

Part III**Incorporation of Federal Regulations by Reference****9 VAC 20-60-18. Applicability of incorporated references based on the dates on which they became effective.**

Except as noted, when a regulation of the United States Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is adopted herein and incorporated by reference, that regulation shall be as it exists and has been published as a final regulation in the *Federal Register* prior to July 1, 2003, with the effective date as published in the *Federal Register* notice or ~~March 26, 2003~~ November 5, 2003, whichever is later.

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9VAC20-60-262. Adoption of 40 CFR Part 262 by reference.

A. Except as otherwise provided, the regulations of the United States Environmental Protection Agency set forth in 40 CFR Part 262 are hereby incorporated as part of the Virginia Hazardous Waste Management Regulations. Except as otherwise provided, all material definitions, reference materials and other ancillaries that are a part of 40 CFR Part 262 are also hereby incorporated as part of the Virginia Hazardous Waste Management Regulations.

B. In all locations in these regulations where 40 CFR Part 262 is incorporated by reference, the following additions, modifications and exceptions shall amend the incorporated text for the purpose of its incorporation into these regulations:

1. In 40 CFR 262.42(a)(2), the words "for the Region in which the generator is located" is deleted from the incorporated text and is not a part of these regulations.
2. In 40 CFR 262.12, 40 CFR 262.53, 40 CFR 262.54, 40 CFR 262.55, 40 CFR 262.56 and 40 CFR 262.57, the term "Administrator" shall mean the administrator of the United States Environmental Protection Agency or his designee.
3. In 40 CFR 262.12, 40 CFR 262.53, 40 CFR 262.54, 40 CFR 262.55, 40 CFR 262.56 and 40 CFR 262.57, the term "Regional Administrator" shall mean the regional administrator of Region III of the United States Environmental Protection Agency or his designee.
4. For accumulation areas established before March 1, 1988, a generator who is not otherwise exempted by 40 CFR 261.5 shall notify the department of each location where he accumulates hazardous waste in accordance with 40 CFR 262.34 by March 1, 1988. For accumulation areas established after March 1, 1988, he shall notify the department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34 prior to or immediately upon the establishment of each accumulation area. In the case of a new generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34. This notification shall specify the exact location of the accumulation area at the site.

5. In addition to the requirements in 40 CFR Part 262, management of hazardous wastes is required to comply with the Regulations Governing the Transportation of Hazardous Materials (9VAC20-110), including packaging and labeling for transport.

6. A generator shall not offer his hazardous waste to a transporter or to a facility that has not received a permit and an EPA identification number.

7. In 40 CFR Part 262, Subpart H, the terms "EPA" and "Environmental Protection Agency" shall mean the United States Environmental Protection Agency.

8. In addition to the requirements of this section, large quantity generators are required to pay an annual fee. The fee schedule and fee regulations are contained in Part XII (9VAC20-60-1260 through 9VAC20-60-1285).

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9VAC20-60-270. Adoption of 40 CFR Part 270 by reference.

A. Except as otherwise provided, those regulations of the United States Environmental Protection Agency set forth in 40 CFR Part 270 are hereby incorporated as part of the Virginia Hazardous Waste Management Regulations. Except as otherwise provided, all material definitions, reference materials and other ancillaries that are a part of incorporated sections of 40 CFR Part 270 are also hereby incorporated as part of the Virginia Hazardous Waste Management Regulations.

B. In all locations in these regulations where 40 CFR Part 270 is incorporated by reference, the following additions, modifications and exceptions shall amend the incorporated text for the purpose of its incorporation into these regulations:

1. In 40 CFR Part 270 and wherever elsewhere in Title 40 of the Code of Federal Regulations there is a listing of universal wastes or a listing of hazardous wastes that are the subject of provisions set out in 40 CFR Part 273 as universal wastes, it shall be amended by addition of the following sentence: "In addition to the hazardous wastes listed herein, the term "universal waste" and all lists of universal waste or waste subject to provisions of 40 CFR Part 273 shall include those hazardous wastes listed in Part XVI (9VAC20-60-1495 et seq.) of the Virginia Hazardous Waste Management Regulations as universal wastes, under such terms and requirements as shall therein be ascribed."
2. In 40 CFR 270.5, the term "Administrator" shall mean the administrator of the United States Environmental Protection Agency or his designee.
3. In 40 CFR 270.5, the term "Regional Administrator" shall mean the regional administrator of Region III of the United States Environmental Protection Agency or his designee.
4. The underground injection of hazardous waste for treatment, storage or disposal shall be prohibited throughout the Commonwealth of Virginia, and no permits shall be issued for underground injection facilities.
5. Validity of the federal HWM permits. This section replaces 40 CFR 270.51, which is not included in the incorporation of 40 CFR Part 270 by reference and is not a part of the Virginia Hazardous Waste Management Regulations.
 - a. Hazardous waste management facilities located in Virginia which possess an effective final RCRA permit issued by the United States Environmental Protection Agency will be considered to possess a valid Virginia hazardous waste management

