

## **9VAC20-90-65. Payment of annual fees.**

A. Operators of permitted solid waste management facilities shall pay annual fees based on the requirements of this part section. An annual fee is required for each activity occurring at a permitted facility.

1. Annual fees, including those that are based on annual tonnage shall be calculated using the procedures in [ 9VAC20-90-114 and ] 9VAC20-90-115.

2. For facilities engaged in multiple activities under the provisions of a single permit, an operator shall pay multiple annual fees. These activities and the associated fees are provided in Table 4.1 of 9VAC20-90-130.

3. Annual fees assessed for single or multiple activities conducted under a permit reflect the time and complexity of inspecting and monitoring the different categories of facilities identified in § 10.1-1402.1:1 of the Code of Virginia.

### **B. Due date.**

1. Submission date. The department may bill the operator for amounts due or becoming due in the immediate future. Payments are due on or before October 1 or 30 days after receipt of a bill from the department, whichever comes later, unless the operator is using the [ deferred payment or ] quarter payment option. Each operator of a permitted waste management facility shall be assessed an annual fee as shown in Table 4.1 of 9VAC20-90-130. Except as specified in subdivisions subdivision 2 and 3 of this subsection, all annual fees are submitted on a yearly basis and are due on or before October 1 (for the preceding annual year). Annual fees, including those that are based on annual tonnage shall be calculated using the procedures in 9VAC20-90-115. Annual tonnage will be determined from the total amount of waste reported as having been either landfilled or incinerated on Form DEQ 50-25 for the preceding year pursuant to the Waste Information Assessment Program (9VAC20-80-115 and 9VAC20-130-165).

2. All fees to be paid in 2004 will be submitted on or before October 1, 2004, (for the 2003 annual year) unless the operator of a facility submits a written request to the department prior to that date requesting a deferred payment until January 1, 2005. Requests for deferral will be sent to the address listed in subdivision C 2 of this section. No deferred payment will be allowed for facilities opting to use a quarter payment schedule. Subsequent annual payments will be submitted on or before the first day of October (for the preceding annual year).

3. 2. Optional quarter payment. Facility operators that are required to pay annual fees exceeding \$8,000 for single or multiple permits may submit four equal payments totaling the annual fee on or before October 1, January 1, April 1, and June 1. The annual payment cycle for quarter payments will begin with the October 1 payment and will end with the June 1 payment. Those facilities opting for the quarter payment schedule shall accompany all payments with a copy of DEQ form PF001.

4. 3. Late quarter payments. If the quarter payment is not paid by the deadline, DEQ may, in addition to seeking other remedies available under the law, issue a notice of failure to pay. The notice shall require payment of the entire remainder of the annual fee payment within 30 days of the date of the notice, or inform the owner that he is ineligible to opt for the quarter payment schedule until eligibility is reinstated by written notice from the department, or both.

C. Method of payment. 1. The operator of the facility shall send a payment transmittal letter to the Department of Environmental Quality. The letter shall contain the name and permit number of the facility, the Federal Identification Number (FIN) for the facility or operator, the amount of the annual fee, and for sanitary landfills and incinerators, the waste reported as landfilled or incinerated on Form DEQ 50-25 for the preceding year pursuant to the Waste Information Assessment Program (9VAC20-80-115 and 9VAC20-130-165). In addition, a copy of the transmittal letter will be placed in the facility's operating record. 2. Fees shall be paid by check, draft, or postal money order made payable to "Treasurer of Virginia/DEQ," and shall be sent to the Department of Environmental Quality, Receipts Control, P.O. Box 40150, 1104, Richmond, VA 23240 23218. When the department is able to accept electronic payments, payments may be submitted electronically. The payment transmittal letter required in subdivision 1 of this subsection shall accompany the payment.

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

E. Late payment of annual fee. 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 § 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 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 other administrative costs incurred in pursuing and collecting any past due amount.

F. Annual fees received by the department shall be deposited in the Virginia Waste Management Permit Program Fund and used exclusively for the solid waste management program as set forth in the Code of Virginia.

**9VAC20-90-114. Annual fee calculation for noncaptive industrial landfills and construction and demolition debris landfills.**

A. General. All persons operating a noncaptive industrial landfill or a construction and demolition debris landfill permitted under the regulations outlined in 9VAC20-90-50 shall submit annual fees according to the procedures provided in 9VAC20-90-65. Annual fees shall be calculated using the procedures provided in subsection B of this section. Fees shall be rounded to the nearest dollar.

