

US EPA ARCHIVE DOCUMENT

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH

MEMORANDUM OF AGREEMENT

MEMORANDUM OF AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

I. GENERAL

This Memorandum of Agreement (hereinafter "Agreement") establishes policies, responsibilities, and procedures pursuant to 40 CFR 271.8 for the Commonwealth of Virginia Hazardous Waste Program (hereafter "State Program") authorized under Section 3006 of the Resource Conservation and Recovery Act (hereinafter "RCRA or "the Act") of 1976 (Public Law 94-580, 42 USC para. 6901 et seq.) and the United States Environmental Protection Agency (hereafter EPA) Regional Office for Region III. This Agreement further sets forth the manner in which the Commonwealth and EPA will coordinate in the Commonwealth administration of the State program.

This Agreement is entered into by the Commissioner of the Department of Health (hereinafter "Commissioner" or "the Commonwealth") and the Regional Administrator, EPA Region III (hereinafter "Regional Administrator" or "EPA").

Nothing in this Agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA. Nothing in this Agreement shall be construed to contravene any provision of 40 CFR Part 271.

The parties will review the Agreement jointly at least once a year (and other times as appropriate) during preparation of the annual State Grant Work Program (hereinafter "State Work Program"), in connection with grant funding under Section 3011 of RCRA.

This Agreement may be modified upon the initiative of either party in order to ensure consistency with State program modifications made, or for any other purpose, mutually agreed upon. Any revisions or modifications must be in writing and must be signed by the Commonwealth and the Regional Administrator.

This Agreement will remain in effect until such time as State program authorization is withdrawn by or is voluntarily transferred to EPA according to the criteria and procedures established in 40 CFR 271.22 and 40 CFR 271.23.

This Agreement shall be executed by the Commonwealth and the Regional Administrator and shall become effective at the time the Commonwealth's authorization takes effect, which shall be the date of publication in the Federal Register of EPA's decision to grant authorization to the Commonwealth.

II. POLICY STATEMENT

Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. Upon granting final authorization by EPA, the Commonwealth assumes primary responsibility for implementing the RCRA hazardous waste program within its boundaries. EPA retains its responsibility to ensure full and faithful execution of the requirements of RCRA, including

direct implementation in the event the Commonwealth is unable to act. The Commonwealth and the Regional Administrator agree to maintain a high level of cooperation and coordination between their respective staffs in a partnership to assure successful and effective administration of the State program.

EPA assumes an oversight role upon granting final authorization to the State. EPA will oversee State program implementation in order to ensure full execution of the requirements of RCRA, to promote national consistency in implementation of the hazardous waste program, to allow EPA to report to the President and Congress on the achievements of the hazardous waste program, and to encourage States and the EPA to agree on desirable technical support and targets for joint efforts to prevent and mitigate environmental problems associated with the improper management of hazardous wastes. Oversight will be accomplished by EPA through written reporting requirements, permit overview, compliance and enforcement overview, quarterly and semi-annual review of States' programs.

The Commonwealth agrees that it will not exercise its authority provided in Section 32.1-12, Title 32.1, Code of Virginia (1950), as amended, to grant variances from the provisions of the Virginia Hazardous Waste Management Regulations unless such variances are specifically provided for in these regulations and the result of such variance will not conflict with the requirements that the program remain equivalent to the federal program, be consistent with the programs applicable in other States, and that it provide adequate enforcement of compliance with the requirements of RCRA. Should such variances be granted, the Commonwealth agrees to notify EPA of the variances.

III. STATE PROGRAM REVIEW

A. General

The Regional Administrator will assess the Commonwealth administration and enforcement of the hazardous waste program on a continuing basis for equivalence and consistency with RCRA, with this Agreement, and with all applicable Federal requirements and policies and for adequacy of enforcement. This assessment will be accomplished by EPA review of information submitted by the Commonwealth in accordance with this Agreement and the State Work Program, permit overview, compliance and enforcement overview, quarterly and semi-annual review of State program activities. The Regional Administrator may also consider, as part of this regular assessment, written comments about the Commonwealth's program administration and enforcement that are received from regulated persons, the public, and Federal, Commonwealth and local agencies. Copies of any such comments received by the Regional Administrator will be provided to the Commonwealth.