permit for the duration of the unexpired term of the federal permit, provided that:

- (1) The facility remains in compliance with all of the conditions specified in the federal permit;
- (2) The operator submits a complete copy of the federal permit to the department no later than the effective date of the federal permit; and
- (3) The owner and operator of the facility submit a request to continue the federal permit addressed to the department.

b. Federal permits issued to hazardous waste management facilities located in Virginia by the United States Environmental Protection Agency pursuant to HSWA requirements which constitute the federal portion of the combined Virginia--United States Environmental Protection Agency RCRA permits are considered, for the purposes of this chapter, as addenda to the Virginia permits and will remain in effect during the unexpired term of the Virginia permit.

6. All permit applications and reapplications required by these regulations shall be accompanied by an appropriate permit application fee as specified in Part XII (9VAC20-60-1260 et seq.) of this chapter. Applications or reapplications not accompanied by such fees will not be considered complete. The director shall not issue a permit before receiving a complete application except permits by rule, emergency permits, or continued federal permits. In addition, an application for a permit is not complete until the department receives an application form and any supplemental information, which are completed to the department's satisfaction. The completeness of any application for a

permit shall be judged independently of the status of any other permit application or permit for the same facility or activity. In cases where Part A of the application was first submitted to the United States Environmental Protection Agency Administrator, a copy of such submission shall also be sent to the department.

7. Interim status.

a. The director may deny interim status to any owner or operator if, at the time the Part A application is submitted, the facility is in violation of any regulation of the board so as to pose a substantial present or potential hazard to human health or environment.

b. Unless subject of an exception specified in 40 CFR 270.73, interim status terminates when final disposition of a permit application is made or when interim status is terminated by the director. Interim status may be terminated for any of the following reasons:

(1) Failure to submit a completed Part B application on time;

(2) Failure to furnish any information required by this chapter;

(3) Falsification, misrepresentation or failure to fully disclose any information submitted or required to be kept under this chapter;

(4) Violation of this chapter; and

(5) A determination that the facility poses a significant threat to public health or the environment.

c. The director may terminate the interim status upon receiving a voluntary request for

such an action from the owner and the operator of the facility.

(1) To be considered for voluntary termination such request shall:

(a) Be received by the department prior to the issuance of the request to submit Part B of the permit application in accordance with this section; and

(b) Be accompanied by a waiver of procedures contained in this section.

(2) Termination under this part will not be granted to the owner and operator of the facility:

(a) Which is not in compliance with the standards contained in 9VAC20-60-265; or

(b) When termination proceedings have been instituted under this section.

d. The effective date of the termination of the interim status will be determined by the director to allow for proper closure of the facility in accordance with Subpart G of 40 CFR Part 264 and Subpart G of 40 CFR Part 265, as applicable.

8. Each permit shall include permit conditions necessary to achieve compliance with the Virginia Waste Management Act (§10.1-1400 et seq. of the Code of Virginia) and regulations, including each of the applicable requirements specified in this part (Part III) of these regulations. In satisfying this provision, the director may incorporate applicable requirements of Part III directly into the permit or establish other permit conditions that are based on these requirements.

9. In addition to the other general information requirements to be part of the contents of any Part B in 40 CFR 270.14(b), the following information is required for all hazardous

waste management facilities, except as provided otherwise:

a. A copy of the general inspection schedule required by 40 CFR 264.15(b). Include, where applicable, as part of the inspection schedule, specific requirements in 40 CFR 264.174, 40 CFR 264.193(i), 40 CFR 264.195, 40 CFR 264.226, 40 CFR 264.254, 40 CFR 264.273, 40 CFR 264.303, 40 CFR 264.573, 40 CFR 264.574, 40 CFR 264.602, 40 CFR 264.1033, 40 CFR 264.1052, 40 CFR 264.1053, and 40 CFR 264.1058.

b. Traffic pattern, estimated volume (number, types of vehicles) and control; describe access road surfacing and load bearing capacity; show traffic control signals.