B. Fee calculation. The amount of the annual fees to be submitted for a specified year shall be calculated according to the following formulae:

$$F = B \times C$$
$$C = 1 + \Delta CPI$$
$$\Delta CPI = \frac{CPI - 215.15}{215.15}$$

where:

F = the annual fee amount due for the specified calendar year, expressed in dollars.

B = the base fee rate for the type of facility determined as provided in subdivision 1 of this subsection, expressed in dollars.

$\Delta CPI$  = the difference between CPI and 215.15 (the average of the Consumer Price Index values for all-urban consumers for the 12-month period ending on April 30, 2009), expressed as a proportion of 215.15.

CPI = the average of the Consumer Price Index values for all-urban consumers for the 12-month period ending on April 30 of the calendar year before the specified year for which the permit maintenance fee is due. (The Consumer Price Index for all-urban consumers is published by the U.S. Department of Labor, Bureau of Labor Statistics, U.S. All items, CUUR0000SA0).

1. Values for B (base fee rate) in Table 4.1 of 9VAC20-90-130 for construction and demolition debris landfills and noncaptive industrial landfills shall be calculated using the procedures in this subdivision. Annual tonnage will be determined from the total amount of waste reported as having been either landfilled or incinerated on Form DEQ 50-25 for the preceding year pursuant to the Waste Information Assessment Program (9VAC20-80-115 and 9VAC20-130-165). Base fee rates for construction and demolition debris landfills and noncaptive industrial landfills include the base tonnage fee rate plus an additional fee amount per ton of waste over the base tonnage that is landfilled based on the tonnage reported on the previous year's Solid Waste Information Reporting Table, Form DEQ 50-25.

a. For example, the base fee rate for a construction and demolition debris landfill that reported 120,580 tons of waste landfilled for the previous year is the \$10,000 base tonnage fee rate for a facility landfilling 100,001 to 250,000 tons of waste, plus an additional fee amount of \$0.09 per ton of waste landfilled over the base tonnage, as provided in Table 4.1 of 9VAC20-90-130. The base fee rate for this facility is \$10,000 + [(120,580 tons - 100,001 tons) x \$0.09/ton] = \$11,852. The base tonnage fee rate and the additional fee amount per ton vary with the tonnage of the waste that the facility landfilled.

b. Tonnage used to determine the base fee rate shall be rounded to the nearest full ton of waste.

2. Calculation of the 2010 annual fee (F) for the construction and demolition debris landfill discussed in subdivision B 1 of this subsection is provided as an example:

CPI = 215.15 (the average of CPI values from May 1, 2008, to April 30, 2009, inclusive would be used for the 2010 annual fee calculation).

$\Delta\text{CPI} = \text{zero}$  for the 2010 annual fee calculation (i.e.,  $\text{CPI} - 215.15 = 215.15 - 215.15 = 0$ ). (Note:  $\Delta\text{CPI}$  for other years would not be zero.)

$C = 1.0$  for the 2010 annual fee calculation (i.e.,  $1 + \Delta\text{CPI} = 1 + 0 = 1.0$ ).

$B = \$11,852$  (i.e. the value of the base fee rate for the example construction and demolition debris landfill in subdivision 2 of this subsection).

$F = \$11,852$  for the 2010 annual fee calculation for this example construction and demolition debris landfill (i.e.,  $B \times C = \$11,852 \times 1.0 = \$11,852$ ).

**C. Weight/volume conversions.** For facilities required to pay annual fees based on the tonnage of the waste landfilled or incinerated, the annual fee shall be based on the accurate weight of waste. If scales are unavailable, the volume of the waste landfilled or incinerated by the facility must be multiplied by 0.50 tons per cubic yard to determine the weight of the waste landfilled or incinerated. If the volume of waste is used to determine the tonnage of waste landfilled or incinerated, accurate and complete records of the waste received and managed must be maintained in addition to the calculated weight records described in this part. These records must be maintained onsite throughout the life of the facility and made available to the department upon request.

**D. Emergency.** The director may waive or reduce annual fees assessed during a state of emergency or for waste resulting from an emergency response action. A facility operator may request a determination if a given volume of waste landfilled or incinerated in a given calendar year qualifies for a waived or reduced fee by submitting documentation of the emergency to the regional office where the facility is located. The request will provide the name and permit number of the facility, a facility contact, the nature of the emergency or response action, a description of the waste, and an accurate accounting of the type and tonnage of waste managed as a result of the emergency. Requests for a determination by the director must be submitted by March 31 of the year following the emergency coincident with the solid waste information assessment report. A separate request shall be provided for each year if the emergency lasts for multiple years.

