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Prepared by

**COMMONWEALTH OF VIRGINIA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

Demonstration of  
Adequate Authority  
for the  
Virginia Hazardous Waste Management  
Program

May 12, 2000

**DEMONSTRATION OF ADEQUATE AUTHORITY FOR THE  
VIRGINIA HAZARDOUS WASTE MANAGEMENT PROGRAM**

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**VIRGINIA  
DEMONSTRATION OF ADEQUATE AUTHORITY FOR THE VIRGINIA HAZARDOUS  
WASTE MANAGEMENT PROGRAM,  
INCLUDING CHANGES TO THE  
FEDERAL RCRA PROGRAM  
THROUGH JUNE 30, 1995**

This document provides a demonstration of the statutory and regulatory authority for the Virginia Hazardous Waste Management Program. The specific authorities cited herein are contained in statutes or regulations adopted and effective at the date of this Demonstration. The legislation cited is current through the 1999 session of the Virginia General Assembly. The latest amendment (Amendment 14) to the Virginia Hazardous Waste Management Regulations (Title 9, Environment, of the Virginia Administrative Code 20-60-10, et seq.) (VHWMR) (cited as 9 VAC 20-60-xxx) was approved by the Virginia Waste Management Board (the Board) on December 10, 1998, and became effective on February 17, 1999.

On December 18, 1984, the United States Environmental Protection Agency (EPA) granted final authorization to the Department of Health to administer the Virginia Hazardous Waste Management Program. At that time, the controlling state statute, the Virginia Waste Management Act (VWMA), was contained in Title 32.1 of the 1950 Code of Virginia, as amended (Va. Code). Since then, the statutes have undergone a number of revisions, and in 1988, the Virginia General Assembly recodified the VWMA at Va. Code §§ 10.1-1400 through 1457. The state agency responsible for administering the Virginia Hazardous Waste Management Program is now the Virginia Department of Environmental Quality (DEQ, or the Department).

The statutory provisions governing privilege and immunity under the VWMA article on Voluntary Environmental Assessment were enacted in 1995 and are found at Va. Code §§ 10.1-1198 and 10.1-1199, respectively. As noted in the attached January 12, 1998 letter from the Virginia Attorney General (Attachment 1), none of Virginia's federally authorized environmental programs, including the Hazardous Waste Management Program, are subject to the statutory provisions governing voluntary environmental assessment privilege and immunity.

The statutory provisions governing voluntary remediation were enacted in 1995 and are found at Va. Code §§ 10.1-1429.1 through -1429.3. These provisions apply only where remediation has not clearly been mandated by EPA, the Department or a court pursuant to various authorities, including the VWMA. Therefore, neither those statutory provisions nor the regulations promulgated pursuant thereto (9 VAC 20-160-10 et seq., Voluntary Remediation Regulations) relieve any person of the responsibility to comply with any otherwise applicable portion of the authorized Hazardous Waste Management Program or prevent the Department from exercising its authority corresponding to the state program approval requirements found in 40 CFR 271.16 ("Requirements for enforcement authority").

Under Va. Code § 10.1-1429.4, a person not otherwise liable under state law or regulation, that acquires an interest in property that is listed on the National Priorities List after the property has been remediated to the satisfaction of the Administrator of EPA, is not subject to civil enforcement or remediation action relating to contamination (that was subject to the satisfactory remediation) existing at the property prior to the person acquiring his interest in the property. This provision does not relieve any person of the responsibility to comply with any otherwise applicable portion of the authorized Hazardous Waste Management Program or prevent the Department from exercising its authority corresponding to the state program approval requirements found in 40 CFR 271.16 ("Requirements for enforcement authority"). Persons liable under state law or regulation are not relieved of any responsibility. Moreover, any

satisfactory remediation under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq., would have to meet the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., (RCRA) as an applicable requirement under 42 U.S.C. § 9621.

The statutory authorities for the Commonwealth are documented on the Virginia Legislation Checklist and the Virginia Statutory Checklist - Hazardous and Solid Waste Amendments of 1984, attached to this Demonstration (Attachments 2 and 3). These authorities update those found in the Attorney General's Statements of June 26, 1984 (as amended by letter dated September 5, 1984) and February 15, 1988 (as supplemented on July 11, 1988), as well as Senior Assistant Attorney General Patrick O'Hare's letter dated July 13, 1987.

In 1992, the General Assembly created the Department by the consolidation of the programs, functions, staff, facilities, assets and obligations of the State Water Control Board, the Department of Air Pollution Control, the Department of Waste Management, and the Council on Environment (Va. Code § 10.1-1183). The State Air Pollution Control Board, the State Water Control Board, and the Virginia Waste Management Board were continued (Va. Code § 10.1-1184). All policies and regulations adopted by the above Boards and the Council on the Environment and in effect on December 31, 1992, were continued in effect until and unless superseded by new policies and regulations (Id.). All powers and duties conferred or imposed upon the Executive Director of the Department of Air Pollution Control, the Executive Director of the State Water Control Board, the Administrator of the Council on the Environment, or the Director of the Department of Waste Management were continued and conferred or imposed upon the Director of the Department (Director) or his designee (Va. Code § 10.1-1185). The Director is appointed by the Governor to serve at his pleasure for a term coincident with his own (Id.).

## INTRODUCTION

### PREFATORY STATEMENT

The VWMA authorizes the Board to promulgate and enforce regulations necessary to carry out its powers and duties and the intent of the VWMA and federal acts (Va. Code § 10.1-1402(1) and (11)). The relevant federal program requirements include those of the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616 (HSWA). Much of Virginia's authority to promulgate and adopt regulations stems from the general enabling language contained in Va. Code § 10.1-1402(1) and (11) and the prefatory language of that section. Those general enabling provisions, along with others noted below, provide statutory authority for Virginia to carry out a waste management program that is equivalent to the federal program.

The standard of sufficiency for such enabling legislation was articulated by the United States Supreme Court in Mourning v. Family Publications Service, Inc., 411 U.S. 356 (1973) where the court stated that:

“[w]here the empowering provision of a statute states simply that the agency may ‘make...such rules and regulations as may be necessary to carry out the provision of this Act,’ we have held that the validity of a regulation promulgated thereunder will be sustained so long as it is ‘reasonably related to the purpose of the enabling legislation.’” 411 U.S. at 369 (quoting Thorpe v. Housing Auth. of the City of Durham, 393 U.S. 268; 280-81 (1969)); cf. Va. Code § 10.1-1402 (11).

This same standard was quoted with approval by the Virginia Supreme Court in Beneficial Discount Co. v. Johnson, 215 Va. 582, 587-88, 211 S.E.2d 571, 575-76 (1975). See also Director Office of Worker Compensation Programs v. National Mines Corp., 554 F.2d 1267, 1275 (4th Cir. 1977). Given that the

VWMA authorizes the Board to promulgate and enforce regulations necessary to carry out its powers and duties and the intent of the VWMA and the federal acts (see § 10.1-1402(11)), the VHWMR should be viewed as "reasonably related to the purposes of the enabling legislation." Accordingly, the enabling language contained in § 10.1-1402 provides authority for the promulgation and adoption of the VHWMR by the Board.

Virginia has revised the format of its hazardous waste regulations from one of adoption and incorporation of the full text of the federal regulatory language, with modifications made as necessary, to "incorporation by reference." The incorporation by reference is authorized by the Commonwealth's general enabling language contained in Virginia Code § 10.1-1402(1) and (11). Based on this authority, Virginia, at 9 VAC 20-60-18, has adopted by reference Title 40 Code of Federal Regulations (CFR) as it existed and was in effect on June 30, 1995 (as published on July 1, 1995), unless an exception or alternate date is specified. Other, specific incorporations are noted throughout this Demonstration. Specifically, the Commonwealth has excluded from the incorporation by reference the *Federal Register* (cited as FR) publications listed below that amend 40 CFR, and they are not part of the VHWMR. The Commonwealth is not seeking authorization for the final rules addressed by these *Federal Register* publications at this time.

1. December 6, 1994, Volume 59, Number 233, pages 62896 through 62953 (Rule 154.1);
2. January 3, 1995, Volume 60, Number 1, pages 241 through 302 (Rule 137.1);
3. January 13, 1995, Volume 60, Number 9, pages 3089 through 3095 (Revision Checklist 139);
4. February 9, 1995, Volume 60, Number 27, pages 7824 through 7859 (Revision Checklist 140);
5. April 4, 1995, Volume 60, Number 64, pages 17001 through 17004 (Revision Checklist 141);
6. April 17, 1995, Volume 60, Number 73, pages 19165 through 19167 (Rule 140.1);
7. May 12, 1995, Volume 60, Number 92, pages 25619 through 25620 (Rule 140.2);
8. May 19, 1995, Volume 60, Number 97, pages 26828 through 26829 (Rule 154.2); and
9. June 29, 1995, Volume 60, Number 125, pages 33911 through 33915 (Revision Checklist 144).

The Commonwealth is not seeking authorization for delisting requirements, including the changes addressed by Revision Checklist 17 B, or the review of petitions regarding equivalent testing, or for excluding certain recycled wastes from being classified as solid waste. Although the Commonwealth has adopted provisions addressing availability of information relative to RCRA §3006(f), and used oil management standards, as published in the *Federal Register* on September 10, 1992 (57 FR 41566), May 3, 1993 (58 FR 26420), June 17, 1993 (58 FR 33341) and March 4, 1994 (59 FR 10550) (40 CFR Part 279), the Commonwealth is not seeking authorization for these programs at this time. In addition to federal universal wastes, the Commonwealth has adopted provisions that regulate mercury-containing lamps as a universal waste. The requirements for the additional waste are not being authorized.

The Table below shows the general relationship between the Commonwealth's regulations and the federal regulations.

Virginia Hazardous Waste Management Regulations		Description
PART I	20-60-10 through 20-60-18	Definitions (Related to 40 CFR Part 260, Subparts A and B)
PART II	20-60-20 through 20-60-90	General Information and Legislative Authority
PART III	20-60-124, 20-60-260 through 20-60-266, 20-60-268, 20-60-270, 20-60-273 and 20-60-279	40 CFR Parts 124, 260 through 266, 268, 270, 273 and 279

PART IV	20-60-305 20-60-315 20-60-325	Notification of Hazardous Waste Management Activity Regulations (Related to RCRA § 3010)
PART VII	20-60-420 through 20-60-500	Regulations Applicable to Transporters of Hazardous Waste (Related to 40 CFR Part 263)
PART XI	20-60-970 through 20-60-1250	Hazardous Waste Management Facility Permit Regulations (Related to 40 CFR Parts 270 and 124)
PART XII	20-60-1260 through 20-60-1280	Hazardous Waste Management Permit Application Fee Regulations (No federal analog)
Part XIV	20-60-1370 through 20-60-1430	Rulemaking Petition and Procedures (Related to 40 CFR Part 260, Subpart C)
Part XVI	20-60-1495 and 20-1505	Additional Universal Waste Management Provisions (Related to 40 CFR Part 273)

At 9 VAC 20-60-12 and 20-60-14, the Commonwealth clarifies the general meaning and use of definitions derived from the Code of Virginia, the incorporation of reference texts, and the substitutions of terms. In addition, the Commonwealth includes background provisions at 9 VAC 20-60-14 C-D which explain how citations, dates incorporated by reference texts and other references used throughout Virginia's regulations should be interpreted. The language at 9 VAC 20-60-14 E also clarifies the statutory authority of the Virginia Waste Management Act with respect to analogous federal authorities cited in the incorporated by reference texts of 40 CFR.

The Commonwealth's regulatory provisions are documented in Consolidated Checklists C1 through C9, and C11, which are part of this Demonstration of Adequate Authority. Differences between the Commonwealth's provisions and the federal provisions are noted on the Consolidated Checklists.

Virginia's transporter requirements in Part VII and the permitting requirements in Part XI include certain provisions that are analogous to federal requirements incorporated by reference. In some cases, the Virginia text is identical to the federal text. In other instances, the Virginia provisions are different, but are equivalent to the federal requirements.

Throughout the Consolidated Checklists, references are made to "HSWA" and "non-HSWA" provisions and compliance dates. The HSWA provisions are those federal requirements promulgated under the authority of HSWA. Prior to enactment of HSWA, a State with final authorization, such as Virginia, administered its hazardous waste program entirely in lieu of the federal program. However, because of HSWA, any provision promulgated under HSWA authority took effect in all States, regardless of authorization status. In contrast, those provisions which are promulgated under non-HSWA authority take effect only at the time of adoption by Virginia. On the Consolidated Checklists, Interpretive



Comments have been added to identify those regulations that include both HSWA and non-HSWA provisions. In such cases, the federal effective dates apply to the HSWA provisions and the Commonwealth's effective dates apply to the non-HSWA provisions.

## **VIRGINIA WASTE MANAGEMENT BOARD AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

Virginia maintains a strong, traditional commitment to citizen participation on boards to ensure that state government remains responsive to the public. Collegial bodies, designated as boards, commissions or councils, are associated with almost every administrative agency of the executive branch. Their responsibilities may include providing advice to agencies and the Governor, supervising major agencies, and implementing quasi-judicial or quasi-legislative functions.

The Virginia Waste Management Board (Board) is appointed by the Governor and is composed of seven Virginia residents (Va. Code § 10.1-1401). Each appointment is subject to confirmation by the General Assembly (Va. Code § 2.1-42.1). At initial appointment, three members were appointed for four-year terms, two for three-year terms and two for two-year terms (Va. Code § 10.1-1401). Thereafter, all members are appointed for four-year terms each (Id.).

The Board adopts its own rules and procedures for the conduct of its business (§ 10.1-1401). The decision of a majority of those present and voting constitutes the decision of the Board; however, a vote of the majority of the Board membership is required to constitute a final decision on certification of site approval (Id.). The Board is responsible for promulgating and enforcing regulations, issuing or denying certification of site suitability for hazardous waste facilities, and taking actions to contain or clean up sites where solid or hazardous waste or other substances within the jurisdiction of the Board have been improperly managed (Va. Code §§ 10.1-1402, -1435, -1445).

The Board functions as a policy-making body developing broad policy guidance for the Department and promulgating regulations for the citizens of the Commonwealth. The Department implements the policies of the Board and administers the day-to-day operations of the state and federal waste management programs (Va. Code § 10.1-1405). The Department employs personnel to inspect, permit and provide regulatory oversight to industries that generate, transport, store, treat, or dispose of hazardous waste (Board Policies Document, August 1988). The Department administers the Hazardous Waste Management Program and is committed to a program of active enforcement against the mismanagement of hazardous wastes in Virginia (Id.). In addition to RCRA, the Department also administers programs supervised by the Board, the State Air Control Board and the State Water Control Board.

The Department is headed by a Director appointed by the Governor to serve at his pleasure for a term coincident with his own or until a successor is appointed (Va. Code § 10.1-1404). When the Board is not in session, the Director is delegated all of the powers and authorities of the Board (Va. Code § 10.1-1405). The Director may promulgate and enforce emergency orders and regulations and provide for reasonable variances and exemptions (Va. Code § 10.1-1402), but may not promulgate any final regulations (Va. Code § 10.1-1405). The Director also makes permitting decisions to protect public health, natural resources and the environment from the release or imminent threat of release of waste (Va. Code § 10.1-1402, -1426).

## I. DEFINITION OF TERMS, REFERENCES AND TEST METHODS

A. *State statutes and regulations contain definition of terms and a list of publications (as in 40 CFR 260.11) which have applicability throughout the statutes and regulations as indicated in Consolidated Checklist C1 which includes the revisions made by Revision Checklists 5, 11, 13, 23, 24, 28, 34, 35, 39, 45, 49, 52, 67, 71, 73, 79, 82, 85, 99, 100, 109, 111, 112, 118, 121, 125, 126, 128, 132, 142A, 142B, 142C, and 142D.*

Federal Authority: RCRA §§2002(a), 3001 through 3007, 3010, 3014, 3015, 3017 through 3019 and 7004; 40 CFR 260.10 and 260.11, as amended March 20, 1984 (49 FR 10490), December 4, 1984 (49 FR 47390), January 4, 1985 (50 FR 614), March 24, 1986 (51 FR 10146), May 2, 1986 (51 FR 16422), July 14, 1986 (51 FR 25422), November 7, 1986 (51 FR 40572), March 16, 1987 (52 FR 8072), July 8, 1987 (52 FR 25760), October 27, 1987 (52 FR 41295), December 10, 1987 (52 FR 46946), July 19, 1988 (53 FR 27290), September 2, 1988 (53 FR 34079), September 29, 1989 (54 FR 40260), January 23, 1990 (55 FR 2322), March 9, 1990 (55 FR 8948), June 21, 1990 (55 FR 25454), December 6, 1990 (55 FR 50450), February 21, 1991 (56 FR 7134), December 23, 1991 (56 FR 66365), January 29, 1992 (57 FR 3462), August 18, 1992 (57 FR 37194), August 25, 1992 (57 FR 38558), September 10, 1992 (57 FR 41566), November 18, 1992 (57 FR 54452), February 16, 1993 (58 FR 8658), July 20, 1993 (58 FR 38816), August 31, 1993 (58 FR 46040), January 4, 1994 (59 FR 458), June 2, 1994 (59 FR 28484), and May 11, 1995 (60 FR 25492).

### Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Code of Virginia (Va. Code), §§ 10.1-1400, 10.1-1402(1) and 10.1-1402(11).  
9 VAC §§ 20-60-14, 20-60-17 A, 20-60-18, 20-60-260 A, 20-60-260 B and 20-60-260 B 1 through B 7, effective February 17, 1999.

### Interpretive Comment

Va. Code §§ 10.1-1402(1) and (11) give the Board the broad authority to supervise and control waste management activities in the Commonwealth and to promulgate and enforce regulations (which would include definitions) to carry out its powers and duties and the intent of the VWMA and the federal acts.

At Va. Code § 10.1-1400, Virginia has defined terms which are used in the Commonwealth's Hazardous Waste Management Program. As indicated on the Legislation Checklist, the Commonwealth's definitions for "disposal", "hazardous waste", "manifest", "transport or transportation", "treatment" and "solid waste" are consistent with and equivalent to federal definitions. The definition of "person" in Va. Code § 10.1-1400 does not specifically list the following institutions that are listed in the federal definition: trust, firm, joint stock company, State, municipality, commission, political subdivision of a State, or an interstate body. However, the Commonwealth does refer to any "governmental body" and "any other legal entity". These broad terms cover all those entities that are not specifically addressed by the Commonwealth's definition.

At 9 VAC 20-60-260 A and B, the Commonwealth adopts and incorporates by reference the federal definitions at 40 CFR 260.10 and the references at 40 CFR 260.11, which were in effect on July 1, 1995, subject to certain additions, modifications and exceptions at 9 VAC §§ 20-60-14B, 20-60-17A and 20-60-260 B1 through B7. In addition, at 9 VAC 20-60-18, Virginia excludes the following rules amending 40 CFR Part 260 from the incorporation by reference and are not part of the Virginia Hazardous Waste Management Regulations: (12/6/94) 59 FR 62896 (CL 154.1); (1/13/95) 60 FR 3089 (CL 139); (4/4/95) 60 FR 17001 (CL 141).

As indicated in Consolidated Checklist C1 in Subsection I.C below, the Commonwealth has identical or equivalent analogs to all of the federal definitions at 40 CFR 260.10. In addition, in order to clarify its regulations, Virginia includes definitions not found in the federal code. Virginia has also amended the definition of "universal waste" to include "mercury-containing lamps," as described in Part XVI of its hazardous waste regulations. Virginia is not seeking authorization for its requirements for mercury-containing lamps.

**B. State statutes and regulations do not allow petitions for equivalent testing or analytical methods as specified in 40 CFR 260.21 and as indicated in Consolidated Checklist C1 which includes the requirements indicated in Revision Checklist 11.**

Federal Authority: RCRA §§2002(a), 3001 and 3004; 40 CFR 260.21, as amended December 4, 1984 (49 FR 47390).

Citation of Laws and Regulations; Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1400, 10.1-1402(1) and 10.1-1402(11).

9 VAC §§ 20-60-260 A, 20-60-260 B 9, 20-60-1370 B, effective February 17, 1999.

Interpretive Comment

Virginia has elected not to adopt an analog to 40 CFR 260.21 addressing petitions for equivalent testing or analytical methods as indicated on Consolidated Checklist C1 at Section II.C below.

**C. Consolidated Checklist C1 – 40 CFR Part 260, Subpart A, plus §§ 260.10, 260.11 and 260.21, as of June 30, 1995 and Commonwealth Analogs**

**VIRGINIA CONSOLIDATED CHECKLIST C1**

Hazardous Waste Management System: General  
40 CFR Part 260 Subpart A, plus §§ 260.10, 260.11 and 260.21, as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
260 SUBPART A - GENERAL						
Purpose, scope, and applicability	260.1	20-60-260 A	X			
Availability of Information	260.2	No analog; 20-60-260 B 9	Virginia does not incorporate by reference 40 CFR 260.2			
Use of number and gender	260.3	20-60-260 A	X			

# VIRGINIA CONSOLIDATED CHECKLIST C1

Hazardous Waste Management System: General  
40 CFR Part 260 Subpart A, plus §§ 260.10, 260.11 and 260.21, as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

## SUBPART B - DEFINITIONS

**Interpretive Comment:** In order to clarify its regulations, Virginia, at 9 VAC §§ 20-60-14 B, 20-60-17 A, 20-60-260 B and 20-60-1505 A, includes the following State definitions not found in the federal code:

“Another regulation of the Virginia Administrative Code”, “Authorized state”, “Commonwealth”, “Hazardous material”, “HSWA”, “HSWA drip pad”, “HSWA tank”, “Mercury-containing lamp”, “Non-HSWA drip pad”, “Non-HSWA tank”, “Qualified engineer”, “Regulation”, “Responsible individual”, “Signature”, and “These regulations”.

The Commonwealth has also clarified its definitions relative to “drip pad” and “tank” in order to distinguish between federal regulations promulgated pursuant to the federal HSWA and those promulgated under non-HSWA authority.

2, 3

Definitions, except for the definitions listed below	260.10	20-60-260 A & 20-60-260 B 2	X			
“Administrator”	260.10	20-60-260 B 1 20-60-17 A	X			
“Another regulation of the Virginia Administrative Code”	No federal analog	20-60-17 A	X			
“authorized state”	No federal analog	20-60-14 B 4	X			
“Authorized representative”	260.10	20-60-17 A	X			
“Commonwealth”	No federal analog	20-60-17 A	X			
“EPA hazardous waste number”	260.10	20-60-17 A	X			
“EPA identification number”	260.10	20-60-17 A	X			
“existing tank system”	260.10	20-60-260 A & 20-60-260 B 3	X			
“Hazardous material”	No federal analog	20-60-17 A	X			

## VIRGINIA CONSOLIDATED CHECKLIST C1

Hazardous Waste Management System: General  
40 CFR Part 260 Subpart A, plus §§ 260.10, 260.11 and 260.21, as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
"HSWA"	No federal analog	20-60-17 A	X			
"HSWA drip pad"	No federal analog	20-60-17 A	X			
"HSWA tank"	No federal analog	20-60-17 A	X			
"Mercury-containing lamp"	No federal analog	20-60-1505 A	X			
"new tank system"	260.10	20-60-260 A & 20-60-260 B 3	X			
"Non-HSWA drip pad"	No federal analog	20-60-17 A	X			
"Non-HSWA tank" <sup>2</sup>	No federal analog	20-60-17 A	X			
"Person"	260.10	20-60-260 A & 20-60-260 B 5	X			
"Qualified engineer"	No federal analog	20-60-14 B 3	X			
"Regional Administrator"	260.10	20-60-260 B 4	X			
"Regulation"	No federal analog	20-60-17 A	X			
"Responsible Individual"	No federal analog	20-60-17 A	X			
"Signature"	No federal analog	20-60-17 A	X			
"State"	260.10	20-60-260 B 5 20-60-14 B 4	X			
"These regulations"	No federal analog	20-60-17 A	X			
"United States"	260.10	20-60-260 B 5	X			
"universal waste"	260.10	20-60-260 B 6 20-60-270 B 1	X			

**Interpretive Comment:** At 20-60-270 B 1, the Commonwealth adds the following sentence to all listings of universal waste found in 40 CFR: "In addition to the hazardous wastes listed herein, the term 'universal waste' and all lists of universal waste or waste subject to provision of 40 CFR Part 273 shall include those hazardous wastes listed in Part XVI (9 VAC 20-60-1495, et seq.) of the Virginia Hazardous Waste Management Regulations as universal wastes, under such terms and requirements as shall therein be ascribed." 9 VAC 20-60-260 B 6 contains equivalent requirements. Part XVI addresses provisions for mercury-containing lamps. Virginia is not seeking authorization for the regulation of mercury-containing lamps as universal waste.