10. A period of 30 days shall elapse between the date of public notice and the date of a public hearing under 40 CFR 270.42(b)(4) and 40 CFR 270.42(c)(4).

11. Notices given under 40 CFR 270.30(l)(1) shall be written.

12. The following additional information is required from owners or operators of facilities that store or treat hazardous waste in waste piles if an exemption is sought to Subpart F of 40 CFR Part 264 and 40 CFR 264.251 as provided in 40 CFR 264.250(c) and 40 CFR 264.90(b)(2):

a. An explanation of how the standards of 40 CFR 264.250(c) will be complied with; and

b. Detailed plans and an engineering report describing how the requirements of 40 CFR 264.90(b)(2) will be met.

13. The agencies of the Commonwealth publish notices of regulatory activity, permit hearings and other official notices in the Virginia Register. Any references in incorporated

federal text that indicate a publication is to be made in the Federal Register shall be construed to mean the Virginia Register when such publication is to be made by an agency of the Commonwealth.

14. Appeal rights and procedures related to a remedial action plan (RAP) included in 40 CFR 270.155, especially appeals to the EPA Environmental Appeals Board, are not incorporated into these regulations. Appeals of actions related to the content or process of developing a RAP will be governed by the Administrative Process Act, Chapter 40 (§2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

15. The conditions of an expired permit continue in force until the effective date of the new permit if the permittee has submitted a timely reapplication that is a complete application for a new permit; and the director, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit. Permits that are continued remain fully effective and enforceable.

When the permittee is not in compliance with the conditions of the expiring or expired permit, the director may choose to do any or all of the following:

- a. Initiate enforcement action based on the permit ~~which~~ that has been continued;
- b. Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
- c. Issue a new permit with appropriate conditions; or
- d. Take other actions authorized by this chapter.

16. Part XII (9VAC20-60-1260 through 9VAC20-60-1285) of this chapter applies to all permitted facilities, to facilities operating under interim status, to facilities subject to an order or agreement, and to all large quantity generators. In addition to permit application fees, a permitted treatment, storage, and disposal facility is assessed an annual fee. A facility that operates under interim status, a facility that is subject to an order or agreement, and a large quantity generator are also assessed annual fees.

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Part IV

Notification of Hazardous Waste Management Activity Regulations

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9VAC20-60-315. Notification.

A. Any person that notified the EPA of hazardous waste management activities as referenced in 9VAC20-60-305 B shall provide a copy of that notification to the department.

B. Any person involved in hazardous waste management activities that did not comply with the notification requirements of the EPA as referenced in 9VAC20-60-305 B but is subject to those requirements shall notify the department in writing of their hazardous waste management activities by the effective date of this chapter. Notification shall be accomplished by the use of EPA Form 8700-12.

C. Any person who initiated a hazardous waste management activity subsequent to the preliminary notification period of 42 USC §6930 but prior to the effective date of this

chapter shall notify the department of the initiation of such activities by the effective date of this chapter. Notification shall be accomplished by the use of EPA Form 8700-12.

D. ~~(Reserved.)~~ Anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record. Any large quantity generator who ceases to be a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record.

E. Transporters shall provide only one notification form for all transportation activities.

F. One notification form is required for each generator site.

G. A notification form is required for each storage, treatment, disposal, or other facility. However, if one geographic site includes more than one storage, treatment or disposal activity, only one notification form for the entire facility site is required.

H. New generators, transporters, treaters, storers, and disposers (those initiating activities subsequent to the assumption of the hazardous waste management program by the Commonwealth) shall comply with the requirements of 9VAC20-60-262, 9VAC20-60-263, and 9VAC20-60-264, as applicable, to obtain an identification number from the administrator or the department

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Part XII

Permit Application and Annual Fees**9VAC20-60-1260. Purpose, scope, and applicability.**

A. The purpose of this part is to establish a schedule of fees collected by the department in the support of its ~~permit issuance~~ programs required by Parts III (9VAC20-60-270 et seq.), Part IV (9VAC20-60-305 et seq.) and VII (9VAC20-60-420 et seq.) of this chapter.