**E. Annual fee discounts for environmental excellence program participants** are set out in 9VAC20-90-117.

**F.** The operator of a facility owned by a private entity and subject to any fee imposed pursuant to this section shall collect such fee as a surcharge on any fee schedule established pursuant to law, ordinance, resolution or contract for solid waste processing or disposal operations at the facility.

**G. Closure.** Facilities that remove all waste materials at the time of closure and are subject only to closure requirements are subject to payment of the annual fee if they were operating at any time during the calendar year.

**H. Transition from closure to post-closure care.** Landfills entering post-closure care will pay the full annual fee for an active facility if they were operating, were inactive or were conducting closure activities at any time during the calendar year. Landfills in post-closure care for a full calendar year (January 1 through December 31) will pay the annual fee for post-closure care provided in Table 4.1 of 9VAC20-90-130. The post-closure care period will begin on the date provided in 9VAC20-80-250 E 7, 9VAC20-80-260 E 6, or 9VAC20-80-270 E 6 as applicable.

**I.** The total annual sum of annual fees and permit application fees collected by the board from sanitary landfills and other nonhazardous solid waste facilities shall not exceed 60% of the direct costs of (i) processing an application to issue, reissue, amend, or modify permits; and (ii) performing inspections and enforcement actions necessary to assure compliance with permits issued for any sanitary landfill and other facility for the disposal, treatment, or storage of nonhazardous solid waste. The Director shall take whatever action is necessary to ensure that this limit is not exceeded. ]

### **9VAC20-90-115. Annual fee calculation [ for sanitary landfills, incinerators and other types of facilities ] .**

**A. General.** All persons operating a sanitary landfill [ , an incinerator, ] or [ other another type of ] facility [ other than a noncaptive industrial landfill or construction and demolition debris landfill, that is ] permitted under the regulations outlined in 9VAC20-90-50 shall submit annual fees according to the procedures provided in 9VAC20-90-65. Annual fees are provided in Table 4.1, Annual Waste Management Facility Fees, in 9VAC20-90-130. Annual fees that include an additional fee based on tonnage shall be calculated using the procedures in this section. Annual tonnage will be determined from the total amount of waste reported as having been either landfilled or incinerated on Form DEQ 50-25 for the preceding year pursuant

to the Waste Information Assessment Program (9VAC20-80-115 and 9VAC20-130-165). Annual fees shall be calculated using the procedures provided in subsection B of this section. Fees shall be rounded to the nearest dollar.

B. Fee calculation. The amount of the annual fees to be submitted for a specified year shall be calculated according to the following formulae:

$$F = B \times A \times C$$

$$A = 1 + (P/100)$$

$$C = 1 + \Delta\text{CPI}$$

$$\Delta\text{CPI} = \frac{\text{CPI} - 215.15}{215.15}$$

where:

F = the annual fee amount due for the specified calendar year, expressed in dollars.

B = the base fee rate for the type of facility determined as provided in subdivisions 1, 2, and 3 of this subsection, expressed in dollars.

A = the direct cost adjustment factor.

P = [ 80.079 ]

$\Delta\text{CPI}$  = the difference between CPI and 215.15 (the average of the Consumer Price Index values for all-urban consumers for the 12-month period ending on April 30, 2009) [ , expressed as a proportion of 215.15 ] .

CPI = the average of the Consumer Price Index values for all-urban consumers for the 12-month period ending on April 30 of the calendar year before the specified year for which the permit maintenance fee is due. (The Consumer Price Index for all-urban consumers is published by the U.S. Department of Labor, Bureau of Labor Statistics, U.S. All items, CUUR000SA0).

1. Values for B (base fee rate) are provided in Table 4.1, Base Fee Rates for Annual Waste Management Facility Fees, in 9VAC20-90-130.

