The HWP is a preventive program that aims to protect human health and the environment by ensuring the proper handling, tracking, transportation, storage, treatment, and disposal of hazardous wastes and liquid industrial wastes in Michigan. It is a comprehensive program that regulates hazardous wastes from “cradle to grave” and that extends to the transportation of liquid industrial wastes. The primary state and federal authorities for the HWP are as follows:

- Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and its administrative rules, Michigan Administrative Code R 299.9101 *et seq.*
- Part 121, Liquid Industrial Wastes, of Act 451
- Part 167, Used Oil Recycling, of Act 451
- Part 171, Battery Disposal, of Act 451
- Hazardous Materials Transportation Act, 1998 PA 138 (Act 138)
- Federal Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA)

All Michigan citizens benefit from the environmental protection efforts of the HWP. The HWP directly serves approximately 5,700 generators of hazardous waste; 470 used oil handlers; 300 universal waste handlers; 240 hazardous waste treatment, storage, and disposal facilities (TSDs); 265 hazardous waste transporters; and 300 liquid industrial waste transporters. The HWP’s services and activities include the following:

- Construction permits and operating licenses for TSDs
- Emergency operating licenses
- TSD closure, postclosure, and corrective action work plan approvals
- Public participation
- TSD comprehensive environmental monitoring evaluations

- Compliance evaluation inspections
- Waste characterization and delisting
- Hazardous waste manifests and biennial reports processing
- Compliance assistance
- Administrative orders
- Contested case hearings on licenses
- Civil and criminal enforcement and litigation support
- Special initiatives (Michigan Timely Application and Permit Service [MiTAPS], Dioxin Sampling, etc.)
- Maintain the Waste Data System
- Transporter registration
- Authorization
- Administration of the user charges collection system

While the U.S. Environmental Protection Agency (U.S. EPA) could perform many of the HWP services and activities, it has delegated its authority to the DEQ to perform them instead. This delegation comes from Michigan's authorization to administer Part 111 in lieu of the RCRA. That authorization began in October 1986, and Michigan has continuously modified its HWP since then as needed to maintain its authorization. As an authorized state, Michigan has greater control over how analogous federal requirements are administered in the state, the opportunity to include provisions important to Michigan citizens and industry, and direct oversight of the administering agency.

The HWP has been effective at promoting reduced hazardous waste generation, more recycling, and better hazardous waste management methods. Hazardous waste generation today, approximately 300,000 tons in 2004, is one-sixth of what it was 20 years ago. A significant share of that reduction is attributable to the HWP. The waste that is generated is managed in facilities that are designed better, operated better, and monitored to ensure that they do not contaminate the environment. All 17 operating facilities are subject to stringent licenses that must be renewed every five to ten years. The wastes that are ultimately landfilled are less toxic, hazardous waste and liquid industrial waste transportation is safer today, and 59 of the 69 facilities in the operating and postclosure universe have administrative controls (license, consent order, etc.) in place.

Within the past five years, the HWP's emphasis on licensing has shifted to cleanups at the TSDs. While nearly all regulated units at the TSDs have been either licensed or closed, other potential contamination problems at many of the facilities have not yet been addressed. The corrective action provisions under Part 111 and the RCRA require TSD owners and operators to assess, investigate, and clean up releases of contaminants from all waste management units at their sites, regardless of whether the units managed hazardous wastes or when they were operated. This comprehensive cleanup program at 240 TSD sites in Michigan is being prescribed through licenses, postclosure plans, corrective action consent orders, and voluntary agreements, starting with the highest priority facilities. Given the enormity of the task, progress for the foreseeable future will be measured by interim milestones known as environmental indicators (EIs).

The DEQ and U.S. EPA have committed under the federal Government Performance and Results Act of 1993 (GPRA) to achieve these EIs and other milestones at a majority of the 85 highest priority facilities by 2008. In its most recent evaluation of the HWP, the U.S. EPA determined that the DEQ exceeded its GPRA commitments in FY04. For the 56 sites scheduled to meet these goals by 2005, 70 percent already have human exposures to contamination and releases to groundwater controlled.

Another notable shift in HWP emphasis is from regulation to compliance assistance. The DEQ has devoted considerable resources to providing the regulated community with information on how to comply with the HWP requirements. The DEQ now maintains regulations, forms, and facility and manifest data on the Internet. The DEQ has also undertaken special initiatives targeted to help specific sectors of the regulated community (e.g., schools) identify and properly manage hazardous wastes.

### ***Hazardous Waste Program Budget***

The HWP budget is approximately \$6.4 million in Fiscal Year 2005 (FY05). Because Michigan is authorized to administer state requirements in lieu of federal requirements, a significant portion of the HWP costs are funded by the RCRA grant, which requires state matching funds. As shown in Table 1, the remaining funds come from fees and the state General Fund-General Purpose (GF-GP) revenue:

**Table 1: FY05 HWP Funding Sources**

<b>Funding Source</b>			
RCRA Grant	Base grant	\$2,945,000	
	Great Lakes Initiative*	\$512,000	
	Environmental Indicators*	\$261,000	
	Great Lakes National Program Office*	\$25,000	
	Resource Conservation Challenge*	\$35,000	
	Combustion Initiative*	\$116,000	
	<b>Total RCRA Grant</b>		<b>\$3,894,000</b>
Environmental Pollution Prevention (EPP) Fund <sup>1</sup>			\$1,716,000
GF-GP Revenue <sup>2</sup>			\$691,000
Hazardous Materials Transportation Permit (HMTP) Fund <sup>3</sup>			\$144,000
<b>Total FY05 Funding Sources</b>			<b>\$6,445,000</b>

\*These special initiative grants are limited and not guaranteed from year to year.

As noted in Table 1, the RCRA grant includes several special initiative grants that cannot be relied upon as continuing revenue sources. Many of the activities funded under these special initiative grants (e.g., Senior Environmental Employee Program [SEEP] under the Great Lakes Initiative grant) are essential to the HWP. The DEQ will continue to vigorously pursue these and other special initiative grants.

The allocation of funds in the HWP is shown in Table 2.

<sup>1</sup> The EPP Fund is established under Section 11130 of Part 111. Hazardous waste user charges are deposited into the fund. Money remaining in the fund at the close of the Fiscal Year does not lapse to the state's General Fund and instead is appropriated to implement the HWP in subsequent years.

