



west virginia department of environmental protection

Division of Water and Waste Management
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Joe Manchin III, Governor
Randy C. Huffman, Cabinet Secretary
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December 18, 2009

The Honorable Earl Ray Tomblin, Senate President
Co-Chair - Joint Committee on Government and Finance
State Capitol Building, Room 227M
1900 Kanawha Blvd. East
Charleston, West Virginia 25305

The Honorable Richard Thompson, House Speaker
Co-Chair - Joint Committee on Government and Finance
State Capitol Building, Room 234M
1900 Kanawha Blvd. East
Charleston, West Virginia 25305

Dear Sirs:

Attached is the 2009 Financial Report on the Hazardous Waste Management Fee Fund as required pursuant to WV Code Chapter 22, Article 18-22(d).

If you require any additional information, please contact Ms. Terrie Sangid at 926-0499, ext. 1285.

Sincerely,

Scott G. Mandirola
Acting Director

SGM/ts

Attachment

Cc: Aaron Allred, Legislative Services

Promoting a healthy environment.

**Hazardous Waste Certification Fee Fund
Financial Report
Joint Committee on Government and Finance
December 18, 2009**

I. Summary of the Hazardous Waste Management Program

The Hazardous Waste Management Program is designated to perform site inspections, review and issue permits, provide compliance assistance, and perform related activities to ensure that hazardous waste generators and treatment, storage and disposal facilities comply with all regulatory requirements during construction, operation, and closure of said facilities. In addition, the program responds to citizen complaints and hazardous waste emergency incidents to protect public health and the environment. The program is comprised of 26 employees, made up of permit writers, inspectors, data managers, and support staff located in Charleston and six regional offices. This number represents a nearly 28 percent reduction in staff (ten FTEs) since the implementation of the hazardous waste certification fee in October 2003. The reduction is a result of attrition and reorganization.

There are approximately 2,906 active hazardous waste generating facilities within the state, including chemical manufacturers, small industrial manufacturers, and auto body repair and paint shops.

In SFY09, the program completed six compliance assistance visits, and 441 compliance evaluation visits of which 42 were hazardous waste complaint responses and 10 were hazardous waste emergency responses. There were also permitting activities, generator assistance, and program support provided to the regulated community.

The program is managed on a budget of \$2.5 million. The budget is comprised of \$1.7 million in federal grants, resulting in a required state match of \$800,000. All expenditures from the hazardous waste certification fee are used to match the federal grant. This match was previously produced from penalties assessed by hazardous waste inspectors.

II. Moving Away From Funding the Program with Penalty Monies

The amendment to WV Code 22-18 that initiated the Hazardous Waste Certification Fee was effective June 4, 2002, with a termination date of June 30, 2006. By two additional amendments, the termination date was extended to June 30, 2008 and June 30, 2010, respectively. WVDEP currently has a Bill introduced to amend WV Code 22-18 to extend the termination date to June 30, 2015. A stakeholders' group, including industry representatives, participated in drafting the initial legislation. The fee was developed to

assist DEP in supporting the Hazardous Waste Management Program on revenues other than penalties.

Title 33, Series 24 Procedural Rule to implement the fee was effective April 17, 2003. The rule set procedures for assessing and collecting the hazardous waste management fees and set the fee schedule. Unfortunately, the fees have not generated the expected revenue, and due to the shortfall of revenue, the certification fee fund was projected to reach a zero balance by state fiscal year 2010. In 2009, WVDEP amended the rule to increase the fees, and to stabilize the fee collection. The effective date of the amendment was June 1, 2009.

Account 3023, the Hazardous Waste Management Fee Fund, was created July 1, 2004 (SFY05) to house the fees, and the appropriation was set at \$100,000. In SFY05, \$68,999 was expended, primarily on personal services and benefits. There was one FTE on the account.

Effective July 1, 2006 (SFY07), the appropriation was increased to \$597,291, of which \$409,584 was set as classified, which allowed DEP to support seven FTEs on the account, as well as utilize \$187,707 in unclassified (operating expenses). The current FY'09 budget is \$599,046 with \$439,488 set as classified, and seven FTE's remain on the account.

