

**Part I - General Considerations**

**Article 1 - Purpose and Authority**

**9VAC20-20-10. [Reserved]**

**9VAC20-20-20. Purpose of chapter.**

~~Sections 10.1-1433 et seq.~~ Section 10.1-1434.B.6. of the Code of Virginia, authorizes the ~~Hazardous Waste Facility Siting Council~~ board to "adopt a schedule of fees to charge applicants and to collect such fees for the cost of processing applications and site certifications." This chapter establishes an application fee and guidelines for its collection.

**9VAC20-20-30. [Reserved]**

**Article 2 - Definitions**

**9VAC20-20-40. Definitions.**

Section 10.1-1433 of the ~~Virginia Hazardous Waste Facilities Siting Act~~ Code of Virginia defines several words and terms used in this chapter.

Unless the context clearly indicates otherwise, those words and terms will have the same meaning when used in this chapter. In addition, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means Sections 10.1-1433 through 10.1-1449 of the Code of Virginia.

"Application fee" means the average estimated cost of processing an application for certification of site approval. Such costs include photocopying, mailing, print and broadcast media notices, travel expenses (transportation, meals, and lodging) for members of the council board and additional personnel, production of transcripts, meeting room rental, compensation for members

of the council board and all other administrative costs associated with the processing of an application for site certification. Staff time is not included.

“Board” means the Virginia Waste Management Board.

"Category I facilities" means containerized or enclosed storage of hazardous waste.

"Category II facilities" means a closed treatment process with spill containment.

"Category III facilities" means an open treatment process with spill containment.

"Category IV facilities" means above-ground treatment process with no spill containment.

"Category V facilities" means disposal without complete treatment and all other treatment/disposal methods.

~~"Council means the Hazardous Waste Facility Siting Council established pursuant to §10.1-1433 et seq. of the Code of Virginia.~~

“Department” means the Virginia Department of Environmental Quality.

“Director” means the Director of the Department of Environmental Quality.

## **Part II - Applicability and Waiver**

### **9VAC20-20-50. Applicability of fees.**

Any person applying for a certification of site approval is subject to the regulations regarding payment of fees.

### **9VAC20-20-60. Waiver of fees.**

A. The ~~council~~ board may, in its discretion, waive all or part of the fees if it determines that the public interest is served thereby due to special circumstances.

B. In the event an applicant believes he should be entitled to a waiver of fees, the applicant

should request the waiver in writing to the ~~council-board~~. The request may be made anytime after the applicant submits the final impact analysis, but no later than the date the application for certification of site approval is due.

C. The request for waiver of fees shall be sent to the ~~council-board~~ by registered mail or by other means requiring a receipt of delivery and shall contain at a minimum the following information:

1. The name and address of the applicant;
2. The location of the facility and a brief description of its operation;
3. A brief description of the nature and extent of the construction to be done;
4. A discussion of the reasons a waiver of all or part of the fees as appropriate, with particular focus on how the public interest will be served by a waiver; and
5. Any additional information or documentation the applicant believes will be helpful.

D. The ~~council-board~~ will consider the request for a waiver of fees at its next regularly scheduled meeting. The applicant requesting waiver may attend the meeting and make a presentation.

E. Within 30 days of the meeting at which the request for waiver is considered, the ~~council-board~~ will determine whether it will waive the fee requirement, and will notify the applicant in writing of its decision.

### **Part III - Fees**

#### **9VAC20-20-70. Application fee.**

A. The application fee shall accompany the application for certification for site approval. The application fee for Category I facilities will be \$10,000 or equal to 1.0% of the estimated construction cost, whichever is greater, but not to exceed \$20,000.

B. The amount of the application fee shall be \$20,000 for Category II-V facilities.

#### **9VAC20-20-80. Review of costs.**

The ~~executive~~ director will review annually the costs upon which the application fee is based.

The ~~executive~~ director may recommend adjustment of the fees to the ~~council~~ board to reflect the changes in costs.

### **Part IV - Payment of Fees**

#### **9VAC20-20-90. Payment of fee.**

The application fee is due when the applicant submits the application for certification of site approval. At the time the application fee is due, the applicant must have paid all expenses for which he is responsible according to §§10.1-1433 et seq. of the Code of Virginia.

#### **9VAC20-20-100. Acknowledgement of receipt of fee.**

The ~~executive~~ director shall promptly acknowledge by certified mail, or by other means requiring a receipt of delivery, the receipt of an application for certification of site approval with payment of application fee. Notice to the applicant of receipt of the fee payment should not be construed as any comment on the completeness of the application.

#### **9VAC20-20-110. Manner of payment.**

~~Fees shall be paid by cashier's check or certified check made payable to the Commonwealth of Virginia, Virginia Hazardous Waste Facility Siting Council.~~

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.

**9VAC20-20-120. Effect of failure to pay fee.**

No application will be deemed complete until proper payment is received by the ~~council board~~.

**Part V - Refunds**

**9VAC20-20-130. Refunds.**

The ~~council board~~ may refund all or part of the fee in the event of a termination of the application process prior to the ~~council board~~'s final decision on certification of site approval if the ~~council board~~ determines that, as a result of cause by federal or state government action, the applicant is unable to complete the site certification application process despite his good faith.

**9VAC20-20-140. Request for refund.**

An applicant desiring such a refund must make the request in writing to the ~~council board~~ within 30 days of the federal or state government action making the applicant unable to complete the site certification process. The request shall be sent by certified mail and shall, at a minimum, contain the following information:

1. Name and address of the applicant;
2. Location of the proposed facility and a brief description of its operation;

3. A copy of the document containing the federal or state government action making completion of the site certification process impossible or impracticable for the applicant despite the applicant's good faith, or if a copy of such document cannot be obtained, a complete description of the government action; and

4. A comprehensive discussion of the way in which the government's action has resulted in the applicant's good faith inability to complete the site certification process, with supporting documentation, if any.

**9VAC20-20-150. Decision on refund.**

At its next regularly scheduled meeting, the ~~council~~ board will consider the request for refund.

The applicant may attend and make a presentation to the ~~council~~ board as well as answer any questions members of the ~~council~~ board may have.

**Part VI - Delegations**

**9VAC20-20-160. Delegations.**

The director may perform any act of the board provided under this chapter, except as limited by Sections 10.1-1433 through 10.1-1449 of the Code of Virginia.

Certified True and Accurate: \_\_\_\_\_

Robert G. Burnley, Director, DEQ

Date: \_\_\_\_\_