B. Part XII (9VAC20-60-1260 et seq.) of this chapter applies to all persons required to submit a permit application ("applicants") under 9VAC20-60-270 and 9VAC20-60-420 E unless specifically exempt under 9VAC20-60-1260 G., to facilities operating under interim status, to facilities subject to an order or agreement, and to all large quantity generators. The fees shall be assessed in accordance with 9VAC20-60-1270 et seq.

C. When the director finds it necessary to modify any permit under 9VAC20-60-270, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with 9VAC20-60-1270 D even if the director shall have initiated the modification action.

D. When the director finds it necessary to revoke and reissue any permit in accordance with 9VAC20-60-270, the holder of that permit shall be considered an applicant for a new permit and shall be assessed a fee in accordance with 9VAC20-60-1270 C.

E. If the director finds it necessary either to revoke and reissue a permit or to perform a minor modification of a permit in accordance with 9VAC20-60-270, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with 9VAC20-

60-1270 E. The holder of a permit shall not be assessed a permit modification fee for minor modifications.

F. When the director finds it necessary to issue an emergency treatment, storage, or disposal permit in accordance with 9VAC20-60-270, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with 9VAC20-60-1270

F. No permit application fee will be assessed to the holders of the emergency transportation permits issued in accordance with 9VAC20-60-450 H.

G. Exemptions.

1. The owners and operators of HWM treatment, storage, and disposal facilities who have submitted Part A of their application and who have qualified for interim status in accordance with 9VAC20-60-270 are exempt from the requirements of ~~Part XII~~ 9VAC20-60-1270 of this chapter until a Part B application for the entire facility or a portion of the facility has been requested or voluntarily submitted. The owner and operator of a HWM facility submitting a Part B application will be considered an applicant for a new permit.

2. The owners and operators of HWM facilities that are deemed to possess a permit by rule in accordance with 9VAC20-60-270 are exempt from the requirements of ~~Part XII~~ 9VAC20-60-1270 of this chapter.

3. Hazardous waste generators that accumulate wastes on-site in accordance with 40 CFR 262.34 are not subject to regulations contained in ~~Part XII~~ 9VAC20-60-1270 of this chapter since HWM permits are not required for such accumulations.

~~H. Permit fees shall be assessed based on the date of approval of the permit and the~~

~~application of 9VAC20-60-1270, 9VAC20-60-1280, and 9VAC20-60-1285.~~

9VAC20-60-1270. Determination of application fee amount.

A. General.

1. Each application for a new or renewed permit and each application for a modification to a permit is a separate action and shall be assessed a separate fee. The amount of such fees is determined on the basis of 9VAC20-60-1270.

2. The amount of the permit application fee is based on the costs directly associated with the permitting program required by Parts III (9VAC20-60-270 et seq.) and VII (9VAC20-60-420 et seq.) of this chapter and includes costs for personnel and contractual effort and the prorated costs of supplies, equipment, communications and office space. The fee schedules are shown in 9VAC20-60-1285. ~~These schedules will be re-evaluated annually and the results of such re-evaluations will be used to recommend to the Virginia Waste Management Board the necessary adjustments.~~

B. Transporter fees.

1. Application fees for the transporter permits are shown in 9VAC20-60-1285 A. Based on the greater regulatory effort associated with the issuance of permits to the transporters without terminals or other facilities in the Commonwealth, the out-of-state transporters are charged higher fees.

2. Since Part VII of this chapter does not provide for a modification procedure, all transporter permit applications are considered to be for new permits.

C. New HWM facility permits.

1. All applicants for new or renewed hazardous waste treatment, storage, and disposal facility permits are assessed a base fee shown in 9VAC20-60-1285 B.

2. Applicants for a facility permit which includes one or more of the hazardous waste treatment, storage or disposal units or processes that require ground water protection or corrective action for solid waste management units in accordance with Subpart F of 40 CFR Part 264, Subpart K of 40 CFR Part 264, Subpart L of 40 CFR Part 264, Subpart M of 40 CFR Part 264, and Subpart N of 40 CFR Part 264, as applicable, ("land-based TSD units") are assessed a supplementary fee shown in 9VAC20-60-1285 B, in addition to the base fee specified 9VAC20-60-1270 C 1 and any other supplementary fee that may be appropriate.

3. Applicants for a facility permit which includes one or more hazardous waste incineration, boiler, or industrial furnace units or processes regulated in accordance with Subpart O of 40 CFR Part 264 are assessed a supplementary fee shown in 9VAC20-60-1285 B, in addition to the base fee specified in 9VAC20-60-1270 C 1 and any other supplementary fee that may be appropriate.