# VIRGINIA CONSOLIDATED CHECKLIST C1

Hazardous Waste Management System: General  
40 CFR Part 260 Subpart A, plus §§ 260.10, 260.11 and 260.21, as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
References	260.11(a)	20-60-260 A & 20-60-260 B 7	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog to 40 CFR 260.11(a) is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Rule 154.1 (59 FR 62896-62953 December 6, 1994), Revision Checklist 139 (60 FR 3089-3095 January 13, 1995) and Revision Checklist 141 (60 FR 17001-17004 April 4, 1995).

References available	260.11(b)	20-60-260 A	X (7/1/94 CFR)			
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**Interpretive Comment:** Virginia's analog to 40 CFR 260.11(b) is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Rule 154.1 (59 FR 62896-62953 December 6, 1994).

Petitions for equivalent testing or analytical methods	260.21	20-60-260 B 9 20-60-1370 B			X	
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**Interpretive Comment:** 40 CFR 260.21 is excluded from the incorporation by reference of 40 CFR 260 at 9 VAC 20-60-260 B 9. Virginia does not have a direct analog to 40 CFR 260.21. By not allowing a person to petition to add a test or analytical method, the Commonwealth is more stringent. At 9 VAC 20-60-1370 B, the Commonwealth indicates that the Director shall not accept any petition relating to equivalent testing or analytical methods. However, persons may submit petitions to EPA in accordance with 40 CFR 260.21.

- <sup>1</sup> The Commonwealth includes background provisions at 9 VAC 20-60-14 C-D which explain how citations, dates in incorporated by reference texts and other references used throughout Virginia's regulations should be interpreted. The language at 9 VAC 20-60-14 E clarifies the statutory authority of the VWMA with respect to analogous federal authorities cited in the incorporated by reference texts of 40 CFR.
- <sup>2</sup> At 9 VAC 20-60-12 and 20-60-14, the Commonwealth clarifies the general meaning and use of definitions derived from the Code of Virginia, the incorporation of reference texts, and the substitutions of terms.
- <sup>3</sup> Although the Commonwealth incorporates by reference 40 CFR Part 260, the terms and definitions have been specifically included in 9 VAC 20-60-14 B, 20-60-17 A, or 20-60-260 B to clarify either meaning or use in Virginia's regulations.

## II. IDENTIFICATION AND LISTING

Federal Authority: Statutory Authorization RCRA §3001; 40 CFR 271.9, as amended September 22, 1986 (51 FR 33712).

*A. State statutes and regulations contain a list of hazardous wastes and characteristics for identifying hazardous waste which encompasses all wastes controlled under 40 CFR Part 261 as indicated in Consolidated Checklist C2 (formerly Checklists I B and I C), which includes the changes made by Revision Checklists 4, 7, 13, 14, 17 J, 18, 20, 21, 22, 23, 26, 29, 33, 34, 37, 41, 46, 53, 56, 57, 67, 68, 69, 72, 73, 74, 75, 76, 78, 81, 82, 83, 86, 88, 89, 91, 92, 110, 115, 119, 120, 126, 128 and 134.*

Federal Authority: RCRA §3001(b); 40 CFR 261.10 through 261.35 and applicable appendices as amended February 10, 1984 (49 FR 5308), May 10, 1984 (49 FR 19922), January 4, 1985 (50 FR 614), January 14, 1985 (50 FR 1978), April 11, 1985 (50 FR 14216), July 15, 1985 (50 FR 28702), October 23, 1985 (50 FR 42936), December 31, 1985 (50 FR 53315), February 13, 1986 (51 FR 5327), February 25, 1986 (51 FR 6537), March 24, 1986 (51 FR 10146), May 28, 1986 (51 FR 19320), August 6, 1986 (51 FR 28296), October 24, 1986 (51 FR 37725), November 7, 1986 (51 FR 40572), June 5, 1987 (52 FR 21306), July 10, 1987 (52 FR 26012), April 22, 1988 (53 FR 13382), September 13, 1988 (53 FR 35412), October 31, 1988 (53 FR 43878), October 31, 1988 (53 FR 43881), September 29, 1989 (54 FR 40260), October 6, 1989 (54 FR 41402), December 11, 1989 (54 FR 50968), February 14, 1990 (55 FR 5340), March 9, 1990 (55 FR 8948), March 29, 1990 (55 FR 11798), May 2, 1990 (55 FR 18496), May 4, 1990 (55 FR 18726), June 1, 1990 (55 FR 22520), June 29, 1990 (55 FR 26986), November 2, 1990 (55 FR 46354), December 6, 1990 (55 FR 50450), December 17, 1990 (55 FR 51707), January 31, 1991 (56 FR 3864), February 25, 1991 (56 FR 7567), May 1, 1991 (56 FR 19951), May 13, 1991 (56 FR 21955), June 13, 1991 (56 FR 27332), July 1, 1991 (56 FR 30192), August 18, 1992 (57 FR 37284), October 15, 1992 (57 FR 47376), November 24, 1992 (57 FR 55114), December 24, 1992 (57 FR 61492), February 2, 1993 (58 FR 6854), August 31, 1993 (58 FR 46040), January 4, 1994 (59 FR 458), and June 20, 1994 (59 FR 31551).

### Citation of Laws and Regulations; Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(8) and 10.1-1402(11)  
9 VAC §§ 20-60-261 A and 20-60-261 B 7, effective February 17, 1999.

### Interpretive Remarks

Virginia Code § 10.1-1402(8) authorizes the Virginia Waste Management Board to designate types or lists of wastes which it deems to be hazardous in accordance with criteria and listings identified under federal statutes or regulations. In addition, Virginia Code § 10.1-1402(11) provides that the Board has the authority to “[p]romulgate and enforce regulations and provide reasonable variances and exemptions necessary to carry out its powers and duties...”

The universe of hazardous waste covered by the Commonwealth statutes and regulations is equivalent to the federal requirements (See Consolidated Checklist C2 in Subsection II.F below). At 9 VAC 20-60-261 A, Virginia incorporates by reference the July 1, 1995 version of 40 CFR 261.10 through 261.35 and applicable appendices, except for the changes addressed by Revision Checklists 140 and 144 (as indicated at 9 VAC 20-60-18). The Commonwealth also makes it clear at 9 VAC 20-60-261 B 7 that in Subparts B and D of 40 CFR 261, the term “Administrator” shall mean the Administrator of the United States Environmental Protection Agency. Thus, the definitions, lists, and characteristics contained within the Commonwealth’s statutes and regulations are identical or equivalent to those provided in the federal regulations.



**B. State statutes and regulations define solid and hazardous waste so as to control all hazardous waste controlled under 40 CFR Part 261, as indicated in Consolidated Checklist C2 (formerly Checklist I A) which include changes made by Revision Checklists 8, 9, 13, 17 C, 19, 23, 28, 34, 49, 65, 71, 74, 80, 82, 83, 84, 85, 90, 92, 94, 95, 9, 104, 105, 107, 108, 109, 110, 111, 112, 117 A, 117 B, 122, 129, 135 and 137 (except the final rule promulgated on January 3, 1995 (60 FR 242)).**

Federal Authority: RCRA §3001; 40 CFR 261.1 through 261.4, as amended June 5, 1984 (49 FR 23284), November 13, 1984 (49 FR 44978), January 4, 1985 (50 FR 614), April 11, 1985 (50 FR 14216), August 20, 1985 (50 FR 33541), July 15, 1985 (50 FR 28702), November 29, 1985 (50 FR 49164), November 19, 1986 (51 FR 41900), April 13, 1987 (52 FR 11819), March 24, 1986 (51 FR 10146), July 14, 1986 (51 FR 25422), November 7, 1986 (51 FR 40572), July 19, 1988 (53 FR 27290), September 1, 1989 (54 FR 36592), January 23, 1990 (55 FR 2322), March 29, 1990 (55 FR 11798), June 29, 1990 (55 FR 26986), October 5, 1990 (55 FR 40834), December 6, 1990 (55 FR 50450), January 31, 1991 (56 FR 3864), February 1, 1991 (56 FR 3978), February 13, 1991 (56 FR 5910), February 21, 1991 (56 FR 7134), April 2, 1991 (56 FR 13406), June 13, 1991 (56 FR 27300), July 1, 1991 (56 FR 30192), July 17, 1991 (56 FR 32688), August 19, 1991 (56 FR 41164), August 27, 1991 (56 FR 42504), May 20, 1992 (57 FR 21524), June 22, 1992 (57 FR 27880), July 1, 1992 (57 FR 29220), July 10, 1992 (57 FR 30657), August 18, 1992 (57 FR 37194), August 18, 1992 (57 FR 37284), August 25, 1992 (57 FR 38558), September 10, 1992 (57 FR 41566), March 3, 1992 (57 FR 7628), June 1, 1992 (57 FR 23062), October 30, 1992 (57 FR 49278), May 3, 1993 (58 FR 26420), June 17, 1993 (58 FR 33341), February 18, 1994 (59 FR 8362), July 28, 1994 (59 FR 38536), and September 19, 1994 (59 FR 47982).

Citation of Laws and Regulations; Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(8), 10.1-1402(11) and 10.1-1402(22)

9 VAC 20-60-18, 20-60-261 A, 20-60-261 B, 20-60-261 B1 through B3 and 20-60-261 B8, effective February 17, 1999.

Interpretive Remarks

Virginia Code § 10.1-1402(8) authorizes the Board to designate types or lists of wastes which it deems to be hazardous in accordance with criteria and listings identified under federal statutes or regulations. In addition, Virginia Code § 10.1-1402 (11) provides that the Board has the authority to "promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties..." Virginia Code § 10.1-1402(22) gives the Board the authority to regulate mixed radioactive waste.

At 9 VAC 20-60-261 A, Virginia has incorporated by reference the federal requirements at 40 CFR 261.1 through 261.4 (as of July 1, 1995), subject to modifications as indicated on Consolidated Checklist C2 at Section II.F below.

**C. State statutes and regulations provide: 1) exemption from regulations for hazardous waste as specified at 40 CFR 261.5, 261.6, 261.7, 260.40 and 260.41, 2) variance from classification as a solid waste as specified at 260.30, 260.31 and 260.33, 3) variance to be classified as a boiler as specified at 260.32 and 260.33, 4) regulation as a universal waste as specified in 261.9, or 5) capability to add a hazardous wastes as a universal waste as indicated in Consolidated Checklists C1 and C2 (formerly Checklist I A) which include the changes made by Revision Checklists 13, 14, 17 A, 17 J, 19, 23, 31, 34, 47, 79 112, 135, 137 (except the final rule addressed by January 3, 1995 (60 FR 242)), 142A, 142B, 142C, 142D, and 142E.**

Federal Authority: RCRA §3001; 40 CFR 260.23, 260.30 through 260.41, and 261.5 through 261.9, as amended January 4, 1985 (50 FR 614), January 14, 1985 (50 FR 1978), April 11, 1985 (50 FR 14216), August 20, 1985 (50 FR 33541), July 15, 1985 (50 FR 28702), November 29, 1985 (50 FR 49164), March 24, 1986 (51 FR 10146), August 8, 1986 (51 FR 28664), November 7, 1986 (51 FR 40572), November 19, 1986 (51 FR 41900), April 13, 1987 (52 FR 11819), July 19, 1988 (( 27162), June 21, 1990 (55 FR 25454), September 10, 1992 (57 FR 41566), July 28, 1994 (59 FR 38536), September 19, 1994 (59 FR 47982) and May 11, 1995 (60 FR 25492).



Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code , §§ 10.1-1402(8) and 10.1-1402(11).

9 VAC 20-60-18, 20-60-260 B 8, 20-60-260 B 10, 20-60-261 A, 20-60-261 B 4 through B 6, 20-60-1390, 20-60-1400 A, 20-60-1410 A 1, 20-60-1420 A-B 2, B 8, C 1, C 1 a, C 1 b and 20-60-1430 A 1-5, effective February 17, 1999.

Interpretive Remarks

Virginia Code § 10.1-1402(8) authorizes the Board to designate types or lists of wastes which it deems to be hazardous in accordance with criteria and listings identified under federal statutes or regulations. In addition, Virginia Code § 10.1-1402 (11) provides that the Board has the authority to “promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties...”

At 9 VAC 20-60-260 B 8, the Commonwealth excepts from the incorporation by reference of 40 CFR Part 260 the federal exemptions and variance requirements at 40 CFR 260.23, 260.30 through 260.33, 260.40 and 260.41. As indicated on Consolidated Checklist C1 in Subsection II.E below, the Commonwealth’s analogs to these federal provisions are located at 9 VAC 20-60-1390, 20-60-1400, 20-60-1410 A1, 20-60-1420 and 20-60-1430. The Commonwealth’s provisions are equivalent to the federal provisions published in the July 1, 1995 CFR, except for the areas identified on Consolidated Checklists C1 and C2 in Subsections II.E and II.F below.

***D. State statutes and regulations for delisting hazardous wastes including public notice and opportunity for comment before requests are granted or denied as indicated in Consolidated Checklist C1 which includes the changes made by Revision Checklists 17 B, 34, 111, 126 and 142E.***

federal Authority: RCRA §§2002(a) and 3001; 40 CFR 260.20 and 260.22, as amended July 15, 1985 (50 FR 28702), November 7, 1986 (51 FR 40572), June 27, 1989 (54 FR 27114) August 25, 1992 (57 FR 38558), August 31, 1993 (58 FR 46040), and May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(8) and 10.1-1402(11).

9 VAC 20-60-260 B 9 & B 10, 20-60-1370 and 20-60-1380, effective February 17, 1999.

Interpretive Remarks

Virginia Code § 10.1-1402(8) authorizes the Board to designate types or lists of wastes which it deems to be hazardous in accordance with criteria and listings identified under federal statutes or regulations. In addition, Virginia Code § 10.1-1402 (11) provides that the Board has the authority to “promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties...” However, as indicated in Consolidated Checklist C1 in Subsection II.E below, Virginia has elected not to adopt an analog to the federal provisions addressing delisting because the Commonwealth is not seeking authorization for this part of the federal program.

Although Virginia is not applying for authorization for the delisting program, under 9 VAC 20-60-1370 and 20-60-1380 anyone has the right to submit a petition. The Commonwealth will not accept the petition for processing; however, in the Memorandum of Agreement with EPA, Virginia has agreed to forward all delisting petitions to EPA. EPA will make a determination on the petition. When EPA approves a delisting petition after the appropriate public comment period, the Department will notify the facility that it must petition the Commonwealth for a variance from the definition of hazardous waste. The Department and Director will review the variance requests and reach a case decision in accordance with the Virginia Administrative Process Act regarding whether the Commonwealth recognizes EPA’s approved exclusion until such

time as the Department is able to propose incorporation of the exclusion into its regulations during the next rulemaking opportunity. The Department will inform the Regional Administrator when the final action has been completed in accordance with the Virginia Administrative Process Act.

**E. Consolidated Checklist C1 – 40 CFR Part 260, §§ 260.20, 260.22, 260.30, 260.31, 260.32, 260.33, 260.40 and 260.41, as of June 30, 1995 and Commonwealth Analogs**

**VIRGINIA CONSOLIDATED CHECKLIST C1**

Hazardous Waste Management System: General  
40 CFR Part 260, §§ 260.20, 260.22, 260.30, 260.31, 260.32, 260.33, 260.40 and 260.41,  
as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**SUBPART C - RULEMAKING PETITIONS**

**Interpretive Comment:** 40 CFR Parts 260.20, 260.22, 260.23, 260.32, 260.33, 260.40, and 260.41 are excluded from the incorporation by reference of 40 CFR 260 at 9 VAC 20-60-260 B 8 & B 9, but have analogs in the Commonwealth's regulations at Part XIV.

General	260.20(a)	20-60-260 B 9 20-60-1370 A 20-60-1370 B	X			
Petition to modify or revoke	260.20(b)	20-60-260 B 9 20-60-1370 C	X			
Administrator makes tentative decision; informal hearing	260.20(c)-(e)	No analog; 20-60-1370 A 20-60-260 B 9	X			

**Interpretive Comment:** The Commonwealth's analog to 40 CFR 260.20 is different from the federal regulations in that at 9 VAC 20-60-1370 B, Virginia does not accept petitions to delist waste at a particular facility. At 9 VAC 20-60-1370 A, the Commonwealth allows petitions to change the identification and listing of a solid or hazardous waste, which would allow the Director to recognize a federal delisting by variance until the next rulemaking opportunity. Under Va. Code § 9-6.14:7.1, any person may petition an agency to request the agency to develop a new regulation or amend an existing regulation. The agency must receive, consider, and respond to the petition within 180 days. However, under Va. Code §10.1-1402(8) the Board's authority is only to 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.

Petitions to amend Part 261 to exclude a waste produced at a particular facility	260.22	20-60-260 B 9 20-60-1370 B 20-60-1380 A	Virginia is not seeking authorization for delisting.			
Reserved	No federal analog	20-60-1380 B	Reserved			

## VIRGINIA CONSOLIDATED CHECKLIST C1

Hazardous Waste Management System: General  
40 CFR Part 260, §§ 260.20, 260.22, 260.30, 260.31, 260.32, 260.33, 260.40 and 260.41,  
as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Petitions to amend 40 CFR part 273 to include additional hazardous wastes	260.23	20-60-260 B 8 20-60-1430 A 1-4	X			
Additional universal wastes	No direct analog in 260.23	20-60-1430 A 5	X			

**Interpretive Comment:** At 9 VAC 20-60-1430A 5, Virginia clarifies that, if the Director adds new universal wastes, management of these wastes as universal wastes would only be allowed within the Commonwealth or when shipped to other states that have added those particular wastes to their universal waste regulations.

Variances from classification as a solid waste	260.30	20-60-260 B 8 20-60-1390	N/A			
Standards and criteria for variances from classification as a solid waste	260.31	20-60-260 B 8 20-60-1390	N/A			

**Interpretive Comment:** At 9 VAC 20-60-1390, the Commonwealth refers petitioners for variances from the classification as a solid waste to the EPA Administrator for processing. The Commonwealth is not seeking authorization for 260.31 at this time.

Variance to be classified as a boiler	260.32	20-60-260 B 8 20-60-1400 A	X			
Reserved	No federal analog	20-60-1400 B	Reserved			
Procedures for variances from classification as a solid waste or to be classified as a boiler	260.33(a)	20-60-260 B 8 20-60-1420 A-B 1	X			
Publish final decision on variance	260.33(b)	2-6-260 B 8 20-60-1420 B 2			X	

**Interpretive Comment:** At 9 VAC 20-60-1420 B 2 (analog to 40 CFR 260.33(b)), the Commonwealth requires the Director to publish the final decision on variances in a newspaper in the locality where the applicant is located. The federal code requires the Administrator to make a final decision, but does not specify the manner in which the final decision must be announced.

# VIRGINIA CONSOLIDATED CHECKLIST C1

Hazardous Waste Management System: General  
 40 CFR Part 260, §§ 260.20, 260.22, 260.30, 260.31, 260.32, 260.33, 260.40 and 260.41,  
 as of June 30, 1995  
 as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Additional regulation of certain hazardous waste recycling activities on a case-by-case basis	260.40	20-60-260 B 8 20-60-1410 A 1	X			
Procedures Regional Administrator will use for determination	260.41 introduction	20-60-260 B 8 20-60-1420 C1	X			
The Director will require compliance including Subpart B manifest requirements	260.41(a)	20-60-260 B 8 20-60-262 20-60-1420 C 1 a			X	

**Interpretive Comment:** At 9 VAC 20-60-1420 C 1 a (analog to 40 CFR 260.41(a)), the Commonwealth is more stringent in that it allows the Director to require compliance with all of 40 CFR Part 262, including Subpart F manifest requirements. Under the federal code, the Administrator may only require compliance with Subparts C, D and E of Part 262.

Procedures for case-by-case regulation of hazardous waste recycling activities	260.41(b)	20-60-260 B 8 20-60-1420 C 1 b	X			
Appendix I	Part 260, Appendix I	No Commonwealth analog: 20-60-260 B 10	Not adopted by the Commonwealth			

**Interpretive Comment:** 40 CFR Part 260 Appendix I is excluded from the incorporation by reference of 40 CFR 260 at 9 VAC 20-60-260 B 10.

*F. Consolidated Checklist C2 – 40 CFR Part 261 as of June 30, 1995 and Commonwealth Analogs*

**VIRGINIA CONSOLIDATED CHECKLIST C2**

Identification and Listing of Hazardous Waste

40 CFR Part 261 as of June 30, 1995

as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE

**SUBPART A - GENERAL**

Purpose and scope	261.1	20-60-261 A	X			
Definition of solid waste	261.2	20-60-261 A	X			
Definition of hazardous waste	261.3, except 261.3 (a)(2) and (c)(2)	20-60-261 A	X			
Wastewater resulting from laboratory operations containing toxic wastes	261.3(a)(2) and (c)(2)	20-60-18 20-60-261 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analogs to 261.3(a)(2) and (c)(2) are identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 140 (60 FR 7824-7859 February 9, 1995). The checklist and Federal Register notice revised 261.3(a)(2)(iv)(E) and (c)(2)(D) and added new provisions at 261.3(a)(2)(iv)(F)&(G).

Low-level radioactive material shall be hazardous waste	No direct federal analog	20-60-261 B 8	X			
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**Interpretive Comment:** At 9 VAC 20-60-261 B 8, it is stated that "[a]ll radioactive wastes classified as low-level radioactive material by the United States Nuclear Regulatory Commission shall be a hazardous waste." The subsequent note clarifies that a waste may be both a hazardous waste and a low-level radioactive waste. These "mixed wastes" are required to comply with the regulations governing both hazardous wastes and nuclear wastes. Virginia has issued formal guidance construing this section as applying hazardous waste requirements to low-level mixed radioactive waste, consistent with the provisions cited above and Va. Code §10.1-1402(8) (Guidance on the Application of 9 VAC 20-60-261.B.8 to Mixed Low-Level Radioactive and Hazardous Waste, Guidance No 00-01).

Exclusions	261.4 except 261.4 (b)(11)(ii), (e)(3) (iii), and (f)(1)	20-60-261 A	X			
Copy of written agreement	261.4(b)(11)(ii)	20-60-261 A 20-60-261 B 1			X	

**Interpretive Comment:** Virginia has more stringent provisions at 9 VAC 20-60-261 B 1. The provision requires that, in addition to the federal provision at 40 CFR 261.4(b)(11)(ii), a copy of the written agreements must be submitted to the Department.

# VIRGINIA CONSOLIDATED CHECKLIST C2

Identification and Listing of Hazardous Waste

40 CFR Part 261 as of June 30, 1995

as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
Case-by-case applicability and information requirements	261.4(e)(3)(iii)	20-60-261 A & 20-60-261 B 2	X			
Notification of Regional Administrator	261.4(f)(1)	20-60-261 A & 20-60-261 B 3	X			

## SPECIAL REQUIREMENTS FOR HAZARDOUS WASTE GENERATED BY CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS

Special requirements for hazardous waste generated by conditionally exempt small quantity generators	261.5 except 261.5 (g)(3)(iv)&(v)	20-60-261 A	X			
CESQG waste delivery requirements	261.5(g)(3)(iv)&(v)	20-60-261 A 20-60-261 B 5			X	

**Interpretive Comment:** At 9 VAC 20-60-261 B 5, Virginia has modified its incorporation by reference of 40 CFR 261.5(g)(3)(iv)&(v). The Commonwealth requires that a solid waste management facility receive written permission from the Department before receiving hazardous waste from a conditionally exempt small quantity generator. Under the federal program, no such permission is required; therefore, the Commonwealth is more stringent.

Requirements for recyclable materials	261.6 except 261.6 (a)(2)	20-60-261 A	X			
Recyclable materials not subject to part 261 requirements	261.6(a)(2)	20-60-261 A & 20-60-261 B 4	X			
Residues of hazardous waste in empty containers	261.7	20-60-261 A	X			
PCB wastes regulated under Toxic Substance Control Act	261.8	20-60-261 A	X			

## VIRGINIA CONSOLIDATED CHECKLIST C2

Identification and Listing of Hazardous Waste

40 CFR Part 261 as of June 30, 1995

as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
Requirements for Universal Waste	261.9	20-60-261 A 20-60-261 B 6 20-60-1430 A 5	X			

**Interpretive Comment:** The Commonwealth requires at 9 VAC 20-60-1430 A 5 that the management of universal wastes added to the list in 9 VAC 20-60-273 and Part XVI be limited to those regulated by Virginia or if transported out of the Commonwealth, only by those states which have included the added waste in their universal waste regulations. If the receiving state has not included the waste, Virginia imposes its regulations under its Parts I-XV.