In August 2005, to establish consistency across the agency, DEP ceased issuing administrative orders for monetary penalties under WV Code 22-18-15, and began utilizing WV Code 22-18-17 Civil Penalties and Injunctive Relief. Penalties that were collected under the WV Code 22-18-15 Administrative Enforcement actions were deposited into Account 3326 Hazardous Waste Management Fund, and used to help fund the state's share of the Hazardous Waste Management Program (state match to the US EPA RCRA3011 Grant). However, the WV Code 22-18-17 Civil Penalties program mandates that all proceeds from assessments collected pursuant to the subsection be deposited in the Account 3331 Hazardous Waste Emergency Response Fund, which limits DEP's state match sources. The DEP needs to maintain the Hazardous Waste Certification Fee to continue to generate the necessary revenue to match the RCRA3011 federal grant.

III. Fund Projection

As Section IV below depicts, the Hazardous Waste Certification Fee was not generating enough revenue to sustain the program until the rule change in 2009. The rule increased the fee assessments to the level minimally necessary to sustain the Hazardous Waste Management Program, by helping to ensure sufficient revenue to meet the matching requirements for supporting federal grants.

IV. Financial Summary

SFY06 Beginning Balance **\$641,786**

<i>Revenue</i>		
	<i>Fees</i>	\$230,319
	<i>Investment Earnings</i>	\$28,179
	Total Revenue	\$258,498
		\$170,274

SFY07 Beginning Balance **\$730,010**

<i>Revenue</i>		
	<i>Fees Collected</i>	\$362,519
	<i>Investment Earnings</i>	\$41,987
	Total Revenue	\$404,506
		\$440,316

SFY08 Beginning Balance **\$694,200**

<i>Revenue</i>		
	<i>Fees Collected</i>	\$185,082
	<i>Investment Earnings</i>	\$28,112
	Total Revenue	\$213,194
		\$477,678

SFY09 Beginning Balance **\$429,716**

<i>Revenue</i>		
	<i>Fees Collected</i>	\$362,725
	<i>Investment Earnings</i>	\$6,199
	Total Revenue	\$368,924
		\$358,815

SFY10 Beginning Balance **\$439,825**

<i>Revenue</i>		
	<i>Projected Fees</i>	\$688,982
	<i>Projected Investment Earnings</i>	\$6,000
	Total Projected Revenue	\$694,982
		\$599,046

SFY11 Projected Beginning Balance **\$535,761**

FEDERAL MATCHING MONEYS (RCRA3011 Grant)

FFY06 Grant	Award (base grant plus \$1,850 in-kind contribution)	\$1,761,518
	Expended	\$1,761,518
FFY07 Grant	Award (base grant plus \$6,126 in-kind contribution)	\$1,711,660
	Expended	\$1,711,660
FFY08 Grant	Award (base grant plus \$30,000 supplemental & \$6,868 in-kind contribution)	\$1,769,268
	Expended	\$1,769,268
FFY09 Grant	Award (base grant plus \$101,313 supplemental & \$106,922 in-kind contribution)	\$1,940,635
	Expended	\$1,940,635
FFY10 Grant	Award (base grant only)	\$1,732,400
	Projected expenditures	\$1,732,400

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Expenditure Comparison for Fiscal Years 2006-2010 by Fund and OBJ