4. Applicants for a facility permit for storage of hazardous wastes in containers, tanks or drip pads, or both, subject to Subpart I of 40 CFR Part 264, Subpart J of 40 CFR Part 264, and Subpart W of 40 CFR Part 264 will not be assessed any supplementary fees unless required to close and perform post-closure care as landfills as provided for in 40 CFR 264.197(b) and 40 CFR 264.571(b).

5. The transporter permits are separate permits and require a separate administrative action. Applicants for new treatment, storage, and disposal facility permits who also apply for a transporter permit will be assessed separate fees in accordance with 9VAC20-60-1270 B.

D. Modifications to existing HWM facility permits.

1. Except as provided for in 9VAC20-60-1270 E, all applicants for a modification of an existing HWM facility permit are assessed a modification base fee shown in 9VAC20-60-1285 C.

2. Applicants for a modification that includes or involves the addition of hazardous wastes not currently in the permit are assessed a supplementary modification fee shown in 9VAC20-60-1285 C, in addition to the base fee specified in 9VAC20-60-1270 D 1 and any other supplementary fee that may be appropriate.

3. Applicants for a major (Class 3) modification that includes or involves corrective action for solid waste management units under 40 CFR 264.101 and Title 40, Subpart S shall be assessed a supplementary modification fee shown in 9VAC20-60-1285 C in addition to supplementary fees specified in 9VAC20-60-1270 D 1 and any other supplementary fee that may be appropriate.

4. Applicants for a major (Class 3) modification that includes or involves the addition of one or more new hazardous waste land-based TSD units or processes; or requires a substantive change in the design of the existing land-based TSD units or processes, are assessed a supplementary modification fee shown in 9VAC20-60-1285 C in addition to

the base fee specified in 9VAC20-60-1270 D 1 and any other supplementary fee that may be appropriate. For the purpose of 9VAC20-60-1270 D, it will be deemed that a major change is required whenever a change in the design of the ground water protection system or whenever a new land treatment demonstration permit specified in 9VAC20-60-270 is necessary.

5. Applicants for a major (Class 3) modification that includes or involves the addition of one or more hazardous waste incineration units or processes, or requires a substantive change in the design of an existing incineration unit or process, are assessed a supplementary modification fee shown in 9VAC20-60-1285 C, in addition to the base fee specified in 9VAC20-60-1270 D 1 and any other supplementary fee that may be appropriate. For the purposes of 9VAC20-60-1270 D, it will be deemed that a major change is required whenever a change occurs that necessitates the performance of a trial burn in accordance with 9VAC20-60-270.

6. Applicants for a major (Class 3) modification which includes or involves new treatment, storage or disposal units, processes or areas, or requires a substantive change in the design of any existing hazardous waste treatment, storage or disposal units, processes or areas, neither of which is a hazardous waste land-based TSD or incineration unit, are assessed a supplementary modification fee shown in 9VAC20-60-1285 C, in addition to the base fee specified in 9VAC20-60-1270 D 1 and any other supplementary fee that may be appropriate. For the purposes of 9VAC20-60-1270 D, expansion of an existing container storage facility is not considered to be a major change.

7. Applicants for a modification that is not a minor modification and is a substantive

(Class 2) as specified in 9VAC20-60-270 and that is not subject to the requirements of 9VAC20-60-1270 D 2 through 9VAC20-60-1270 D 6, are assessed a supplementary modification fee shown in 9VAC20-60-1285 C, in addition to the base fee specified in 9VAC20-60-1270 D 1.

8. Applicants for numerous modifications subject to several supplementary fees will not be assessed a permit application fee in excess to the one required for a new permit for a comparable HWM facility.

E. Minor modifications of existing HWM facility permits. All applicants for minor (Class 1) modification of an existing HWM facility permit provided for in 9VAC20-60-270 are not assessed a fee, ~~shown in 9VAC20-60-1285 D.~~

F. Emergency permits. Applicants for an emergency hazardous waste treatment, storage or disposal permit as provided for in 9VAC20-60-270 are assessed a fee shown in 9VAC20-60-1285 E, unless the director shall determine that a lesser fee is appropriate at the time the permit is issued. No permit fee will be assessed for emergency treatment, storage, or disposal necessary for the remediation of abandoned or orphaned hazardous waste by the U. S. Environmental Protection Agency, the Virginia Department of Environmental Quality, the Virginia Department of Emergency Management, the Virginia State Police the Virginia Department of Transportation, a U..S. Department of Defense Explosive Ordnance Disposal Team, a U. S. Army Technical Escort Unit or other Federal government entities trained in explosive or munitions emergency response. No permit fee will be assessed for emergency treatment, storage, or disposal when a determination has been made by the Commonwealth that circumstances dictate expedient action to protect

human health and environmental quality.