### SUBPART B - CRITERIA FOR IDENTIFYING THE CHARACTERISTICS OF HAZARDOUS WASTE AND FOR LISTING HAZARDOUS WASTE

Criteria for identifying and listing characteristics of hazardous waste	261.10 & 261.11	20-60-261 A & 20-60-261 B 7	X			
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### SUBPART C - CHARACTERISTICS OF HAZARDOUS WASTE

Characteristics of Hazardous Waste	261.20 - 261.24	20-60-261 A	X			
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### SUBPART D - LISTS OF HAZARDOUS WASTES

Lists of hazardous waste- General	261.30	20-60-261 A & 20-60-261 B 7	X			
Hazardous wastes from non-specific sources	261.31	20-60-261 A & 20-60-261 B 7	X			

**Interpretive Comment:** Virginia has not adopted the changes addressed by Revision Checklist 144 (60 FR 33911-33915 June 29, 1995). That checklist removed footnote 1 addressing administrative stay from the 261.31 (a)/table.

Hazardous wastes from specific sources	261.32	20-60-261 A & 20-60-261 B 7	X (7/1/94 CFR)			
Discarded commercial chemical products, off-specification species, container residues, and spill residues	261.33, except 261.33(e)&(f)	20-60-261 A & 20-60-261 B 7	X			

## VIRGINIA CONSOLIDATED CHECKLIST C2

Identification and Listing of Hazardous Waste

40 CFR Part 261 as of June 30, 1995

as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
Acute and toxic wastes	261.33(e)&(f)	20-60-18 20-60-261 A & 20-60-261 B 7	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analogs to 261.32 and 261.33(e)&(f) are identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 140 (60 FR 7824-7859 February 9, 1995), (60 FR 19165 April 17, 1995), (60 FR 25619 May 12, 1995).

Lists of hazardous waste	261.34 - 261.35	20-60-261 A & 20-60-261 B 7	X			
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### APPENDICES TO PART 261

Sampling Methods, TCLP, Chemical analysis test methods	Part 261, Appendices I, II, III	20-60-261 A	X			
Basis for listing, hazardous constituent	Part 261, Appendices VII and VIII	20-60-261 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analogs to Part 261, Appendices VII and VIII are identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 140 (60 FR 7824-7859 February 9, 1995) and (60 FR 19165 April 17, 1995).

Wastes excluded under §§ 260.20 & 260.22	Part 261, Appendix IX	20-60-261 A	X			
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### III. STANDARDS FOR GENERATORS

Federal Authority: RCRA §3002; 40 CFR 271.10, as amended April 1, 1983 (48 FR 14146), June 30, 1983 (48 FR 30113), March 20, 1984 (49 FR 10490), March 26, 1984 (49 FR 11180), August 8, 1986 (51 FR 28664), and September 22, 1986 (51 FR 33712).

A. *State statutes and regulations provide coverage of all generators covered by 40 CFR Part 262 and include requirements for EPA identification number, reporting and recordkeeping, accumulation of hazardous waste for short time periods, waste placed in containment buildings, packaging, labeling, marking, placarding, international shipments, manifesting of hazardous waste for off-site shipment, notification procedures for interstate shipments as indicated in Consolidated Checklist C3 (formerly Checklist II) which includes the revisions represented by Revision Checklists 1, 5, 12, 17 D, 17 R, 23, 28, 31, 32, 34, 39, 42, 48, 58, 71, 78, 82, 92, 97 109, and 142A.*



Federal Authority: RCRA §3002; 40 CFR Part 262, as amended January 28, 1983 (48 FR 3977), March 20, 1984 (49 FR 10490), December 20, 1984 (49 FR 49568), July 15, 1985 (50 FR 28702), March 24, 1986 (51 FR 10146), July 14, 1986 (51 FR 25422), August 8, 1986 (51 FR 28664), October 1, 1986 (51 FR 35190), November 7, 1986 (51 FR 40572), July 8, 1987 (52 FR 25760), September 23, 1987 (52 FR 35894), July 19, 1988 (53 FR 27164), November 8, 1988 (53 FR 45089), January 23, 1990 (55 FR 2322), June 1, 1990 (55 FR 22520), December 6, 1990 (55 FR 50450), January 31, 1991 (56 FR 3864), July 1, 1991 (56 FR 30192), September 4, 1991 (56 FR 43704), August 18, 1992 (57 FR 37194) and May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(1), 10.1-1402(7), 10.1-1402(11), 10.1-1426(B) and 10.1-1450.

9 VAC §§ 20-60-18, 20-60-262, 20-60-305, 20-60-315 and 20-60-325, effective February 17, 1999.

Interpretive Remarks

The enabling legislation contained in Va. Code §§ 10.1-1402(1), 10.1-1402(7), 10.1-1402(11), 10.1-1426(B) and 10.1-1450 provides authority for the Board to promulgate regulations covering the standards for generators. The directive contained in Va. Code §§ 10.1-1402(1) and 10.1-1402(11) gives the Board the authority to "supervise and control waste management activities in the Commonwealth," and to "promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts."

Authority to regulate short-term accumulation of hazardous wastes by generators is found in Va. Code § 10.1-1426(A), which requires a permit be issued before a person may store a hazardous waste. On this statutory authority, the Director might have required any generator to obtain a permit for any storage or accumulation of hazardous waste on his site. Instead, recognizing the logistics of handling such wastes and following the lead of the federal act and regulations, the Commonwealth drafted regulations to authorize short-term storage or accumulation of wastes on site, if they are appropriately containerized and labeled. As the greater power, i.e., to require a permit for storage, includes the lesser power, i.e., to authorize short-term accumulation under certain circumstances by regulation, the Director has authority to regulate short-term accumulation. In addition, the Board has authority, under § 10.1-1402(11), to provide for reasonable variances and exemptions.

Section 10.1-1402(7) gives the Board the authority to require any person who generates hazardous waste to maintain reporting systems required pursuant to federal statute or regulation. Also, Va. Code § 10.1-1426(B) requires generators to report to the Director by such date as the Board specifies by regulation the following information: (1) the name and address of the generator; (2) the name and nature of the hazardous waste; and, (3) the fact that the waste is being generated. Finally, Va. Code § 10.1-1450 requires the Board the authority to promulgate regulations designating the manner and method by which hazardous materials shall be transported.

As indicated in Consolidated Checklist C3 in Subsection III.B below, Virginia incorporates by reference, the federal requirements at 40 CFR Part 262 as it existed on June 30, 1995 (published July 1, 1995), subject to certain modifications. The Commonwealth's regulations are identical to the federal generator requirements, except for areas identified on Consolidated Checklist C3 in Section III.B.

B. Consolidated Checklist C3 – 40 CFR Part 262 as of June 30, 1995 and Commonwealth Analogs

**VIRGINIA CONSOLIDATED CHECKLIST C3**  
Standards Applicable to Generators of Hazardous Waste  
40 CFR Part 262 as of June 30, 1995  
as published on July 1, 1995

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**SUBPART A - GENERAL**

Purpose, Scope and Applicability	262.10	20-60-262 A	X			
Hazardous waste determination	262.11	20-60-262 A	X			
EPA identification numbers	262.12	20-60-262 A & 20-60-262 B 2 & B 3 20-60-305 20-60-315 20-60-325	X			

**Interpretive Comment:** At 9 VAC 20-60-262 A, B 2 and B 3, Virginia make it clear that the EPA identification number, as described at 40 CFR 262.12, must be obtained from EPA. In addition, at 9 VAC 20-60-305 through 20-60-325, the Commonwealth has adopted regulations for the notification of hazardous waste management activity. These regulations ensure that all persons who did not notify the EPA, or persons who initiated hazardous waste management activities subsequent to the EPA notification requirements, as specified in the final rule published at 45 FR 12746 (February 26, 1980), notify the Director of their hazardous waste management activities. The Commonwealth's provisions are equivalent to and consistent with the federal notification requirements at RCRA § 3010.

**SUBPART B - THE MANIFEST**

General requirements	262.20	20-60-262 A	X			
Subsequent transporter requirement	262.20 related; no direct federal analog	20-60-262 B 6			X	
Manifests	262.21 - 262.23	20-60-262 A	X			

**Interpretive Comment:** At 9 VAC 20-60-262 B 6, Virginia requires the generator to designate on the manifest all subsequent transporters of the hazardous waste; the federal code does not require the designation of all transporters. This is a more stringent requirement.

**VIRGINIA CONSOLIDATED CHECKLIST C3**  
Standards Applicable to Generators of Hazardous Waste  
40 CFR Part 262 as of June 30, 1995  
as published on July 1, 1995

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**SUBPART C - PRE-TRANSPORT REQUIREMENTS**

Packaging, Labeling, Marking & Placarding	262.30 - 262.33	20-60-262 A 20-60-262 B 5	X			
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**Interpretive Comment:** In addition to the federal packaging, labeling, marking and placarding provisions at 40 CFR 262.30 through 262.33, which Virginia has incorporated by reference at 9 VAC 20-60-262 A, at 9 VAC 20-60-262 B 5, the Commonwealth subjects generators to the transporter packaging and labeling requirements at 9 VAC 20-110-10, et seq. The additional requirements are consistent with the federal Department of Transportation (DOT) requirements.

Accumulation time	262.34	20-60-262 A 20-60-262 B 4			X (7/1/94 CFR)	
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**Interpretive Comment:** At 9 VAC 20-60-262 B 4, Virginia requires generators who establish accumulation areas to notify the Director that they are accumulating waste in accord with 40 CFR 262.34. The federal code does not require such notification; therefore, the Commonwealth is more stringent.

Virginia's analog is more stringent than the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Rule 154.1 (59 FR 62896-62953 December 6, 1994).

**SUBPART D - RECORDKEEPING AND REPORTING**

Recordkeeping and Biennial report	262.40 & 262.41	20-60-262 A	X			
Exception reporting	262.42 except 262.42 (a)(2)	20-60-262 A	X			
Exception reporting when copy of signed manifest is not received	262.42(a)(2)	20-60-262 A & 20-60-262 B 1	X			
Additional reporting and special requirements	262.43 & 262.44	20-60-262 A	X			

**SUBPART E - EXPORTS OF HAZARDOUS WASTE**

Applicability, definitions, and general requirements	262.50 - 262.52	20-60-262 A	X			
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**VIRGINIA CONSOLIDATED CHECKLIST C3**  
Standards Applicable to Generators of Hazardous Waste  
40 CFR Part 262 as of June 30, 1995  
as published on July 1, 1995

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Notification, special manifest, reporting and recordkeeping requirements	262.53-262.57	20-60-262 A & 20-60-262 B 2 & B 3	X			
<b>Interpretive Comment:</b> Virginia has adopted by reference the federal export requirements at 40 CFR Part 262, Subpart E. At 9 VAC 20-60-262 B 2 and B 3, the Commonwealth clarifies that the notification requirements relative to the hazardous waste export provisions at 40 CFR 262.53, 262.54, 262.55, 262.56 and 262.57 remain the provenance of the EPA.						
International agreements [Reserved]	262.58	20-60-262 A	X			
<b>SUBPART F - IMPORTS OF HAZARDOUS WASTE</b>						
Imports of hazardous waste	262.60	20-60-262 A	X			
<b>SUBPART G - FARMERS</b>						
Farmers	262.70	20-60-262 A	X			
<b>APPENDIX TO PART 262</b>						
Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22a and their Instructions)	Appendix	20-60-262 A	X			

#### IV. STANDARDS FOR TRANSPORTERS

Federal Authority: RCRA §3003; 40 CFR 271.11, as amended April 1, 1983 (48 FR 14146), August 8, 1986 (51 FR 28664), and September 22, 1986 (51 FR 33712).

**A. State statutes and regulations provide coverage of all the transporters covered by 40 CFR Part 263 and include requirements for EPA identification number, recordkeeping, manifesting, and actions regarding hazardous waste discharged during transit, as indicated in Consolidated Checklist C4 (formerly Checklist III) which includes the changes made by Revision Checklists 23, 31 and 34.**

Federal Authority: RCRA §3003; 40 CFR Part 263, as amended March 24, 1986 (51 FR 10146), August 8, 1986 (51 FR 28664), and November 7, 1986 (51 FR 40572).

Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(1), 10.1-1402(7), 10.1-1402(11), 10.1-1402(18), 10.1-1426 A & B and 10.1-1450.

9 VAC 20-60-263, 9 VAC 20-60-305, 9 VAC 20-60-315, 9 VAC 20-60-325, 9 VAC 20-60-420 A through D, 9 VAC 20-60-430, 9 VAC 20-60-440, 9 VAC 20-60-450 H, 9 VAC 20-60-460, 9 VAC 20-60-470, 9 VAC 20-60-480, 9 VAC 20-60-490 A, 20-60-490 B 1 through B 4, 20-60-490 C through E, and 9 VAC 20-60-500, effective February 17, 1999.

Interpretive Remarks

The enabling legislation contained in Va. Code §§ 10.1-1402(1), 10.1-1402(7), 10.1-1402(11), 10.1-1402(18), 10.1-1426A & B and 10.1-1450 provides authority for the Board to promulgate regulations covering the standards for transporters. The directive contained in §§ 10.1-1402(1) and 10.1-1402(11) gives the Board the authority to “supervise and control waste management activities in the Commonwealth”, and to “promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts.”

The June 30, 1995 40 CFR Part 263, as published on July 1, 1995, has been incorporated by reference at 9 VAC 20-60-263 A, subject to the modifications at 20-60-263 B. Specifically, Virginia excludes 40 CFR 263.21(a)(2), 40 CFR 263.30 and 40 CFR 263.31 from the incorporation by reference. The Commonwealth also has additional clarification of the federal regulations in Part VII (9 VAC 20-60-420 through 9 VAC 20-60-500) and in Part IV (9 VAC 20-60-305 through 20-60-325). This restates many of the federal requirements and contains more stringent and broader-in-scope requirements as indicated in Consolidated Checklist C4 included in Subsection IV.B of this document. For example, the Commonwealth of Virginia requires all transporters to obtain a transporter permit if they handle shipments that originate or terminate in the Commonwealth. The federal program does not require transporters to obtain permits; therefore, Virginia’s program is broader in scope.

***B. Consolidated Checklist C4 – 40 CFR Part 263 as of June 30, 1995 and Commonwealth Analogs***

**General Comment:** At 9 VAC 20-60-263 A, Virginia incorporates by reference 40 CFR Part 263, subject to modifications, as stated at 20-60-263 B. Note that at 9 VAC 20-60-263 B 1 and 20-60-420 C, the Commonwealth subjects generators to the transporter packaging and labeling requirements at 9 VAC 20-110-10, et seq. of the Virginia Administrative Code. The additional requirements are consistent with the federal Department of Transportation (DOT) requirements.

# VIRGINIA CONSOLIDATED CHECKLIST C4

Standards Applicable to Transporters of Hazardous Waste  
40 CFR Part 263 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

## SUBPART A - GENERAL

transportation standards	263.10(a)	20-60-263 A 20-60-420 A, B & C 20-60-480 D, F, L & N 20-60-460 20-60-470	X			
on-site transportation excluded	263.10(b)	20-60-263 A 20-60-420 A	X			
compliance with 262 required if transporter:	263.10(c)	20-60-263 A 20-60-420 D	X			
transports waste into U.S. from abroad	263.10(c)(1)	20-60-263 A 20-60-420 D 1 20-60-480 M	X			
mixes wastes of different DOT shipping descriptions	263.10(c)(2)	20-60-263 A 20-60-420 D 2 20-60-480 K	X			
transporter permits	No federal analog	20-60-420 E 20-60-450 20-60-490 B 3 Appendix 7.1				X

**Interpretive Comment:** Virginia requires all transporters to obtain a transporter permit if they handle shipments that originate or terminate in the Commonwealth. The federal program does not require transporters to obtain permits; therefore, Virginia's program is broader in scope.

EPA identification number required	263.11(a)	20-60-263 A 20-60-440 A & D	X			
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## VIRGINIA CONSOLIDATED CHECKLIST C4

Standards Applicable to Transporters of Hazardous Waste  
40 CFR Part 263 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
application for EPA ID number; provisional identification number	263.11(b)	20-60-263 A 20-60-440 B 20-60-305 20-60-315 20-60-325 20-60-440 E	X			

**Interpretive Comment:** Virginia has incorporated by reference the federal provision at 40 CFR 263.11 regarding application for EPA identification numbers. In addition, at 9 VAC 20-60-305 through 20-60-325, the Commonwealth has adopted regulations for the notification of hazardous waste management activity. These regulations ensure that all persons who did not notify the EPA, or persons who initiated hazardous waste management activities subsequent to the EPA notification requirements, as specified in the final rule published at 45 FR 12746 (February 26, 1980), notify the Director of their hazardous waste management activities. At 9 VAC 20-60-440 B, the VHWMR specify that an EPA identification number shall be obtained by submitting to the Department a completed EPA form 8700-12. The Commonwealth's provisions are equivalent to and consistent with the federal notification requirements at RCRA § 3010. Finally, the Commonwealth has adopted a provision at 9 VAC 20-60-440 E which allows a transporter to call the Department to obtain a provisional identification number for emergency transportation of hazardous waste. Applicants who receive a provisional identification number will be mailed a blank EPA Form 8700-12 which shall be completed and returned to the Department within 10 calendar days.

Required inclusion of ID number on certain documents	No federal Analog	20-60-440 C			X	
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**Interpretive Comment:** The Commonwealth of Virginia requires that the identification number be included on all correspondence related to the transport of hazardous waste and on all documents related to the reporting of a spill or accident. The federal code does not have an explicit analogous requirement; therefore, this requirement is more stringent.

exception for storage of 10 days or less	263.12	20-60-263 A 20-60-500	X			
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### SUBPART B - COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

manifest required; conditions for accepting exported waste	263.20(a)	20-60-263 A 20-60-480 A 20-60-480 B	X			
signature and date; copy to generator	263.20(b)	20-60-263 A 20-60-480 C	X			

## VIRGINIA CONSOLIDATED CHECKLIST C4

Standards Applicable to Transporters of Hazardous Waste  
40 CFR Part 263 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
manifest accompanies waste; EPA Acknowledgment of Consent also accompanies exports	263.20(c)	20-60-263 A	X			
procedures when delivering waste to another transporter or to the designated facility	263.20(d)	20-60-263 A 20-60-480 E	X			
water transporters, conditions under which 263.20(c), (d) & (f) do not apply	263.20(e)	20-60-263 A	X			
rail shipments; conditions under which 263.20(c), (d) & (e) do not apply	263.20(f)	20-60-263 A	X			
procedures when transporting waste out of U.S.	263.20(g)	20-60-263 A 20-60-480 J	X			
transporters of waste from a generator of 100 kg/mo to 1000 kg/mo not subject to 263.20 or 263.22 provided:	263.20(h)	20-60-263 A	X			
delivery of entire quantity to:	263.21(a)	20-60-263 A 20-60-480 G 1	X			
designated facility	263.21(a)(1)	20-60-263 A 20-60-480 G 1 a	X			
alternate designated facility	263.21(a)(2)	20-60-263 B 2 20-60-480 G 2			X	

**Interpretive Comment:** Virginia's regulation at 9 VAC 20-60-480 G 2 is more stringent than 40 CFR 263.21(a) (2) in that it does not allow the generator to designate an alternate facility on the manifest. Instead, if the designated facility cannot receive the waste, the transporter must contact the generator for further directions concerning an alternate facility for delivery and must revise the manifest according to the generator's instructions.



## VIRGINIA CONSOLIDATED CHECKLIST C4

Standards Applicable to Transporters of Hazardous Waste  
40 CFR Part 263 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
waste transported to facility in Commonwealth or outside Commonwealth, must be delivered to a permitted or interim status facility	No direct federal analog: 260.10 definition of designated facility, 263.21	20-60-260 A 20-60-480 H & I	X			
<b>Interpretive Comment:</b> At 9 VAC 20-60-480 H & I, Virginia includes language to explain the type of facilities that can receive hazardous waste shipments. The language is consistent with the federal definition of "designated facility" at 40 CFR 260.10.						
next designated transporter	263.21(a)(3)	20-60-263 A 20-60-480 G 1 b	X			
designated place outside the U.S.	263.21(a)(4)	20-60-263 A 20-60-480 G 1 c	X			
requirements if unable to deliver waste	263.21(b)	20-60-480 G 2 20-60-263 A	X			
3-year record retention	263.22(a)	20-60-263 A 20-60-430 A	X			
water transporter, 3 year record retention of shipping paper	263.22(b)	20-60-263 A 20-60-430 B	X			
for shipments by rail:	263.22(c)	20-60-263 A 20-60-430 C	X			
initial rail transporter retains manifest and shipping paper for 3 years	263.22(c)(1)	20-60-263 A 20-60-430 C 1	X			
final rail transporter retains manifest or shipping paper for 3 years	263.22(c)(2)	20-60-263 A 20-60-430 C 2	X			
Note Intermediate shippers are not required to keep records pursuant to these regulations	263.22(c)note	20-60-430 C 3	X			

## VIRGINIA CONSOLIDATED CHECKLIST C4

Standards Applicable to Transporters of Hazardous Waste  
40 CFR Part 263 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
transporter of waste out of U.S. retains manifest for 3 years	263.22(d)	20-60-263 A 20-60-430 D	X			
automatic extension of retention periods	263.22(e)	20-60-263 A 20-60-430 E	X			

### SUBPART C - HAZARDOUS WASTE DISCHARGES

transporter action in event of discharge	263.30(a)	20-60-263 B 2 20-60-490 A 20-60-490 B 1 20-60-490 E	X			
removal/authorization by official	263.30(b)	20-60-263 B 2 20-60-490 B 3 20-60-450 H	X			
duties of transporter	263.30(c)	20-60-263 B 2 20-60-490 A 20-60-490 C			X	

**Interpretive Comment:** Virginia is more stringent at 9 VAC 20-60-490 C because in addition to the notice required to be given to the National Response Center, the Commonwealth also requires that notice of a discharge must be provided to the Virginia Department of Emergency Services. The notice must include the name of the generator. The federal code only requires notice be given to the National Response Center, and that notice need not include the name of the generator.

water transporter must give same notice as required by 33 CFR 153.203 for oil and hazardous substances	263.30(d)	20-60-263 B 2 20-60-490 A & D			X	
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**Interpretive Comment:** Virginia is more stringent at 9 VAC 20-60-490 D because in addition to the notice required to be given to the National Response Center, the Commonwealth also requires that notice of a discharge must be provided to the Virginia Department of Emergency Services. The notice must include the name of the generator. The federal code only requires notice be given to the National Response Center, and that notice need not include the name of the generator.

transporter must clean up hazardous waste discharge	263.31	20-60-263 B 2 20-60-490 B 2 & B 4	X			
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## V. STANDARDS FOR FACILITIES

Federal Authority: RCRA §§3004 and 3004(e); 40 CFR 271.12 and 271.13(a), as amended on April 1, 1983 (48 FR 14146) and September 22, 1986 (51 FR 33712).