<sup>2</sup> The budget information presented to the work group included approximately \$900,000 GF-GP revenue for the HWP each year for FY04 and FY05. Subsequent to the work group's meetings, an Executive Order was issued to reduce GF-GP revenue for the program by \$250,000. The reduction in GF-GP revenue is to be made up with additional EPP and HMTP funds, as reflected in Table 1.

<sup>3</sup> The HMTP Fund is established under Section 5 of Act 138. The transporter registration and permit fees are deposited into the fund. Money remaining in the fund at the close of the Fiscal Year does not lapse to the state's General Fund. The fund is for implementation of Act 138 and may also be used for emergency response, training, and other activities related to hazardous materials transportation safety that is initiated by the DEQ.

**Table 2: FY05 HWP Estimated Expenses**

Waste and Hazardous Materials Division	\$4,650,000
Federal RCRA Grant Indirect and Audit	\$504,000
Senior Environmental Employee Program	\$350,000
DEQ, Environmental Science and Services Division (Environmental Laboratory)	\$300,000
Great Lakes National Program Office	\$25,000
DEQ, Office of Criminal Investigations	\$170,000
Department of Information Technology	\$160,000
Resource Conservation Challenge	\$35,000
DEQ, Executive Division and Finance and Business Services Division – Cost Allocation and Rent	\$191,000
Department of Attorney General	\$60,000
<b>Total FY05 Estimated Expenses</b>	<b>\$6,445,000</b>

Table 3 shows the approximate allocation of full-time equivalent positions (FTEs) in the HWP for FY05. The allocation for Fiscal Year 1999 (FY99) is included to show that the emphasis in the HWP has shifted from permits and enforcement to corrective action (cleanups).

**Table 3: FY05 HWP FTEs**

<b>Program Element</b>	<b>FTEs In FY99</b>	<b>FTEs In FY05</b>
Compliance Monitoring and Enforcement	30	26
Corrective Action	8	12
Management and Reporting	6	9
Permits/Closures	8	6
User Charges Staff <sup>4</sup>	0	2
Waste Characterization	1	1
Statutory/Regulatory Development – Authorization	1	1
Manifest System	3	3
Transporter Registration	1	1
<b>Total</b>	<b>58</b>	<b>61</b>

The increased allocation of FTEs in Table 3 for management and reporting reflects additional laboratory support and data management requirements, including the recently added responsibility for administering the federal biennial report for Michigan handlers.

Table 3 does not reflect the 10 SEEP employees, part-time federal employees who provide essential support services throughout the program, primarily in manifest and

<sup>4</sup> The original work group in 1998 that recommended the hazardous waste user charges estimated that two FTEs would be needed to administer the user charges collection system.

site identification form processing. The SEEPs are funded under the Great Lakes Initiative grant, a special initiative grant.

### ***User Charges Enacted in 2001***

When Michigan adopted the Uniform Hazardous Materials Transportation Registration and Permit Program, it lost \$1.6 million in transporter license revenues that were used primarily as state matching funds for the RCRA grant. To replace those lost revenues, the Legislature required the DEQ to convene a stakeholders work group to develop a revenue neutral fees proposal by September 1, 1998. The original work group's recommendations ultimately led to the current user charges that became effective on October 1, 2002.

In developing its recommendations, the original work group established defensible criteria for user charges: they must be equitable; broad-based; reliable and enforceable; and easy to pay and collect. Using these criteria, the original work group recommended a combination of user charges to generate \$1.6 million each year for the HWP.

The Legislature followed the recommendations of the original work group when it enacted the user charges in November 2001. Table 4 is a summary of the user charges under Sections 11135 and 11153 of Part 111.

The one significant deviation from the user charges recommended by the original work group is the manifest processing user charge. The original work group expected the DEQ to charge a fee for each blank copy of manifests that were ordered. During the development of legislation to enact the original work group's recommendations, the DEQ learned that the states would be preempted by the federal Hazardous Materials Transportation Act from requiring the use of state specific manifest forms. Michigan would soon discontinue providing manifest forms and would, therefore, be unable to collect the manifest user charge for the blank form itself. The legislation was redrafted to assess a charge for processing manifests.

**Table 4: Hazardous Waste User Charges**

Type	Description		Amount	How Collected
Site Identification Number User Charge	One-time user charge for the issuance of a site identification number (e.g., MID 999 999 999) to a hazardous waste or liquid industrial waste handler		\$50	Prior to issuance of a site identification number for hazardous waste or liquid industrial waste. The handler's payment and taxpayer identification number must accompany the request (DEQ Form EQP 5150) for the site identification number.
Handler User Charges	User charge based on regulated hazardous waste management activity	A. Small Quantity Generator (>100 and <1000 kg in any month)	\$100	Assessed annually by February 28 for the previous calendar year. The handler user charges are additive, except that no more than one of the charges under A would apply. Payment is due by April 30. Can be suspended by the DEQ from year to year.
		Large Quantity Generator (□1,000 kg in any month, <900,000 kg for the year)	\$400	
		Very Large Quantity Generator (□900,000 kg for the year)	\$1,000	
		B. Used Oil Processors, Rerefiners, Burners, and Used Oil Fuel Marketers	\$100	
		C. Treatment, Storage, and Disposal Facilities	\$2,000	
Manifest Processing User Charge	User charge for processing manifests of hazardous waste shipments		\$6 per manifest (can be adjusted, not to exceed \$8)	Assessed annually by February 28 for the previous fiscal year ending September 30. Payment is due by April 30.

## ***User Charges Collection System***

The Waste and Hazardous Materials Division (WHMD) began collecting the one-time user charge for obtaining a site identification number in October 2002. Collection of the site identification number user charge has been relatively simple since it is collected at the time the site identification number is issued. The DEQ began assessing the annual handler and manifest processing user charges in February 2003. Those annual assessments are more complicated.

To assess the annual handler and manifest user charges, the WHMD must send invoices to the handlers by February 28 each year and include the basis for the invoice amount, as required under Sections 11135 and 11153. When designing the user charges collection system, the WHMD decided to create an automated invoicing process using existing data maintained in the Waste Data System (WDS)<sup>5</sup>. The data in the WDS is derived from manifests, site identification forms, permit documents, inspections, and waste generation reports that have been certified and submitted to the DEQ throughout the year by the handlers. A software application in the WDS queries this data and calculates the handler and manifest charges accordingly. Once the user charges have been calculated, the WDS interfaces with the DEQ accounts receivable system, Navision, and generates the invoice packages. The invoice packages are subsequently printed and mailed by the Department of Management and Budget. The entire process of generating, printing, and mailing the invoices packages takes approximately one month.

