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COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF HEALTH

HAZARDOUS WASTE MANAGEMENT  
RCRA FINAL AUTHORIZATION APPLICATION

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PROGRAM DESCRIPTION

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## INTRODUCTION

The hazardous waste management program of the Commonwealth of Virginia has reached sufficient maturity to assume the responsibilities necessary to administer the federal hazardous waste program under State law. For that reason, the Commonwealth is, by this application, seeking Final Authorization of its program by the United States Environmental Protection Agency.

Virginia has continuously, since the inception of the federal hazardous waste management program, exercised its prerogative to participate in the process created by the EPA for states to assume their roles in this vital national issue. Various steps have been taken by the Commonwealth including applying for, and receiving approval for, Phase I of the Interim Authorization process. Most recently, Virginia applied in May, 1983, for Interim Authorization, Phase II - A & B. Approval of Phases II A and B of the State's program has been received from EPA on August 17, 1983.

Virginia does not intend to seek Interim Authorization for Phase II C as was provided for by the EPA procedures. This step will be unnecessary since the Commonwealth's hazardous waste management program is fully equivalent as of the time of the filing of this draft application.

During the several years of the State's program, all of the major and minor changes or modifications which were necessary to bring Virginia in line with the Interim and Final Authorization requirements have been made or are in the final stages of development. Major changes made to the program include Amendments 2, 3, 4, 5, and 6 to the Virginia Hazardous Waste Management Regulations. These amendments addressed such areas as land disposal regulations; financial assurance, liability and closure, post closure matters; changes to the federal regulations as of June 30, 1981, and July 31, 1982, and those since August 1, 1982; and the schedule of permit application fees based on the authorization of the Virginia General Assembly. This last step was taken for the purpose of generating partial financial support to the hazardous waste program.

Article 3.1, Chapter 7, Title 18.2 of the Code of Virginia (1950), as amended, required the State Board of Health to promulgate regulations governing transportation of hazardous materials. Based on this mandate, the Board adopted by reference the federal DOT regulations contained in 49 CFR Parts 107, 171 through 179, and 390 through 397. These State regulations are periodically amended to account for the latest changes in Title 49. Existence of Virginia regulations fully equivalent to the federal DOT regulations, simplifies the rule making procedures associated with the hazardous waste management program and augments the ability of the Department of Health to regulate transportation of hazardous waste within the Commonwealth both in terms of regulatory power and in terms of resources available to ensure compliance. The latest amendment updated Virginia transportation regulations up to December 31, 1983.

The Commonwealth's commitment to the necessary staff and resources for the conduct of this hazardous waste management program is more than adequate for both Interim and Final Authorization. Moreover, the mechanisms to increase such resources as the need arises are in place and will be exercised in order to maintain consistency and equivalency with the federal requirements.

Permit forms, application forms, reporting forms and other forms as are necessary for the conduct of Virginia's program are identical to forms used by EPA. These forms are contained in the State's Hazardous Waste Regulations.

During FY 1983, the State has met and, in some cases, exceeded the surveillance goals set by the work program developed in support of its federal grant. Further, the surveillance and enforcement procedures as conducted by Virginia do not distinguish between interim status and permitted facilities. While standards against which the compliance of facilities are determined differed considerably, the actions required by the State's regulations once the noncompliance is found, remain the same. This is especially true since Virginia's regulations provide for termination of a facility's interim status for cause.

The sole responsibility for the entire hazardous waste management program in the Commonwealth of Virginia lies with the Virginia Department of Health. Other agencies of the State may contribute to the program within their areas of expertise when common interests make such coordination and assistance advisable. When requested, the coordination and assistance procedures utilized by the State's agencies have been formulated as a Memorandum of Agreement and adopted as a policy under the provision of the Virginia Administrative Process Act.

The program described within this Program Description and within the balance of this application for Final Authorization has been prepared to be consistent with the EPA guidance provided in its RCRA Final Authorization Guidance Manual. The Program Description is considered by Virginia to be one of the most critical elements of its authorization application and, to the maximum extent, its format has been developed to be consistent with the manual.

The Program Description details the program that Virginia will use following final authorization by EPA. The six statutory tests as set forth by EPA for states applying for final authorization have been met by the Commonwealth of Virginia and the evidence of this satisfaction is presented herein. Virginia's Hazardous Waste Management Program is equivalent and consistent with the Resource Conservation and Recovery Act requirements as presented in Section 3006, 3009 and 7004 including, in addition to consistency and equivalency, sufficient stringency, adequate procedures for public notice and hearing in the permitting process and provision for adequate enforcement.



A. SCOPE, STRUCTURE, COVERAGE AND PROCESS - §271.6(a)

During the last several years, the Virginia Hazardous Waste Program has accomplished all of the major changes which were necessary to provide the coverage corresponding to 40 CFR Parts 124, 261-266 and 270 and 49 CFR Parts 172, 173, 178 and 179 as required by the regulations of the federal program (40 CFR 271.9 through 271.13). The most significant and important changes are reflected in the following amendments to the Virginia Hazardous Waste Management Regulations (VHWMR):

1. Amendment #1, effective October 1, 1981, represented Virginia's first step assuring continuing conformity with the federal program by amending its penalties to the levels required by 40 CFR 271.16 and contained in Section 1.07.04, VHWMR.

2. Amendment #2 to the Virginia Hazardous Waste Management Regulations was adopted by the Virginia Board of Health on July 21, 1982. This Amendment contained all changes to the federal regulations as of June 30, 1981 and included final facility regulations contained in 40 CFR Part 264 as of that date. The Amendment became effective on December 1, 1982. It substantially changed the method used to describe the listing of hazardous wastes. Rather than using the method of adoption of federal listings by reference, at the urging of the regulated community, Virginia switched to duplicating all federal listings as they appear in 40 CFR 261.

3. Amendment #3 was adopted on March 16, 1983. It contained regulations addressing financial assurance, liability, closure and post-closure plans and cost estimates. The regulations became effective July 1, 1983. The Amendment established State financial assurance requirements mirroring those contained in 40 CFR Parts 264 and 265 -- with one significant exception. The exemption of local governmental agencies from the financial assurance requirements was contained in Section 32.1-182 of the code of Virginia and was addressed in the Phase II A and B Interim Authorization Attorney General's Statement. A change in Section 11.00 (dealing with permitting requirements) addressed issuance of permits to the sites owned and operated by the Commonwealth's local governments. Under these requirements, local governmental agencies which owned and operated facilities would be required to receive a commitment from the Commonwealth for the assumption of responsibilities prior to the submittal of the application. Facilities which were owned by local governments but operated by private entrepreneurs or nongovernmental agencies were not exempt from the financial assurance requirements, since the primary responsibility for obtaining permits rests with the operator of the facility (Section 11.02.03 of the Regulations). In response to EPA comments on the Attorney General's Statement of June 15, 1983, the Memorandum of Agreement was altered to assure that if local government suddenly found itself in the hazardous waste business and in need for interim status, the State would call in parts of the permit application which would render the application incomplete and no permit would be issued. While this arrangement was acceptable to EPA under Interim Status, the federal agency would not accept this solution for the State under Final Authorization. Consequently amendments to the State's basic legislation were introduced to bring the State's program into conformance with the federal requirements. The text of the adopted Virginia Code amendment is shown in Attachment #1.

4. Amendment #4 was promulgated by the Board of Health on July 13, 1983. This Amendment included all changes to federal regulations promulgated by EPA on July 26, 1982. The effective date of these regulations was November 1, 1983.

5. Changes in the federal regulations since August 1, 1982, were contained in Virginia's Amendment #5 which was drafted and distributed to the public in the first quarter of FY 84. Amendment #5 has been promulgated by the Board of Health with an effective date of September 20, 1984. The text of the amendment is shown in Attachment #2.

6. Amendment by the 1983 Virginia General Assembly of the Code of Virginia (1950) authorized the Board of Health to establish permit application fees to provide supplemental support to the hazardous waste management permitting program. These fees will be deposited in the special fund established by the Assembly for this purpose. Regulations detailing the fee system and fee schedule were incorporated into Amendment 6 which is also shown in Attachment #2.

Application for the Phases II A and B Interim Authorization of the Virginia Hazardous Waste Management program was submitted in May, 1983, was subject to the public hearing of June 16, 1983, and was approved in August, 1983, by the Region III Office of EPA. In view of the substantial time lag in the promulgation of the land disposal regulations, Virginia was not able to meet the July 26, 1983, deadline for authorization for all of the phases of its program. For that reason, the Department of Health requested and received an extension of the deadline from the Regional EPA Administrator. This was based on the fact that the State program was fully equivalent to the federal program at that time and, therefore, with the submission of the application for final authorization, the necessity for applying for Phase II C is precluded. The detailed schedule for final authorization is shown in Attachment 3 to the Program Description. This schedule was developed and included in the State's 1984 Work Program submitted as part of Virginia's federal grant application for FY 84. The schedule has been adhered to with the intent of securing all of its provisions leading up to EPA's notice of final authorization in December 1984. This final application is part of the Schedule and is being prepared in the proper time sequence with a due date of June 26, 1984. The milestones leading to the final authorization are summarized in Table 1, Attachment 3.

As discussed earlier, Virginia's program has conformed to every major requirement established by EPA for Final Authorization and is, therefore, equivalent to the federal program. A discussion of each one of the six statutory tests (RCRA Standards 1 through 6) which EPA established as guides to states seeking Final Authorization is presented herein and compared with Virginia's program.

## RCRA STANDARDS #1 AND #2 - EQUIVALENT AND NO LESS STRINGENT PROGRAM

### 1. Requirements for Identification and Listing - §271.9

The universe of wastes controlled by the Commonwealth includes all the hazardous wastes controlled by the federal program. Initially, Virginia attempted to comply with this requirement by referencing federal regulations contained in 40 CFR Part 261. This method was found to be cumbersome to the regulated community in that it would require the community to have on hand both sets of regulations and would present a possibility of confusion as to the applicability of regulations once the authorization of the State's program has been achieved. Amendment 2 to VHWMR removed the regulatory references to the federal regulations and substituted the federal listings exactly as they appear in Part 261, along with a commitment to conform Virginia listing with those of EPA (Section 3.12, VHWMR). Amendment 5 contains changes which establish Virginia procedures for exclusions granted to individual facilities ("delisting" petitions). This Amendment takes into account guidance contained in PIG 82-4. Both the regulatory amendment and the Memorandum of Agreement submitted as the part of this application provide for prior EPA concurrence on all petitions received by the Commonwealth. The Commonwealth has not elected to include on its lists wastes not designated by EPA as hazardous, nor did it alter or add to the characteristics shown in Part 261.

### 2. Requirements for Generators - §271.10

The Commonwealth controls all the generators that would be controlled by the federal program. Section 4.02.09, VHWMR, requires new generators to notify the Commissioner of his activities. Virginia notification requirements are more stringent than the federal ones in the generators who use, re-use, recycle or reclaim wastes exempted under 40 CFR 261.6(a) are still required to comply with the notification procedures. Section 6.03, VHWMR, require generators to obtain an EPA identification number from the Administrator. Copy of EPA Form 8700-12 is shown in VHWMR for the convenience of the regulated community.

Paragraphs 32.1-178(5) and (6), Title 32.1, Code of Virginia (1950), as amended, and Section 6.06, VHWMR, require all generators to comply with reporting and recordkeeping requirements contained in 40 CFR 262.40, 262.42, and 262.43. Virginia requires generators to submit annual activity reports (Section 6.06.02) which contain all the information requirements shown in 40 CFR 262.41.

The Virginia program bases its requirements for packaging, labelling, marking and placarding on Virginia Regulations Governing the Transportation of Hazardous Materials. As discussed in the Introduction to the Program Description, the Board of Health adopted certain parts of Title 49, Code of Federal Regulations, by reference. 49 CFR Parts 172, 173, 178 and 179 were among those so adopted. Section 6.04 VHWMR, requires the generators to carry out pre-transport requirements in accordance with its transportation regulations.

The Commonwealth's program does provide for the requirements respecting international shipments which mirror those contained in 40 CFR 262.50 with the exception that a copy of the notification required by 40 CFR 262.50(b)(1) is to be furnished to the Department of Health (Section 6.07.01, VHWMR).

Virginia's manifest system follows that of the EPA, including the use of exemption and discrepancy reports. The Commonwealth had not elected to establish a document matching program which would require submittals of generator, transporter and facility manifest copies to the Department. Amendment 5 requires the use of the Uniform Manifest as provided by joint EPA/DOT rule adopted on March 20, 1984. Virginia manifest system is marginally more stringent than the federal system in that it does not provide for the designation of the alternate TSD facility and in that Section 5.06.02(k), VHWMR, requires the transporters to return undeliverable shipments to the original generator.

Section 6.06.03(b)(3) requires that in case of interstate shipments which require an exception report, additional copies of the report must be provided to the Department for transmission to the regulator of the designated facility or the facility to which the waste might have been delivered. The Memorandum of Agreement addresses the Department's commitment to forward such reports.

### 3. Requirements for Transporters - §271.11

Under the Virginia Hazardous Waste Management Regulations, the Commonwealth controls all the transporters that are covered by the federal regulations under Title 40, CFR. Under a separate legislative mandate as mentioned in the Introduction, the Department and the law enforcement agencies regulate both interstate and intrastate transporters of hazardous materials as defined under Title 49, CFR. Additionally, VHWMR required that hazardous waste transporters obtain a Virginia permit and that they submit an annual activity report to the Department. A more detailed discussion of the requirements that would make Virginia regulations more stringent than the federal ones is included under RCRA Standard #4.

### 4. Requirements for Facilities - §271.12

Except for two major areas (prohibition of underground injection of hazardous wastes and requirements for annual reporting), the Commonwealth had adopted technical permitting standards for the hazardous waste management facilities that are equivalent to the federal standards contained in Part 264, Title 40. As seen in the checklist 1VA, the one item that had different wording has been addressed in the Amendment 5 (paragraph 264.1(f)). The only other item which deals with the exemption for the facilities owned and operated by the local governments from the financial responsibility (Sections 264.140(c) and 265.140(c)) has been eliminated. The financial responsibility regulations (Subpart H, Part 264) have been promulgated verbatim except for appropriate word changes to reflect state responsibility for the program. The same applies for the wording of the financial mechanism documents contained in the Appendices to Section 8.00.

The facility interim status requirements contained in Section 9.00 are slightly more stringent in several additional areas than those contained in Part 265, Title 40. In addition to prohibition of the underground injection of wastes and requirements for annual reports, minor differences are contained in paragraphs 265.35, 265.90 (the Commissioner may impose additional requirements for groundwater monitoring on case-by-case basis in conjunction with the State Water Control Board), and 265.91(a). Amendment 5 updates and/or changes to the wording of the Virginia regulations equivalent to



paragraphs 265.16(a) [Section 9.02.07], 265.94 [Section 9.06.05], 265.118(a) [Section 9.07.08(a)], 265.340(b) [Section 9.15.01(b)], and 265.345 [Section 9.15.02]. Financial regulations contained in Subpart H, Part 265 have been adopted verbatim with the exception of obvious changes required to reflect State authority.

5. Requirements for Permitting - §§271.13 and .14

Virginia regulations require all facilities to receive permits that would be required to obtain RCRA permits under the federal program, with the exception to facilities that would dispose of hazardous wastes by underground injection, a method that is prohibited in the Commonwealth. Further, Virginia regulations provide for the "interim status" standards which are at least as stringent as those contained in Part 265, as discussed in the previous Section of this document.

As shown in Checklist V, Virginia had elected to adopt all aspects of the federal permitting program as applicable to the authorized States (Section 271.14(a) through (aa)) to include procedural requirements with the exception of those contained in Section 270.5 (Noncompliance reporting). The latter requirement which provides that the Commissioner submit certain noncompliance and program reports is contained in the MOA. The acceptability of this approach is discussed in the Attorney General's statement and is not in conflict with state laws.

The Virginia permitting regulations contained in Section 11.00, VHWMR, combine the requirements of both Part 270 and Part 124. The formatting of this Section is quite different from that of the federal regulations, but as shown in Checklist V, all items required for state programs are covered. The Virginia permitting regulations are more stringent in two areas: one was previously mentioned which prohibits underground injection of hazardous wastes and the other is the omission of provision for the confidentiality of information. The latter is predicated on the provisions of the Virginia Freedom of Information Act, Chapter 21, Title 2.1, Code of Virginia (1950), as amended, which does not specifically exempt information to be submitted under Article 3, Chapter 6, Title 32.1, Code of Virginia, which governs the Virginia hazardous waste management program.

As noted in the Checklist V, several changes have been adopted in Amendment 5 to bring the wording closer to that contained in Part 270.

6. Variance, Waiver and Compliance Schedule Provisions

Variance, waiver and compliance schedule provisions are similar to the federal requirements in that Virginia allows few exemptions. The only exception, as discussed earlier, was that for local government agencies from the Virginia financial assurance requirements. A temporary resolution of EPA's objection to this exemption was handled under the MOA during Phase II A and B. Steps to correct the problem for final authorization are underway as mentioned previously. Compliance schedules are allowed when necessary and specified in permits issued by Virginia under Section 11.16 which is analogous to 270.33.

### RCRA STANDARD #3 - CONSISTENT PROGRAM

Virginia hazardous waste management program is fully consistent with the federal RCRA program and those of other authorized states. The few areas in which the Commonwealth had adopted more stringent regulations do not include bans on waste importation, do not provide for general prohibition on the treatment, storage or disposal, nor do they establish manifest system beyond that provided for in the Federal regulations.

#### 1. Interstate Movement of Wastes - §271.4(a)

There are no statutory, regulatory or policy-related requirement that ban the importation of hazardous wastes from other States. In fact, 1982 annual TSD reports indicate that Virginia is a net importer of such wastes. Additionally, there are no provisions for differential treatment of imported wastes nor are there any reciprocal agreements with other states that might affect movement of wastes. The 1982 General Assembly enacted two interstate compacts to provide for establishment and operation of regional disposal facilities solely for low-level radioactive waste (Articles 8.1 and 8.2, Chapter 6, Title 32.1, Code of Virginia (1950) as amended) No such compacts have been entered into for disposal of hazardous wastes.

#### 2. Prohibition of Treatment, Storage, or Disposal - §271.4(b)

Commonwealth HWM regulations prohibit disposal of hazardous wastes by underground injection. This prohibition is based on the Water Resources Policy adopted by the State Water Control Board on May 7, 1974 as Policy 3.4-5 (Attachment #5). The policy is based on protection of human health and the environment.

As the result a study requested by the General Assembly, the Virginia Commission on Solid Wastes developed proposed legislation on siting hazardous waste management facilities which was adopted in the 1984 session of the General Assembly. The Act is shown in Attachment #5. The legislation does not contradict provisions of 40 CFR 271.4 and in fact, does not address economics of the site development except as it may affect the compensation of the local governments and affected citizens.

#### 3. Manifest System - §271.4(c)

As required by Section 5.00, VHWMR, the Virginia manifest tracking system is identical to that of the U.S. Environmental Protection Agency. Amendment 5 requires the use of the Uniform Manifest Form. The Commonwealth does not intend to adopt a matching system for generators, transporter and facility copies, nor does it require generators to send more detailed information to the TSD facility prior to receipt of the waste.

#### RCRA STANDARD #4 - MORE STRINGENT PROGRAM

The Virginia HWM program for generators and owners and operators of TSD facilities is only marginally more stringent than that required by the EPA. These areas of stringency have been addressed in the discussion of RCRA Standards 1 and 2 and need not be repeated here.

Virginia regulatory program for transporters of hazardous waste is more extensive than required to obtain authorization, since VHWMR provide that transporters obtain a permit from the Commonwealth and furnish an annual report of their activities. This latter requirement was developed to ensure that at least two independent annual reports be furnished from the entities that manage some aspect of hazardous wastes. Since no commercial disposal facility is currently in operation in Virginia and the Commonwealth would not have a ready access to out-of-state TSD facility annual reports, the regulatory confirmation would be available from the transporters. Such transporter annual reports are also designed as a compromise to a state-operated manifest-matching system which would have been an alternative method to achieve essentially the same results.

#### RCRA STANDARD #5 - ADEQUATE ENFORCEMENT

Section 32.1-2, Code of Virginia, provides that the State Health Commissioner shall take steps to abate hazards and nuisances to health and environment, both emergency and otherwise, thereby improving the quality of life in the Commonwealth. Further, Section 32.1-12 states that the Board of Health or the Commissioner (Section 32.1-20) may adopt regulations and enforce them as necessary to carry out the laws of Commonwealth administered by the Department. Specific citations of the Code of Virginia dealing with enforcement are indicated below. The statutory basis and procedures for the enforcement are restated in Sections 1.07 and 11.10.09 of the Virginia Hazardous Waste Management Regulation.

##### 1. Notices and Reports - §271.15(a)

Sections 32.1-178A(5) and (6), Code of Virginia (1950), as amended, specify that the Department is authorized to collect data and information as necessary to conduct the State hazardous waste program and to require any person who generates, collects, transports, stores or provides treatment or disposal of a hazardous waste to maintain such records, manifest or reporting system as may be required pursuant to federal statute or regulation. Based on this statutory authorization, Virginia Hazardous Waste Management Regulations require in all cases at least the same level of reporting and recordkeeping as the federal regulations. In cases of annual reporting, Virginia program is more stringent and also requires such reporting by transporters of hazardous wastes. The reports are reviewed by the person charged with the surveillance function over the reporting entities prior to filing or computerization of the information. Reports from various regulated activities are routinely used to determine consistency. For example, quantities of hazardous wastes transported from a generation facility reported by the transporter are cross checked with records of small-quantity generators maintained by the Department. Failure to submit annual report resulted in termination of one transporter permit.

## 2. Inspection and Surveillance - §271.15(b)

In addition to the review of records and information, the Department maintains a program of prioritized periodic inspections and surveillance. Reinspection of handlers with unresolved non-compliance histories and new notifiers are placed in the highest priority. Inspection visits, record reviews and special inspection of major handlers enjoy the next highest priority and are performed at least annually. Surveillance visits to other treatment, storage and disposal facilities are scheduled to occur within a biennial cycle and visits to the generators and transporters are scheduled at least once every three years. All surveillance visits are carried out by State personnel who received extensive training in addition to possessing scientific education and who are required to perform complete and comprehensive surveys of the regulated activities. Each State employee received at least three months on-the-job training before he/she was expected to do independent surveillance work and had attended short-courses offered by the EPA. All employees receive refresher training and attend professional conferences in their basic field. This approach to the achievement and maintenance of professional competence was found to be effective in carrying out the requirements of the program. Should a technical problem arise in which the permanent staff does not possess required training, outside contractors will be retained to furnish expertise. To ensure that all the program requirements have been ascertained, detailed inspection records are compiled designed to indicate degree of compliance with each and every requirement contained in the regulations or the conditions of the permit. The surveillance extends to review of records received by the Department prior to the visit and to the documents kept at the activity. When necessary, copies of the latter documents are brought back for further evaluation. Adequacy of sampling and monitoring performed by the regulated activity is one of the items evaluated by the inspectors. Should a possible question arise as to the adequacy, separate sampling visits are scheduled. As described in greater detail in Section F of this Program Description (COMPLIANCE TRACKING AND ENFORCEMENT), the Department had established a toll-free telephone number to obtain information regarding violations not detected in its programmed surveillance. Availability of this program has been publicized both by paid public notices and press releases.

## 3. Inspection Authority - §271.15(c)

Section 32.1-25, Code of Virginia, provides authority to the Commissioner or his designee to enter at any reasonable time onto any property to inspect, investigate, evaluate, conduct tests or take samples for testing in order to determine compliance with any law, regulation, order, or condition of a permit. Should the inspector be denied entry, he may apply to an appropriate circuit court for an inspection warrant. Sections 19.2-393 et seq. provide conditions for issuance, duration, conduct of inspection and penalties for refusal to permit authorized inspection. Surveillance inspection of transportation conveyances or vehicles engaged in transportation of hazardous wastes may be performed by both the Department personnel and by officers of the Department of State Police and all law-enforcement and peace officers of the Commonwealth. Based on the authority contained in Article 3.1, Chapter 7, Title 18.2, Code of Virginia, such officers are charged with the enforcement of the Virginia Regulations Governing Transportation of Hazardous Materials. The Department of State Police is authorized to stop motor vehicles in



transit, to perform inspections of motor vehicles in operation and to mark vehicles "out-of-service" as set forth in 49 CFR 396.9.

4. Chain of Custody - §271.15(d)

Personnel engaged in the inspections associated with possible compliance enforcement through civil proceedings have been trained in various short courses sponsored by EPA and federal OSHA. Such training is always reinforced by specific advice obtained from the Assistant Attorney General prior to inspection. The procedures developed were used in successful prosecution of a case heard in the civil court (Environmental Defense Fund vs. Lamphier, E.D. Virginia 1982) and affirmed on appeal (714 F. 2nd 331 (4th Cir, 1983)). Each sample taken is properly identified, sealed, and maintained at all times in a secured (locked) container in the custody of the sample taker until delivered to the analytical laboratory. The Commonwealth uses both contract laboratories and the Virginia Division of Consolidated Laboratories. The latter is always used for forensic samples taken in support of the cases leading towards possible criminal prosecutions. Chain-of-custody procedures for such samples have stood the test of numerous successful cases.

An example of sample custody procedures used by the contractor is shown in Attachment 10. Requirements for such procedures are reiterated in individual contracts.

Chain-of-custody procedures used are described in greater detail in Section F of this document.

5. Remedies for Violations - §§271.16(a) and (b)

Section 32.1-13, Code of Virginia, provides that the Board of Health or the Commissioner (Section 32.1-20) may issue orders to meet any emergency for the purpose of suppressing dangerous nuisances. Should no emergency exist, Section 32.1-26 authorizes issuance of orders to require any person to comply with any law or regulations promulgated by the Board of Health or to comply with any case decision as defined in Section 9-6.14:4, Virginia Administrative Process Act. Such non-emergency orders can be issued only after a hearing preceded by a 30-day notice to the affected person. In addition to issuing orders, the Attorney General acting on behalf of the Board or the Commissioner may institute proceedings in an appropriate court against any person violating, failing or refusing to obey any lawful regulation or order to compel to obey and to comply by injunction, mandamus, or other appropriate remedy (Section 32.1-27B). As discussed in the Attorney General's Statement, ability to enjoin applies to any threatened or continued violation of any lawful regulation. Neither Section 32.1-27B, nor Section 32.1-181 (dealing with permit revocation) provide for any necessity of a prior revocation of the permit, since the former section imposes no condition precedent upon the Commissioner's ability to seek injunctive relief.

In addition to the general provisions of the Health Laws of Virginia, Section 32.1-186, provides for specific penalties associated with the hazardous waste management program. Civil penalties are recoverable from any person who violates any regulation or order adopted pursuant to the article dealing with the State hazardous waste program. Section 32.1-186A provides for civil penalties of not more than \$10,000 for each day of violation. Section 32.1-186B addresses the criminal penalties associated with the

violations and provide for confinement for 1 year or 12 months or a fine of not more than \$10,000 for each day of violation, or both.

The burden of proof in civil cases is the normal civil requirement of preponderance of evidence and there is no additional proof of intent required. In the criminal cases the burden of proof is the same as the federal requirement.

6. Appropriateness of Penalties - §271.16(c)

Civil penalties sought or agreed upon in settlement of litigation will be appropriate to the violation and will be guided by federal formula contained in Section 271.16(c). In the only civil suit litigated so far, the Commonwealth sought an injunction to conduct testing to evaluate the extent of environmental damage rather than penalties, owing to extremely weak financial position of the defendant and the uncertainties of the extent of possible environmental damages. Subsequent to the decision of the U.S. Court of Appeals which upheld the plaintiffs, the defendant did in fact declare bankruptcy.

7. Public Participation - §271.16(d)

Section 1.06.07 of the Virginia Hazardous Waste Management Regulations provides for public participation in the enforcement process in a manner equivalent to that contained in 40 CFR 271.16(d)(2). All complaints received by the Department from the citizens have been promptly investigated and, with the exception of the anonymous calls, have been responded to.

RCRA STANDARD #6 - NOTICE AND HEARING IN THE PERMIT PROCESS

This standard is based on 7004(b)(2) which stipulates that no State permit program may be authorized unless it: (1) provides notice of its intent to issue a permit through publication in "major local newspapers of general circulation"; (2) broadcasts such notice over local radio stations; (3) provides written notice to certain State and local government agencies; (4) provides for at least a 45 day public comment period; and (5) holds an informal public hearing if one is requested during the comment period.

In Virginia, once an application has been determined to be complete, the Commissioner of Health will tentatively decide whether to prepare a draft permit or to deny the application which is a type of a draft permit. Other types of draft permits include modifications, revocation and reissuance and notices of intent to terminate. The requirements for the contents of the draft permit are contained in Section 11.22.03 of the Virginia Regulations.

Once a draft permit or the notice of intent to deny a permit has been prepared, the Commissioner will give public notice providing for the opportunity to comment and to request a hearing. The notice will allow at least 45 days for comments and requests. The timing, the methods and contents of the notice are specified in Section 11.24.

During the public comment period, any interested person may submit written comments on the draft permit and may request a hearing in writing (Section 11.25). The Commissioner will hold a public hearing either upon receiving a request or upon his own discretion in the absence of such a

request, to receive written or oral comments which may clarify issues involved in permit decisions (Section 11.26).

All persons contesting the permit or permit conditions have an obligation to raise issues and provide information during the public comment period (Section 11.27). Based on the merits of the application and the results of the public participation, the Commissioner will render the final permit decision. At that time he will issue a response to the comments received which will be made available to the public (Section 11.28).

The mechanism for the appeal of a decision on the issuance or denial of permits is addressed in the Virginia Administrative Process Act (VAPA) in the Article dealing with the case decisions (Article 3, Chapter 1.1:1, Title 9, Code of Virginia (1950), as amended). Section 9-6.14:11 of VAPA provides for informal fact finding proceedings before the Commissioner or his agent in cases which parties fail to consent. These proceedings provide for the right of the parties to have reasonable notice, to appear in person or by counsel, to have notice of any contrary fact basis or information, to receive prompt decision and to be informed of the factual or procedural basis for an adverse decision.

The Department is enabled to first attempt to resolve controversies by consent. Should such consent not be achieved, Section 9-6.14:12, VAPA, provides for the opportunity for the formal taking of evidence upon relevant fact issues. Decisions or recommended decisions and findings of fact arising from such a formal hearing become a part of the record. In support of its fact finding procedures, the Department may issue subpoenas requiring testimony or the production of evidence subject to certain rights specified in Section 9-6.14:13, VAPA.

The final permit decision will be furnished to the applicants and, together with the full record or case file, will be made available for public inspection or copying subject to certain exceptions specified in Section 9-6.14:14, VAPA. Any party aggrieved by and claiming unlawfulness of the permit decision has a right to the direct court review. The conditions and the mechanisms for such review are specified in Section 9-6.14:15 et seq., VAPA.

The procedures under Virginia statutes more than adequately provide for the notice and hearing intentions of the EPA in the permit process. The practices and policies of the Department for public input during the permit decision process have been developed over long periods of time and experiences in the regulatory system. The above stated procedure provides a greater input opportunity for the public during the permit process than the minimums required by the EPA under Standard #6.

## B. ORGANIZATIONAL STRUCTURE AND PERSONNEL

### Lead State Agency - §271.6(b)

Based on the legislative authority contained in Title 32.1, Code of Virginia (1950) as amended, the Department of Health has the sole responsibility for the administration of laws and regulations concerning hazardous wastes. To eliminate possible duplication of effort by various other agencies of the Commonwealth and to best use resources, the Department coordinates its actions with other agencies and may receive such assistance that may be made available by these agencies within their special areas of competence. The organizational chart for the executive government of the Commonwealth is shown in Figure 1.

Close cooperation exists between the Department of Health and the State Water Control Board in the areas of potential surface and groundwater pollution. Virginia hazardous waste management regulations provide for the development of the Memorandum of Agreement with the State Water Control Board. It was determined that such MOA would not be necessary since:

- Facilities which may be candidates for a waiver under Section 1.03.04 have been already specifically mentioned elsewhere in the regulations (e.g., Sections 9.01(c)(2), 9.01(c)(10), 10.01.03(b), 10.01.04(f), 11.01.01, and 11.08.02);

- Provisions for review and processing of permits are contained in Section 11.24 and subsequent sections of the regulations;

- Enforcement activities are coordinated within the Office of the Attorney General; and

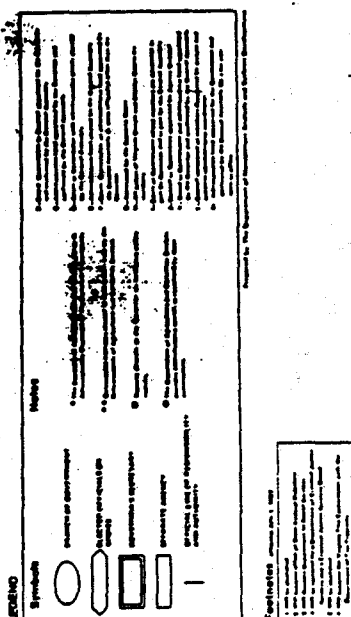
- Provisions for the development of acceptable groundwater monitoring program and exchange of information are contained in Section 9.06.01 and 9.06.02.

While the MOA may not be necessary from the regulatory standpoint, the regulated community might find it convenient to have the interaction between agencies collected in a single source. For that reason, future adoption of an MOA should not be ruled out.

In view of fiscal and personnel resource commitments, a formal Memorandum of Agreement was developed between the Office of Emergency and Energy Services. The text of the MOA is shown in Section 14.03 of the Regulations.

The State Air Pollution Control Board and the Department of State Police have determined that formal MOA's would not be required since coordination between the agencies and mutual technical assistance is being carried out satisfactorily at the present time.

Owing to significant budgetary and other resource constraints, the Division of Consolidated Laboratory of the Department of General Services had been unable to support the Department in the routine hazardous waste sample analysis in the past. Analysis of forensic samples associated with enforcement continue to be performed. The Department has entered into contractual agreements with two private laboratories for the laboratory





support of its surveillance sampling program. These laboratories have EPA approved QA/QC programs in place.

#### Organizational Chart and Staffing - §270.6(b)(1)

The operating unit responsible for hazardous waste management is the Division of Solid and Hazardous Waste Management within the Department of Health. The organizational structure and staffing pattern of the Division are shown in Figure 2. The organization and structure have undergone significant changes in order to meet Virginia's needs and to comply with the obligations of the Phase II A and B and Final Authorization requirements under the Federal program. Figure 2 depicts the extensive realignment and restructuring of the Division's responsibilities and staffing patterns. The Division has been expanded to include low-level nuclear waste regulation. Almost all of the job titles and responsibilities have been changed to conform to the "area manager" concept which is discussed later.

A total of 44 positions are shown, of which, six are allocated to the regulation of nuclear wastes and 8 are allocated to the solid waste management program. Not shown on the chart are the Senior Assistant Attorney General and the Legal Intern who are assigned to the office of the Attorney General but furnish two man-years of effort to the hazardous waste management program. While Figure 2 is intended to show the ultimate staffing of the Division to be achieved in FY85 and beyond, the staff of the Bureau of Hazardous Waste Management will be increased stepwise as shown in Table 1.

These staffing levels include partial effort spent on the hazardous waste program by the Division Director, and the regional representatives assigned to the Bureau of Solid Wastes. Altogether this level of additional effort amounts to 2.00 man-years. The staff of the Bureau of Hazardous Waste Management does not expend any resources in any Superfund function, nor does the additional effort of 2 man-years contributed to the hazardous waste program by other elements of the Division include the effort associated with the CERCLA program.

Not counted in the total is the staff support made available to the Bureau of Hazardous Waste Management by other offices of the State Health Department and the other State agencies. They include:

- Division of Epidemiology, State Health Department, assists in evaluation of potential human exposures connected with illegal disposal, spills and contamination of ground and surface water. The Division provides medical input into the program.

- Hazardous Materials Transportation Task Force, Department of State Police, consisting of 21 officers, enforces on-the-road requirements for hazardous waste transporters.

- State Water Control Board furnishes consultant services in the area of geology and groundwater.

- Office of Energy and Emergency Services supports the program in providing emergency response to hazardous materials and hazardous waste incidents.

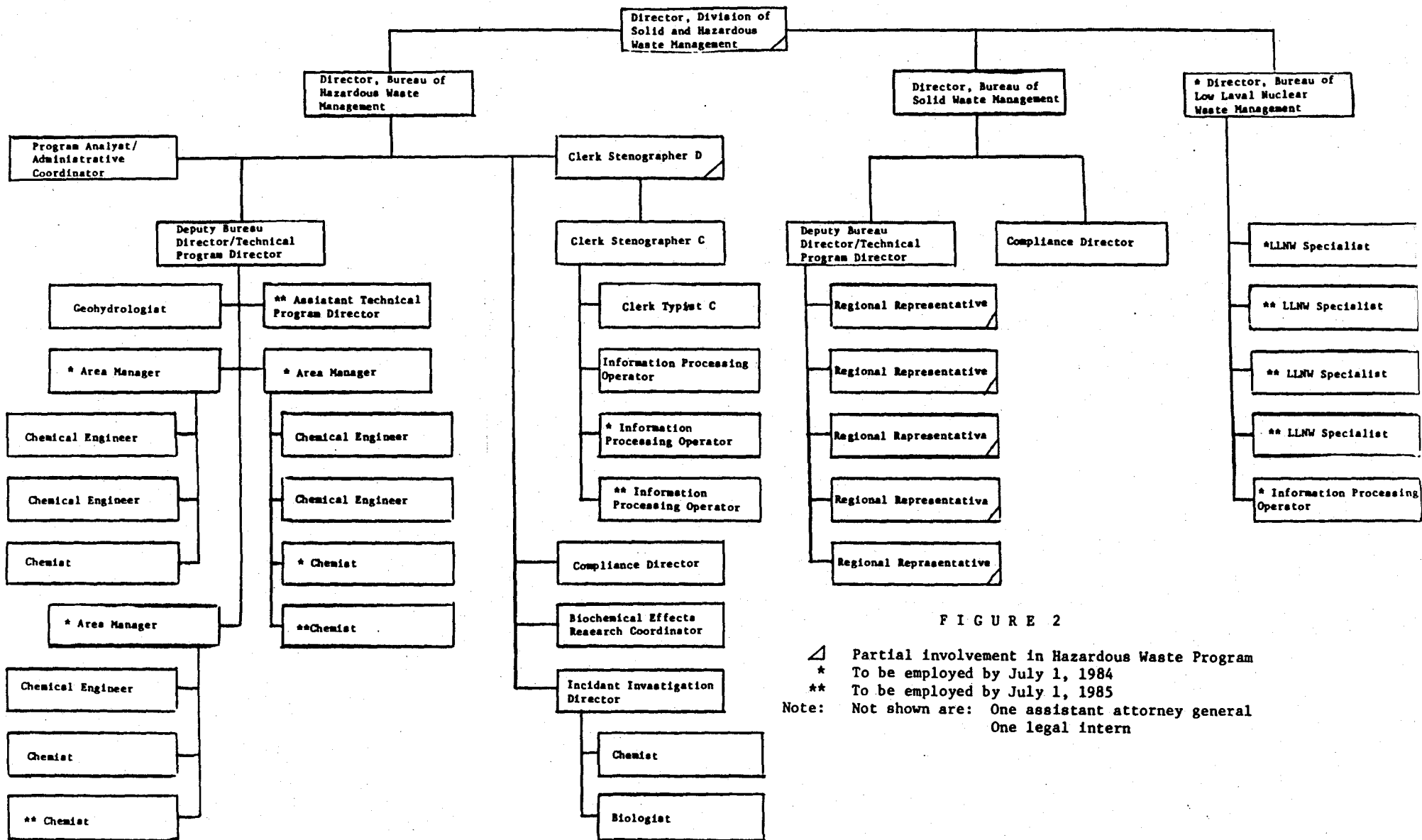


FIGURE 2

△ Partial involvement in Hazardous Waste Program  
 \* To be employed by July 1, 1984  
 \*\* To be employed by July 1, 1985  
 Note: Not shown are: One assistant attorney general  
 One legal intern

TABLE 1  
EFFORT IN MAN-YEARS DEVOTED TO HAZARDOUS WASTE MANAGEMENT  
PROGRAM

	Present	By July 1, 1984	By July 1, 1985
Division Director	0.50	0.50	0.50
Bureau Director	1.00	1.00	1.00
Asst. Bur. Director/ Tech. Program Director	1.00	1.00	1.00
Program Analyst.	1.00	1.00	1.00
Clerical Staff	4.50	4.75	5.75
Geohydrologist	1.00	1.00	1.00
Asst. Tech. Program Dir. (Sr. Chem. Engineer)	1.00	1.00	1.00
Area Manager (Sr. Chem. Engineer)	—	3.00	3.00
Chemical Engineer	1.00	4.00	5.00
Chemist	3.00	4.00	6.00
Compliance Director	1.00	1.00	1.00
Asst. Atty. General	1.00	1.00	1.00
Legal Intern	1.00	1.00	1.00
Incident Investigation Director	1.00	1.00	1.00
Biologist	1.00	1.00	1.00
Biochemical Effects Res. Coordinator	1.00	1.00	1.00
Regional Representatives	1.75	1.75	1.75
Total	24.75	29.00	33.00

- Administrative and fiscal management support is available from other offices within the State Health Department.

- Virginia Polytechnical Institute and State University furnishes a soil scientist to the State Health Department to support its programs.

- Forensic laboratory support is obtained from the Division of Consolidated Laboratories, Department of General Services. In addition, the Department has entered into contractual arrangements with two private laboratories to support its sampling and QA/QC program.

It was felt by the State that the "area manager" concept would provide more management flexibility and would be able to facilitate the handling of a variety of caseloads in a given area. In this way, traditional "Section" groupings, e.g., permitting, surveillance and enforcement are not "locked in" and handled by different people. In the interest of administrative efficiency each technical person assigned to the Bureau of Hazardous Waste Management is responsible for the specific number of firms engaged in some aspect of hazardous waste management. This ensures familiarity of that person with all operational aspects of the regulated firm or entity. For that reason, the



same person that conducted the compliance inspections would also assume the focal responsibility in the permit issuance process. Obviously, the assignment of the specific regulated entity to that person is based on the general professional background of the employee and his or her special areas of competence. Other members of the Division and other State agencies are routinely consulted during the decision making process.

Some of the major staff duties and responsibilities are as follows:

- |   |   |
|---|---|
| Division Director                                 | - Overall leadership and responsibility for the conduct of the solid and hazardous waste program statewide. Represents the Governor and Commissioners in certain external matters.  |
| Bureau Director                                   | - Supervises all the Bureau's programs statewide. Represents the programs before the subcommittees of the General Assembly and acts as Deputy Division Director.  |
| Deputy Bureau Director/<br>Tech. Program Director | - Acts for the Bureau Director in his absence. Directly manages the surveillance and permitting functions.  |
| Program Analyst/<br>Admin. Coordinator            | - Responsible for the fiscal and administrative management of the Bureau programs. Reviews documents for correct wording on financial responsibility and recommends to the Compliance Director actions when appropriate. Maintains custody of financial instruments.                |
| Geohydrologist                                    | - Reviews facility data in regards to compliance with regulations. Identifies areas of groundwater pollution resulting from hazardous waste handling.   |
| Asst. Tech. Program<br>Director                   | - A senior chemical engineer who acts for the Technical Program Director in his absence. Assists in managing surveillance and permitting actions. Provides technical assistance to Bureau staff and regulated community on financial requirements.                                  |
| Area Manager                                      | - Inspects hazardous material transporters, generators and facilities for compliance. Heads team of experts who conduct inspections and investigations. Reviews permit applications. Reviews closure plans and financial responsibility documents. Coordinates enforcement actions. |
| Chemical Engineer                                 | - Inspects hazardous waste sites and facilities. Reviews applications and drafts facility permits responds to emergencies and provides technical assistance to owners and operators and others.   |

- |  |  |
|--|--|
| Chemist                                  | - Inspects hazardous waste facilities. Responds to emergencies and provides technical assistance. Reviews analytical data regarding chemical testing and licensing of facilities. Reviews applications and drafts permits.                                 |
| Compliance Director                      | - Defines policies regarding enforcement actions. Initiates enforcement action against violators. Develops chain-of-custody and right-of-entry procedures. Prepares case summaries. Involved in public hearings and other public participation activities. |
| Assistant Attorney General               | - Staff Attorney assigned to hazardous waste management program. Supports the program in all legal requirements to include enforcement.  |
| Legal Intern                             | - Furnishes paralegal support to the program.  |
| Incident Investigations Director         | - Coordinates lab activities regarding sampling procedures. Responsible for emergency responses. Review monitoring data and procedures used for compliance.  |
| Biologist                                | - Leads or participates in a team investigating hazardous materials incident to include collecting samples. Inspects generators, transporters and facilities for compliance. Screens permit applications.  |
| Biochemical Effects Research Coordinator | - Coordinates clean-up or recovery activities regarding long-term environmental disasters such as Kepone or mercury contaminations. Conducts public participation program.   |
| Regional Representative                  | - Inspects all solid waste facilities. Investigates complaints. Reviews proposals for sites and management facilities.   |

### C. BUDGETARY SUMMARY

#### Budget - \$270.06(b)(2)

An itemization of the estimated costs of establishing and administering the FY84 program including cost of personnel and cost of administrative and technical support area presented in Table 2. Included in these estimates is the cost of the Supplemental Work Program for FY84 to fund an information transfer program to assist small business in proper handling of their wastes and to increase surveillance effort.