9VAC20-60-1280. Payment of application fees.

A. Due date.

1. Except as specified in subdivision 2 of this subsection, all permit application fees are due on the day of application and must accompany the application.

2. All holders of a Virginia HWM facility permit issued prior to the effective date of this part shall submit the application fees as required by the conditions specified in that permit.

B. Method of payment. ~~Acceptable payment is cash or check made payable to the Commonwealth of Virginia, Department of Environmental Quality.~~ Fees shall be paid by check, draft or postal money order made payable to "Treasurer of Virginia", and shall be sent to the Department of Environmental Quality, Receipts Control, P. O. Box 10150, Richmond, VA 23240. When the department is able to accept electronic payments, payments may be submitted electronically

C. Incomplete payments. All incomplete payments will be deemed nonpayments.

D. Late payment. No applications will be deemed to be complete (see 9VAC20-60-270) until the department receives proper payment.

9VAC20-60-1283. Determination of annual fee amount.

A. Each operator of a hazardous waste treatment, storage, or disposal facility shall be assessed an annual fee as shown in 9VAC20-60-1285 F to be paid in accordance with 9VAC20-60-1284.

B. Each large quantity generator of hazardous waste shall be assessed an annual fee as shown in 9VAC20-60-1285 G to be paid in accordance with 9VAC20-60-1284.

C. A hazardous waste treatment, storage, or disposal facility operating under interim status and a facility subject to an order or agreement operate by accession and shall be assessed an annual fee as described in 9VAC20-60-1285 F to be paid in accordance with 9VAC20-60-1284.

An order or agreement may be issued to the operator of a facility, a generator, or a person who is both a facility operator and a generator. If a person is issued an order or agreement whose terms allows that person to conduct an activity that is by these regulations reserved for persons operating a facility under a permit or interim status, that person shall be considered to be operating a facility subject to an order or agreement. If the order or agreement is issued to a generator and the terms of the order do not allow that person to conduct any activity that is by these regulations reserved for persons operating a facility under a permit or interim status and the person is not otherwise operating a facility at the site of generation, that person shall not be considered to be operating a facility subject to an order or agreement.

D. Annual fees are separate and accumulative. However, a facility which is assessed an annual fee as a facility shall not also be assessed a second annual fee as a large quantity generator for hazardous waste generated at that facility.

E. Anyone who operates a facility (including those described in items A and C of this section) or who is a large quantity generator at any time during the year shall be assessed the full annual fee amount no matter how short the period the facility is operated or how

briefly the generator is a large quantity generator. A generator who is a large quantity generator episodically or provisionally (having received a provisional EPA Identification Number) shall be assessed the full annual fee for any year in which the generator was a large quantity generator. For the evaluation of facility status or of generator status, the annual year shall be considered to be from January 1 to December 31.

F. No annual fee as a facility or large quantity generator will be assessed for emergency treatment, storage, or disposal necessary for the remediation of abandoned or orphaned hazardous waste by the U.S. Environmental Protection Agency, the Virginia Department of Environmental Quality, the Virginia Department of Emergency Management, the Virginia State Police the Virginia Department of Transportation, a U.S. Department of Defense Explosive Ordnance Disposal Team, a U.S. Army Technical Escort Unit or other Federal government entities trained in explosive or munitions emergency response. No annual fee will be assessed for emergency treatment, storage, or disposal when a determination has been made by the Commonwealth that circumstances dictate expedient action to protect human health and environmental quality.

Persons who are remediating a brownfield as defined § 10.1-1230 et seq. of the Code of Virginia (Brownfield Restoration and Land Renewal Act) shall not be assessed an annual fee as large quantity generator with regard to hazardous waste management activities at a waste management unit and that result from the remediation of the brownfield.

G. Discounted annual fees may be offered based on the criteria listed in 9 VAC 20-60-1286. An operator of a facility or a large quantity generator will be notified by the department if discounted annual fees are applicable.

9VAC20-60-1284. Payment of annual fees.