2. Values for B (base fee rate) in Table 4.1 of 9VAC20-90-130 that are based on tonnage shall be calculated using the procedures in this subdivision. Annual tonnage will be determined from the total amount of waste reported as having been either landfilled or incinerated on Form DEQ 50-25 for the preceding year pursuant to the Waste Information Assessment Program (9VAC20-80-115 and 9VAC20-130-165).

a. Base fee rates for sanitary Sanitary landfills are required to submit include the base tonnage fee rate; plus a an additional fee amount per ton of waste over the base tonnage that is landfilled based on the tonnage reported on the previous year's Solid Waste Information Reporting Table, Form DEQ 50-25. For example, the base fee rate for a sanitary landfill that reported 120,580 tons of waste landfilled for the previous year is the \$10,000 base tonnage fee rate for a facility landfilling 100,001 to 250,000 tons of waste, plus an additional fee amount of \$0.09 per ton of waste landfilled over the base tonnage, as provided in Table 4.1 of 9VAC20-90-130. The base fee rate for this facility is \$10,000 + [(120,580 tons - 100,001 tons) x \$0.09/ton] = \$11,852. The base tonnage fee rate and the additional fee amount per ton vary with the tonnage of the waste that the facility landfilled.

b. Base fee rates for incinerators are Incinerators are required to submit a fee based only on the amount of waste incinerated as reported on the previous year's Solid Waste Information Reporting Table, Form DEQ 50-25. For example, the base fee rate for an incinerator that reported 501,230 tons of waste incinerated for the previous year is \$5000 for a facility incinerating 100,001 or more tons of waste, as provided in Table 4.1 of 9VAC20-90-130. Incinerator fees vary with the tonnage of waste that the facility incinerated.

c. The tonnage Tonnage used in to determine the base fee rate calculation will shall be rounded to the nearest full ton of waste.

3. Values for B (base fee rate) for other Other facilities are required to submit based only an annual fee based on the facility type. Fees shall be rounded to the nearest dollar. For example, the base fee rate in Table 4.1 of 9VAC20-90-130 for a composting facility is \$500.

4. Calculation of the 2010 annual fee (F) for the composting facility discussed in subdivision B 3 of this subsection is provided as an example:

CPI = 215.15 (the average of CPI values from May 1, 2008, to April 30, 2009, inclusive would be used for the 2010 annual fee calculation).

$\Delta$ CPI = zero for the 2010 annual fee calculation (i.e.,  $CPI - 215.15 = 215.15 - 215.15 = 0$ ). (Note:  $\Delta$ CPI for other years would not be zero.)

C = 1.0 for the 2010 annual fee calculation (i.e.,  $1 + \Delta$  CPI =  $1 + 0 = 1.0$ ).

B = \$500 (i.e. the value of the base fee rate for the example composting facility in subdivision 3 of this subsection).

[ A = 1.80 (i.e.,  $1 + (P/100) = 1 + (80.0/100) = 1.80$ ).

A = 1.79 (i.e.,  $1 + (P/100) = 1 + (79/100) = 1.79$ ). ]

[ F = \$900 for the 2010 annual fee calculation for this example composting facility (i.e.,  $\$500 \times 1.80 \times 1.0 = \$900$ ).

F = \$895 for the 2010 annual fee calculation for this example composting facility (i.e.,  $B \times A \times C = \$500 \times 1.79 \times 1.0 = \$895$ ). ]

Examples:

1. A composting facility is required to submit only the base fee in Table 4.1.

Composting facility annual fee = base fee = \$500.

~~2. A sanitary landfill that reported 120,580 tons landfilled on the Solid Waste Information Reporting Table, Form DEQ 50-25, from the previous year, is required to submit a base tonnage fee plus an additional fee per ton of waste over the base tonnage as provided in Table 4.1. The base fee and the fee per ton vary with the tonnage of the waste that the facility landfilled.~~

~~Sanitary landfill annual fee = base tonnage fee + (tonnage landfilled from previous year's waste information assessment - base tonnage) x fee per ton =  $\$10,000 + (120,580 \text{ tons} - 100,001 \text{ tons}) \times \$0.09/\text{ton} = \$11,852$ .~~

~~3. An incinerator that reported 501,230 tons incinerated on the Solid Waste Information Reporting Table, Form DEQ 50-25, from the previous year, is required to submit the fee required in Table 4.1. Incinerator fees vary with the tonnage of waste that the facility incinerated.~~

~~Incinerator annual fee = annual fee associated with the tonnage incinerated = \$5000.~~

C. Weight/volume conversions. For facilities required to pay annual fees based on the tonnage of the waste landfilled or incinerated, the annual fee shall be based on the accurate weight of waste. If scales are unavailable, the volume of the waste landfilled or incinerated by the facility must be multiplied by 0.50 tons per cubic yard to determine the weight of the waste landfilled or incinerated. If the volume of waste is used to determine the tonnage of waste landfilled or incinerated, accurate and complete records of the waste received and managed must be maintained in addition to the calculated weight records described in this part. These records must be maintained onsite throughout the life of the facility and made available to the department upon request.