The invoice package received by the handler includes an invoice, instructions, a site identification verification report<sup>6</sup>, and a manifest confirmation report. The number of pages in the package varies from nine to several hundred, depending on the number of manifests reported. The handler is required to make corrections to and sign the invoice, complete and sign the site identification verification report, and make corrections to and sign the manifest confirmation report (copies of missing manifests must also be provided). Handlers have until April 30 to return the invoice package with payment to the DEQ Cashier's Office. When an invoice package is returned, the Cashier's Office enters the payment and then forwards the invoice package to the WHMD. The WHMD then processes the invoice package, which may require entering corrections to site identification and manifest data in the WDS, contacting the handler to obtain additional information, and then recalculating the user charge to ensure that the correct amount was paid. The user charges collection system also includes the mailing of delinquent payment notices and the assessment of penalties as provided in Part 111.

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<sup>5</sup> The WDS is used in Michigan to satisfy federal data tracking requirements and is subject to federal data quality standards. Data from the WDS is translated into the federal Resource Conservation and Recovery Act Information (RCRAInfo) database on a monthly basis.

<sup>6</sup> The blank site identification form (EQP 5150), and the partially-prepopulated (name, address, site identification number, etc.) version of the site identification verification form (EQP 5150-V) included in the invoice package are approved state forms that are used for a variety of notification and reporting functions in lieu of the federal Notification of Regulated Waste Activity Form in Michigan.

Two staff persons in the WHMD have primary responsibility for administering the hazardous waste user charges collection system. They receive considerable support from the numerous WHMD staff who must process the site identification verification and manifest confirmation reports and who must make regulatory determinations on site activity. They also receive support from staff persons in the DEQ Cashier's Office who do the initial processing of the returned invoices.

It should be noted that the invoicing process for manifests from out-of-state handlers (not foreign imports) is not automated. The automated invoicing process relies upon site identification data when identifying who should be assessed the user charges. The WDS does not currently contain site identification data for out-of-state handlers, so the invoicing routines do not capture manifests from them. For the FY04 billing cycle, the DEQ manually invoiced the top 100 out-of-state manifest users. Those out-of-state handlers received very simple invoice packages that contained only a one page invoice, an abbreviated list of manifests processed during the billing period, and a one-page instruction sheet. The DEQ collected approximately \$53,000 of the \$61,000 assessed on out-of-state handlers in FY04.

The invoices and revenue produced from the first two billing cycles of the hazardous waste user charges collection system are summarized in Tables 5 and 6.

**Table 5: Invoice Summary**

	<b>FY03</b>	<b>FY04</b>
Handlers Paid	3,718	5,349
Delinquents Remaining	24	401
Adjusted to Zero (Billed in Error)	6,787	625
<b>Total Number of Invoices</b>	<b>10,529</b>	<b>6,375</b>

**Table 6: Revenue Summary**

	<b>FY03</b>	<b>FY04</b>
Handler User Charges Collected	\$993,400	\$871,908
Manifest User Charges Collected*	0	\$313,501
Site ID User Charges Collected	\$85,100	\$101,200
<b>Total</b>	<b>\$1,078,500</b>	<b>\$1,286,609</b>

\*The manifest processing charge was not in effect for a complete, twelve-month billing period (Fiscal Year basis) until the FY04 billing cycle.

Two key administrative decisions for the user charges collection system each year are the amount of the manifest processing user charge and whether to assess the handler user charges. Under Section 11135(1), the DEQ may adjust the \$6 manifest processing user charge, up to a maximum of \$8, to achieve the \$1.6 million target revenue projection for all user charges. Under Section 11153(9), the DEQ is required to suspend the handler user charges when the EPP fund balance exceeds \$3.2 million on

December 31. Because the user charges revenue in FY04 was more than \$300,000 below the statutory target of \$1.6 million, the DEQ decided to increase the manifest processing user charge to the maximum amount of \$8 in FY05. Suspension of the handler user charges is not required in FY05 because the EPP fund balance on December 31, 2004, was only approximately \$1.9 million.

When the DEQ designed the user charges collection system, it recognized that better ways to collect the user charges might become apparent after staff and handlers gained experience collecting and paying them. Therefore, the DEQ decided to evaluate the user charges collection system after the second billing cycle, which was the first billing cycle to include both the handler and the manifest processing user charges.

### ***2004 Stakeholders Work Group***

In its FY04 Strategic Plan, the WHMD committed to convene a stakeholders work group to make recommendations on how to improve the user charges collection system. The work group began meeting in August 2004 and included the following members:

- Ms. Jennifer Baker, Philip Services Corporation
- Ms. Julie Blanchard, WHMD, DEQ
- Ms. Ronda Blayer, WHMD, DEQ
- Ms. Elizabeth Bols, WHMD, DEQ
- Mr. Gary Brannock, Young's Environmental Cleanup, Inc.
- Mr. George Bruchmann, WHMD, DEQ
- Mr. Stephen Buda, WHMD, DEQ
- Mr. Gene Cieply, SQS Incorporated
- Ms. Susan Lynn Johnson, Soave Enterprises
- Mr. Michael Johnston, Michigan Manufacturers Association
- Ms. Melinda Keillor, EQ - The Environmental Quality Company
- Mr. Scott Maris, EQ - The Environmental Quality Company
- Ms. Connie Pennell, WHMD, DEQ
- Ms. Liane Shekter Smith, WHMD, DEQ
- Mr. Steve Sliver, WHMD, DEQ
- Mr. Andrew Such, Michigan Chemistry Council
- Mr. Ward Wilson, Consumers Energy Company
- Mr. Patrick Zombo, Consumers Energy Company

Environmental organizations and other stakeholders were also invited to participate in the work group.

The objective of the work group was to develop the consensus recommendations contained in this report. The DEQ commitment to the work group is to implement the recommendations as soon as possible, and where the recommendations would require legislation or other approvals, to pursue those as appropriate.

## Conclusion

The 2004 work group evaluated the user charges collection system using the original work group's criteria that the user charges must be equitable, broad-based, reliable and enforceable, and easy to pay and collect.

The work group agreed that the invoice package can be an impediment to the easy payment and collection of the annual handler and manifest processing user charges. The entire package must be generated by the DEQ, sent to the handler, reviewed and corrected by the handler, returned to the DEQ, and then processed by the DEQ. This often requires multiple handoffs of the package both at the handler and the DEQ, and while the majority of the invoice packages are typically 9 to 12 pages, many are several hundred pages long, further compounding the burden. This appeared to be especially unnecessary when the amount of the invoice was not affected after the handler reviewed, corrected, completed, and signed the site identification verification and manifest confirmation reports. Much of the information in those reports is not relevant to the user charges.