To ensure effective program review, the Commonwealth agrees to allow EPA access to all files and other information requested by the Regional Administrator and deemed necessary for reviewing State program administration and enforcement.

Review of Department of Health files will normally be scheduled at quarterly intervals, however, DOH agrees to allow EPA access to specific files more frequently as warranted, i.e., enforcement actions. Program review meetings between the Commonwealth and the Regional Administrator

or their assignees will be scheduled at reasonable intervals not less than annually to review specific operating procedures and schedules, to resolve problems and to discuss mutual program concerns. These meetings will be scheduled at least fifteen days in advance unless agreed to differently. A tentative agenda for the meeting will be prepared by EPA.

The Commonwealth agrees to furnish EPA copies of all delisting petitions that it receives directly from the petitioners. Prior to any decision or delisting, Virginia will solicit and receive concurrence from EPA for its action in accordance with PIG 82-4 to ensure that Virginia program remains equivalent to the federal program.

B. Identification of Major Hazardous Waste Handlers

The Commonwealth agrees to develop with EPA a list of hazardous waste facilities, generators and transporters in the Commonwealth designated as "major" hazardous waste handlers. This designation is intended to identify, for administrative purposes, environmentally significant hazardous waste handlers, and to be used in concentrating inspection, permitting and reporting resources on those handlers. The list shall be submitted as a part of this Agreement. It shall be reviewed and updated annually and more often as necessary. Changes to the list do not require a formal amendment to this Agreement so long as both the Commonwealth and EPA agree in writing to any changes.

From the list of "major" handlers the State agrees to develop and annually review with the Regional Administrator a list of facilities whose permit applications and draft permits will be reviewed by EPA. This smaller list constitutes major facilities for purposes of EPA permit overview.

Based on negotiations between the EPA and the Commonwealth, 36 facilities in Virginia have been classified as major facilities in accordance with PIG 83-1. This classification was based on the potential for environmental damage and mismanagement. As the result of the application of these criteria, the following facilities were selected in the order of priority:

1. All facilities subject to groundwater monitoring and/or protection requirements
2. All incinerators
3. Facilities that provide off-site treatment or storage
4. Up to 10% of remaining treatment or storage facilities
5. Up to 3% of generators and transporters.

The initially designated facilities are listed in the Attachment 4 to the Program Description.

The issuance of permits will be in accordance with the same priorities.

Additional copies of the exemption reports to be submitted by the generators to the Commonwealth in accordance with Section 6.06.03(b)(3) will be distributed by Virginia to the State in which the facility designated on the manifest is located and to the State in which the shipment may have been delivered or to the appropriate regional offices of the EPA in the case of unauthorized States (see also Section IV.C.2a(8) of this Agreement).

IV. INFORMATION SHARING

A. General

As the national hazardous waste program matures, the respective roles and responsibilities in this Commonwealth/Federal partnership will become more clear. As the respective information needs of the Commonwealth and EPA evolve, changes to this section of the Agreement may be appropriate. During the annual review of this Agreement the Commonwealth and the Regional Administrator will carefully examine the following information sharing provisions for needed revision.

B. EPA

1. EPA will keep the Commonwealth informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State Program. EPA will also provide general technical guidance to the Commonwealth. EPA will share with the Commonwealth any national reports developed by EPA from the data submitted through Commonwealth reporting requirements.
2. EPA agrees to provide the Commonwealth notification information from EPA Form 8700-12 obtained prior to the effective date of this Agreement. A copy of the original notification forms and/or a computer print-out containing all the notification information will be provided. Such information will be provided to the Commissioner within thirty days of the effective date of this Agreement. EPA will also forward, on a monthly basis, notification information (including newly assigned EPA identification numbers) submitted by persons in the Commonwealth who file such forms after the effective date of this Agreement. This information will be submitted to the Commissioner within ten days of the end of each month for the preceding month.
3. EPA agrees to assign EPA identification numbers to generators and transporters and to owners and operators of hazardous waste treatment, storage, and disposal facilities submitting notifications to the Commonwealth after the effective date of this Agreement. EPA will do this after receiving a copy of the notification information from the Commonwealth as provided in Section IV.C.5 of this Agreement.
4. EPA agrees to transfer to the State any pending Part A and Part B hazardous waste management facility permit applications originally submitted to EPA pursuant to 40 CFR 270.10 by facilities located in the Commonwealth and which have not already been transferred to the

Commonwealth, together with all pertinent file information. Pertinent file information includes applications (including accompanying narratives, plans, maps, etc.), draft permits, public notices, administrative notices, fact sheets and correspondence. Such materials will be provided within thirty days after the effective date of this Agreement and according to any arrangements the Commonwealth and the Regional Administrator may make regarding the priority of transfer.