Table 2 shows the subprogram and cost object breakdown of both the base and supplementary programs totalling \$1,060,355. Estimates for future fiscal years are shown in Tables 3 and 4.

#### Sources of Funds and Restrictions - \$270.6(b)(3)

Budget requirements for the present fiscal year FY84 are met through the funds made available by the federal grant (75 per cent) and the funds appropriated by the Virginia General Assembly from the general revenues (25 per cent). Recognizing potential shortages of the general funds in future years and the requirements for the growth of the hazardous waste management program, the 1983 General Assembly authorized the Department of Health to establish a special fund to be supported by the permit application fees collected from the regulated community starting with the 1974-1976 Biennium (July 1, 1984 through June 30, 1986). This special fund is designed to cover all costs associated with the issuance of hazardous waste management permits and is not intended to defray the costs associated with the surveillance program or emergency response. The latter programs will continue to be funded from the general fund appropriations. The projected disbursements from the special fund are shown in Tables 3 and 4.

TABLE 2

OVERVIEW OF PROGRAM ELEMENTS BY OBJECT CLASS CATEGORIES  
FEDERAL FISCAL YEAR 1984

	Permitting	Surveillance/ Enforcement	Program Development	Program Administration	Total
Personal	\$209,169	\$220,064	\$ 83,267	\$ 77,320	\$ 588,820
Fringe Benefits	39,853	42,131	15,942	14,803	112,729
Travel	3,079	22,068	628	3,528	29,303
Supplies	3,604	3,765	1,234	1,643	10,246
Contractual	100,400	82,730	19,500	66,000	268,630
Other	721	753	247	328	2,049
<hr/>					
Total Direct Costs	355,826	371,511	120,818	163,622	1,011,777
Indirect Costs	17,174	18,156	6,870	6,378	48,578
<hr/>					
Total Budget	373,000	389,667	127,688	170,000	1,060,355
<hr/>					
Federal Grant	279,748	292,249	95,765	127,500	795,262
Total State Contribution	93,252	97,418	31,923	42,500	265,093
General Fund	93,252	97,418	31,923	42,500	265,093
Special Fund	---	---	---	---	---
<hr/>					
Man-years of Effort	8.75	9.25	3.50	3.25	24.75

TABLE 3

FEDERAL FISCAL YEAR 1985

	Permitting	Surveillance/ Enforcement	Program Development	Program Administration	Total
Personnel	\$350,920	\$214,120	\$23,790	\$136,790	\$ 725,620
Fringe Benefits	67,180	40,990	4,560	26,190	138,920
Travel	4,920	27,500	500	4,380	37,300
Supplies	5,510	4,520	400	1,570	12,000
Contractual	25,540	80,740	23,690	37,190	167,160
Other	1,150	940	80	330	2,500
Total Direct Costs	455,200	368,810	53,020	206,450	1,083,500
Indirect Costs	29,130	17,840	1,980	11,350	60,300
Total Budget	484,350	386,650	55,000	217,800	1,143,800
Total Federal Contribution	346,730	276,800	39,370	155,900	818,800
Base Grant	346,730	276,800	39,370	155,900	818,800
Total State	137,620	109,850	15,630	61,900	405,880
General Fund	---	109,850	15,630	61,900	187,380
Special Fund	137,620	---	---	---	137,620
Man-Years	14.75	9.00	1.0	5.75	30.50

TABLE 4  
FEDERAL FISCAL YEAR 1986

	Permitting	Surveillance/ Enforcement	Program Development	Program Administration	Total
Personnel	\$380,655	\$249,800	\$11,895	\$142,750	\$ 785,100
Fringe Benefits	72,873	47,823	2,276	27,328	150,300
Travel	5,630	28,630	200	5,790	40,250
Supplies	6,300	4,720	200	1,780	13,000
Contractual	30,000	85,000	1,000	54,080	170,080
Other	1,300	1,000	---	400	2,700
Total Direct Cost	496,758	416,973	15,571	232,128	1,161,430
Indirect Cost	31,404	20,608	981	11,777	64,770
Total	528,162	437,581	16,552	243,905	1,226,200
Total Federal Contribution	314,547	260,602	9,855	145,258	730,262
Base Grant	314,547	260,602	9,855	145,258	730,262
Total State Contribution	213,615	176,979	6,697	98,647	495,938
General Fund	-	176,979	6,697	98,647	282,323
Special Fund	213,615	---	---	---	213,615
Man-Years	16.00	10.50	0.50	6.00	33.00

D. PERMITTING AND REVIEW PROCEDURES - §271.6(c)

Both the enabling legislation (Section 32.1-180, Code of Virginia (1950) as amended) and the regulations promulgated by the Board of Health (Section 11.01, VHWMR) require a permit for the treatment, storage, or disposal of hazardous wastes. The regulations provide for specific inclusions and exclusions for various facilities contained in Section 11.01.01 and 11.01.02 and for specific prohibition of disposal of hazardous wastes by means of underground injection. In this respect the State program differs from the federal program (40 CFR Section 270.1(c)(1)(i) and Section 11.01.03, VHWMR). To eliminate duplication of regulatory effort and to minimize the burden of duplicative requirements upon the regulated entities as provided for in Section 32.1-178(8), Code of Virginia, the regulations also provide for the continued validity of federally issued permits (Section 11.01.04).

Except for persons covered by a permit-by-rule or enjoying interim status recognized by the EPA, the operators of hazardous waste TSD are required to submit complete applications to the Commissioner (Section 11.02). The owners of the facilities operated by another person also are required to sign the application (Section 11.02.02). The persons who operate facilities subject to permits-by-rule, emergency permits and continued federal permits are exempt from the completeness requirements.

Existing facilities are required to submit to the Commissioner Part A applications and, upon request, execute Part B applications. Failure to submit Part B applications upon request results in the termination of interim status. In case of new facilities, Part A and B have to be submitted to the Commissioner. Construction cannot begin prior to the receipt of a finally effective HWM permit, since Virginia does not provide for a two-stage permitting process (Section 11.02.05).

All applications must be properly signed (Section 11.02.03(a) and 11.07.01) and certified (Section 11.07.04), and must contain information required by Section 11.04 (Part A) and Section 11.05 (Part B). The requirements contained in the latter Section have been amended to reflect the latest federal requirements for surface impoundments, incinerators and land disposal activities.

Once an application has been determined to be complete, the Commissioner will tentatively decide whether to prepare a draft permit or to deny the application which is a type of draft permit. The requirements for the contents of the draft permit are contained in Section 11.22.03. In case of permits for major facilities or facilities subject to significant public interest, a fact sheet will be prepared. The contents of the fact sheet are specified in Section 11.23.02. Once the draft permit or the notice of intent to deny a permit have been prepared, the Commissioner will give public notice providing for the opportunity to comment and to request a hearing. The procedure allows at least 45 days for comments and requests. The timing, the methods and the contents of the notice are specified in Section 11.24. The Commissioner will hold a public hearing either upon receiving a request or upon his own discretion in the absence of such a request, to receive written or oral comments which may clarify issues involved in permit decisions (Section 11.26). All persons contesting the permit or permit conditions have an obligation to raise issues and provide information during the public comment period (Section 11.27). Based on the merits of the application and



the results of the public participation, the Commissioner will render the final permit decision. At that time he will issue a response to the comments received which will be made available to the public (Section 11.28).

The mechanism for the appeal of a decision on the issuance or denial of permits is addressed in the Virginia Administrative Process Act (VAPA) in the Article dealing with the case decisions (Article 3, Chapter 1.1:1, Title 9, Code of Virginia (1950), as amended). Section 9-6.14:11 of VAPA provides for informal fact finding proceedings before the Commissioner or his agent. These proceedings provide for the right of the parties to have reasonable notice, to appear in person or by counsel, to have notice of any contrary fact basis or information, to receive prompt decision and to be informed of the factual or procedural basis for an adverse decision. This Section enables the Department to first attempt to resolve controversies by consent. Should such consent not be achieved, Section 9-6.14:12, VAPA, provides for the formal taking of evidence upon relevant fact issues. Decisions or recommended decisions and findings of fact arising from such a formal hearing become a part of the record. In support of its fact finding procedures, the Department may issue subpoenas requiring testimony or the production of evidence subject to certain rights specified in Section 9-6.14:13, VAPA. The final permit decision will be furnished to the applicants and, together with the full record or case file, will be made available for public inspection or copying subject to certain exceptions specified in Section 9-6.14:14, VAPA. Any party aggrieved by and claiming unlawfulness of the permit decision has a right to the direct court review. The conditions and the mechanism of such review are specified Sections 9-6.14:16 et seq., VAPA.

Virginia HWM Regulations provide for certain exemptions from the full permit issuance procedures: continued federal HWM permits (Section 11.01.04), interim status (Section 11.03), permits-by-rule (Section 11.08), emergency permits (Section 11.09.01) and trial burn permits (Section 11.09.02). These exemptions are based on the permissive authorities contained in Section 32.1-12 and in Section 32.1-178(8) of the Code of Virginia (1950) as amended.

The continued validity of the federal permits has been discussed in the beginning of this Section.

Existing facilities are considered to have interim status and are treated as having been issued a permit providing they meet the qualifications required by Section 11.03.01. Changes during interim status may be approved if the requirements of Section 11.03.03 are met. Virginia HWM Regulations provide for termination of interim status for cause as described in Section 11.03.04. Such termination is subject to appeal procedures contained in VAPA and described previously.

Owners or operators of vessels used for ocean disposal and owners and operators of POTW are deemed to have an HWM permit if the conditions listed in Section 11.08 are met. Since Virginia regulations specifically prohibit disposal of hazardous waste by underground injection, no "permit-by-rule" provisions exist for such disposal.

In cases of imminent and substantial endangerments to health or the environment, the Commissioner may issue temporary emergency permits. The conditions and limitations on such permits are described in Section 11.09.01.



The Virginia requirements for the trial burn permits as shown in Section 11.09.02, are based on the federal requirements.

Sections 11.10 and 11.11 describe conditions applicable to permits and specify various duties and requirements to be expressly addressed in each permit. The manner of establishing such conditions is described in Section 11.12. The administrative requirements concerning the effects of a permit, transfer of the permits, schedules of compliance, and requirements for recording and monitoring results are contained in Sections 11.14 through 11.17. The duration of the Virginia HWM permit is limited by regulation to at most 10 years (Section 11.13).

Virginia regulations provide for modification, revocation and reissuance, or termination of permits. The general administrative guidelines are shown in Section 11.19.01, for modification or revocation and reissuance in Section 11.19.01, and for termination in Section 11.20. Modifications, revocations and reissuance and notices of intent to terminate are considered to be a type of the draft permit and are governed by appropriate regulations mentioned previously. Virginia Administrative Process Act procedures are applicable in all such cases. Minor modifications are exempt from these requirements providing they address situations specified in Section 11.21.

As a result of an increase in and reprogramming of the manpower resources, the FY84 permitting effort is projected to reflect an overall total of 9.75 manyears of effort devoted by the Commonwealth with a proportional share of budgetary resources available for both inhouse and contractual effort. These resources will be brought to bear both on the issuance of the State permits associated with the Phase II A and B authorization and on the assistance provided to the Region toward the issuance of the federal land disposal facility permits (see Table 5).

Upon receipt of the Final Authorization, the Commonwealth will assume the responsibility for the land disposal facilities permits called in by the EPA in 1984 and will proceed with the permit issuing process. Additional call-in requirements for future years will be based on the national priorities reflecting the potential for environmental impairment. For this reason, the work effort negotiated with the Region as the result of the grant process will stress land disposal facilities as the top priority. Reflecting the increased manpower available in future years, a total of 14 and 16 manyears will be made available to concentrate on the permitting portion of the program in federal fiscal years 1985 and 1986, respectively.

TABLE 5

## PERMIT EFFORT SUMMARY FY 84

	NUMBER OF PERMITS				WORK YEARS OF EFFORT				
	Called-in or Submitted	Dropped Out	Processed in FY 84	Issued in 84 85 86	FY 82	FY 83	FY 84 (est)	FY 85 (est)	FY 86 (est)
<u>A. Permits Called-in in FY 82</u>									
Storage/Treatment	23	14	9	9	0.408	1.585	1.240	-	-
<u>B. Permits Called-in or Voluntarily Submitted in FY 83</u>									
Voluntary Submission (Treatment	1		1	1		.051	.289		
Land Disposal Facility Called-in by EPA	4		4	1 3		.260	1.642	2.683	.605
Incinerator Permits Called-in by Virginia	4	1	3	3			.603	3.417	
Storage/Treatment Permits Called-in by Virginia	27	13	14	14			3.570	1.190	
<u>C. Permits Called-in in FY 84</u>									
Land Disposal Facilities Called-in by EPA	9	4*	5	5			1.300	4.760	2.590
*Closure approval (at 22.8 work-days/facility)							0.456*		
Total Permitting Effort	68	32	36	11 17 8	0.408	1.895	9.100	12.05	3.195

E. PROCEDURES FOR REVISION OF STATE PROGRAM - §271.6(c)

The normal time frame for the adoption of a regulatory Amendment by the Board of Health exceeds 12 months. Much of that time is devoted to the planning of the amendment and in the involvement of the public and the regulated community in the early formulation of the regulatory proposals. Availability of time to plan is important to the development of sound proposals. Figure 3 shows the the milestones associated with the adoption of regulatory amendments. The time schedule shown involves a shortered discretionary period ("planning") and assumes minimal time lapses for actions required by the Virginia Administrative Process Act, by the Executive Directives, or by the requirements of the legislature (shows as large dots in Figure 3). Obviously, slippages might occur as the result of public participation, governor's review and legislative oversight, and would extend the minimal estimates.

In cases when the amendment has to be adopted within the time periods specified in §271.21(e), the Department will have to dispense with the nonmandatory steps and initiate its regulatory proposal shortly after the publication of the proposed rule changes in the Federal Register, so as to give the public sufficient notice and opportunity to comment. As shown in Figure 3, the shortest elapsed time period for mandatory steps is 8 months.

The above discussion presupposes that no statutory amendments are required prior to the rule making process. Should the changes in the federal program require amendments to the Code, the overall rule making schedule will have to be extended. Virginia General Assembly meets annually during the months of January through March. Any legislation adopted during the session normally becomes effective on July 1 of that year. Because of the narrow window available for the introduction of new legislation, the length of the overall rulemaking will depend on the timing of the federal actions which would necessitate new legislation. In general it is expected that rule making which involves statutory amendments will require two years to become effective.

FIGURE 3. REGULATORY AMENDMENT MILESTONES

Months Prior to Effective Date

Board Meetings

Planning

- Notification of Commissioner  
(Purpose, Justification  
Tentative Schedule)
- Obtain Tentative Date for Prelim  
Approval
- Typing of draft
- Review of Draft by AG
- Submit to Regulated Entities
- Public Meeting(s)
- Redrafting

Preliminary Approval

- Submit copies to Bd.
- Prepare Opening Statement
- Obtain Approval/Designate  
Hearing Officer, Date
- Issue Notice of Public Hearing
- Notice to Registrar
- Submit to Governor's Review
- Hold Public Hearing

Final Approval

- Position paper prepared
- Final typing
- Summary of comments
- Distribution of Documents
- Adoption by Board

Registration of Regulation

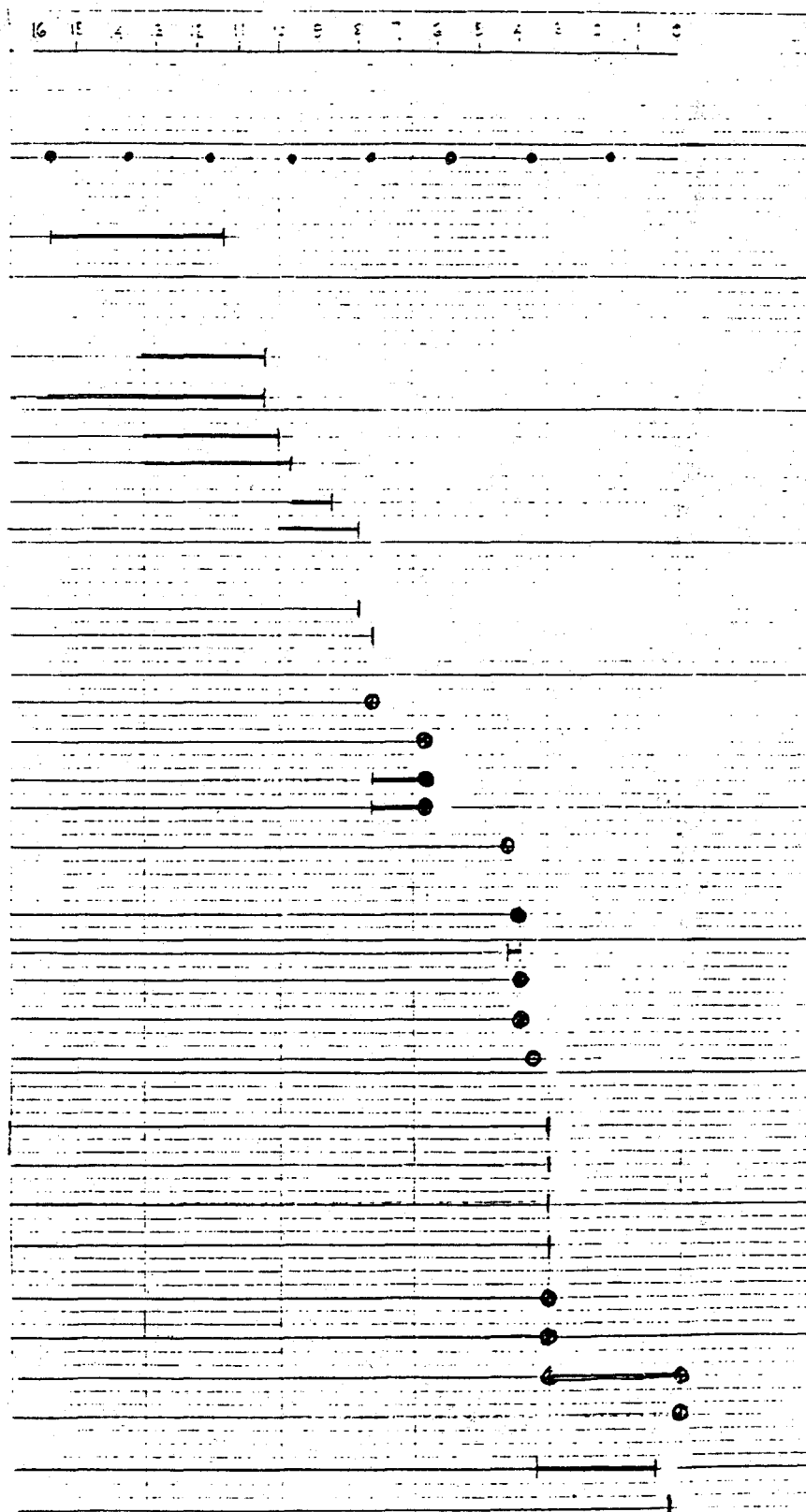
- Clean Typing
- Basis and Purpose
- Hearing Transcript
- Original Comments and  
Responses
- Filing of 41 copies
- Copies to legislative Committee

Legislative Oversight

Effective Date

Printing of Regulation

Distribution



## F. COMPLIANCE TRACKING AND ENFORCEMENT

### 1. General - §271.6(e)

Virginia's enforcement procedures are based on the basic Health Laws (Title 32.1 Code of Virginia (1950) as amended) and on the Virginia Administrative Process Act and current regulations and are consistent with Federal requirements under 271.6(e).

Sections 1.00, 11.00 and other pertinent sections of Virginia's regulations assure that all operations of hazardous waste management facilities are conducted in accordance with State standards and permits issued under the State meet the requirements for Final Authorization. This includes compliance by hazardous waste generators and transporters.

More specifically, Sections 1.07 and 11.10.09 authorize the State to conduct all necessary inspections, investigations, samplings and follow-up activities required to assure compliance. Coordination with State agencies and Federal Department of Transportation are assured under Section 7.00 (7.01.03, 7.07.14 and 7.08.03).

### 2. Enforcement Process

#### a. Pathways - §271.15(b)

The primary pathway by which violations come to the Department's attention is the regularly scheduled compliance evaluation inspection. While such a process is resource intensive, there is no feasible substitute for a thorough inspection and physical inventory of all required safeguards and documents to determine a meaningful compliance with all the requirements. To insure that the resource expenditures are optimized, the Department established the following prioritization scheme listed in the decreasing order of priority:

- o Reinspections of all handlers with unresolved non-compliance history
- o All new notifiers
- o Annual and special inspections of major handlers
- o Other treatment and storage facilities
- o Other generators and transporters.

Prior to each field inspection, the entire record of the handler is reviewed in the office to ensure that all pertinent documents are known to the inspector.

Virginia's compliance monitoring and enforcement procedures do not distinguish between interim status facilities and facilities which have received final permits, even though the standards against which compliance is evaluated differ substantially. Additionally, much of the evaluation of the adequacy of the planning documents (prevention and preparedness, contingency, laboratory testing, environmental monitoring, closure and post-closure, etc.) presently performed at the facility being inspected in the course of the

evaluation, would be carried out during the permitting process. Therefore, considerable field time will be saved by inspecting against permit conditions. Thus, the workload associated with the evaluation program is expected to remain essentially unchanged.

During the federal fiscal year 1983, the Department has met, and in some cases exceeded, the surveillance goals set by both the initial and the supplemental work programs developed in the support of the federal grant.

During FY84, the Department will meet the following compliance evaluation schedule:

- All major hazardous waste handlers; this category includes all facilities requiring groundwater monitoring;
- All of the facilities which received permits during FY83 or the first quarter of FY84;
- 25% of the remaining non-major interim status TSD facilities;
- 10% of the remaining non-major generators and transporters.

The actual numerical commitments are shown in Table 6 by fiscal year quarters.

TABLE 6  
FY84 COMPLIANCE EVALUATION SCHEDULE  
NUMBER OF HANDLERS VISITED

	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Total
Major HW Handlers Permitted TSD Facilities	6	8	8	6	28
Non-major TSD Facilities	2	3	3	2	10
Non-major Generators and Transporters	17	18	18	17	70
	40	41	41	40	162
<b>TOTAL</b>	<b>65</b>	<b>70</b>	<b>70</b>	<b>65</b>	<b>270</b>

The number of inspections and priorities for inspections for future years will be negotiated annually between the Commonwealth and the Region as part of the grant process and will reflect the Annual RCRA Guidance.

The list of major hazardous waste handlers based on the guidance contained in FIG-83-1 was negotiated between the Region and the Commonwealth and appears in Attachment 4 to this document, together with the reasons for the selection. This list will be formally renegotiated annually starting with May 30, 1985.



In addition to regularly scheduled surveillance visits, the Department investigates all reported or suspected violations brought to its attention by other State offices (e.g. Department of Labor, Department of State Police, State Water Control Board, State Air Pollution Control Board, regional representatives of the Bureau of Solid Waste Management, local health departments, etc.) or by private citizens. To facilitate the reporting by the latter, the Division had established an in-State toll-free number (800-522-2075). The availability of the service was published in the press, radio and television and paid public service announcements. Since its inception in July, 1983, on the average 15 calls per month are received and investigated. As the result of this service 16 directed cleanup actions have been initiated.

The last pathway by which violations are detected is the review of documents required for periodic submission such as the financial responsibility requirements and the annual generator, transporter and treatment, storage and disposal facility reports. The annual reports are cross-checked to determine inconsistencies. The annual transporter reports are valuable to identify generators who have exceeded the small-quantity exemption and thus become bona-fide members of the regulated community.

The Virginia Department of Health had entered into a Cooperative Agreement pursuant to PL 87-170 with the federal Department of Transportation (Attachment 7) to participate in the enforcement of the motor carrier safety and the Virginia Regulations Governing Transportation of Hazardous Materials (Attachment 8). The latter regulations are enforced by the Virginia Department of State Police. Any violations of the Hazardous Waste Management Regulations detected in transit are reported to the Department of Health for further enforcement. The staff of the Bureau of Hazardous Waste Management routinely inspect fixed transportation facilities of transporters of hazardous waste.

b. Violation Classification - §§271.6(e) and 271.16(c)

While every instance of non-compliance with the regulatory requirements must be corrected, the inherent nature of the regulations dictates a graduated response to the situations encountered in the regulated community. Such graduated response will depend very heavily on the context of the circumstances prevailing at the management level, history of non-compliance with the regulatory requirements, failure to perform necessary preventive actions and failure to establish the effective management systems and controls, as well as the possibility that non-compliance with the regulations might result in an economic benefit to the violator.

Realizing the difficulties of fitting such a graduated response requirement into a finite number of classification categories, the program must provide for a reasonable exercise of personal judgement. Given that certain violations are classifiable without any doubt into any limited number of categories, the enforcement process must be sufficiently flexible to escalate or reduce the classification category of borderline cases in a consistent manner.

The Virginia classification system assigns violations into three categories. The highest category contains violations that cause or have a potential to cause a significant adverse effect impact on the environment or on the public health, non-compliance exhibited by repeat or chronic violators,

and violations that impact significant economic benefit to the violator. The medium category of violations contains non-compliance with the required practices to effect a meaningful hazardous waste cradle-to-grave management system. The lower category contains all other violations which in themselves do not cause or have potential to cause an adverse impact on the environment, but which nevertheless compromise the required management system. A non-exhaustive list of the violations belonging to the above categories is shown in Attachment #11 to illustrate the application of the classification process.

Since Virginia operates a centralized program, the internal consistency of the classification system is achieved through the personal involvement of the Compliance Director in each potential enforcement case. Before a course of action is selected the violations are put into proper historical and factual contexts in insure a fair and measured response to the discovered non-compliance.

c. Enforcement Events and Tools - §271.6(e)

The typical chain of events from the point of detection of a violation to its final administrative disposition is shown in Figure 4.

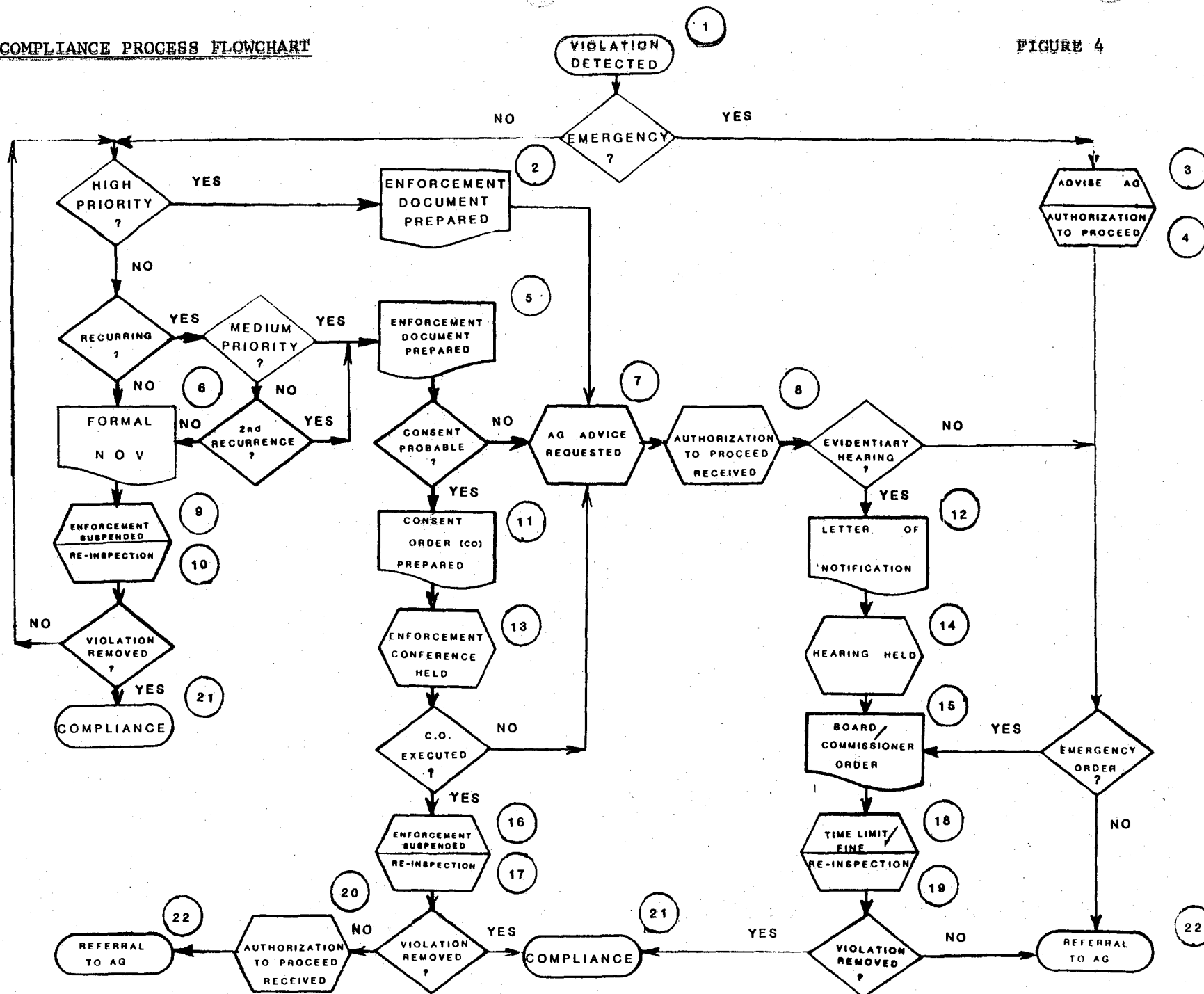
When a violation occurs that is found to require an emergency action to suppress nuisances dangerous to the public life and health, the Board of Health (or the Commissioner when the Board is not in session) is authorized to issue separate orders and regulations pursuant to §32.1-13, Title 32.1, Code of Virginia (1950), as amended. Alternatively, the violation may be referred to the Office of the Attorney General to seek a temporary restraining order or other appropriate remedies from the civil court. When such an emergency situation arises, the Departmental staff will immediately contact both the Attorney General's office and the Commissioner for instruction and an authorization to proceed with the alternative selected. Should the information indicate that the violation was a knowing act (§32.1-186B, Code of Virginia (1950), as amended), the Commissioner and the Attorney General may refer the case to the Department of the State Police to initiate the appropriate criminal investigation. This alternative is not addressed in Figure 4 since such an investigation would employ its own distinct procedures.

In case of violations that do not require an immediate action, the inspector and the Compliance Director determine the proper classification of the non-compliance discovered as the result of a surveillance visit or the record review procedure.

Should the violation be classified as a high priority violation, the inspector is required to prepare an enforcement document which is designed to organize the facts of the case. In simpler cases, this enforcement document may be merely a brief narrative explanation of the items of non-compliance indicated on an attached inspection checklist. In more complicated cases this document may contain pertinent descriptions of the inspected operation, excerpts or copies of historical materials, implications of continued non-compliance and other pertinent facts. The document is useful in revealing possible lack of detailed information needed for successful completion of the case, in organizing the logical presentation of the case and as an aide memoire in any required oral presentation or in the preparation of the letter of notification of an evidentiary hearing. Once the enforcement document is prepared, a decision is made based on the violator's past history as to the



FIGURE 4



likelihood that the violator would consent to an order and, given such a consent, whether he is likely to fulfill the conditions of the order. When voluntary removal of the violation is unlikely, an advice should be sought from the Senior Assistant Attorney General on the most expeditious resolution of the case. The two alternatives available at that point are the direct referral to the Attorney General for civil action or the issuance of the Board of Health Order. The procedures associated with the latter alternative are governed by Article 3, Chapter 1.1:1 of the Virginia Administrative Process Act (Title 9, Code of Virginia (1950), as amended). The letter of notification of the hearing to the violator must provide for a reasonable notice of time, date, place and the nature of hearing, the basic law under which the Department contemplates its possible exercise of authority and the matters of fact and law asserted by the Department. The parties are entitled to be represented by counsel, to submit oral and documentary evidence and rebuttal proofs, to conduct cross-examination and to have proceedings completed and decision made with dispatch. The Department will be represented by an appointed hearing officer who is empowered to administer oaths, receive or exclude evidence, oversee verbatim recording of evidence, hold conferences for the settlement or simplification of issues by consent, dispose of procedural requests, and regulate and expedite the course of hearing. The hearing officer shall present to the Commissioner the findings and recommend a decision on the issuance of the appropriate order (§32.1-26, Code of Virginia (1950), as amended). Such an order may provide for a compliance schedule and, upon request of the violator, for the payment of civil charges in lieu of any civil penalty that could be imposed by the court (§32.1-27D, Code of Virginia (1950), as amended).

Upon expiration of the time periods specified by the compliance schedule, the Department will perform reinspections to ascertain that the schedule has been met and that the violation has been removed.

Should there be a high likelihood that the violator would consent to an order, the Department may choose to invite him to an enforcement conference pursuant to §9.-6.14:11, Virginia Administrative Process Act (Title 9, Code of Virginia (1950), as amended). The parties to such proceedings have rights to have reasonable notice, to appear in person or by counsel or other qualified representative for the informal presentation of factual data, argument or proof, to have notice of any contrary fact basis in the possession of the Department, to receive a prompt decision and to be informed in writing of the factual basis for an adverse decision. As the result of such a conference the parties may consent to an order specifying a schedule of compliance which would remove the violation. Should the violation be found the persist after the period provided for in the order, the Department will take steps to receive authorization from the Commissioner to refer the case to the Attorney General.

Handlers determined to be in a medium-priority violation and to have never been found before in a violation of medium or high priority would be issued a notice of violation. Such a formal notice will state the authority under which the Department is operating, define the violations found, state the date by which compliance must be achieved and indicate that the facility will be reinspected after the compliance period had elapsed. Should the reinspection reveal that the violation had not been removed, the enforcement document will be prepared. In general, voluntary consent in such cases would

be unlikely and Attorney General advice will be sought as to an expeditious resolution of the violation.

Handlers determined to be in a low-priority violation will be issued a notice of violation. Recurrence of non-compliance will escalate the priority of the violation and will be handled accordingly. Figure 5 indicates the average and maximum time required for each step. The total elapsed time between enforcement milestones is as follows:

	Average Time	Maximum Time
NOV Procedure	14	30
Enforcement Conference	28	58
Board Order	43	69
Civil Judicial Referral	9	19

d. Penalty Assessment §271.16(c)

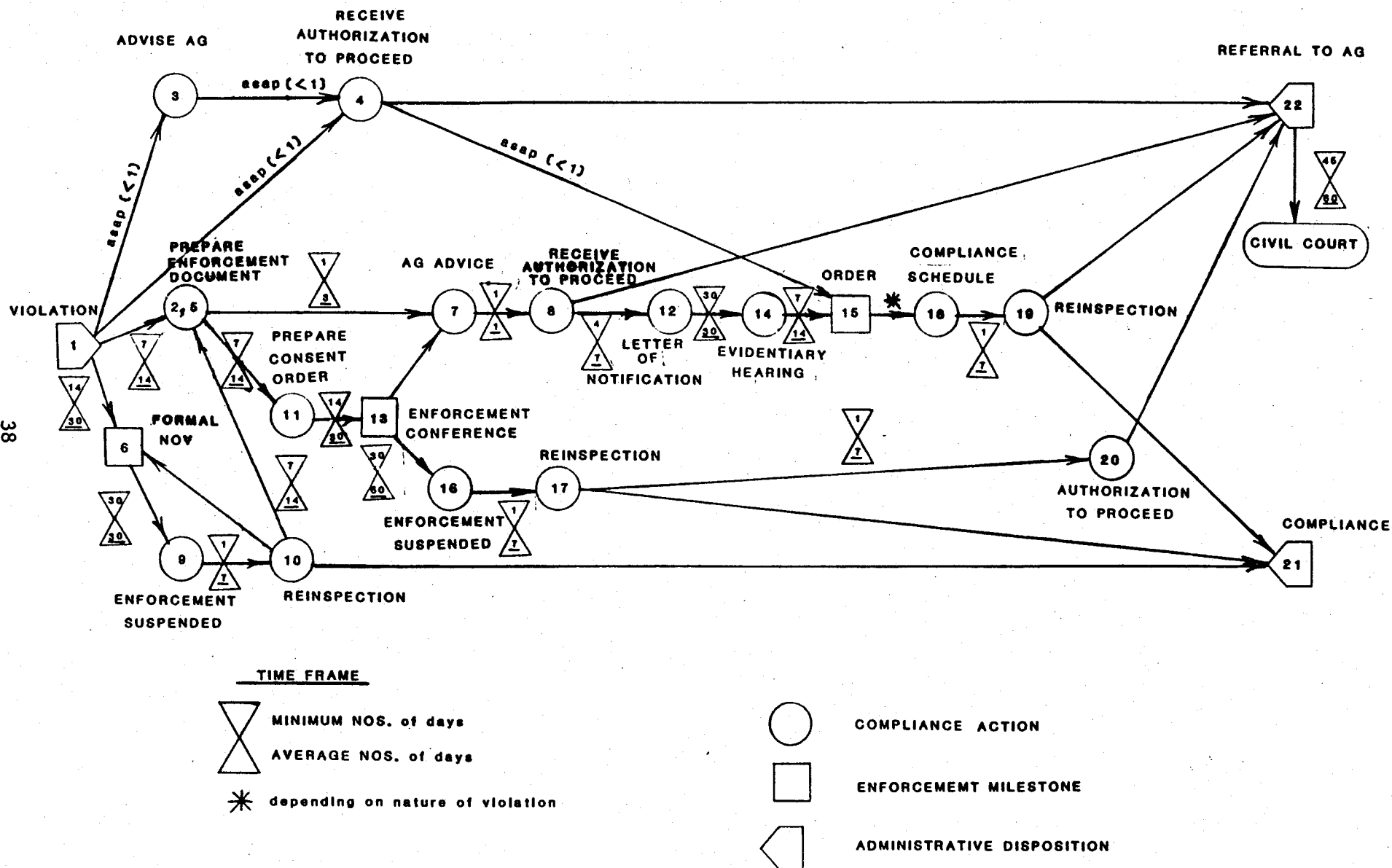
Paragraph 32.1-27A, Title 32.1, Code of Virginia (1950), as amended, applicable in general to the penalties imposed by the Board of Health or the Commissioner provides that willful violation or failure to comply with any regulation or order constitutes a Class I misdemeanor unless a different penalty is specified. In addition, paragraph 32.1-186B provides that knowing transportation to an unpermitted facility; knowing transportation, treatment, storage or disposal of hazardous waste without a permit, or knowing false statements on any document used for purposes of hazardous waste program compliance shall be a felony punishable by confinement for one year, a fine of not more than ten thousand dollars, or both. Cases of such nature are brought before an appropriate court by the Commonwealth attorneys and may be investigated by the Bureau of Criminal Investigations, Department of Police, or local police authorities.

Paragraph 32.1-27B, provides that any person violating, neglecting, or refusing to obey any lawful regulation or order of the Board or the Commissioner may be compelled in a proceeding instituted in an appropriate court to obey such requirements by injunction, mandamus or other appropriate remedy. In addition to this general requirement, paragraph 32.1-186A provides that such persons that violate any provision of the Solid and Hazardous Waste Management article of Title 32.1 or any regulation or order of the Board adopted pursuant to that article shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not exceeding ten thousand dollars for each day of violation. All civil penalties are to be recovered in a civil action brought by the Attorney General.

Paragraph 32.1-27C provides that violation or failure, neglect or refusal to obey any injunction, mandamus or other remedy obtained from the court shall be subject to a civil penalty not to exceed ten thousand dollars for each day of violation.

Paragraph 32.1-27D provides that with the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board or Commissioner or any provision of Title 32.1, the Board may

**FIGURE 5**



provide, in an order issued against such person, for the payment of civil charges for past violations in specific sums, not to exceed the limit specified in paragraph 32.1-27C. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under the latter paragraph.

Section 1.06.07 of the Virginia Hazardous Waste Management Regulations provides for the public participation in the enforcement process by requiring that all citizen complaints be investigated and responded to in writing, not opposing intervention and by publishing notices of any settlements of civil enforcement action.

Civil penalties sought or agreed upon by the Department under paragraph 32.1-27B, Title 32.1, Code of Virginia (1950), as amended, will be commensurate with the violation. The actual penalty will take into account:

- o An amount appropriate to address harm or risk to public health or the environment
- o An amount appropriate to remove the economic benefit from the delayed compliance
- o The degree of recalcitrance, defiance or indifference on the part of the violator
- o Extraordinary costs of investigations, inspections or monitoring incurred by the Commonwealth
- o Factors beyond the violator's control.

Civil charges provided for in paragraph 32.1-27D, Title 32.1, Code of Virginia (1950), would normally be sought from violations that may have gained significant economic benefit from non-compliance, from violators who might perceive that an order is not a sufficient deterrent or who might otherwise not act on an order, or violators with numerous high-priority violations. The amount of such charges will take into account the factors listed for civil penalties.

e. Legal Staff Resources - §271.6(b)

The Virginia Hazardous Waste Management Program is supported on a full-time basis by a Senior Assistant Attorney General and a legal intern who furnish support, expertise and representation in all matters of enforcement, permit issuance, and program development. Additional support may be received from two other attorneys representing the Department of Health should the need arise. Written policy on procedures for obtaining assistance from the Attorney General's office exists for all those programs of the Department that are supported by the two latter attorneys (see Attachment #12). This policy does not apply to the access Senior Assistant Attorney General and the legal intern on matters pertaining to the Hazardous Waste Management Program, where the access is governed by good administrative practices. The routine direct access in these cases, as a matter of the internal policy of the Division of Solid and Hazardous Waste Management, are limited to the Division and Bureau Directors and the Compliance Director. In case of an emergency need for legal assistance, all members of the Department of Health have direct access to the attorneys as stated in Attachment #12.



### 3. Inspection Practices and Procedures

#### a. Types of Inspections - §§271.15(b) and (d)

It is the policy of the Bureau of Hazardous Waste Management to perform compliance evaluation inspections (CEI) of all persons engaged in hazardous waste management subject to Virginia regulations. These comprehensive surveys are performed during all field visits irrespective of the nature of the handler (generator, transporter or operator of a facility) or the reason for such a visit (periodic inspection, compliance reinspection, investigation of a complaint, result of the record review, closure inspection, sampling inspection or special inspection of groundwater monitoring systems). This policy is based on philosophy that the resources expenditures involving travel justify expenditure of time required to perform CEI's and would often eliminate the need to schedule a routine periodic inspection at a later date, thus saving resources for both the State and company personnel. During each Compliance Evaluation Inspection all applicable checklists are filled out (Attachment #13 shows the checklists currently in use). These checklists are filled out at the time of CEI and a copy of completed documents is usually left with the inspected activity. Other copies are later officially transmitted to the activity along with a letter summarizing the results of the visit and requiring corrective action, if any. The priority of scheduled (periodic) visits and the FY84 workload have been described previously in Section F.2(a) of this document.

