

CHAPTER 7 LQG AND SQG FEES

BASE FEE

The base fees for LQGs and SQGs are provided below. However, it is important to note that a generator's final fee determination may be impacted by his response to a discharge event or the amount of generated hazardous oil and gas waste he recycles, reuses, or reclaims. These provisions are explained in the following sections.

LQG Base Fee

Each generator who is classified as an LQG during any calendar month of a calendar year shall pay to the RRC a base annual fee for generation of hazardous oil and gas waste of \$1,000.00. (Also, see "Additional Fee for Less Than 50% Recycling.")

SQG Base Fee

Each generator who is not classified as an LQG during any calendar month of a calendar year, but is classified as an SQG during a calendar month of that calendar year, shall pay to the RRC a base annual fee for generation of hazardous oil and gas waste of \$200.00. (Also, see "Additional Fee for Less Than 50% Recycling.")

CESQG Fee Exemption

No annual fee for generation of hazardous oil and gas waste is assessed against a generator who is classified as a CESQG during all months of the entire calendar year in which he generates hazardous oil and gas waste.

BASE FEE DETERMINATION - WASTE VOLUMES FROM SPILLS OR DISCHARGES

For the purposes of determining the base fee, a generator's classification may be determined after excluding quantities of hazardous oil and gas waste generated in connection with a spill or discharge, including contaminated soil, media, and debris, **if**, within 30 days after discovery of such spill or discharge, the generator files with the Hazardous Waste Program at RRC headquarters in Austin a one-page typewritten report with the RRC that describes:

- the nature and quantity of spilled or discharged material;
- the reason for or cause of the spill or discharge; and
- the steps that have been or will be taken by the generator to minimize the likelihood of a similar spill or discharge at that site.

Important note: This provision does not affect the generator classification on the annual report or your regulatory requirements attached to the actual waste generation.

It is only used for base fee calculation purposes. For example, you may be classified a LQG for one month of the year because the volume of waste generated by a spill event caused you to exceed 1,000 kg, whereas your site is normally SQG. If you submitted the required spill report, your base fee would be for the normal SQG volume of waste, even though you file an annual report as a LQG and meet LQG management standards for the waste generated in that month.

ADDITIONAL FEE FOR LESS THAN 50% RECYCLING

The base annual fee is doubled **if less than 50%** of the hazardous oil and gas wastes generated at the site during the entire calendar year are recycled, reused or reclaimed.

Important note: A LQG's or SQG's records must support the 50% recycling claim. An operator who submits the base fee without an additional fee indicates that he has recycled, reused, or reclaimed at least 50% of the generated hazardous oil and gas waste.

Subsection (z)(2) of Rule 98, by reference to subsection (e)(3)(B)(i)-(iii), provides that the recycled or reclaimed materials listed in 40 CFR §§261.6(a)(2) and (3), and §279.10(b) may be counted as recycled, reused, or reclaimed for the purpose of calculating the additional annual fee. Subsection (z)(2) also allows certain treated hazardous oil and gas wastes to be counted as reclaimed for the purpose of calculating the additional annual fee. The following paragraphs describe these materials. (Also see "Oil and Gas Wastes Excluded From Regulation or Subject to Reduced Regulation Under Rule 98 " in Chapter 2).

Waste Subject to Reduced Regulatory Requirements - 40 CFR §261.6(a)(2): 40 CFR §261.6(a)(2) excludes certain reclaimed wastes from comprehensive hazardous waste regulation, but instead requires that they be managed according to the requirements of 40 CFR Part 266 ("Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities"). Recyclable materials excluded by §261.6(a)(2) include:

- spent lead-acid batteries being reclaimed;
- hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under 40 CFR Parts 264 or 265; and
- materials from which precious metals are reclaimed.

Recycled Materials Excluded from Hazardous Waste Regulation - 40 CFR §261.6(a)(3): 40 CFR §261.6(a)(3) provides that the following recyclable materials are not subject to hazardous waste regulation:

- industrial ethyl alcohol that is reclaimed;
- scrap metal;

- fuels produced from the refining of oil-bearing hazardous waste along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under 40 CFR §261.4(a)(12));
- hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under 40 CFR §279.11 and so long as no other hazardous wastes are used to produce the hazardous waste fuel;
- hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil specification under 40 CFR §279.11; and
- oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil specification under 40 CFR §279.11.

Used Lubricating Oil - 40 CFR §279.10(b): 40 CFR §279.10(b) (and §261.6(a)(4)) excludes from hazardous waste regulation used lubricating oil that is recycled and is hazardous solely because it exhibits a hazardous characteristic. Instead, recycled used lubricating oil is subject to the requirements of 40 CFR Part 279 (“Standards for the Management of Used Lubricating Oil”). Note that Part 279 specifies that used lubricating oil that contains more than 1,000 ppm total halogens is presumed to be hazardous waste subject to all hazardous waste regulations (40 CFR §279.10(b)). However, this presumption may be rebutted if the generator can show that the used lubricating oil does not contain any of the hazardous constituents listed in 40 CFR Part 261, Appendix VIII.

Also, 40 CFR §279.10(b) addresses mixtures of used lubricating oil and hazardous waste. Most mixtures of used lubricating and hazardous waste are subject to full hazardous waste regulation. Two important exceptions that are subject to the Part 279 requirements are: a mixture of used lubricating oil and characteristically ignitable hazardous waste, **if** the mixture does not exhibit the ignitability characteristic; and a mixture of used lubricating oil and CESQG hazardous waste subject to the reduced requirements of 40 CFR §261.5.

Hazardous Oil and Gas Waste Treated in Elementary Neutralization Units, Totally Enclosed Treatment Units, and Wastewater Treatment Units: Subsection (z)(2) of Rule 98 also provides that hazardous waste treated in accordance with subsection (m)(2)(B) may be counted as reclaimed hazardous oil and gas waste. Subsection (m)(2)(B) specifies treatment of hazardous oil and gas wastes in elementary

neutralization units, totally enclosed treatment units, and wastewater treatment units. Such treatment is an exception to the general prohibition of on-site treatment or storage of hazardous oil and gas waste (see "On-Site Treatment Permitted by Rule 98" in Chapter 5 for additional description).

FEE PAYMENT

The base fee and any additional fee assessed must be paid to the RRC on or before the first day of March of the year following the calendar year in which the waste was generated . Fees assessed under this subsection must be tendered to the RRC with the annual report (see "Annual Reports" in Chapter 5).