A. *State statutes and regulations provide standards for hazardous waste management facilities equivalent to 40 CFR Parts 264 and 266 including: 1) technical standards for tanks, containers, waste piles, incineration, chemical, physical and biological treatment facilities, surface impoundments, landfills, land treatment facilities, boilers and industrial furnaces, containment buildings, corrective action management units and temporary units 2) financial responsibility during facility operation, 3) preparedness for and prevention of discharges or releases of hazardous waste, 4) contingency plans and emergency procedures, 5) closure and post-closure requirements, including financial requirements ensuring that money will be available during these periods for monitoring and maintenance, 6) ground-water monitoring, 7) security to prevent unauthorized access to the facility, 8) facility personnel training, 9) inspections, monitoring, recordkeeping and reporting; 10) manifest requirements, and 11) other requirements to the extent they are included in 40 CFR Parts 264 and 266. These standards for hazardous waste management facilities are as indicated in Consolidated Checklists C5 (formerly Checklist IV A) and C7 which include the changes made by Revision Checklists 1, 13, 14, 16, 17 D, 17 E, 17 F, 17 G, 17 H, 17 I, 17 J, 17 K, 17 L, 19, 24, 27, 28, 30, 34, 37, 39, 40, 43, 44 B, 45, 48, 50, 52, 54, 55, 64, 66, 74, 77, 78, 79, 82, 85, 87, 91, 92, 94, 96, 98, 100, 101, 102, 105, 109, 111, 112, 113, 114, 118, 120, 121, 122, 124, 125, 126, 127, 131, 133, 135, 136, 137, 142A, 142B, 142C, and 142D.*

Federal Authority: RCRA §3004; 40 CFR Parts 264 and 266, as amended January 28, 1983 (48 FR 3977), January 4, 1985 (50 FR 614), January 14, 1985 (50 FR 1978), April 11, 1985 (50 FR 14216), April 30, 1985 (50 FR 18370), July 15, 1985 (50 FR 28702), August 20, 1985 (50 FR 33541), November 29, 1985 (50 FR 49164), May 2, 1986 (51 FR 16422), July 11, 1986 (51 FR 25350), July 14, 1986 (51 FR 25422), August 15, 1986 (51 FR 29430), August 8, 1986 (51 FR 28556), November 7, 1986 (51 FR 40572), November 19, 1986 (51 FR 41900), April 13, 1987 (52 FR 11819), June 4, 1987 (52 FR 21010), June 5, 1987 (52 FR 21306), July 8, 1987 (52 FR 25760), July 9, 1987 (52 FR 25942), November 18, 1987 (52 FR 44314), December 1, 1987 (52 FR 45788), December 10, 1987 (52 FR 46946), July 19, 1988 (53 FR 27164), August 17, 1988 (53 FR 31138), September 1, 1988 (53 FR 33938), September 2, 1988 (53 FR 34079), September 28, 1988 (53 FR 37912), October 11, 1988 (53 FR 39720), August 14, 1989 (54 FR 33376), September 6, 1989 (54 FR 36967), March 29, 1990 (55 FR 11798), May 9, 1990 (55 FR 19262), June 1, 1990 (55 FR 22520), June 21, 1990 (55 FR 25454), December 6, 1990 (55 FR 50450), February 21, 1991 (56 FR 7134), April 26, 1991 (56 FR 19290), June 13, 1991 (56 FR 27332), July 1, 1991 (56 FR 30192), July 1, 1991 (56 FR 30200), July 17, 1991 (56 FR 32688), August 27, 1991 (56 FR 42504), September 5, 1991 (56 FR 43874), January 29, 1992 (57 FR 3462), February 18, 1992 (57 FR 5859), March 6, 1992 (57 FR 8086), June 22, 1992 (57 FR 27880), August 18, 1992 (57 FR 37194), August 25, 1992 (57 FR 38558), July 1, 1991 (56 FR 30200), September 10, 1992 (57 FR 41566), September 16, 1992 (57 FR 42832), September 30, 1992 (57 FR 44999), November 18, 1992 (57 FR 54452), December 24, 1992 (57 FR 61492), February 16, 1993 (58 FR 8658), May 3, 1993 (58 FR 26420), May 24, 1993 (58 FR 29860), June 17, 1993 (58 FR 33341), July 20, 1993 (58 FR 38816), August 31, 1993 (58 FR 46040), November 9, 1993 (59 FR 59598), March 24, 1994 (59 FR 13891), June 10, 1994 (59 FR 29958), July 28, 1994, (59 FR 38536), August 24, 1994 (59 FR 43496), September 19, 1994 (59 FR 47982), January 3, 1995 (60 FR 242), and May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations; Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(1), 10.1-1402(7), 10.1-1402(11), 10.1-1402(18), 10.1-1426 A, B, & C, 10.1-1427 B, 10.1-1428, and 38.2-2200  
9 VAC 20-60-17 B; 20-60-18; 20-60-264; 20-60-266; 20-60-420 F; 20-60-305; 20-60-315; 20-60-325; 20-60-1410 B, 20-60-1420 C 2, effective February 17, 1999.

Interpretive Remarks

The authority for the Commonwealth's requirements for hazardous waste management treatment, storage and disposal facilities derives directly from the Virginia Code §§ 10.1-1402(1), 10.1-1402(7), 10.1-1402(11), 10.1-1402(18), 10.1-1426 A, B, & C, 10.1-1427 B and 10.1-1428. The directives contained in §§ 10.1-1402(1) and 10.1-1402(11) give the Board the authority to "supervise and control waste management activities in the Commonwealth," and to "promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts."

Virginia Code § 10.1-1426(B) requires any person who stores or provides treatment for or disposal of hazardous waste to report to the Director by such date as the Board specifies by regulation the following information: (1) the name and address of the facility; (2) the name and nature of the hazardous waste; and, (3) the fact that the waste is being stored, treated, or disposed.

The Commonwealth's authority for corrective action is provided by § 10.1-1402(18). Under § 10.1-1402(18), the Board has the authority to make separate orders and regulations it deems necessary to meet any emergency to protect public health, natural resources and the environment from the release or imminent threat of release of waste. Section 10.1-1428 also provides the Board with the authority to promulgate regulations which ensure that, if a facility in which hazardous waste is stored, treated, or disposed is closed or 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. Although the term "abandoned facility" is not defined, it does not refer solely to an orphan site in existence prior to enactment of the statute. Otherwise, subsection (B) providing for alternative methods of financing the restoration of an abandoned facility would be meaningless. Also, the Commonwealth's authority to include corrective action as a permit requirement is provided by its permit requirements under Va. Code § 10.1-1426(A), and § 10.1-1426(C), which requires all permits to contain conditions and requirements required by the Board's regulations and the federal acts. In addition, under § 10.1-1427(B), the Board has the authority to attach conditions to a permit. Under Va. Code § 10.1-1428(C), no state agency is required to comply with the financial assurance regulations.

Under § 10.1-1402(7), the Commonwealth has the authority to require any person who stores or provides treatment for or disposal of hazardous waste to maintain records and reporting systems required pursuant to federal statute or regulation.

Section 38.2-2200 of the Code of Virginia requires that no policy or contract insuring or indemnifying against liability for injury to or the death of any person, or for injury to or destruction of property, shall be issued or delivered in the Commonwealth unless it contains in substance the following provisions or other provisions that are at least equally favorable to the insured and to judgment creditors:

1. That the insolvency or bankruptcy of the insured, or the insolvency of the insured's estate, shall not relieve the insurer of any of its obligations under the policy or contract.
2. That if execution on a judgment against the insured or his personal representative is returned unsatisfied in an action brought to recover damages for injury sustained or for loss or damage incurred during the life of the policy or contract, then an action may be maintained against the insurer under the terms of the policy or contract for the amount of the judgment not exceeding the amount of the applicable limit of coverage under the policy or contract.

This provision allows the Commonwealth to act directly against the insurer or guarantor of an owner's or operator's financial responsibility similar to the ability of the federal government to act under 42 U.S.C. §6924(t) [§3004(t) of RCRA]. EPA does not delegate its authority to act under the federal statute, and the Commonwealth's cause of action is separate and in addition to any federal action.

Under 9 VAC 20-60-264 A, Virginia has incorporated by reference the federal provisions at 40 CFR Part 264 (as of July 1, 1995), subject to certain additions, modifications and exceptions at 9 VAC 20-60-264 B. The Commonwealth also has additional requirements for hazardous waste treatment, storage and disposal facilities at 20-60-17 B, 20-60-18, 20-60-305, 20-60-315, 20-60-325, 20-60-1410 B and 20-60-1420 C 2. The Commonwealth's provisions are either identical to, or worded differently but are an equivalent version of, the federal provisions in 40 CFR Part 264, except for the provisions identified in Consolidated Checklist C5 in Subsection V.C.

Under 9 VAC 20-60-266 A, Virginia has incorporated by reference, the federal provisions at 40 CFR Part 266 (as of July 1, 1995), subject to certain additions, modifications and exceptions, as indicated at 9 VAC 20-60-266 B. At 9 VAC 20-60-266 B 1 through B 3, Virginia subjects the following to applicable requirements of Parts IV (Notification of Hazardous Waste Management Activity Regulations), VII (Regulations Applicable to Transporters of Hazardous Waste) and XII (Hazardous Waste Management Permit Application Fee Regulations):

- (1) those who generate or transport recyclable materials or those who own or operate facilities that use or store recyclable materials, if the materials are used in a manner constituting disposal.
- (2) those who generate or transport recyclable materials or those who own or operate facilities that use or store recyclable materials, if the recyclable materials are for precious metals.
- (3) those who store lead-acid batteries.

The Commonwealth's notification requirements in Part IV are consistent with and equivalent to the federal RCRA section 3010. The Commonwealth has more stringent transportation requirements in Part VII. All reference to transporter permit requirements and to the permit fee requirements in Part XII are broader in scope.

**B. State statutes and regulations provide for interim status and include interim status standards for hazardous waste management facilities covered by 40 CFR Part 265 as indicated in Consolidated Checklist C6 (formerly Checklist IV B) which includes the changes made by Revision Checklists 1, 3, 10, 13, 14, 15, 16, 17 E, 17 F, 17 H, 19, 24, 25, 27, 28, 30, 34, 36, 39, 43, 44 C, 48, 50, 52, 54, 64, 74, 78, 79, 82, 85, 87, 91, 92, 94, 96, 99, 100, 101, 102, 108, 109, 111, 113, 118, 120, 121, 122, 124, 126, 131, 137, 142A, 142B, 142C, and 142D. Specific requirements are as follows:**

- (1) State statutes and regulations authorize owners and operators of hazardous waste management facilities that would qualify for interim status under the federal program to remain in operation until a final decision is made on the permit application;**
- (2) State law and regulations authorize continued operation of hazardous waste management facilities provided that owners and operators of such facilities comply with standards at least as stringent as EPA's interim status standards at 40 CFR Part 265; and**
- (3) State law and regulations assure that any facility qualifying for State interim status continues to qualify for federal interim status.**

Federal Authority: RCRA §3005(e); 40 CFR Part 265, as amended January 28, 1983 (48 FR 3977), November 22, 1983 (48 FR 52718), November 21, 1984 (49 FR 46094), January 4, 1985 (50 FR 614), January 14, 1985 (50 FR 1978), April 23, 1985 (50 FR 16044), April 30, 1985 (50 FR 18370), July 15, 1985 (50 FR 28702), November 29, 1985 (50 FR 49164), November 19, 1986 (51 FR 41900), May 2, 1986 (51 FR 16422), May 28, 1986 (51 FR 19176), July 11, 1986 (51 FR 25350), July 14, 1986 (51 FR 25422), August 15, 1986 (51 FR 29430), August 8, 1986 (51 FR 28556), November 7, 1986 (51 FR 40572), March 19, 1987 (52 FR 8704), July 8, 1987 (52 FR 25760), November 18, 1987 (52 FR 44314), December 1, 1987 (52 FR 45788), July 19, 1988 (53 FR 27164), August 17, 1988 (53 FR 31138), September 1, 1988 (53 FR 33938), September 2, 1988 (53 FR 34079), September 28, 1988 (53 FR 37912), August 14, 1989 (54 FR 33376), March 29, 1990 (55 FR 11798), June 1, 1990 (55 FR 22520), June 21, 1990 (55 FR 25454), December 6, 1990 (55 FR 50450), February 21, 1991 (56 FR 7134), April 26, 1991 (56 FR 19290), June 13, 1991 (56 FR 27332), July 1, 1991 (56 FR 30192), July 1, 1991 (56 FR 30200), July 17, 1991 (56 FR 32688), August 27, 1991 (56 FR 42504), December 23, 1991 (56 FR 66365), January 29, 1992 (56 FR 3462), February 18, 1992 (56 FR 5859), March 6, 1992 (57 FR 8086), July 10, 1992 (57 FR 30657), August 18, 1992 (57 FR 37194), August 25, 1992 (57 FR 38558), September 16, 1992 (57 FR 42832), November 18, 1992 (57 FR 54452), December 24, 1992 (57 FR 61492), February 16, 1993 (58 FR 8658), May 3, 1993 (58 FR 26420), May 24, 1993 (58 FR 29860), June 17, 1993 (58 FR 33341), August 31, 1993 (58 FR 46040), March 4, 1994 (59 FR 13891), September 19, 1994 (59 FR 47982), January 3, 1995 (60 FR 242), and May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(1), 10.1-1402(11), 10.1-1426(A).

9 VAC 20-60-18; 20-60-265; 20-60-305; 20-60-315, 20-60-325; 20-60-1410 B, 20-60-1420 C 2 (effective February 17, 1999).

### Interpretive Remarks

Virginia has the power to regulate interim status, as required by RCRA § 3005(j), because of its general regulatory authority in §§ 10.1-1402(1) and 10.1-1402(11). Section 10.1-1426(A) requires that any person who stores, provides treatment for or disposes of hazardous waste must obtain a permit from the Director. This requirement does not prohibit the use of permit by regulation such as the use of interim status requirements.

Under 9 VAC 20-60-265 A, Virginia has incorporated by reference, the federal provisions at 40 CFR Part 265 (as of July 1, 1995), subject to certain additions, modifications and exceptions at 9 VAC 20-60-265 B. The Commonwealth's provisions are either identical to, or worded differently but equivalent version of, the federal provisions in 40 CFR Part 265, except for the provisions identified in Consolidated Checklist C6 in Subsection V.E.

Under 9 VAC 20-60-265 B 18, regulated units at interim status facilities are defined and are required to comply with the indicated standards for closure and post-closure care applicable under federal regulations to permitted facilities (40 CFR Part 264). Some of these provisions are more stringent than would have been required for interim status facilities under federal requirements.

Since the standards of 40 CFR Part 264 are no less stringent than those of 40 CFR Part 265, the requirements of 9 VAC 20-60-265 B 18 are at least as stringent as the analogous federal requirements of 40 CFR Part 265. Therefore, the elements of Checklist C6 are deemed equivalent and so annotated, even though in some instances (found in Subparts F, G, H, and K-N) the Commonwealth's requirements are more extensive (and therefore more stringent) than that which would be required for interim status facilities under the federal program.

### **C. Consolidated Checklist C5 — 40 CFR Part 264 as of June 30, 1995 and Commonwealth Analogs**

VIRGINIA CONSOLIDATED CHECKLIST C5						
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities 40 CFR Part 264 as of June 30, 1995 as published in the July 1, 1995 CFR						
FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
SUBPART A - GENERAL						
Purpose, scope and applicability	264.1 except 264.1 (d), (f) & (g)(11)	20-60-264 A	X			
UIC permit-by-rule	264.1(d)	20-60-264 B 1 20-60-264 B 14			X	

**Interpretive Comment:** At 9 VAC 20-60-264 B 1, Virginia has not adopted the federal provision at 40 CFR 264.1(d) addressing Underground Injection Control (UIC) permit-by-rule because the Commonwealth prohibits disposal by underground injection at 9 VAC 20-60-264 B 14. This makes the Commonwealth's regulations more stringent than the federal code.



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as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Post-authorization rulemaking	264.1(f)	No analog 20-60-264 B 1	Not adopted by the Commonwealth			

**Interpretive Comment:** Per the federal Incorporation By Reference (IBR) Guidance Document, the Commonwealth has not included the provision at 40 CFR 264.1(f) in its Incorporation by Reference. This section states that, with exceptions, federal requirements do not apply in authorized states; it has no purpose in the Virginia regulations.

Requirements do not apply to universal waste handlers and transporters	264.1(g)(11)	20-60-264 A 20-60-264 B 2	X			
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**Interpretive Comment:** The Commonwealth provides that additional universal wastes listed in Part XVI must meet the same requirements as the wastes listed in 40 CFR 273. At 9 VAC 20-60-264 B 2, the Commonwealth has modified the federal provision at 40 CFR 264.1(g)(11) by including mercury-containing lamps, as listed in Part XVI, as universal wastes. The Commonwealth is not seeking authorization for its provisions on mercury-containing lamps.

Reserved	264.2	20-60-264 A	X			
Relationship to interim status standards	264.3	20-60-264 A	X			
Imminent hazard action	264.4	20-60-264 A	X			

## SUBPART B - GENERAL FACILITY STANDARDS

Applicability	264.10	20-60-264 A	X			
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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Identification number	264.11	20-60-264 A 20-60-305 20-60-315 20-60-325	X			

**Interpretive Comment:** At 9 VAC 20-60-305 through 20-60-325, the Commonwealth has adopted regulations for the notification of hazardous waste management activity. These regulations ensure that all persons who did not notify the EPA, or persons who initiated hazardous waste management activities subsequent to the EPA notification requirements, as specified in the final rule published at 45 FR 12746 (February 26, 1980), notify the Director of their hazardous waste management activities. The Commonwealth's provisions are consistent with and equivalent to the federal notification requirements at RCRA § 3010.

Notification of Regional Administrator	264.12(a)	20-60-264 A 20-60-264 B 3 20-60-264 B 15 a			X	
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**Interpretive Comment:** At 9 VAC 20-60-264 B 3, Virginia has left the authority for the hazardous waste import notification requirement at 40 CFR 264.12(a) with the Regional Administrator of the United States Environmental Protection Agency or his designee. However, under 9 VAC 20-60-264 B 15 a, Virginia requires that a copy of the notice must also be submitted to the Director, thus making its provision more stringent.

Notification when receiving waste from off-site source	264.12(b)	20-60-264 A & 20-60-264 B 15 b	X			
Notification before transferring ownership or operation	264.12(c)	20-60-264 A & 20-60-264 B 15 c	X			
General waste analysis	264.13, except 264.13(b)(6) and 264.13(b)(8)	20-60-264 A	X			
Meeting of additional waste analysis requirements	264.13(b)(6)	20-60-264 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953 December 6, 1994).

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			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Requirements for owners and operators seeking an exemption to the air emission standards of subpart CC in accordance with 264.1082	264.13(b)(8)	No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896-62953 December 6, 1994)(see 9 VAC 20-60-18).			
Security	264.14	20-60-264 A	X			
General inspection requirements	264.15, except 264.15(b)(4)	20-60-264 A	X			
Frequency of inspection	264.15(b)(4)	20-60-264 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953 December 6, 1994).

Personnel training; general requirements for ignitable, reactive or incompatible wastes; location standards; and construction quality assurance program	264.16 - 264.19	20-60-264 A	X			
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**SUBPART C - PREPAREDNESS AND PREVENTION**

Applicability, design and operation, required equipment	264.30 - 264.32	20-60-264 A	X			
Testing and maintenance of equipment	264.33	20-60-264 A 20-60-264 B 4			X	

**Interpretive Comment:** The Commonwealth is more stringent at 9 VAC 20-60-264 B 4 because the Commonwealth requires that a record of tests or inspections conducted pursuant to 40 CFR 264.33 be maintained on a log at the facility or other reasonably accessible and convenient location.

Access to communications or alarm system, required aisle space, and arrangements with local authorities	264.34 - 264.37	20-60-264 A	X			
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as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**SUBPART D - CONTINGENCY PLAN AND EMERGENCY PROCEDURES**

Contingency plan and emergency procedures	264.50 - 264.55	20-60-264 A	X			
Emergency Procedures	264.56 except 264.56(d)(2) & (j)	20-60-264 A	X			
Notification requirements in event of release, fire or explosion	264.56(d)(2)	20-60-264 A 20-60-264 B 5 20-60-264 B 15 d			X	

**Interpretive Comment:** The Commonwealth is more stringent in that, at 9 VAC 20-60-264 B 5, it requires that notification also be made to the Commonwealth Emergency Response team. Also, while the federal code only requires notification of either the on-scene coordinator or the National Response Center, Virginia requires notification of both entities.

Notification of event requiring implementation of contingency plan	264.56(j)	20-60-264 A 20-60-264 B 5			X	
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**Interpretive Comment:** The Commonwealth is more stringent than the federal provision at 40 CFR 264.56(j) in that at 9 VAC 20-60-264 B 5, it requires that the report filed under 264.56(j) include such other information requested by the Director, which is reasonably necessary and relevant to the purpose of an operating record.

**SUBPART E - MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING**

Applicability; use of manifest system; manifest discrepancies	264.70 - 264.72	20-60-264 A	X			
Operating record	264.73, except 264.73(b)(3) and 264.73(b)(6)	20-60-264 A	X			
Records and results of waste analyses	264.73(b)(3)	20-60-264 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953 December 6, 1994).

Monitoring, testing, analytical data, and corrective action	264.73(b)(6)	20-60-264 A	X (7/1/94 CFR)			
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			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953 December 6, 1994).

Availability, retention, and disposition of records; biennial report; unmanifested waste report	264.74 - 264.76	20-60-264 A	X			
Additional reports	264.77, except 264.77(c)	20-60-264 A	X			
As otherwise required by Subparts F, K through N, AA, and BB	264.77(c)	20-60-264 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953 December 6, 1994).

## SUBPART F - RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Releases from Solid Waste Management Units	264.90 - 264.101	20-60-264 A	X			
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## SUBPART G - CLOSURE AND POST-CLOSURE

Closure and post-closure	264.110 - 264.120	20-60-264 A	X			
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## SUBPART H - FINANCIAL REQUIREMENTS

Applicability	264.140	20-60-264 A	X			
Definitions of terms as used in this subpart	264.141 except 264.141(g)	20-60-264 A	X			
Liability insurance requirements terms	264.141(g)	20-60-17 B	X			

**Interpretive Comment:** At 9 VAC 20-60-17 B, Virginia makes clear that, in the liability insurance requirements, the terms "bodily injury" and "property damage" shall have the meanings given these terms by the case law of the Virginia court system. The Commonwealth also clarifies that terms do not include the liabilities excluded from coverage in liability policies for bodily injury and property damage.

Cost estimate for closure	264.142	20-60-264 A	X			
Financial assurance for closure	264.143 except 264.143(h)	20-60-264 A	X			

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			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Use of a financial mechanism for multiple facilities	264.143(h)	20-60-264 A & 20-60-264 B 6	X			
Cost estimate for post-closure care	264.144	20-60-264 A	X			
Financial assurance for post-closure care	264.145 except 264.145(h)	20-60-264 A	X			
Use of a financial mechanism for multiple facilities	264.145(h)	20-60-264 A & 20-60-264 B 6	X			
Use of a mechanism for financial assurance of both closure and post-closure care	264.146	20-60-264 A	X			
Liability requirements	264.147 except 264.147(a)(1)(ii), (b) (1)(ii), (g)(2), and (I) (4)	20-60-264 A	X			
Enforceable Commonwealth obligations	264.147(a)(1)(ii) 264.147(b)(1)(ii) 264.147(g)(2) 264.147(I)(4)	20-60-264 A & 20-60-264 B 7	X			
Incapacity of owners or operators, guarantors, or financial institutions	264.148	20-60-264 A	X			
Use of Commonwealth-required mechanisms	264.149	No analog 20-60-264 B 1	Not adopted by the Commonwealth			
Commonwealth assumption of responsibility	264.150	No analog 20-60-264 B 1	Not adopted by the Commonwealth			
Wording of the instruments	264.151	20-60-264 A & 20-60-264 B 6	X			

**Interpretive Comment:** Per the federal IBR Guidance Document, the Commonwealth has not included the provisions at 40 CFR 264.149 and 264.150 in its Incorporation by Reference.

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

## SUBPART I - USE AND MANAGEMENT OF CONTAINERS

Use and management of containers	264.170 - 264.178	20-60-264 A	X			
Air emission standards	264.179	No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896-62953 December 6, 1994).			

## SUBPART J - TANK SYSTEMS

**Interpretive Comment:** At 9 VAC 20-60-264 B 8 through B 10, Virginia has modified the federal provisions at 40 CFR 264.191(a), 264.191(c) and 264.193(a) to specify the compliance dates HSWA and non-HSWA tanks. Specifically, the compliance dates for HSWA tanks are as stated in the federal code; for non-HSWA tanks, the Commonwealth's compliance dates apply. The requirements of 40 CFR 264.193(b)-(h), incorporated by reference, are different only to the extent that the HSWA or non-HSWA compliance dates apply.

Applicability	264.190	20-60-264 A	X			
Assessment of existing tank system's integrity	264.191 except 264.191(a) & (c)	20-60-264 A	X			
Compliance dates for HSWA and non-HSWA tanks	264.191(a) & (c)	20-60-264 A & 20-60-264 B 8 & B 9	X			
Design and installation of new tank systems or components	264.192	20-60-264 A	X			
Containment and detection of releases - requirements	264.193(a)	20-60-264 A & 20-60-264 B 10	X			
Containment and detection of releases - secondary containment	264.193(b)-(f)	20-60-264 A	X			
General requirements for variance	264.193(g)	20-60-264 A 20-60-1410 B 1-3	X			
Considerations in granting variance based on demonstration of equivalent ground water and surface water protection	264.193(g)(1)	20-60-264 A 20-60-1410 B 4	X			

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Factors to be considered in granting a variance	264.193(g)(2)	20-60-264 A 20-60-1410 B 5	X			
Requirements if release occurs from primary tank system but no migration beyond zone of engineering control	264.193(g)(3)	20-60-264 A 20-60-1410 B 6	X			
Requirements if release occurs and migrates beyond zone of engineering control	264.193(g)(4)	20-60-264 A 20-60-1410 B 8	X			
Procedures for requesting a variance	264.193(h)	20-60-264 A 20-60-1420 C2	X			
General operating requirements	264.194	20-60-264 A	X			
Inspections	264.195	20-60-264 A	X			
Response to leaks or spills and disposition of leaking or unfit-for-use tank systems	264.196 except 264.196(d)	20-60-264 A	X			
Notification, reports	264.196(d) except 264.196(d)(1) last sentence	20-60-264 A 20-60-264 B 11			X	

**Interpretive Comment:** At 9 VAC 20-60-264 B 11, Virginia requires that a copy of all reports made in accordance with 40 CFR 264.196(d) be submitted to the chief administrative officer of the local government. Also, the requirements are more stringent because reporting under Superfund procedures of 40 CFR 302 does not relieve the facility from the requirement to report under 40 CFR 264.196. This makes the Commonwealth more stringent.