A. Due date. The operator of the treatment, storage, or disposal facility and each large quantity generator shall pay the correct fees to the Department of Environmental Quality. The department may bill the facility or generator for amounts due or becoming due in the immediate future. All payments are due and shall be received by the department no later than the first day of October 2004 (for the 2003 annual year), and no later than the first day of October of each succeeding year thereafter (for the preceding annual year) unless a later payment date is specified by the department in writing.

B. Method of payment.

1. The operator of the facility or the large quantity generator shall send a payment transmittal letter to the Department of Environmental Quality. The letter shall contain the name and address of the facility or generator, the Federal Identification Number (FIN) for the facility or generator, the amount of the payment enclosed, and the period that the payment covers. With the transmittal letter shall be payment in full for the correct fees due for the annual period. A copy of the transmittal letter only shall be maintained at the facility or the site where the hazardous waste was generated.

2. Fees shall be paid by check, draft or postal money order made payable to "Treasurer of Virginia", and shall be sent to the Department of Environmental Quality, Receipts Control, P. O. Box 10150, Richmond, VA 23240. When the department is able to accept electronic payments, payments may be submitted electronically.

C. Late payment and incomplete payments. In addition to any other provision provided by statute for the enforcement of these regulations, interest may be charged for late payments

at the underpayment rate set out by the U.S. Internal Revenue Service established pursuant to Section 6621(a) (2) of the Internal Revenue Code. This rate is prescribed in Section 58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee may also be charged to any delinquent (over 90 days past due) account. The Department of Environmental Quality is entitled to all remedies available under the Code of Virginia in collecting any past due amount and may recover any attorney's fees and/or other administrative costs incurred in pursuing and collecting any past due amount.

9VAC20-60-1285. Permit application fee and annual fee schedules schedule.(The effective date of this fee schedule is July 1, ~~2003~~.2004)**Table 1. Permit Application Fees**

A. Transporter fees	Column 2	Column 3
Type of application	July 1, 2003 Through June 30, 2004	July 1, 2004 and Thereafter
Transporters with terminals or other facilities within the Commonwealth.	\$240	\$140
Other transporters.	\$360	\$210

B. New or Renewed TSD facility fees.

Elements of applications	July 1, 2003 Through June 30, 2004	July 1, 2004 and Thereafter
Base fee for all facilities, including corrective action for solid waste management units.	\$29,160	\$16,900
Supplementary fee for one or more land-based TSD units, including corrective action for solid waste management units.	\$67,770	\$39,280
Supplementary fee for one or more incineration, boiler, or	\$43,470	\$25,200

industrial furnace units (BIF).		
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C. Major (Class 3) Permit modification fees.

Elements of Applications for Major Permit Modifications	July 1, 2003 Through June 30, 2004	July 1, 2004 and Thereafter
Base fee for all major (Class 3) modifications, including major changes related to corrective action for solid waste management unit.	\$150	\$90
Addition of new wastes.	\$3,990	\$2,310
Addition of or major (Class 3) change to one or more land-based TSD units, including major change related to corrective action for land-based solid waste management units.	\$77,760	\$45,070
Addition of or major (Class 3) change to one or more incineration, boiler, Or industrial furnace units.	\$58,290	\$33,790
Addition of or major (Class 3) change to other treatment, storage or disposal units, processes or areas and major change related to corrective action for solid waste management units that are not land based.	\$24,240	\$14,050

Substantive changes (Class 2).	\$3,990	\$2,310
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D. Minor (Class 1) permit modification fees.

Type of application	July 1, 2003 Through June 30, 2004	July 1, 2004 and Thereafter
Minor (Class 1) permit modification fee.	\$150	\$90 \$0

E. Emergency Permit fee

Type of application	July 1, 2003 Through June 30, 2004	July 1, 2004 and Thereafter
Emergency Permit fee	\$3,990	\$2,310

Table 2. Annual Fees**F. Facilities fees.**

<u>Permitted treatment, storage, and disposal facility.</u>	<u>\$2,800</u>
<u>Interim status treatment, storage, and disposal facility.</u>	<u>\$2,800</u>
<u>Facility subject to an order or agreement</u>	<u>\$2,800</u>
<u>G. Large quantity generator fees.</u>	
<u>Large quantity generators</u>	<u>\$1,000</u>

Illustrative Examples

Example 1.