5. EPA will also provide to the Commonwealth, within five days of receipt, Part A and Part B permit applications submitted directly to EPA by persons in the Commonwealth after the effective date of this Agreement.
6. EPA agrees to make available to the Commonwealth copies of any reports and data resulting from compliance inspections within sixty days of completion of the inspections, including any enforcement actions taken by EPA against hazardous waste handlers in the Commonwealth.
7. EPA will make available to the Commonwealth other relevant information as requested which the State needs to implement its approved program.
8. EPA - Region III responsibilities regarding the maintenance and operation of the Hazardous Waste Data Management System (HWDMS) are as follows:
 - a. The Region agrees to provide and maintain current documentation to HWDMS.
 - b. Promptly alert the State to any changes in the HWDMS requirements which affect their usage.
 - c. Update data submitted to HWDMS by the Commonwealth and assure that the HWDMS error listing is available to the Commonwealth for corrections. (Note: If errors are the result of hardware or software problems, EPA will correct problems and resubmit data in the next scheduled update.)
 - d. Provide HWDMS training to the Department of Health personnel. At a minimum this training shall include source document coding, data entry procedures, quality control and usage of System 2000 (S2K) Natural Language.
 - e. Provide specialized reports upon request within the Region's resource constraints.
 - f. Conduct periodic quality check of HWDMS to ensure that the information in the system accurately represents an installation's hard copy file located in the Commonwealth. EPA shall work with the State to improve data handling procedures if necessary and as needed.

- g. Establish an account at the National Computer Center for the State and provide a quarterly report on the monthly accounting of timesharing cost.

C. Commonwealth

1. The Commonwealth agrees to inform the Regional Administrator of any proposed or adopted program changes which would affect the Commonwealth's ability to implement the authorized program. Program changes of concern include modification of the Commonwealth's legal authorities (i.e. statutes, regulations and judicial or legislative actions affecting those authorities), modifications of memoranda of agreement or understanding with other agencies, and modifications of resource levels (i.e., available or budgeted personnel and funds). The Commonwealth recognizes that program revisions must be made in accordance with the provisions of 40 CFR 271.21.

2. The Commonwealth will provide permitting, compliance monitoring and enforcement information to the Regional Administrator on a routine basis as specified in the State Work Program.

a. Compliance and Enforcement. The Commonwealth agrees to submit the following reports to the Regional Administrator within the specified time periods:

- 1. Biennial reports summarizing the quantities and types of hazardous waste generated, transported, treated, stored and disposed in the State as specified time periods:
- 2. Additional reports as negotiated in the annual State work program.

b. Permitting

- 1. Permit Application Status Sheet will be submitted monthly on the 25th day of the month following the reporting period, as necessary.
- 2. Permit Project Status Sheets will be submitted quarterly on the 25th day of the month following the end of the reporting period.
- 3. The Commonwealth agrees to submit to the Regional Administrator the following information as frequently as noted below.

ITEM DESCRIPTION	FREQUENCY OF SUBMISSION
a. A copy of permit application originally submitted to the Commonwealth and subsequent revisions or additions to these applications on or after the effective date of this Agreement by all major hazardous waste	Within 15 days of their receipt by the State.

management facilities in the Commonwealth unless EPA has been carbon copied by the facility. The Commonwealth may want to request an additional copy of the permit application from facilities for forwarding to EPA.

b. Copies of all trial burn permit applications.

Within one week of their receipt by the State.

c. Copies of (a) draft permits and (b) proposed permit modifications (c) permit denials, (d) public notices, and (e) accompanying explanatory material for all major hazardous waste management facilities in the State.

Within five working days of their completion.

d. Copies of final permits or permit modifications.