# **VIRGINIA CONSOLIDATED CHECKLIST C5**

Standards for Owners and Operators of Hazardous Waste Treatment,  
Storage, and Disposal Facilities  
40 CFR Part 264 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
"If the release has been reported pursuant to 40 CFR part 302, that report will satisfy this requirement."	264.196(d)(1) last sentence	No Commonwealth analog: 20-60-264 B 11	Not adopted by the Commonwealth			

**Interpretive Comment:** The Commonwealth has excluded the last sentence of 40 CFR 264.196(d) from its incorporation by reference because upon authorization, all reporting should be submitted to the Commonwealth, and a report made under 40 CFR part 302 would not satisfy the Commonwealth's reporting requirements.

Closure and post-closure care, special requirements for ignitable or reactive and incompatible wastes	264.197 - 264.199	20-60-264 A	X			
Air emission standards	264.200	No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 6262953 December 6, 1994).			

## **SUBPART K - SURFACE IMPOUNDMENTS**

Surface impoundments	264.220 - 264.231	20-60-264 A	X			
Air emission standards	264.232	No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896-62953 December 6, 1994).			

## **SUBPART L - WASTE PILES**

Waste piles	264.250 - 264.259	20-60-264 A	X			
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## **SUBPART M - LAND TREATMENT**

Land treatment	264.270 - 264.283	20-60-264 A	X			
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## **SUBPART N - LANDFILLS**

Applicability	264.300	20-60-264 A	X			
Design and operating requirements	264.301 except 264.301(l)	20-60-264 A	X			



# **VIRGINIA CONSOLIDATED CHECKLIST C5**

Standards for Owners and Operators of Hazardous Waste Treatment,  
Storage, and Disposal Facilities  
40 CFR Part 264 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Additional requirements for landfills in the State of Alabama	264.301(l)	No analog 20-60-264 B 1	Not adopted by the Commonwealth			

**Interpretive Comment:** Per the federal IBR Guidance Document, the Commonwealth has not included the provision at 40 CFR 264.301(l) in its Incorporation by Reference.

Action leakage rate, monitoring and inspection, response actions, surveying and recordkeeping, closure and post-closure care, special requirements	264.302 - 264.317	20-60-264 A	X			
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## **SUBPART O - INCINERATORS**

Incinerators	264.340 - 264.351	20-60-264 A	X			
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## **SUBPARTS P-R - [RESERVED]**

## **SUBPART S - CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS**

Corrective action	264.552 & 264.553	20-60-264 A	X			
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## **SUBPARTS T-V - [RESERVED]**

## **SUBPART W - DRIP PADS**

Applicability	264.570 except 264.570(a)	20-60-264 A	X			
Applicability requirements; definitions of new and existing drip pads and HSWA/non-HSWA dates	264.570(a)	20-60-264 B 12	X			

**Interpretive Comment:** Virginia has substituted 40 CFR 264.570(a) with its own analog at 9 VAC 20-60-264 B 12. The Commonwealth's provision is equivalent to the federal provision, except that the Commonwealth makes a distinction between wastes subject to HSWA requirements and those wastes subject to non-HSWA requirements.

# **VIRGINIA CONSOLIDATED CHECKLIST C5**

Standards for Owners and Operators of Hazardous Waste Treatment,  
Storage, and Disposal Facilities  
40 CFR Part 264 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Assessment of existing drip pad integrity; design, installation and operation of new drip pads, inspections, closure	264.571 - 264.575	20-60-264 A	X			

## **SUBPART X - MISCELLANEOUS UNITS**

Applicability	264.600	20-60-264 A	X			
introductory paragraph regarding human health and the environment	264.601, introductory paragraph	20-60-264 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953 December 6, 1994).

Prevention of release to groundwater; prevention of release to surface waters and soil; prevention of releases to the air	264.601(a)-(c)	20-60-264 A	X			
Compliance requirements; post-closure requirements	264.602 - 264.603	20-60-264 A	X			

## **SUBPARTS Y-Z - [RESERVED]**

## **SUBPART AA - AIR EMISSION STANDARDS FOR PROCESS VENTS**

Air Applicability	264.1030 except 264.1030(c)	20-60-264 A	X			
Requirements regarding RCRA §3005 permits	264.1030(c)	20-60-264 B 13	X			

**Interpretive Comment:** Per the federal IBR Guidance Document, the Commonwealth has changed the reference to "40 CFR 124.15" to "40 CFR 124.5".

Air definitions, standards: process vents	264.1031 - 264.1032	20-60-264 A	X			
Standards: closed-vent systems and control devices	264.1033, except 264.1033(k)(2) and 264.1033(m)	20-60-264 A	X			

# VIRGINIA CONSOLIDATED CHECKLIST C5

Standards for Owners and Operators of Hazardous Waste Treatment,  
Storage, and Disposal Facilities  
40 CFR Part 264 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Monitoring of closed-vent systems during initial leak detection monitoring	264.1033(k)(2)	20-60-264 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953 December 6, 1994).

Documentation by the owner or operator using a carbon adsorption system shall that all carbon removed from a carbon adsorption system to comply with 264.1033(g) and 264.1033(h) is managed in one of the following manners:	264.1033(m)	20-60-264 A	X (7/1/94 CFR)			
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**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953 December 6, 1994).

Test methods and procedures; recordkeeping requirements; reporting requirements	264.1034 - 264.1049	20-60-264 A	X			
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## SUBPART BB - AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Air emission standards for equipment leaks	264.1050 - 264.1079	20-60-264 A	X			
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## SUBPART CC - AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS

Air Emission Standards for Tanks, Surface Impoundments, and Containers	264.1080-264.1091	20-60-18; No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896-62953 December 6, 1994), (60 FR 26828-26829 May 19, 1995).			
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## SUBPART DD - CONTAINMENT BUILDINGS

Containment buildings	264.1100 - 264.1110	20-60-264 A	X			
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## APPENDICES TO PART 264

Recordkeeping instructions	Appendix I	20-60-264 A	X			
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**VIRGINIA CONSOLIDATED CHECKLIST C5**

Standards for Owners and Operators of Hazardous Waste Treatment,  
Storage, and Disposal Facilities  
40 CFR Part 264 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Reserved	Appendices II-III [Reserved]	20-60-264 A	Reserved			
Cochran's approximation to the Behrens-Fisher Students' T-test	Appendix IV	20-60-264 A	X			
Examples of potentially incompatible waste	Appendix V	20-60-264 A	X			
Political jurisdictions in which compliance with §264.18(a) must be <sup>2</sup> demonstrated	Appendix VI	No analog; 20-60-264 B 1	Not adopted by the Commonwealth			
<b>Interpretive Comment:</b> The Commonwealth has not included 40 CFR Part 264 Appendix VI as part of its Incorporation by Reference, as per the federal IBR Guidance Document.						
Reserved	Appendices VII-VIII [Reserved]	20-60-264 A	Reserved			
Ground-water monitoring list	Appendix IX	20-60-264 A	X			

**D. Consolidated Checklist C7 — 40 CFR Part 266 as of June 30, 1995 and Commonwealth Analogs****VIRGINIA CONSOLIDATED CHECKLIST C7**

Standards for the Management of Specific Hazardous Wastes and  
Specific Types of Hazardous Waste Management Facilities  
40 CFR Part 266 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
SUBPART A-B - [RESERVED]						
SUBPART C - RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL						
Applicability	266.20	20-60-266 A	X			

**VIRGINIA CONSOLIDATED CHECKLIST C7**  
Standards for the Management of Specific Hazardous Wastes and  
Specific Types of Hazardous Waste Management Facilities  
40 CFR Part 266 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Standards applicable to generators and transporters of materials used in a manner that constitutes disposal	266.21	20-60-266 A 20-60-266 B 1 20-60-420 F	X			

**Interpretive Comment:** At 9 VAC 20-60-420 F, the Commonwealth requires that transporters of materials that are used in a manner constituting disposal are subject to the requirements of VHWMR Parts III (Incorporation of federal regulations by Reference), IV (Notification of Hazardous Waste Management Activity Regulations) and VII (Regulations Applicable to Transporters of Hazardous Waste).

Standards applicable to storers of materials that are to be used in a manner that constitutes disposal who are not the ultimate users	266.22	20-60-266 A 20-60-266 B 1	X			
Standards applicable to users of materials that are used in a manner that constitutes disposal	266.23	20-60-266 A 20-60-266 B 1	X			

**SUBPART D-E - [RESERVED]**

**SUBPART F - RECYCLABLE MATERIALS UTILIZED FOR PRECIOUS METAL RECOVERY**

Applicability and requirements	266.70	20-60-266 A 20-60-266 B 2	X			
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**Interpretive Comment:** To the degree the Commonwealth places requirements beyond federal requirements on transporters for shipments of precious metals destined for recovery, Virginia is more stringent.

**SUBPART G - SPENT LEAD-ACID BATTERIES BEING RECLAIMED**

Applicability and requirements	266.80	20-60-266 A 20-60-266 B 3	X			
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**Interpretive Comment:** To the degree the Commonwealth places requirements beyond federal requirements on transporters for shipments of spent lead-acid batteries destined for recovery, Virginia is broader in scope.

**SUBPART H - HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES**

Applicability; management prior to burning; permit standards for burners	266.100 - 266.102	20-60-266 A	X			
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**VIRGINIA CONSOLIDATED CHECKLIST C7**  
Standards for the Management of Specific Hazardous Wastes and  
Specific Types of Hazardous Waste Management Facilities  
40 CFR Part 266 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Interim status standards for burners	266.103, except 266.103(c)(5)	20-60-266 A	X			
If required to comply with 266.104(c) or 266.103(a)(5) (I)(D) HC controls, conditioned gas monitoring system may be used in conformance with 266, Appendix IX specifications, provided certification of compliance is submitted without 266.103(c)(7) time extension	266.103(c)(5)	20-60-266 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 144 (60 FR 33912-33915 June 29, 1995).

Standards to control organic emissions	266.104, except 266.104(f)-(h)	20-60-266 A	X			
Alternate HC limit for furnaces with organic matter in raw material	266.104(f)	20-60-266 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 144 (60 FR 33912-33915 June 29, 1995). [Revision Checklist 144 removed the 266.104(f) found in the 1994 40 CFR and redesignated 266.104(g)-(I) as 266.104(f)-(h).]

Monitoring CO and HC in the bypass duct of a cement kiln; use of emissions test data to demonstrate compliance and establish operating limits; enforcement	266.104(g)-(I)	20-60-266 A	X (7/1/94 CFR)			
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**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 144 (60 FR 33912-33915 June 29, 1995). [Revision Checklist 144 removed the 266.104(f) found in the 1994 40 CFR and redesignated 266.104(g)-(I) as 266.104(f)-(h).]

**VIRGINIA CONSOLIDATED CHECKLIST C7**  
Standards for the Management of Specific Hazardous Wastes and  
Specific Types of Hazardous Waste Management Facilities  
40 CFR Part 266 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Standards to control particulate matter; standards to control metals emissions; standards to control hydrogen chloride (HCl) and chlorine gas (Cl <sub>2</sub> ) emissions; small quantity on-site burner exemption; low risk waste exemption; waiver of DRE trial burn for boilers; standards for direct transfer; regulation of residues	266.105 - 266.112	20-60-266 A	X			

**APPENDICES TO PART 266**

Part 266 Appendices	Part 266 Appendix I - XIII	20-60-266 A	X			
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**E. Consolidated Checklist C6 — 40 CFR Part 265 as of June 30, 1995 and Commonwealth Analogs**

**VIRGINIA CONSOLIDATED CHECKLIST C6**  
Interim Status Standards for Owners and Operators of  
Hazardous Waste Treatment, Storage, and Disposal Facilities  
40 CFR Part 265 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
SUBPART A - GENERAL						
Purpose, scope, and applicability	265.1 except 265.1(b), (c)(4) & (c)(14)	20-60-265 A	X			

**VIRGINIA CONSOLIDATED CHECKLIST C6**  
Interim Status Standards for Owners and Operators of  
Hazardous Waste Treatment, Storage, and Disposal Facilities  
40 CFR Part 265 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Applies to all owners and operators of TSDFs, with exceptions, who have met interim status requirements of RCRA 3005(e) or 270.10 or until fulfill applicable 265 closure/post-closure requirements	265.1(b)	20-60-265 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953; December 6, 1994).

Requirements do not apply in authorized State	265.1(c)(4)	No Commonwealth analog; 20-60-265 B 1	Not adopted by the Commonwealth <sup>141</sup>			
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**Interpretive Comment:** Per the federal IBR Guidance Document, the Commonwealth has not included the provision at 40 CFR 265.1(c)(4) in its incorporation by reference.

Universal waste handlers and transporters	265.1(c)(14)	20-60-265 A 20-60-265 B 2	X			
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**Interpretive Comment:** The Commonwealth provides that additional universal wastes listed in VHWMR Part XVI must meet the same requirements as the wastes listed in 40 CFR 273. At 9 VAC 20-60-265 B 2, the Commonwealth has modified the federal provision at 40 CFR 265.1(c)(14) by including mercury-containing lamps, as listed in Part XVI, as universal wastes. The Commonwealth is not seeking authorization for its provisions on mercury-containing lamps.

Reserved	265.2-265.3	20-60-265 A	X			
Imminent hazard action	265.4	20-60-265 A	X			

**SUBPART B - GENERAL FACILITY STANDARDS**

Applicability	265.10	20-60-265 A	X			
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**VIRGINIA CONSOLIDATED CHECKLIST C6**  
Interim Status Standards for Owners and Operators of  
Hazardous Waste Treatment, Storage, and Disposal Facilities  
40 CFR Part 265 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Identification number	265.11	20-60-265 A 20-60-305 20-60-315 20-60-325	X			

**Interpretive Comment:** At 9 VAC 20-60-305 through 20-60-325, the Commonwealth has adopted regulations for the notification of hazardous waste management activity. These regulations ensure that all persons who did not notify the EPA, or person who initiated hazardous waste management activities subsequent to the EPA notification requirements, as specified in the final rule published at 45 FR 12746 (February 26, 1980), notify the Director of their hazardous waste management activities. The Commonwealth's provisions are consistent with and equivalent to the federal notification requirements at RCRA § 3010.

Required notices	265.12	20-60-265 A 20-60-265 B 3 20-60-265 B 4			X	
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**Interpretive Comment:** At 9 VAC 20-60-265 B 4, Virginia has left the authority for the hazardous waste import notification requirement at 40 CFR 265.12(a) with the Regional Administrator of the United States Environmental Protection Agency or his designee. However, under 9 VAC 20-60-265 B 3, Virginia requires that a copy of all reports and notices must also be submitted to the Director and to chief administrative officer of the local government of the jurisdiction in which the event occurs, thus making its provision more stringent.

General waste analysis	265.13, except 265.13(b)(6) and 265.13(b)(8)	20-60-265 A	X			
Meeting of additional waste analysis requirements	265.13(b)(6)	20-60-265 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953; December 6, 1994).

Requirements for owners and operators seeking an exemption to the air emission standards of Subpart CC of this part in accordance with 265.1083	265.13(b)(8)	No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896-62953; December 6, 1994).			
Security	265.14	20-60-265 A	X			
General inspection	265.15, except 265.15(b)(4)	20-60-265 A	X			

**VIRGINIA CONSOLIDATED CHECKLIST C6**  
Interim Status Standards for Owners and Operators of  
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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Frequency of inspection	265.15(b)(4)	20-60-265 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953; December 6, 1994).

Personnel training; general requirements for ignitable, reactive, or incompatible wastes; location standards; construction quality assurance program	265.16 - 265.19	20-60-265 A	X			
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**SUBPART C - PREPAREDNESS AND PREVENTION**

Applicability	265.30	20-60-265 A	X			
Maintenance and operation of facility	265.31	20-60-265 A	X			
Required equipment	265.32	20-60-265 A	X			
Testing and maintenance of equipment	265.33	20-60-265 A 20-60-265 B 5			X	

**Interpretive Comment:** The Commonwealth is more stringent at 9 VAC 20-60-265 B 5 because it requires that a record of tests or inspections conducted pursuant to 40 CFR 265.33 be maintained on a log at the facility or other reasonably accessible and convenient location.

Access to communications or alarm system, required aisle space, arrangements with local authorities	265.34 - 265.37	20-60-265 A	X			
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**SUBPART D - CONTINGENCY PLAN AND EMERGENCY PROCEDURES**

Contingency plan	265.50 - 265.55	20-60-265 A	X			
Emergency procedures	265.56 except 265.56 (d)(2) & (j)	20-60-265 A	X			

**VIRGINIA CONSOLIDATED CHECKLIST C6**  
Interim Status Standards for Owners and Operators of  
Hazardous Waste Treatment, Storage, and Disposal Facilities  
40 CFR Part 265 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Notification requirements in event of release, fire or explosion	265.56(d)(2)	20-60-265 A 20-60-265 B 6			X	

**Interpretive Comment:** The Commonwealth is more stringent than the federal provision at 40 CFR 265.56(d)(2) in that at 9 VAC 20-60-265 B 6, it requires that notification also be made to the Commonwealth Emergency Response team. Also, while the federal code only requires notification of either the on scene coordinator or the National Response Center, Virginia requires notification of both entities

Notification of event requiring implementation of contingency plan	265.56(j)	20-60-265 A 20-60-265 B 6			X	
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**Interpretive Comment:** The Commonwealth is more stringent than the federal provision at 40 CFR 265.56(j) in that, at 9 VAC 20-60-265 B 6, it requires that the report filed under 264.56(j) include such other information requested by the Director, which is reasonably necessary and relevant to the purpose of an operating record.

**SUBPART E - MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING**

Applicability; use of manifest system; manifest discrepancies	265.70 - 265.72	20-60-265 A	X			
Operating record	265.73, except 265.73 (b)(3) and 265.73(b)(6)	20-60-265 A	X			
Records and results of waste analysis, determinations, and trial tests	265.73(b)(3)	20-60-265 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953; December 6, 1994).

Monitoring, testing, or analytical data	265.73(b)(6)	20-60-265 A	X (7/1/94 CFR)			
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**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953; December 6, 1994).

Availability, retention, and disposition of records; biennial report; unmanifested waste report	265.74 - 265.76	20-60-265 A	X			
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**VIRGINIA CONSOLIDATED CHECKLIST C6**  
Interim Status Standards for Owners and Operators of  
Hazardous Waste Treatment, Storage, and Disposal Facilities  
40 CFR Part 265 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Additional reports	265.77, except 265.77 (d)	20-60-265 A	X			
Reports as otherwise required by Subparts AA, BB, and CC of this part	265.77(d)	20-60-265 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953; December 6, 1994).

**SUBPART F - GROUND-WATER MONITORING**

Applicability	265.90	20-60-265 A	X			
Ground-water monitoring system	265.91	20-60-265 A 20-60-265 B 7			X	

**Interpretive Comment:** In addition to the requirements at 40 CFR 265.91, at 9 VAC 20-60-265 B 7, Virginia is more stringent in that it requires that a log be made of the groundwater monitoring wells describing the soils or rock encountered, the permeability of formations, and the cation exchange capacity of soils encountered. Also, a copy of the log with appropriate maps must be sent to the Department.

Sampling and analysis	265.92	20-60-265 A	X			
Preparation, evaluation, and response	265.93	20-60-265 A	X			
Recordkeeping and reporting	265.94	20-60-265 A	X			

**SUBPART G - CLOSURE AND POST-CLOSURE**

Closure and post-closure	265.110 - 265.115	20-60-265 A	X			
Survey Plat	265.116	20-60-265 20-60-265 B 16			X	

**Interpretive Comment:** In addition to the requirements of 40 CFR 265.116, Virginia requires the following items: maintenance of the function and integrity of the final cover; maintenance and monitoring of the leachate collection system; maintenance and monitoring of the gas control system, if present; protection and maintenance of benchmarks; and restriction of access.

Closure and post-closure	265.117 - 265.120	20-60-265 A	X			
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**SUBPART H - FINANCIAL REQUIREMENTS**

Applicability	265.140	20-60-265 A	X			
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as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Definition of terms as used in this subpart	265.141, except 265.141(g)	20-60-265 A	X			
Liability insurance requirements terms	265.141(g)	20-60-17 B	X			

**Interpretive Comment:** At 9 VAC 20-60-17 B, Virginia makes it clear that, in the liability insurance requirements, the terms "bodily injury" and "property damage" shall have the meanings given these terms by the case law of the Virginia court system. The Commonwealth also clarifies that terms do not include these liabilities excluded from coverage in liability policies for bodily injury and property damage.

Cost estimate for closure	265.142	20-60-265 A	X			
Financial assurance for closure	265.143 except 265.143(g)	20-60-265 A	X			
Use of financial mechanism for multiple facilities	265.143(g)	20-60-265 A & 20-60-265 B 8	X			
Cost estimate for post-closure care	265.144	20-60-265 A	X			
Financial assurance for post-closure care	265.145 except 265.145(g)	20-60-265 A	X			
Use of financial mechanism for multiple facilities	265.145(g)	20-60-265 A & 20-60-265 B 8	X			
Use of a mechanism for financial assurance of both closure and post-closure care	265.146	20-60-265 A	X			
Liability requirements	265.147 except 265.147(a)(1)(ii), (g) (2) & (I)(4)	20-60-265 A	X			
Enforceable Commonwealth obligations	265.147(a)(1)(ii) 265.147(g)(2) 265.147(I)(4)	20-60-265 A & 20-60-265 B 9	X			
Incapacity of owners or operators, guarantors, or financial institutions	265.148	20-60-265 A	X			

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Use of State-required mechanisms	265.149	No Commonwealth analog 20-60-265 B 1	Not adopted by the Commonwealth			
State assumption of responsibility	265.150	No Commonwealth analog 20-60-265 B 1	Not adopted by the Commonwealth			

**Interpretive Comment:** Per the federal IBR Guidance Document, the Commonwealth has not included the provisions at 40 CFR 265.149 and 265.150 in its incorporation by reference.

**SUBPART I - USE AND MANAGEMENT OF CONTAINERS**

Use and management of containers	265.170 - 265.177	20-60-265 A	X			
Air emission standards	265.178	No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896-62953; December 6, 1994).			

**SUBPART J - TANK SYSTEMS**

**Interpretive Comment:** At 9 VAC 20-60-265 B 10 through B 12, Virginia has modified the federal provisions at 40 CFR 265.191(a), 265.191(c) and 265.193(a) to specify the compliance dates for HSWA and non-HSWA tanks. Specifically, the compliance dates for HSWA tanks are as stated in the federal code; for non-HSWA tanks, the Commonwealth's compliance dates apply. The requirements of 40 CFR 265.193(b)-(h), incorporated by reference, are different only to the extent that the HSWA or non-HSWA compliance dates apply.

Applicability	265.190	20-60-265 A	X			
Assessment of existing tank system's integrity	265.191 except 265.191(a) & (c)	20-60-265 A	X			
Compliance dates for HSWA and non-HSWA tanks	265.191(a) & (c)	20-60-265 A & 20-60-265 B 10 & 11	X			
Design and installation of new tank systems or components	265.192	20-60-265 A	X			
Containment and detection of releases - requirements	265.193(a)	20-60-265 A & 20-60-265 B 12	X			

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Containment and detection of releases - secondary containment	265.193(b)-(f)	20-60-265 A	X			
general requirements for variance	265.193(g)	20-60-265 A 20-60-1410 B 1-3	X			
considerations in granting variance based on demonstration of equivalent ground water and surface water protection	265.193(g)(1)	20-60-265 A 20-60-1410 B 4	X			
factors to be considered in granting a variance	265.193(g)(2)	20-60-265 A 20-60-1410 B 5	X			
requirements if release occurs from primary tank system but no migration beyond zone of engineering control	265.193(g)(3)	20-60-265 A 20-60-1410 B 6	X			
requirements if release occurs and migrates beyond zone of engineering control	265.193(g)(4)	20-60-265 A 20-60-1410 B 7	X			
procedures for requesting a variance	265.193(h)	20-60-265 A 20-60-1420 C 2	X			
General operating requirements, inspections, response to leaks or spills and disposition of leaking or unfit-for-use tank systems, special requirements for ignitable or reactive and incompatible wastes, waste analysis and trial tests, special requirements for generators of between 100 and 1,000 kg/mo that accumulate hazardous waste in tanks	265.194 -265.201, except 265.197	20-60-265 A	X			

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Closure and post-closure care	265.197	20-60-265 A 20-60-265 B 18	X			
Air emission standards	265.202	No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896- 62953; December 6, 1994).			

**SUBPART K - SURFACE IMPOUNDMENTS**

Surface impoundments	265.220 - 265.230 except 265.228	20-60-265 A	X			
Closure and post-closure care	265.228	20-60-265 A 20-60-265 B 18	X			
Air emission standards	265.231	No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896- 62953; December 6, 1994).			