In addition, the work group agreed that the handler and manifest user charges were not easy to pay and collect because the billing periods for each charge are different. The annual handler user charges are based on activity for the previous calendar year. The manifest processing user charges are based on manifests from the previous fiscal year (October 1 through September 30)<sup>7</sup>. Having two different periods covered under one invoice has been confusing. The "annual" invoice actually covers a 15-month period (October 1 through December 31 of the next year) and the manifest and handler charges cover different portions of that period. A calendar year billing cycle is preferred because it is consistent with the customary business cycle and federal hazardous waste biennial reporting<sup>8</sup> requirements.

The certification statement on the invoice form itself has also been a barrier to the easy payment and collection of the annual handler and manifest charges because: (1) it requires the signature of a responsible corporate officer and (2) some handlers find the certification statement objectionable. In many companies, the person who completes the invoice package is not a responsible corporate officer as defined under Part 111, so the invoice package must be forwarded to another office for signature. The wording of

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<sup>7</sup> Because it could take several months for the DEQ to receive and process manifests, there was concern that the invoices sent out by the deadline of February 28 might not include all of the manifests from late in the calendar year. Therefore, the billing period for the manifest processing user charge was set on a Fiscal Year basis.

<sup>8</sup> State and federal biennial report requirements apply to large quantity generators and TSDs (approximately ten percent of all handlers). By March 1 of each even-numbered year, these handlers must prepare a report of hazardous waste activity for the previous calendar year. In Michigan, much of this report is developed from manifest data maintained in the WDS – some of the same data that is used for assessing the user charges. To minimize duplicative reporting requirements, the invoice package for the large quantity generators and TSDs in even-numbered years includes the biennial report.

the certification statement has been problematic, too, because its forceful wording (e.g., “I, the undersigned, swear and affirm, UNDER PENALTY OF LAW...”) often concerns corporate officers and prompts them to seek legal advice before signing.

The work group also agreed that the lack of an automated invoicing process for out-of-state manifests makes the manifest processing user charge less equitable, broad-based, and easy to pay and collect than originally intended. The DEQ should be collecting the user charge for all manifests processed from waste shipped off-site by small quantity generators and large quantity generators, regardless of where the manifests originated. While one option would be to require the commercial TSDs in Michigan to collect the manifest charge from out-of-state handlers, that option was not pursued because: (1) it would be an administrative burden and (2) it would put them at a competitive disadvantage in other states where the TSDs do not collect fees.

The manifest processing user charge was also found not to be as reliable or broad-based as originally intended because manifest usage is declining significantly and because manifests for shipments of liquid industrial wastes<sup>9</sup> and conditionally-exempt small quantities of hazardous waste<sup>10</sup> are not assessed the user charge.

Lastly, the work group agreed that revenues from the user charges are falling short of the statutory target revenue projection of \$1.6 million per year and that raising the manifest charge to the maximum of \$8 per manifest will not sufficiently bridge the gap. Because the shortfall can be met in FY05 and FY06 with the EPP Fund balance<sup>11</sup>, the work group did not agree on a need to increase user charges to meet the target at this time.

## **Recommendations**

### ***Recommendation 1: Improve the invoice.***

The work group agreed that the DEQ should simplify the hazardous waste user charges invoice package by doing all of the following:

- a. Eliminate the certification and signature requirement for the manifest confirmation report. The manifests are already signed by the generator, transporter, and receiving facility.

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<sup>9</sup> The user charges legislation enacted in November 2001 does not include a manifest processing user charge for liquid industrial waste manifests under Part 121 because the DEQ does not have the resources to fully process those manifests.

<sup>10</sup> Under Section 11135, the manifest processing user charge applies to persons required to prepare a manifest under Part 111. Conditionally-exempt small quantity generators are not required to prepare manifests under Part 111.

<sup>11</sup> As of January 2005, the fund had a balance of \$1.9 million, of which \$1.7 million is anticipated to be expended in FY05. User charges revenue to the fund in FY05 is estimated at \$1.3 million.

- b. Eliminate the requirement to return the manifest confirmation report unless the number of manifests invoiced is incorrect. Since the DEQ already has copies of the manifests, receiving another verification of them is not necessary.<sup>12</sup>
- c. Eliminate the requirement to return the site identification verification report unless changes to the invoiced activity are necessary or unless the handler wants to make other changes (contact person, mailing address, etc.). The DEQ already has certified site identification information.<sup>13</sup>
- d. Modify the invoice form. The modified invoice form for this recommendation is included as Attachment 1.
- e. Simplify the certification statement on the invoice form and be less restrictive as to who can sign it. The simplified certification statement is shown on the modified invoice form for this recommendation in Attachment 1.
- f. Simplify the invoice package instructions and make more detailed instructions available on the Internet. The simplified instructions for this recommendation are included as Attachment 2.

The changes under this recommendation are reflected in the invoice packages that were mailed in February 2005.

***Recommendation 2: Eliminate the requirement to submit the site identification verification report and allow handlers to indicate on the invoice form changes to the invoiced site activity.***

In addition to recommending that the site identification verification report be required only when the handlers need to indicate changes to invoiced site activity, the work group agreed that handlers should have the option to indicate changes on the invoice form alone. Because the invoiced site activity is currently determined in part from site identification data in the WDS, and because that data is subject to federal data quality requirements, it must come from the site identification forms. Therefore, this

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<sup>12</sup> The work group also encouraged the DEQ to continue to pursue means by which the larger handlers can submit manifest data electronically. The DEQ efforts over the past few years to get the TSDs to submit manifests electronically using e-Waste software have been frustrated by difficulties with the software. Michigan recently joined with Massachusetts, Minnesota, and New Jersey to pursue a federal grant for the design and implementation of a pilot electronic manifesting system that could serve as the national model for electronic manifesting.

<sup>13</sup> Accurate site identification information (e.g., handler activity) in the WDS is essential for efficient operation of the user charges collection system, helping to minimize erroneous invoices. There is no current regulatory requirement for handlers to update their site identification information after they have obtained a site identification number. Obtaining updated information through the user charges collections has vastly improved data quality in the WDS. It is expected that the new MiTAPS will enable many handlers to readily update their site identification information throughout the year, minimizing the need for them to return an updated site identification verification report with the invoice package.

recommendation requires a redesign of the user charges software application in the WDS. The redesign must maintain the integrity of the site activity data supplied with the site identification form and also provide for alternative calculation of the annual handler user charge using site activity data supplied with the returned invoice form. When this redesign is complete, the handler would be invoiced the same annual handler user charge that the handler paid in the previous billing cycle unless a subsequent site identification form was submitted to change it.