Within five working days of their completion.

e. For nonmajor facilities the Commonwealth agrees to submit to EPA a copy of the fact sheet with the public notice of the intention to issue or deny the permit. In addition, the Commonwealth will send EPA copies of notices of public hearings.

At the time they are sent out for public comment.

f. The Commonwealth agrees to provide telephone notification to the RCRA Permits Section of all emergency permits prior to issuance, if feasible owing to the nature of the emergency. Copies of these permits shall be forwarded to EPA upon issuance.

As soon as possible.

g. The Commonwealth agrees to notify EPA of all closure plans submitted by facilities.

Within 5 working days of receipt.

h. The Commonwealth agrees to provide to EPA the public notices for approval of all closure plans.

At the time the notice is made available to the public.

i. The Commonwealth agrees to provide closure plans upon request.

Within 5 days of receipt of request.

j. The Commonwealth agrees to notify EPA of all new facility permit applications for the purpose of determining facility classification (major/nonmajor).

As soon as possible after receipt of application.

The Commonwealth may request technical assistance in the review of permit applications, draft permits, permit modifications, emergency permits, closure/post closure plans, etc. The priorities for permitting will be reviewed annually during the development of the State Work Program.

4. Additional reports as negotiated in the annual State Work Program.

c. So that EPA can issue EPA identification numbers and maintain a national inventory of all hazardous waste handlers, the Commonwealth agrees to provide EPA with the following notification and Part A information submitted to the Commonwealth after the effective date of this Agreement by new hazardous waste generators, transporters and treatment, storage and disposal facilities and interim status facilities changes requests in the Commonwealth:

- name and location of the handler
- mailing address of the handler
- name and telephone number of a contact person
- type of hazardous waste activity
- process codes and amounts (if the handler is a TSDF)
- changes of ownership requiring a new Part A
- increases in capacity
- changes in status

The Commonwealth will also submit any updates or changes in previously submitted notification information. This information will be provided to the Regional Administrator within ten days of receipt of the information.

d. Hazardous Waste Data Management System (HWDMS)

The Commonwealth agrees to adhere to established procedures, both present and future, for accessing and maintaining the Hazardous Waste Data Management System as specified in the State Work Program and will ensure that the activities listed below are conducted in a timely manner:

1. Enter data elements information into HWDMS for which data is required. The data shall be transmitted to Region III in the HWDMS transaction format for direct entry into the data system in a timely manner.
2. The Commonwealth will periodically review the HWDMS data for completeness and accuracy, make necessary corrections and, update HWDMS with any missing information or new information in a timely manner.
3. The Commonwealth shall have access to HWDMS for data retrieval for all Region III States for use in the management of the State program.
4. The Commonwealth agrees to conduct meetings as needed with Regional personnel to review HWDMS operation, identify problems and incorporate any changes to improve the process.
5. The Commonwealth understands that data entered into HWDMS is considered Federal data. As such, the Freedom of Information Act and other Federal laws will govern access to the data.

D. Site Visits

EPA is responsible for maintaining reliable national data on hazardous waste management. This data is used to report to the President and Congress on the achievements of the hazardous waste program and to support EPA's regulatory development efforts. Whenever EPA determines that it needs to obtain certain information, EPA will first seek to gain this information from the Commonwealth. The Commonwealth agrees to supply the Regional Administrator with this information if readily available and as resources allow. If the Commonwealth is unable to provide the information or if it is necessary to supplement the Commonwealth information, EPA may conduct a special survey or perform information collection site visits after notifying the Commonwealth in accordance with Section VII of this Agreement. EPA will share with the Commonwealth any national reports developed by EPA as a result of such information collection.

E. Emergency Situations

Upon receipt of any information that the handling, storage, treatment, transportation, of disposal of hazardous waste is endangering human health or the environment, the party in receipt of such information shall immediately notify by telephone the other party(ies) to this Agreement of the existence of such situation. Persons to be notified are:

EPA: Bruce Smith, Hazardous Waste Enforcement Branch, 24-hour hotline
(215) 597-9898 or National Response Center toll free number (800)
424-8802

Commonwealth: William F. Gilley, Director, Division of Solid and
Hazardous Waste Management, (804) 225-2667.