**SUBPART L - WASTE PILES**

Waste piles	265.250 - 265.260 except 265.258	20-60-265 A	X			
Closure and post-closure care	265.258	20-60-265 A 20-60-265 B 18	X			

**SUBPART M - LAND TREATMENT**

Land treatment	265.270 - 265.282 except 265.280	20-60-265 A	X			
Closure and post-closure care	265.280	20-60-265 A 20-60-265 B 18	X			

**SUBPART N - LANDFILLS**

Landfills	265.300 - 265.309	20-60-265 A	X			
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**VIRGINIA CONSOLIDATED CHECKLIST C6**  
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			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Closure and post-closure care	265.310	20-60-265 A 20-60-265 B 15 20-60-265 B 18			X	

**Interpretive Comment:** In addition to the requirements of 40 CFR 265.310, Virginia requires consideration of the following in addressing the closure and post-closure care objectives: type and amount of hazardous waste and hazardous constituents; mobility and expected rate of migration of the waste and constituents; site location, topography, and surrounding land use; climate; characteristics of the cover; and geological and soil profiles and surface and subsurface hydrology of the site.

Special requirements	265.311 - 265.316	20-60-265 A	X			
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**SUBPART O - INCINERATORS**

Incinerators	265.340 - 265.369 except 265.351	20-60-265 A	X			
Closure and post-closure care	265.351	20-60-265 A 20-60-265 B 18	X			

**SUBPART P - THERMAL TREATMENT**

Thermal treatment	265.370 - 265.383 except 265.381	20-60-265 A	X			
Closure and post-closure care	265.381	20-60-265 A 20-60-265 B 18	X			

**SUBPART Q - CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT**

Chemical, physical, and biological treatment	265.400 - 265.406 except 265.404	20-60-265 A	X			
Closure and post-closure care	265.404	20-60-265 A 20-60-265 B 18	X			

**SUBPART R - UNDERGROUND INJECTION**

Applicability	265.430	No analog; 20-60-265 B 1 20-60-265 B 17			X	
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**Interpretive Comment:** Virginia excludes 40 CFR 265.430 from its incorporation by reference because the Commonwealth prohibits underground injection at 20-60-265 B 17. This makes the Commonwealth more stringent.

**SUBPARTS S-V - [RESERVED]**

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**SUBPART W - DRIP PADS**

Applicability	265.440 except 265.440(a)	20-60-265 A	X			
Applicability requirements; definitions of new and existing drip pads and HSWA/non- HSWA dates	265.440(a)	20-60-265 B 13	X			

**Interpretive Comment:** Virginia has substituted 40 CFR 265.440(a) with its own analog at 9 VAC 20-60-265 B 13. The Commonwealth's provision is equivalent to the federal provision, except that the Commonwealth makes a distinction between wastes subject to HSWA requirements and those wastes subject non-HSWA requirements.

Assessment of existing drip pad integrity; design, installation, and operating requirements of new drip pads, inspections	265.441 - 265.444	20-60-265 A	X			
Closure	265.445	20-60-265 A 20-60-265 B 18	X			

**SUBPART AA - AIR EMISSION STANDARDS FOR PROCESS VENTS**

Applicability; definitions; standards: process vents	265.1030 - 265.1032	20-60-265 A	X			
Standards: closed-vent systems and control devices	265.1033, except 265.1033(j)(2) and 265.1033(l)	20-60-265 A	X			
	265.1033(j)(2)	20-60-265 A	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953; December 6, 1994).

	265.1033(l)	20-60-265 A	X (7/1/94 CFR)			
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**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953; December 6, 1994).

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Test methods and procedures; recordkeeping requirements	265.1034 - 265.1049	20-60-265 A	X			
SUBPART BB - AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS						
Air emission standards for equipment leaks	265.1050 - 265.1079	20-60-265 A	X			
SUBPART CC - AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS						
Air Emission Standards for Tanks, Surface impoundments, and Containers	265.1080-265.1091	No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 <u>FR</u> 62896- 62953; December 6, 1994), (60 <u>FR</u> 26828-26829; May 19, 1995).			
SUBPART DD - CONTAINMENT BUILDINGS						
Containment buildings	265.1100 - 265.1110	20-60-265 A	X			
APPENDICES TO PART 265						
Part 265 Appendices	Part 265 Appendix I - V	20-60-265 A	X			

**VI. LAND DISPOSAL RESTRICTIONS**

Federal Authority: RCRA §§1006, 2002(a), 3001 and 3004

*A. State statutes and regulations restrict the land disposal of hazardous wastes as specified in 40 CFR Part 268 and indicated in Consolidated Checklist C8 which includes the provisions of Revision Checklists 34, 39, 50, 62, 63, 66, 74, 78, 83, 95, 102, 103, 106, 109, 116, 121, 123, 124, 126, 134, 136, 137 (except for the final rule published on January 3, 1995 (60 FR 242)), 142A, 142B, 142C, and 142D.*

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR Part 268, as amended November 7, 1986 (51 FR 40572), June 4, 1987 (52 FR 21010), July 8, 1987 (52 FR 25760), October 27, 1987 (52 FR 41295), August 17, 1988 (53 FR 31138), February 27, 1989 (54 FR 8264), May 2, 1989 (54 FR 18836), June 23, 1989 (54 FR 26594), September 6, 1989 (54 FR 36967), June 13, 1990 (55 FR 23935), March 29, 1990 (55 FR 11798), June 1, 1990 (55 FR 22520), January 31, 1991 (56 FR 3864), August 19, 1991 (56 FR

41164), March 6, 1992 (57 FR 8086), May 15, 1992 (57 FR 20766), June 26, 1992 (57 FR 28628), August 18, 1992 (57 FR 37194), October 20, 1992 (57 FR 47772), February 16, 1993 (58 FR 8658), May 14, 1993 (58 FR 28506), May 24, 1993 (58 FR 29860), August 31, 1993 (58 FR 46040), June 20, 1994 (59 FR 31551), August 24, 1994 (59 FR 43496), September 19, 1994 (59 FR 47980)<sup>1</sup>, September 19, 1994 (59 FR 47982), and May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(1), 10.1-1402(11).  
9 VAC 20-60-18, 20-60-268; 20-60-1410 C, effective February 17, 1999.

Interpretive Remarks

The authority for the Commonwealth's requirements for the land disposal restrictions derives from the Virginia Code §§ 10.1-1402(1) and 10.1-1402(11). The directive contained in §§ 10.1-1402(1) and 10.1-1402(11) give the Board the authority to "supervise and control waste management activities in the Commonwealth" and to "promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts."

Under 9 VAC 20-60-268 A, Virginia has incorporated by reference, the federal provisions at 40 CFR Part 268 (in effect as of June 30, 1995 and published on July 1, 1995), subject to certain additions, modifications and exceptions at 9 VAC 20-60-268 B. The Commonwealth's provisions are identical to the federal provisions in 40 CFR Part 268, except for the provisions identified in Consolidated Checklist C8 in Subsection VI.B.

**B. Consolidated Checklist C8 — 40 CFR Part 268 As of June 30, 1995 and Commonwealth Analogs**

**VIRGINIA CONSOLIDATED CHECKLIST C8**

Land Disposal Restrictions

40 CFR Part 268 as of June 30, 1995

as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
SUBPART A - GENERAL						
Purpose, scope and applicability	268.1 except 268.1(e) (3) & (f)	20-60-268 A	X			
Waste for which EPA has not promulgated LDR	268.1(e)(3)	20-60-268 A & 20-60-268 B 1	X			

<sup>1</sup>The September 19, 1994 rule indicates that it was not EPA's intention to remove the subparagraphs of 268.7(a) as the August 31, 1993 rule (58 FR 48040) implied. The provisions have been in effect continuously in the form published in the CFR revised as of July 1, 1993.

# **VIRGINIA CONSOLIDATED CHECKLIST C8**

Land Disposal Restrictions  
40 CFR Part 268 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Universal waste handler and transporter requirements	268.1(f)	20-60-268 A & 20-60-268 B 2	X			

**Interpretive Comment:** The Commonwealth provides that additional universal wastes listed in Part XVI must meet the same requirements as the wastes listed in 40 CFR 273. At 9 VAC 20-60-268 B 2, the Commonwealth includes mercury-containing lamps, as listed in Part XVI, as universal wastes. The Commonwealth is not seeking authorization for its provisions on mercury-containing lamps.

Definitions applicable to this part	268.2, except 268.2(I)	20-60-268 A	X			
"underlying hazardous constituent"	268.2(I)	20-60-268 A	X (9/12/94 FR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994, as amended by Rule 137 (59 FR 47982-48110 September 19, 1994). Virginia has not adopted the changes addressed by Rule 137.1 (60 FR 242-302 January 3, 1995).

Dilution prohibited as a substitute for treatment, treatment; surface impoundment exemption	268.3 - 268.4	20-60-268 A	X			
Procedures for case-by-case extensions to an effective date	268.5	20-60-268 A & 20-60-268 B 3	X			

**Interpretive Comment:** Per the federal Incorporation By Reference (IBR) Guidance Document for States, at 9 VAC 20-60-268 B 3, Virginia retains the federal authority for 40 CFR 268.5.

Petitions to allow land disposal of a waste prohibited under Subpart C of Part 268	268.6	20-60-268 A & 20-60-268 B 3 20-60-1410 C	X			
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**Interpretive Comment:** Per the federal IBR Guidance Document for States, at 9 VAC 20-60-268 B 3, Virginia retains the federal authority for 40 CFR 268.6. Also, the Commonwealth has adopted part of the 268.6(a) language at 20-60-1410 C and leaves the authority for this nondelegable provision with the EPA administrator.

# VIRGINIA CONSOLIDATED CHECKLIST C8

Land Disposal Restrictions  
40 CFR Part 268 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Waste analysis and recordkeeping	268.7	20-60-268 A	X (9/12/94 FR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994, as amended by Rule 137 (59 FR 47982-48110 September 19, 1994). Virginia has not adopted the changes addressed by Rule 137.1 (60 FR 242-302 January 3, 1995).

Landfill and surface impoundment disposal restrictions	268.8	20-60-268 A	X			
Determination of applicable treatment standards under Subpart D of Part 268 by initial generator of a solid waste; code designation and exceptions; conditions under which generator must determine what underlying hazardous characteristics are present in the waste	268.9(a)	20-60-268 A	X (9/12/94 FR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994, as amended by Rule 137 (59 FR 47982-48110 September 19, 1994). Virginia has not adopted the changes addressed by Rule 137.1 (60 FR 242-302 January 3, 1995).

The treatment standard for the waste code listed in 40 CFR Part 261, Subpart D will operate for wastes both listed under Part 261 Subpart D and exhibit a characteristic under Subpart C of Part 261; conditions under which treatment standards for all applicable listed and characteristic waste codes must be met	268.9(b)	20-60-268 A	X			
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# **VIRGINIA CONSOLIDATED CHECKLIST C8**

Land Disposal Restrictions  
40 CFR Part 268 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
No prohibited waste which exhibits a characteristic under 40 CFR Part 261, Subpart C may be land disposed unless waste complies with Part 268, Subpart D treatment standards	268.9(c)	20-60-268 A	X			
Notification and certification for wastes that exhibit a characteristic	268.9(d)	20-60-268 A & 20-60-268 B 4	X (9/12/94 FR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994, as amended by Rule 137 (59 FR 47982-48110 September 19, 1994). Virginia has not adopted the changes addressed by Rule 137.1 (60 FR 242-302 January 3, 1995).

## **SUBPART B - SCHEDULE FOR LAND DISPOSAL PROHIBITION AND ESTABLISHMENT OF TREATMENT STANDARDS**

Identification of wastes to be evaluated by August 8, 1988, June 8, 1989, or May 8, 1990	268.10 - 268.12	20-60-268 A & 20-60-268 B 3	X			
<b>Interpretive Comment:</b> Per the federal IBR Guidance Document for States, at 9 VAC 20-60-268 B 3, Virginia retains the federal authority for 40 CFR 268.10 - 268.12.						
Schedule for wastes identified or listed after November 8, 1984	268.13	20-60-268 B 5	NA			
<b>Interpretive Comment:</b> Per the federal IBR Guidance Document for States, at 9 VAC 20-60-268 B 5, Virginia does not include 40 CFR 268.13 in its incorporation by reference.						
Surface impoundment exemptions	268.14	20-60-268 A	X			

# **VIRGINIA CONSOLIDATED CHECKLIST C8**

Land Disposal Restrictions  
40 CFR Part 268 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

## **SUBPART C - PROHIBITIONS ON LAND DISPOSAL**

Effective dates for Part 268 Subpart C	No federal analog	20-60-268 B 7	X			
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**Interpretive Comment:** At 9 VAC 20-60-268 B 7, the Commonwealth removes the dates on which certain federal provisions began and dates on which national capacity variances expired. These dates passed before the effective date of amendment 14. The land disposal restrictions were promulgated pursuant to HSWA authority and took effect in the Commonwealth even though they had not yet been adopted into the regulations.

Prohibitions on land disposal	268.30 - 268.38	20-60-268 A	X			
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## **SUBPART D - TREATMENT STANDARDS**

Applicability of treatment standards	268.40 except 268.40 (b) and 268.40/table	20-60-268 A	X			
Wastewater compliance standards	268.40(b)	20-60-268 A & 20-60-268 B 3	X			

**Interpretive Comment:** Per the federal IBR Guidance Document, Virginia retains the federal authority for this provision.

Table "Treatment Standards for Hazardous Waste"	268.40/table	20-60-268 A	X (9/12/94 FR)			
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**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994, as amended by Rule 137 (59 FR 47982-48110 September 19, 1994). Virginia has not adopted the changes addressed by Rule 137.1 (60 FR 242-302 January 3, 1995).

Treatment standards expressed as concentrations in waste extract	268.41	20-60-268 A	X			
Treatment standards expressed as specified technologies	268.42(a), except 268.42(a)/Table 1	20-60-268 A	X			
	268.42(a)/Table 1	20-60-268 A	X (9/12/94 FR)			
	268.42(b)	20-60-268 A & 20-60-268 B 3	X			



## VIRGINIA CONSOLIDATED CHECKLIST C8

Land Disposal Restrictions  
40 CFR Part 268 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**Interpretive Comment:** Per the federal IBR Guidance Document, Virginia retains the federal authority at 268.42 (b).

**Interpretive Comment:** Virginia's analog to 40 CFR 268.42(a)/Table 1 is identical to the 40 CFR as of July 1, 1994, as amended by Rule 137 (59 FR 47982-48110 September 19, 1994). Virginia has not adopted the changes addressed by Rule 137.1 (60 FR 242-302 January 3, 1995).

Treatment standards expressed as waste concentrations	268.43	20-60-268 A	X			
Variance from a treatment standard	268.44(a)-(g)	20-60-268 A & 20-60-268 B 3 20-60-268 B 6	X			

**Interpretive Comment:** Per the federal IBR Guidance Document, Virginia retains the federal authority for these provisions. At 20-60-268 B 6 the Commonwealth requires compliance with Part XIV of the VHWMR (Rulemaking Petitions and Procedures) in cases of applications or petitions under 40 CFR 268.44.

Site-specific variance from a treatment standard	268.44 (h)-(o)	20-60-268 A 20-60-268 B 6	X			
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**Interpretive Comment:** At 20-60-268 B 6 the Commonwealth requires compliance with Part XIV of the VHWMR (Rulemaking Petitions and Procedures) in cases of applications or petitions under 40 CFR 268.44.

Treatment standards for hazardous debris, alternative treatment standards	268.45 - 268.46	20-60-268 A	X			
Universal treatment standards	268.48, except 268.48/Table UTS	20-60-268 A	X			
Table UTS - Universal treatment standards	268.48/Table UTS	20-60-268 A	X (9/12/94 FR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994, as amended by Rule 137 (59 FR 47982-48110 September 19, 1994). Virginia has not adopted the changes addressed by Rule 137.1 (60 FR 242-302 January 3, 1995).

### SUBPART E - PROHIBITIONS ON STORAGE

Prohibitions on storage of restricted wastes	268.50	20-60-268 A	X			
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# VIRGINIA CONSOLIDATED CHECKLIST C8

Land Disposal Restrictions  
40 CFR Part 268 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

## APPENDICES TO PART 268

Appendices I-IX to Part 268	Part 268, Appendix I - IX	20-60-268 A	X			
Appendix X to Part 268	Part 268, Appendix X	20-60-268 A	X (9/12/94 FR)			

**Interpretive Comment:** Virginia's analog is identical to the 40 CFR as of July 1, 1994, as amended by Rule 137 (59 FR 47982-48110 September 19, 1994). Virginia has not adopted the changes addressed by Rule 137.1 (60 FR 242-302 January 3, 1995).

## VII. REQUIREMENTS FOR PERMITS

Federal Authority: RCRA §§3005 and 7004; 40 CFR 271.13 and 271.14, as amended April 1, 1983 (48 FR 14146), June 30, 1983 (48 FR 30113), and September 22, 1986 (51 FR 33712).

*A. State statutes and regulations provide permit requirements consistent with the specifications of 40 CFR 271.13 and 271.14 as indicated in Consolidated Checklist C9 (formerly Checklist V) which includes the amendments of Revision Checklists 1, 2, 6, 11, 14, 17 D, 17 F, 17 L, 17 M, 17 N, 17 O, 17 P, 17 Q, 17 S, 23, 24, 28, 34, 35, 38, 39, 40, 44 A, 44 C, 44 D, 44 E, 44 F, 44 G, 45, 48, 52, 54, 59, 60, 61, 64, 70, 78, 79, 82, 83, 85, 87, 92, 94, 100, 109, 121, 124, 126, 142A, 142B, 142C, and 142D.*

Federal Authority: RCRA §§3005 and 7004; 40 CFR Parts 124 and 270, as amended January 28, 1983 (48 FR 3977), April 1, 1983 (48 FR 14146), June 30, 1983 (48 FR 30113), September 1, 1983 (48 FR 39611), April 24, 1984 (49 FR 17716), December 4, 1984 (49 FR 47390), January 14, 1985 (50 FR 1978), July 15, 1985 (50 FR 28702), March 24, 1986 (51 FR 10146), May 2, 1986 (51 FR 16422), July 14, 1986 (51 FR 25422), August 15, 1986 (51 FR 29430), November 7, 1986 (51 FR 40572), March 16, 1987 (52 FR 8072), June 22, 1987 (52 FR 23447), September 9, 1987 (52 FR 33936), July 8, 1987 (52 FR 25760), July 9, 1987 (52 FR 25942), December 1, 1987 (52 FR 45788), December 10, 1987 (52 FR 46946), July 19, 1988 (53 FR 27164), July 26, 1988 (53 FR 28118), September 2, 1988 (53 FR 34079), September 26, 1988 (53 FR 37396), September 28, 1988 (53 FR 37912), October 24, 1988 (53 FR 41649), January 4, 1989 (54 FR 246), January 9, 1989 (54 FR 615), January 30, 1989 (54 FR 4286), March 7, 1989 (54 FR 9596), August 14, 1989 (54 FR 33376), June 1, 1990 (55 FR 22520), June 21, 1990 (55 FR 25454), December 6, 1990 (55 FR 50450), January 31, 1991 (56 FR 3864), February 21, 1991 (56 FR 7134), April 26, 1991 (56 FR 19290), July 1, 1991 (56 FR 30192), July 17, 1991 (56 FR 32688), January 29, 1992 (57 FR 3462), August 18, 1992 (57 FR 37194), February 16, 1993 (58 FR 8658), May 24, 1993 (58 FR 28506), August 31, 1993 (58 FR 46040), and May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402, 10.1-1426, 10.1-1427, 2.1-342(A).  
9 VAC 20-60-14 B, 20-60-17 A, 20-60-18, 20-60-70 E & F, 20-60-124, 20-60-270, 20-60-970  
through 20-60-1250, Appendix 11.2, effective February 17, 1999.

Interpretive Remarks

The authority for the Commonwealth's requirements for permits derives from the Virginia Code §§ 10.1-1402, 10.1-1426, 10.1-1427 and 2.1-342(A). The provisions of §§ 10.1-1402(1) and 10.1-1402(11) give the Board the authority to "supervise and control waste management activities in the Commonwealth" and to "promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts."

Va Code § 10.1-1426 states that no person shall transport, store, provide treatment for, or dispose of a hazardous waste without a permit from the Director. Under subsection C of that section, any permit shall contain the conditions or requirements required by the Board's regulations and the federal acts. The applicable federal requirements would include RCRA §§ 3005(c)(3) and 7004. Coupled with the broad enabling power of § 10.1-1402, § 10.1-1426 provides authority for Virginia's hazardous waste permits to reflect the following provisions of RCRA: §§ 3001(d), 3004(v) and (w), 3005(g) (in part), 3015(b), and 3019(a). With the additional authority provided in § 10.1-1402(18), the Commonwealth's permits can require corrective action as is provided in § 3004(u) and (v) of RCRA. The Commonwealth's requirement regarding transporter permits is broader in scope than the federal permit requirements.

Va Code § 10.1-1427 addresses the revocation, suspension or amendment of permits. § 10.1-1427(A)(1) provides that the Director may revoke, amend or suspend a permit if the holder violates a regulation or order of the Board, a condition of a permit, any provision of the VWMA, or any order of a court, where such violation results in a release or poses a threat of release of harmful substances into the environment or presents a hazard to human health. Revocation, suspension, or amendment is also allowed when:

- § 10.1-1427(A) (2)      The person to whom the permit was issued abandons, sells, leases or ceases to operate the facility that was permitted;
- § 10.1-1427(A)(3)      The facilities used in managing the waste are operated, located, constructed or maintained in a manner to pose a substantial present or potential hazard to human health or the environment;
- § 10.1-1427(A)(4)      Protective construction or equipment that is reasonable, technologically feasible and necessary § 10.1-1427 has not been installed at the facility;  
or
- § 10.1-1427(A)(5)      Key facility personnel have been convicted of specified crimes or found to have committed serious environmental violations.

Virginia Code § 10.1-1427(B) specifies additional circumstances under which the Director may amend or attach conditions to a permit. Amendment or additional conditions are allowed when:

- § 10.1-1427(B)(1)      There has been a "significant change in the manner and scope of operation" so that permit changes are needed to protect public health and the environment.

- § 10.1-1427(B)(2) A possibility of pollution causing “significant adverse effects” exists.
- § 10.1-1427(B)(3) Investigation has shown the need for additional equipment, construction, procedures and testing in order to protect public health and the environment.
- § 10.1-1427(B)(4) The amendment is necessary to meet changes in applicable regulatory requirements.

Section 10.1-1426(A) requires that any person who transports, stores, provides treatment for or disposes of hazardous waste must obtain a permit from the Director. This requirement does not prohibit the use of permit by regulation, such as the use of interim status.

Virginia’s authority for interim status operation of facilities is contained in § 10.1-1402(11) which provides that the Board has the authority to “[p]romulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts...” Additionally, § 10.1-1402(9) requires the Board to consult and coordinate with other state and federal agencies in order to achieve maximum effectiveness and enforcement of the hazardous waste laws “while imposing the least burden of duplicative requirements” on those persons subject to regulation. These provisions, along with §10.1-1426, authorize the Board to provide for permits by rule and interim status.

Section 10.1-1402 provides authority for Virginia to terminate automatically the interim status of waste management facilities and require interim status facilities to comply with specific engineering standards. The Board’s greater power to allow interim status would encompass the lesser power, required by RCRA § 3005, to terminate interim status automatically. Virginia also would have the power to regulate interim status, as required by RCRA § 3005(j), because of its general regulatory authority in §§ 10.1-1402(1) and 10.1-1402(11).

The power to waive permit regulations for research and development facilities is a HSWA requirement. Section 10.1-1402(11) specifically gives the Board authority to provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of the VWMA and the federal acts. Also, § 10.1-1402(9) authorizes the Board to:

*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 chapter while imposing the least burden of duplicative requirements on those persons subject to the provisions of this chapter.*

Virginia’s authority to adopt federal permits also is supported by Va. Code § 10.1-1402(9) and 14-2(11). 9 VAC 20-60-970 D provides for State recognition of valid federal HWM permits, provided the operator submits a request for adoption along with a copy of the federal permit to the Director and the facility “remains in compliance with all the conditions specified in the federal permit and the requirements of these regulations.” Thus, the State scheme requires owner and operator compliance with the federal permit, and relieves the owner and operator of the burden of applying for a state permit until the expiration of his state-recognized federal permit.