Compliance reinspections are performed, in general, within a week upon expiration of the compliance deadline except in cases when full compliance may be achieved by the violator by furnishing the Department merely the corrected version of the deficient documents. Should a visit be indicated, reinspection is always coupled with a CEI as mentioned above.

Unless the investigation of a complaint indicates that the activity should not be regulated under Virginia Hazardous Management Regulations, a CEI will be performed at the time of the visit. As mentioned in Section F.2(a) of this Document, all reported or suspected violations are investigated by the Department. The investigation would involve a visit should the information be available to locate the site of the violation.

In addition to scheduled compliance evaluation inspections, the Department performs comprehensive groundwater monitoring evaluations at a number of major facilities. These evaluations are intensive investigations into the engineering and hydrogeologic features of the groundwater monitoring system in place at interim status land disposal facilities. In the first quarter of FY84, the Department performed four such evaluations. The commitment for future evaluations will depend on the number of facilities remaining in the system after the accelerated permit call-in program takes place.

The third type of compliance evaluation is the sampling inspection in which field samples are collected for laboratory analysis. This type of inspection is usually scheduled to be conducted jointly with either a CEI or a comprehensive groundwaters monitoring evaluation, but it may be triggered as a result of a CEI already performed or as a result of a complaint or a record review. As described in greater detail in Section F.3(d), the program relies

on contract laboratories to perform all work connected with routine sampling. Before any sampling is performed, QA/QC requirements and sampling protocols are developed for the activity jointly by the Department and the laboratory in accordance with the plan approved by the U.S. Environmental Protection Agency.

Whenever sampling is performed either during routine inspections or pursuant to investigations of violations, the field personnel observe the following chain-of-custody procedures:

- o each sample is uniquely identified and numbered;
- o a field chain-of-custody document is prepared (see Attachment 10);
- o each sample is sealed and the seal is signed by the collector;
- o all samples collected are either kept in view of the sample collector or placed in a locked box with the key kept on the collector's person;
- o upon completion of the sampling the locked box and the custody document are placed within a cooler or another large overpack container;
- o the overpack container is sealed with tape and seals are signed by the sample collector;
- o in case of an in-State laboratory, the container is transported by the collector to the sample custodian of the laboratory, or in case of out-of-State laboratory to a common carrier; and
- o the container is surrendered against a receipt.

All forensic samples leading to a possible criminal prosecution are taken to the State Division of Consolidated Laboratory and are handled by the laboratory in accordance with standard procedures accorded to such samples. Other samples are either taken or sent to contract laboratories. Sample custody procedures are shown in Attachment 10.

In addition to various field inspections described above, the Department conducts reviews of records pertaining to groundwater monitoring, closure and post-closure plans, financial documents, exception/discrepancy reports, and the required periodic reports. These record reviews are conducted both on a scheduled basis timed to follow shortly upon the expiration of the reporting deadline and prior to each CEI when all records pertaining to the activity are reviewed by the person who will perform the inspection. Review of records required to be kept at the activity are routinely performed during each CEI.

b. Inspection Personnel - §§271.6-(b)(1) and 271.15(b)

All inspections and record reviews are performed only by the members of the Division of Solid and Hazardous Waste Management. The program had not used in the past, nor does it intend to use in the future contractor personnel to perform any compliance evaluation action. The only exception to this policy is the use of contract laboratories for performance of non-forensic analyses. Conversely, members of the Bureau of Hazardous Waste Management do

not perform any non-RCRA type inspection activities. The very infrequent joint US DOT/Commonwealth investigations provided for by the Cooperative Agreement based on Part 388, Title 49, Code of Federal Regulations (see Attachment #7) are considered to be an integral part of the hazardous waste transporter compliance program and the few resources expended in this area furnish a direct support to the RCRA program.

c. Personnel Qualifications - §§271.6(b)(1) and 271.15(b)

All personnel engaged in field inspections are required to be technically proficient in the fields of chemical, civil or environmental engineering, chemistry, hydrogeology, or biological sciences with strong background in chemistry. Senior positions require graduate training and, in some cases, professional licenses. All newly hired personnel undergo internal training by the experienced members of the Division of Solid and Hazardous Waste Management in all aspects of the RCRA program before they are scheduled to perform independent work. Whenever EPA seminars, workshops or short courses are announced, members of the Department are always programmed to attend. Since the program is organized in a manner that technical personnel are expected to perform both compliance monitoring and permitting tasks (see Section B, Organizational Chart and Staffing), the intent of the training program is to foster broadest competence in all aspects of the RCRA program. Experienced personnel regularly attend technical refresher training, research and development oriented seminars, and conferences sponsored by the professional societies in their own professional field. Liberal administrative leave policy enables individuals to complete training leading toward graduate degrees or to avail themselves of other professional long-term studies. A partial listing of EPA-sponsored courses and workshops attended in FY84 is shown below:

- o Safety training (EPA/NUS)
- o ERTEC/EPA Groundwater Seminar
- o Permit Writers Workshop for Land Disposal
- o Incinerator Permit Writers Workshop
- o Groundwater Inspectors Training (NEIC)
- o Groundwater Statistics Workshop
- o Hazardous Materials Spill Conference (EPA/US Coast Guard)
- o Closure/Postclosure Conference
- o Hazardous Materials Incident Response Operations Course (Edison, NJ)

In addition to the above training, members of the Department attended seminars and conferences:

- o Management of Leachate and Groundwater at HW Disposal Sites (Vanderbilt University)
- o Annual Research Symposium (Ft. Mitchell, KY)

- o Short Courses on Groundwater (Geotrans)
- o Incineration Systems (Government Institutes, Inc.)
- o Hazardous Waste Treatment and Disposal in the Wood Preserving Industry (Southern Pressure Treaters Association)
- o Annual American Institute of Chemical Engineers Conference
- o Annual American Chemical Society Conference

The Department had identified to the Region that additional in-depth training is required in the area of financial requirements (Subpart H, 40 CFR Parts 264 and 265). This additional training will be offered by the Region III consultant in the later part of FY84.

d. Plan Reviews - §§271.6(b)(1) and 271.15(b)

As mentioned in Section B of this Document, the Virginia Bureau of Hazardous Waste Management organization does not provide for the staffing separation between permitting and compliance functions. Bureau technical personnel are responsible for all aspects of the RCRA program at the activities assigned to them to include the above two functions and to furnish to them all technical assistance. Should the latter require specialized professional competence, assistance is available from technical personnel within the Department (e.g. geology and hydraulics) or through outside contract consultants retained by the Department (e.g. combustion technology).

4. Compliance/Enforcement Organization - §§271.6(b), 271.6(e) and 271.15(b)

As mentioned in Section B of this Document (Organizational Chart and Staffing), the Bureau is organized around the area manager system which capitalized on the technical capabilities of its members. For example, in the area that requires competence in groundwater monitoring, the area team members are civil engineers and chemists, supported by a hydrogeologist; activities that involve chemical industrial processes, the area team, on the other hand, would be composed of chemical engineers and chemists. The uniformity of the compliance program is ensured by having the Compliance Director define policies and initiate all enforcement actions against violators. The Compliance Director is supported, in turn, by the Area Managers and the Office of the Attorney General. The latter furnishes legal and para-legal input on a continuous basis through personnel devoted to the Hazardous Waste Management Program. Aside from the Office of the Attorney General, no other divisions of the Department or other agencies of the State government have any responsibilities in the RCRA enforcement program. Formal coordination on enforcement actions which might affect or involve other programs such as those of the State Air Pollution Control Board or State Water Control Board is carried out by the Office of the Attorney General.

As shown in Table 1 (Section B of this Document) the present staff contributes 24.75 man-years to the hazardous waste management program. This level will be increased to a total of 29 man-years by the end of the State Fiscal Year 1983/84 (July 1, 1984). This level of effort is sufficient to carry out the responsibilities under final authorization in State Fiscal Year

1984/85. Additional personnel after July 1, 1985 will reflect the increased effort in the permitting area of the program. The State budget authorization for the 1984/86 Biennium reflects the increased number of the FTE positions. Unless the hazardous waste management program requirements expand drastically as the result of the RCRA reauthorization, no personnel shortfall is expected.

The Department does not plan to rely on EPA contractors to provide technical support for the compliance/enforcement program. Should such a requirement materialize at a latter date, the Virginia program will supplement its expertise in the combustion engineering area by obtaining assistance from other State agencies and, if needed, by reprogramming existing contractual support from the permitting to the compliance subprogram.

The Department obtains its routine laboratory service support from two contract laboratories. In FY84 such support is being received from Versar, Inc. and Mead-CompuChem. Both contractors are sufficiently large to absorb any possible increase in Virginia workload. Forensic analyses are performed by the Division of Consolidated Laboratories, Department of General Services. Capacity shortfall is not expected, but should it occur, the contract laboratories used by the program would be tasked to provide such support. Both contractors are presently used by EPA in its own analytical effort and they have EPA-approved QA/QC and chain-of-custody programs.

#### 5. Enforcement Strategy

The Commonwealth is committed to the policy of resolving all instances of non-compliance identified through various pathways mentioned in Section F.2(a) at the earliest feasible time. The development of the overall strategy integrating immediate and long-term objectives and of the appropriate program quality measurements will be the subject of the FY85 grant commitment.

#### 6. Other Program Elements

Virginia is one of the five pilot states selected for participation in the EPA study on state participation in the Hazardous Waste Data Management System (HWDMS). The computer hardware required for full participation in the HWDMS has been ordered and should be acquired in the last quarter of FY84. The commitment to participate in HWDMS is contained in Section IV C2d, MOA. As a part of the participation in this program, the Department adopted the hard copy federal enforcement tracking system for its own use.

Potential enforcement cases for EPA action are, at present time, referred by a simple letter outlining the desired objective and transmitting documents pertinent to the case.



G. MANIFEST SYSTEM - §271.6(f)

The Commonwealth has elected to follow the federal manifest system procedures and has not required submission of the individual manifests to the Department of Health for processing. However, the Commonwealth does require submission of the annual reports by the generators (Section 6.00), transporters (Section 7.00) and owners or operators of TSD facilities (Section 9.00 and 10.00).

Section 5.00 of the Commonwealth's regulations requires the use of the manifest by all who manage hazardous wastes, unless excluded by the regulations. This is consistent with Federal requirements. Amendment 5, adopted on May 16, 1984, requires the use of the Uniform Manifest form.

The Commonwealth under Final Authorization will continue its practice of requiring annual reports from transporters as part of its manifest system. This procedure has worked effectively in Virginia as a tracking mechanism and provides the Commonwealth with all of the information needed to adequately monitor activities and perform its function of enforcement. Moreover, the current practice eliminates the unnecessary handling and storage of numerous copies of manifest forms which keeps administrative costs to a minimum.

H. ESTIMATED TYPES AND NUMBER OF REGULATED ACTIVITIES - §271.6(g) and (h)

The estimated types and numbers of regulated activities in the Commonwealth are presented in Table 7. In addition, the best estimate of annual quantities of hazardous wastes in the Commonwealth are presented in Table 8. The formats used for these tables are the same as those suggested by EPA in the application manual.

TABLE 7

ESTIMATED TYPES AND NUMBER OF REGULATED ACTIVITIES  
AS OF OCTOBER 31, 1983

PERMIT STATUS				
Activity Type	State Interim Status	State Permit	RCRA Permit	Total
Generators	n.a.	n.a.	n.a.	1074
Transporters	n.a.	n.a.	n.a.	200
Storage Facilities				
on-site	89	--	--	89
off-site	25	2	--	27
Treatment Facilities				
on-site	40	--	--	40
off-site	--	--	--	--
Disposal Facilities				
on-site	16	--	--	16
off-site	--	--	--	--

TABLE 8

ANNUAL QUANTITIES OF HAZARDOUS WASTES  
BASED ON CALENDAR YEAR 1982

Activity	Annual Quantities
Generated in the state *	97,795 tons
Transported (estimated)	823,082 tons
into the state	743,355 tons
out of the state	79,527 tons
Stored, Treated, Disposed in the State **	761,825 tons
on-site	18,270 tons
off-site	743,355 tons

\* non-exempt generators only

\*\* includes all manifested wastes from small quantity generators

I. FORMS - §271.6(d)

With the exception of the annual report forms to be used by the generators, transporters and owners/operators of facilities and forms to be used by the transporters in those portions of the Hazardous Waste Management Program that are more stringent, the Department presently requires the use of federal forms and does not intend to publish its own forms. The format of the Virginia forms is shown in Attachment #9. The actual forms are being type-set and will appear in the final version of the VHWM Regulations incorporating the adopted Amendment 5 (Attachment #2).

## PROGRAM DESCRIPTION

### List of Attachments

- Attachment #1 - Proposed Amendments to Sections 32.1-182 and 32.1-186, Code of Virginia (1950), Adopted by the 1984 Session of the General Assembly
- Attachment #2 - Adopted Amendment #5 - Changes in Federal Regulations since August 1, 1982, as reflected in the Hazardous Waste Management Regulations of Virginia and Proposed Amendment #6 - Permit Application Fees Schedule
- Attachment #3 - Schedule for Final Authorization
- Attachment #4 - List of Major Facilities
- Attachment #5 - State Water Control Board: "Water Resources Policy" (1974)
- Attachment #6 - Hazardous Waste Management Facilities Siting Act
- Attachment #7 - Cooperative Agreement with USDOT
- Attachment #8 - Virginia Regulations Governing the Transportation of Hazardous Materials
- Attachment #9 - Virginia Forms Used in Hazardous Waste Management Program
- Attachment #10 - Sampling Procedures and Chain of Custody for Samples
- Attachment #11 - Illustrative List of Violations
- Attachment #12 - Procedures for Obtaining Assistance from the Attorney General's Office
- Attachment #13 - Checklists Used in Compliance Evaluation Inspections



Attachment 1 to  
Program Description

PROPOSED AMENDMENTS TO SECTIONS 32.1-182 AND 32.1-186  
CODE OF VIRGINIA (1950)  
ADOPTED BY THE 1984 SESSION OF THE GENERAL ASSEMBLY

An Act to amend and reenact § 32.1-182 of the Code of Virginia, relating to hazardous waste management.

[S 34]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-182 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-182. Financial responsibility for abandoned facilities.—A. The Board shall, no sooner than October one, nineteen hundred eighty-one 1. 1981, promulgate regulations which insure that, in the event that a facility for the disposal of solid waste or a facility in which hazardous waste is stored, treated, or disposed is abandoned, the costs associated with protecting the public health and safety from the consequences of such abandonment may be recovered from the person abandoning the facility.

B. Such regulations may include bonding requirements, the creation of a trust fund to be maintained within the State Health Department, self-insurance, other forms of commercial insurance, or such other mechanism as the Board may deem appropriate. Regulations governing the amount thereof shall take into consideration the potential for contamination and injury by the solid or hazardous waste, the cost of disposal of the solid or hazardous waste and the cost of restoring the facility to a safe condition.

C. No sooner than October one, nineteen hundred eighty 1, 1980, and no later than March one, nineteen hundred eighty-one 1. 1981, the Board shall make available for public hearing and comment an initial draft of such regulations.

D. No State, local or other governmental state agency shall be required to comply with such regulations. Local or other governmental agencies shall comply only with such regulations as they apply to hazardous waste treatment, storage and disposal facilities.

E. Forfeiture of any financial obligation imposed pursuant to this section shall not relieve any holder of a permit issued pursuant to the provisions of this article of any other legal obligations for the consequences of abandonment of any facility.

F. Any funds forfeited pursuant to this section and the regulations of the Board shall be paid over to the county, city or town in which the abandoned facility is located. The county, city or town in which the facility is located shall expend such forfeited funds as necessary to restore and maintain such facility in a safe condition.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House of Delegates

Approved:

\_\_\_\_\_  
Governor

*An Act to amend and reenact § 32.1-186 of the Code of Virginia, relating to penalties for unauthorized transportation of hazardous waste.*

[S 204]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-186 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-186. Penalties.—A. In addition to the provisions of § 32.1-27, any person who violates any provision of this article or any regulation or order of the Board adopted pursuant to this article shall, upon such finding by an appropriate circuit court, be assessed a civil penalty of not more than ten thousand dollars for each day of such violation. All civil penalties under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth.

B. In addition to the penalties provided above and in § 32.1-27, any person who knowingly transports any hazardous waste to an unpermitted facility; who knowingly transports, treats, stores, or disposes of hazardous waste without a permit; or who knowingly makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of hazardous waste program compliance shall be guilty of a felony and shall be punished by confinement in the penitentiary for one year or, in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months and a fine of not more than ~~ten thousand dollars~~ \$10,000 for each day of violation, either or both.

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President of the Senate

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Speaker of the House of Delegates

Approved:

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Governor

<b>UNIFORM HAZARDOUS WASTE MANIFEST</b>		1. Generator's US EPA ID No.	Manifest Document No.	2. Page 1 of	Information in the shaded areas is not required by Federal law.	
3. Generator's Name and Mailing Address				A. State Manifest Document Number		
4. Generator's Phone ( )				B. State Generator's ID		
5. Transporter 1 Company Name		6. US EPA ID Number		C. State Transporter's ID		
7. Transporter 2 Company Name		8. US EPA ID Number		D. Transporter's Phone		
9. Designated Facility Name and Site Address		10. US EPA ID Number		E. State Transporter's ID		
				F. Transporter's Phone		
				G. State Facility's ID		
				H. Facility's Phone		
11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)				12. Containers	13. Total Quantity	14. Unit Wt/Vol
				No.	Type	I. Waste No.
a.						
b.						
c.						
d.						
J. Additional Descriptions for Materials Listed Above				K. Handling Codes for Wastes Listed Above		
15. Special Handling Instructions and Additional Information						
16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations.						
Printed/Typed Name				Signature		Date Month Day Year
17. Transporter 1 Acknowledgement of Receipt of Materials				Signature		Date Month Day Year
Printed/Typed Name				Signature		Date Month Day Year
18. Transporter 2 Acknowledgement or Receipt of Materials				Signature		Date Month Day Year
Printed/Typed Name				Signature		Date Month Day Year
19. Discrepancy Indication Space						
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.						
Printed/Typed Name				Signature		Date Month Day Year

Attachment 2 to  
Program Description

ADOPTED AMENDMENT 5  
AND  
PROPOSED AMENDMENT 6  
TO  
VIRGINIA HAZARDOUS WASTE MANAGEMENT REGULATIONS



COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF HEALTH

AMENDMENT 5 TO  
VIRGINIA HAZARDOUS WASTE MANAGEMENT REGULATIONS

ADOPTED ON  
MAY 16, 1984

**A. SECTION 1.00**

1. Add new Section 1.01.03(o) to reflect statutory amendments by the 1983 Session of the General Assembly:

"(o) Collect from any person operating or proposing to operate a hazardous waste treatment, storage or disposal facility or any person transporting hazardous wastes, permit application fees sufficient to defray costs only related to the issuance of permits as required by the Code in accordance with regulations promulgated by the Board, but such fees shall not exceed the cost necessary to implement this Section. All fees received shall be used exclusively for the hazardous waste management program."

2. Correct Section 1.05 to read:

"1.05 Effective Date of Regulations: These regulations were initially promulgated by the Board of Health on November 21, 1980 with an effective date of May 21, 1981. The effective dates of the subsequent amendments are shown on the reverse side of the front page."

**B. SECTION 2.00**

1. Add following definitions to clarify the subject matter contained in other Sections of these regulations.

a. "2.40.01 Draft Permit: A document prepared under Section 11.22 indicating the Commissioner's tentative decision to issue or deny, modify, revoke and reissue, terminate or reissue a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of request for modification, revocation and reissuance, or termination is not a draft permit."

b. "2.54.01 Final Authorization: Approval by EPA of a State program which has met the requirements of Section 3006(b) of RCRA and the applicable requirements of Title 40, Code of Federal Regulations, Part 271, Subpart A."

c. "2.78.01 Interim Authorization: Approval by EPA of a State hazardous waste program which has met the requirements of Section 3006(c) of RCRA and applicable requirements of Title 40, Code of Federal Regulations, Part 271, Subpart B."

d. "2.130.01 Regulated Unit of the facility: A unit of the facility used for storage treatment or disposal of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills which received hazardous waste after January 26, 1983."

2. Change or add the following definitions to reflect the appropriate changes to federal regulation:

a. Proposed change deleted.

b. "2.119.02 Principal Corporate Officer: Either:

(a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decisionmaking function for the corporation, or

(b) The manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures." [48 FR 39622, Sep. 1, 1983]

c. "2.120 Principal Executive Officer: For the purposes of these regulations, a principal executive officer is defined as:

(a) For a Federal Agency:

(1) The chief executive officer of the agency; or

(2) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g. Regional Administrators of EPA).

(b) For a State Agency: The chief executive officer of a Department, Board, Commission, Hospital, Educational Institution or an Authority.

(c) For a municipality: The chief executive officer of a county, city or town." [48 FR 29622, Sept. 1, 1983]

3. In order to eliminate confusion, add Section 2.147.01 to read:

"2.147.01 Signature: The name of a person written with his own hand."

4. Correct following definitions to conform with the federal regulations:

a. "2.44 Equivalent Method: Any testing or analytical method which is determined by the Administrator to be functionally equivalent to or superior to the method specified."

b. "2.48 EP Toxicity (Extraction Procedure Toxicity): A characteristic that a solid waste exhibits when the extract is tested in accordance with a procedure described in Appendix II to 40 CFR Part 261 or an equivalent method and is found to equal or exceed concentrations of the contaminants shown in Subsection 3.10."

### C. SECTION 3.00

1. To conform Virginia standard for EP toxicity maximum concentration with those contained in 40 CFR 261.24, change entry D007 to read:

"D007 Chromium . . . . . 5.0"

2. To establish Virginia procedures for delisting of hazardous wastes, make following changes and additions:

a. Change Section 3.01 to read:

#### "3.01 General

3.01.01 This Section identifies those solid waste which are subject to Virginia Hazardous Waste Management Regulations.

3.01.02 Procedures for effecting changes in the identification and listing of hazardous wastes are described in Section 3.12."

b. Add new Section 3.05.03 to read:

"3.05.03 For the convenience of the regulated community the criteria for listing hazardous waste by the Administrator is shown in Appendix 3.9."

c. Delete present Section 3.12 in toto and substitute new Section 3.12 to read:

#### "3.12 Changes to Identification and Listing of Hazardous Wastes

##### 3.12.01 General Changes

(a) The Administrator may from time to time add or delete wastes listed in Subpart D of Part 261, Title 40, Code of Federal Regulation (40 CFR 261). Upon publication of such change in the Federal Register, the Commissioner will give notice of his intention to conform the lists contained in Appendix 3.1 of these Regulations to the federal lists in accordance with the procedures required by the Virginia Administrative Process Act.

(b) The petitions to exclude wastes listed in Subpart D, 40 CFR 261 which are subject to federal jurisdiction shall be addressed directly to the Administrator in accordance with the requirements contained in Subpart C, 40 CFR 260. Upon publication of a favorable decision in the Federal Register, the Commissioner will give notice of his intention to conform the lists contained in Appendix 3.1.

##### 3.12.02 Exclusion of Wastes Generated at a Particular Facility.

(a) A person whose waste is managed entirely within the Commonwealth may petition the Commissioner to exclude the waste at a particular generating site either from the lists contained in Appendix 3.1 or from the definition of hazardous waste (Section 2.64(a)(2)(ii) or 2.64(c)). The procedures required for such petitions are shown in Section 3.12.03. The wastes excluded under

such petitions may still, however, be a hazardous waste based on Section 3.06 of these regulations.

(b) A person who generates wastes at a facility in Virginia and whose waste is subject to federal jurisdiction (e.g. the waste is transported across state boundaries) shall first obtain favorable decision from the Administrator in accordance with Subpart C, 40 CFR Part 260, before his waste may be considered for exclusion by the Commissioner.

(c) A person who generates wastes listed in Appendix 3.1 or defined as hazardous wastes in Section 2.64 outside the Commonwealth and who causes them to be brought into the Commonwealth for storage, treatment or disposal, shall first obtain favorable decision from the Administrator in accordance with Subpart C, 40 CFR Part 260, before his waste may be considered for exclusion by the Commissioner.

(d) A person whose wastes were delisted as a result of a successful petition to the Administrator shall conform to the abbreviated procedures contained in Section 3.12.04.

### 3.12.03 Petitioning Requirements

(a) General Requirements. The petition shall be submitted to the Commissioner by certified mail and shall include:

- (1) The petitioner's name and address
- (2) A statement of petitioner's interest in the proposed action;
- (3) A description of proposed action;
- (4) A description of need and justification for the proposed action;
- (5) The location of the generating facility;
- (6) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations or feed materials can or might produce a waste that is not covered by the demonstration;
- (7) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the petition;
- (8) Pertinent data on and discussion of factors delineated in the respective criterion for listing a hazardous waste (Appendix 3.9), if applicable;
- (9) A description of the methodologies and equipment used to obtain representative samples;
- (10) The name and address of the laboratory facility performing the sampling on tests of the waste, if different from that of the petitions;
- (11) The names and qualifications of the persons sampling and testing the wastes;



(12) The dates of sampling and testing;

(13) A description of sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of samples;

(14) A description of the tests performed and the results obtained;

(15) The names and model members of instruments used in performing tests; and

(16) The following statement signed by the generator of the waste or his authorized representative:

"I certify that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(b) Requirements for exclusion from the lists in Appendix 3.1. To be successful, the petitioner shall demonstrate to the satisfaction of the Commissioner that the waste produced by the particular generating facility does not meet any of the criteria under which the waste was listed by the Administrator as a hazardous waste under 40 CFR 261.11 and, in case of acutely hazardous waste listed under 40 CFR 261.11(a)(2), that it also does not meet the criterion of 40 CFR 261.11(a)(3).

[Note: For the convenience of the regulated community the most current version of Section 261.11 of Title 40, Code of Federal Regulation is reproduced in Appendix 3.9 of these regulations.]

(c) Requirements for exclusion from the definition of hazardous waste. To exclude a waste from the definition contained in Section 2.64(a)(2)(ii) or 2.64(c), the petitioner shall make the same demonstration as required in Section 3.12.03(a), except that where the waste is a mixture of solid waste and one of more listed hazardous wastes or is derived from one or more hazardous wastes, his demonstration may be made with respect to each constituent listed waste or the waste mixture as a whole.

(d) If the waste is listed with code "I", "C", "R", or "E" in Section 3.11.01, the petitioner shall show that demonstration samples of the waste do not exhibit the relevant characteristic defined in Sections 3.07 through 3.10 using the methods prescribed in those Sections.

(e) If the waste is listed with code "T" in Section 3.11.01, the petitioner shall demonstrate that:

(1) Demonstration samples of the waste do not contain the constituent for which it was listed as show in Appendix 3.5, using the appropriate test methods prescribed in Appendix 3.4; or

(2) The waste does not meet the criterion of Section 261.11(a)(3), Appendix 3.9, when considering factors (i) through (xi).

(f) If the waste is listed with the code "H" in Section 3.11.01, the petitioner shall demonstrate that the waste does not meet both of the following criteria:

(1) The criteria of Section 261.11(a)(2), Appendix 3.9; and

(2) The criteria of Section 261.11(a)(3), Appendix 3.9, when considering the factors (i) through (xi)

(g) Demonstration samples shall consist of enough representative samples, but in no case less than four samples, taken over a period of time sufficient to represent variability or uniformity of the waste.

(h) After receiving a petition for an exclusion, the Commissioner may request any additional information which he may reasonably require to evaluate the petition.

(i) The petition for exclusion will only apply to the waste generated at the individual facility and will not apply to waste from any other facility. Information obtained at other facilities will not be considered in the evaluation process.

(j) The Commissioner may elect to exclude only part of the waste for which the demonstration is submitted where he has reason to believe that variability of the waste justifies partial exclusion.

3.12.04 Abbreviated Petitioning Procedure. A person whose wastes were delisted as result of a successful petition to the Administrator shall furnish the following documentation to the Commissioner before his wastes may be considered for exclusion from these regulations:

(a) The petitioner's name and address;

(b) A statement of petitioner's interest in obtaining exclusion from these regulations; and

(c) Copy of the Administrator's decision."

d. Add new Appendix 3.9 to read:

"APPENDIX 3.9 Federal Criteria for Listing Hazardous Waste

For the convenience of the regulated community, the most current version of paragraph 261.11, 40 CFR Part 261, is listed below:

(a) The Administrator shall list a solid waste as a hazardous waste only upon determining that the solid waste meet one of the following criteria:

(1) It exhibits any of the characteristics of hazardous waste identified in Subpart C.

(2) It has been found to be fatal to humans in low doses or, in the absence of data on human toxicity, it has been shown in studies to have an oral LD 50 toxicity (rat) of less than 50 milligrams per kilogram, an inhalation Lc 50 toxicity (rat) of less than 2 milligrams per kilograms per liter, or a dermal LD 50 toxicity (rabbit) of less than 200 milligrams or is otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible, illness. (Waste listed in accordance with these criteria will be designated Acute Hazardous Waste).

(3) It contains any of the toxic constituents listed in Appendix VIII (NOTE: material contained in the federal Appendix VIII to Part 261, is shown in Appendix 3.5, VHWMR) unless, after considering any of the following factors, the Administrator concludes that the waste is not capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed:

- (i) The nature of the toxicity presented by the constituent.
- (ii) The concentration of the constituent in the waste.
- (iii) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in paragraph (a)(3)(vii) of this Section.
- (iv) The persistence of the constituent or any toxic degradation product of the constituent.
- (v) The potential for the constituent or any toxic product of the constituent to degrade into nonharmful constituents and the rate of degradation.
- (vi) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems.
- (vii) The plausible types of improper management to which the waste could be subjected.
- (viii) The quantities of the waste generated at individual generation sites or on a regional or national basis.
- (ix) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent.
- (x) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent.
- (xi) Such other factors as may be appropriate.

Substances will be listed on Appendix VIII only if they have been shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic

effects on humans or other life forms. [Wastes listed in accordance with these criteria will be designated Toxic wastes.]

(b) The Administrator may list classes or types of solid waste as hazardous waste if he has reason to believe that individual wastes, within the classes or types of solid waste as hazardous waste if he has reason to believe that individual wastes, within the class or type of waste, typically or frequently are hazardous under the definition of hazardous waste found in Section 1004(5) of the Act. [NOTE: Act referred here to is the RCRA.]

(c) The Administrator will use the criteria for listing specified in this section to establish the exclusion limits referred to in § 261.5(c). [NOTE: Paragraph referred to is equivalent to Section 3.03.03, VHWMR.]

3. To reflect changes in the federal regulations promulgated on August 12, 1982 (47 FR 36097), change existing Section 3.13.02(a)(2) and add new Section 3.13.02(a)(3) to read:

"(2) no more than 2.5 centimeters (one inch) of residue remain on the bottom of the containers or inner liner; or

(3)(i) no more than 3 percent by weight of the total capacity of the container remains in the container or the inner liner if the container is less than or equal to 110 gallons in size, or

(ii) no more than 0.3 percent by weight of the total capacity of the container remain in the container or inner liner if the container is greater than 110 gallons in size."

4. To reflect changes in the federal regulations promulgated on February 10, 1984 (49 FR 5312), add the following:

a. Table 3.1-1, Appendix 3.1:

"F024 Wastes, including but not limited to distillation residues, heavy ends, tars, and reactor clean-out wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. [This listing does not include light ends, spent filters and filter aids, spent dessicants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed in Table 3.1-2.] (T)

b. In appropriate place in Appendix 3.5:

"F024 Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, 1,1,2-tetrachloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, allyl chloride (3-chloropropene),

dichloroprane, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorbenzene, dichlorobenzenes, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene.

- c. In appropriate alphabetical order in Appendix 3.6:

3-Chloropropene (allyl chloride)  
2-Chloro-1, 3-butadiene (chloroprene)

5. Proposed change deleted.

6. To reflect changes in the federal regulations promulgated on April 8, 1983 (48 FR 15257), change Appendix 3.4 in toto to read:

"Appendix 3.4 Chemical Analysis Test Methods

Tables 3.4-1, 2 and 3 specify the appropriate analytical procedures described in "Test Methods for Evaluating Solid Waste (SW.846)" (see Appendix 3.7) which shall be used in determining whether the waste in question contains a given toxic constituent. Table 3.4-1 identifies organic constituents listed in Appendix 3.5 or Appendix 3.6, along with the approved measurement method. Table 3.4-2, identifies the corresponding methods for inorganic species. Table 3.4-3 summarizes the contents of SW-846 and supplies specific Section and method numbers for sampling and analysis method.

Prior to final sampling analysis method selection the analysis should consult the specific guidance on which of the approved methods should be employed for a specific sample analysis situation.

[NOTE: Title 40, Code of Federal Regulations, Part 260, Section 260.61, contains procedural requirements for petitions for a regulatory amendment to add a testing or analytical method which would be considered to be equivalent to those contained in the referenced publications. Any person seeking such an addition will address such rulemaking petition to the Administrator in accordance with Title 40, Code of Federal Regulations, Part 260, Subpart C.]

Table 3.4-1 Analysis Methods for Organic Constituents

Compound	First Edition Method(s)	Second Edition Method(s)
Acetonitrile.....	8.03, 8.24	8030, 8240
Acrolein.....	8.03, 8.24	8030, 8240
Acrylamide.....	8.01, 8.24	8015, 8240
Acrylonitrile.....	8.03, 8.24	8030, 8240
Benzene.....	8.02, 8.24	8020, 8024
Benz(a)anthracene.....	8.10, 8.25	8100, 8250, 8310
Benzo(a)pyrene.....	8.10, 8.25	8100, 8250, 8310
Benzotrichloride.....	8.10, 8.25	8120, 8250
Benzyl chloride.....	8.01, 8.12	8120, 8250
	8.24, 8.25	
Benzo(b)fluoranthene.....	8.10, 8.25	8100, 8250, 8310
Bis(2-chloroethoxymethane).....	8.01, 8.24	8010, 8240
Bis(2-chloroethyl)ether.....	8.01, 8.24	8010, 8240
Bis(2-chlorisopropyl)ether.....	8.01, 8.24	8010, 8240
Carbon disulfide.....	8.01, 8.24	8015, 8240
Carbon tetrachloride.....	8.01, 8.24	8010, 8240
Chlordane.....	8.08, 8.25	8080, 8240
Chlorinated dibenzodioxins.....	8.08, 8.25	8080, 8250
Chlorinated biphenyls.....	8.08, 8.25	8080, 8250
Chloroacetaldehyde.....	8.01, 8.24	8010, 8240
Chlorobenzene.....	8.01, 8.02,	8020, 8240
	8.24	
Chloroform.....	8.01, 8.24	8010, 8240
Chloromethane.....	8.01, 8.24	8010, 8240
2-Chlorophenol.....	8.04, 8.25	8040, 8250
Chrysene.....	8.10, 8.25	8100, 8250, 8310
Creosote.....	8.10, 8.25*	8100, 8250*
Cresol(s).....	8.04, 8.25	8040, 8250
Cresylic Acid(s).....	8.04, 8.25	8040, 8250
Dichlorobenzene(s).....	8.01, 8.02,	8010, 8120, 8250
	8.12, 8.25	
Dichloroethane(s).....	8.01, 8.24	8010, 8240
Dichloromethane.....	8.01, 8.24	8010, 8240
Dichlorophenoxyacetic acid.....	8.40, 8.25	8150, 8250
Dichloropropanol.....	8.12, 8.25	8120, 8250
2,4-Dimethylphenol.....	8.04, 8.25	8040, 8250
Dinitrobenzene.....	8.09, 8.25	8090, 8250
4,6-Dinitro-o-cresol.....	8.04, 8.25	8040, 8250
2,4-Dinitrotoluene.....	8.09, 8.25	8090, 8250
Endrin.....	8.04, 8.25	8080, 8250
Ethyl ether.....	8.01, 8.02,	8015, 8240
	8.24	
Formaldehyde.....	8.01, 8.24	8015, 8240
Formic acid.....	8.06, 8.25	8250
Heptachlor.....	8.06, 8.25	8080, 8250
Hexachlorobenzene.....	8.12, 8.25	8120, 8250
Hexachlorobutadiene.....	8.12, 8.25	8120, 8250
Hexachloroethane.....	8.12, 8.25	8010, 8240



Hexachlorocyclopentadiene.....	8.12, 8.25	8120, 8250
Lindane.....	8.08, 8.25	8080, 8250
Maleic anhydride.....	8.06, 8.25	8250
Methanol.....	8.01, 8.24	8010, 8240
Metholmyl.....	8.32	8250
Methyl ethyl ketone.....	8.01, 8.02	8015, 8240
	8.24	
Methyl isobutyl ketone.....	8.01, 8.02	8015, 8240
	8.24	
Napthalene.....	8.10, 8.25	8100, 8250
Napthoquinone.....	8.06, 8.09,	8090, 8250
	8.25	
Nitrobenzene.....	8.09, 8.25	8090, 8250
4-Nitrophenol.....	8.04, 8.25	8040, 8240
Paraldehyde (trimer of acetaldehyde)	8.04, 8.24	8015, 8240
Pentachlorophenol.....	8.04, 8.25	8040, 8250
Phenol.....	8.04, 8.25	8040, 8250
Phorate.....	8.22	8140
Phosphorodithioic acid esters.....	8.06, 8.09,	8140
	8.22	
Phthalic anhydride.....	8.06, 8.09,	8090, 8250
	8.25	
2-Picoline.....	8.06, 8.09,	8090, 8250
	8.25	
Pyridine.....	8.06, 8.09,	8090, 8250
	8.25	
Tetrachlorobenzene(s).....	8.12, 8.25	8120, 8250
Tetrachloroethane(s).....	8.01, 8.24	8010, 8240
Tetrachloroethene.....	8.02, 8.24	8010, 8240
Tetrachlorophenol.....	8.04, 8.24	8040, 8250
Toluene.....	8.02, 8.24	8020, 8024
Toluenediamine.....	8.25	8250
Toluene disocyanate(s).....	8.06, 8.25	8250
Toxaphene.....	8.08, 8.25	8080, 8250
Trichloroethane.....	8.01, 8.24	8010, 8240
Trichloroethane(s).....	8.01, 8.24	8010, 8240
Trichlorofluoromethane.....	8.01, 8.24	8010, 8240
Trichlorophenol(s).....	8.04, 8.25	8040, 8250
2,4,5-Trichlorophenoxy propionic acid.....	8.40, 8.25	8150, 8250
Trichloropropane.....	8.01, 8.24	8010, 8240
Vinyl chloride.....	8.01, 8.24	8010, 8240
Vinylidene chloride.....	8.01, 8.24	8010, 8240
Xylene.....	8.02, 8.24	8020, 8240

\*Analyze for phenanthrene and carbazole; if these are present in a ratio between 1.4:1 and 5:1, creosote should be considered present.

Table 3.4-2 Analysis Methods for Inorganic Constituents

Compound	First edition method(s)	Second edition method(s)
Antimony.....	8.50	7040, 7041
Arsenic.....	8.51	7060, 7061
Barium.....	8.52	7080, 7081
Cadmium.....	8.53	7090, 7091
Chromium.....	8.54	7190, 7191
Chromium: Hexavalent.....	8.545, 8.546 8.547	7195, 7196 7197
Lead.....	8.56	7420, 7421
Mercury.....	8.57	7470, 7471
Nickel.....	8.58	7520, 7521
Selenium.....	8.59	7740, 7741
Silver.....	8.60	7760, 7761
Cyanides.....	8.55	9010
Total Organic Halogen.....	8.66	9020
Sulfides.....	8.67	9030

Table 3.4-3 Sampling and Analysis Methods Contained in SW-846

Title	First Edition		Second Edition	
	Section No.	Method No.	Section No.	Method No.
Sampling of Solid Wastes.....	1.0	.....	1.0	
Development of Appropriate Sampling Plans.....	1.0	.....	1.1	
Regulatory and Scientific Objectives.....	1.0-2	.....	1.1.1	
Fundamental Statistical Concepts.....	1.0-3	.....	1.1.2	
Basic Statistical Strategies.....	1.0.7	.....	1.1.3	
Simple Random Sampling.....			1.1.3.1	
Stratified Random Sampling.....			1.1.3.2	
Systematic Random Sampling.....			1.1.3.3	
Special Considerations.....	1.0.7	.....		
Composite Sampling.....			1.1.4.1	
Subsampling.....			1.1.4.2	
Cost and Loss Functions.....			1.1.4.3	
Implementation of Sampling Plan.....	1.0.7	.....	1.2	
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Acid Digestion for Furnace AAS.....		.....	4.1	3020
Acid Digestion for Oil, Grease or Wax.....	8.49-9	.....	4.1	3030
Dissolution Procedure for Oil, Grease or Wax..	8.49-8			
Alkaline Digestion.....	8.0	8.458	4.1	3060
Organic Techniques.....	8.0	.....	4.2	
Separatory Funnel Liquid-Liquid Extraction....	9.0	9.1	4.2	3510
Continuous Liquid-Liquid Extraction.....	9.0	9.01	4.2	3520
Acid-Base Cleanup Extraction.....	8.0	8.84	4.2	3530
Soxhlet Extraction.....	8.0	8.86	4.2	3540
Somication Extraction.....	8.0	8.85	4.2	3550
Sample Introduction Techniques.....			5.0	
Headspace.....	8.0	8.82	5.0	5020
Purge-and-Trap.....	8.0	8.83	5.0	5030
Inorganic Analytical Methods.....	8.0	.....	7.0	
Antimony, Flame AAS.....	8.0	8.50	7.0	7470
Antimony, Furnace AAS.....	8.0	8.50	7.0	7471
Arsenic, Flame AAS.....	8.0	8.51	7.0	7060
Arsenic, Furnace AAS.....	8.0	8.51	7.0	7061

Barium, Flame AAS.....	8.0	8.52	7.0	7080
Barium, Furnace AAS.....	8.0	8.52	7.0	7081
Cadmium, Flame AAS.....	8.0	8.53	7.0	7130
Cadmium, Furnace AAS.....	8.0	8.53	7.0	7131
Chromium, Flame AAS.....	8.0	8.54	7.0	7190
Chromium, Furnace AAS.....	8.0	8.54	7.0	7191
Chromium, Hexavalent, Coprecipitation.....	8.0	8.545	7.0	7195
Chromium, Hexavalent, Colorimetric.....	8.0	8.546	7.0	7196
Chromium, Hexavalent, Chelation.....	8.0	8.547	7.0	7197
Lead, Flame AAS.....	8.0	8.56	7.0	7420
Lead, Furnace AAS.....	8.0	8.56	7.0	7421
Mercury, Cold Vapor, Liquid.....	8.0	8.57	7.0	7470
Mercury, Cold Vapor, Solid.....	8.0	8.57	7.0	7471
Nickel, Flame AAS.....	8.0	8.58	7.0	7520
Nickel, Furnace AAS.....	8.0	8.58	7.0	7521
Selenium, Flame AAS.....	8.0	8.59	7.0	7740
Selenium, Gaseous Hydride AAS.....	8.0	8.59	7.0	7741
Silver, Flame AAS.....	8.0	8.60	7.0	7760
Silver, Furnace AAS.....	8.0	8.60	7.0	7761
Organic Analytical Methods.....	8.0	.....	8.0	
Gas Chromatographic Methods.....	8.0	.....	8.1	
Halogenated Volatile Organics.....	8.0	8.01	8.1	8010
Nonhalogenated Volatile Organics.....	8.0	8.01	8.1	8015
Aromatic Volatile Organics.....	8.0	8.02	8.1	8020
Acrolein, Acrylonitrile, Acetonitrile.....	8.0	8.03	8.1	8030
Phenols.....	8.0	8.04	8.1	8040
Phthalate Esters.....	8.0	8.06	8.1	8060
Organochlorine Pesticides and PCB's.....	8.0	8.08	8.1	8080
Nitroaromatics and Cyclic Ketones.....	8.0	8.09	8.1	8090
Polynuclear Aromatic Hydrocarbons.....	8.0	8.10	8.1	8100
Chlorinated Hydrocarbons.....	8.0	8.12	8.1	8120
Organophosphorus Pesticides.....	8.0	8.22	8.1	8140
Chlorinated Herbicides.....	8.0	8.40	8.1	8150
Gas Chromatographic/Mass Spectroscopy Methods (GC/MS)	8.0	.....	8.2	
GC/MS Volatiles.....	8.0	8.24	8.2	8240
GC/MS Semi-Volatiles, Packed Column.....	8.0	8.25	8.2	8250
GC/MS Semi-Volatiles, Capillary.....	8.0	8.27	8.2	8270
High Performance Liquid Chromatographic Methods (HPLC)	8.0	.....	8.3	
Polynuclear Aromatic Hydrocarbons.....	8.0	8.10	8.3	8310

Miscellaneous Analytical Methods.....	8.0	.....	9.0	
Cyanide, Total and Amenable to Chlorination.....	8.0	8.56	9.0	9010
Total Organic Halogen (TOX).....	8.0	8.66	9.0	9020
Sulfides.....	8.0	8.67	9.0	9030
pH Measurement.....	5.0	5.2	9.0	9040
Quality Control/Quality Assurance.....	10.0	.....	10.1	
Introduction.....	10.0	.....	10.1	
Program Design.....	10.0	.....	10.2	
Sampling.....	10.0	.....	10.3	
Analysis.....	10.0	.....	10.4	
Data Handling.....	10.0	.....	10.5	

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<sup>1</sup>See specific metal.