FUND 3023

			<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
			<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>
							<u>TO DATE</u>
3023 HAZARDOUS WASTE MANAGEMENT FEE FUND							
OBJ	201	PERSONAL SERVICES	46,504	255,366	258,476	179,958	100,415
OBJ	601	OVERTIME	0	844	0	203	0
OBJ	602	TEMPORARY WORK	0	0	0	0	0
OBJ	004	ANNUAL INCREMENT	1,400	5,700	6,560	4,610	5,280
OBJ	010	CIVIL SERV PEIA/PERS	1,075	1,400	1,750	1,750	1,000
OBJ	011	SOCIAL SECURITY MATCHING	3,500	13,936	19,138	13,481	7,718
OBJ	012	PUBLIC EMPLOYEES INS	2,992	49,919	45,619	30,229	14,362
OBJ	014	WORKERS COMPENSATION	1,798	1,033	3,394	2,983	1,631
OBJ	015	UNEMPLOYMENT COMPENSATION	0	0	0	0	0
OBJ	016	PENSION AND RETIREMENT	5,119	27,501	27,829	19,401	11,627
OBJ	020	OFFICE EXPENSES	5,733	2,840	15,498	4,636	1,163
OBJ	021	PRINTING AND BINDING	0	167	0	0	0
OBJ	022	RENT EXP (REAL PROP) BLDG	0	0	0	0	8,333
OBJ	023	UTILITIES	0	0	8,894	0	0
OBJ	024	TELECOMMUNICATIONS	595	403	5,154	140	1
OBJ	025	CONTRACTUAL/PROFESSIONAL	8,781	44,525	2,713	6,079	1,428
OBJ	026	TRAVEL	5,757	1,319	0	0	0
OBJ	027	COMPUTER SERVICES	685	474	491	15	0
OBJ	029	VEHICLE RENTAL	12,681	1,294	33,908	32,507	17,217
OBJ	030	RENTAL (MACHINE & MISC)	141	0	1,208	14,710	0
OBJ	032	FIRE/AUTO/BOND/ & OTHR IN	0	0	0	0	0
OBJ	033	FOOD PRODUCTS	2	0	0	548	0
OBJ	034	CLOTH, HOUSEHOLD & REC SU	2,412	187	91	445	0
OBJ	035	ADVERTISING & PROMOTIONAL	273	0	0	0	0
OBJ	036	VEHICLE OPERATING EXP	4,883	494	22,640	27,599	626
OBJ	037	RSRCH/EDUC & MEDICAL SU	1,448	21	0	0	0
OBJ	038	ROUTINE MAINT CONTRACTS	3,813	2,763	257	75	0
OBJ	041	CELLULAR CHARGES	959	161	0	401	0
OBJ	042	HOSPITALITY	0	0	0	0	0
OBJ	044	ENERGY EXP MTR VEH/AIR.	0	0	0	0	4,250
OBJ	051	MISCELLANEOUS	774	0	-4,619	1,153	0
OBJ	052	TRAINING & DEVELOPMENT	4,971	3,390	-94	5	0
OBJ	053	POSTAL AND FREIGHT	5,263	1,220	1,977	890	883
OBJ	054	COMPUTER SUPPLIES/EQUIP	17,110	1,266	652	2,767	5,682
OBJ	058	MISC EQUIPMENT PURCHASES	1,704	331	8,149	0	0
OBJ	061	OFFICE & COMM EQUIP REPRS	183	4	199	335	0
OBJ	062	RESRCH/ED & MED EQPT REPA	817	0	0	0	0
OBJ	063	BLDNG/HSEHLD EQUIP REPAIR	0	0	456	7	0
OBJ	064	ROUTINE MAINT OF BLDGS	0	0	0	0	0

12/8/2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Expenditure Comparison for Fiscal Years 2006-2010 by Fund and OBJ

Fund 3023

			<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
			<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>
							<u>TO DATE</u>
OBJ	065	VEHICLE REPAIRS	2,917	0	402	7,539	787
OBJ	068	OTHER REPAIRS AND ALT	111	0	0	0	0
OBJ	070	OFFICE AND COMM EQUIPMENT	0	589	0	0	0
OBJ	072	RESEARCH AND EDUCATIONAL	0	0	8,750	0	0
OBJ	077	BOOKS AND PERIODICALS	0	0	0	106	0
OBJ	078	OTHER CAPITAL EQUIPMENT	0	0	0	0	0
OBJ	089	BANK COSTS	471	578	552	884	907
OBJ	096	OTHER INTEREST AND PENALT	0	0	0	0	0
OBJ	110	PEIA RESERVE TRANSFER	277	2,590	2,682	2,410	0
OBJ	152	DEBT SERV (BONDED-INT)	23,702	20,000	0	0	0
OBJ	156	MEDICAL SERVICE PAYMENTS	0	0	0	2,947	52
OBJ	160	WV OPEB CONTRIBUTION	0	0	0	0	3,492
OBJ	170	COMPUTER EQUIPMENT	603	0	0	0	0
OBJ	171	COMPUTER SOFTWARE	819	0	4,950	0	0
TOTAL 3023 HAZARDOUS WASTE MANAGEMENT FEE FUND			170,274	440,315	477,678	358,814	186,854

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Expenditure Comparison for Fiscal Years 2006-2010 by Fund and OBJ