Under 9 VAC 20-60-270 A, Virginia has incorporated by reference the federal provisions at 40 CFR Part 270 (in effect as of June 30, 1995 and published on July 1, 1995), subject to certain additions, modifications, exceptions and clarifications 9 VAC 20-60-270 B and C. In addition, Part XI of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-960, et seq.) contains requirements from the incorporated text of 40 CFR Part 270, Subpart A and additional requirements and clarifications. Part XI also contains the Commonwealth's analogs to the 40 CFR Part 124 provisions required for authorization. As stated in 9 VAC 20-60-270 C, "*The incorporation by reference of 40 CFR Part 270 shall be considered as supporting Part XI . . . and any apparent conflict between the incorporated text and the Part XI text shall be resolved by compliance with Part XI. Except where the requirements of Part XI and 9 VAC 20-60-270 are mutually exclusive, compliance with both are required. No conflict shall be assumed to exist until the director renders a written opinion that a conflict exists and indicates the nature of the conflict.*"

The Commonwealth's authority for its public participation regulations is derived from the broad authority provided by Va. Code §§ 10.1-1402(1) and (11). Furthermore, all official records are open to inspection and copying by any citizen of the Commonwealth under the Virginia Freedom of Information Act, Code §§ 2.1-340 through 346.1. Also, at 9 VAC 20-60-70 E & F, the Commonwealth requires that dockets of all permitting actions, enforcement actions and administrative actions relative to the regulations be available to the public for review, consistent the Administrative Process Act and the provisions of the Virginia Freedom of Information Act. Although certain listed records are excluded from this requirement in Code § 2.1-342.01, no exception includes names and addresses of permittees or permit applicants or reports received under the regulations. Code § 2.1-340.1 declares that the Act is to be liberally construed to favor accessibility and the exceptions are to be narrowly construed.

The Commonwealth's provisions are identical to, or are a reworded, but equivalent version of, the federal provisions in 40 CFR Parts 270 and 124, except for the provisions identified in Consolidated Checklist C9 in Subsection VII.B.

**B. Consolidated Checklist C9 — 40 CFR Parts 124 and 270 as of June 30, 1995 and Commonwealth Analogs**

**General Statement:** At 9 VAC 20-60-270 B1, the Commonwealth adds the following sentence to the listings of universal waste found in 40 CFR: "In addition to the hazardous wastes listed herein, the term "universal waste" and all lists of universal waste or waste subject to provision of 40 CFR 273 shall include those hazardous wastes listed in Part XVI ... as universal wastes, under such terms and requirements as shall therein be ascribed." The Commonwealth's provisions at Part XVI includes mercury-containing lamps as universal wastes. The Commonwealth is not seeking authorization for mercury-containing lamps.

Under 9 VAC-20-60-270 C, the Director is given authority to determine whether a regulatory conflict exists between Part XI (9 VAC 20-60-960, et seq.) and 9 VAC 20-60-270 (federal code 40 CFR Part 270 adopted by reference). Unless the requirements of Part XI and 9 VAC 20-60-270 are mutually exclusive, compliance with both is required. The regulations in Part XI and 9 VAC 20-60-270 having been reviewed, no mutually exclusive conflict has been identified between these two sets of regulations. In accordance with 9 VAC 20-60-270C, no such conflict shall be assumed to exist.

**VIRGINIA CONSOLIDATED CHECKLIST C9**  
 EPA Administered Permit Program: The Hazardous Waste  
 Permit Program; Procedures for Decision Making  
 40 CFR Parts 270 and 124 as of June 30, 1995  
 as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**PART 270 - EPA ADMINISTERED PERMIT PROGRAMS:  
 THE HAZARDOUS WASTE PERMIT PROGRAM**

**SUBPART A - GENERAL INFORMATION**

o/o permit and post-closure permit requirements	270.1(c)	20-60-970	X			
facilities for which RCRA permits are required	270.1(c)(1)	20-60-270 A 20-60-970 A	X			
	270.1(c)(1)(I)	20-60-270 A	X			
	270.1(c)(1)(ii)	20-60-270 A 20-60-970 A 1	X			
	270.1(c)(1)(iii)	20-60-270 A 20-60-970 A 2	X			
persons not required to obtain a RCRA permit	270.1(c)(2)	20-60-270 A 20-60-970 B	X			
	270.1(c)(2)(I)	20-60-270 A 20-60-970 B 1	X			
	270.1(c)(2)(ii)	20-60-270 A 20-60-970 B 2	X			
	270.1(c)(2)(iii)	20-60-270 A 20-60-970 B 3	X			
	270.1(c)(2)(iv)	20-60-270 A 20-60-970 B 4	X			
	270.1(c)(2)(v)	20-60-270 A 20-60-970 B 5	X			
	270.1(c)(2)(vi)	20-60-270 A 20-60-970 B 6	X			
	270.1(c)(2)(vii)	20-60-270 A 20-60-970 B 7	X			
	270.1(c)(2)(viii)	20-60-270 A 20-60-970 B 9 20-60-970 B 9 a	X			

**VIRGINIA CONSOLIDATED CHECKLIST C9**  
EPA Administered Permit Program: The Hazardous Waste  
Permit Program; Procedures for Decision Making  
40 CFR Parts 270 and 124 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
	270.1(c)(2)(viii) (A)	20-60-270 A 20-60-970 B 9 20-60-970 B 9 a	X			
	270.1(c)(2)(viii) (B)	20-60-270 A 20-60-970 B 9 20-60-970 B 9 a	X			
	270.1(c)(2)(viii) (C)	20-60-270 A 20-60-970 B 9 20-60-970 B 9 a	X			
	no federal analog	20-60-970 B 9 b	X			

**Interpretive Comment:** Virginia is not seeking authorization for the regulation of mercury-containing lamps as a universal waste.

	270.1(c)(3)(I)	20-60-970 B 8 a	X			
	270.1(c)(3)(I)(A)	20-60-970 B 8 a 1	X			
	270.1(c)(3)(I)(B)	20-60-970 B 8 a 2	X			
	270.1(c)(3)(I)(C)	20-60-970 B 8 a 3	X			
further exclusions from RCRA permit requirements	270.1(c)(3)(ii)	20-60-970 B 8 b	X			X, as it relates to fees

**Interpretive Comment:** Virginia's provision at 9 VAC 20-60-970 B 8 b includes the requirements in Part XII, which addresses permit application fees and are broader in scope.

prohibition of treating, storing or disposing of hazardous waste by means of underground injection	No federal analog	20-60-270 B 4 20-60-970 C			X	
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**Interpretive Comment:** At 9 VAC 20-60-270 B 4 and 20-60-970 C, the Commonwealth prohibits disposal of hazardous waste by underground injection.



# **VIRGINIA CONSOLIDATED CHECKLIST C9**

EPA Administered Permit Program: The Hazardous Waste  
Permit Program; Procedures for Decision Making  
40 CFR Parts 270 and 124 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
validity of federal HWM permits	No direct federal analog; see 270.51	20-60-970 D	X			

**Interpretive Comment:** Virginia's provision at 9 VAC 20-60-970 D addresses the validity of federal hazardous waste permits. Two conditions are described: (1) the continuation of unexpired RCRA permits issued by EPA and (2) federal permits issued pursuant to HSWA requirements. The Commonwealth's requirements are consistent with and equivalent to the federal requirements at 40 CFR 270.51, and the federal requirements under HSWA.

permits for less than an entire facility	270.1(c)(4)	20-60-970 E	X			
post-closure permit unless closure by removal or decontamination; how demonstration may be made:	270.1(c)(5)	20-60-970 F	X			
	270.1(c)(5)(I)	20-60-970 F 1	X			
	270.1(c)(5)(ii)	20-60-970 F 2	X			
	270.1(c)(5)(ii)(A)	20-60-970 F 2 a	X			
	270.1(c)(5)(ii)(B)	20-60-970 F 2 b	X			
procedures for closure equivalency determination; public hearing; written statement if closure fails standards; subject to post-closure permitting requirements	270.1(c)(6)(I)	20-60-970 G 1	X			
	270.1(c)(6)(ii)	20-60-970 G 2	X			
	270.1(c)(6)(iii)	20-60-970 G 3	X			
1  Definitions, except as listed below	270.2	No analogs	Virginia has not adopted most of the federal provisions found in 40 CFR 270.2 (which is not required for authorization). However, in order to clarify its regulations, the Commonwealth has defined a number of terms, as indicated below.			
2  "Administrator"	270.2	20-60-17 A	X			



**VIRGINIA CONSOLIDATED CHECKLIST C9**  
EPA Administered Permit Program: The Hazardous Waste  
Permit Program; Procedures for Decision Making  
40 CFR Parts 270 and 124 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
"Application, Part A	No federal analog; 270.2 related	20-60-17 A	X			
"Application, Part B"	No federal analog; 270.2 related	20-60-17 A	X			
"Approved program or approved State"	270.2	20-60-14 B 4 20-60-17 A	X			
"Authorization (authorized program)"	No federal analog; 270.2 related	20-60-17 A	X			
"Director"	270.2	20-60-17 A	X			
"emergency permit"	270.2	20-60-17 A	X			
"EPA"	270.2	20-60-17 A 20-60-14 B 2	X			
"permit"	270.2	20-60-17 A	X			
"Permitted hazardous waste management facility (or permitted facility)"	No federal analog; 270.2 related	20-60-17 A	X			
"RCRA"	270.2	20-60-17 A	X			
"universal waste"	No federal analog; 270.2 related	20-60-270 B 1	X			
effects of compliance with RCRA permit	270.4(a)	20-60-1100 A 20-60-270 A	X			
	270.4(a)(1)	20-60-1100 A 20-60-270 A	X			
	270.4(a)(2)	20-60-270 A 20-60-1100 A	X (7/1/94 CFR)			

# VIRGINIA CONSOLIDATED CHECKLIST C9

EPA Administered Permit Program: The Hazardous Waste  
Permit Program; Procedures for Decision Making  
40 CFR Parts 270 and 124 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
	270.4(a)(3)	20-60-1100 A 20-60-270 B 5	X (7/1/94 CFR)			

**Interpretive Comment:** Virginia's analogs to 40 CFR 270.4(a)(2)&(3) are equivalent to the federal requirements as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953 December 6, 1994).

effects of compliance with RCRA permit	270.4(a)(4)	No Commonwealth analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896-62953 December 6, 1994).			
property rights or exclusive privilege not conveyed by permit	270.4(b)	20-60-270 A 20-60-1100 B	X			
permit does not authorize injury/infringement	270.4(c)	20-60-270 A 20-60-1100 C	X			
preparation and submittal of reports by Director	270.5 intro	20-60-270 A & 20-60-270 B 2 & 3	X			
quarterly and annual reports; schedule	270.5(a)-(c)	20-60-270 A	X			
publications incorporated by reference; available at the Office of the Federal Register; approved by Director; incorporation and changes	270.6(a) & (b)	No analog	Virginia has not adopted an analog to 40 CFR 270.6. Note that this federal provision is not required for authorization.			

## SUBPART B - PERMIT APPLICATION

permit application	270.10(a)	20-60-980 A	X			
who applies/signs	270.10(b)	20-60-980 B	X			
completeness	270.10(c)	20-60-980 C 1, C 2, C 4, C 5	X			

**VIRGINIA CONSOLIDATED CHECKLIST C9**  
EPA Administered Permit Program: The Hazardous Waste  
Permit Program; Procedures for Decision Making  
40 CFR Parts 270 and 124 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
information requirements	270.10(d)	20-60-980 C 3	X			
when existing HWM facilities must submit Part A of their permit application	270.10(e)(1)	20-60-980 D 1 a	X			
	270.10(e)(1)(I)	20-60-980 D 1 a 1	X			
	270.10(e)(1)(ii)	20-62-980 D 1 a 2	X			
	No federal analog	20-60-980 D 1 b	X			
	270.10(e)(1)(iii)	20-60-980 D 1 c	X			

**Interpretive Comment:** At 9 VAC 20-60-980 D 1 b, the Commonwealth requires that, in those cases where the Part A application was submitted to EPA, the permit applicant must submit a copy of the Part A application to the Director. The Commonwealth also requires that such submission must satisfy the requirements in 9 VAC 20-60-980 D 1 a (the Commonwealth's analog to 40 CFR 270.10(e)(1)). This is consistent with and equivalent to the federal requirements.

extension of Part A due date using <u>Federal Register</u>	270.10(e)(2)	No analog			X	
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**Interpretive Comment:** Virginia does not have an analog to 40 CFR 270.10(e)(2), which allows the EPA Administrator to extend the submission date for Part A of the permit application, if there has been substantial confusion regarding (1) whether or not the facility actually requires permitting or (2) if the confusion can be attributed to ambiguities in the federal code. Therefore, the Commonwealth is more stringent.

Part A due date extension using RCRA 3008 compliance order	270.10(e)(3)	20-60-980 D 1 a 3 & 4	X 7/1/94 CFR			
submission of Part B	270.10(e)(4)	20-60-980 D 2 & 3	X 4/1/94			

**Interpretive Comment:** Virginia's analog is equivalent to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 144 (60 FR 33911-33915 June 29, 1995).

failure to furnish a Part B	270.10(e)(5)	20-60-980 D 4	X			
	270.10(f)(1)	20-60-980 E 1	X			

permits for new HWM facilities

# VIRGINIA CONSOLIDATED CHECKLIST C9

EPA Administered Permit Program: The Hazardous Waste  
Permit Program; Procedures for Decision Making  
40 CFR Parts 270 and 124 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
	270.10(f)(2)	20-60-980 E 2	X (7/1/94 CFR)			
	270.10(f)(3)	20-60-980 E 3	X			

**Interpretive Comment:** Virginia's analog to 270.10(f)(2) is equivalent to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 144 (60 FR 33911-33915 June 29, 1995).

updating permit applications	270.10(g)(1)	20-60-980 F 1	X (7/1/94 CFR)			
	270.10(g)(1)(I)	No direct analog	The Commonwealth has not adopted an analog to 40 CFR 270.10(g)(1)(I), which addresses provisions for States that have not received interim or final authorization			
	270.10(g)(1)(ii)	20-60-980 F 1 a	X (7/1/94 CFR)			
	270.10(g)(1)(iii)	20-60-980 F 1 b	X (7/1/94 CFR)			
	270.10(g)(2)	20-60-980 F 2	X			

**Interpretive Comment:** Virginia's analog to 270.10(g)(1) is equivalent to the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 144 (60 FR 33911-33915 June 29, 1995).

permit reapplications	270.10(h)	20-60-980 G	X			
permit application fees	No federal analog	20-60-980 I				X

**Interpretive Comment:** The Commonwealth's provision at 9 VAC 20-60-980 I addresses permit application fees, which are broader in scope than the federal program.

recordkeeping	270.10(I)	20-60-1020	X			
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**VIRGINIA CONSOLIDATED CHECKLIST C9**  
EPA Administered Permit Program: The Hazardous Waste.  
Permit Program; Procedures for Decision Making  
40 CFR Parts 270 and 124 as of June 30, 1995  
as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
exposure information must be included in Part B application after August 8, 1985	270.10(j)(1)	20-60-980 J 1	X			
	270.10(j)(1)(I)	20-60-980 J 1 a	X			
	270.10(j)(1)(ii)	20-60-980 J 1 b	X			
	270.10(j)(1)(iii)	20-60-980 J 1 c	X			
	270.10(j)(2)	21-60-980 J 2	X			
information for permit conditions	270.10(k)	20-60-980 K	X			
who should sign permit applications	270.11(a)	20-60-1030 A	X			
	270.11(a)(1)	20-60-1030 A 1	X			
	270.11(a)(2)	20-60-1030 A 2	X			
	270.11(a)(3)	20-60-1030 A 3	X			
who should sign reports	270.11(b)	20-60-1030 B	X			
	270.11(b)(1)	20-60-1030 B 1	X			
	270.11(b)(2)	20-60-1030 B 2	X			
	270.11(b)(3)	20-60-1030 B 3	X			
changes to authorization	270.11(c)	20-30-1030 C	X			
certification by signatories	270.11(d)	20-60-1030 D	X			
confidential business information claims	270.12(a)	No analog	The Commonwealth does not provide for Confidential Business Information			
denial of claims	270.12(b)	No analog	The Commonwealth does not provide for Confidential Business Information			

**Interpretive Comment:** Virginia has not adopted an analog to 40 CFR 270.12 because unlike RCRA and the regulations that implement it, Virginia's hazardous waste management laws and regulations, and its Freedom of Information Act and implementing regulations, do not provide for the confidentiality of trade secrets submitted to the Department. To the extent that Virginia does not afford such protection to applicants, its program may be considered more stringent.

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
information which must be included in Part A of the permit application	270.13	20-60-1000	X			
	270.13(a)	20-60-1000 A	X			
	270.13(b)	20-60-1000 B & D	X			
	270.13(c)	20-60-1000 C	X			
	270.13(d)	20-60-1000 I	X			
	270.13(e)	20-60-1000 E	X			
	270.13(f)	No analog	There are no federally recognized Indian Lands in Virginia.			
	270.13(g)	20-60-1000 F	X			
	270.13(h) intro & (h)(1)	20-60-1000 G	X			
	270.13(h)(2)	20-60-1000 H	X			
	270.13(I)	20-60-1000 M	X			
	270.13(j)	20-60-1000 N	X			
	270.13(k)	20-60-1000 J	X			
	270.13(k)(1)& (k) (3)- (k)(9)	20-60-1000 J 1-8	X			
	270.13(k)(2)	No analog; 20-60-270 B 4			X	
	270.13(l)	20-60-1000 K	X			
	270.13(m)	20-60-1000 L	X			

**Interpretive Comment:** Virginia prohibits underground injection of hazardous wastes. Therefore, the Commonwealth is more stringent at 20-60-270 B 4.

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
for hazardous debris; description of debris category(ies) and contaminant category (ies) to be treated, stored or disposed of at facility	270.13(n)	20-60-1000 N	X			
general information requirements; specific requirements as in 270.14-270.29; <del>and</del> compliance with Part 264 standards; case-by- case allowances; 270.11 requirements; registered professional engineer certification	270.14(a)	20-60-1010 A	X			
general information required for all HWM facilities:	270.14(b)	20-60-1010 B	X			
general facility description	270.14(b)(1)	20-60-1010 B 1	X			
chemical and physical analyses	270.14(b)(2)	20-60-1010 B 2	X			
copy of waste analysis plan	270.14(b)(3)	20-60-1010 B 3	X			
description of security procedures and equipment	270.14(b)(4)	20-60-1010 B 4	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
copy of general inspection schedule	270.14(b)(5)	20-60-1010 B 5			X (7/1/94 CFR)	

**Interpretive Comment:** Virginia's analog to 40 CFR 270.14(b)(5) is more stringent than the 40 CFR as of July 1, 1994. Virginia has not adopted the changes addressed by Revision Checklist 154 (59 FR 62896-62953 December 6, 1994). In addition to referencing the appropriate federal regulations in this paragraph, Virginia references an additional provision, 40 CFR 264.573, which addresses the design and operating requirements for drip pads. Thus, the Commonwealth requires a copy of specific inspection schedules for drip pads, which the federal code does not require. As such, Virginia's regulations are more stringent than the federal code.

justification of waiver(s) request for preparedness and prevention	270.14(b)(6)	20-60-1010 B 6	X			
copy of contingency plan	270.14(b)(7)	20-60-1010 B 7	X			
description of various procedures, structures or equipment used at the facility to prevent emergencies/hazardous waste releases	270.14(b)(8)	20-60-1010 B 8	X			
	270.14(b)(8)(I) a	20-60-1010 B 8	X			
	270.14(b)(8)(ii) b	20-60-1010 B 8	X			
	270.14(b)(8)(iii) c	20-60-1010 B 8	X			
	270.14(b)(8)(iv) d	20-60-1010 B 8	X			
	270.14(b)(8)(v) e	20-60-1010 B 8	X			
	270.14(b)(8)(vi) f	20-60-1010 B 8 f	X			
description of precautions to prevent accidental ignition or reaction of wastes	270.14(b)(9)	20-60-1010 B 9	X			



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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
traffic pattern, volume and control	270.14(b)(10)	20-60-1010 B 10			X	

**Interpretive Comment:** At 9 VAC 20-60-1010 B 10, Virginia requires applicants to describe access road surfacing and load bearing capacity, and to show traffic control signals. The Commonwealth's regulation is more stringent.

facility location information; seismic standard; political jurisdiction	270.14(b)(11)(I) & (ii)	No analog	Virginia does not have analogs to 40 CFR 270.14(b)(11)(I)&(ii) because the Commonwealth does not have seismic standards.			
100-year floodplain identification requirement (excluding comment)	270.14(b)(11)(iii)	20-60-1010 C 1	X			
information requirements for facilities located in the 100-year floodplain	270.14(b)(11)(iv)	20-60-1010 C 2	X			
	270.14(b)(11)(iv) (A)	20-60-1010 C 2 a	X			
	270.14(b)(11)(iv) (B)	20-60-1010 C 2 b	X			
	270.14(b)(11)(iv) (C)	20-60-1010 C 2 c	X			
	270.14(b)(11)(iv) (C)(1)	20-60-1010 C 2 c 1	X			
	270.14(b)(11)(iv) (C)(2)	20-60-1010 C 2 c 2	X			
	270.14(b)(11)(iv) (C)(3)	20-60-1010 C 2 c 3	X			
	270.14(b)(11)(iv) (C)(4)	20-60-1010 C 2 c 4	X			
plan and schedule for compliance with 264.18 (b)	270.14(b)(11)(v)	20-60-1010 C 3	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
outline of introductory and continuing training programs	270.14(b)(12)	20-60-1010 D	X			
specific requirements for closure and post- closure plans	270.14(b)(13) - (17)	20-60-1010 E - H	X			
proof of coverage by a State financial mechanism	270.14(b)(18)	No analog	Per EPA's IBR Guidance Document, Virginia has not adopted an analog to 40 CFR 270.14(b)(18), which requires proof of coverage by a State financial mechanism in compliance with 264.149 and 264.150.			
topographic map requirements and specifications; specific requirements	270.14(b)(19)	20-60-1010 I	X			
submittal of information to Regional Administrator as necessary	270.14(b)(20)	20-60-1010 I 13	X			
copy of notice of approval for extension under 268.5 or petition under 268.6	270.14(b)(21)	20-60-1010 J	X			
additional information requirements for protection of groundwater; information required for solid waste management units	270.14(c) & (d)	20-60-1010 L & M	X			
Specific information requirements	No direct analog	20-60-1010 K	X			
additional information requirements	270.15	20-60-1010 K 1	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
what containment system description must show for compliance with 264.175	270.15(a)	20-60-1010 K 1 a	X			
	270.15(a)(1) - (5)	20-60-1010 K 1 a 1 - 5	X			
if no free liquids, what demonstration of compliance with 264.175(c) must include	270.15(b)	20-60-1010 K 1 d	X			
	270.15(b)(1) & (2)	20-60-1010 K 1 d 1 & 2	X			
compliance with 264.176 and 264.177(c)	270.15(c)	20-60-1010 K 1 b	X			
compliance with 264.177(a)&(b) and 264.17(b)&(c)	270.15(d)	20-60-1010 K 1 c	X			
information on air emission control equipment as required in 270.27	270.15(e)	No analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896- 62953 December 6, 1994).			
information facility owners/operators using tanks must provide	270.16	20-60-1010 K 2	X			
information requirements	270.16(a) - (g)	20-60-1010 K 2 a - g	X			
information requirements for systems for which a variance from 264.193 will be sought	270.16(h)	20-60-1010 K 2 h	X			
	270.16(h)(1)	20-60-1010 K 2 h 1	X			
	270.16(h)(2)	20-60-1010 K 2 h 2	X			
description of controls and practices to prevent spills and overflows	270.16(I)	20-60-1010 K 2 I	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
description of design and operation of tank systems handling ignitable, reactive, or incompatible wastes	270.16(j)	20-60-1010 K 2 j	X			
information on air emission control equipment as required in 270.27	270.16(k)	No analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896-62953 December 6, 1994).			
information required from facility owner/operator using surface impoundments:	270.17 intro - 270.17(h), except 270.17(d)	20-60-1010 K 3 except 20-60- 1010 K 3 d	X			
certification by qualified engineer regarding structural integrity of each dike	270.17(d)	20-60-1010 K 3 d			X	
<b>Interpretive Comment:</b> At 9 VAC 20-60-1010 K 3 d, Virginia requires that certification of the integrity of dikes be made by a "qualified <u>professional</u> engineer". Virginia's provision is more stringent than the federal code.						
waste management plan for F020, F021, F022, F023, F026 and F027 wastes	270.17(I) intro	20-60-1010 K 3 I	X			
	270.17(I)(1) - (4)	20-60-1010 K 3 I 1 - 4	X			
information on air emission control equipment as required in 270.27	270.17(j)	No analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896-62953 December 6, 1994).			
additional information requirements for facility owners/operators using waste piles for hazardous wastes	270.18 intro	20-60-1010 K 4	X			
list of hazardous wastes placed or to be placed in waste pile	270.18(a)	20-60-1010 K 4 a	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
requirements if exemption is sought	270.18(b)	20-60-1010 K 4 b			X	
<b>Interpretive Comment:</b> At 9 VAC 20-60-1010 K 4 b, Virginia requires an explanation of how the standards of 264.250(c) will be complied with <u>and</u> detailed plans and an engineering report describing how the requirements of 264.90(b)(2) will be met. This is more stringent than the federal requirements.						
detailed plans and an engineering report; 264.19, 264.251, 264.252, and 264.253 items which must be addressed	270.18(c) intro	20-60-1010 K 4 c	X			
	270.18(c)(1)(I)	20-60-1010 K 4 c 1 a	X			
	270.18(c)(1)(ii) - (v)	20-60-1010 K 4 c 1 b - e	X			
	270.18(c)(2) - (5)	20-60-1010 K 4 c 2 - 5	X			
Reserved	No analog	20-60-1010 K 4 d	Reserved			
description of inspections; treatment done on or in pile, details of process and equipment used; ignitable or reactive wastes, compliance with 264.256; incompatible wastes, compliance with 264.257	270.18(d) - (g)	20-60-1010 K 4 e - h	X			
description of removal procedures or compliance with 264.310(a)&(b)	270.18(h)	20-60-1010 K 4 I	X			
waste management plan for F020, F021, F022, F023, F026 and F027 wastes	270.18(I)	20-60-1010 K 4 j	X			
	270.18(I)(1)	20-60-1010 K 4 j 1	X			
	270.18(I)(2) - (4)	20-60-1010 K 4 j 2 - 4	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
incinerators of hazardous waste must meet 270.19(a),(b)&(c), except as 264.340 provides otherwise	270.19 intro-(c)	20-60-1010 K 5 intro-K 5 c	X			
approval of permit application without a trial burn	270.19(d)	20-60-1010 K 5 d	X			
	270.19(d)(1)	20-60-1010 K 5 d 1	X			
	270.19(d)(2)	20-60-1010 K 5 d 2	X			
additional information requirements for facilities that use land treatment	270.20	20-60-1010 K 6	X			
description of plans for treatment demonstration	270.20(a)-(d)	20-60-1010 K 6 a-d	X			
presence of cadmium	270.20(e)	20-60-1010 K 6 e	X			
vegetative cover and maintenance plan during post-closure; ignitable or reactive wastes; meeting 264.281; incompatible wastes; meeting 264.282; waste management plan for F020, F021, F022, F023, F026 and F027 wastes	270.20(f)-(I)	20-60-1010 K 6 f-I	X			
additional information requirements for facilities using landfills	270.21	20-60-1010 K 7	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
list of hazardous wastes to be placed in each landfill or landfill cell	270.21(a)	20-60-1010 K 7 a	X			
detailed plans and engineering report for landfill; 264.19, 264.301, 264.302, and 264.303 items which must be addressed	270.21(b)	20-60-1010 K 7 b	X			
	270.21(b)(1)(I)	20-60-1010 K 7 b 1 a	X			
	270.21(b)(1)(ii)	20-60-1010 K 7 b 1 b	X			
	270.21(b)(1)(iii)	20-60-1010 K 7 b 1 c	X			
	270.21(b)(1)(iv)	20-60-1010 K 7 b 1 d	X			
	270.21(b)(1)(v)	20-60-1010 K 7 b 1 e	X			
	270.21(b)(2) - (5)	20-60-1010 K 7 b 2 - 5	X			
Reserved	No analog	20-60-1010 K 7 c	Reserved			
if exemption from Subpart F, Part 264, then detailed plan and engineering report explaining specifically listed items; description of inspections	270.21(c) & (d)	20-60-1010 K 7 d	X			
description of cover and maintenance procedures during post closure; closure/post-closure plans; wastes meeting 264.312 or 264.313	270.21(e) - (g)	20-60-1010 K 7 e - g	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
liquid waste or wastes containing free liquids prior to May 8, 1985; meeting 264.314(a)	270.21(h)	20-60-1010 K 7 h	X			
containers of hazardous waste, meeting 264.315 or 264.316	270.21(I)	20-60-1010 K 7 I	X			
waste management plan for F020, F021, F022, F023, F026, and F027	270.21(j)	20-60-1010 K 7 j	X			
	270.21(j)(1) - (4)	20-60-1010 K 7 j 1 - 4	X			
Part B information requirements for boilers and industrial furnaces	270.22	20-60-1010 K 11	X			
additional information for facilities using miscellaneous units	270.23	20-60-1010 K 8	X			
additional information that must be provided by owners and operators of facilities that have process vents to which Subpart AA of Part 264 applies, except as provided in 264.1	270.24 intro	20-60-1010 K 9	X			