7. To reflect changes in the federal regulations promulgated on September 21, 1982 (47 FR 41563), delete reference to "Test Methods for the Evaluation of Solid Waste." etc., in item 5, and add new item 6 to read:

"6. "Test Methods for Evaluating Solid Waste, Physical Chemical Methods", EPA Publication SW-846 [First Edition, 1980, as updated by Revisions A (August, 1980), B (July, 1981) and C (February, 1982) or Second Edition, 1982]. The first edition of SW-846 is no longer in print. Revisions A and B are available from EPA, Office of Solid Waste, (WH-565B), 401 M. Street, S.W., Washington, D.C. 20460. Revision C is available from NTIS, 5285 Port Royal Road, Springfield, Virginia 22161. The second edition of SW-846 includes material from the first edition and Revision A, B, and C in a reorganized format. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783-3238, on a subscription basis, and future updates will automatically be mailed to the subscriber."

8. To improve the format of Section 3.10 make the following changes:

a. Add a title to the table shown on page 3-5 to read:

"Table 3-1. Maximum Concentration of Contaminants for Characteristic of EP Toxicity."

b. Change Section 3.10.03 to read:

"3.10.03 Maximum concentration of contaminants for characteristic of EP Toxicity is shown in Table 3-1."

D. SECTION 5.00

On March 20, 1984, EPA and DOT have published in the Federal Register the final rules on the Uniform Hazardous Waste Manifest. To maintain the Department's stated intention to follow exactly the federal regulations, following changes in Section 5.00 are needed:

1. Delete existing Section 5.01.02 and change Section 5.01.03 to read:

"5.01.02. A Uniform Hazardous Waste Manifest shall be used by all who manage hazardous waste unless excluded by these regulations."

2. Change Section 5.03.01 to read:

"5.03.01. A generator who transports or offers for transportation, hazardous waste for off-site treatment, storage, or disposal shall use a Uniform Hazardous Waste Manifest. The required format of such manifest is prescribed in Section 5.03.07. A sufficient number of copies shall be prepared to meet the requirements of Section 5.05."

3. Change Section 5.03.07 to read:

"5.03.07. Required manifest format.

(a) If the state to which the shipment is manifested ("consignment state") supplies the manifest and requires its use, the proper forms shall be obtained from that state and shall be used in accordance with the instructions supplied. The information furnished by that manifest shall, as a minimum, contain the information required in Section 5.04.

(b) If the consignment state does not supply the manifest and does not require its use, the format shall be that specified by the EPA Form 8700-22 and, if necessary, EPA Form 8700-22A. The completed manifest shall contain all the information required in Section 5.04. The users of these forms may obtain them from any source. As a convenience to the regulated community the forms together with the instructions for their use are shown in Appendix 5.1. Optional information indicated by the shaded areas and headed by upper case letters rather than numbers need not be supplied."

4. Change Section 5.04 in toto to read:

"5.04. Information on a Manifest

5.04.01. Each manifest used for the movement of hazardous wastes within, into or out of the Commonwealth shall contain at a minimum the information prescribed in this Section.

5.04.02. The generator shall furnish the following information:

(a) The generator's name, mailing address, EPA I.D. Number, and a telephone number where an authorized agent of the generator may be reached in the event of emergency.

(b) A unique five digit number assigned to this manifest by the generator.

(c) Total number of pages used to complete this manifest.

(d) Company name(s) and EPA I.D. Number of each transporter used between the generator and the designated facility.

(e) The company name, site address and the EPA I.D. Number of the facility designated to receive the wastes listed on this manifest.

(f) The U.S. DOT description of each waste to include its proper shipping name, hazard class, and I.D. Number (UN/NA), as identified in the Virginia Regulations Governing the Transportation of Hazardous Materials.

(g) Quantities of each waste shipped. Those quantities shall be described in units of weight or volume and the number and the type of containers as loaded into or onto the transport vehicle. The weight of the container shall be included in the total weight of the waste if such a container is to be disposed with the waste.

(h) In case of international shipments, the point of departure (city and state) for those shipments destined for treatment, storage and disposal outside the jurisdiction of the United States.

5.04.03. The generator shall read, enter printed or typed name, sign by hand and date the following certification statement:

"I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by [mode of transportation] according to applicable international and national governmental regulations".

5.04.04. Each transporter shall print or type the name of the person accepting the waste either from the generator or from previous transporter. That person shall acknowledge acceptance of the wastes described on the manifest by signing and entering the date of receipt.

5.04.05. In case of international shipments:

(a) Transporters of wastes consigned for export shall sign and enter the date the waste left the United States in addition to other requirements.

(b) As required in Section 7.01.04(a), transporters who transport wastes into the United States from another country are responsible for the initiation and completion of the manifest form.

5.04.06. Facility owner or operator shall:

(a) Note any significant discrepancy (see Section 5.07) in the space provided on this manifest.

(b) Print or type the name of the person accepting the wastes on behalf of the owner or operator of the facility.

(c) Acknowledge acceptance of the wastes described on the manifest by affixing the signature of the person accepting the shipment and by dating it."

5. Change Section 5.05.03 to read:

"5.05.03. Subsequent transporter shall retain the manifest, shall date and sign for the acceptance of the shipment, comply with all provisions of these regulations, and deliver the shipment to the designated subsequent transporter or the designated hazardous waste management facility. The prior transporter shall retain one copy of the manifest signed and dated by the subsequent transporter for his records."

6. Change Section 5.06.02(h) to read:

"(h) The driver shall not release the shipment without obtaining the date of delivery and the signature of the next transporter or authorized representative of the designated facility on the manifest."

7. Add new Appendix 5.1:

"Appendix 5.1 Uniform Hazardous Waste Manifest (EPA Forms 8700-22 and 8700-22A)"

5.1-01. General Instructions

5.1-01.01. If the state to which the shipment is manifested ("consignment state") supplies the manifest and requires its use, do not use the forms shown in this Appendix.

5.1-01.02. The forms shown in this Appendix are required to be used by the Virginia generators when the consignment state does not supply the manifest and does not require its use.

5.1-01.03. The Commonwealth will not print its own forms. Single copies of camera-ready EPA forms 8700-22 and 22A may be obtained upon request from:

Bureau of Hazardous Waste Management  
101 North 14th Street  
Eleventh Floor Monroe Building  
Richmond, Virginia 23219

5.1-01.04. In cases when generators print their own manifest forms, they may preprint the following information:

(a) Any information requirements with the exception of the manifest document number, certification signature and acceptance signatures;

(b) Transporter safety information; treatment, storage or disposal information; and Bill of Lading information in the item 15 of the form or, if necessary, on the back.

(c) Copy distribution and other general company information in the margin or on the back.

(d) U.S. DOT Description in items 11 and 28; and

(e) Organizational marks such as light lines, line identifiers, etc., to facilitate proper character placement of information anywhere on the form.

5.1-01.05. Read all instructions before completing the manifest forms.

5.1-02. Instructions for EPA Form 8700-22 (Basic Manifest)

5.1-02.01. Generators

Item 1. Generator's U.S. EPA I.D. Number-Manifest Document Number. Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) by the generator.

Item 2. Page 1 of ---. Enter the total number of pages used to complete this Manifest, i.e., the first page (EPA Form 8700-22) plus the number of Continuation Sheets (EPA Form 8700-22A), if any.

Item 3. Generator's Name and Mailing Address. Enter the name and mailing address of the generator. The address should be the location that will manage the returned Manifest forms.

Item 4. Generator's Phone Number. Enter a telephone number where an authorized agent of the generator may be reached in the event of an emergency.

Item 5. Transporter 1 Company Name. Enter the company name of the first transporter who will transport the waste.

Item 6. U.S. EPA I.D. Number. Enter the U.S. EPA twelve digit identification number of the first transporter identified in item 5.

Item 7. Transporter 2 Company Name. If applicable, enter the company name of the second transporter who will transport the waste. If more than two transporters are used to transport the waste, use a Continuation Sheet(s) (EPA Form 8700-22A) and list the transporters in the order they will be transporting the waste.

Item 8. U.S. EPA I.D. Number. If applicable, enter the U.S. EPA twelve digit identification number of the second transporter identified in item 7.

[Note: If more than two transporters are used, enter each additional transport's company name and U.S. EPA twelve digit identification number in items 24-27 on the Continuation Sheet (EPA Form 8700-22A). Each Continuation Sheet has space to record two additional transporters. Every transporter used between the generator and the designated facility must be listed.]

Item 9. Designated Facility Name and Site Address. Enter the company name and site address of the facility designated to receive the waste listed on this Manifest. The address must be the site address, which may differ from the company mailing address.

Item 10. U.S. EPA I.D. Number. Enter the U.S. EPA twelve digit identification number of the designated facility in item 9.

Item 11. U.S. DOT Description [Including Proper Shipping Name, Hazard Class, and I.D. Number (UN/NA)]. Enter the U.S. DOT Proper Shipping Name, Hazard Class, and I.D. Number (UN/NA) for each waste as identified in VRGTHM.

[Note: If additional space is needed for waste descriptions, enter these additional descriptions in item 28 on the Continuation Sheet (EPA Form 8700-22A).]

Item 12. Containers (No. and Type). Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

Table I-Types of Containers

DM = Metal drums, barrels, kegs  
DW = Wooden drums, barrels, kegs  
DF = Fiberboard or plastic drums, barrels, kegs  
TP = Tanks portable  
TT = Cargo tanks (tank trucks)  
TC = Tank cars  
DT = Dump truck  
CY = Cylinders  
CM = Metal boxes, cartons, cases (including roll-offs)  
CW = Wooden boxes, cartons, cases  
CF = Fiber or plast boxes, cartons, cases  
BA = Burlap, cloth, paper or plastic bags

Item 13. Total Quantity. Enter the total quantity of waste described on each line.

Item 14. Unit (Wt./Vol.). Enter the appropriate abbreviation from Table II (below) for the unit of measure.

Table II-Units of Measure

G = Gallons (liquids only)  
P = Pounds  
T = Tons (2000 lbs.)  
Y = Cubic yards  
L = Liters (liquids only)  
K = Kilograms  
M = Metric tons (1000 kg.)  
N = Cubic meters

Item 15. Special Handling Instructions and Additional Information. Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. For international shipments, generators must enter in this space the point of departure (city and state) for those shipments destined for treatment, storage, or disposal outside the jurisdiction of the United States.

Item 16. Generator's Certification. The generator must read, sign (by hand), and date the certification statement. If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, or air) inserted in the space below. If another mode in addition to



the highway mode is used, enter the appropriate additional mode (e.g., and rail) in the space below.

#### 5.1-02.02 - Transporters

Item 17. Transporter 1 Acknowledgement of Receipt of Materials. Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 18. Transporter 2 Acknowledgement of Receipt of Materials. Enter, if applicable, the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described in the Manifest by signing and entering the date of receipt.

[Note: International Shipments - Transporter Responsibilities.

Exports - Transporters must sign and enter the date the waste left the United States in item 15 of Form 8700-22.

Imports - Shipments of hazardous waste regulated by RCRA and transported into the United States from another country must upon entry be accompanied by the U.S. EPA Uniform Hazardous Waste Manifest. Transporters who transport hazardous waste into the United States from another country are responsible for completing the Manifest (see Section 7.01.04).]

5.1-02.03. Owners and Operators of Treatment, Storage, or Disposal Facilities.

Item 19. Discrepancy Indication Space. The authorized representative of the designated facility's owner or operator must note in this space any significant discrepancy between the waste described on the Manifest and the waste actually received at the facility (see Section 5.07).

Item 20. Facility Owner or Operator: Certification of Receipt of Hazardous Materials Covered by This Manifest Except as Noted in Item 19. Print or type the name of the person accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

5.1-02.04. Other Items. Items A-K are not required by federal regulations for intra- or interstate transportation. Virginia does not require generators and owners or operators of treatment, storage, or disposal facilities to complete these items as part of State manifest reporting requirements.

#### 5.1-03. Instructions for EPA Form 8700-22A (Continuation Sheet)

5.1-03.01. General. This form must be used as a continuation sheet to U.S. EPA Form 8700-22 if:

(a) More than two transporters are to be used in transport the waste;

- (b) More space is required for the U.S. DOT description and related information in Item 11 of U.S. EPA Form 8700-22.

#### 5.1-03.02. Generators

Item 21. Generator's U.S. EPA I.D. Number-Manifest Document Number. Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) as it appears in item 1 on the first page of the Manifest.

Item 22. Page ---. Enter the page number of the Continuation Sheet.

Item 23. Generator's Name. Enter the generator's name as it appears in item 3 on the first page of the Manifest.

Item 24. Transporter---Company Name. If additional transporters are used to transport the waste described on this Manifest enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Each Continuation Sheet will record the names of two additional transporters, if necessary.

Item 25. U.S. EPA I.D. Number. Enter the U.S. EPA twelve digit identification number of the transporter described in item 24.

Item 26. Transporter---Company Name. If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name.

Item 27. U.S. EPA I.D. Number. Enter the U.S. EPA twelve digit identification number of the transporter described in item 26.

Item 28. U.S. DOT Description Including Proper Shipping Name, Hazardous Class, and I.D. Number (UN/NA). Refer to item 11.

Item 29. Containers (No. and Type). Refer to item 12.

Item 30. Total Quantity. Refer to item 13.

Item 31. Unit (Wt./Vol.). Refer to item 14.

Item 32. Special Handling Instructions. Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information.

#### 5.1-03.03 Transporters

Item 33. Transporter---Acknowledgement of Receipt of Materials. Enter the same number of the Transporter as identified in item 24. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in item 24. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of the receipt.

Item 34. Transporter---Acknowledgement of Receipt of Materials. Enter the same number as identified in item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

5.1-03.04 Owners and Operators of Treatment, Storage, or Disposal Facilities.

Item 35. Discrepancy Indication Space. Refer to item 19.

5.1-.03.05 Other items. Items L-R are not required by Federal or Virginia regulations for intra- or interstate transportation.

E. SECTION 6.00

1. To eliminate a possible source of misunderstanding about the accumulation rules contained in Section 6.05.05, add new Section 6.01.05:

"6.01.05 An owner or operator who initiates a shipment of hazardous wastes from a treatment, storage, or disposal facility shall comply with the regulations contained in this Section.

[NOTE: The provisions of Section 6.05.05 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of Section 6.05.05 only apply to owner or operators of facilities who are shipping hazardous wastes which they generated at that facility]"

2. Eliminate federal reference to the rule-making petition in Section 6.02.02 processes and substitute reference to Section 3.12.

3. Remove reference to EPA in Section 6.06.02 and in Appendix 6.1 and substitute Bureau of Hazardous Waste Management instead.

4. Change the make up of the Annual Report form shown in Appendix 6.1 to reflect Virginia regulations:

Appendix 6.1 General Instructions:  
Hazardous Waste Report  
(BHWI Form 8700-13)

Important: Read all instructions before completing this form.

Section I - Type of Hazardous Waste Report

Part A: Generator Annual Report

For generators who ship their waste off-site to facilities which they do not own or operate; fill in the reporting year for this report (e.g., 1982).

Part B: Facility Annual Report

For owners or operators of on-site or off-site facilities that treat, store, or dispose of hazardous waste; fill in the reporting year for this report (e.g., 1982).

Part C: Unmanifested Waste Report

For facility owners or operator who accept for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest; fill in the date the waste was received at the facility (e.g., April 12, 1982).

Section II Through Section IV - Installation I.D. Number, Name of Installation, and Installation Mailing Address.

## Section V - Location of Installation

If your installation location address is different than the mailing address, enter the location address of your installation.

## Section VI - Installation Contract

Enter the name (last and first) and telephone number of the person whom may be contacted regarding information contained in this report.

## Section VII - Transportation Services Used (for Part A Reports Only)

List the EPA Identification Number for each transporter whose services you used during the reporting year.

Section VIII - Cost Estimates for Facilities (Use only if the report covers on-site treatment, storage or disposal facility)

A. Enter the most recent cost estimate for facility closure in dollars.

B. For on-site disposal facilities only, enter the most recent cost estimate for post-closure monitoring and maintenance.

## Section IX - Certification

The generator or his authorized representative (Part A reports) or the owner or operator of the facility or his authorized representative (Parts B and C reports) shall sign and date the certification where indicated. The printed or typed name of the person signing the report shall also be included where indicated.

Note - Since more than one page is required for each report, enter the page number of each sheet in the lower right corner as well as the total number of pages.

## HAZARDOUS WASTE REPORT

THIS REPORT IS FOR THE YEAR ENDING DEC 31

119

## PART B. FACILITY ANNUAL REPORT

THIS REPORT FOR YEAR ENDING DEC. 31.

19

## PART C: UNMANIFESTED WASTE REPORT

THIS REPORT IS FOR A WASTE  
RECEIVED (day, mo., & yr).

-	-	1	9
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Use this form as a cover for all required reports

## II. INSTALLATION'S EPA I.D. NUMBER

[illegible]

## III. NAME OF INSTALLATION

[illegible]

## IV. INSTALLATION MAILING ADDRESS

3	STREET OR P.O. BOX		
3			
12	CITY OR TOWN	ST	ZIP CODE
4			

#### V. LOCATION OF INSTALLATION

STREET OR ROUTE NUMBER	
5	
..	..
CITY OR TOWN	
	ST
ZIP CODE	
6	

## VI. INSTALLATION CONTACT

NAME (last and first)															PHONE NO. (area code & no.)					
2																				

## VII. TRANSPORTATION SERVICES USED (for Part A reports only)

List the EPA Identification Numbers for those transporters whose services were used during the reporting year represented by this report.

## VIII. COST ESTIMATES FOR FACILITIES (for Part B reports only)

A. COST ESTIMATE FOR FACILITY CLOSURE		B. COST ESTIMATE FOR POST CLOSURE MONITORING AND MAINTENANCE (disposed facilities only)	
\$	<div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>	\$	<div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>

## IX. CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

A PRINCE OF PEACE IS A MAN

• **Wiederholungsfragen**

11-10-11



F. Section 7.00

1. To eliminate a possible source of misunderstanding about the requirement to obtain a permit, add new Section 7.01.05:

"7.01.05 All transporters of hazardous waste shipments originating and/or terminating in the Commonwealth are required to obtain a permit from the Commissioner in accordance with Section 7.04."

2. To reflect new requirement for permit application fee and to specify conditions under which a permit may be denied, change Section 7.04.03 to read:

"7.04.03 Permit Issuance. Upon receipt of a complete application (Appendix 7.2) accompanied by the appropriate permit application fee as specified in Section 12.00 (when promulgated), the Commissioner shall either:

(a) issue a permit provided conditions of Section 7.03 are met; or

(b) deny the permit when it can be demonstrated that transporter has violated regulations of the Commonwealth, another State or the federal government, so as to pose substantial present or potential hazard to health or environment. The procedure for denying a permit shall be consistent with the Virginia Administrative Process Act."

3. To reflect the requirements of the Uniform Hazardous Waste Manifest, delete Section 7.04.06(b) and renumber present Section 7.04.06(c) as 7.04.06(b).

4. To clarify the difference between temporary permits and emergency permits:

a. Change Section 7.04.07 to read:

"7.04.07 Temporary transporter permit. If a provisional identification number is issued by the EPA pursuant to the provisions of Section 7.03.05, the applicant may obtain a temporary transporter permit by calling the Commissioner or his representative at (804) 225-2667. The permit will be valid only for the duration of the activity which required the provisional EPA identification number. The applicant shall submit a permit application conforming with Section 7.04.03 within 10 calendar days."

b. Add new Section 7.04.08:

"7.04.08 Emergency transporter permit. In the event of a determination by the Commonwealth that circumstances dictate expedient action to protect human health and environmental quality, provisions of Sections 4.00, 5.00 and 7.00 of these regulations may be waived by the Commissioner or his designee. Such waiver will be considered as an emergency transporter permit valid for the duration of an emergency only."

5. To conform the material contained in Section 7.00 to the requirements of Section 5.00 change the following Sections to read:

a. Section 7.07.02:

"7.07.02 The generator shall sign and date the manifest and release the hazardous waste shipment to the transporter."

b. Section 7.07.03:

"7.07.03 The transporter shall sign and date the manifest and accept the hazardous waste for shipment."

c. Section 7.07.09:

"7.07.09 If the shipment of hazardous waste is transported out of the Commonwealth, the transporter shall deliver the shipment to a designated facility permitted by that state under an approved program or by EPA or which qualifies for interim status (see Section 11.03) in the opinion of the applicable aforementioned authority."

6. To clarify the requirements in case of emergencies change Section 7.08.02(c) to read:

"(c) If the spill of hazardous waste occurs during transportation and a federal and Commonwealth official determines that immediate removal of the waste is necessary to protect human health or the environment, an emergency transporter permit will be issued in accordance with Section 7.04.08."

7. To correct an erroneous reference change Section 7.08.03(a)(6) to read:

"(6) A situation exists of such a nature that, in the judgment of the transporter it should be reported in accordance with Section 7.08.03(b) even though it does not meet the above criteria (e.g. continuing danger of life exists at the scene of the incident)."

8. To remove redundancy of the material contained in Section 7.08:

a. Add the material presently contained in Section 7.08.05 to Section 7.08.04 as new Section 7.08.04(c):

"(c) When notifying the notifier shall provide the following information:

- (a) Name of person reporting the spill and his role in the spill;
- (b) Name, telephone number and address of the transporter;
- (c) Name, telephone number and address of the generator;
- (d) Telephone number so the notifier can be contacted;
- (e) Date, time, location of the spill;
- (f) Type of incident and nature of hazardous waste involvement and whether a continuing danger to life exists at the scene;

(g) Classification, name and quantity of hazardous waste involved;

(h) The extent of injuries, if any."

b. Delete Sections 7.08.06 through 7.08.10

9. To simplify format of the Transporter Annual Report make following changes in Appendix 7.1:

Appendix 7.1 Transporter Annual Report

Transporter Name \_\_\_\_\_ ID # \_\_\_\_\_

Address \_\_\_\_\_ VA Transport Permit # \_\_\_\_\_

\_\_\_\_\_ Phone Number \_\_\_\_\_

\_\_\_\_\_ Reporting Year \_\_\_\_\_

Reported by: \_\_\_\_\_ Title: \_\_\_\_\_

1. Number of transport vehicles in use in Virginia at close of year by mode:

Highway \_\_\_\_\_ Rail \_\_\_\_\_ Air \_\_\_\_\_ Water \_\_\_\_\_ Other \_\_\_\_\_

2. List all shipments of hazardous wastes as follows:

- a. Shipments within the Commonwealth on Form 7.1-2
- b. Shipments from the Commonwealth to the States on Form 7.1-3
- c. Shipments into the Commonwealth on Form 7.1-4
- d. Shipments to foreign facilities on Form 7.1-5

3. Please list name and address of designated official in firm who can be contacted on hazardous waste transport matters:

Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_ Phone Number \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of Reporting Official

\_\_\_\_\_  
Date

10. To improve the format of the Application for a transporter permit make following changes in Appendix 7.2:

Name \_\_\_\_\_ Title \_\_\_\_\_  
Address (if applicable) \_\_\_\_\_ Phone Number \_\_\_\_\_  
\_\_\_\_\_  
Completed by \_\_\_\_\_  
\_\_\_\_\_  
Title \_\_\_\_\_  
EPA ID # \_\_\_\_\_

1. Please attach financial data:

a. Interstate transporters: Copy of document showing insurance required under 49 CFR Part 387.

b. Intrastate transporter: Either copy of insurance required under 49 CFR Part 387 or latest annual balance sheet.

2. Incorporated in \_\_\_\_\_

3. VA Corporation ID # (if applicable) \_\_\_\_\_

4. Corporate Headquarters Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Chief Executive Officer \_\_\_\_\_

6. Are you presently licensed or permitted by any other State to transport hazardous materials or hazardous wastes?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, attach a list of licensing/permit agent and appropriate code to identify your licences/permits.

7. Have you been informed by a State or federal agency of violations pertaining to the management of hazardous wastes or transportation of hazardous waste/materials?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, give agency issuing notice of violation and circumstances.

8. What will be your principal address of record to conduct business in the Commonwealth?

9. Who will be the person in charge of the operation? \_\_\_\_\_

\_\_\_\_\_

I certify that all statements are true and are representative of the ability of \_\_\_\_\_ to provide hazardous waste transportation services consistent with the Commonwealth of Virginia hazardous waste management regulations. \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_



G. SECTION 8.00

1. For the sake of clarification and completeness of alternatives, change the wording of item 3, add new item 4 and change reworded present item 4 to item 5 in Appendix 8.6:

"3. In States where EPA is not administering the financial requirements of Subpart H of 40 CFR Parts 264 or 265, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in that Subpart. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: \_\_\_\_\_"

4. In States where EPA is administering the financial requirements of Subpart H of 40 CFR Parts 264 or 265, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure of the following facilities through the use of the financial test specified in that Subpart. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: \_\_\_\_\_"

5. This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure, or if a disposed facility, post-closure care is not demonstrated either to EPA or a State through the financial test or any other financial assurance mechanism specified in Sections 9.08 or 10.08 of these regulations or specified in Subpart H of 40 CFR Parts 264 and 265 or equivalent or substantially equivalent State mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility: \_\_\_\_\_."

2. For the sake of completeness of alternatives in the wording of the letter from Chief Financial Officer, add new item 4 and renumber present item 4 as item 5 in Appendix 8.8:

"4. In States where EPA is administering the financial requirements of Subpart H of 40 CFR Parts 264 or 265, this owner or operator is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of the financial test specified in that Subpart. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: \_\_\_\_\_."

H. SECTION 9.00

1. To reflect the specific requirements contained in 40 CFR 265.16(a) change Section 9.02.07(a) to read:

"(a)(1) Facility personnel shall successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of Section 9.00. The owner or operator shall ensure that this program includes all the elements described in the document required under Section 9.02.07(d)(3).

(2) This program shall be directed by a person trained in hazardous waste management procedures, and shall include instruction which teaches facility personnel procedures (including contingency plan implementation) relevant to the positions in which they are employed.

(3) At a minimum, the training program shall be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

- (i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;
- (ii) Key parameters for automatic waste feed cut-off systems;
- (iii) Communication or alarm systems;
- (iv) Response to fire and explosion;
- (v) Response to groundwater contamination incidents; and
- (vi) Shutdown operations."

2. To clarify the requirements contained in Section 9.05.02(b) change items (3) and (6) to read:

"(3) Records and results of waste analysis and trial tests performed as specified in Sections 9.02.04, 9.10.03, 9.11.04, 9.12.03, 9.13.03, 9.15.03, 9.16.03 and 9.17.03";

"(6) Monitoring, testing and analytical data where required by Sections 9.06.01, 9.06.05, 9.13.04, 9.13.05, 9.13.07(d)(1), 9.15.04, and 9.16.04; and,"

3. To reflect changes in the federal regulations promulgated on January 28, 1983 (48 FR 3981), change Section 9.05.05 to read in part

". . . EPA Form 8700-13 (Appendix 9.2) shall be used and shall be designated Unmanifested Waste Report". The report shall . . ."

4. To reflect changes in the federal regulations promulgated on January 28, 1983 (48 FR 3981):

a. Change Sections 9.06.05(a)(2)(ii) and (iii) to read:

"(ii) Annually: Concentrations or values of the parameters listed in Section 9.06.03(b)(3) for each groundwater monitoring well, along with the required evaluations for these parameters under Section 9.06.04(b). The owner or operator shall separately identify any significant differences from the initial background found in the upgradient wells in accordance with Section 9.06.04(c)(1). During the active life of the facility, this information shall be submitted no later than March 1 following each calendar year.

(iii) no later than March 1 following each calendar year: Results of the evaluations of groundwater surface elevations under Section 9.06.04(f), and a description of the response to that evaluation, where applicable."

b. Change Section 9.06.05(b)(2) to read:

"(2) Annually, until final closure of the facility, submit to the Commissioner a report containing the results of groundwater quality assessment program which includes, but is not limited to, the calculated or measured rate of migration of hazardous waste or hazardous waste constituents in the groundwater during the reporting period. This information shall be submitted no later than March 1 following each calendar year."

5. Requirements contained in Sections 10.06.01(a) and 11.01 as promulgated by Amendment 4 to these regulations provide for "post-closure" permits for land disposal facilities which have accepted hazardous wastes since January 26, 1983 ("regulated units"). Considerable confusion resulted from the placement of these requirements in only Section 10.00 of the regulations rather than in both Section 9.00 and Section 10.00 (and in 40 CFR 264, rather than both 40 CFR 264 and 40 CFR 265) To clarify the matter, add new Section 9.07.11 to read:

"9.07.11 Closure and post-closure requirements for regulated units. Owners or operators of regulated units as defined in Section 2.130.01 who manage hazardous wastes in surface impoundments, waste piles, land treatment units or landfills shall meet the closure and post-closure requirements contained in Sections 10.07, 10.08 and 10.11 through 10.14, as applicable, and shall comply with the appropriate requirements in Sections 10.06 and 10.08, rather than the equivalent requirements contained in Section 9.00. Additionally, a hazardous waste management permit shall be obtained as required under Section 11.01 for the post-closure period required under Section 10.07.08 and during any compliance period specified under Section 10.06.07. A modified Part B Application (see Section 11.05) which addresses required actions shall be submitted to the Commissioner at the same time as the closure plan as specified in Section 9.07.03(c)."

6. To reflect the wording contained in 40 CFR 265.112(a) change Section 9.07.03(a) to read in part:

"(a) By May 21, 1981, the owner or operator shall have a written closure plan. He shall keep a copy of the closure plan and all revisions to the plan at the facility until closure is completed and certified in accordance with Section 9.07.06. This plan shall identify ..."

7. To reflect the wording contained in 40 CFR 265.113(b)(2) change Section 9.07.04(b)(2)(iii) and add new Section 9.07.04(b)(3):

" (iii) Closure of the facility would be incompatible with continued operation of the site; and

(3) He has taken and will continue to take all steps to prevent threats to human health and environment from the unclosed but inactive facility."

8. To reflect wording contained in 40 CFR 265.118(a) change Section 9.07.08(a) to read in part:

"(a) By May 21, 1981, the owner or operator of a disposal facility shall have a written post-closure plan. He shall keep a copy of the post-closure plan and all revisions to the plan at the facility until the post-closure care period begins. The post-closure plan shall identify the activities which will be carried on after closure and the frequency of these activities, and include at least:"

9. The exemption for the local governments and their agencies from the financial responsibility requirements in case of hazardous waste management facilities (Section 32.1-182D, Title 32.1 of the Code of Virginia (1950), as amended) has been removed by the 1984 session of the General Assembly. Section 9.08.01(c) will be changed to read:

"(c) The Commonwealth and federal government which own and operate hazardous waste facilities, and their agencies are exempt from the requirements of Section 9.08"

10. Relocate the first table appearing on page 9-41 to its correct place after Section 9.13.04(c)(ii).

11. To reflect the wording contained in 40 CFR 265.340(b)(4), correct Section 9.15.01(b)(4) to read in part:

". . . described by Sections 3.09.01(a) through (c) and 3.09.01(f) through (h), and will not be burned when other hazardous wastes are present in the combustion zone."

12. All of the Section 9.14.07 was made effective erroneously by Amendment 4 on November 1, 1983. Previous amendments gave an effective date of Sections 9.14.07(a) and 9.14.07(b)(2) and (3) as November 19, 1981. These Sections created exemptions from the prohibition of placing free liquids in a landfill and the changes in the effective date would create seeming non-compliance with the regulations. Section 9.14.07(c) should be changed to read:

"(c) The effective date of Section 9.14.07 is November 19, 1981 with the exception of Sections 9.14.07(b)(1) and (4). The effective date for these latter Sections is November 1, 1983."

13. To reflect the wording contained in 40 CFR 265.345, change Section 9.15.02 to read:

"9.15.02 General operating requirements. During start-up and shut-down of an incinerator, the owner or operator shall not feed hazardous waste unless the incinerator is at steady state (normal) conditions, including steady state operating temperature and air flow."

14. Make the following minor changes either to remove typographical errors or to clarify the subject matter:

a. Change Section 9.06.01(e)(1) to read in part:

"... certified by a qualified geologist or geotechnical engineer, which satisfies the requirements of Section 9.06.04(d)(3), for an alternate groundwater monitoring system";

b. In Section 9.06.04(b) change citation "9.06.03(d)(2)" to 9.06.03(b)(3)", in the first sentence.

c. Change Section 9.06.04(d)(3) to read in part:

"(3) The plan to be submitted under Section 9.06.01(e)(1) shall specify:"

d. In Section 9.06.05(a)(1) change the following citations:

(1) On line 2 change "9.06.04(c) and (d)" to "9.06.03(c) and (d)"

(2) On line 5 change "9.06.03(b)" to "9.06.04(b)"

e. Section 9.07.04(a):

(1) In the fifth line of the Section, the word "disposal" should be changed to "dispose".

(2) In the ninth line the reference to 9.07.03(c) should be corrected to read 9.07.03(e).

f. Section 9.07.07(c) should be changed to read in part:

"... can demonstrate to the Commissioner, either in the post-closure plan or by petition, through the procedures in Section 9.07.08(d) or (f), that the disturbance ..."

15. Appendix to this proposed Amendment shows the requirements for the report that the Commonwealth is required to develop and transmit to the EPA. In order to be able to obtain the data upon which the report has to be based, Forms shown in Appendices 9.2 and 10.2 shall be changed as shown on the next page.

HAZARDOUS WASTE REPORT

PART A - GENERATOR ANNUAL REPORT

THIS REPORT IS FOR THE TEAM ENDING DEC. 31

119

PART II. FACILITY ANNUAL REPORT

THIS REPORT FOR YEAR ENDING DEC. 31.

119

PART C: UNMANIFESTED WASTE REPORT

THIS REPORT IS FOR A WASTE  
RECEIVED (day, mo., & yr.)

12

## II. INSTALLATION'S EPA I.D. NUMBER

[illegible]

## III. NAME OF INSTALLATION

[illegible]

## IV. INSTALLATION MAILING ADDRESS

STREET ON P.O. BOX

[illegible]

CITY OR TOWN

57

## ZIP CODES

[illegible]

#### V. LOCATION OF INSTALLATION

STREET OR ROUTE NUMBER

[illegible]

CITY OR TOWN

37

ZIP CODE

[illegible]

## VI. INSTALLATION CONTACT

NAME (Last and first)

PHONE NO. (area code & no.)

[illegible]

## VII. TRANSPORTATION SERVICES USED (for Part A reports only)

List the EPA Identification Numbers for those transporters whose services were used during the reporting year represented by this report.

### VIII. COST ESTIMATES FOR FACILITIES (for Part B reports only)

#### A. COST ESTIMATE FOR FACILITY CLOSURE

**B. COST ESTIMATE FOR POST CLOSURE MONITORING AND MAINTENANCE (imposed facilities only)**

[illegible][illegible]

## IX. CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 104

● **Violence against women**

1994



Appendix 9.2 General Instructions: Hazardous Waste Report (BHWB, Form 8700-13)

Part B: Facility Annual Report

For owners or operators of on-site or off-site facilities that treat, store, or dispose of hazardous waste; fill in the reporting year for this report (e.g., 1982).

Part C: Unmanifested Waste Report

For facility owners or operators who accept for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest; fill in the date the waste was received at the facility (e.g., April 12, 1982).

Section II Through Section IV - Installation I.D. Number, Name of Installation, and Installation Mailing Address

Section V - Location of Installation

If your installation location address is different than the mailing address, enter the location address of your installation.

Section VI - Installation Contact

Enter the name (last and first) and telephone number of the person whom may be contacted regarding information contained in this report.

Section VII - Transportation Services Used (for Part A Reports Only)

List the EPA Identification Number for each transporter whose services you used during the reporting year.

Section VIII - Cost Estimates for Facilities (Use only if the report covers on-site treatment, storage or disposal facility)

A. Enter the most recent cost estimate for facility closure in dollars.

B. For on-site disposal facilities only, enter the most recent cost estimate for post-closure monitoring and maintenance.

Section IX - Certification

The generator or his authorized representative (Part A reports) or the owner or operator of the facility or his authorized representative (Parts B and C reports) must sign and date the certification where indicated. The printed or typed name of the person signing the report must also be included where indicated.

Note - Since more than one page is required for each report, enter the page number of each sheet in the lower right corner as well as the total number of pages.

Facility Annual Report - Part B Instructions (BHWB Form 8700-13B)

Facility Annual Report for owners or operators of on-site or off-site facilities that treat, store, or dispose of hazardous waste.

Important: Read all instructions before completing this form.

Section XVI - Type of Report

Put an "X" in the box marked Part B.

Section XVII - Facility's EPA Identification Number

Enter the EPA identification number for your facility.

Section XVIII - Generator's EPA Identification Number

Enter the EPA identification number of the generator of the waste described under Section XXI which was received by your facility during the reporting year. A separate sheet must be used for each generator. If the waste came from a foreign generator, enter the EPA identification number of the importer in this section and enter the name and address of the foreign generator in Section XXII, Comments. If the waste was generated and treated, stored, or disposed of at the same installation, leave this section blank.

Section XIX - Generator's Name

Enter the name of the generator corresponding to the generator's EPA identification number in Section XVIII.

If the waste was generated and treated, stored, or disposed of at the same installation, enter "ON-SITE".

If the waste came from a foreign generator, enter the name of the importer corresponding to the EPA identification number in Section XVIII.

Section XX - Generator's Address

Enter the address of the generator corresponding to the generator's EPA identification number in Section XVIII. If the waste was generated and treated, stored, or disposed of at the same installation, leave this section blank. If the waste came from a foreign generator, enter the address of the importer corresponding to the EPA identification number in Section XVIII.

Section XXI - Waste Identification

All information in this section must be entered by line number. A separate line entry is required for each different waste or mixture of wastes that your facility received during the reporting year. The handling code applicable to that waste at the end of the reporting year should be reported. If a different handling code applies to portions of the same waste, (e.g., part of the waste is stored while the remainder was "chemically fixed" during the year), use a separate line entry for each portion.

## Section XXI - A - Description of Waste

For Hazardous wastes that are listed under 40 CFR Part 261, Subpart D, enter the EPA listed name, abbreviated if necessary. Where mixtures of listed wastes were received, enter the description which you believe best describes the waste.

For unlisted hazardous waste identified under 40 CFR Part 261, Subpart C, enter the description which you believe best describes the waste. Include the specific manufacturing or other process generating the waste (e.g., green sludge from widget manufacturing) and if known, the chemical or generic chemical name of the waste.

## Section XXI - B - EPA Hazardous Waste Number

For listed waste, enter the four digit EPA Hazardous Waste Number from 40 CFR Part 261, Subpart D, which identifies the waste.

For a mixture of more than one listed waste, enter each of the applicable EPA Hazardous Waste Numbers.

Four spaces are provided. If more space is needed, continue on the next line(s) and leave all other information on that line blank.

For unlisted hazardous wastes, enter the EPA Hazardous Waste Numbers from 40 CFR Part 261, Subpart C, applicable to the waste. If more than four spaces are required, follow the procedure described above.

## Section XXI - C - Handling Code

Enter one EPA handling code for each waste line entry. Where several handling steps have occurred during the year, report only the handling code representing the waste's status at the end of the reporting year or its final disposition. EPA handling codes are given in Appendix 1 of this Part.

## Section XXI - D - Amount of Waste

Enter the total amount of waste described on this line which you received during this reporting year.

## Section XXI - E - Unit of Measure

Enter the unit of measure code for the quantity of waste described on this line. Units of measure which must be used in this report and the appropriate codes are:

Units of Measure	Code
Pounds. . . . .	P
Short tons (2,000 lbs). . . . .	T
Kilograms . . . . .	K
Tonnes (1,000 kg) . . . . .	M

Units of volume may not be used for reporting but must be converted into one of the above units of weight, taking into account the appropriate density or specify gravity of the waste.

#### Section XXII - Comments

This space may be used to explain or clarify any entry. If used, enter a cross-reference to the appropriate Section number.

Note - Since more than one page is required for each report, enter the page number of each sheet in the lower right hand corner as well as the total number of pages.

Where required by Sections 9.00 or 10.00, attach groundwater monitoring data to this report.

#### Unmanifested Waste Report - Part C Instructions (EPA Form 8700-13B)

Unmanifested Waste Report for facility owners or operators who accept for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest.

Important: Read all instructions before completing this form.

For the Unmanifested Waste Report, EPA Forms 8700-13 and 8700-13B must be filled out according to the directions for the Part B Facility Annual Report except that: (1) blocks for which information is not available to the owner or operator of the reporting facility may be marked "UNKNOWN," and (2) the following special instructions apply:

#### Section VIII - Cost Estimates for Facilities

Do not enter closure or post-closure cost estimates.

#### Section XVI - Type of Report

Put an "X" in the box marked Part C.

#### Section XXI - A - Description of Waste

Use as many line numbers as are needed to describe the waste.

#### Section XXI - C - Handling Code

Enter the handling code which describes the status of the waste on the date the report is filed.

#### Section XXI - D - Amount of Waste

Enter the amount of waste received, rather than a total annual aggregate.

Section XXII - Comments

a. Enter the EPA Identification number, name, and address of the transporter, if known. If the transporter is not known to you, enter the name and chauffeur license number of the driver and the State and license number of the transporting vehicle which presented the waste to your facility, if known.

b. Enter an explanation of how the waste movement was presented to your facility; why you believe the waste is hazardous; and how your facility plans to manage the waste. Continue on a separate blank sheet of paper if additional space is needed.

Monitoring data

Do not attach monitoring data.

I. SECTION 10.00

1. To clarify the effective dates of the various Sections of Section 10.00, change Section 10.01.06 to read:

"10.01.06 Effective dates. Regulations contained in this Section have been promulgated as a result of several amendments. Unless otherwise specifically stated the effective dates of the following sections are:

(a) Sections 10.01 through 10.05, 10.07 through 10.10, and 10.15: August 17, 1983 (the date of the receipt of Phase II Interim Authorization);

(b) Sections 10.06 and 10.11 through 10.14: November 1, 1983."