The applicant is submitting a Part B application for a HWM permit for a facility consisting of several surface impoundments, a land treatment process and an ancillary tank and container storage facility. The required fee is calculated as follows:

Base Fee.	+
Supplementary fee for land-based TSD units.	+
Tank storage facility (see 9VAC20-60-1270 C 4).	=
Total fee.	

Example 2.

After a HWM facility permit has been issued to the facility described in Example 1, the owner and the operator of the facility propose to change the manufacturing process and apply for a modification to allow for an addition of several new hazardous streams to be treated in two new incinerators. The required modification fee is calculated from subsection C of this section as follows:

Base fee.	+
Addition of new wastes.	+
Addition of new incineration units.	=
Total modification fee.	

The fee for a comparable new permit calculated on the basis of subsection B of this section is as follows:

Base fee.	+
Supplementary fee for land-based units.	+
Supplementary fee for incineration units.	+
Storage facility.	=
Total fee.	

Example 3.

After a HWM facility permit has been issued to the facility described in Example 1, the owner and the operator of the facility propose to expand their container storage facility for a storage of additional new waste streams, and apply for a permit modification. The required modification fee is calculated from subsection C of this section as follows:

Base fee.	+
Addition of a new waste.	+
Fee for nonsubstantive change.	=
Total modification fee.	

9VAC20-60-1286. Discounted annual fees for Environmental Excellence program participants.

A. The term "Virginia Environmental Excellence Program" or "VEEP" means a voluntary program established by the department to provide public recognition and regulatory incentives to encourage higher levels of environmental performance for program participants that develop and implement environmental management systems (EMS). The Program is based on the use of EMSs that improve compliance, prevent pollution, and utilize other measures to improve environmental performance.

B. Participants in the VEEP shall be eligible for reduced annual fees. The VEEP includes the Environmental Enterprise (E2) level of participation and the Exemplary Environmental Enterprise (E3) level of participation.

C. Annual fee discounts will not become effective until 2005. The availability of discounts to the annual fees will be dependent upon acceptance and continued participation in the VEEP.

D. Eligibility for reduced annual fees shall be based upon the department's review of the annual report that is required to be submitted by the VEEP. The department shall review annual reports to verify that facilities continue to meet VEEP criteria prior to offering discounted annual fees.

1. The participant's annual report must reflect activities occurring through December 31 and must satisfy all reporting requirements established in the VEEP.

2. Annual reports must be received at the department's central office by April 1 of the following year to be eligible for a reduction of the annual fees.

3. The annual report must list all regulated and permitted activities included within the scope of the facility's Environmental Management System.

4. A participant's level of participation will be evaluated as of December 31 of each calendar year.

E. If a facility participated in the VEEP but participation in the program was terminated, discounted fees will not be available to participants until they have been re-accepted into the VEEP.

F. Participants at the E2 level of participation will be eligible to receive a discount to annual fees for up to a maximum of 3 years.

G. Prior to distributing bills for annual fees, the department shall calculate the discounted hazardous waste management annual fees. The total amount of facilities' discounts to hazardous waste management annual fees shall not exceed \$ 26,000 annually.

1. The total of a 10% discount for each participant at the E3 level of participation and a 5% discount for each participant at the E2 level of participation shall be calculated.

2. If the calculated total of the discounts to annual fees would exceed \$26,000, annual fees for participants at the E3 level of participation shall be discounted 5%, additional discounts of annual fees for participants at the E3 level of participation shall not be available, and annual fees for participants at the E2 level of participation shall not be discounted,

3. If the calculated total of the discounts to annual fees would not exceed \$26,000, annual fees for participants at the E3 level of participation shall be discounted 10%, annual fees for participants at the E2 level of participation shall be discounted 5%, and a larger discount may be provided for participants at the E3 level of participation, based upon direct program costs and program revenues, not to exceed a total discount of 20%. The total of all discounts shall not exceed \$26,000. Any additional discounted fees will be calculated as follows:

(Total program revenues in the previous fiscal year minus direct program costs for the previous fiscal year) multiplied by 0.75 equals the additional discounts to be distributed

to program participants. Additional discounts will be distributed to participants at the E3 level of participation in equal whole percentages.

4. If the calculated total of all facilities' discounts exceeds \$26,000, the department shall re-evaluate the discounts offered to VEEP participants and shall begin the regulatory process to revise the discounts offered to VEEP participants.

Certified True and Accurate: _____

Robert G. Burnley, Director, Department of Environmental Quality

Date: _____