This recommendation should be implemented by the FY06 billing cycle, subject to resource availability.

***Recommendation 3: Synchronize the handler and manifest processing user charge billing cycles, setting both to the calendar year.***

The work group agreed that the DEQ should assess both the annual handler and manifest processing user charges over a calendar year billing period. To ensure that the DEQ has time to process manifests received late in the year, the DEQ should be given until March 24 to send the invoice packages to the handlers.<sup>14</sup> The April 30 deadline to send payment of the user charges should not change because the DEQ still needs to receive the funds at that time for budgeting purposes. While the handlers would have 24 fewer days to review the invoice package and submit payment, the reduced time will be sufficient to process the simplified invoice package recommended by the work group.

This recommendation requires legislation to change Sections 11135 and 11153. Proposed legislation is provided in Attachment 3.

This recommendation should be implemented for the FY06 billing cycle, subject to legislative approval by April 2005 and resource availability. Legislative approval by April 2005 is necessary because the user charges application in the WDS must be redesigned for this and other recommended changes. The DEQ intends to contract for one redesign of the WDS, and it must be initiated during the summer months and completed and tested before December 2005.

***Recommendation 4: Automate collection of the manifest processing user charge for out-of-state handlers.***

The work group agreed that the DEQ should collect the manifest processing user charge for all hazardous waste shipments, regardless of where they originate. While Michigan processes approximately 30,000 manifests each year from out-of-state handlers, its automated billing does not assess the user charge on them. Out-of-state

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<sup>14</sup> In biennial report years, the DEQ must still get the combined invoice package and biennial reports out to the handlers (approximately ten percent of all handlers invoiced) in January so they can be processed and returned by the March 1 deadline. Since the DEQ does not translate biennial report data to the federal database until the summer months, the DEQ will pursue regulatory changes to extend the March 1 deadline.

handlers are not automatically assessed the manifest processing user charge because it can only be assessed on generators (i.e., not conditionally-exempt small quantity generators), and Michigan does not have generator information for facilities from other states. Michigan's current practice of manually invoicing the "top 100" out-of-state users captures only about 25 to 50 percent of the potential revenue.

To implement this recommendation, the DEQ must modify the WDS to import site identification data for out-of-state generators from the U.S. EPA's national database, and to then generate out-of-state invoices for the manifest charge only. (Out-of-state handlers are not subject to the annual handler user charges.)

When assessing the manifest processing user charge on out-of-state handlers, the DEQ must decide whether there should be a minimal invoice amount that will be pursued. Because annual handler user charges are not assessed on out-of-state handlers, the potential exists for invoice amounts as low as \$8 – the charge for one manifest. Also, not all out-of-state handlers are expected to pay given the DEQ limited ability to enforce state law across its borders. At some point, the expenses to pursue smaller payments will exceed the revenue from them.

This recommendation should be implemented for the FY06 billing cycle, subject to resource availability.

### **Other Considerations**

The work group considered possible exemptions to the user charges for state and federal agencies. The U.S. EPA, DEQ, and other state agencies generate hazardous waste and collectively paid approximately \$43,000 in user charges in FY04. It was agreed that, for equity, all handlers should contribute.

The work group considered the current penalty provisions for nonpayment or late payment, and agreed that no changes are warranted at this time. Late payments are assessed a five percent penalty for each month the payment is past due, up to a maximum of 25 percent. In addition, the work group agreed that the DEQ should carryover past due amounts to subsequent billing cycles.

The work group also considered the content and format of the site identification form, and a revised form was presented to the work group. The work group recognized concerns with the content of the both the original and revised forms and the use of the form for the hazardous waste user charges collection system. While the form is still included with the invoice packages for 2005, those concerns with the form will become moot upon implementation of the work group's recommendation to allow handlers to indicate changes in invoiced site activity on the invoice form itself. Because the site identification form is used throughout the year and because it must still be completed by large quantity generators and TSDs every other year for federal biennial report purposes, the DEQ should consider convening separate stakeholder's work groups to evaluate the site identification form and biennial report.

Lastly, while the work group was not charged with evaluating all revenue sources for the HWP, it is aware that the program relies on substantial state GF-GP revenue. The overall sentiment of the work group is that continued reliance on GF-GP revenue is appropriate because all Michigan citizens, not just the hazardous waste handlers, benefit from the program. The state's matching funds for the federal RCRA grant should not come solely from the users.

### **Budget Implications**

The work group's recommendations will not affect FY05 user charges revenues. The projected revenues for FY05 shown in Table 7 reflect the maximum \$8 manifest processing user charge and continued manual invoicing of out-of-state handlers.

**Table 7: Projected FY05 User Charges Revenue**

<b>User Charge</b>	<b>Amount</b>
Annual Handler User Charge	\$850,000
In-State Manifest Processing User Charge	\$320,000
Out-of-State Manifest Processing User Charge	\$50,000
Site Identification Number User Charge	\$100,000
<b>Total</b>	<b>\$1,320,000</b>

The first billing cycle after the synchronized billing periods become effective (presuming the recommended legislative amendments are enacted) will produce a one time, 25 percent shift in manifest processing user charge revenue due to the additional three months of manifests that will be included. The one time cost to modify the user charges database application will offset an indeterminable portion of that increased revenue.

Automated collection of the manifest processing charge for out-of-state handlers could bring in an additional \$50,000 to \$100,000 in revenue and will make the DEQ more efficient by eliminating the labor intensive manual invoicing process for the out-of-state manifests. The one time cost to modify the user charges database application for out-of-state manifests will offset an indeterminable portion of those gains for the first few years of implementation.

ATTACHMENT 1

## ATTACHMENT 2

### HAZARDOUS WASTE USER CHARGES ANNUAL INVOICE PACKAGE INSTRUCTIONS

**GENERAL INFORMATION:** Under Part 111, Hazardous Waste Management, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), the Michigan Department of Environmental Quality (MDEQ) is required to assess user charges to hazardous waste handlers by **February 28** of each year. As part of the assessment, the MDEQ is required to provide the data used to determine the user charges. The MDEQ uses manifest and site identification data in its Waste Data System (WDS) to calculate both the handler and manifest processing user charges for waste activities associated with the past year. Additional information is available on the Internet at [www.michigan.gov/deq](http://www.michigan.gov/deq) by navigating to: WASTE, HAZARDOUS AND LIQUID INDUSTRIAL WASTE, HAZARDOUS AND LIQUID INDUSTRIAL WASTE MANAGEMENT, INFORMATION, and selecting HAZARDOUS WASTE USER CHARGES. Handlers are required to return their Invoice and user charges payment by **April 30**.