2. To reflect the role of the federal rule-making after receipt of the Final Authorization by the Commonwealth, add new Section 10.01.07:

"10.01.07 The federal requirements contained in Part 264, Title 40, Code of Federal Regulation (40 CFR 264) will apply to a person who treats, stores or disposes of hazardous waste in the Commonwealth after it receives Final Authorization (see Section 2.54.01) at a facility which was not covered by the standards under 40 CFR 264 at the time when the Commonwealth obtained authorization, and for which facility EPA promulgates standards after the Commonwealth is authorized. The federal regulations will only apply until the Commonwealth is authorized to permit such facilities under Subpart A of Part 271, Title 40, Code of Federal Regulations."

3. In response to EPA comments received on October 25, 1983, change Section 10.06.01(a) to read in part:

"(a) Except as provided in Section 10.06.01(b) the regulations in Section 10.06 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills. The owner or operator shall satisfy the requirements of this Section for all wastes (or constituents thereof) contained in the regulated unit (see Section 2.130.01) at the facility. Any waste constituent . . ."

4. The exemption for the local governments and their agencies from the financial responsibility requirements in case of hazardous waste management facilities (Section 32.1-182D, Title 32.1, Code of Virginia (1950), as amended) has been removed by the 1984 session of the General Assembly. Section 10.08.01(c) will be changed to read:

"(c) The Commonwealth and federal government which own and operate hazardous waste facilities, and their agencies are exempt from the requirements of Section 10.08"

5. Correct typographical errors or make minor changes:

a. In Section 10.01.02 correct typographical error on sixth line: change "at" to "as".

b. In Section 10.02.08(b) correct typographical error on fourth line: change "waters" to "wastes".



c. Change Section 10.04.04(a) to read:

"(a) The facility permit is revised;"

d. In Section 10.06.02(a)(2) change ". . . groundwater operation standard . . ." to ". . . groundwater protection standard . . ."

e. In Sections 10.06.04(c) and 10.06.05(c) correct reference "40 CFR 122.35" to "40 CFR 144.7".

f. In Section 10.06.08(g)(2)(iii), delete word "are" in the second line.

g. In Section 10.07.04(b)(2), the word "form" should be corrected to "from" in the third line.

h. In Section 10.07.09(c) lines 6 and 7, delete words "of the request for modification".

i. Change Section 10.11.01 to read in part:

". . . apply to owners and operators of facilities that use surface impoundments to dispose, treat or store . . .".

j. In Section 10.11.07(b)(3), the word "pressure" should be changed to "presence".

k. In Section 10.11.10 correct typographical error in line 2: change "reaction" to "reactive".

J. SECTION 11.00

1. Provide reference to 90-day storage exclusion contained in Section 11.01.02(a) to read:

"(a) Generators who accumulate hazardous waste on-site for less than 90 days as provided in Section 6.05.05."

2. Delete Section 11.01.02(h)(3) which was erroneously included in the printing of Amendment 4.

3. Delete existing Section 11.02.03(c) in view of proposed changes in Sections 9.08.01(c) and 10.08.01(c) dealing with financial responsibility requirements, and add new Section 11.02.03(c) providing the required wording contained in 40 CFR 270.10(d) to read:

"(c) All applicants for hazardous waste management permits shall provide information set forth in Section 11.04 and applicable portions of Section 11.05 to the Commissioner."

4. As the result of comments received during the Virginia regulatory review process, change Section 11.02.06 to read:

"11.02.06 Updating permit applications

(a) If any owner or operator of an Hazardous Waste Management facility has filed Part A of the permit application and has not yet filed Part B, the owner or operator shall file with the Commissioner an amended Part A application when:

(1) A new waste has been added to any of the lists described in Section 3.11, and such owner or operator treats, stores or disposes of such new wastes; or

(2) Other changes during interim status are proposed in accordance with Section 11.03.03.

(b) The owner or operator of a facility who fails to comply with the updating requirement of Section 11.02.06(a)(1) by the effective date of the regulations listing such a new waste, does not receive interim status as to the wastes not covered by duly filed Part A applications."

5. To reflect new requirements for permit application fee, add new Section 11.02.09.

"11.02.09 Permit application fee. All permit applications required by Section 11.02.01 and reapplications required by Section 11.02.07 shall be accompanied by an appropriate permit application fee as specified in Section 12.00 (when promulgated). Application or reapplications not accompanied by such fees will not be considered complete as provided for in Section 11.02.03."

6. To reflect changes in federal regulations (48 FR 21101, May 10, 1983), change Section 11.03.01(b) to read:

"(b)(1) the Commissioner may deny interim status to any owner or operator if, at the time Part A Application is submitted, the facility is in violation of any regulation of the Department of Health so as to pose a substantial present or potential hazard to human health or environment.

(2) If the Commissioner has reason to believe upon examination or reexamination of a Part A Application that it fails to meet the requirements of Section 11.04, he shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for such belief. The owner or operator shall have 30 days to respond to such notification and to explain or cure the alleged deficiency. If after such notification and opportunity for response, the Commissioner determines that the application is deficient, he shall issue the notification of denial in accordance with Section 11.03.01(c)."

7. To provide for the voluntary termination of the interim status, add new Section 11.03.04(d):

"(d) The Commissioner 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:

(i) be received by the Commissioner prior to the issuance of the request to submit Part B of the permit application in accordance with Section 11.02.04(b); and

(ii) be accompanied by a waiver of procedures contained in Section 11.03.04(c).

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

(i) which is not in compliance with the standards contained in Section 9.00; or

(ii) when termination proceedings have been instituted under Section 11.03.04(b).

(3) The effective date of the termination of the interim status will be determined by the Commissioner to allow for proper closure of the facility in accordance with Section 9.07 or 10.07, as applicable."

8. For the sake of completeness, change Section 11.05.02 to read in part:

"... for all HWM facilities, except as Sections 10.01 and 11.01 provide otherwise:"

9. To reflect correction in the federal regulations promulgated on June 30, 1983 (48 FR 30113), change Section 11.05.08 to read:

"11.05.08 Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of Section

10.08.07. For a new facility, documentation showing the amount of insurance meeting the specification of Section 10.08.07(a) and, if applicable, Section 10.08.07(b), that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in Section 10.08.07(c)."

10. Correct typographical errors contained in Section 11.05.10 as follows:

a. In Section 11.05.10(a)(2) in second line:

"... location or buffer zone ..." should be "... location of buffer zone . . ."

b. In Section 11.05.10(c) change the first line to read in part:

"(c) For facilities that dispose, store or treat hazardous ..."

c. In Section 11.05.10(e):

"(e) For facilities that incinerate hazardous waste except as Section 10.15.01 provides otherwise, the applicant shall fulfill the requirements of Section 11.05.10(e)(1), (2) and (3)."

d. In Section 11.05.10(e)(1)(iii), sixth line, the reference to Section "2.07" should be "3.07"

e. In Section 11.05.10(f)(1)(iii)(A):

"(A) The type of test . . ."

f. In Section 11.05.10(f)(6), seventh line:

"... pland" should be "plan".

11. Add specific references in following Sections to read:

a. Section 11.05.10(e)(3)(i)(E):

"... demonstrate compliance with the performance standards in Section 10.15.04."

b. Section 11.05.10(e)(3)(v)(A):

"... used to calculate performance standards in Section 10.15.04."

c. Section 11.05.10(g)(9):

"... an explanation of how the requirements of Section 10.14.16 or 10.14.17, as applicable, will be complied with."

12. Delete Sections 11.05.10(e)(3)(v)(C) and (D).

13. To reflect changes in federal regulations promulgated on September 1, 1983 (48 FR 39622), change following Sections:

a. Section 11.07.01(a) to read:

"(a) For a corporation: By a principal corporate officer as defined in Section 2.119.02;"

b. Section 11.07.01(c) to read:

"(c) For a municipality, State, Federal or other public agency: By either a principal executive officer (see Section 2.120) or ranking elected official."

c. Section 11.07.04 to read:

"11.07.04 Certification. Any person signing a document under Section 11.07.01 or 11.07.02 shall make the following certification:

"I certify under penalty of law that this document and all attachments are prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

14. Restructure Section 11.10 and eliminate Section 11.11 to conform to the format contained in 40 CFR 270.30 as follows:

a. Combine material contained in Sections 11.10.01 and 11.11.01 to read:

"11.10.01 Duty to comply. The permittee shall comply with all conditions of this permit, except that permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit (see Section 11.09.01). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of Title 32.1, Code of Virginia (1950) as amended, and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application."

b. Change Section 11.10.04 in accordance with the wording contained in 48 FR 39622, September 1, 1983, to read:

"11.10.04 Duty to mitigate. In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment."

c. Correct typographical error in Section 11.10.10(a), first line: "measures" should be changed to "measurements".

d. Combine material contained in Section 11.10.10(b) with that in Section 11.11.02 to read:

"(b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for the permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Commissioner at any time. The permittee shall maintain records from all groundwater monitoring wells and associated static water level surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well."

e. Restructure Section 11.10.12 to include material contained in Sections 11.11.03 through 11.11.05 to read:

"11.10.12 Reporting requirements

(a) Planned changes. The permittee shall give written notice to the Commissioner as soon as possible of any planned physical alterations or conditions to the permitted facility.

(b) Anticipated noncompliance. The permittee shall give advance written notice to the Commissioner of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new HWM facility, the permittee may not commence treatment, storage, or disposal of hazardous waste; and for a facility being modified the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility, until:

(1) The permittee has submitted to the Commissioner by certified mail or hand delivery a letter signed by the permittee and a professional engineer registered by the Commonwealth stating that the facility has been constructed or modified in compliance with the permit; and

(2)(i) The Commissioner has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(ii) Within 15 days of the date of submission of the letter in Section 11.10.12(b)(1), if the permittee has not received notice from the Commissioner of his intent to inspect, prior inspection is waived and the permittee may commence treatment, storage or disposal of hazardous waste.

(c) Transfers. This permit is not transferrable to any person except after notice to the Commissioner. The Commissioner may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(d) Monitoring reports. Monitoring results shall be reported at the intervals specified in the permit.

(e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any



compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.

(f) Twenty-four hour reporting.

(1) The permittee shall report any noncompliance which may endanger health or environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances.

(2) The following shall be included as information which shall be reported orally within 24 hours:

(i) Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.

(ii) Any information of a release or discharge of hazardous waste, or of a fire or explosion from an HWM facility, which could threaten the environment or human health outside the facility. The description of the occurrence and its cause shall include:

(A) Name, address and telephone number of the owner or operator;

(B) Name, address and telephone number of the facility;

(C) Date, time and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(3) A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance. The Commissioner may waive the 5-day notice requirement in favor of a written report within 15 days.

(g) Manifest discrepancy report. If a significant discrepancy in a manifest is discovered, the permittee shall attempt to reconcile that discrepancy. If not resolved within fifteen days, the permittee shall submit a letter report including a copy of the manifest to the Commissioner.

(h) Unmanifested waste report. Unmanifested waste report shall be submitted to the Commissioner within 15 days of receipt of unmanifested waste.

(i) Annual report. An annual report shall be submitted covering facility activities during the previous calendar year.

(j) Other noncompliance. The permittee shall report all instances of noncompliance not reported under Sections 11.10.12(d), (e) and (f) above, at the time monitoring reports are submitted. The report shall contain the information listed in Section 11.10.12(f).

(k) Other information where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Commissioner, he shall promptly submit such facts or information."

e. Delete Section 11.11 in toto:

"11.11 [Reserved]"

15. In Section 11.12.03 reference to "11.02" should be "11.19".

16. Change Section 11.13.02 to make it more specific, to read in part:

"11.13.02 Except as otherwise provided in Section 11.02.08, the term of a permit shall not be extended . . ."

17. Change references in Section 11.17(c) to read in part:

". . . and as specified in Section 10.00. Reporting shall be not less frequent than specified in this Section."

18. To reflect new requirement for permit application fee, add at the end of present Section 11.19:

". . . Otherwise, a draft permit shall be prepared and other appropriate procedures followed. All updated applications for modification or revocation and reissuance will be accompanied by an appropriate permit application fee specified in Section 12.00 (when promulgated)."

19. In Section 11.19.02(b) change reference "11.21(d)" to the proposed new Section "11.10.12(c)".

20. Add new Section 11.20.02 to read:

"11.20.02 The Commissioner shall follow the applicable procedures of the Virginia Administrative Process Act in terminating any permit under this Section."

21. Make following changes in Section 11.21:

a. Delete "or" at the end of paragraph (c).

b. Renumber Sections f(1) to (3), g(1) to (3) and h(1) to (3) as Sections (f) through (n).

22. This Amendment proposes to delete Section 11.11, therefore the reference to it in Section 11.22.03(a) should be deleted. Also, delete phrase "(when promulgated)" at the end of Section 11.23.03(d).

23. To clarify requirements contained in Section 11.24.05, change it to read:

"11.24.05 In addition to the general public notice, all persons identified in Sections 11.24.03(a)(1) through (3) shall be mailed a copy of the fact sheet, the permit application (if any) and the draft permit (if any)."

24. Section 11.25, fifth line, the word "meeting" should be changed to "hearing".

25. To assist the regulated community, add new Appendix 11.1 showing a copy of the Part A Application form.

26. To clarify the requirement for both owner's and operator's signatures, change Section 11.02.02 to read in part:

". . . however, the owner shall also sign . . ."

**PROPOSED  
AMENDMENT 6 TO  
VIRGINIA HAZARDOUS WASTE MANAGEMENT REGULATIONS**

**April 30, 1984**

In response to the comments received by the Board of Health on March 21, 1984, during its preliminary approval process, the original draft of the proposed Amendment 6 has been revised to address the issues raised.

It is proposed to delete the original text for Section 12.00 in its entirety and to add a new Section 12.00 to provide for a permit application fee collection system as mandated by the 1983 General Assembly (Section 32.1-178A(15), Title 32.1, Code of Virginia (1950), as amended). No additional changes in other Sections of the Virginia Hazardous Waste Management Regulations are necessary. The new Section 12.00 should read:

**"12.00 HAZARDOUS WASTE MANAGEMENT PERMIT APPLICATION FEE REGULATIONS**

**12.01 Purpose, Scope and Applicability**

12.01.01 The purpose of this Section is to establish a schedule of fees collected by the Department in the support of its permit issuance programs required by Sections 7.00 and 11.00 of the regulations.

12.01.02 Section 12.00 applies to all persons required to submit a permit application ("applicants") under Sections 7.01.05\* and 11.01 of these regulations unless specifically exempt under Section 12.01.07. The fees shall be assessed in accordance with Section 12.02.

12.01.03 When the Commissioner finds it necessary to modify any permit under Section 11.18 or 11.19 of these regulations, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with Section 12.02.04 even if the Commissioner shall have initiated the modification action.

12.01.04 When the Commissioner finds it necessary to revoke and reissue any permit in accordance with Section 11.19.02(a), the holder of that permit shall be considered an applicant for a new permit and shall be assessed a fee in accordance with Section 12.02.03.

12.01.05 If the Commissioner finds it necessary either to revoke and reissue a permit in accordance with Section 11.19.02(b) or to perform a minor modification of a permit in accordance with Section 11.21, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with Section 12.02.05.

12.01.06 When the Commissioner finds it necessary to issue an emergency treatment, storage or disposal permit in accordance with Section 11.09.01, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with Section 12.02.06. No permit application fee will be assessed to the holders of the emergency transportation permits issued in accordance with Section 7.04.08\*\* of these regulations.

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\* Section 7.01.05 has been added as the result of Amendment 5 to these regulations.

\*\* Section 7.04.08 has been added by Amendment 5 to these regulations.

#### 12.01.07 Exemptions

(a) The owners and operators of HWM treatment, storage and disposal facilities who have submitted the Part A of their application as required by Section 11.02.4(a) and who have qualified for interim status in accordance with Section 11.03 are exempt from the requirements of Section 12.00 until a Part B application for the entire facility or a portion of the facility has been requested or voluntarily submitted in accordance with Section 11.02.04(b). The owner and operator of a HWM facility submitting a Part B application will be considered an applicant for a new permit.

(b) The owners and operators of HWM facilities which are deemed to possess a permit-by-rule in accordance with Section 11.08 are exempt from the requirements of Section 12.00.

[NOTE: Hazardous waste generators who accumulate wastes on-site in accordance with Section 6.05.05 of these regulations are not subject to regulations contained in Section 12.00 since HWM permits are not required for such accumulations.]

12.01.08 The effective date of Section 12.00 is \_\_\_\_\_.

#### 12.02 Determination of Application Fee Amount

##### 12.02.01 General.

(a) Each application for a new permit and each application for a modification to permit is a separate action and shall be assessed a separate fee. The amount of such fees is determined on the basis of this Section.

(b) The amount of the permit application fee is based on the costs directly associated with the permitting program required by Sections 7.00 and 11.00 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 Appendix 12.1. These schedules will be reevaluated annually and the results of such reevaluation will be used to recommend to the Board of Health the necessary adjustments.

##### 12.02.02 Transporter fees.

(a) Application fees for the transporter permits are shown in Table 12.1-1, Appendix 12.1. 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.

(b) Since Section 7.00 of these regulations does not provide for a modification procedure, all transporter permit applications are considered to be for new permits.

##### 12.02.03 New HWM Facility Permits

(a) All applicants for new hazardous waste treatment, storage and disposal facility permits are assessed a base fee shown in Table 12.1-2, Appendix 12.1.



(b) Applicants for a facility permit which includes one or more of the hazardous waste treatment, storage or disposal units or processes that require groundwater protection in accordance with Sections 10.6, 10.11, 10.12, 10.13 and 10.14 of these regulations, ("land-based TSD units") are assessed a supplementary fee shown in Table 12.1-2, Appendix 12.1, in addition to the base fee specified in Section 12.02.03(a) and any other supplementary fee that may be appropriate.

(c) Applicants for a facility permit which includes one or more hazardous waste incineration units or processes regulated in accordance with Section 10.15 of the regulations are assessed a supplementary fee shown in Table 12.2-2, Appendix 12.1, in addition to the base fee specified in Section 12.02.03(a) and any other supplementary fee that may be appropriate.

(d) Applicants for a facility permit for storage of hazardous wastes in containers and/or tanks subject to Sections 10.09 and 10.10 of these regulations will not be assessed any supplementary fees.

(e) 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 Section 12.02.02.

#### 12.02.04 Modifications to Existing HWM Facility Permits

(a) Except as provided for in Section 12.02.05, all applicants for a modification of an existing HWM facility permit are assessed a modification base fee shown in Table 12.1-3, Appendix 12.1.

(b) Applicants for a modification which includes or involves the addition of hazardous wastes not currently in the permit are assessed a supplementary modification fee shown in Table 12.1-3, Appendix 12.1, in addition to the base fee specified in Section 12.02.04(a) and any other supplementary fee that may be appropriate.

(c) Applicants for a modification which 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 Table 12.1-3 in addition to the base fee specified in Section 12.02.04(a) and any other supplementary fee that may be appropriate. For the purposes of this Section, it will be deemed that a substantive change is required whenever a change in the design of the groundwater protection system or whenever a new land treatment demonstration permit specified in Section 11.09.03 is necessary.

(d) Applicants for a modification which 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 Table 12.1-3, Appendix 12.1, in addition to the base fee specified in Section 12.02.03(a) and any other supplementary fee that may be appropriate. For the purposes of this Section, it will be deemed that a substantive change is required whenever

a change occurs that necessitates the performance of a trial burn in accordance with Section 11.09.02 of these regulations.

(e) Applicants for a 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 Table 12.1-3, Appendix 12.1, in addition to the base fee specified in Section 12.02.03(a) and any other supplementary fee that may be appropriate. For the purposes this Section, expansion of an existing container storage facility is not considered to be a substantive change.

(f) Applicants for a modification which is not a minor modification as specified in Section 11.21 and which is not subject to the requirements of Sections 12.02.03(f) through (e), are assessed a supplementary modification fee shown in Table 12.1-3, Appendix 12.1, in addition to the base fee specified in Section 12.02.03(a).

(g) 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.

12.02.05 Minor Modifications of Existing HWM Facility Permits. All applicants for minor modification of an existing HWM facility permit provided for in Section 11.21 are assessed a fee shown in Table 12.1-4, Appendix 12.1.

12.02.06 Emergency Permits. Applicants for an emergency hazardous waste treatment, storage or disposal permit as provided for in Section 11.09.01 of these regulations are assessed a fee shown in Table 12.1-5, Appendix 12.1, unless the Commissioner shall determine that a lesser fee is appropriate at the time the permit is issued.

### 12.03 Payment of Fees

#### 12.03.01 Due Date

(a) Except as specified in Section 12.03.01(b) and (c) all permit application fees are due on the day of application and must accompany the application.

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

(c) All applicants for a HWM facility permit or for a modification of an existing permit who have submitted their application prior to the effective date of this Section and who have not been issued such a permit or a modification to a permit by that date, shall submit the appropriate application fee within 60 days of the effective date of Section 12.00 or by the effective date of the permit or the modification to the permit, whichever is sooner.

12.03.02 Method of Payment: Acceptable payment is cash or check made payable to the Commonwealth of Virginia, Department of Health.

12.03.03 Incomplete Payments: All incomplete payments will be deemed nonpayments.

12.03.04 Late Payment: No applications will be deemed to be complete (see Section 11.02.03) until proper payment is received by the Department.

Appendix 12.1 Permit Application Fee Schedule

12.1 Effective Date

The effective date of this Appendix is \_\_\_\_\_.

12.1-02 Schedule of Fees

Table 12.1-1 Transporter Fees

Transporters with terminals or other facilities within the Commonwealth	\$ 80
Other transporters	\$120

Table 12.1-2 New TSD Facility Fees

Base fee for all facilities	\$ 9,720
Supplementary fee for one or more land-based TSD units	\$22,590
Supplementary fee for one or more incineration units	\$14,490

Table 12.1-3 Permit Modification Fees

Base fee for all modifications	\$ 50
Addition of new wastes	\$ 1,330
Addition of or substantive change to one or more land-based TSD units	\$25,920
Addition of or substantive change to one or more incineration units	\$19,430
Addition of or substantive change to other treatment, storage or disposal units, processes or areas	\$ 8,080
Non-substantive changes	\$ 1,330

Table 12.1-4 Minor Permit Modification Fees

Minor permit modification fee	\$50
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Table 12.1-5 Emergency Permit Fees

Emergency permit fee	\$1,330
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### 12.1-03 Illustrative Examples

#### 12.1-03.01 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 from Table 12.1-2 as follows:

Base fee	\$ 9,720
Supplementary fee for land-based TSD units	\$22,590
Tank storage facility (see Section 12.02.03(d))	\$ 0
Total fee	\$32,310

#### 12.1-03.02 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 Table 12.1-3 as follows:

Base fee	\$ 50
Addition of new wastes	\$ 1,330
Addition of new incineration units	\$19,430
Total modification fee	\$20,810

The fee for a comparable new permit calculated on the basis of Table 12.1-2 is as follows:

Base fee	\$ 9,720
Supplementary fee for land-based units	\$22,590
Supplementary fee for incineration units	\$14,490
Storage facility	\$ 0
Total fee	\$46,800

which is larger than the required modification fee, so that the provisions of Section 12.02.04(g) do not apply and the proper fee is \$20,810.

12.01-03.03 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 Table 12.1-3 as follows:

Base fee	\$ 50
Addition of a new waste	\$1,330
Fee for non-substantive change	\$1,330
	<hr/>
Total modification fee	\$2,710

Attachment 3 to  
Program Description

SCHEDULE FOR FINAL AUTHORIZATION



### SCHEDULE FOR FINAL AUTHORIZATION

- June 1983 - The State submitted a letter to the Regional Administrator requesting an extension of their interim authorization authority, beyond July 26, 1983. The latter included a schedule for receipt of Final Authorization by January 26, 1985.
- July 1983 - EPA negotiated detailed Final Authorization delegation schedule with Virginia for incorporation into the FY84 RCRA grant.
- July 1983 - State responded to EPA comments and questions on their final/Phase II interim Authorization Components A and B Application.
- June 1983 - EPA transmitted to Virginia consolidated Regional and Headquarters comments on their current legislation based on the pre-application statutory review.
- June 1983 - EPA and the State have met and discussed, in detail, any specific language changes in the Virginia statute. Focus was on issues raised in EPA's pre-application legislative review.
- July 1983 - State prepared necessary language changes for Virginia's hazardous waste law and began administrative procedures leading toward formal introduction into the 1984 Legislative session (January-March).
- August/  
December  
1983 - State and EPA began to draft application elements in accordance with EPA's Final Authorization Guidance Manual. This will include reviewing State regulations for any necessary updates and drafting necessary regulatory language.
- December  
1983 - State submitted a draft Final Authorization application, with any draft regulatory and statutory language being considered.
- February  
1984 - EPA submitted comments to State on the draft application.
- Between January and March, the State was working with the Legislature to adopt any necessary statute changes.)
- March 1984 - End of 1984 Legislative session. Virginia's statute has been amended.
- March &  
April 1984 - State revised their application based on EPA's comments and the content of its final legislation.
- May 1984 - State published a notice of public hearing and public comment period on Virginia's draft Final Authorization application.
- June 1984 - State holds a public hearing on its draft Final Authorization application.

- June 1984 - State modifies their draft application in response to public comment and submits its official application for Final Authorization to EPA.
- July 1984 - EPA performs its completeness review and submits comments to State on the Final Authorization application.
- September 1984 - EPA publishes a Federal Register notice announcing the Agency's tentative determination on Virginia's Final Authorization application and announces a public hearing.
- October 1984 - EPA conducts its public hearing on Virginia's Final Authorization Application.
- December 1984 - EPA publishes a Federal Register notice of its final decision on Virginia's application for Final Authorization including a Responsiveness Summary on public comments.

FY84

TABLE 1

## PROGRAM DEVELOPMENT MILESTONES

ACTIVITY IN RELATION TO AUTHORIZATION	1st QUARTER	2nd QUARTER	3rd QUARTER	4th QUARTER
DEVELOPMENT OF LEGISLATION		General Assembly considers & enacts changes in legislation		
DEVELOPMENT OF REGULATIONS	Amendment 5 drafted and presented to public	Amendment 5 reviewed and redrafted if necessary	Amendment 5 promulgated by Board of Health	Amendment 5 effective
DEVELOPMENT OF AUTHORIZATION APPLICATION	Draft application submitted	Comments from EPA received	Official application submitted	
PUBLIC HEARING STATE REGULATIONS FINAL AUTHORIZATION			Amendment 5 presented  Hearing held by Virginia	Hearing announced by EPA
OTHER (SPECIFY)				

Attachment 4 to  
Program Description

LIST OF MAJOR FACILITIES

I. FACILITIES ON MAJOR'S LIST IN FY84

A. Land-based Facilities

1. Abex Corporation
2. AMOCO
3. Badische
4. Kenneth Bryant
5. L. A. Clarke
6. Genecom
7. Hercules (Hopewell)
8. Koppers (Salem)
9. Koppers (Richmond)
10. Merck
11. Newport News Shipbuilding
12. Piedmont Manufacturing
13. Radford Army Ammunitions Plant
14. Union Camp
15. Wheelabrator-Frye
16. Wood Preservers

B. Incineration Facilities

17. Allied Corporation

C. Treatment and Storage Facilities

18. Browning-Ferris Industries
19. Defense General Supply Center
20. Du Pont, Cedarville
21. Du Pont, Richmond
22. Du Pont, Waynesboro
23. Lynchburg Foundry (Radford)
24. Norfolk Naval Shipyard
25. Oldover Corporation (Arvonja)
26. Oldover Corporation (Cascade)
27. Prillaman Corporation
28. U. S. Naval Weapons Station

II. ADDITIONS TO MAJOR'S LISTINGS IN FY85

A. Off-site Storage Facilities

29. American Alchemy Company VAD041283342
30. Ashland Chemical Corporation VAD062373600
31. Infracorp Ltd. VAD093561652

B. Large Generators and Treatment and Possible Future Land-based Facilities

32. Roanoke Electric Steel Corporation VAD003122553
33. Griffin Pipe Products VAD065417008

C. Large Generators and On-site Storage Facilities

- 34. Allied Corporation (Bermuda Hundred Road) VAD023690183
- 35. Du Pont (Martinsville) VAD003114865

D. Transporters

- 36. Chemical Leaman Tank VAD046973582

**Attachment 5 to  
Program Description**

**WATER RESOURCES POLICY**



# Commonwealth of Virginia

## STATE WATER CONTROL BOARD

### WATER RESOURCES POLICY

Adopted: May 7, 1974 in Letter  
Ballot No. 3311.

Filed: May 24, 1974.

Effective: June 23, 1974.

- 1.0 Whereas the State Water Control Board finds that Virginia water resource policy must be based upon the following broad precepts of natural and man-made law and must recognize natural conditions and the distribution and growth of Virginia's population and industry:
- 1.1 Virginia's hydrographic conditions are diverse, ranging from "mountain streams" to open ocean.
  - 1.2 Natural salinity varies from near zero to that of the open ocean.
  - 1.3 Natural rainfall in Virginia is such that total fresh water production far exceeds any foreseeable needs; however, accidents of times and geography may produce short-term and/or geographic surpluses (flood) or deficits (drought).
  - 1.4 Flood plains are the natural relief mechanism for surface streams.
  - 1.5 Virginia has extensive groundwater resources but these resources are not uniformly distributed, and are subject to depletion and pollution through use and to saline intrusion in coastal areas.
  - 1.6 Quality of surface flows is, to a degree, dependent upon quantities of flow, natural pollution sources and, in part, activities of man.
  - 1.7 Water is a reusable multi-purpose resource.
  - 1.8 Development and use of water resources should be based on sound planning.
  - 1.9 Water resources use is affected by and affects land resource management and population and economic growth.
  - 1.10 Use of groundwater and use of surface waters are interdependent functions.
  - 1.11 Waste water, in many cases, can be safely and economically reclaimed for a variety of beneficial uses, including agricultural and industrial uses.
  - 1.12 Municipal and industrial demands for water are relatively "constant" whereas the quantities of unmanaged supplies, particularly surface waters, are variable.
  - 1.13 Virginia must act to protect its water resources and the ecosystems dependent upon them from unnecessary pollution, degradation or destruction for the maximum social and economic benefits to all the citizens of the Commonwealth. The needs of Virginia's citizens for water resources should be met in such a manner as to preserve these water related environments to the greatest possible degree.
  - 1.14 State constitutional provisions, statutes and common law constrain water resources use (see Table 1).

- 1.15 Federal constitutional provisions and Federal statutes constrain and influence water resource use at State level (see Tabel 2).
- 1.16 Potential sites for reservoirs for flood control and water supply are limited and the need for their preservation must be recognized by the Commonwealth so that their use for these purposes, if it is consistent with ecological and scenic considerations, will not be precluded because uncontrolled development on these sites will cause them to become too expensive for use as reservoirs.

2.0 The Board is establishing its Water Resources Policy in order to fulfill its statutory responsibilities to:

- 2.1 Assure, insofar as possible, that domestic, municipal, industrial, agricultural and other water quality and quantity needs are met at all times consistent with the responsibility of the State to protect the natural values of Virginia's water resources, and to assure equitable allocation in times of shortage consistent with the requirements of Virginia law.
- 2.2 Protect wetlands in recognition of the dependence of these natural systems upon suitable water quality and in recognition of the contribution of these natural systems to natural values.
- 2.3 Recognize the importance of water transportation to the economy and recreation, and to assure the optimum use of the waterways of Virginia.
- 2.4 Recognize and foster the unique and diverse role of water in recreation.
- 2.5 To the maximum extent practicable, minimize hazards from floods to human life and to economic and natural values.
- 2.6 Assure that groundwater withdrawals do not, on the average, exceed recharge, and protect any existing common law or statutory rights to use of groundwaters.
- 2.7 Provide policy guidance on the allocation of groundwater in considering the issuance of groundwater permits within critical groundwater areas under Section 62.1-644.100 of the Groundwater Act of 1973.
- 2.8 Exercise the responsibility of the State within the framework of the existing common law riparian rights of land owners.
- 2.9 Evaluate the effect of projects and structures on:
  - 2.9-1 Flexibility in future water resource use and project operation;
  - 2.9-2 Cost effectiveness within the realistic alternatives available and within the constraints of public health and public safety;
  - 2.9-3 Man-made historic and the natural environments;
  - 2.9-4 The recommendations of other agencies with an interest in the projects and structures;
  - 2.9-5 Local, regional and statewide land use plans and growth policies.
- 2.10 Minimize the bureaucratic process in order to facilitate cost effective implementation of water resources policy.
- 2.11 Assure that the management demands of a water resource project do not exceed the capability of that unit of government responsible for its operation and maintenance.

- 2.12 Take advantage of all Federal water resource programs to the extent that these programs can provide timely assistance.
- 2.13 Promote technological innovations and be responsive to the institution of such advancements.
- 2.14 Encourage maximum public participation in the formulation and implementation of specific plans and projects.
- 2.15 Recognize the importance of the preservation of critical reservoir sites for future water needs.

3.0 Governed by these precepts and in order to fulfill its statutory responsibilities in the development of the Water Resources Policy, the Board hereby adopts the following specific policies for its use in the preparation of Water Resource Management Plans, advising on the adequacy/desirability of water resource projects, and authorizing specific water resource projects or in commenting on projects which affect water resources.

3.1 Natural Water Sources (groundwater and surface water)

- 3.1-1 Community, natural resource and transportation development should proceed in such a way that the adverse effect on runoff (rates, quality and quantity) and groundwater recharge are minimized and that remedial structures (such as spreading basins and flow retarding structures) are incorporated as permanent features of developments and that adequate financial and legal provisions are made for the maintenance of such structures.
- 3.1-2 Total withdrawals from coastal zone aquifers should be limited to such a quantity as to prevent the intrusion of salinity beyond the limit determined acceptable for the beneficial uses of the aquifer.
- 3.1-3 Total withdrawals from a specific aquifer shall not exceed estimated recharge except for short (one or two year) periods of time: the divergence should not be so great as to affect unreasonably legal rights to withdrawal or to affect the capability of the aquifer to be recharged fully in the future.

3.2 Beneficial Use and Public Benefit

- 3.2-1 The natural values and natural processes occurring in water resources in an undisturbed state constitute a substantial social and economic benefit to the citizens of the Commonwealth, and protection of these processes should be considered in any resource management plan.
- 3.2-2 The public shall have full access to future facilities paid for by general public funds to the extent that such access is compatible with project purposes and to the extent that the primary purpose of the facility is not defeated.
- 3.2-3 Once a project site has been approved by the Board it will be a policy of the Board to encourage preservation of the site by other State Agencies.
- 3.2-4 Flow releases from reservoirs for the purpose of maintaining minimum flows necessary for prevention of eutrophic conditions (due to natural sources); protection of fish and wildlife values, marine organisms; and protection of aesthetic values will be considered as beneficial uses.
- 3.2-5 Generation of electricity by hydropower, both in conventional and pump storage developments, is considered a

beneficial use of water resources provided that the system is so operated that neither maximum nor minimum operations flow releases are unreasonable and so that the rate of flow does not change so rapidly as to be hazardous.

3.2-6 Water Resource projects and sewerage systems shall be so designed, operated and maintained that hazards of health, public safety and environmental values are minimized.

3.2-7 The consideration of water resources projects by the Board shall include coordination with other public agencies in order to insure that all relevant public policy and formal standards will have an appropriate bearing on the final decision.

### 3.3 Environmental Protection

3.3-1 The long term protection of the environment shall be the guiding criterion in decisions relating to water and related land resources.

3.3-2 Channel management projects should be designed, constructed and operated in such a way as to minimize, and preferably to avoid, both short term and long term adverse environmental effects; the capability of water resources to absorb change shall be a designed constraint for such projects (e.g. erosion during construction).

3.3-3 Agricultural and urban channelization projects in natural water courses should be limited in size to that essential for the protection of property and should be developed and/or constructed in such a way that fish and wildlife and aesthetic values are protected, that erosion and flood hazards are not increased, and that groundwater is not adversely affected.

3.3-4 Water resource projects and sewerage system plans shall be accompanied by an adequate environmental evaluation.

### 3.4 Pollution and Wasteful Use

3.4-1 Industrial processes should be designed to minimize system demand through reuse and process change and to minimize discharge of wastes. As a goal the Board favors the design of industrial processes with minimum withdrawal.

3.4-2 Flow releases from reservoir systems to dilute wastes are not to be considered as a substitute for adequate treatment of waste from industry, agriculture or municipalities.

3.4-3 No water storage reservoir project will be endorsed or approved unless accompanied by adequate plans and programs for safeguarding reservoir storage from loss through sedimentation from upstream erosion and shoreline erosion associated with a project, which may include the use of upstream sedimentation basins and for control of pollutants from all sources. Any such plan and project shall have adequate legal and financial support.

3.4-4 Plumbing and building codes should prevent needless waste of water, without interfering with maintenance of health values. (See Table 1 - Virginia Uniform Statewide Building Code). Metering of municipal water deliveries to users should be essential.

3.4-5 The discharge of pollutants into deep groundwater aquifers shall be contrary to Board policy except that brine derived from aquifers may be returned to these aquifers and chemicals and water may be used in connection with the

exploration for and development of water, brines, oil and natural gas to the extent that such uses do not result in pollution of groundwater.

- 3.4-6 Spoils produced from original dredging and channel maintenance projects should not be disposed of in any manner that would in itself adversely modify circulation in estuaries or wetlands. Installation and maintenance of drainage ditches, including disposition of any spoils produced thereby, or use of drain tile is permissible in managing wet or soggy agricultural lands.
- 3.4-7 Fail-safe type mechanisms should be provided for all facilities designed to store substances which might be hazardous to stream environment or to groundwater.
- 3.4-8 Fail-safe devices shall be incorporated in the construction of wastewater treatment facilities to prevent discharges which would create a potential hazard to downstream uses. All sewer systems shall be so designed and operated that bypassing occurs only under emergency conditions and that nearby residents and official agencies are informed and alerted whenever such bypassing of raw sewage occurs.

### 3.5 Water Supply and Storage

- 3.5-1 Municipal areas should have adequate off-stream raw water storage. The amount of storage should be governed by such factors as community size and demand, hydrographic characteristics of the supply area(s) (including well fields) and susceptibility to accidental contamination.
- 3.5-2 Water systems should be interconnected whenever practicable in order that they may mutually support or aid each other in emergency situations, and assure the best possible uses of available surface and groundwater resources. In order to insure reliability and safety the use or development of multiple or alternate sources should be considered.
- 3.5-3 The use of reclaimed water should be considered in water resources planning for urban areas providing such uses are compatible with the public's health and safety. Acceptable uses which should be considered are:
  - 1. Cooling waters
  - 2. Agricultural
  - 3. Irrigation
  - 4. Industrial
  - 5. Recreational

The direct reuse of sewage effluents as a raw domestic water source is not recommended or condoned.

- 3.5-4 The use of reservoir surfaces for all compatible uses including recreation, municipal and industrial water supply and fish/wildlife management, and the use of reservoir shoreline for all purposes shall be subject to community/project controls which will protect the reservoir against pollution from runoff or discharges from point sources, and to zoning controls which will preserve agreed-upon aesthetic values.
- 3.5-5 Sub-surface storage and groundwater recharge should be encouraged subject to the provisions that such practices do not cause pollution of underground water resources.
- 3.5-6 Municipal sewage treatment plants shall, whenever possible, be so located to permit the beneficial reuse of effluents for the purposes set forth in subparagraph 3.5-3 above.

3.5-7 Criteria for guidance in the withdrawal and use of groundwater should be considered as follows:

3.5-7.1 The relationships between groundwater and surface water in the area

3.5-7.2 Information relating to the planned use of the groundwater, considering use for domestic drinking water as of greatest importance.

3.5-7.3 The economic effects involved in both the withdrawal and non-withdrawal of groundwater on the area and the State.

3.5-7.4 The urgency of the need for groundwater in a given area.

3.5-8 Provide the highest degree of protection for the capacity and quality of reservoir and storage through programs designed to assure reliable waste treatment systems, effective erosion and runoff controls, and effective control of quality of runoff in newly developed areas.

### 3.6 Flood Plains and Flood Control

3.6-1 Development of permanent, private or public structures should be discouraged on the flood plains unless there are overriding economic or social justifications for such development and compatible facilities are designed to withstand inundation and provide for the safety of the users.

3.6-2 Communities and individuals should make optimum use of flood plain insurance and the level(s) of participation will be considered by the Board in recommending protection measures.

Existing or authorized development of the flood plain should be protected from a flood with a recurrence interval of 100 years.

3.6-3 Flood control measures approved or recommended for any given community shall incorporate a cost-effective mix of reservoirs, dry dams, protective levees, structure flood proofing, flood plain zoning and other measures necessary for preservation of environmental values including historic sites.

3.6-4 Any proposals for additional development of water or sewerage systems in defined flood plains, with the exception of limited park and recreational facilities or agricultural uses, should be discouraged.

3.6-5 In the flood plain, construction of facilities designed to store substances which might be hazardous to the stream environment should be discouraged.

3.6-6 In approving sewerage projects, the Board will consider the extent to which the proposed project will result in increased erosion, changes in the rate and amount of surface runoff, changes in the development-induced quality of runoff, and increased exposure to flood damage.

### 3.7 Financial Considerations

3.7-1 Project costs (both non-recurring and recurring), to the extent not financed by Federal and State programs, should be apportioned equitably among the project beneficiaries.

3.7-2 No community or area of Virginia, in the development or management of a water resource project, shall unduly place any hardship on another community or area without just compensation. The Board in acting on a water resource project will consider the extent to which such inequities may be present and the steps, financial and otherwise, necessary to alleviate both short and long range consequences of such inequities. Compensation of individuals disrupted by water resource projects necessarily includes, to the extent reasonably possible, subjective as well as objective valuation factors.

3.7-3 Beneficiaries of water resource structures and projects shall be encouraged to adopt user charges which shall be based upon the total recurring and non-recurring costs of the structures or projects.

3.8 Wetlands

3.8-1 It is the policy of the State Water Control Board to preserve the wetland ecosystems, both tidal and non-tidal, and to protect them from destruction.

4.0 The Board may, from time to time and after public hearing, adopt, modify, amend and/or rescind any policy contained herein. Such action may be taken on the Board's own motion or by virtue of a citizen action if presented in a manner acceptable to the Board. Nothing in this Water Resources Policy Statement in any way negates previous specific policy statements of the Board.



TABLE I

State Legislation Relating to  
Virginia's Water Resources

NAME	DESCRIPTION
Sections 1 and 2, Article XI (Conservation, Virginia State Constitution)	<p>States: Section 1 - "To the end that the people have clean air, pure water, and the use and enjoyment for recreation of adequate public lands, waters, and other natural resources, it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and buildings. Further, it shall be the Commonwealth's policy to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth."</p> <p>Section 2 - "In the furtherance of such policy, the General Assembly may undertake the conservation, development, or utilization of lands or natural resources of the Commonwealth, the acquisition and protection of historical sites and buildings, and the protection of its atmosphere, lands, and waters from pollution, impairment, or destruction, by agencies of the Commonwealth or by the creation of public authorities, or by leases or other contracts with agencies of the United States, with other states, with units of government in the Commonwealth, or with private persons or corporations. Notwithstanding the time limitations of the provisions of Article X, Section 7, of this Constitution, the Commonwealth may participate for any period of years in the cost of projects which shall be the subject of a joint undertaking between the Commonwealth and any agency of the United States or of other states."</p>
Waters of the State, Ports and Harbors - Title 62	<p>Declares that the waterways of the Commonwealth are to remain the property of the Commonwealth and may be used as a common by all the people of the State for fishing and fowling and catching shellfish. Refers to State policy as to waters, public water supply, hydroelectric dams, authorities and commissions, wharves, water safety, etc.</p>
State Water Control Law Section 62.1-44.2 to 62.1-44.34	<p>States that it is the policy of the Commonwealth to maintain all State waters in, or restore them to, such condition of quality to permit all public uses and support the propagation and growth of aquatic life; safeguard the clean waters of the State from pollution; prevent any increase in pollution, and; reduce existing pollution.</p>
Marine Resources Law Section 28.1-1 to 18.1-22	<p>Organized the Commission of Marine Resources to make regulations to promote the general welfare of the seafood industry and to conserve and promote the seafood and marine resources of the State. The Commission has</p>

**Wetlands Act Policy**  
**Section 62.1-13.1 to 62.1-13.20**

the power to establish a license for any device used for the taking of seafood in the waters of the State.