F. Confidentiality

1. Any information obtained or used in the administration of the State program shall be available to EPA upon request without restriction.
2. EPA agrees to furnish to the Commonwealth information in its files which is not submitted under a claim of confidentiality and which the Commonwealth needs to implement its program. Subject to the conditions in 40 CFR Part 2, EPA will furnish the Commonwealth information submitted to EPA under a claim of confidentiality which the Commonwealth needs to implement its program. All information EPA agrees to transfer to the Commonwealth will be transferred in accordance with the requirements of 40 CFR Part 2.

V. PERMIT ISSUANCE

A. EPA Permitting

Upon final authorization of the State program EPA will suspend issuance of Federal permits for hazardous waste treatment, storage, and disposal facilities in the Commonwealth.

EPA intends to add permitting standards for processes not currently covered by the Part 264 standards. For example, the Part 264 standards do not currently cover treatment and storage of hazardous waste in certain types of underground tanks. When EPA does promulgate standards for additional processes, EPA will process and enforce RCRA permits in the State in the new areas until the State receives final authorization of equivalent and consistent State standards. At the time the State program is approved in the new areas, EPA will suspend issuance of Federal permits in the State. EPA will also transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program in conformance with the conditions of this Agreement.

B. EPA Overview of State Permits

While EPA may comment on any permit application or draft permit, EPA's overview function will focus primarily on those facilities identified by the Commonwealth and EPA as major facilities for permit overview.

EPA will comment on permit applications, draft permits, and proposed permit modifications as follows:

<u>ITEM DESCRIPTION</u>	<u>FREQUENCY OF SUBMISSION</u>
EPA will comment in writing to inform the Commonwealth of any deficiency in the content of any permit applications, draft permits and proposed permit modifications for major facilities.	Within 60 days of receipt or will request an extension for these comments as warranted.

Upon request by the Commonwealth EPA agrees to provide comments on permit applications, draft permits, and proposed permit modifications for nonmajor facilities which have been deemed complete.

Within 60 days of receipt or will request an extension for these comments as warranted.

EPA will review all Virginia emergency permits and provide comments, if any, to the State.

Immediately by phone, followed by letter.

EPA will review all trial burn permit applications and provide comments to the Commonwealth.

Within 60 days of receipt.

EPA will select and evaluate closure plans and cost estimates and provide comments to the Commonwealth.

Immediately if the plan appears to present an unreasonable risk to human health or the environment. Otherwise, on a mutually agreed upon schedule.

EPA may comment in writing on any draft permit or proposed permit modification, whether or not EPA commented on the permit application, within forty-five days of its receipt. Where EPA indicates in a comment that issuance of the permit would be inconsistent with the approved State program, EPA shall include in the comment:

- a. a statement of the reasons for the comment (including the section of the Virginia regulations that support the comment); and
- b. the actions that should be taken by the Commonwealth in order to address the comments (including the conditions which the permit would include if it were issued by the Regional Administrator).

EPA will send a copy of any comments on the permit application, draft permit or proposed permit modification to the permit applicant. The State will be notified of this action.

EPA will withdraw any comment in writing when satisfied that the Commonwealth has met or refuted the Agency's concerns and EPA will inform the permit applicant of any comments withdrawn.

Under Section 3008(a)(3) of RCRA, EPA may terminate a State-issued permit in accordance with the procedures of Part 124, Subpart E, or bring an enforcement action in accordance with the procedures of 40 CFR Part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA will observe the conditions established in 40 CFR 271.19(e).

C. State Permitting

The Commonwealth is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing and

terminating RCRA permits for all hazardous waste treatment, storage and disposal facilities in the Commonwealth, and shall do so in a manner consistent with RCRA, with this Agreement, with all applicable Federal requirements, and with the State's Program Description.

The Commonwealth agrees to assume all permit actions in ongoing EPA permit proceedings upon receipt of Final Authorization. Since, in accordance with Section 11.01.04, Virginia Hazardous Waste Management Regulations, facilities which possess an effective final hazardous waste management permit are considered to be in possession of a valid Virginia permit, no reissuance of federal permits is necessary for administrative and enforcement purposes.

The Commonwealth will carry out the permitting procedures contained in Section 11.00 of its regulations which are analogous to those portions of 40 CFR 270 and 124 which are applicable to State programs.

The Commonwealth agrees that any compliance schedules contained in permits it issues will require compliance with applicable standards as soon as possible.