			<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
			<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>
							<u>TO DATE</u>
3326 HAZARDOUS WASTE MANAGEMENT HG 1479 FUND							
OBJ	201	PERSONAL SERVICES	126,220	35,635	36,218	39,191	16,594
OBJ	601	OVERTIME	0	0	0	0	0
OBJ	004	ANNUAL INCREMENT	1,566	1,403	1,400	1,776	1,925
OBJ	010	CIVIL SERV PEIA/PERS	1,163	472	250	250	150
OBJ	011	SOCIAL SECURITY MATCHING	9,126	2,768	2,818	3,069	1,385
OBJ	012	PUBLIC EMPLOYEES INS	27,860	5,626	4,672	4,514	1,315
OBJ	014	WORKERS COMPENSATION	1,749	770	242	73	35
OBJ	015	UNEMPLOYMENT COMPENSATION	4,341	0	0	0	0
OBJ	016	PENSION AND RETIREMENT	13,420	3,884	3,950	4,302	2,037
OBJ	020	OFFICE EXPENSES	3,292	1,263	544	466	6
OBJ	021	PRINTING AND BINDING	-25	0	0	0	0
OBJ	022	RENT EXP (REAL PROP) BLDG	0	0	0	0	2,059
OBJ	023	UTILITIES	266	50	0	0	0
OBJ	024	TELECOMMUNICATIONS	2,502	69	1,172	1,136	1,521
OBJ	025	CONTRACTUAL/PROFESSIONAL	70,109	2,888	1,649	618	4,643
OBJ	026	TRAVEL	1,454	1,178	606	124	194
OBJ	027	COMPUTER SERVICES	589	928	659	1,506	229
OBJ	029	VEHICLE RENTAL	805	0	5,603	13,405	0
OBJ	030	RENTAL (MACHINE & MISC)	3,381	202	315	5,310	0
OBJ	031	ASSOC DUES & PROF MEMBERS	0	0	0	0	0
OBJ	032	FIRE/AUTO/BOND/ & OTHR IN	5,616	0	3,054	2,704	970
OBJ	034	CLOTH, HOUSEHOLD & REC SU	1,042	323	156	91	0
OBJ	035	ADVERTISING & PROMOTIONAL	360	0	0	0	0
OBJ	036	VEHICLE OPERATING EXP	10,480	11	7,385	7,793	827
OBJ	037	RSRCH/EDUC & MEDICAL SU	327	15	37	0	0
OBJ	038	ROUTINE MAINT CONTRACTS	3,412	2,645	394	69	0
OBJ	041	CELLULAR CHARGES	94	648	0	0	0
OBJ	042	HOSPITALITY	0	0	0	0	0
OBJ	043	EDUC TRAINING (STIPENDS)	584	0	0	0	0
OBJ	044	ENERGY EXP MTR VEH/AIR.	0	0	0	0	5,556
OBJ	051	MISCELLANEOUS	5,326	0	0	0	0
OBJ	052	TRAINING & DEVELOPMENT	0	1,423	2,343	131	263
OBJ	053	POSTAL AND FREIGHT	3,541	150	0	0	0
OBJ	054	COMPUTER SUPPLIES/EQUIP	727	2,121	103	758	119
OBJ	058	MISC EQUIPMENT PURCHASES	693	0	0	0	150
OBJ	061	OFFICE & COMM EQUIP REPRS	631	5	9	110	0
OBJ	063	BLDNG/HSEHLD EQUIP REPAIR	608	0	7	0	0
OBJ	064	ROUTINE MAINT OF BLDGS	0	80	0	0	0
OBJ	065	VEHICLE REPAIRS	47	0	306	1,963	2,057

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DEPARTMENT OF ENVIRONMENTAL PROTECTION
Expenditure Comparison for Fiscal Years 2006-2010 by Fund and OBJ

Fund 3326

			<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
			<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>	<u>EXPENSES</u>
							<u>TO DATE</u>
OBJ	068	OTHER REPAIRS AND ALT	0	0	0	0	0
OBJ	070	OFFICE AND COMM EQUIPMENT	947	0	0	0	0
OBJ	077	BOOKS AND PERIODICALS	0	0	0	400	0
OBJ	078	OTHER CAPITAL EQUIPMENT	0	69	0	0	0
OBJ	089	BANK COSTS	0	0	0	0	0
OBJ	110	PEIA RESERVE TRANSFER	1,240	344	356	367	0
OBJ	148	LAND IMPROVEMENTS	0	0	0	649	0
OBJ	151	DEBT SERV (BONDED-PRIN)	0	7,569	5,964	0	0
OBJ	152	DEBT SERV (BONDED-INT)	0	21,654	12,192	0	0
OBJ	160	WV OPEB CONTRIBUTION	0	0	0	0	740
OBJ	170	COMPUTER EQUIPMENT	2,035	666	3,378	739	0
OBJ	171	COMPUTER SOFTWARE	-422	0	174	1,401	664
TOTAL 3326 HAZARDOUS WASTE MANAGEMENT HG 1479 FUND			305,105	94,859	95,959	92,915	43,437