Relates generally to protection of Virginia Wetlands, prescribes a Wetlands Ordinance, provides for the creation of Wetlands Boards, requires permits for certain activities and provides for review and appeal of decisions regarding permits.

**State Policy as to Water,**  
**Section 62.1-11**

States that the regulation, control, development and use of waters for all purposes beneficial to the public are within the jurisdiction of the State. These resources should be put to uses beneficial to the public to the extent of which they are capable; the waste or unreasonable use should be prevented; and the conservation of such water is to be exercised.

**Groundwater Act of 1973**  
**Section 62.1-44.45**

Authorizes the State Water Control Board and the State Health Department to regulate and control the use of groundwater in certain areas, authorizes the Board to issue permits to draw groundwater, includes provisions that the Board shall determine the geographical areas of the State which can be considered critical groundwater areas.

**Soil and Water Conservation**  
**District Laws**  
**Section 21-1 to 21-122.21**

The law recognizes that the preservation of land is necessary to promote the health, safety and general welfare of the people of the State. To this end, a policy is declared to provide for the conservation of the soil and soil resources of the State, for the control and prevention of soil erosion, prevention of floodwater and sediment damages, and furthering agricultural phases of the conservation, development, utilization and disposal of water.

To these ends, the law provides for the Virginia Soil and Water Conservation Commission to coordinate and assist the various soil and water conservation districts under the law. Such districts constitute governmental subdivisions of the State and have the power to develop comprehensive programs and plans for the conservation of soil and water resources and flood prevention.

**Erosion and Sediment Control Law**  
**Section 21-433 - 21-450**

Requires the development of a comprehensive and statewide program to protect the State's waters from sedimentation. The Soil and Water Conservation Commission is to establish minimum standards for the control of soil erosion, sediment deposition and non-agricultural runoff.

**Hydroelectric Power Dams and Works**  
**Section 62.1-80**

Gives the State Corporation Commission jurisdiction over all hydroelectric power dams in the State constructed after January 1, 1928, in order to utilize the State's resources to the greatest extent and to control the construction or reconstruction of a dam in any of the State's waters for the generation of hydroelectric energy.

Virginia Marine Resources Commission  
Powers over Subaqueous Beds  
Section 62.1-3

States that it is unlawful for anyone to build, dump or otherwise encroach upon the beds of the bays, rivers, creeks and shores of the State without first obtaining authority from the Marine Resources Commission except for previously authorized purposes such as the authorized erection of dams, uses incident to the construction and maintenance of approved navigation and flood control projects, uses of subaqueous beds authorized under the provisions of Title 28.1 of the Code, piers, docks, marine terminals and port facilities owned or leased by or to the State, fills by riparian owners opposite their property to any established bulkhead line (with a certificate of assurance from the State Water Control Board), the placement of private piers for non-commercial purposes by owners of riparian lands in waters opposite these lands (with length limitations), causing the removal of silt and other waste material inside an established bulkhead line by riparian owners incident to the construction and use of graving docks, dry docks or other shipbuilding facility (with a certificate of assurance from the State Water Control Board).

Riparian Doctrine

The collection of principles which govern the use of Virginia's waterways; a common law system of water rights based on the ownership of land traversed or bordered by a natural watercourse. The Riparian Doctrine gives a proprietor the right to make any reasonable use of the water of a stream in connection with this riparian estate and for lawful purposes within the watershed, provided he leaves the flow diminished by no more than is reasonable.

Hampton Roads Sanitation District Act  
Section 21-291

Validates the creation of the Hampton Roads Sanitation District and its commission; authorizes the construction, maintenance and operation of a sewerage system; authorizes the commission to restrain, enjoin or otherwise prevent the pollution of any waters in the District.

Sanitation Districts Law  
Section 21-112, 21-140.2

Has the control of pollution as its stated purpose and authorizes the creation of special districts to provide facilities for the treatment of wastes, and contains a provision making unlawful the discharge of polluting matter into the waters of any sanitation district when the district has complied with the terms of the law regarding public notice.

Sanitation Districts Law of 1946 -  
Non-Tidal Waters  
Section 21-224 to 21-290

Makes provisions for the creation of sanitation districts in areas where there are rivers, creeks or other watercourses not affected by tidal flows; sets forth procedures for the creation of such districts. Also, puts forth rules and standards for the creation, operation and power of the commissions.

Scenic Rivers Act (1970)  
Section 10-167 to 10-175

The Act declares that rivers, streams, runs and waterways including their shores and immediate environs constitute natural

resources and that the conservation of these resources constitutes a beneficial use. To this end, the Act provides for a Virginia Scenic Rivers System. After a detailed study of the river, a report by the Commission of Outdoor Recreation in cooperation with the State Water Control Board and other agencies, and public hearings if requested, a river can be included by the General Assembly into the system. Once designated a Scenic River, the natural flow of the stream may not be altered except by specific authorization of the General Assembly.

**Game, Inland Fisheries and Dogs Act**  
Section 29-25.1-29-35.2

Provides that any game warden of the State may take samples of water that he has reason to believe is polluted to the State Water Control Board, whereby the Board shall have a chemical analysis made. If these studies show the water to be polluted, further analyses should be made by the Board to determine the extent of such pollution and the most effective measures for controlling the same.

**Public Health Law**  
Section 32.9

States that the State Board of Health may regulate and prescribe the method or methods of disposition of sewage in this State, and is authorized and directed through joint studies with authorized representatives of common carriers to consider and investigate control devices to control the discharge of human waste.

**Public Water Supply**  
Section 62.1-46

Gives the State Board of Health the authority for the "supervision and control over all water supplies and waterworks in the State insofar as the sanitary and physical quality of waters furnished for drinking or domestic purposes may affect the public health, and may require that all water supplies be pure water." This is set up through regulations of the Board of Health, examination of water supplies, permits, investigations, injunctions, revocation of permits, hearings, appeals and emergency orders of the State Health Commissioner.

**Counties, Cities and Towns**  
**Public Utilities**  
Title 15.1, Chapter 9

Gives the governing body of every county, city and town the authority to obtain control of or establish, maintain, operate, extend and enlarge public utilities including water and sewerage systems within or without the limits of the county, city or town. Sets up powers and duties of the county, city and town as to sewage disposal systems and approval of such, and water supply systems and their approval by counties.

**Outdoor Recreation Act**  
Section 10-21.4 to 10-21.12

An Act to create the Commission of Outdoor Recreation which is to acquire property for the maintenance, improvement, protection and conservation of outdoor areas suitable for the development of a system of outdoor recreational facilities and to transfer such property to other State agencies; to act either independently or jointly with other agencies to carry out the Commission's powers and duties.

Virginia Uniform Statewide  
Building Code

This statewide building code, published by the State Board of Housing, applies to all buildings and structures and their appurtenant constructions, including municipal, county, state and private buildings except where such buildings are otherwise specifically provided for by statute. The code regulations control all matters concerning the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and their service equipment, and supercedes all local building codes.

Virginia Environmental Quality  
Act  
Sections 10-177 to 10-186

To establish the policy of the Commonwealth to promote the wise use of its air, water, land and other natural resources in order to improve the quality of the environment. The Act provides for cooperation with other agencies to achieve this end, and creates the Council on the Environment to implement such policy.

Environmental Impact Reports of  
State Agencies  
Section 10-17.107 to 10-17.112

Requires all agencies of the Commonwealth to submit a report to the Commissioner of Conservation, Development and Natural Resources on each major State facility which they propose to construct, to include environmental impact, measures proposed to reduce this impact and alternatives to the construction. The Commissioner must then make a report to the Governor on such projects, and construction can begin only after approval from the Governor.

TABLE II

Federal Legislation Relating  
to Virginia's Water Resources

NAME	DESCRIPTION
Creation of Environmental Protection Agency - December, 1970	<p>Reorganization Plan No. 3 of 1970 provides for consolidation of pollution control and abatement activities which previously were assigned to several departments and agencies. Water quality research and development program embodies: research on the effects of water quality on water uses, research on the processes which influence the fate of water pollutants, the development of improved sampling and analytical methods of measuring water quality and effluents and the development of improved technology for preventing water pollution.</p> <p>Water quality efforts are directed toward assisting states in carrying out water quality improvement programs by providing financial and technical support.</p>
Federal Water Pollution Control Act Amendments of 1972 - (Public Law 92-500)	<p>Provides for the restoration and maintenance of the nation's waters by the establishment of guidelines for Federal, State and local agencies to follow, in cooperation with each other.</p> <p>Requires each state to establish a continuing planning process for guiding the development of a water quality management plan, consistent with the Act and subject to the approval of the Administrator. The Administrator is authorized to conduct in the Environmental Protection Agency and to make grants to any State, municipality or intermunicipal or interstate agency for the purpose of assisting in the development of any project that will (1) demonstrate an improved method of preventing the discharge of pollutants from sewers or (2) demonstrate advanced waste treatment and water purification methods or improved methods of joint treatment systems for municipal and industrial wastes.</p> <p>Each state is responsible for submitting yearly a report including: (1) A description of the water quality of the navigable waters, (2) an analysis of the extent to which the elimination of the discharge of pollutants provides for the protection and propagation of a balanced population of shellfish, fish and wildlife and allows recreational activities in and on the water, (3) an estimate of the environmental impact, economic and social costs necessary to achieve the objectives of the Act, economic and social benefits and date of achievements, and (4) a description of the nature and extent of nonpoint sources of pollutants and recommendations as to programs for control of such.</p>

Soil Conservation Act - February 29,  
1936 and Domestic Allotment  
(Public Law 461)

Established the Soil Conservation Service which assists conservation districts, communities, watershed groups, federal and state agencies and other cooperators with erosion control and water management problems. The purpose is to conserve soil and water resources, improve agriculture and reduce damage caused by floods and sedimentation.

National Environmental Policy Act  
of 1969 - (Public Law 91-190)

To establish a national policy for the environment and promote efforts to prevent or eliminate damage to the ecological systems and natural resources of the Nation, and to establish a Council on Environmental Quality in an effort to meet these ends. This Act requires environmental impact review of most federally funded projects. All studies are coordinated with other Federal, State and local agencies.

Environmental Quality Improvement  
Act of 1970 (Public Law 91-224)

To assure the Federal agencies conducting or supporting public works activities which affect the environment will implement the policies established under existing law, and to authorize an office of Environmental Quality to provide for the Council on Environmental Quality established by Public Law 91-190.

Water Resources Research Act 1964  
(Public Law 88-379)

Provides for federal-state cooperative water resources research and training programs to meet the needs of the states in dealing with complex water problems.

Resources Planning Act 1965  
(Law 89-80)

Established that it is the policy of the Congress to encourage the conservation, development and utilization of water and related land resources of the U.S. on a comprehensive and coordinated basis by the Federal government, states, localities and private enterprise with the cooperation of all affected Federal, State and local agencies. Establishes the Water Resources Council, authorizes establishment of River Basin Commissions and authorizes financial assistance to states for planning by means of matching grants.

Watershed Protection and Flood  
Prevention Act (Public Law 566)

Provides for cooperation with other federal, state and local agencies in making investigations and surveys of the watersheds of rivers and other waterways as a basis for the development of coordinated programs. Plans from the basis for installing works of improvement for floodwater retardation, erosion control and reduction of sedimentation in the watersheds of rivers and streams.

The Flood Control Acts:  
River & Harbors Act 1966  
(Public Law 89-789); 1968  
Amendments (Public Law  
90-361); 1970 Amendments  
(Public Law 91-611).

As amended, provides for installation of mainstream works of improvement for (1) the control of floods, for which the Department of the Army is responsible and (2) watershed improvement measures to prevent floods, reduce flood-water, sedimentation, and erosion damages, and further the conservation, development, utilization and disposal of water. Includes preparation of detailed subwatershed work plans in collaboration with other agencies.



**Fish and Wildlife Coordination Act  
(Public Law 85-624)**

This act provides for the Secretary of the Interior to assist Federal, State, public and private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife; in the control of losses from disease, in minimizing damages from over abundant species; and in providing public shooting and fishing areas. The act provides that wildlife conservation will be coordinated with other water resource development programs.

**Federal Power Act - Title 16,  
Chapter 12 Federal Regulation  
and Development of Power  
subchapter 1 - Regulations of  
the Development of Water  
Power and Resources**

Section 792 of this Chapter creates the Federal Power Commission, and 797 provides the general powers thereof: investigations and data, cooperation with Executive Departments, publication of information, issuance of licenses for construction of dams, conduits, reservoirs. Other sections deal with projects affecting navigable waters (804); regulation by State or Commission as to service, rates, charges, etc. (812); power to enter into interstate commerce (813); and provision that State laws and water rights will be unaffected (821).

**Agricultural Credit  
Title 7 Agriculture, Chapter 50**

Section 1924 of this Chapter deals with Soil and Water Conservation Loans: loans can be extended to any farm owner/tenant without regard to provisions/restrictions of Section 1922, for purposes only of land and water development, use and conservation.

Section 1926 water facilities loans to associations, prohibition against curtailment of services provides for the development of water and waste disposal facilities.

**Coastguard Regulation on Oil Spills  
Code of Federal Regulations,  
Title 33, Chapter 1, Subchapter 0**

This provision requires that anyone with knowledge of a spill should immediately notify proper agency of U.S. of discharge; various regulations dealing with oil transfers, vessel design and operations, etc. also included.

**Rural Development Act of 1972  
P.L. 92-419 Title II - Amendments  
to the Watershed Protection and  
Flood Prevention Act, As Amended**

Provides for certain agencies to enter into agreements with landowners, individually or collectively, based on conservation plans of such landowners which are developed in cooperation with and approved by the soil and water conservation district in which the land is located, providing for changes in cropping systems and land uses for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, wildlife and recreation resources within this land included in plans for works of improvement.

**Attachment 6 to  
Program Description**

**HAZARDOUS WASTE MANAGEMENT FACILITIES SITING ACT**

1984 SESSION

CHAPTER 518

*An Act to amend and reenact §§ 2.1-342, 2.1-344 and 32.1-178 of the Code of Virginia and to amend the Code of Virginia by adding in Title 10 a chapter numbered 17.1, consisting of sections numbered 10-186.1 through 10-186.21, pertaining to the siting of hazardous waste facilities; penalties.*

[S 170]

Approved APR 7 1984

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-342, 2.1-344 and 32.1-178 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 10 a chapter numbered 17.1, consisting of sections numbered 10-186.1 through 10-186.21 as follows:

§ 2.1-342. Official records to be open to inspection; procedure for requesting records and responding to request; charges; exceptions to application of chapter.—(a) Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of this Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to any such citizen of this Commonwealth, nor to representatives of newspapers and magazines with circulation in this Commonwealth, and representatives of radio and television stations broadcasting in or into this Commonwealth. The custodian of such records shall take all necessary precautions for their preservation and safekeeping. Any public body covered under the provisions of this chapter shall make an initial response to citizens requesting records open to inspection within fourteen calendar days from the receipt of the request by the public body. Such citizen request shall designate the requested records with reasonable specificity. If the requested records or public body is excluded from the provisions of this chapter, the public body to which the request is directed shall within fourteen calendar days from the receipt of the request tender a written explanation as to why the records are not available to the requestor. Such explanation shall make specific reference to the applicable provisions of this chapter or other Code sections which make the requested records unavailable. In the event a determination of the availability of the requested records may not be made within the fourteen-calendar-day period, the public body to which the request is directed shall inform the requestor as such, and shall have an additional ten calendar days in which to make a determination of availability. A specific reference to this chapter by the requesting citizen in his records request shall not be necessary to invoke the time limits for response by the public body. The public body may make reasonable charges for the copying and search time expended in the supplying of such records; however, in no event shall such charges exceed the actual cost to the public body in supplying such records. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen.

(b) The following records are excluded from the provisions of this chapter:

(1) Memoranda, correspondence, evidence and complaints related to criminal investigations, reports submitted to the state and local police and the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23 of the Code of Virginia in confidence, and all records of persons imprisoned in penal institutions in this Commonwealth provided such records relate to the said imprisonment. Information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge of arrest, shall not be excluded from the provisions of this chapter.

(2) Confidential records of all investigations of applications for licenses and all licensees made by or submitted to the Alcoholic Beverage Control Commission.

(3) State income tax returns, personal property tax returns, scholastic records and personnel records, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person's choice; however, the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being. Where the person who is the subject of scholastic or medical and mental records is under the age of eighteen, his right of access may be asserted only by his parent or guardian, except in instances where the person who is the subject thereof is an emancipated minor

or a student in a state-supported institution of higher education.

(4) Memoranda, working papers and correspondence held or requested by members of the General Assembly or by the office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any political subdivision of the Commonwealth or the president or other chief executive officer of any state-supported institutions of higher education.

(4a) Written opinions of the city and county attorneys of the cities, counties and towns in the Commonwealth and any other writing protected by the attorney-client privilege.

(5) Memoranda, working papers and records compiled specifically for use in litigation or as a part of an active administrative investigation concerning a matter which is properly the subject of an executive or closed meeting under § 2.1-344 and material furnished in confidence with respect thereto.

(6) Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

(7) Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

(8) Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, (iii) qualifications for any license or certificate issued by any public body.

As used in this subsection (8), "test or examination" shall include (i) any scoring key for any such test or examination, and (ii) any other document which would jeopardize the security of such test or examination. Nothing contained in this subsection (8) shall prohibit the release of test scores or results as provided by law, or limit access to individual records as is provided by law. However, the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

(9) Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Regulatory Boards or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requestor's expense, by the individual who is subject thereof, in the offices of the Department of Health Regulatory Boards or in the offices of any health regulatory board, whichever may possess the material.

(10) Records of active investigations being conducted by the Department of Health Regulatory Boards or by any health regulatory board in the Commonwealth.

(11) Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

(12) Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

(13) Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-134.1 or § 62.1-132.4.

(14) Contract cost estimates prepared for the confidential use of the Department of Highways and Transportation in awarding contracts for construction or the purchase of goods or services.

(15) Vendor proprietary information software which may be in the official records of a public body. For the purpose of this section, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of this Commonwealth.

(16) Data, records or information of a proprietary nature, other than financial or administrative, produced or collected by or for faculty or staff of state institutions of higher learning in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information have not been publicly released, published, copyrighted or patented.

(17) Financial statements not publicly available filed with applications for industrial development financings.

(18) Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

(19) Documents as specified in § 10-186.9 B 2.

(c) Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this title shall be construed as denying public access to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to any public officer, official or employee at any level of state, local or regional government in this Commonwealth whatsoever. The provisions of this subsection, however, shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

§ 2.1-344. Executive or closed meetings.—(a) Executive or closed meetings may be held only for the following purposes:

(1) Discussion or consideration of employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of public officers, appointees or employees of any public body, and evaluation of performance of departments or schools of state institutions of higher education where such matters regarding such individuals might be affected by such evaluation. Any teacher shall be permitted to be present during an executive session or closed meeting in which there is a discussion or consideration of a disciplinary matter, which disciplinary matter involves the teacher and some student or students, and the student or students involved in such matter are present; provided such teacher makes a written request to be present to the presiding officer of the appropriate board.

(1a) Discussion or consideration of admission or disciplinary matters concerning any student or students of any state institution of higher education or any state school system. However, any such student and legal counsel and, if such student be a minor, such student's parents or legal guardians, shall be permitted to be present at an executive or closed meeting, if such student, parents or guardians so request in writing, and such request is submitted to the presiding officer of the appropriate board.

(2) Discussion or consideration of the condition, acquisition or use of real property for public purpose, or of the disposition of publicly held property, or of plans for the future of a state institution of higher education which could affect the value of property owned or desirable for ownership by such institution.

(3) The protection of the privacy of individuals in personal matters not related to public business.

(4) Discussion concerning a prospective business or industry where no previous announcement has been made of the business' or industry's interest in locating in the community.

(5) The investing of public funds where competition or bargaining is involved, where if made public initially the financial interest of the governmental unit would be adversely affected.

(6) Consultation with legal counsel and briefings by staff members, consultants or attorneys, pertaining to actual or potential litigation, or other legal matters within the jurisdiction of the public body, and discussions or consideration of such matters without the presence of counsel, staff, consultants, or attorneys.

(7) In the case of boards of visitors of state institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants and contracts made by a foreign government, a foreign legal entity or a foreign person and accepted by a state institution of higher education shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subsection, (i) "foreign government" shall mean any government other than the United States government or the government of a state or a political subdivision thereof (ii) "foreign legal entity" shall mean any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" shall mean any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

(7a) In the case of the boards of trustees of the Virginia Museum of Fine Arts and the Science Museum of Virginia, discussion or consideration of matters relating to specific gifts,

bequests, and grants.

(8) Discussion or consideration of honorary degrees or special awards.

(9) Discussion or consideration of tests or examinations or other documents excluded from this chapter pursuant to § 2.1-342 (b) (8).

(10) Discussion, consideration or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by said member, provided said member may request in writing that the committee meeting not be conducted in executive session.

(11) *Discussion of matters exempted under § 10-186.9 B 1.*

(b) No meeting shall become an executive or closed meeting unless there shall have been recorded in open meeting an affirmative vote to that effect by the public body holding such meeting, which motion shall state specifically the purpose or purposes hereinabove set forth in this section which are to be the subject of such meeting and a statement included in the minutes of such meeting which shall make specific reference to the applicable exemption or exemptions as provided in subsection (a) or § 2.1-345. A general reference to the provisions of this chapter or to the exemptions of subsection (a) shall not be sufficient to satisfy the requirements for an executive or closed meeting. The public body holding such an executive or closed meeting shall restrict its consideration of matters during the closed portions only to those purposes specifically exempted from the provisions of this chapter.

(c) No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in an executive or closed meeting shall become effective unless such public body, following such meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation or motion which shall have its substance reasonably identified in the open meeting. Nothing in this section shall be construed to require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.1-1373 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subsection (a) (4) of this section applies. However, such business or industry must be identified as a matter of public record at least thirty days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

(d) Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same regulations for holding executive or closed sessions as are applicable to any other public body.

#### CHAPTER 17.1.

##### VIRGINIA HAZARDOUS WASTE FACILITIES SITING ACT.

§ 10-186.1. *Short title.—This Act shall be known and may be cited as the "Virginia Hazardous Waste Facilities Siting Act."*

§ 10-186.2. *Statement of findings and policy.—The General Assembly finds and declares that the improper treatment, storage and disposal of hazardous waste is detrimental to public health, natural resources and the environment; that adequate capacity in safe and environmentally acceptable facilities for the treatment, storage and disposal of hazardous wastes is essential to the economic growth and well-being of Virginia industries; that ensuring the safe, economical and proper treatment, storage and disposal of hazardous wastes is a public purpose in the best interest of all of the citizens of this Commonwealth; that it is necessary to establish a process for the rational siting of hazardous waste facilities; and that the informed participation of the public and of elected and appointed officials at all levels of government is essential to such a process.*

*The General Assembly further finds that properly constructed and operated hazardous waste treatment, storage and disposal facilities confer benefits on the Commonwealth but may impose disproportionate burdens in the areas where they are located. It is thus the policy of the General Assembly that the owners, operators and users of such facilities should, to the extent that it is feasible, eliminate or reduce these burdens by any means appropriate, including mitigation and compensation.*

*It is also the policy of the General Assembly that controversies and conflicts over the local impacts of hazardous waste facility siting decisions should be resolved, to the extent feasible and practical, by negotiation, mediation and similar conflict resolution techniques. To that end, the staff of the Council on the Environment is directed to compile and maintain information on the use and availability of conflict resolution techniques and to make this information available to Virginia industries, state and local government officials, and other citizens.*

*It is the intent of the General Assembly that, in the implementation of this chapter, the responsible state agencies shall encourage alternatives to land burial of hazardous*

wastes which will reduce, separate, neutralize, recycle, exchange or destroy hazardous wastes whenever possible.

It is the further intent of the General Assembly that hazardous waste treatment, storage and disposal facilities should be privately owned and operated to the extent feasible, and, whether privately or publicly owned and operated, should be subject to strict governmental regulation, and that the costs of long-term post-closure care and maintenance of hazardous waste treatment, storage and disposal facilities should be borne by their owners and operators.

§ 10-186.3. Definitions.—As used in this chapter, unless the context clearly requires otherwise:

"Applicant" means the person applying for a certification of site suitability or submitting a notice of intent to apply therefor.

"Application" means an application to the Board for a certification of site suitability.

"Board" means the Hazardous Waste Facility Siting Board established pursuant to § 10-186.4 of this Code.

"Certification of site suitability" or "certification" means the certification issued by the Hazardous Waste Facility Siting Board pursuant to this chapter.

"Criteria" means the criteria adopted by the Board, pursuant to § 10-186.7 of this Code.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Fund" means the Technical Assistance Fund created pursuant to § 10-186.21 of this Code.

"Hazardous waste" means a solid waste classified as a hazardous waste by regulations adopted pursuant to § 32.1-177 of this Code.

"Hazardous waste facility" or "facility" means any facility, including land and structures, appurtenances, improvements and equipment for the treatment, storage or disposal of hazardous wastes, which accepts hazardous waste for storage, treatment or disposal. For the purposes of this Act, it does not include: (a) facilities which are owned and operated by and exclusively for the on-site treatment, storage or disposal of wastes generated by the owner or operator; (b) facilities for the treatment, storage or disposal of hazardous wastes used principally as fuels in an on-site production process; (c) facilities used exclusively for the pretreatment of wastes discharged directly to a publicly-owned sewage treatment works.

"Hazardous waste management facility permit" means the permit for a hazardous waste management facility issued by the State Health Commissioner or the U.S. Environmental Protection Agency.

"Host Community" means any county, city or town within whose jurisdictional boundaries construction of a hazardous waste facility is proposed.

"On-site" means facilities that are located on the same or geographically contiguous property which may be divided by public or private right-of-way, and the entrance and exit between the contiguous properties is at a cross-roads intersection so that the access is by crossing, as opposed to going along, the right-of-way. On-site also means noncontiguous properties owned by the same person but connected by a right-of-way which the owner controls and to which the public does not have access.

"Operator" means a person who is responsible for the overall operation of a facility.

"Owner" means a person who owns a facility or a part of a facility.

"Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, state, municipality, commission, political subdivision of a state, interstate body or federal government agency.

"Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended.

"Storage" means the containment or holding of hazardous wastes pending treatment, recycling, reuse, recovery or disposal.

"Treatment" means any method, technique or process, including incineration or neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render



such waste less hazardous or nonhazardous, safer for transport, amenable to recovery, amenable to storage or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of a hazardous waste so as to render it less hazardous or nonhazardous.

§ 10-186.4. Hazardous Waste Facility Siting Board established; members; compensation; meetings.—A. A Hazardous Waste Facility Siting Board is established in the executive department. It shall consist of seven members who shall be Virginia residents. Of the seven, three shall be or have been elected officials of a local government; one shall be a member of the public who is active and knowledgeable in environmental affairs; one shall be or have been employed in an executive function by an industry generating hazardous waste; one shall be a public health professional; and one shall be appointed from the general public.

B. The Board shall elect a chairman from among its members.

C. Members shall be appointed by the Governor, subject to confirmation by the General Assembly. Upon initial appointment, three members shall be appointed for four-year terms, two for three-year terms, and two for two-year terms. Thereafter, all members shall be appointed for terms of four years each. Vacancies occurring other than by expiration of a term shall be filled by the Governor in the same manner as the original appointment for the unexpired portion of the term.

D. Members shall be entitled, when on the business of the Board, to be compensated as provided in § 2.1-20.3 of this Code.

E. A quorum shall consist of four members. The decision of a majority of those present and voting shall constitute a decision of the Board; however, a vote of a majority of the Board membership is required to constitute a final decision on certification of site approval. A quorum shall be present to conduct public meetings or hearings.

F. The Board shall meet in the City of Richmond within sixty days of its initial appointment by the Governor. Thereafter it shall meet, from time to time and at the call of the chairman, at whatever place it determines. At least five days in advance of any meeting, all members shall be notified in writing of its time and place unless the chairman requests an emergency meeting whereby notice may be given in a manner feasible at the time.

G. The Board shall cause to be made and shall keep a complete and accurate record of its proceedings. A copy of the record shall be available for public inspection and copying at the office of the Council on the Environment and at any other place that the Board may designate.

§ 10-186.5. Powers and duties of the Board.—The Board shall have the following powers and duties:

1. To adopt rules, regulations and procedures for the conduct of its business;
2. Subject to the approval of the Governor, to request and avail itself of the resources and services of any state department or agency for technical assistance on the performance of the Board's duties;
3. To hold public meetings or hearings on any matter related to the siting of hazardous waste facilities;
4. To coordinate the preparation of and adopt criteria for the siting of hazardous waste facilities;
5. To grant or deny certification of site approval for construction of hazardous waste facilities;
6. To promulgate regulations and procedures for approval of hazardous waste facility sites;
7. To contract for and accept any gifts, grants or loans of financial or other aid in any form from any source and to comply, consistent with the provisions of this chapter, with the terms and conditions thereof;
8. To employ and contract for such consultants and experts as may be necessary in the judgment of the Board to carry out the provisions of this chapter;
9. To expend any funds made available by appropriation for purposes consistent with and in furtherance of this chapter;
10. To employ an executive director, who shall be appointed by the Governor subject to confirmation by the General Assembly, and who may act on behalf of the Board;
11. To adopt a schedule of fees to charge applicants and to collect such fees for the cost of processing applications and site certifications; and
12. To do and perform any acts and things authorized by this chapter under, through or by means of its own officers, agents and employees, or by contract with any person.

§ 10-186.6. Certification of site approval required; "construction" defined; remedies.—A. 1. After the effective date of this act, no person shall construct or commence construction

of a hazardous waste facility without first obtaining a certification of site approval by the Board in the manner prescribed herein. For the purpose of this section, "construct" and "construction" shall mean (i) with respect to new facilities, the significant alteration of a site to install permanent equipment or structures or the installation of permanent equipment or structures; (ii) with respect to existing facilities, the alteration or expansion of existing structures or facilities to initially accommodate hazardous waste, any expansion of more than fifty percent of the area or capacity of an existing hazardous waste facility, or any change in design or process of a hazardous waste facility that will, in the opinion of the Board, result in a substantially different type of facility. It does not include preliminary engineering or site surveys, environmental studies, site acquisition, acquisition of an option to purchase or activities normally incident thereto.

2. Upon receiving a written request from the owner or operator of the facility, the Board may allow, without going through the procedures of this chapter, any changes in the facilities which are designed to:

- a. Prevent a threat to human health or the environment because of an emergency situation;
- b. Comply with federal or state laws and regulations promulgated after the effective date of this chapter; or
- c. Demonstrably result in safer or environmentally more acceptable processes.

B. 1. Any person who violates this section shall be compelled by injunction, in a proceeding instituted in the circuit court for a locality where the facility or proposed facility is to be located, to cease the violation.

2. Such an action may be instituted by the Board or by the Attorney General, or by the political subdivision in which the violation occurs. In any such action, it shall not be necessary for the plaintiff to plead or prove irreparable harm or lack of an adequate remedy at law. No person shall be required to post any injunction bond or other security under this section.

3. No action may be brought under this section after a certification of site approval has been issued by the Board, notwithstanding the pendency of any appeals or other challenges to the Board's action.

4. In any action under this section, the court may award reasonable costs of litigation, including attorney and expert witness fees, to any party if the party substantially prevails on the merits of the case and if in the determination of the court the party against whom the costs are awarded has acted unreasonably.

§ 10-186.7. Site approval criteria.—A. Notwithstanding the provisions of subsection B of this section, within 180 days after the effective date of this chapter, the Board shall publish draft criteria for approval of hazardous waste facility sites. Such criteria shall be deemed substantive regulations within the meaning of the Virginia Administrative Process Act and shall be adopted and become effective pursuant thereto. The criteria shall be designed to prevent or minimize the location, construction, or operation of a hazardous waste facility from resulting in (i) any significant adverse impact on the environment and natural resources, and (ii) any significant adverse risks to public health, safety or welfare. The criteria shall also be designed to eliminate or reduce to the extent practicable any significant adverse impacts on the quality of life in the host community and the ability of its inhabitants to maintain quiet enjoyment of their property. The criteria should ensure that previously approved local comprehensive plans are considered in the certification of hazardous waste facility sites.

B. The provisions of the Administrative Process Act shall apply to any regulation or criteria promulgated by the Board.

C. To avoid duplication to the maximum extent feasible with existing agencies and their areas of responsibility, the criteria shall reference, and the Board shall list in the draft and final certifications required hereunder, the agency approvals required for and areas of responsibility concerning a site and its operation. The Board shall not review or make findings concerning the adequacy of those agency approvals and areas of responsibility.

D. The Board shall make reasonable efforts to reduce or eliminate duplication between the criteria and the applicable regulations and requirements of other state and federal agencies.

E. The criteria may be amended or modified by the Board at any time, following the provisions of the Administrative Process Act.

§ 10-186.8. Notice of intent to file application for certification of site approval.—A. After December 31, 1984, any person may submit to the Board a notice of intent to file an application for a certification of site approval. The notice shall be in such form as the Board may prescribe by regulation. Knowingly falsifying information, or knowingly

withholding any material information, shall void the notice and shall constitute a felony punishable by confinement in the penitentiary for one year or, in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months, a fine of not more than \$10,000, or both.

Any state agency filing a notice of intent shall include as a part thereof a statement explaining why the Commonwealth desires to build a hazardous waste facility and how the public interest would be served thereby.

B. Within forty-five days of receipt of such a notice, the Board shall determine whether it is complete. The Board shall reject any incomplete notice, advising the applicant of the information required to complete it, and allow reasonable time to correct any deficiencies.

C. Upon receipt of the notice, the Board, at the applicant's expense, shall:

1. Deliver or cause to be delivered a copy of the notice of intent together with a copy of this act to the governing body of each host community and to each person owning property immediately adjoining the site of the proposed facility; and

2. Have an informative description of the notice published in a newspaper of general circulation in each host community once each week for four successive weeks. The description shall include the name and address of the applicant, a description of the proposed facility and its location, the places and times where the notice of intent may be examined, the address and telephone number of the Board or other state agency from which information may be obtained, and the date, time and location of the initial public briefing meeting on the notice.

§ 10-186.9. Powers of governing body of host community; technical assistance.—A. The governing body of a host community shall have the following powers:

1. To hire and pay consultants and other experts on behalf of the host community in matters pertaining to the siting of the facility;

2. To receive and disburse moneys from the fund, and any other moneys as may be available;

3. To enter into a contract, which may be assignable at the parties option, binding upon the governing body of the host community and enforceable against it and future governing bodies of the host community in any court of competent jurisdiction, with an applicant by signing a siting agreement pursuant to § 10-186.13 of this Code.

B. Notwithstanding the provisions of the Virginia Freedom of Information Act, a governing body:

1. May hold executive sessions to discuss strategy with respect to the negotiation of a siting agreement or to consider the terms, conditions and provisions of a siting agreement if the governing body in open meeting finds that an open meeting will have a detrimental effect upon the negotiating position of the governing body and/or the establishment of the terms, conditions and provisions of the siting agreement. All negotiations with the applicant or its representatives may be conducted in a closed meeting or executive session.

2. May hold confidential, except as otherwise provided in § 10-186.12 A 3, any documents so long as disclosure of them would have a detrimental effect upon the negotiating position of a governing body or the establishment of the terms, conditions and provisions of the siting agreement.

C. The Board shall make available to the governing body from the fund a reasonable sum of money to be determined by the Board. This shall be used by the governing body to hire consultants to provide it with technical assistance and information necessary to aid the governing body in its review of the siting proposal, negotiations with the applicant and the development of a siting agreement.

Unused moneys from the fund shall be returned to the Board. The governing body shall provide the Board with a certified accounting statement of any moneys expended from the fund.

D. The governing body of the host community may appoint a local advisory committee to facilitate communication and the exchange of information between the local government, the community, the applicant and the Siting Board.

E. Notwithstanding the foregoing provisions of this chapter, the governing body of a host community may notify the Board, within forty-five days after receiving a notice of intent pursuant to § 10-186.8 C 1, that it has elected to waive further participation under the provisions of this chapter. After receiving notification from the host community, the Board may issue certification of site approval without further participation by the host community.

§ 10-186.10. Briefing meetings.—A. Not more than seventy-five nor less than sixty days after the delivery of the notice of intent to the host community, the Board shall conduct a briefing meeting in or in reasonable proximity to the host community. Notice of the date,

time, place and purpose of the briefing session shall be prepared by the Board and shall accompany the notice of intent delivered pursuant to § 10-186.8 C 1 and be included in the notice published pursuant to § 10-186.8 C 2 of this Code.

At least one representative of the applicant shall be present at the briefing meeting.

The Board shall adopt procedures for the conduct of briefing meetings. The primary purpose of the briefing meeting will be to provide information on the proposed site and facility and to receive comments, suggestions and questions thereon.

B. The Board may conduct additional briefing meetings at any time in or near a host community, provided that at least fifteen days in advance of a meeting, notice of the date, time, place and purpose of the meeting is delivered in writing to the applicant, each member of the governing body and to all owners of property adjoining the proposed site.

C. A stenographic or electronic record shall be made of all briefing meetings. The record shall be available for inspection during normal business hours.

§ 10-186.11. Impact analysis.—A. The applicant shall submit a draft impact analysis for the proposed facility to the Board within ninety days after the initial briefing meeting. At the applicant's expense, copies of the draft impact analysis shall be furnished as follows: five to the host community, and one to each person owning property adjoining the site of the proposed facility. At least one copy shall be made available for public inspection and copying at a convenient location in the host community during normal business hours.

B. The draft impact analysis shall include a detailed assessment of the project's suitability with respect to the criteria and other information as the Board may require by regulation.

C. The Board, at the applicant's expense, shall cause notice of the filing of the draft impact analysis to be made in the manner provided in § 10-186.20 within ten days of receipt. The notice shall include (i) a general description of the analysis, (ii) a list of recipients, (iii) a description of the places and times that the analysis will be available for inspection, (iv) a description of the Board's procedures for receiving comments on the analysis, and (v) the addresses and telephone numbers for obtaining information from the Board.

D. The Board shall allow forty-five days after publication of notice for comment on the draft impact analysis. No sooner than thirty and no more than forty days after publication of notice of the draft impact analysis, the Board shall conduct a public meeting on the draft impact analysis in or near the host community. The meeting shall be for the purpose of explaining, answering questions and receiving comments on the draft impact analysis. A representative of the governing body and a representative of the applicant shall be present at the meeting.

E. Within ten days after the close of the comment period, the Board shall forward to the applicant a copy of all comments received on the draft impact analysis, together with its own comments.

F. The applicant shall prepare and submit a final impact analysis to the Board after receiving the comments. The final impact analysis shall reflect the comments as they pertain to each of the items listed in subsection B of this section. A copy of the final impact analysis shall be provided by the applicant upon request to each of the persons who received the draft impact analysis.

§ 10-186.12. Application for certification of site approval.—A. At any time within six months after submission of the final impact analysis, the applicant may submit to the Board an application for certification of site approval. The application shall contain:

1. Conceptual engineering designs for the proposed facility;
2. A detailed description of the facility's suitability to meet the criteria promulgated by the Board, including any design and operation measures that will be necessary or otherwise undertaken to meet the criteria;
3. A siting agreement, if one has been executed pursuant to § 10-186.13 C, or, if none has been executed, a statement to that effect.

B. The application shall be accompanied by whatever fee the Board, by regulation, prescribes pursuant to § 10-186.5.12 of this Code.

C. The Board shall review the application for completeness and notify the applicant within fifteen days of receipt that the application is incomplete or complete.

If the application is incomplete, the Board shall so advise the applicant and shall identify the information necessary to make the application complete. The Board shall take no further action until the application is complete.

If the application is complete, the Board shall so advise the applicant and shall direct the applicant to furnish copies of the application to the following: five to the host community, one to the State Health Commissioner, and one to each person owning property adjoining the proposed site. At least one copy of the application shall be made



available by the applicant for inspection and copying at a convenient place in a host community during normal business hours.

D. The Board shall cause notice of the application to be made in the manner provided in § 10-186.20 and shall notify each governing body that upon publication of the notice the governing body must conclude all negotiations with the applicant within thirty days. The applicant and the governing body may, by agreement, extend the time for negotiation to a fixed date but shall forthwith notify the Board of this date. The Board may also extend the time to a fixed date for good cause shown.

E. At the end of the period specified in subsection D of this section, a governing body shall submit to the Board and to the applicant a report containing:

1. A complete siting agreement, if any, or in case of failure to reach full agreement, a description of points of agreement and unresolved points; and
2. Any conditions or restrictions on the construction, operation or design of the facility that are required by local ordinance.

F. If the report is not submitted within the time required, the Board may proceed as specified in § 10-186.14 A of this Code.

G. The applicant may submit comments on the report of the governing body at any time prior to the issuance of the draft certification of site approval.

§ 10-186.13. Negotiations; siting agreement.—A. The governing body or its designated representatives and the applicant, after submission of notice of intent to file an application for certification of site approval, may meet to discuss any matters pertaining to the site and the facility, including negotiations of a siting agreement. The time and place of any meeting shall be set by agreement, but at least forty-eight hours' notice shall be given to members of the governing body and the applicant.

B. The siting agreement may include any terms and conditions, including mitigation of adverse impacts and financial compensation to the host community, concerning the facility. In the event that a provision of a siting agreement conflicts with state or federal law, the state or federal law shall prevail.

C. The siting agreement shall be executed by the signatures of (i) the chief executive officer of the host community, who has been so directed by a majority vote of the local governing body, and (ii) the applicant or authorized agent.

D. The Board shall assist in facilitating negotiations between the local governing body and the applicant.

E. No injunction, stay, prohibition, mandamus or other order or writ shall lie against the conduct of negotiations or discussions concerning a siting agreement or against the agreement itself, except as they may be conducted in violation of the provisions of this chapter.

§ 10-186.14. Draft certification of site approval.—A. Within thirty days after receipt of the governing body's report or as otherwise provided in § 10-186.12 G of this Code, the Board shall issue or deny a draft certification of site approval.

B. The Board may deny the application for certification of site approval if it finds that the applicant has failed or refused to negotiate in good faith with the governing body for the purpose of attempting to develop a siting agreement.

C. The draft certification of site approval shall specify the terms, conditions and requirements that the Board deems necessary to protect health, safety, welfare, the environment and natural resources.

D. Copies of the draft certification of site approval, together with notice of the date, time and place of public hearing required under § 10-186.15, shall be delivered by the Board to the governing body of each host community, and to persons owning property adjoining the site for the proposed facility. At least one copy of the draft certification shall be available for inspection and copying at a convenient place in the host community during normal business hours.

§ 10-186.15. Public hearing on draft certification of site approval.—A. The Board shall conduct a public hearing on the draft certification not less than fifteen nor more than thirty days after first publication of notice. The hearing shall be conducted in the host community.

B. Notice of the hearing shall be made at the applicant's expense and in the manner provided in § 10-186.20. It shall include:

1. A brief description of the terms and conditions of the draft certification;
2. Information describing the date, time, place and purpose of the hearing;
3. The name, address and telephone number of an official designated by the Board from whom interested persons may obtain access to documents and information concerning the proposed facility and the draft application;
4. A brief description of the rules and procedures to be followed at the hearing and

the time for receiving comments; and

5. The name, address and telephone number of an official designated by the Board to receive written comments on the draft certification.

C. The Board shall designate a person to act as hearing officer for the receipt of comments and testimony at the public hearing. The hearing officer shall conduct the hearing in an expeditious and orderly fashion, according to such rules and procedures as the Board shall prescribe.

D. A transcript of the hearing shall be made and shall be incorporated into the hearing record.

E. Within fifteen days after the close of the hearing, the hearing officer shall deliver a copy of the hearing record to each member of the Board. The hearing officer may prepare a summary to accompany the record, and this summary shall become part of the record.