**INVOICE PACKAGE:** The complete package includes the following items:

1. Hazardous Waste User Charge Invoice (Invoice) - EQP5104
2. Site Identification Verification Form (Form) - EQP 5150V
3. Generator Manifest Confirmation Form (Manifest Form)

If any items are missing from your package, please contact the MDEQ at 517-335-5318 and leave a message, or send an e-mail to [DEQ-HWUSERCHARGES@michigan.gov](mailto:DEQ-HWUSERCHARGES@michigan.gov).

**INVOICE INSTRUCTIONS:** Please review the information shown on your Invoice. If any information is incorrect, please type or print the correct information. Column C is for a different Activity Start Date (for your highest status during the Invoice cycle), Column E is for manifest number corrections (only hazardous waste manifests between October 1, 2003 to September 30, 2004), and Column G is where corrected amounts on the various lines can be written. If your Invoice shows an incorrect status type for this billing, cross out the entire row and write the appropriate amount in Column G on the row associated with your correct status. If using Column G, also bring over any correct amounts in Column F and add all user charges in Column G, write the sum of the corrected total Invoice amount in the provided box. Your payment will either reflect the amount in *Total Invoice* if there were no changes or the amount in *Corrected Total Invoice* if you made changes to the Invoice.

The handler or an authorized representative of the handler **shall sign and date** the Invoice. By signing, the handler certifies that all of the Invoice information is correct.

**Payment and Submittal:** Payment shall be made by check or money order made payable to the "State of Michigan." To ensure proper credit of your payment, please include the words "User Charge" and the Invoice Number (found in the upper right corner of the Invoice) on the check or money order. The Invoice and payment are due to the MDEQ on or before **April 30**, and shall be mailed to Michigan Department of Environmental Quality, Cashier's Office – HWUC, PO Box 30657, Lansing, MI 48909-8157 or, for Overnight Delivery only (no U.S. mail), to: Michigan Department of Environmental Quality, Cashier's Office – HWUC, 525 West Allegan, Fifth Floor South, Lansing, MI 48933.

## ATTACHMENT 2

**Penalties and Fines:** Failure to meet the Invoice submittal deadline of **April 30** is a violation of the NREPA and subject to all applicable penalty and enforcement provisions. Late payment penalties accrue at 5 percent of the amount owed for each month that the payment is delinquent, up to a maximum of 25 percent.

**SITE IDENTIFICATION VERIFICATION FORM INSTRUCTIONS:** Please review the information shown on the Form. This is the information submitted by the handler to the MDEQ and reflects what is currently on file for the site. You are **only required to return** the Form to the MDEQ **if the invoiced site activity is incorrect**. However, if you would like to make other changes or have the WDS reflect a current notification date, you may return the Form to the MDEQ. All returned Forms **must note the corrections** in the shaded boxes provided or in the appropriate box in Part X, be **signed, and dated**, and mailed with the Invoice to the Cashier's Office at the address above. For security reasons, your nine-digit tax identification number (federal identification number) is denoted by the first two digits, then XXX's and the last two digits. Complete line-by-line instructions for this form are available on the Internet at [www.michigan.gov/deg](http://www.michigan.gov/deg) by navigating to: WASTE, ANNOUNCEMENTS, NEW SITE IDENTIFICATION FORM (EQP 5150 1/03) WITH USER CHARGE INFORMATION, HAZARDOUS WASTE PROGRAM FORMS AND PERMIT APPLICATIONS, select the hyperlink for Michigan Site Identification Form and Directions.

**GENERATOR MANIFEST CONFIRMATION FORM INSTRUCTIONS:** Please review the manifest information provided in your package. You are **only required to return** the Manifest Form to the MDEQ **if the invoiced manifest activity information is incorrect and impacts your billing**. However, if you would like to make other changes, please return the corrected pages from the Manifest Form to the MDEQ. All returned Manifest Forms **must note the corrections** in the shaded boxes, where appropriate, and be mailed with the Invoice and copies of any missing generator or facility manifests to the Cashier's Office at the address above. Complete line-by-line instructions for the Generator Manifest Confirmation form are available on the Internet at [www.michigan.gov/deg](http://www.michigan.gov/deg) by navigating to: WASTE, HAZARDOUS AND LIQUID INDUSTRIAL WASTE, HAZARDOUS AND LIQUID INDUSTRIAL WASTE MANAGEMENT, INFORMATION, and select HAZARDOUS WASTE USER CHARGES, go to the end under Useful Links.

**CONTACTING THE MDEQ:** If you have questions regarding your user charges or, the Invoice, Form, or Manifest Form, please contact the MDEQ at 517-335-5318 and leave a message as appropriate given the menu options (Invoice - press 1, etc.). If you need assistance regarding your generator status, District staff are available to help you by calling the menu telephone number above, pressing 4 for our receptionist, and asking for District staff. You may also send questions by e-mail to DEQ-HWUSERCHARGES@[michigan.gov](mailto:michigan.gov).

## ATTACHMENT 3

### **324.11135 Manifest; user charge; violations; contents; copy; certification; specified destination; determining status of specified waste; exception report; retention period for copy of manifest; extension.**

Sec. 11135. (1) A hazardous waste generator shall provide a separate manifest to the transporter for each load of hazardous waste transported to property that is not on the site where it was generated. Beginning on October 1, 2002 and until March 31, 2008, a person required to prepare a manifest shall submit to the department a manifest processing user charge of \$6.00 per manifest and his or her ~~tax~~ **federal** identification number. Each calendar year, the department may adjust the manifest processing user charge as necessary to ensure that the total cumulative amount of the user charges assessed pursuant to this section and sections 11153, 12103, 12109, and 12112 are consistent with the target revenue projection for the hazardous waste and liquid industrial waste users account as provided for in section 11130(5). However, the manifest processing user charge shall not exceed \$8.00 per manifest. Money collected under this subsection shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(2) Payment of the manifest processing user charges under subsection (1) shall be made using a form provided by the department. Beginning in 2004~~5~~, the department shall send a form to each person subject to the manifest processing user charge by ~~February 28~~ **March 24** of each year. **The form for the first billing cycle shall specify the number of manifests prepared by that person and processed by the department during the months of October, November, and December 2003 and calendar year 2004.** The form for subsequent billing cycles shall specify the number of manifests prepared by that person and processed by the department during the previous ~~fiscal~~ **calendar** year. Beginning in 2004~~5~~, a person subject to the manifest processing user charge shall return the completed form and the appropriate payment to the department by April 30 of each year.