The Commonwealth agrees to consider all comments EPA makes on permit applications and draft permits. The Commonwealth will satisfy or refute EPA's concerns on a particular permit application, proposed permit modification, or draft permit in writing before issuing the permit or making the modification.

VI. PERMIT ADMINISTRATION AND ENFORCEMENT

EPA. In accordance with Virginia Hazardous Waste Management Regulations, Virginia considers that the facility operating under federal RCRA permit issued prior to Final Authorization also possesses a valid Virginia Hazardous Waste Management permit for the duration of the unexpired term. The Region agrees to transfer the responsibility for administration and enforcement RCRA permits to the Commonwealth upon granting of the Final Authorization.

After notice to the Commonwealth, EPA may take action under Section 3008 of RCRA against a holder of a State-issued permit or a permit originally issued by EPA and considered valid under Virginia regulations on the ground that the permittee is not complying with a condition of that permit.

EPA may take action under Section 3008 of RCRA against a holder of a State-issued permit on the ground that the permittee is not complying with a condition that the Regional Administrator, in commenting on the permit application or draft permit, stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

VII. COMPLIANCE MONITORING AND ENFORCEMENT

A. EPA

Nothing in this Agreement shall restrict EPA's right to inspect any hazardous waste generator, transporter or facility or bring enforcement action against any person believed to be in violation of the State hazardous waste program. Before conducting an inspection of a generator, transporter or facility, the Regional Administrator will normally give the Commonwealth at least seven days notice of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(i). If the Commonwealth performs a compliance inspection and submits a report and data relevant thereto within that time to EPA, no EPA inspection will be made, unless the Regional Administrator deems the State report and data to be inadequate. In case of an imminent hazard to human health and the environment, the Regional Administrator may shorten or waive the notice period.

The frequency of EPA oversight and training inspections will be specified in the annual State Work Program. EPA will conduct oversight inspections on approximately 10% of the State's compliance inspections.

The Regional Administrator may take enforcement action in lieu of the Commonwealth or in conjunction with the Commonwealth against any person determined to be in violation of RCRA in accordance with Section 3008(a)(2). EPA will take enforcement action only upon determining that the Commonwealth has not taken timely and appropriate enforcement action. Prior to issuing a compliance order under Section 3008 EPA will give notice to the Commonwealth in accordance with EPA Enforcement Response Policy. EPA also retains its rights to issue orders and bring actions under Sections 3013 and 7003 of RCRA and any other applicable Federal statute.

After notice to the Commonwealth, EPA may take action under Section 3008 of RCRA against a holder of a Virginia issued permit on the ground that the permittee is not complying with a condition of that permit. In addition, EPA may take action under Section 3008 of RCRA against a holder of a State-issued permit on the ground that the permittee is not complying with a condition that the Regional Administrator in commenting on that permit application or draft permit stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

B. Commonwealth

The Commonwealth agrees to carry out a timely and effective program for monitoring the compliance of generators, transporters, and facilities with applicable program requirements (see 40 CFR 271.15). As part of this program, the Commonwealth will conduct compliance inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards (including record reviews), permit requirements, compliance schedules, and all other program requirements. Compliance monitoring activities and priorities will be specified in the annual State Work Program and shall be consistent with all applicable Federal requirements and with the State's Program Description.

The Commonwealth agrees to take timely and appropriate enforcement action against all persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections in accordance with RCRA Quality Program Guidance. The Commonwealth will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public.

Appropriate Commonwealth enforcement response may include not more than two warning letters for any violation, followed by timely initiation and prosecution of enforcement proceedings which may be, as determined on a case-by-case basis, administrative or judicial in nature. Any civil penalty assessed, sought, or agreed upon by the State shall be appropriate to the violation, as defined in 40 CFR 271.16(c).

The Commonwealth agrees to provide 30 days for public comment on all proposed settlements of civil enforcement actions, except in cases where a settlement requires some immediate action which if otherwise delayed could result in substantial damage to either public health or the environment.

The Commonwealth agrees to retain all records for at least three years unless there is an enforcement action pending. In that case all records will be retained until such action is resolved.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION III

BY: June 27, 1984
DATE: [Signature]

BY: _____
DATE: _____