§ 10-186.16. Final decision on certification of site approval.—A. Within forty-five days after the close of the public hearing, the Board shall meet within or in close proximity to the host community and shall vote to issue or deny the certification of site approval. The Board may include in the certification any terms and conditions which it deems necessary and appropriate to protect and prevent injury or adverse risk to health, safety, welfare, the environment and natural resources. At least seven days' notice of the date, time, place and purpose of the meeting shall be made in the manner provided in § 10-186.20 of this Code. No testimony or evidence will be received at the meeting.

B. The Board shall grant the certification of site approval if it finds:

1. That the terms and conditions thereof will protect and prevent injury or unacceptable adverse risk to health, safety, welfare, the environment and natural resources;

2. That the facility will comply and be consistent with the criteria promulgated by the Board; and

3. That the applicant has made reasonable and appropriate efforts to reach a siting agreement with the host community including, though not limited to, efforts to mitigate or compensate the host community and its residents for adverse economic effects, if any, of the facility.

C. The Board's decision to grant or deny certification shall be based on the hearing record and shall be accompanied by the written findings of fact and conclusions upon which the decision was based. The Board shall provide the applicant and the governing body of the host community with copies of the decision, together with the findings and conclusions, by certified mail.

D. The grant or denial of certification shall constitute final action by the Board.

§ 10-186.17. Effect of certification.—A. Grant of certification of site approval shall supersede any local ordinance or regulation that is inconsistent with the terms of the certification. Nothing in this act shall effect the authority of the host community to enforce its regulations and ordinances to the extent that they are not inconsistent with the terms and conditions of the certification of site approval. Grant of certification shall not preclude or excuse the applicant from the requirement to obtain approval or permits under other state or federal laws. The certification shall continue in effect until it is amended, revoked or suspended.

B. The certification may be amended for cause upon such procedures and regulations as shall be prescribed by the Board.

C. The certification shall be terminated or suspended (i) at the request of the owner of the facility; (ii) upon a finding by the Board that conditions of the certification have been violated in a manner that poses a substantial risk to health, safety or the environment; (iii) upon termination of the hazardous waste facility permit by the State Health Commissioner or EPA Administrator; or (iv) upon a finding by the Board that the applicant has knowingly falsified or failed to provide material information required in the notice of intent and application.

D. The facility owner shall promptly notify the Board of any changes in the ownership of the facility or of any significant changes in capacity or design of the facility.

E. Nothing in the certification shall preclude the right of any individual or constitute a defense to liability in any civil action involving private rights.

F. The Commonwealth may not acquire any site for a facility by eminent domain prior to the time at which certification of site approval is obtained. However, any agency or representative of the Commonwealth may enter upon a proposed site pursuant to the provisions of § 25-232.1 of the Code of Virginia.

§ 10-186.18. Judicial review; stay; issues on appeal.—A. The following persons are entitled to judicial review of the Board's grant or denial of certification: (i) the applicant, (ii) the host community, acting through its governing body, (iii) any person owning land

adjoining the site of the proposed facility, and (iv) any person whose significant interest, in the determination of the court, is adversely affected by the decision.

B. Judicial review shall be in accordance with the Administrative Process Act, in the manner provided by the Rules of the Supreme Court of Virginia.

C. The court, in its discretion, may stay the effect of the certification pending the resolution of issues on appeal. No stay shall be entered against the Board prior to its final action on the certification.

§ 10-186.19. Enforcement; penalties.—A. The Attorney General shall have the authority and duty to enforce the terms and conditions of the certification in the appropriate circuit court by injunction, mandamus or other appropriate remedy.

B. The governing body of the host community shall have the authority to enforce local regulations and ordinances to the extent provided by § 10-186.17 A of this Code and the terms of the siting agreement. The local governing body may be authorized by the Board to enforce specified provisions of the certification.

C. It shall be unlawful to violate any term or condition of the certification of site approval. Any person who does so shall, upon such a finding by an appropriate circuit court in an action brought by the Attorney General, be assessed a civil penalty of not more than \$10,000 for each violation. Each day of violation shall constitute a separate offense.

§ 10-186.20. Public participation; notice.—A. Public participation in the development, revision and implementation of regulations and programs under this chapter shall be provided for, encouraged and assisted by the Board.

B. Whenever notice is required to be made under the terms of this chapter, unless the context expressly and exclusively provides otherwise, it shall be disseminated as follows:

1. By publication once each week for two successive weeks in a newspaper of general circulation within the area to be affected by the subject of the notice;

2. By broadcast over one or more radio stations within the area to be affected by the subject of the notice;

3. By mailing to each person who has asked to receive notice; and

4. By such additional means as the Board deems appropriate.

C. Every notice shall provide a description of the subject for which notice is made and shall include the name and telephone number of a person from whom additional information may be obtained.

§ 10-186.21. Technical Assistance Fund.—A special fund, to be known as the Technical Assistance Fund, is created in the Office of the State Treasurer. The Fund shall consist of appropriations made to the Fund by the General Assembly. The Board shall make moneys from the Fund available to any host community for the purposes set out in § 10-186.9 C of this Code.

§ 32.1-178. Powers and duties of Board.—A. The Board is responsible for carrying out the purposes and provisions of this article and compatible provisions of federal acts and is authorized to:

1. Exercise general supervision and control over solid and hazardous waste management activities in this Commonwealth with the exception of siting certification of hazardous waste facilities as provided in Chapter 17.1 of Title 10.

2. Provide technical assistance and advice concerning all aspects of solid and hazardous waste management.

3. Develop and keep current a state solid and hazardous waste management plan and provide technical assistance and advice or other aid for the development and implementation of local or regional solid and hazardous waste management plans.

4. Promote the development of resource conservation and resource recovery systems and provide technical assistance and advice on resource conservation, resource recovery and resource recovery systems.

5. Collect such data and information as may be necessary to conduct the state solid and hazardous waste program, including data on the identification of and amounts of waste generated, transported, stored, treated or disposed of and resource recovery.

6. Require any person who generates, collects, transports, stores or provides treatment or disposal of a hazardous waste to maintain such records, manifest and reporting system as may be required pursuant to federal statute or regulation.

7. Designate, in accordance with criteria and listings identified under federal statute or regulation, classes, types or lists of waste which it deems to be hazardous.

8. Consult and coordinate with the heads of any other appropriate state and federal agencies, any appropriate independent regulatory agencies and any other appropriate governmental instrumentalities for the purpose of achieving maximum effectiveness and enforcement of this article while imposing the least burden of duplicative requirements on



those persons subject to the provisions of this article.

9. Make application for such federal funds as may become available under federal acts and to transmit such funds when applicable to any appropriate person.

10. Promulgate such regulations as may be necessary to carry out its powers and duties and the intent of this article and the federal acts.

11. Subject to the approval of the Governor *and in accordance with Chapter 17.1 of Title 10 of the Code*, acquire by purchase, exercise of the right of eminent domain in accordance with Chapter 1.1 of Title 25 of the Code (§ 25-46.1 et seq.), grant, gift, devise or otherwise, the fee simple title to any lands, selected in the discretion of the Board as constituting necessary and appropriate sites to be used for the purpose of the management of hazardous waste as defined in § 32.1-177, including any and all lands adjacent to the site as the Board may deem necessary or suitable for restricted areas; and in all instances shall dedicate lands so acquired in perpetuity to such purposes. In its selection of a site pursuant to this paragraph, the Board shall consider the appropriateness of any state-owned property for a disposal site in accordance with the criteria for selection of a hazardous waste management site.

12. Operate or provide for the operation of hazardous waste management facilities.

13. Assume responsibility for the perpetual custody and maintenance of any hazardous waste management facilities.

14. Collect, from any person operating or using a hazardous waste management facility, fees sufficient to finance such perpetual custody and maintenance due to that facility as may be necessary.

15. Collect, from any person operating or proposing to operate a hazardous waste treatment, storage or disposal facility or any person transporting hazardous waste, permit application fees sufficient to defray costs only related to the issuance of permits as required in § 32.1-180 in accordance with regulations promulgated by the Board, but such fees shall not exceed the costs necessary to implement this ~~paragraph~~ subsection A 15.

B. All fees received by the Board pursuant to ~~paragraph~~ subsection A 14 of this section shall be used exclusively to satisfy the responsibilities assumed by the Board for the perpetual custody and maintenance of hazardous waste management facilities. All fees received by the Board pursuant to ~~paragraph~~ subsection A 15 shall be used exclusively for the hazardous waste management program as set forth herein.

2. That the General Assembly shall appropriate funds for the initial operating costs of the Hazardous Waste Facility Siting Board.

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President of the Senate

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Speaker of the House of Delegates

Approved:

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Governor

Attachment 7 to  
Program Description

COOPERATIVE AGREEMENT WITH USDOT

ACKNOWLEDGMENT OF COOPERATIVE AGREEMENT  
BETWEEN THE  
VIRGINIA DEPARTMENT OF HEALTH  
AND THE  
FEDERAL HIGHWAY ADMINISTRATION  
U.S. DEPARTMENT OF TRANSPORTATION  
PURSUANT TO PUBLIC LAW 89-170

ACKNOWLEDGMENT OF COOPERATIVE AGREEMENT  
BETWEEN THE  
VIRGINIA DEPARTMENT OF HEALTH  
AND THE  
FEDERAL HIGHWAY ADMINISTRATOR

WHEREAS, The Administrator of the Federal Highway Administration, United States Department of Transportation, pursuant to Public Law 89-670 (49 USC 1651-1659) and Public Law 89-170 (49 USC 11502(a)), is authorized to make cooperative agreements with the various States to enforce the motor carrier safety and hazardous materials laws and regulations of various States and the United States concerning highway transportation; and,

WHEREAS, For the purpose of implementing the provisions of Public Law 89-170, the Federal Highway Administrator issued regulations, codified in 49 CFR, Part 388, which specifies the terms of the agreement to be effected between the Federal Highway Administrator and the various States; and,

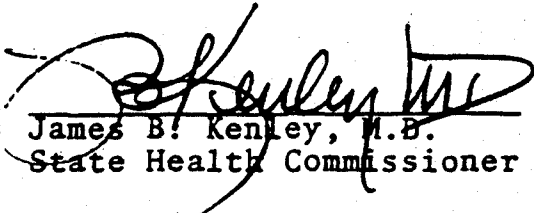
WHEREAS, On September 30, 1982, the Virginia Department of Health notified the Federal Highway Administrator of its acceptance of the cooperative agreement;

NOW, THEREFORE, The parties signatory hereto on behalf of their respective Agencies do hereby acknowledge the acceptance by the Virginia Department of Health of the invitation of the Federal Highway Administrator to participate in a cooperative

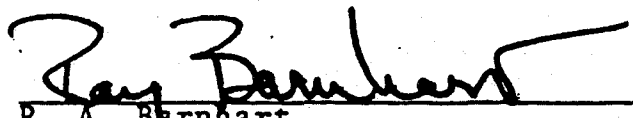
agreement to enforce the motor carrier safety and hazardous materials laws and regulations of the State of Virginia and the United States concerning highway transportation.

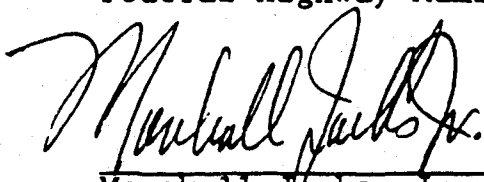
Dated at Richmond, Virginia in duplicate, this 11th day of January 1983.

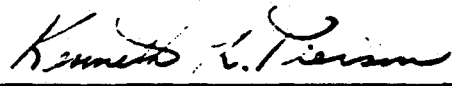
FOR THE STATE OF VIRGINIA  
DEPARTMENT OF HEALTH

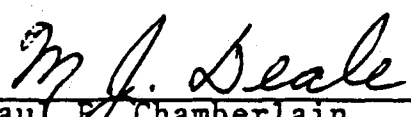
  
James B. Kenley, M.D.  
State Health Commissioner

FOR THE FEDERAL HIGHWAY  
ADMINISTRATION

  
R. A. Barnhart  
Federal Highway Administrator

  
Marshall Jacks, Jr.  
Associate Administrator for  
Safety, Traffic Engineering,  
and Motor Carriers

  
Kenneth L. Pierson  
Director of Motor Carrier Safety

for   
Paul F. Chamberlain  
Division Administrator

**Attachment 8 to  
Program Description**

**VIRGINIA REGULATIONS GOVERNING THE TRANSPORTATION  
OF HAZARDOUS MATERIALS**

**COMMONWEALTH OF VIRGINIA**

**STATE BOARD OF HEALTH**

**REGULATIONS GOVERNING THE  
TRANSPORTATION OF HAZARDOUS MATERIALS**

**May 4, 1981**

**DIVISION OF SOLID & HAZARDOUS WASTE MANAGEMENT  
VIRGINIA STATE DEPARTMENT OF HEALTH  
906 MADISON BUILDING  
109 GOVERNOR STREET  
RICHMOND, VIRGINIA**



As authorized by Title 18.2, Chapter 7, Article 3.1 of the Code of Virginia, (1950) as amended, the State Board of Health has, in conformity with the provisions of Title 9, Chapter 1.1:1, Code of Virginia (1950) as amended, adopted the Regulations Governing Transportation of Hazardous Materials. Amendment 2 incorporates by reference the 1981 changes to the U. S. Department of Transportation Regulations cited in Section 3.00.

Preliminary approval by the State Board of Health: March 3, 1981

Public Hearing held: April 13, 1981

Adopted by the State Board of Health: May 4, 1981

Effective date: June 22, 1981

Preliminary Approval of Amendment 1: September 2, 1981

Public Hearing on Amendment 1: December 4, 1981

Amendment 1 Adopted: January 10, 1982

Amendment 1 Effective Date: April 20, 1982

Amendment 2 Preliminary Approval: March 17, 1982

Public Hearing on Amendment 2: June 2, 1982

Amendment 2 Adopted: July 21, 1982

Amendment 2 Effective Date: December 1, 1982

Amendment 3 Preliminary Approval: January 12, 1983

Public Hearing on Amendment 3: April 6, 1983

Amendment 3 Adopted: May 18, 1983

Amendment 3 Effective Date: September 1, 1983

Amendment 4 Preliminary Approval: January 18, 1984

Public Hearing on Amendment 4: April 18, 1984

Amendment 4 Adopted: July 16, 1984

Amendment 4 Effective Date: September 20, 1984

Copies can be obtained from:

Division of Solid and Hazardous Waste Management  
906 Madison Building, 109 Governor Street  
Richmond, Virginia 23219  
(804) 786-5271

## **1.00 GENERAL INFORMATION AND LEGISLATIVE AUTHORITY**

### **1.01 Authority for Regulation**

- 1.01.01 These regulations are issued under the authority of the Code of Virginia, as amended, Title 18.2, Chapter 7, Article 3.1, Sections 18.2-278.1 through 18.2-278.7, Transportation of Hazardous Materials.
- 1.01.02 The Code of Virginia, Section 18.2-278.2, assigns the Board of Health the responsibility for promulgating regulations governing the transportation of hazardous materials.
- 1.01.03 The Board is authorized to promulgate rules and regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported, such rules to be no more restrictive than applicable federal regulations.

### **1.02 Purpose of Regulations**

The purpose of these regulations is to regulate the transportation of hazardous materials in Virginia.

### **1.03 Administration of Regulations**

- 1.03.01 The Commissioner of Health is designated by the Board of Health with the responsibility to carry out these regulations.
- 1.03.02 The Division of Solid and Hazardous Waste Management is designated as the organizational portion of the Department of Health responsible to the Commissioner for the planning, development and implementation of programs to meet the requirements of Article 3.1, Chapter 7 of Title 18.2.

**1.04 Application of Regulations**

Subject to the exceptions set forth in <1.05 below, these regulations apply to any person who transports hazardous materials, or offers such materials for shipment.

**1.05 Exceptions**

Nothing contained in these regulations shall apply to regular military or naval forces of the United States, nor to the duly authorized militia of any state or territory thereof, nor to the police or fire departments of this Commonwealth, providing the same are acting within their official capacity and in the performance of their duties; nor to the transportation of hazardous radioactive materials in accordance with §44-146.30 of the Code of Virginia.

**1.06 Regulations Not to Preclude Exercise of Certain Regulatory Powers.**

Per §18.2-278.5 of the Code, the provisions of these regulations shall not be construed so as to preclude the exercise of the statutory and regulatory powers of any agency, department or political subdivision of the Commonwealth having statutory authority to regulate hazardous materials on specified highways or portions thereof.

**1.07 Transportation under United States Regulations.**

Per §18.1-278.7 of the Code, any person transporting or offering for shipment hazardous materials in accordance with regulations promulgated under the laws of the United States, shall be deemed to have complied with the provisions of these regulations, except when such transportation is excluded from regulation under the laws or regulations of the United States.

**1.08 Enforcement**

**1.08.01 Law Enforcement Officers.** The Department of State Police, together with all law enforcement and peace officers of the Commonwealth shall enforce the provisions of these regulations. Per §18.2-278.3 and §32.1-27 of the Code, violation of these regulations is a Class 1 Misdemeanor.

**1.08.02 Civil judicial enforcement of these regulations shall be governed by §32.1-27 of the Code of Virginia.**

**1.09 Application of Administrative Process Act**

The provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9, Section 9-6.14:1 et seq., Code of Virginia, 1950, as amended, govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all proceedings hereunder.

**1.10 Severability.**

If any provision of these regulations, or the application of any provision of these regulations to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of these regulations, shall not be affected thereby.

**2.00 DEFINITIONS**

**2.01 Hazardous Material** means a substance or material in a form or quantity which may pose an unreasonable risk to health, safety or property when transported, and which the Secretary of Transportation of the United States has so determined by regulation or order;

2.02 Transport or transportation means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

2.03 Explosive means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion; that contains any oxidizing and combustible units; or other ingredients; in such proportions; quantities; or packing that an ignition by fire, by friction; by concussion; by percussion; or by detonator; or any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive efforts on contiguous objects or of destroying life or limb.

means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified in 49 CFR Parts 170-177.

### 3.00 COMPLIANCE WITH FEDERAL REGULATIONS

3.01 Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the United States Secretary of Transportation with amendments promulgated through December 31, 19823 pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations as set forth below:

3.01.01 Exemptions - Hazardous Materials Program Procedures in 49 CFR, Part 107, Subpart B.

- 3.01.02 Hazardous Materials Regulations in 49 CFR, Parts 171 through 177.
- 3.01.03 Shipping Container Specifications in 49 CFR, Part 178.
- 3.01.04 Specifications for Tank Cars in 49 CFR Part 179.
- 3.01.05 Driving and Parking Rules in 49 CFR Part 397.
- 3.01.06 Motor Carrier Safety Regulations in 49 CFR Parts 390 through 396.

#### **4.00 HAULING EXPLOSIVES IN PASSENGER-TYPES VEHICLES**

Explosives must not be transported in or on any motor vehicle licensed as a passenger vehicle or a vehicle which is customarily and ordinarily used in the transportation of passengers except upon written permission of the State Police and under their direct supervision and only in the amount and between points authorized. If the movement is intracity, the permission of properly designated authority of said city must be secured. Dangerous articles, including small arms ammunition, but not including other types of explosives, may be transported in passenger type vehicles provided the maximum quantity transported does not exceed one hundred pounds in weight. Such transportation shall not be subject to these rules.

#### **5.00 OUT OF SERVICE**

- 5.01 The Department of State Police shall be the Agents authorized to perform inspections of motor vehicles in operation and to declare and mark vehicles "out of service" as set forth in 49 CFR Part 396.9.



**Attachment 9 to  
Program Description**

**VIRGINIA FORMS USED IN HAZARDOUS WASTE MANAGEMENT PROGRAM**

**(Camera-ready copies in process of preparation)**





Appendix 7.1 Transporter Annual Report

Transporter Name \_\_\_\_\_ ID # \_\_\_\_\_

Address \_\_\_\_\_ VA Transport Permit # \_\_\_\_\_

\_\_\_\_\_ Phone Number \_\_\_\_\_

\_\_\_\_\_ Reporting Year \_\_\_\_\_

Reported by: \_\_\_\_\_ Title: \_\_\_\_\_

1. Number of transport vehicles in use in Virginia at close of year by mode:

Highway \_\_\_\_\_ Rail \_\_\_\_\_ Air \_\_\_\_\_ Water \_\_\_\_\_ Other \_\_\_\_\_

2. List all shipments of hazardous wastes as follows:

- a. Shipments within the Commonwealth on Form 7.1-2
- b. Shipments from the Commonwealth to the States on Form 7.1-3
- c. Shipments into the Commonwealth on Form 7.1-4
- d. Shipments to foreign facilities on Form 7.1-5

3. Please list name and address of designated official in firm who can be contacted on hazardous waste transport matters:

Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_ Phone Number \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of Reporting Official Date

**US EPA ARCHIVE DOCUMENT**

VA Transporter Permit # \_\_\_\_\_

[illegible]

**US EPA ARCHIVE DOCUMENT**

VA Transporter Permit # \_\_\_\_\_

**Date of Receipt of Shipment**

**Facility  
ID  
Number**

**Date  
Released  
to Facility**

**Manifest  
Number**

## US EPA ARCHIVE DOCUMENT

VA Transporter Permit # \_\_\_\_\_

[illegible]





Appendix 7.2 Application for a Permit to Transport Hazardous Wastes

Name \_\_\_\_\_ Title \_\_\_\_\_  
Address (if applicable) \_\_\_\_\_ Phone Number \_\_\_\_\_  
\_\_\_\_\_  
Completed by \_\_\_\_\_  
\_\_\_\_\_  
Title \_\_\_\_\_  
EPA ID # \_\_\_\_\_

1. Please attach financial data:

a. Interstate transporters: Copy of document showing insurance required under 49 CFR Part 387.

b. Intrastate transporter: Either copy of insurance required under 49 CFR Part 387 or latest annual balance sheet.

2. Incorporated in \_\_\_\_\_

3. VA Corporation ID # (if applicable) \_\_\_\_\_

4. Corporate Headquarters Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Chief Executive Officer \_\_\_\_\_

6. Are you presently licensed or permitted by any other State to transport hazardous materials or hazardous wastes?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, attach a list of licensing/permit agent and appropriate code to identify your licences/permits.

7. Have you been informed by a State or federal agency of violations pertaining to the management of hazardous wastes or transportation of hazardous waste/materials?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, give agency issuing notice of violation and circumstances.

8. What will be your principal address of record to conduct business in the Commonwealth?

9. Who will be the person in charge of the operation? \_\_\_\_\_

\_\_\_\_\_

I certify that all statements are true and are representative of the ability of \_\_\_\_\_ to provide hazardous waste transportation services consistent with the Commonwealth of Virginia hazardous waste management regulations. \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**Attachment 10 to  
Program Description**

**SAMPLING PROCEDURES AND CHAIN OF CUSTODY FOR SAMPLES**

Attachment 10 to  
Program Description

SAMPLING PROCEDURES AND CHAIN OF CUSTODY FOR SAMPLES

**A-4 SAMPLING PROCEDURES**Sampling

The need to know the concentrations of various constituents in air, water, soil, sediment, oil, liquid, and solid mixtures is paramount to hazardous waste enforcement and remedial planning activity. Analytical data generated by state-of-the-art laboratories are and will continue to be invaluable in determining the extent of environmental damage and the presence of imminent hazards from uncontrolled chemical substances as well as the validity of product labels and process markings. The goal of analytical support is to identify the chemical constituents of interest that represent actual on-site contamination.

Sample collection is an important part of any enforcement or remedial planning activity. Without proper sample collection techniques, the results of analysis are neither useful nor valid for enforcement purposes, even with the most precise and accurate analytical measurements. Therefore, an effective sample collection program must include the development of a sample plan that addresses: (1) the definition of objectives, (2) selection of representative sampling sites, (3) collection of sufficient volumes of material, (4) selection and preparation of proper sample containers, (5) preservation of sample integrity, (6) identification of samples, (7) proper sample holding times, (8) safe handling and transportation procedures, and (9) standard chain-of-custody procedures. Chain-of-custody must be maintained in the field and the laboratory for enforcement purposes. The objective of sampling is to select a portion of the waste which is representative of the whole. Each component of the waste must have an equal chance of being sampled and tested. Therefore, before a sampling plan can be designed, the type of contamination distribution should be determined (if possible) by an engineering analysis of the process generating the

waste. The purpose of this analysis is to determine an appropriate sampling plan for obtaining a representative sample of the waste in question.

In general, sampling of hazardous waste requires the collection of samples that are adequate in size and representative of the body of wastes. Sampling situations vary widely. Therefore, no universal sampling procedure can be recommended. Rather, several procedures will be outlined for sampling different types of wastes in various states and receptacles. The inspector should consult with a laboratory prior to taking samples in order to determine the adequate containerization and preservation techniques.

Sampling procedures require a plan of action to maximize safety of sampling personnel, minimize sampling time and cost, reduce errors in sampling, and protect the integrity of the samples after sampling. A sampling plan should be prepared before entering a site. The following steps are essential in this plan of action.

1. Research background information about the waste (composition, form, concentration, etc.).
2. Determine equipment and procedural needs for safe sampling.
3. Consider proper locations for sampling.
4. Determine the volume of samples to be taken.
5. Determine the sampling equipment needed.
6. Review procedures for sample collection.
7. Review procedures for containing and handling samples.
8. Properly execute chain-of-custody procedures.
9. Identify necessary packaging, labeling, and shipping requirements, including the following:



- a. Identify samples and protect from tampering (secure evidence tape if available).
  - b. Record all sample information in a field notebook.
  - c. Fill out the sample analysis request sheet.
  - d. Fill out receipt-of-sample form.
10. Deliver or ship the samples to the laboratory for analysis.

#### Safety

The sampling plan should delineate the safety procedures for sample collection such as respiratory protection required while sampling concentrated sources, procedures for entering buildings or enclosed structures, length of time personnel are to remain in protective clothing while sampling, and identification of the person handling the field samples. Proper procedures must be used when opening drums, tanks, or other vessels, and all personnel must be notified of potential hazards when closed containers will be opened.

The sampling plan also should list telephone numbers and addresses of and directions to the nearest medical facility, ambulance service, fire department, police department and Virginia Department of Health contact. The fire department should be alerted to possible incidents during a very hazardous inspections.

#### Sampling Points

A representative sample is crucial to enforcement proceedings and is dependent on proper selection of sampling points. Hazardous wastes are usually multi-phase mixtures and are stored in receptacles of different sizes and shapes. No single series of sampling points can be specified for all types of receptacles. Table A4-1 lists most types of receptacles used for hazardous waste and the corresponding recommended sampling points.

TABLE A4-1

## SAMPLING POINTS FOR MOST WASTE RECEPTACLES

Receptacles	Sampling Point
Drum, bung on one end	Withdraw sample through the bung opening.
Drum, bung on side	Sample drums only if they are laying on side with bung up. Withdraw sample through the bung opening.
Barrel, fiberdrum, buckets, sacks, bags	Withdraw samples through the top of barrels, fiberdrums, buckets, and similar receptacles. Withdraw samples through fill openings of bags and sacks. Withdraw samples through the center of the receptacles and to different points diagonally opposite the point of entry.
Vacuum truck and similar containers	Withdraw sample through open hatch. Sample all other hatches.
Pond, pit, lagoons	Divide surface area into an imaginary grid.* Take three samples, if possible; one sample near the surface, one sample at mid-depth or at center, and one sample at the bottom. Repeat the sampling at each grid section over the entire pond or site.
Waste pile	Withdraw samples through at least three different points near the top of pile to points diagonally opposite the point of entry.
Storage tank	Sample from the top through the sampling hole.
Soil	Divide the surface area into an imaginary grid.* Sample each grid section.

\* The number of grid sections is determined by the desired number of samples to be collected which, when combined, should give a representative sample of the wastes.

In some cases, it may be appropriate to conduct a preliminary survey of the facility prior to sampling. This would consist of a brief site visit and survey during which safety requirements of the site would be ascertained and a sampling plan established by the inspector.

#### Volume of Samples

Sufficient volume of a sample, representative of the main body of the waste, must be collected. This sample must be adequate in size for all needs, including laboratory analysis, splitting with other organizations involved, etc. In collecting liquid waste samples in drums, vacuum trucks, or similar containers, 1000 ml of a sample is usually sufficient. Hazardous wastes usually contain high concentrations of the hazardous components, so only a small aliquot of the sample is used for analysis. In all cases, a laboratory should be consulted for guidance prior to sampling.

#### Sampling Equipment

Receptacles (i.e., drums, tanks, etc.), should only be sampled when necessary to meet enforcement or cleanup requirements. Opening of drums or other sealed receptacles may be hazardous to sampling personnel unless proper safety procedures are followed.

Samples of waste materials, water, soil, or sediments will be collected through the use of peristaltic, mechanical or automatic pumps, soil, augers, sediment dredges, hand scoops, and other equipment presented in Table A4-2. All samples are collected in a manner that assures no possible contamination between samples. This will be accomplished by cleaning the sampling utensils after each sample collection with appropriate solvents such as hexane or methylene chloride. Experience has shown that a better approach is to use equipment such as scoops, pump lines, and dip tubes only once at each facility (i.e., dispose of or clean after inspection). When possible, this approach will be taken.

TABLE A4-2  
SAMPLING EQUIPMENT

Sampling plan  
Sample containers (plastic and glass), caps, liners  
Shovels  
Soil samplers (auger, scoop, steel spoon, etc.)  
Stainless steel buckets  
Remote barrel opener equipment, non-sparking bung wrench  
Thermometer  
Drager tubes  
Tenax columns and power packs  
Ambient air monitor  
Surveyor's ribbon  
Glass pipets and glass tubing  
Wooden paddles (tongue depressors)  
Monitoring well sampling equipment  
Well sounder  
Radiation detector (beta, gamma)  
Explosimeter  
pH paper  
pH meter, spare probes

Samples from drums, bags, reservoirs, or other small vessels are generally obtained by a dip or insertion tube (coliwasa sampler). After agitation of the vessel or container, if possible, the tube is inserted diagonally, sealed, and removed. Thus, the sample obtained is a cross-sectional representative sample avoiding bias due to stratification of material in the container. Sometimes it is difficult to obtain a representative sample of large containers, such as bulk liquid storage tanks. In these cases, often the only sampling location is a bottom valve, and the sample obtained is from the bottom layer within the tank. Many times this may be a "worst case" sample, especially for PCBs and other dense substances. Whenever possible, surface, middle, and bottom samples are collected from large bulk liquid storage tanks in order to avoid possible stratification bias. Analysis of these samples helps to accurately characterize the overall concentration of the parameter of interest. A general list of the usage of sampling equipment is given in Table A4-3.

Sampling personnel frequently are required to split samples collected with facility personnel or EPA laboratories. It is essential that a true duplicate split be made, otherwise analytical results will not be comparable. To obtain a true duplicate, a large quantity of sampled material will be collected, thoroughly mixed, and equally proportioned into similar containers. If preservation is necessary, both are preserved with an appropriate chemical from a common dispenser at the same time. Both duplicates are labeled with the same sample location description and marked as splits and logged into a field notebook.

#### Sample Containers

All sample containers (bottles, vials, and jars) must be clean and free of organic interferences and should be sealed at the laboratory prior to transport. Two or four-ounce glass bottles with aluminum foil

TABLE A4-3

## SAMPLING EQUIPMENT FOR PARTICULAR WASTE TYPES

Sampling Point Waste	Drum	Sacks and Bags	Open Bed Truck	Closed Bed Truck	Storage Tanks or Bins	Waste Piles	Ponds, Lagoons & Pits	Conveyor Belt	Pipe
Free Flowing Liquids and Slurries	Coll-wasa	N/A	N/A	Coll-wasa	Weighted Bottle	N/A	Dipper	N/A	Dipper
Sludge	Scoop	N/A	Scoop	Scoop	Scoop	N/A		N/A	N/A
Moist Powders or Granules	Scoop	Scoop	Scoop	Scoop	Scoop	Scoop	Scoop	Shovel	
Dry Powders or Granules	Thief	Thief	Thief	Thief	Thief	Thief	Thief	Shovel	
Sand or Packed Powders	Auger	Auger	Auger	Auger				N/A	
Large Grained Solids	Large Scoop	Large Scoop	Large Scoop	Large Scoop	Large Scoop	Large Scoop	Large Scoop	Large Scoop	

or teflon lined caps will be used for oil and similar fluid samples, pint glass jars with teflon or aluminum foil inserts for solid samples, and one-liter flint glass bottles with teflon or aluminum lined caps for water samples. Wipe samples will consist of sterilized gauze pads placed in a glass jar for total weight analysis. Water samples to be analyzed for metals will be collected in 500 ml plastic bottles.

Bottles and caps will be supplied by the laboratory because rigorous cleaning is required even for new bottles. New and recycled bottles should be washed as described in "Methods for Chemical Analysis of Water and Wastes" (EPA, 1979). Samples received in bottles of unknown origin or questionable cleanliness should be rejected by the laboratory.

Sampling for purgeable organics requires special consideration and equipment. The sample container should consist of a 45 ml, screw-cap vial fitted with a Teflon (du Pont) faced, silicone septum.\* The vials, septa, and caps should be washed in hot detergent water and thoroughly rinsed with tapwater and organic-free water, then dried at 105°C for one hour. The vials should then be cooled to room temperature in a contaminant-free area. When cool, the vials should be sealed with the septa, Teflon (du Pont) side down, and screw cap and maintained in this sealed condition until filled with sample.

#### Sampling Procedures

Sampling procedures will vary depending on the medium sampled (liquid, solid, or gas) and the type of structure the waste is contained in as indicated in Table A4-1. Sampling procedures to be used will be standardized as described in the "NPDES Compliance Sampling Manual," U.S. EPA, Office of Water Enforcement (October, 1979) and "Samplers and Sampling Procedures for Hazardous Waste Streams," U.S. EPA, Municipal Environmental Research Laboratory (January, 1980).



collection, transfer, storage, or analysis. Therefore, an accurate chain-of-custody is maintained to trace the possession of each sample from the moment of its collection through its introduction into evidence. A sample is considered in custody if any one of the following requirements are met:

- It is in the actual physical possession of the inspector or laboratory analyst.
- It is in view of the inspector or laboratory analyst.
- It was in the physical possession of the inspector or laboratory analyst, and he locked it up so no one could tamper with it.
- The sample is kept in a secured area which is restricted to authorized personnel only.
- The sample is placed in a container and then sealed with a "custody" seal that must be broken when the container is opened.

Sample custody is initiated at the time of sample collection by fixing a custody seal to each sample taken, or by placing the sample in a locked container or in a container which is then sealed with a custody seal. A field chain-of-custody form (Figure A4-1) is filled out and signed by the person collecting the sample. It is the responsibility of the inspector who collected the sample to ensure that the sample and sample description forms are in custody (locked or properly sealed to prevent tampering) and that all descriptive information is accurate and complete.

Containerization, Identification, and Handling

After a sample is transferred into the proper sample container, the container must be tightly capped as quickly as possible to prevent the loss of volatile components and to exclude possible oxidation from the air.

The use of a preservative or additive is not recommended. However, if only one or two components of a waste are of interest, and these components are known to rapidly degrade or deteriorate chemically or biochemically, the sample may be refrigerated at 4°C to 6°C or treated with preservatives according to standard EPA reference manuals.

To ensure that a sample and its descriptive information are consistent, a unique code number is assigned to each sample. All sample bottles should be differentiated by use of a sample label. The field investigator's notebooks must contain the following information:

- Source of sample (including plant name, location, and sample description).
- Analysis required and preservative type (where applicable).
- Name of collector.
- Date and time of collection.
- Pertinent field data.
- Serial numbers on seals and transportation cases.

The state must be able to prove that any analytical data offered into evidence accurately represents environmental conditions existing at the time of sample collection. It must be clearly demonstrated that none of the involved samples could possibly have been tampered with during

### CHAIN OF CUSTODY RECORD

[illegible]

**Distinction: Original Plus One Accompanies Shipment (white and yellow); Copy to Coordinator Field Files (pink).**

FIGURE A4-1  
FIELD CHAIN-OF-CUSTODY FORM

## A-5 SAMPLE CUSTODY

From the moment a sample is taken until the data analysis is complete, custody of the sample must be controlled. Custody is routinely maintained on all samples received at Versar. A sample is in custody if one of the following conditions exists:

- It is in the actual possession of the analyst.
- It is in view of the laboratory analyst.
- It was placed in a secure location, after being in one's possession.
- The sample is kept in a secured area which is restricted to authorized personnel only.

A designated sample custodian is responsible for samples received at Versar and this individual is fully aware of all custody requirements and the potential hazards of dealing with hazardous waste materials. In addition to receiving samples the sample custodian is also responsible for documentation of sample receipt, storage before and after sample analysis, and eventually the proper disposal of samples.

All samples are inspected at the time they are delivered to the laboratory. Any breakage or other damage is documented and brought to the attention of the laboratory manager. All custody documentation relating to the samples is filled out, signed and dated by the sample custodian. The sample custodian is also responsible for noting the presence of custody seals on the shipping container or sample containers and documenting the condition of the seals at receipt in the remarks section of the field chain-of-custody form. In addition, field chain-of-custody forms sent with all samples will be signed by the sample custodian and a copy provided to the program manager.

Information logged into the laboratory sample management system and includes the following:

- 1) laboratory number
- 2) field sample number

**Versar** INC.

## PARAMETER REQUEST SHEET

PAGE 1-1

PROJECT: 775.001 CASE: DATE 5/19/82  
 BATCH: 1 SITE: XEROX  
 DUE DATES: LAB 6/ 9/82 REQUEST 6/ 9/82  
 BATCH COMMENT:

LAB SAMPLE #	MATRIX	LAB LOC	PARAMETER											
			O & G	T P	C O D	T D S	T D S	I S P	A S P	C S F	S K F	S E F	S D S	P D 4
15-6 A	HOM	F-4	*											
15-6 B	HOM	F-4	*											
15-6 C	HOM	F-4	*											
15-6 D	HOM	F-4	*											
15-7	HOM	F-4		*	*									
15-8	HOM	F-4				*	*							
15-9	HOM	F-4						*	*	*	*			
15-10	HOM	F-4										*	*	

FIGURE A5-1

Parameter Request Sheet for a Typical Versar Program

- 3) project/batch number (assigned by laboratory project manager)
- 4) sample matrix
- 5) parameter(s) of interest
- 6) sample receipt date/time
- 7) sample storage location in laboratory
- 8) sample custodian initials
- 9) sampling site or organization
- 10) sample/batch comments.

This information is also logged into a hardbound logbook as a backup to the automated system. Samples are then placed in designated storage areas prior to analysis.

After the samples are logged in, a two page parameter request sheet is printed out. Figure A5-1 is an example of a parameter request sheet. General batch information supplied at the top of the forms includes 1) project number, 2) case number, 3) log in date, 4) batch number, 5) site, 6) laboratory due date, 7) requested due date, 8) batch specific comments. Sample matrix, laboratory storage location and parameter are matched against laboratory sample number in column format on page one. Page two provides comments for each sample (if any) and matches laboratory and field sample number(s). Copies of this form are distributed to 1) appropriate task manager(s) in the laboratory, 2) the Vice President of the Applied Chemistry Division, and 3) Program Manager.

When required by the program manager, additional internal chain-of-custody documentation can be prepared to track sample progress through the laboratory (see Figure A5-2). The sample custodian generates these forms through the automated sample management system for samples entering the laboratory. When the sample is removed from the storage area, the analyst fills out the type of operation, the day/time the sample was taken, and signs the form. The analyst signs the form after returning the sample to the storage area.

```

LAB SAMPLE #:      1549
FIELD SAMPLE #:    7
PROJECT-BATCH:     772.001 - 1
MATRIX:            MOH
SITE:              XEROX
LABORATORY LOC:    F-4
RECEIPT DATE/TIME: 5/19/82      8:46: 4
RECEIVED BY:       BH
SAMPLE REMARKS:     ICP=AL,CR,CU,NI,ZN
PARAMETERS:         ICP 45-F CR-6 SE-F - - - - -
  
```

[illegible]

3000000000	0000000000	0000000000	0000000000
0000000000	0000000000	0000000000	0000000000

FIGURE A5-2

### Typical Sample Chain of Custody Record For Tracking Laboratory Sample Handling



Attachment 11  
to  
Program Description

ILLUSTRATIVE LIST OF VIOLATIONS

A. Examples of High Priority Violations

- o Violation of regulations or permit conditions that results in any release of hazardous wastes to the environment (Sections 6.00, 7.00, 9.00 or 10.00)
- o Operation of a facility without either a permit or interim status (Section 11.00)
- o Transportation of hazardous wastes without a permit (Section 7.01.05)
- o Failure to notify of HW Management activities (Section 4.00)
- o Failure to use the manifest system (Section 5.00)
- o Failure to install, maintain and/or use an adequate groundwater monitoring system (Section 9.06.01(a) and permit conditions incorporating Section 10.06.01(a))
- o Failure to develop, submit and/or implement a groundwater quality assessment plan if required (Section 9.06.04(d))
- o Failure to properly install and case groundwater monitoring wells (Section 9.06.02(c) and permit conditions incorporating Section 10.06.08(c))
- o Failure to conduct any required groundwater sampling (Section 9.06 and conditions of permit incorporating Section 10.06)
- o Failure to develop a written closure plan (Section 9.07.03) and/or post-closure plan (Section 9.07.08)
- o Failure to prepare a written estimate of closure costs (Section 9.08.02) and/or post-closure costs (Section 9.08.04)
- o Failure to establish and maintain financial assurance for closure (Section 9.08.03) and/or post-closure (Section 9.08.05)
- o Failure to obtain and maintain the required amount of liability coverage (Section 9.08.07)
- o Failure to maintain financial assurance and or liability coverage required by permit conditions based on Section 10.08.03, Section 10.08.05, and/or 10.08.07.
- o Closure of an interim facility without having submitted the closure plan (Section 9.07.03) and/or post-closure plan (Section 9.07.08)
- o Closure of a facility not in accordance with the approved plan (Section 9.07.06)
- o Accumulation of wastes by generators excess of 90 days without permit or interim status (Section 6.05.05(b))

- o Failure to perform or obtain waste analyses (Section 9.02.04 or permit conditions incorporating Section 10.02.04)
- o Failure to prevent the unknowing entry of the facility (Section 9.02.05 or permit conditions incorporating Section 10.02.05)
- o Failure to conduct and document required inspections (Section 9.02.06 or permit conditions incorporating Section 10.02.06)
- o Failure to perform and document required personnel training (Section 9.02.07 or permit conditions incorporating Section 10.02.07)
- o Failure to observe general requirements for ignitable, reactive, or incompatible wastes (Section 9.02.08 or permit conditions incorporating Section 10.02.08)
- o Failure to maintain and operate the facility in a way to minimize the possibility of fire, explosion or unplanned release (Section 9.03 or permit conditions incorporating Section 10.03)
- o Failure to develop and/or coordinate contingency plan with proper authorities (Section 9.04.03)
- o Failure to classify wastes properly (Section 6.02)
- o Failure by the generator to observe the storage requirements for accumulation of wastes (Section 6.05.05(a))
- o Failure by the generator to observe pre-transport requirements (Section 6.05) and by the transporter to refuse an improperly packaged, labeled and marked shipment (Section 7.05)
- o Acceptance of wastes without a required manifest (Section 7.07)
- o Failure by the transporter to properly manage a spill (Section 7.08)

**B. Examples of Medium Priority Violations**

- o Failure to develop an adequate waste analysis plan (Section 9.02.04(b))
- o Failure to develop an inspection schedule (Section 9.02.06(b))
- o Failure to maintain training records (Section 9.02.07(d) and permit conditions incorporating Section 10.02.07(d))
- o Failure to maintain the operating record (Section 9.05.02 and permit conditions incorporating Section 10.05.02)
- o Failure to submit the unmanifested waste report (Section 9.05.05 and permit conditions incorporating Section 10.05.05)
- o Failure to submit reports on releases, fires, explosions, groundwater monitoring and/or facility closures (Section 9.05.06)

- o Failure to prepare outline of the groundwater quality assessment program (Section 9.06.04)
- o Failure to perform the calculations required under Section 9.06.04(b)
- o Failure to submit timely data on the analyses performed to satisfy groundwater monitoring requirements (Section 9.06.05 or permit conditions)
- o Unless classified under the high priority, failure to submit any financial responsibility documents required by Section 9.08 or permit conditions based on Section 10.08
- o Unless classified under the high priority, failure to properly manage wastes in containers, tanks, surface impoundments, waste piles, land treatment facilities, landfills, incinerators and other facilities (Sections 9.09 through 9.17 or permit conditions based on Sections 10.09 through 10.15)
- o Unless classified under the high priority, storage of hazardous wastes at a transfer facility in excess of 10 days (Section 7.09)
- o Failure to submit any unscheduled or exception report required by the regulations

C. Examples of Low Priority Violations

- o Failure to submit records of waste disposal locations and quantities, upon closure by the facility (Section 9.05.03(c))
- o Failure to submit any scheduled report by the due date
- o De minimis violation of substantive requirements where adverse impact is not anticipated

Attachment 12  
to  
Program Description

PROCEDURES FOR OBTAINING ASSISTANCE  
FROM THE ATTORNEY GENERAL'S OFFICE



# COMMONWEALTH of VIRGINIA

JAMES B. KENLEY, M.D.  
COMMISSIONER

*Department of Health*  
*Richmond, Va. 23219*  
January 16, 1980

POLICY AND PROCEDURE INSTRUCTION (PPI): 1.01

TITLE: Procedures for Obtaining Assistance  
From the Attorney General's Office

Effective: January 1, 1980  
Expires: On notification

- I. Purpose: This is a statement of policy concerning the procedures for obtaining assistance from the Attorney General's Office.
- II. Background: Access to the Attorney General's Office must be limited to allow personnel of that office to meet increasing workloads.
- III. Applicability: CH-1, CH-2, CH-3, CH-4, RH-1, LH-1, LH-2
- IV. References: Memorandum dated December 29, 1978, titled "Procedures for Obtaining Assistance From the Attorney General's Office" (now may be discarded).
- V. Policy: Requests for legal assistance from Regional Medical Directors and Local Health Directors (through the Regional Office) should be made to the Assistant Commissioner, Office of Management for Community Health who will communicate such requests to the attorneys working in the Health Department and other "Offices" as appropriate.