(3) A person who fails to provide timely and accurate information, a complete form, or the appropriate manifest processing user charge as provided for in this section is in violation of this part and is subject to both of the following:

(a) Payment of the manifest processing user charge and an administrative fine of 5% per month of the amount owed for each month that the payment is delinquent. Any payments received after the 15th of the month after the due date shall be considered delinquent. However, the administrative fine shall not exceed 25% of the total amount owed.

(b) Beginning 5 months after the date payment of the manifest user charge is due, but not paid, at the request of the department, an action by the attorney general for the collection of the amount owed under subdivision (a) and the actual cost to the department in attempting to collect the amount owed under subdivision (a).

(4) Any amounts collected under subsection (3) for a violation of this section shall be forwarded to the state treasurer and deposited in the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

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(5) The department shall maintain information regarding the manifest processing user charges received under this section as necessary to satisfy the reporting requirements of subsection (6).

(6) Beginning in 2005, the department shall evaluate the effectiveness and adequacy of the manifest processing user charges collected under this section relative to the overall revenue needs of the state's hazardous waste management program administered under this part. Beginning in 2006, not later than April 1 of each even-numbered year, the department shall summarize its findings under this subsection in a report and shall provide that report to the legislature.

(7) A generator shall include on the manifest details as specified by the department and shall at least include sufficient qualitative and quantitative analysis and physical description to evaluate toxicity and methods of transportation, storage, and disposal. The manifest also shall include safety precautions as necessary for each load of hazardous waste. The generator shall submit to the department a copy of the manifest within a period of 10 days after the end of the month for each load of hazardous waste transported within that month.

(8) The generator shall certify that the information contained on the manifest is factual.

(9) The specified destination of each load of hazardous waste identified on the manifest shall be a designated facility.

(10) A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the hazardous waste was accepted by the initial transporter shall contact the transporter to determine the status of the hazardous waste. If the generator is unable to determine the status of the hazardous waste upon contacting the transporter, the generator shall contact the owner or operator of the designated facility to which the hazardous waste was to be transported to determine the status of the hazardous waste.

(11) A generator shall submit an exception report to the department if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the hazardous waste was accepted by the initial transporter. The exception report shall include the following:

(a) A legible copy of the manifest for which the generator does not have confirmation of delivery.

(b) A cover letter signed by the generator or the generator's authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(12) A generator shall keep a copy of each manifest signed and dated by the initial transporter for 3 years or until the generator receives a signed and dated copy from the owner or operator of the designated facility that received the hazardous waste. The generator shall keep the copy of the manifest signed and dated by the owner or operator of the designated facility for 3 years. The retention periods required by this subsection shall be automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as required by the department.

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### **324.11153 Site identification number; user charges; violations; suspension; definitions.**

Sec. 11153. (1) A generator, transporter, or treatment, storage, or disposal facility shall obtain and utilize a site identification number assigned by the United States environmental protection agency or the department. Beginning on October 1, 2002 and until March 31, 2008, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subsection unless the site identification number user charge and the ~~tax~~ **federal** identification number for the person applying for the site identification number have been received by the department.

(2) Beginning on October 1, 2002 until March 31, 2008, except as provided in subsection (9), the department shall annually assess handler user charges as follows:

(a) A generator shall pay a handler user charge that is the highest of the following applicable fees:

(i) A generator who generates more than 100 kilograms but less than 1,000 kilograms of hazardous waste in any month during a **THE** calendar year shall pay to the department an annual handler user charge of \$100.00.

(ii) A generator who generates 1,000 kilograms or more of hazardous waste in any month during the calendar year and who generates less than 900,000 kilograms during the calendar year shall pay to the department an annual handler user charge of \$400.00.

(iii) A generator who generates 1,000 kilograms or more of hazardous waste in any month during the calendar year and who generates 900,000 kilograms or more of hazardous waste during the calendar year shall pay to the department an annual handler user charge of \$1,000.00.

(b) An owner or operator of a treatment, storage, or disposal facility for which an operating license is required under section 11123 or for which an operating license has been issued under section 11122 or 11125 shall pay to the department an annual handler user charge of \$2,000.00.

(c) A used oil processor or rerefiner, a used oil burner, or a used oil fuel marketer as defined in the rules promulgated under this part shall pay to the department an annual handler user charge of \$100.00.

(3) The handler user charges shall be based on each of the activities engaged in by the handler during the previous calendar year. A handler shall pay the handler user charge specified in subsection (2)(a) to (c) for each of the activities conducted during the previous calendar year.

(4) Payment of the handler user charges shall be made using a form provided by the department. The handler shall certify that the information on the form is accurate. Beginning in 2003~~5~~, the department shall send forms to the handlers by ~~February 28~~ **March 24** of each year unless the handler user charges have been suspended as provided for in subsection (9). Beginning in 2003~~5~~, a handler shall return the completed forms and the appropriate payment to the department by April 30 of each year unless the handler user charges have been suspended as provided for in subsection (9).

(5) A handler who fails to provide timely and accurate information, a complete form, or the appropriate handler user charge is in violation of this part and is subject to both of the following:

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(a) Payment of the handler user charge and an administrative fine of 5% per month of the amount owed for each month that the payment is delinquent. Any payments received after the 15th of the month after the due date shall be considered delinquent. However, the administrative fine shall not exceed 25% of the total amount owed.

(b) Beginning 5 months after the date payment of the handler user charge is due, but not paid, at the request of the department, an action by the attorney general for the collection of the amount owed under subdivision (a) and the actual cost to the department in attempting to collect the amount owed under subdivision (a).

(6) The department shall maintain information regarding the site identification number user charges under subsection (1) and the handler user charges received under this section as necessary to satisfy the reporting requirements of subsection (8).

(7) The site identification number user charges and the handler user charges collected under this section and any amounts collected under subsection (5) for a violation of this section shall be forwarded to the state treasurer and deposited in the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(8) Beginning in 2005, the department shall evaluate the effectiveness and adequacy of the site identification number user charges and the handler user charges collected under this section relative to the overall revenue needs of the state's hazardous waste management program administered under this part. Beginning in 2006, not later than April 1 of each even-numbered year, the department shall summarize its findings under this subsection in a report and shall provide that report to the state legislature.