D. Emergency. The director may waive or reduce annual fees assessed during a state of emergency or for waste resulting from an emergency response action. A facility operator may request a determination if a given volume of waste landfilled or incinerated in a given calendar year qualifies for a waived or reduced fee by submitting documentation of the emergency to the regional office where the facility is located. The request will provide the name and permit number of the facility, a facility contact, the nature of the emergency or response action, a description of the waste, and an accurate accounting of the type and tonnage of waste managed as a result of the emergency. Requests for a determination by the director must be submitted by March 31 of the year following the emergency coincident with the solid waste information assessment report. A separate request shall be provided for each year if the emergency lasts for multiple years.

E. Annual fee discounts for environmental excellence program participants are set out in 9VAC20-90-117.

F. The operator of a facility owned by a private entity and subject to any fee imposed pursuant to this section shall collect such fee as a surcharge on any fee schedule established pursuant to law, ordinance, resolution or contract for solid waste processing or disposal operations at the facility.

G. Closure. Facilities that remove all waste materials at the time of closure and are subject only to closure requirements are subject to payment of the annual fee if they were operating at any time during the calendar year.

H. Transition from closure to post-closure care. Landfills entering post-closure care will pay the full annual fee for an active facility if they were operating, were inactive or were conducting closure activities at any time during the calendar year. Landfills in post-closure care for a full calendar year (January 1 through December 31) will pay the annual fee for post-closure care provided in Table 4.1 [ of 9VAC20-90-130 ]. The post-closure care period will begin on the date provided in 9VAC20-80-250 E 7, 9VAC20-80-260 E 6, or 9VAC20-80-270 E 6 as applicable.

I. The total annual sum of annual fees and permit application fees collected by the board from sanitary landfills and other nonhazardous solid waste facilities shall not exceed 60% of the direct costs of (i) processing an application to issue, reissue, amend, or modify permits; and (ii) performing inspections and enforcement actions necessary to assure compliance with permits issued for any sanitary landfill and other facility for the disposal, treatment, or storage of nonhazardous solid waste. The Director shall take whatever action is necessary to ensure that this limit is not exceeded.

**9VAC20-90-130. Annual Base fee rate schedules.**

TABLE 4.1. BASE FEE RATES FOR ANNUAL WASTE MANAGEMENT FACILITY FEES.

Category of Facility/Activity	Annual Fee Base Fee Rate (B)	
[ 1. Noncaptive industrial landfills ]	[ \$8,000 ]	
[ 2. Construction and demolition debris landfills ]	[ \$4,000 ]	
[ 3. 1. ] Sanitary landfills [ , noncaptive industrial landfills, and construction and demolition landfills ] <del>shall be assessed</del> are assigned a two part base fee rate (B) based on their annual tonnage as follows:		
Base Tonnage to Maximum Tonnage	Base Tonnage Fee Rate	Additional Fee Per Ton Over Base Tonnage
Up to 10,000	\$1,000	none
10,001 to 100,000	\$1,000	\$0.09
100,001 to 250,000	\$10,000	\$0.09
250,001 to 500,000	\$23,500	\$0.075
500,001 to 1,000,000	\$42,250	\$0.06
1,000,001 to 1,500,000	\$72,250	\$0.05
Over 1,500,000	\$97,250	\$0.04
[ 4. 2. ] Incinerators and energy recovery facilities <del>shall be assessed</del> are assigned a base fee rate based upon their annual tonnage as follows:		
Annual Tonnage	Base Fee Rate (B)	
10,000 or less	\$2,000	
10,001 to 50,000	\$3,000	
50,001 to 100,000	\$4,000	
100,001 or more	\$5,000	

[ 5. 3. ] Other types of facilities shall be assessed are assigned a base fee rate a follows as follows:

<u>Type of Facility/Activity</u>	<u>Base Fee Rate (B)</u>
Composting	\$500
Regulated medical waste	\$1,000
Materials recovery	\$2,000
Transfer station	\$2,000
Facilities in post-closure care	\$500