The Deputy Commissioner, Assistant Commissioners, and the Directors of Planning and Administration may have direct access to the attorneys. Requests for legal assistance from other persons, bureaus, and divisions must be submitted through these officials. In all legal actions against the Department, the attorneys are responsible to keep these key personnel fully informed at all times.

Legal inquiries should be submitted in memo form and if the memo originates from a person not having direct access, it must reflect the approval of the appropriate superior who does have that access.

Individuals assigned to the following positions also may have direct access:

Staff Assistant  
Director, Section of Biologics and Drugs  
Director, Division of Medical Assistance  
Deputy Assistant Commissioner for the Environment  
Director, Division of Water Programs  
Chief Medical Examiner  
Administrative Director, Office of the Chief Medical Examiner

At this time, the division of responsibilities between Dr. Leonard Vance and Mr. Robert Adams is as follows:

R. Adams: Divisions of Administration and Planning  
Office of Health Care Programs  
Office of Management for Community Health Services  
(health care related issues)

L. Vance: Office of the Chief Medical Examiner  
Office of Health Protection and Environmental  
Management  
Office of Management for Community Health Services  
(environmentally related issues)

In case of an emergency need for legal assistance, any individual in the Department of Health may contact either attorney, at any time, if they have been unable to contact the appropriate Assistant Commissioner or Division Director. This contact is to be made by telephone only. Common sense must be used in deciding whether or not there is, in fact, a genuine emergency. Examples of such possible emergency situations are the service of legal papers, e.g., subpoenas, complaints, motions for judgment, etc., evidence of illegal activity, and serious accidents or incidents which might reasonably result in a law suit.

Despite past courtesies which the attorneys and their secretary have shown by answering telephone calls and memoranda and in receiving unscheduled visits from Department personnel who do not have direct access, the attorneys and their secretary will, in the future, refer persons to their appropriate superiors unless it is explained that an emergency exists.

Personal legal problems are inappropriate for discussion with the attorneys and should not be forwarded to them.

- I. Prepared by: Edwin M. Brown, M. D., Deputy Commissioner
- II. Authorized by: Edwin M. Brown, M. D., Deputy Commissioner
- III. Distribution: CH-1, CH-2, CH-3, CH-4, RH-1, LH-1, LH-2



**Attachment 13  
to  
Program Description**

**CHECKLISTS USED IN COMPLIANCE EVALUATION INSPECTIONS**

**INDEX:**

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

EPA Generator ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

1. What is business activity of firm? (i.e., furniture mfg., metal plating, recycling, etc.) \_\_\_\_\_  
\_\_\_\_\_2. Give brief description of waste stream(s) and code designation(s). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. List the amounts of hazardous waste generated/accumulated. Include those that are recycled.

	Generated (kg)	Accumulated (kg)
a. Characteristic - Ignitable (D001)		
Corrosive (D002)		
Reactive (D003)		
EP Toxic (D004-D017)		
b. Listed (F, K, or U list)		
c. Listed (P)		
d. Waste from spills of P and U list		

4. If any of the above wastes are recycled, specify type and amount below.

Characteristic	Listed (F, K, or U)	Listed (P)
_____/____	_____/____	_____/____
_____/____	_____/____	_____/____

5. Based on the above information, the company is classified as:

- a. Small quantity generator exempt from regulations (i.e., does not exceed generator or accumulation limits or exceeds those limits only for recycled characteristic waste) - Form C
- b. Recycler not exempt from regulations (recycling over 1000 kg of listed F, K, or U wastes or 1 kg of P waste) - Form A
- c. Generator - Form A

6. If part "b" or "c" above apply, is the facility also treating, storing or disposing?

Yes      No

If yes, on-site or off-site. (Circle one or both)

On-Site only - Form B (unless TSD is exempt under 9.01, then Form A only)

Off-site only - Form A only

Both - Form A and B (unless TSD is exempt under 9.01, then Form A only)

CHECKLIST FOR RCRA INSPECTION OF GENERATORS

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

EPA Generator ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

VA HWM Regs.  
Reference

1. Please provide a brief narrative explaining the work activity (products, service, etc.) of the generator.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6.04

2. Is a manifest system currently used by the generator so that off-site shipment of hazardous wastes can be tracked?

Yes No

3. Please inspect the generator's manifest for the following information:

5.04.02

- a) Is a manifest document number included on the form?

Yes No

5.04.03(a)

- b) Are the generator's name, address, telephone number and EPA ID number included on the form?

Yes No

5.04.03(b)

- c) Are the name, address, telephone number, and EPA identification number of each transporter included on the form?

Yes No

5.04.03(c)

- d) Is the TSD facility which receives a generator's hazardous waste identified by name, address, telephone number, and EPA ID number?

Yes No

- |            |    |   |     |    |
|------------|----|---|-----|----|
| 5.04.04    | e) | Is a description of the generator's hazardous waste to be treated, stored, or disposed included on the manifest?  | Yes | No |
| 5.04.05    | f) | Are the type and number of containers loaded in the transport vehicle included on the manifest form?  | Yes | No |
| 5.04.05    | g) | Is the total quantity of each waste by unit of weight included?   | Yes | No |
| 5.04.06    | h) | Is the following certification noted on the generator's manifest form and is the certification acknowledged by the generator's signature?<br><br>"This is to certify that the named materials are properly classified, described, packaged, marked, labeled and are in proper condition for transportation according to the applicable regulations of the U. S. Department of Transportation and the U. S. Environmental Protection Agency and the Commonwealth of Virginia". | Yes | No |
| 5.04.07    | i) | Are there adequate copies of the manifest available for generator, transporters, and TSD's?   | Yes | No |
| 6.06.03(b) | j) | For any waste shipped off-site over 45 days ago:<br><br>i) Does the generator have a copy from the TSD facility with the appropriate signatures?<br><br>if not,<br><br>ii) has the generator filed an exception report?   | Yes | No |
| 5.06.01(g) | 4. | Did the generator determine that the transporter has a Virginia transporter permit?   | Yes | No |
| 6.05.05    | 5. | Is hazardous waste being accumulated on-site by the generator for less than 90 days? If yes,  | Yes | No |

- |                             |   |     |    |
|-----------------------------|---|-----|----|
| 6.05.05(a)(1)&(3)           | a) Is the date accumulation of waste began clearly marked on each storage container and does it indicate accumulation for less than 90 days?  | Yes | No |
| 6.05.05(a)(2)(i)&(ii)       | b) Is the waste placed in either containers or tanks? (If yes, fill out appropriate checklist. If no, TSD permit is required.)  | Yes | No |
| 6.05.05(a)(4)               | c) During accumulation, are the storage containers clearly labeled as containing a particular hazardous waste in accordance with Virginia regulations?  | Yes | No |
| 6.05.05(a)(5)<br>9.02.07(a) | 6. Have facility personnel successfully completed a program of classroom training or on-the-job training in hazardous waste management procedures?  | Yes | No |
| 9.02.07(c)                  | 7. Do personnel participate in an annual review of their initial training?  | Yes | No |
| 9.02.07(d)(1)               | 8. Does the facility maintain a record of (a) job titles for personnel that are involved with hazardous waste management and (b) the name of the employee filling each job?                             | Yes | No |
| 9.02.07(d)(2)               | 9. Does the facility have on record a written position description for each job title noted in Question #8?   | Yes | No |
| 9.02.07(d)(3)               | 10. Does the facility maintain a written description of the type and amount of introductory and continuing training for those employees noted in Question #8? (For instance emergency procedures, etc.) | Yes | No |
| 9.02.07(d)(4)               | 11. Does the facility have records to document this training?   | Yes | No |

- |                             |   |     |    |
|-----------------------------|---|-----|----|
| 9.03.02<br>9.03.04          | 12. At the facility, is the following equipment installed:  |     |    |
| 9.03.02(a)                  | a) An internal communications or alarm system capable of providing immediate emergency instructions to facility personnel if the hazardous waste storage area is threatened by fire or explosion? | Yes | No |
| 9.03.02(b)                  | b) A device at the scene of hazardous waste generator operations capable of summoning emergency assistance from Police, Fire departments, etc.?   | Yes | No |
| 9.03.02(c,d)                | c) Fire control, spill control, and decontamination equipment and an adequate supply of fire fighting water or fire suppression chemicals?  | Yes | No |
| 9.03.03                     | 13. Is a record of tests and inspections of required equipment (9.03.02) maintained at the facility?  | Yes | No |
| 9.03.05                     | 14. Does the facility have adequate aisle space to allow the unobstructed movement of personnel and equipment during emergencies?   | Yes | No |
| 6.05.05(a)(5)<br>9.04.01(a) | 15. Does the facility have an established contingency plan to deal with emergencies that may impact hazardous waste currently in storage at the facility?   | Yes | No |
| 6.05.05(a)(5)<br>9.04       | 16. Does the contingency plan contain the following elements:   |     |    |
| 9.04.02(a,b)                | a) A detailed description of emergency procedures facility personnel will implement in response to fires, explosions, or unplanned releases of hazardous wastes to air, soil, and water?          | Yes | No |
| 9.04.02(c)                  | b) A detailed description of arrangements formally agreed to by local police, fire departments, and state and local emergency teams to provide assistance during emergency situations?            | Yes | No |



9.04.02(d)

- c) A listing of names, addresses, and phone numbers of the generator facility emergency response coordinators?  
List primary coordinator.

Yes No

Name \_\_\_\_\_

Title \_\_\_\_\_

Telephone \_\_\_\_\_

9.04.02(e)

- d) A list of appropriate emergency equipment necessary to cope with emergencies at the generator facility?

Yes No

9.04.02(e)

- e) Does this list specify the location and capabilities of emergency equipment?

Yes No

9.04.02(f)

- f) An evacuation plan for the generator facility where there is a possibility that evacuation could be necessary?

Yes No

9.04.03

- g) Have copies of the contingency plan been sent to all local police departments, fire departments, hospitals and Commonwealth and local emergency response teams?

Yes No

9.04.06(i,j)

- h) If the contingency plan has been implemented, was a written report filed with the Commissioner and were the Commissioner and other required authorities properly notified before operations resumed?

Yes No

6.06.01

17. Does the facility retain copies of all manifests, annual reports, and test results for at least three years?

Yes No

6.06.02

18. Has the facility submitted an annual report for the preceding calendar year?

Yes No

19. Comments

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Inspector's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

Inspector's Name: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

**CHECKLIST FOR RCRA INSPECTION OF TREATMENT,  
STORAGE & DISPOSAL (TSD) FACILITIES**

Form "B" (VA)  
1/84

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

EPA ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

**VA HWM Regs.  
Reference**

- |               |   |     |    |
|---------------|---|-----|----|
|               | 1. The facility: treats, stores, disposes<br>(Circle as appropriate)  |     |    |
| 9.02.03(a)    | 2. Does the facility receive hazardous waste<br>from a foreign source?  | Yes | No |
|               | If yes, has the facility notified the<br>Commissioner of the date of arrival?   | Yes | No |
| 9.02.04(a)    | 3. Does the facility have a detailed chemical<br>and physical analysis of a representative<br>sample of the waste?  | Yes | No |
| 9.02.04(b)(2) | 4. Does the facility have a waste analysis plan<br>which specifies the following:   | Yes | No |
|               | a) the parameters for each hazardous waste;   | Yes | No |
|               | b) test methods for each parameter;   | Yes | No |
|               | c) the sampling method used to obtain a<br>representative sample;   | Yes | No |
|               | d) frequency to review initial analysis.  | Yes | No |
| 9.02.04(3)    | 5. If the facility receives wastes generated<br>off-site, does the plan specify procedures<br>and sampling methods to ensure that the<br>waste matches the identity of the waste<br>designated on the accompanying manifest or<br>shipping paper? | Yes | No |

- |                   |   |     |    |
|-------------------|---|-----|----|
| 9.02.05(a)        | 6. Will physical contact or disturbance of the waste injure unknowing persons or livestock. If yes, does the TSD facility have:   | Yes | No |
| 9.02.05(b)(1)     | a) a 24-hour surveillance system which monitors and controls entry to the active portion of the facility?   | Yes | No |
| 9.02.05(b)(2)(i)  | b) an artificial or natural boundary which surrounds active portions of the facility? and,  | Yes | No |
| 9.02.05(b)(2)(ii) | c) a means to control entry at all times? (i.e., gates, attendants, locked entrances, etc.)   | Yes | No |
| 9.02.05(c)        | d) a restricted access sign posted at each entrance to the active portion of the facility?  | Yes | No |
|                   | Is sign legible from a distance of 25 feet?   | Yes | No |
|                   | Is sign in English and any other foreign language predominant to the geographical area?   | Yes | No |
| 9.02.06(b)(1)     | 7. Does the TSD facility have a written schedule for inspecting all equipment necessary for prevention, detection or response to environmental or human health hazards? | Yes | No |
| 9.02.06(b)(3)     | a) Does the schedule identify the types of problems which are to be looked for during the inspection?   | Yes | No |
| 9.02.06(b)(4)     | b) Does the schedule include frequency of these inspections?  | Yes | No |
| 9.02.07(a)        | 8. Have the facility personnel successfully completed a program of classroom training or on-the-job training in hazardous waste management procedures?                  | Yes | No |
| 9.02.07(c)        | 9. Do personnel participate in an annual review of their initial training?  | Yes | No |

- |                    |   |           |
|--------------------|---|-----------|
| 9.02.07(d)(1)      | 10. Does the facility maintain a record of (a) job titles for personnel that are involved with hazardous waste management and (b) the name of the employee filling each job?                            | Yes    No |
| 9.02.07(d)(2)      | 11. Does the facility have on record a written position description for each job title noted in Question #8?  | Yes    No |
| 9.02.07(d)(3)      | 12. Does the facility maintain a written description of the type and amount of introductory and continuing training for those employees noted in Question #8? (For instance emergency procedures, etc.) | Yes    No |
| 9.02.07(d)(4)      | 13. Does the facility have records to document this training?   | Yes    No |
| 9.03.02<br>9.03.04 | 14. At the facility, is the following equipment installed:  |           |
| 9.03.02(a)         | a) An internal communications or alarm system capable of providing immediate emergency instructions to facility personnel if the hazardous waste storage area is threatened by fire or explosion?       | Yes    No |
| 9.03.02(b)         | b) A device at the scene of hazardous waste operations capable of summoning emergency assistance from Police, Fire departments, etc.?   | Yes    No |
| 9.03.02(c,d)       | c) Fire control, spill control, and decontamination equipment and an adequate supply of fire fighting water or fire suppression chemicals?  | Yes    No |
| 9.03.03            | 15. Is a record of tests and inspections of required equipment (9.03.02) maintained at the facility?  | Yes    No |
| 9.03.05            | 16. Does the facility have adequate aisle space to allow the unobstructed movement of personnel and equipment during emergencies?   | Yes    No |

- 9.04.01(a) 17. Does the facility have an established contingency plan to deal with emergencies that may impact hazardous waste currently in storage at the facility? Yes No
- 9.04 18. Does the contingency plan contain the following elements:
- 9.04.02(a,b) a) A detailed description of emergency procedures facility personnel will implement in response to fires, explosions, or unplanned releases of hazardous wastes to air, soil, and water? Yes No
- 9.04.02(c) b) A detailed description of arrangements formally agreed to by local police, fire departments, and state and local emergency teams to provide assistance during emergency situations? Yes No
- 9.04.02(d) c) A listing of names, addresses, and phone numbers of the generator facility emergency response coordinators? Yes No  
List primary coordinator.  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Telephone \_\_\_\_\_
- 9.04.02(e) d) A list of appropriate emergency equipment necessary to cope with emergencies at the generator facility? Yes No
- 9.04.02(e) e) Does this list specify the location and capabilities of emergency equipment? Yes No
- 9.04.02(f) f) An evacuation plan for the generator facility where there is a possibility that evacuation could be necessary? Yes No
- 9.04.03 g) Have copies of the contingency plan been sent to all local police departments, fire departments, hospitals and Commonwealth and local emergency response teams? Yes No

- 9.04.06(i,j) h) If the contingency plan has been implemented, was a written report filed with the Commissioner and were the Commissioner and other required authorities properly notified before operations resumed? Yes No
- 9.05 19. Does the facility retain copies of all manifests, annual reports, and test results for at least three years? Yes No
- 5.05.05(a) 20. Does the TSD facility receive hazardous waste from off-site generators? Yes No
- 9.05.01 If yes, are the following procedures implemented:
- 5.06 a) Manifest copies are signed and dated Yes No
- 5.05.03 b) A copy is given to the transporter Yes No
- 5.05.04 c) A copy is sent to the generator Yes No
- 5.05.04 d) A copy is returned and filed at the TSD facility Yes No
- 5.05.05
- 9.05.02 21. Does the TSD facility have a written operating record which contains the following information:
- 9.05.02(b)(1) a) A description of and the quantity of each hazardous waste received, and the method and date of treatment, storage or disposal? (Use Appendix 9.1) Yes No
- Storage \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
- Treatment \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
- Disposal \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
- 9.05.02(b)(2) b) The location of each hazardous waste within the facility and the quantity at each location? Yes No
- 9.05.02(b)(3) c) Detailed records and results of waste analyses and incineration trial tests performed on wastes coming into the facility? Yes No



- |                             |   |     |    |
|-----------------------------|---|-----|----|
| 9.05.02(b)(4)               | d) Detailed operating summary reports and description of all emergency incidents that required the implementation of the facility contingency plan? | Yes | No |
| 9.05.02(b)(5)<br>9.02.06(d) | e) Detailed records and results of inspections performed on facility emergency equipment, TSD systems, and hazardous waste areas?                   | Yes | No |
| 9.05.02(b)(6)               | f) Detailed monitoring, testing, and analytical data where required?  | Yes | No |
| 9.05.02(b)(7)               | g) All closure cost estimates, and for disposal facilities all post-closure cost estimates?   | Yes | No |

Closure Cost Estimate \$ \_\_\_\_\_

- |               |  |     |    |
|---------------|--|-----|----|
| 9.07          | 22. Does the facility have a written closure plan which includes:  |     |    |
| 9.07.03(a)(2) | a) An estimate of the maximum waste inventory in storage or treatment at any time during life of facility? | Yes | No |
| 9.07.03(3)    | b) A description of steps that will be used to decontaminate facility equipment?                           | Yes | No |
| 9.07.03(a)(4) | c) An estimate of the expected year for closure?   | Yes | No |
| 9.07.03(4)    | d) A schedule for final closure?   | Yes | No |
|               | e) A copy of the closure plan given to the inspector?  | Yes | No |
| 9.08.03       | 23. For all TSD facilities, has financial assurance for closure for this facility been established?        | Yes | No |

Instrument(s) used:

- \_\_\_ Trust Fund
- \_\_\_ Letter of Credit
- \_\_\_ Performance Bond
- \_\_\_ Financial Test
- \_\_\_ Financial Guarantee Bond
- \_\_\_ Certificate of Insurance
- \_\_\_ Corporate Guarantee

\* If the financial test was used, all three (3) initially submitted items specified in Section 9.08.03(e)(3) must be updated within 90 days after the close of each succeeding fiscal year.

24. Has a copy of all related documents been forwarded to the Virginia State Department of Health?

Yes No

\* Submittal Date \_\_\_\_\_

If no, was a copy of these documents provided to the inspector?

Yes No

If no, will a copy of these documents be mailed to the Virginia State Department of Health?

Yes No

Date by which a copy of these documents is to be mailed. \_\_\_\_\_

9.08.07(a)

25. Has liability coverage for sudden accidental occurrences\*\* been established for this facility?

Yes No

Instrument(s) used:

- \_\_\_ Certificate of Insurance  
\_\_\_ Financial Test  
\_\_\_ Liability Endorsement

26. Has a copy of all related documents been forwarded to the Virginia State Department of Health?

Yes No

\* Submittal Date \_\_\_\_\_

If no, was a copy of these documents provided to the inspector?

Yes No

If no, will a copy of these documents be mailed to the Virginia State Department of Health?

Yes No

Date by which a copy of these documents is to be mailed. \_\_\_\_\_

9.07.08

27. For landfills, surface impoundments, waste piles and land treatment facilities, does the facilities have a written post-closure plan that includes:

9.07.08(a)(1)

- a) Groundwater monitoring activities?

Yes No

9.07.08(a)(2)

- b) Maintenance activities to ensure containment?

Yes No

9.07.02(a)(3)

c) Name, address, and phone number of contact during post-closure period?

Yes No

d) Post-closure cost estimate?

Yes No

Amount \$ \_\_\_\_\_

9.08.05

28. For landfills, surface impoundments, waste piles and land treatment facilities, has financial assurance for post-closure care has been estimated?

Yes No

Instrument(s) used:

- ☐ Trust Fund
- ☐ Letter of Credit
- ☐ Performance Bond
- ☐ Financial Test
- ☐ Financial Guarantee Bond
- ☐ Certificate of Insurance
- ☐ Corporate Guarantee

29. Has a copy of all related documents been forwarded to the Virginia State Department of Health?

Yes No

\* Submittal Date \_\_\_\_\_

If no, was a copy of these documents provided to the inspector?

Yes No

If no, will a copy of these documents be mailed to the Virginia State Department of Health?

Yes No

Date by which a copy of these documents is to be mailed. \_\_\_\_\_

9.08.07(b)

30. For landfills, surface impoundments and land treatment facilities has liability coverage\*\* for nonsudden accidental occurrences been established?

Yes No

\*\* Sudden accidental occurrences: at least \$1 million per occurrence and \$2 million annual aggregate.

Non-sudden accidental occurrences: at least \$3 million per occurrence and \$6 million annual aggregate.

## Instrument(s) used:

- ☐ Certificate of Insurance  
☐ Financial Test  
☐ Liability Endorsement

31. Has a copy of all related documents been forwarded to the Virginia State Department of Health?

Yes No

\* Submittal Date \_\_\_\_\_

If no, was a copy of these documents provided to the inspector?

Yes No

If no, will a copy of these documents be mailed to the Virginia State Department of Health?

Yes No

Date by which a copy of these documents is to be mailed. \_\_\_\_\_

32. For landfills, surface impoundments, wastepiles (if closed as landfills) and land treatment facilities, has a groundwater monitoring program been implemented?

Yes No

33. Has an annual report been filed?

Yes No

34. Comments:

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\* If the financial test was used, all three (3) initially submitted items specified in Section 9.08.03(e)(3) must be updated within 90 days after the close of each succeeding fiscal year.

Inspector's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

Inspector's Name: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

CHECKLIST FOR RCRA INSPECTION OF SMALL QUANTITY  
GENERATORS OF HAZARDOUS WASTE

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_

EPA Generator ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

VA HWM Regs.  
Reference

- |                   |  |     |     |
|-------------------|--|-----|-----|
|                   | 1. Does the generator ensure delivery to an "on-site" or "off-site" facility, either of which is:        | On  | Off |
| 3.03.07(c)(1)     | a. a permitted TSD facility under Section 11 of VHWMR, or RCRA, or a State authorized by EPA under RCRA. | Yes | No  |
| 3.03.07(c)(2)     | b. an interim status facility under Section 11.03.   | Yes | No  |
| 3.03.07(c)(3)     | c. a permitted, licensed, or registered municipal or solid waste facility.                               | Yes | No  |
|                   | If yes, does the generator have written permission from the disposal facility and the Commissioner?      | Yes | No  |
| 3.03.07(c)(4)(i)  | d. a "beneficial use" or reuse/recycle facility?   | Yes | No  |
| 3.03.07(c)(4)(ii) | e. a treator of hazardous waste prior to beneficial use, reuse, or recycle?                              | Yes | No  |

2. List the name, address and EPA ID # (if available) for each of the facilities where waste are disposed (refer to question 1).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Inspector's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

Inspector's Name: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_



CHECKLIST FOR RCRA INSPECTION OF USE  
AND MANAGEMENT OF CONTAINERS

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_

EPA Generator ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

The questions contained in this checklist apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste, except as Section 9.01 provides otherwise.

Va. HWM Regs.  
Reference

- |                             |   |     |    |
|-----------------------------|---|-----|----|
| 9.09.02                     | 1. Are all containers in good condition, i.e., not showing signs of leakage or corrosion or any other deterioration/deformation?  | Yes | No |
| 9.09.03                     | 2. Are containers lined or made of materials compatible with hazardous wastes placed into them so that the container will not react or corrode with the hazardous wastes?                                       | Yes | No |
| 9.09.04(a)                  | 3. Are all containers holding hazardous waste kept closed during storage?   | Yes | No |
| 9.09.05                     | 4. Are areas where hazardous waste containers are stored inspected by the owner/operator at least once a week?  | Yes | No |
| 9.02.06(b)(1)<br>9.02.06(d) | 5. Is an inspection log maintained? (See question #7 of TSD checklist.)   | Yes | No |
| 9.09.06                     | 6. Are containers holding ignitable or reactive waste located at least 50 ft. from the facility's property line?  | Yes | No |
| 9.09.07(a)                  | 7. Are incompatible wastes placed in the same container? (See Appendix 9.4 for examples.)   | Yes | No |
| 9.09.07(c)                  | 8. Are storage containers holding hazardous wastes which are incompatible with nearby materials stored in containers, tanks, piles, or surface impoundments separated by dikes, berms, walls, or other devices? | Yes | No |

Inspector's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

Inspector's Name: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

CHECKLIST FOR RCRA INSPECTION OF TANKS

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

EPA Generator ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

The questions contained in this checklist apply to owners and operators of facilities that use tanks to treat or store hazardous waste, except as Section 9.01 provides otherwise.

VA HWM Regs.  
Reference

- |            |   |     |    |
|------------|---|-----|----|
| 9.10.02(b) | 1. Are all tanks in good condition, i.e., not showing signs of leakage, corrosion, or any other deterioration?  | Yes | No |
| 9.10.02(c) | 2. Are uncovered tanks operated to ensure a minimum of 2 ft. of freeboard?  | Yes | No |
| 9.10.02(c) | 3. If not, is the tank equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of top 2 ft. of the tank? | Yes | No |
| 9.10.02(d) | 4. Are tanks with continuous inflow of hazardous wastes equipped with a means to stop this inflow (e.g., waste feed cut-off system or by-pass to a standby tank)?   | Yes | No |
| 9.10.03(a) | 5. Are waste analyses conducted or written documentation obtained before placing a substantially different hazardous waste into a tank used for storage or treatment?   | Yes | No |
| 9.10.04(a) | 6. Are daily inspections conducted for discharge control equipment (e.g., by-pass systems, waste feed cut-off systems and drainage systems)?  | Yes | No |
| 9.10.04(b) | 7. Is data gathered from monitoring equipment (e.g., pressure and temperature gauges), at least once each operating day?  | Yes | No |

9.10.04(c)	8. Is the level of waste in the tank checked at least once each operating day?	Yes	No
9.10.04(d)	9. Is (are) the tank/tanks inspected weekly to detect corrosion or leaking of fixtures or seams?	Yes	No
9.02.06(d)	10. Are the results of these inspections recorded in an inspection log or summary?	Yes	No
9.10.06	11. Are ignitable or reactive wastes stored in tanks? If so,	Yes	No
9.10.06(a)(1)	a) Is the waste treated, rendered, or mixed before or immediately after placement in the tank so that the resulting waste, mixture, or dissolution of materials no longer meets the definition of ignitable or reactive wastes under Parts 3.07 or 3.09 of these regulations?	Yes	No
9.10.06(a)(2)	b) Is the waste stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react?	Yes	No
9.10.06(b)	c) Is the owner/operator of a facility which treats or stores ignitable or reactive wastes in covered tanks in compliance with the National Fire Protection Association's (NFPA's) buffer zone requirements for tanks contained in tables 2-1 through 2-6 of the "Flammable and Combustible Code"?	Yes	No

Inspector's Name: \_\_\_\_\_

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Date of Inspection: \_\_\_\_\_

Inspector's Name: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

CHECKLIST FOR RCRA INSPECTION OF SURFACE IMPOUNDMENTS

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_

EPA Generator ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

The questions contained in this checklist apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste, except as Section 9.01 provides otherwise.

VA HWM Regs.  
Reference

- |            |  |     |    |
|------------|--|-----|----|
| 9.11.02    | 1. Is 2 ft. of freeboard maintained in the surface impoundment?  | Yes | No |
| 9.11.03    | 2. Do all earthen dikes have protective covers (e.g., grass, shale or rock) to minimize wind and water erosion and to preserve dike structural integrity?                            | Yes | No |
| 9.11.04    | 3. Are waste analyses conducted or written documentation obtained before placing a substantially different hazardous waste into a surface impoundment used for storage or treatment? | Yes | No |
| 9.11.05(a) | 4. Is the freeboard level inspected at least once each operating day?  | Yes | No |
| 9.11.05(b) | 5. Is the surface impoundment, including dikes and vegetation, inspected once per week to detect leaks or deterioration or failures in the impoundment?                              | Yes | No |
| 9.02.05(d) | 6. Are the results of these inspections recorded in an inspection log or summary?  | Yes | No |

- 9.11.07                      7. Are ignitable or reactive wastes stored in a surface impoundment: If so,                      Yes      No
- 9.11.07(a)                      a) Is the waste treated, rendered, or mixed before or immediately after placement in the impoundment so that the resulting waste, mixture or dissolution of material no longer meets the definition of ignitable or reactive waste under Sections 3.07 or 3.09 of these regulations?                      Yes      No
- 9.11.08                      b) Are incompatible wastes segregated in separate surface impoundments so that spontaneous reactions are avoided?                      Yes      No

Inspector's Name: \_\_\_\_\_

Title: \_\_\_\_\_

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Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

Inspector's Name: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

CHECKLIST FOR RCRA INSPECTION OF LANDFILLS

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_

EPA Generator ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

The questions contained in this checklist apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as Section 9.01 provides otherwise. A waste pile used as a disposal facility is a landfill and is governed by this subpart.

VA HWM Regs.  
Reference

- |            |   |     |    |
|------------|---|-----|----|
| 9.14.02(a) | 1. Is run-on diverted away from portions of the facility?   | Yes | No |
| 9.14.02(b) | 2. Is run-off collected from active portions of the landfill?   | Yes | No |
|            | 3. Has a hazardous waste determination been made on the run-off in accordance with Part 3.00? (Identification and Listing of Hazardous Waste) | Yes | No |
| 9.14.02(d) | 4. Is the landfill managed to control wind dispersal?   | Yes | No |
|            | 5. Are the following items maintained in the operating record:  |     |    |
| 9.14.03(a) | a) on a map, the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks?                | Yes | No |
| 9.14.03(b) | b) contents of each cell and approximate location of each hazardous waste type within the cell?   | Yes | No |

- 9.14.07(a) 6. Are bulk, non-containerized or waste containing free liquids placed in the landfill? If so, Yes No
- 9.14.07(a)(1) a) is there a liner which is chemically and physically resistant to the liquids? Yes No
- 9.14.07(a)(1) b) is a leachate collection system available to remove leachate? Yes No
- 9.14.07(a)(2) c) is the liquid stabilized or treated physically or chemically prior to disposal? Yes No
- 9.14.07(b) 7. Are containers holding liquid waste or waste containing free liquids placed in the landfill? If so, describe types of containers below: Yes No
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- 9.14.08(a) 8. Are empty containers crushed flat or shredded before burial in the landfill? Yes No
- 9.14.05 9. Are ignitable or reactive wastes placed in a landfill? If so, Yes No
- a) Is the waste treated, rendered, or mixed before or immediately after placement in the landfill so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under Section 3.07 or Section 3.09, and Section 9.02.08 is complied with? Yes No
- 9.14.06 b) Are incompatible wastes segregated in different landfill cells? If no, Yes No
- c) Is the procedure in compliance with Section 9.02.08? Yes No



Inspector's Name: \_\_\_\_\_

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Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

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Inspector's Name: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

**CHECKLIST FOR RCRA INSPECTION OF  
INCINERATORS & THERMAL TREATMENT FACILITIES**

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_

EPA Generator ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

The questions contained in this checklist apply to owners and operators of facilities that treat hazardous waste by incineration or thermal methods except as Section 9.01 provides otherwise.

**VA HWM Regs.  
Reference**

- |                          |   |     |    |
|--------------------------|---|-----|----|
| 9.15.03<br>9.16.03       | 1. Does the operator conduct waste analysis for:  |     |    |
|                          | a) heating value of the waste   | Yes | No |
|                          | b) halogen content and sulfur in the waste  | Yes | No |
|                          | c) concentrations of lead and mercury unless documented data is available which show these elements not to be present       | Yes | No |
|                          | prior to burning the waste not previously burned in the incinerator or thermal process?                                     |     |    |
| 9.05.02(b)(3)            | 2. Is this information documented in the facility's operating record?   | Yes | No |
| 9.15.04(a)<br>9.16.04(a) | 3. Are instruments related to combustion and emission control monitored at least every 15 minutes?                          | Yes | No |
| 9.15.04(b)<br>9.16.04(b) | 4. Is the stack plume observed visually at least hourly for color and opacity?  | Yes | No |
| 9.15.04(c)<br>9.16.04(c) | 5. Is the incinerator or thermal process and associated equipment inspected daily for leaks, spills and fugitive emissions? | Yes | No |

Inspector's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

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Inspector's Name: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

CHECKLIST FOR RCRA INSPECTION OF CHEMICAL,  
PHYSICAL AND BIOLOGICAL TREATMENT FACILITIES

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

EPA Generator ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

The questions contained in this checklist apply to owners and operators of facilities which treat hazardous wastes by chemical, physical, or biological methods in other than tanks, surface impoundments and land treatment facilities except as Section 9.01 provides otherwise.

VA HWM Regs.  
Reference

- |               |   |     |    |
|---------------|---|-----|----|
| 9.17.02(b)    | 1. Are all treatment processes or equipment in good condition, i.e., not showing signs of leakage, corrosion or any other deterioration?  | Yes | No |
| 9.17.02(c)    | 2. Are treatment processes or equipment with continuous inflow of hazardous waste equipped with a means to stop this inflow? (e.g., waste feed cut-off system or bypass system to a standby containment device) | Yes | No |
| 9.17.03       | 3. Are waste analyses performed or written documentation obtained before placing a substantially different hazardous waste into treatment processes or equipment?   | Yes | No |
| 9.05.02(b)(3) | 4. Is this information recorded in the facility's operating record?   | Yes | No |
| 9.17.04(a)    | 5. Are daily inspections conducted for discharge control equipment (e.g., bypass systems, waste feed cut-off systems, drainage systems and pressure relief systems)?  | Yes | No |

- |                          |  |     |    |
|--------------------------|--|-----|----|
| 9.17.04(b)               | 6. Is data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day?  | Yes | No |
| 9.17.04(c)<br>9.17.04(d) | 7. Are construction materials of the treatment process or equipment and immediate surrounding area inspected weekly for signs of leakage, corrosion or any other deterioration?  | Yes | No |
| 9.02.06(d)               | 8. Are the results of these inspections recorded in an inspection log or summary?  | Yes | No |
| 9.17.06                  | 9. Are ignitable or reactive wastes placed in a treatment process? If so,  | Yes | No |
| 9.17.06(a)(1)            | a) Are the wastes treated, rendered, or mixed before or immediately after placement in the treatment process or equipment so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive wastes under Section 3.07 or 3.09 of these regulations? | Yes | No |
| 9.17.06(a)(2)            | b) Are the wastes treated in such a way that they are protected from any material or conditions which may cause the waste to ignite or react?  | Yes | No |
| 9.17.07                  | 10. Are incompatible wastes kept from being placed in the same treatment process or equipment?   | Yes | No |

Inspector's Name: \_\_\_\_\_

Title: \_\_\_\_\_

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Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

CHECKLIST FOR RCRA INSPECTION OF TRANSPORTERS

Name of Facility: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

EPA Generator ID Number: \_\_\_\_\_

Facility Inspection Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

The questions contained in this checklist apply to transporters of hazardous waste shipments that originate within the Commonwealth and/or terminate within the Commonwealth, except as Section 7.01 provides otherwise.

VA HWM REGS.  
Reference

- |              |  |     |    |
|--------------|--|-----|----|
| 7.01.01      | 1. Does company transport hazardous waste which:   |     |    |
|              | a) originates within the Commonwealth?   | Yes | No |
|              | b) originates within a foreign country?  | Yes | No |
|              | c) terminates within the Commonwealth?   | Yes | No |
| 7.04         | 2. Does the transporter have a Virginia Hazardous Wastes Transporter Permit?<br>Indicate permit number: _____<br>(Forms are in Appendix 7.2) | Yes | No |
| 7.02<br>7.06 | 3. Is the transporter currently employing a manifest system so that shipments of hazardous waste can be tracked?                             | Yes | No |
|              | 4. Please inspect the transporters manifest for the following:   |     |    |
| 5.04.02      | a) Is a manifest document number included on the form?   | Yes | No |

- |                    |    |  |     |    |
|--------------------|----|--|-----|----|
| 5.04.03(a)         | b) | Are the generator's name, address, telephone number and EPA ID number included on the form?  | Yes | No |
| 5.04.03(b)         | c) | Are the transporter's name, address, telephone number and EPA ID number included on the form?  | Yes | No |
| 7.04.06            | d) | Is the transporter's permit number included on the form?   | Yes | No |
| 5.04.03(c)         | e) | Are the name, address, telephone number and EPA ID number of the designated facility included on the form?   | Yes | No |
| 5.04.04            | f) | Is a description of the hazardous waste being transported included on the form?  | Yes | No |
| 5.04.05            | g) | Are the type and number of containers loaded in the transporter's vehicle included on the form?  | Yes | No |
| 5.04.05            | h) | Is the total quantity by unit of weight of each waste included on the form?  | Yes | No |
| 5.04.06<br>5.05.01 | i) | Is the following certification by the generator noted on the manifest and acknowledged by the generator's signature?<br><br>"This is to certify that the named materials are properly classified, described, packaged, marked, labeled and are in proper condition for transportation according to applicable regulations of the US Department of Transportation and the US Environmental Protection Agency and the Commonwealth of Virginia". | Yes | No |
| 5.04.07            | j) | Are there adequate copies of the manifest available for generator, transporter, and the designated facility?   | Yes | No |
| 7.09               | 5. | Has the transporter stored manifested shipments of hazardous waste for a period exceeding 10 days? (If yes, Form B "TSD" Facilities must be completed).  | Yes | No |

- |            |   |     |    |
|------------|---|-----|----|
| 7.07.11    | 6. Has the transporter mixed hazardous wastes of different shipping descriptions specified in Virginia Regulations Governing Transportation of Hazardous Materials by placing them into a single container? (If yes, Form A "Generator" must be completed). | Yes | No |
| 7.08       | 7. Has the transporter had a spill of hazardous waste? If yes:  | Yes | No |
| 7.08.02(a) | a) Did the transporter notify appropriate authorities?  | Yes | No |
| 7.08.03(a) |   |     |    |
| 7.08.02(b) | b) Did the transporter clean up the spill?  | Yes | No |
| 7.08.02(d) | c) Was the disposal of the spilled material consistent with applicable regulations?   | Yes | No |
| 7.08.03(d) | d) Was a written report filed within 15 calendar days with the Bureau of Hazardous Waste Management and the U. S. Department of Transportation? (Forms are in Appendix 7.3)   | Yes | No |
| 7.05.01    | 8. Are the transporter's vehicles placarded in accordance with Virginia Regulations Governing Transportation of Hazardous Materials?  | Yes | No |
| 7.05.02    | 9. Has the transporter insured that shipments of hazardous waste have been properly labeled and and packaged by the generator?  | Yes | No |
| 7.02.06    | 10. Has the transporter filed an annual report of hazardous waste transporting activities for the preceeding calendar year? (Forms are in Appendix 7.1)   | Yes | No |



Inspector's Name: \_\_\_\_\_

Title: \_\_\_\_\_

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Date of Inspection: \_\_\_\_\_

Inspector's Name: \_\_\_\_\_

Agency: Va. State Health Department, Bureau of Hazardous Waste Management

Office Location: 906 Madison Bldg., 109 Governor St., Richmond, Va. 23219

Date of Inspection: \_\_\_\_\_

# Sample Outline

## HAZARDOUS WASTE MANAGEMENT CONTINGENCY PLAN

### 1. Facility General Information

- a. Name
- b. Location
- c. Telephone Number
- d. Description of Hazardous Waste Activities
  1. generators: classification of wastes (ie. flammable, corrosive, etc.)
  2. storer: classification of wastes and types of containers
  3. treater: classification of wastes handled and treatment program
  4. disposer: classification of wastes handled and disposal methods
- e. Facility Site Plan with Areas of Hazardous Waste Activities Indicated (ie. drum accumulation or storage area, etc.)

### 2. Emergency Coordinator(s)

- a. Primary: Name and Emergency Phone Number
- b. Alternate: Name and Emergency Phone Number
- c. Duties and Authority to Commit Resources

### 3. Implementation of Plan

- a. Potential problems (ie. fire, spill, etc.)
- b. Procedures
  1. notification of emergency plant personnel and local authorities
  2. control and containment
  3. clean-up and disposal

### 4. Emergency Equipment

- a. Inventory and Capabilities of Emergency Equipment
- b. Locations (this could be included on the facility site plan mentioned under #1 above.)
- c. Equipment Available from other Sources (if necessary)

5. Coordination With Local Authorities

- a. List of Local Authorities Receiving Copies of Contingency Plan
- b. Coordination Agreements With Local Authorities
  - 1. Fire
  - 2. Police
  - 3. Hospital
  - 4. Other Emergency Response Units

6. Evacuation Plan (if needed)

- a. When to Evacuate
- b. Signals to Evacuate
- c. Primary Routes
- d. Alternate Routes

7. Reports

- a. Notification to State Agencies and Local Authorities Prior to Resumption of Activities in Affected Area that Released Waste contaminated soil, etc. has been Treated, Stored, or Disposed and All Emergency Equipment is cleaned and ready for use.
- b. Report of Incident