(9) Notwithstanding any other provision in this section, if the balance of the hazardous waste and liquid industrial waste users account created in section 11130(5), as of December 31 of any year, exceeds \$3,200,000.00, the department shall suspend the handler user charges until October of the following year.

(10) As used in this section:

(a) "Handler" means the person required to pay the handler user charge.

(b) "Handler user charge" means the annual hazardous waste management program user charge provided for in subsection (2).

### **324.12103 Generator; duties.**

Sec. 12103. (1) A generator shall do all of the following:

(a) Characterize the waste in accordance with the requirements of part 111, and rules promulgated under that part, and maintain records of the characterization.

(b) Obtain and utilize a site identification number assigned by the United States environmental protection agency or the department. Beginning on October 1, 2002 and until March 31, 2008, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subdivision unless the site identification number user charge and the ~~tax~~ **federal** identification number for the person applying for the site identification number have been received. Money collected under this subdivision shall be forwarded to the state treasurer for deposit into

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the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(c) If transporting by highway, engage, employ, or contract for the transportation of liquid industrial waste only with a transporter registered and permitted under the hazardous materials transportation act.

(d) Except as otherwise provided in this part, utilize and retain a separate manifest for each shipment of liquid industrial waste transported to a designated facility. The department may authorize the use of a consolidated manifest, for waste loads that are multiple pickups of uniform types of wastes that constitute a single shipment of waste. In this case, a receipt shall be obtained from the transporter documenting the transporter's company name, driver's signature, date of pickup, type and quantity of waste accepted from the generator, the consolidated manifest number, and the designated facility. A generator of brine may complete a single manifest per transporter of brine, per disposal well, each month.

(e) Submit a copy of the manifest to the department by the tenth day after the end of the month in which a load of waste is transported.

(f) Certify that at the time the transporter picks up liquid industrial waste the information contained on the manifest is factual by signing the manifest. This certification is to be by the generator or his or her authorized representative.

(g) Provide to the transporter the signed copies of the manifest to accompany the liquid industrial waste to the designated facility.

(h) If a copy of the manifest, with a handwritten signature of the owner or operator of the designated facility, is not received within 35 days after the date the waste was accepted by the initial transporter, contact the transporter or owner or operator of the designated facility, or both, to determine the status of the waste.

(i) Submit an exception report to the department if a copy of the manifest is not received with the handwritten signature of the owner or operator or his or her authorized representative of the designated facility within 45 days after the date the waste was accepted by the initial transporter. The exception report shall include both of the following:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery.

(ii) A cover letter signed by the generator explaining the efforts taken to locate the waste and the results of those efforts.

(2) A generator who also operates an on-site reclamation, treatment, or disposal facility shall keep records of all liquid waste produced and reclaimed, treated, or disposed of at his or her facility.

(3) A generator shall retain all records required pursuant to this part for a period of at least 3 years, and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required by this subsection is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as otherwise required by the department.

(4) A generator transporting its own waste in quantities of 55 gallons or less is not subject to manifest requirements if all of the following conditions are met:

(a) The waste is accompanied by a record showing the source and quantity of the waste and the designated facility where the waste is being transported.

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(b) The generator obtains a signature from the designated facility acknowledging receipt of the waste and provides a copy of the record of shipment to the designated facility.

(c) The generator retains a copy of the record of shipment as part of the generator records.

(d) The designated facility is managed in accordance with this part.

### **324.12109 Manifest; requirements.**

Sec. 12109. (1) A liquid industrial waste transporter shall certify acceptance of waste for transportation by completing the transporter section of the manifest, and shall deliver the liquid industrial waste and accompanying manifest only to the designated facility specified by the generator on the manifest.

(2) The liquid industrial waste transporter shall retain all records required pursuant to this part for a period of at least 3 years, and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required in this subsection is automatically extended during the course of any unresolved enforcement action regarding an activity regulated under this part or as required by the department.

(3) The department may authorize, for certain waste streams, the use of a consolidated manifest as authorized under section 12103(1)(d). In this case, the transporter shall give to the generator a receipt documenting the transporter's company name, driver's signature, date of pickup, type and quantity of waste removed, the consolidated manifest number, and the designated facility.

(4) A transporter shall maintain a trip log for consolidated manifest shipments and for brine shipments. The transporter shall do all of the following:

(a) Identify on the trip log the consolidated manifest number, the generator, date of pickup, type and quantity of waste, and the designated facility location for each shipment of waste.

(b) Keep a copy of all trip logs available during transportation, at a minimum, for the current shipment in transportation and retain these records as specified in subsection (2).

(c) Obtain and utilize a site identification number assigned by the United States environmental protection agency or the department. Beginning on October 1, 2002 and until March 31, 2008, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subdivision unless the site identification number user charge and the ~~tax~~ **federal** identification number for the person applying for the site identification number have been received. Money collected under this subdivision shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

### **324.12112 Facilities accepting liquid industrial waste; duties of owner or operator.**

Sec. 12112. (1) The owner or operator of a facility that accepts liquid industrial waste shall accept delivery of waste at the designated facility only if delivery is accompanied by a manifest or consolidated manifest properly certified by the generator

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and the transporter and the facility is the destination indicated on the manifest. The facility owner or operator shall do all of the following:

(a) Obtain and utilize a site identification number either assigned from the United States environmental protection agency or the department. Beginning on October 1, 2002 and until March 31, 2008, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subdivision unless the site identification number user charge and the ~~tax~~ **federal** identification number for the person applying for the site identification number have been received. Money collected under this subdivision shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(b) Certify on the manifest receipt of the liquid industrial waste by completing the facility section of the manifest and returning a signed copy of the manifest to the department within a period of 10 days after the end of the month for all liquid industrial waste received within the month.

(c) Return a signed copy of the manifest to the generator.

(d) Maintain records of the characterization of the waste. Characterization shall be in accordance with the requirements of part 111.

(2) All storage, treatment, and reclamation of liquid industrial waste at the designated facility shall be in either containers or tanks or as otherwise specified in section 12113(5) or (6). Storage, treatment, or reclamation regulated under part 615 or the rules, orders, or instructions under part 615, or under part C of title XIV of the public health service act, chapter 373, 88 Stat. 1674, 42 U.S.C. 300h to 300h-8, or the regulations promulgated under that act are exempt from this subsection.

(3) The owner or operator of a designated facility shall retain all records required pursuant to this part for a period of at least 3 years and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required by this subsection is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as required by the department.