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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
implementation schedule as specified in 264.1033(a)(2) for facilities that cannot install a closed-vent system and control device to comply with Part 264 Subpart AA provisions on the effective date the facility becomes subject to Part 264 or Part 265 Subpart AA provisions	270.24(a)-(d)	20-60-1010 K 9 a-d	X			
additional information that must be provided by owners and operators of facilities that have equipment to which Subpart BB of Part 264 applies, except as provided in 264.1	270.25 intro	20-60-1010 K 10	X			
for each piece of equipment to which Subpart BB of Part 264 applies:	270.25(a)-(e)	20-60-1010 K 10 a-e	X			
additional information to be provided by owners and operators of hazardous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads, except as otherwise provided by 264.1	270.26	20-60-1010 K 12	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
additional information regarding air emission controls	270.27	No analog	Virginia is not applying for revisions made by Checklist 154 (59 FR 62896- 62953 December 6, 1994).			
Director denial of entire permit application or as to active life of hazardous waste facility or unit	270.29	20-60-1250	X			

## SUBPART C - PERMIT CONDITIONS

conditions that will be incorporated into all permits	270.30	20-60-1060	X			
duty to comply	270.30(a)	20-60-1060 A	X			
duty to reapply; need to halt or reduce activity not a defense; event of noncompliance with permit; permittee's responsibilities	270.30(b) - (d)	20-60-1060 B - D	X			
proper operation and maintenance	270.30(e)	20-60-1060 E	X			
permit actions	270.30(f)	20-60-1060 F	X			
property rights	270.30(g)	20-60-1060 G	X			
duty to provide information	270.30(h)	20-60-1060 H	X			
	270.30(I)	20-60-1060 I	X			
	270.30(I)(1)	20-60-1060 I 1	X			
	270.30(I)(2)	20-60-1060 I 2	X			
	270.30(I)(3)	20-60-1060 I 3	X			
inspection and entry	270.30(I)(4)	20-60-1060 I 4	X			
monitoring and records	270.30(j)	20-60-1060 J	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
signatory requirements	270.30(k)	20-60-1060 K	X			
reporting requirements	270.30(l)	20-60-1060 L	X			
planned changes to facility	270.30(l)(1)	20-60-1060 L 1			X	

**Interpretive Comment:** At 9 VAC 20-60-1060 L 1, Virginia is more stringent, in that the Commonwealth specifies that the notice must be a written notice.

planned changes resulting in non- compliance with permit; permittee may not treat, store or dispose of hazardous waste until certain specified conditions are met	270.30(l)(2)	20-60-1060 L 2	X			
	270.30(l)(2)(I)	20-60-1060 L 2 a			X	
	270.30(l)(2)(ii) (A) & (B)	20-60-1060 L 2 b 1 & 2	X			

**Interpretive Comment:** At 20-60-1060 L 2 a, Virginia is more stringent because the Commonwealth requires that the professional engineer must be registered by the Commonwealth.

permit not transferable except after notice to Director; what Director may require	270.30(l)(3)	20-60-1060 L 3	X			
reports	270.30(l)(4) - (6)	20-60-1060 L 4- 6	X			
submittal of reports	270.30(l)(7) - (9)	20-60-1060 L 7- 9	X			
submittal of other non- compliance reports & information	270.30(l)(10) & (11)	20-60-1060 L 10 & 11	X			
Reserved	No analog	20-60-1070	Reserved			
all permits shall specify: requirements for monitoring equipment or methods	270.31	20-60-1130 A	X			
conditions established on a case-by-case basis	270.32(a)	20-60-1080 A 1	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
incorporation of applicable requirements of Parts 264 and 266 through 268	270.32(b)(1)	20-60-1130 B	X			
terms and conditions considered necessary by Director to protect human health and environment	270.32(b)(2)	20-60-1080 A 2	X			
what an applicable requirement is	270.32(c)	20-60-1080 B & B 1	X			
Reserved	No analog	20-60-1080 B 2	Reserved			
incorporation of applicable requirements into new, reissued, modified or revoked and reissued permits, expressly or by reference	270.32(d) & (e)	20-60-1080 C & D	X			
permit may specify a schedule of compliance	270.33	20-60-1120 A & B	X			

**SUBPART D - CHANGES TO PERMIT**

transfers if modification	270.40(a) & (b)	20-60-1110 A & B	X			
cause for modification or revocation and reissuance	270.41 intro	20-60-1150	X			X, as it relates to fees

**Interpretive Comment:** The last sentence of the Virginia's 9 VAC 20-60-1150 is broader in scope because it addresses permit fees. Otherwise the requirements are equivalent.

causes for modification but not for revocation and reissuance unless permittee requests or agrees	270.41(a)	20-60-1150 A	X			
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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
alterations or additions	270.41(a)(1)	20-60-1150 A 1	X			
information received by Director	270.41(a)(2)	20-60-1150 A 2	X			
new statutory requirements or regulations	270.41(a)(3)	20-60-1150 A 3	X			
modification of compliance schedules	270.41(a)(4)	20-60-1150 A 4	X			
additional modifications	No direct federal analog; related to 264.112(c), 264.118(d), 264.113, 264.117 (a)-(c), 264.147 (d), 264.100, 264.98, 264.99	20-60-1150 A 5	X			
<b>Interpretive Comment:</b> At 9 VAC 20-60-1150 A 5, Virginia has restated provisions from 264.112(c), 264.118(d), 264.113, 264.117(a)-(c), 264.147(d), 264.100, 264.98, 264.99 regarding permit modifications. The Commonwealth's provisions are equivalent and consistent with the federal provisions at these citations.						
when permit reviewed under 270.50(d); Director may modify permit as necessary for compliance	270.41(a)(5)	20-60-1150 A 6	X			
causes for modification or revocation and reissuance	270.41(b)	20-60-1150 B	X			
facility siting	270.41(c)	20-60-1150 C	X			
putting into effect Class 1 modifications as listed in 270.42 Appendix I; conditions:	270.42(a)(1)	20-60-1170 A 1	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
notification of Director by permittee	270.42(a)(1)(I)	20-60-1170 A 1 a	X			X, as it relates to fees

**Interpretive Comment:** The last sentence of the Virginia's 9 VAC 20-60-1170 A 1 a is broader in scope because it addresses permit fee requirements. Otherwise the requirements are equivalent.

to whom notice of modification must be sent and when	270.42(a)(1)(ii)	20-60-1170 A 1 b	X			
rejection of modification by Director	270.42(a)(1)(iii)	20-60-1170 A 1 c	X			
modifications requiring prior written approval	270.42(a)(2)	20-60-1170 A 2	X			
Class 2 procedures instead of Class 1 procedures	270.42(a)(3)	20-60-1170 A 3	X			
Class 2 modifications as listed in 270.42 Appendix I; what request must include:	270.42(b)(1)	20-60-1170 B 1	X			
description of exact changes; identification; modification	270.42(b)(1)(I) - (iii)	20-60-1170 B 1 a - c	X			
provision of applicable information	270.42(b)(1)(iv)	20-60-1170 B 1 d	X			
proposed facility mailing list	No direct federal analog; see 124.10(c)(1)(ix)	20-60-1170 B 1 e	X			

**Interpretive Comment:** At 9 VAC 20-60-1170 B 1 e, Virginia requires the permit applicant to provide a proposed facility mailing list. Under 40 CFR 124.10(c)(1)(ix), the federal code requires the facility mailing list to be maintained by EPA, but does not specify who develops the initial list.

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
to whom notice must be sent and when; what notice must include:	270.42(b)(2)	20-60-1170 B 2	X			
notification requirements	270.42(b)(2)(i)- (iv)	20-60-1170 B 2 a-f	X			
placement of modification request copy in vicinity of facility for public access	270.42(b)(3)	20-60-1170 B 3	X			
when and where permittee must hold a public meeting	270.42(b)(4)	20-60-1170 B 4			X	

**Interpretive Comment:** Virginia requires that the public meeting be held no earlier than 30 days after the publication of the public notice. The Commonwealth is more stringent in that the public has a longer time period (a maximum of 30 days compared to a maximum of 15 days under the federal) between the public notice and the meeting, and the regulated community has a shorter time span (15 days compared to the 30 days under federal) during which to schedule the public meeting.

public comment period	270.42(b)(5)	20-60-1170 B 5	X			
requirements after receipt of modification request:	270.42(b)(6)(I)	20-60-1170 B 6 a and b	X			X, as it relates to fees

**Interpretive Comment:** At 9 VAC 20-60-1170 B 6 a, the Commonwealth allows the Director 60 days from the receipt of the notification request and the appropriate fees, whichever is later, to determine whether the information submitted is sufficient to make an adequate decision. There is no analog to this Commonwealth procedural provision in the federal code. However, like the federal code, the Commonwealth requires the Director to make a final decision on the request within 90 days. The Virginia provision is broader in scope as it applies to appropriate fees at 20-60-1170 B 6 a and b.

decision requirements	270.42(b)(6)(I) (A) - (E)	20-60-1170 B 6 b 1-5	X			
requirements if decision is extended for 30 days:	270.42(b)(6)(ii)	20-60-1170 B 6 c	X			
action on request	270.42(b)(6)(ii) (A) - (D)	20-60-1170 B 6 c 1 - 4	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
temporary or automatic authorization following failure to make decision	270.42(b)(6)(iii)	20-60-1170 B 6 d	X			
requirements of permittee under temporary or automatic authorization:	270.42(b)(6)(iv) (A)	20-60-1170 B 6 e 1	X			
temporary authorization to conduct activities as in modification request	270.42(b)(6)(iv) (A)(1)	20-60-1170 B 6 e 1 a	X			
unless final approval or denial, authorization for life of permit	270.42(b)(6)(iv) (A)(2)	20-60-1170 B 6 e 1 b	X			
deferment of permanent authorization if failure to notify public	270.42(b)(6)(iv) (B)	20-60-1170 B 6 e 2	X			
if no final approval or denial or reclassification, authority to conduct activities as described in modification request for life of permit unless later modification	270.42(b)(6)(v)	20-60-1170 B 6 f	X			
consideration and response to all significant comments	270.42(b)(6)(vi)	20-60-1170 B 6 g	X			
extension of time periods for final approval, denial or reclassification as Class 3	270.42(b)(6)(vii)	20-60-1170 B 6 h	X			
reasons to deny; commencement of construction	270.42(b)(7) & (8)	20-60-1170 B 7 & 8	X			



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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
requirements for Class 3 modifications listed in 270.42 Appendix I	270.42(c)(1)	20-60-1170 C 1	X			
specific requirements	270.42(c)(1)(I) - (iv)	20-60-1170 C 1 a - d	X			
proposed facility mailing list	No direct federal analog; see 124.10(c)(1)(ix)	20-60-1170 C 1e	X			

**Interpretive Comment:** At 9 VAC 20-60-1170 C 1 e, Virginia requires the permit applicant to provide a proposed facility mailing list. Under 40 CFR 124.10(c)(1)(ix), the federal code requires the facility-mailing list to be maintained by EPA, but does not specify who develops the initial list.

to whom and when notice must be sent; what notice must include:	270.42(c)(2)	20-60-1170 C 2	X			
announcement of a 60- day comment period	270.42(c)(2)(I)	20-60-1170 C 2 a	X			
notification requirements	270.42(c)(2)(ii) - (vi)	20-60-1170 C 2 b - f	X			
placement of modification request copy in vicinity of facility for public access	270.42(c)(3)	20-60-1170 C 3	X			
when and where permittee must hold a public meeting	270.42(c)(4)	20-60-1170 C 4			X	

**Interpretive Comment:** Virginia requires that the public meeting be held no earlier than 30 days after the publication of the public notice. The Commonwealth is more stringent in that the public has a longer time period (a maximum of 30 days compared to a maximum of 15 days under the federal) between the public notice and the meeting, and the regulated community has a shorter time span (15 days compared to the 30 days under federal) during which to schedule the public meeting. This requirement is more stringent.

public comment period	270.42(c)(5)	20-60-1170 C 5	X			
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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
grant or deny modification request after public comment period; consider and respond to all significant written comments	270.42(c)(6)	20-60-1170 C 6	X			
notification by Director to persons on mailing list about status of modification requests	No federal analog in 270.42(c); analogous to 124.15(a) which is not required for State authorization	20-60-1170 C 7			X	

**Interpretive Comment:** At 20-60-1170 C 7 (related to 40 CFR 124.15, which is not required for authorization), the Commonwealth requires the Director to notify persons on the facility mailing list and appropriate units of Commonwealth and local government within ten days if a decision to grant or deny a major modification request goes into effect. Under the federal provisions at 40 CFR 124.15, only persons who submitted written comments or requested notice of the final permit decision are notified. This requirement is more stringent.

other modifications not explicitly listed in Appendix I	270.42(d)	20-60-1170 D	X			
granting of temporary authorizations	270.42(e)(1)	20-60-1170 E 1	X			
temporary authorization may be requested for:	270.42(e)(2)(I)	20-60-1170 E 2 a	X			
Class 2 modification meeting criteria	270.42(e)(2)(I) (A)	20-60-1170 E 2 a 1	X			
Class 3 modification meeting criteria and providing improved management or treatment	270.42(e)(2)(I)(B)	20-60-1170 E 2 a 2	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
what temporary authorization request must include:	270.42(e)(2)(ii)	20-60-1170 E 2 b	X			
description of activities; temporary authorization; information for compliance	270.42(e)(2)(ii) (A) - (c)	20-60-1170 E 2 b 1 - 3	X			
to whom notice must be sent	270.42(e)(2)(iii)	20-60-1170 E 2 c	X			
approve or deny temporary authorization quickly; basis for decision:	270.42(e)(3)	20-60-1170 E 3	X			
authorized activities in compliance with Part 264	270.42(e)(3)(I)	20-60-1170 E 3 a	X			
necessity of temporary authorization to achieve an objective:	270.42(e)(3)(ii)	20-60-1170 E 3 b	X			
facilitate closure or corrective action activities	270.42(e)(3)(ii) (A)	20-60-1170 E 3 b 1	X			
allow treatment or storage in tanks or containers, or in containment buildings	270.42(e)(3)(ii) (B)	20-60-1170 E 3 b 2	X			
prevent disruption of ongoing activities; response; protection of health & environment	270.42(e)(3)(ii) (C) - (E)	20-60-1170 E 3 b 3 - 5	X			
reissuance of temporary authorization for Class 2 or 3	270.42(e)(4)	20-60-1170 E 4	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
when and to whom notification of grant, denial or automatic authorization decisions must be sent	270.42(f)(1)	20-60-1170 B 9	X			
appeal of grant or denial decision	270.42(f)(2)	20-60-1170 F 1	X			
appeal of automatic authorization	270.42(f)(3)	20-60-1170 F 2	X			
newly regulated wastes and units	270.42(g)	20-60-1170 G	X			
continued authority to manage wastes listed in Part 261 or continue to manage hazardous wastes in units newly regulated as hazardous waste management units if:	270.42(g)(1)	20-60-1170 G 1	X			
unit in existence as a hazardous waste facility on effective date of final rule listing or identifying waste or regulating the unit	270.42(g)(1)(I)	20-60-1170 G 1 a	X			
submit Class 1 modification request	270.42(g)(1)(ii)	20-60-1170 G 1 b	X			
in compliance with 265 and 266 standards	270.42(g)(1)(iii)	20-60-1170 G 1 c	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
for Class 2 or 3 modifications, submit complete modification request within 180 days of effective date of rule listing or identifying waste or subjecting unit to Subtitle C management requirements	270.42(g)(1)(iv)	20-60-1170 G 1 d	X			
certification that land disposal units are in compliance within 12 months	270.42(g)(1)(v)	20-60-1170 G 1 e	X			
expansions are not under 25 percent capacity limit for Class 2 modifications	270.42(g)(2)	20-60-1170 G 2	X			
maintenance and notice of updated list of permit modifications	270.42(h)	MOA	X			

**Interpretive Comment:** The Commonwealth has no analog to 40 CFR 270.42(h) in its regulations. In the MOA the Commonwealth has agreed to maintain a list of all approved permit modifications and must publish a notice once a year in a State-wide newspaper that an updated list is available for review. The Director is authorized to enter into and carry out the provisions of a Memorandum of Agreement (MOA) between the Commonwealth and EPA by Va. Code § 10.1-1404, -1405.

270.42(I) through 270.42(p) removed	270.42(I)-(p)	Reserved				
Reserved	No federal analog	Appendix 11.1	Reserved			
Appendix I; classification of modifications, except as noted below	270.42, Appendix I except as noted below	Appendix 11.2 except as noted below	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
other changes in frequency of or procedures	270.42, Appendix I, A(4)(b)	Appendix 11.2, A(4)(b)			X	

**Interpretive Comment:** 40 CFR 270.42, Appendix I, A(4)(b) addresses "Other changes in frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee". Virginia has listed the more stringent class code, "C", compared to the federal "2". This change makes Virginia's regulations more stringent than the federal code.

other changes to waste sampling or analysis method	270.42 Appendix I, B(1)(d)	Appendix 11.2, B(1)(d)			X	
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**Interpretive Comment:** 40 CFR 270.42, Appendix I, B(1)(d) addresses "Other changes to waste sampling or analysis method". Virginia has listed the more stringent class code, "C", compared to the federal "2". This change makes Virginia's regulations more stringent than the federal code.

other changes to analytical QA/control plan	270.42, Appendix I, B(2)(b)	Appendix 11.2, B(2)(b)			X	
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**Interpretive Comment:** 40 CFR 270.42, Appendix I, B(2)(b) addresses "Other changes to analytical QA/control plan". Virginia has listed the more stringent class code, "C", compared to the federal "2". This change makes Virginia's regulations more stringent than the federal code.

changes in the training plan	270.42, Appendix I, B(5)(a) & (b)	Appendix 11.2, B(5)(a) & (b)			X	
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**Interpretive Comment:** Virginia's B(5)(b), which reads "Other changes" is analogous to the federal code's B(5)(a), which reads "That affect the type or decrease the amount of training given to employees". Virginia's provision is more stringent than the federal code as it requires a Class 3 modification, while the federal code requires a Class 2 for permit modifications that affect the type or decrease the amount of training to employees.

changes to wells	270.42, Appendix I, C(1)(a)	Appendix 11.2, C(1)(a)			X	
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**Interpretive Comment:** 40 CFR 270.42, Appendix I, C(1)(a) addresses "Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted groundwater monitoring system". Virginia has listed the more stringent class code, "C", compared to the federal "2". This change makes Virginia's regulations more stringent than the federal code.

changes in statistical procedures	270.42, Appendix I, C(3)	Appendix 11.2, C(3)			X	
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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**Interpretive Comment:** 40 CFR 270.42, Appendix I, C(3) addresses "Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred". Virginia has listed the more stringent class code, "B", compared to the federal "1" (with prior Agency approval). This change makes Virginia's regulations more stringent than the federal code.

replacement of waste pile unit	270.42, Appendix 1, I(3)	Appendix 11.2, I (3)			X	
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**Interpretive Comment:** 40 CFR 270.42, Appendix I, I(3) addresses "Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste conditions of the permit". Virginia has listed the more stringent class code, "B", compared to the federal "1". This change makes Virginia's regulations more stringent than the federal code.

modification of waste pile management practice	270.42, Appendix 1, I(4)	Appendix 11.2, I (4)			X	
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**Interpretive Comment:** 40 CFR 270.42, Appendix I, I(4) addresses "Modification of waste pile management practice". Virginia has listed the more stringent class code, "C", compared to the federal "2". This change makes Virginia's regulations more stringent than the federal code.

substitution of alternate type of nonhazardous waste fuel	270.42, Appendix 1, L(8)	Appendix 11.2, L(8)			X	
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**Interpretive Comment:** 40 CFR 270.42, Appendix I, L(8) addresses "Substitution of an alternate type of nonhazardous waste fuel that is not specified in the permit". Virginia has listed the more stringent class code, "B", compared to the federal "1". This change makes Virginia's regulations more stringent than the federal code.

causes for terminating a permit	270.43(a)	20-60-1160 A	X			
Director shall follow applicable Part 124 or Commonwealth procedures	270.43(b)	20-60-1160 B	X			

**SUBPART E - EXPIRATION AND CONTINUATION OF PERMITS**

duration of permits	270.50	20-60-1090	X			
continuation of expiring permits	270.51 intro	20-60-980 H 1, 20-60-980 H 4	X			

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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
when timely reapplication is submitted; new permit not issued by Director	270.51(a)(1) & (2)	20-60-980 H 1 a & b	X			
permits remain fully effective and enforceable	270.51(b)	20-60-980 H 2	X			
Directors options when permittee not in compliance	270.51(c)	20-60-980 H 3	X			
initiate enforcement action	270.51(c)(1)	20-60-980 H 3 a	X			
issue notice of intent to deny the new permit	270.51(c)(2)	20-60-980 H 3 b	X			
issue a new permit	270.51(c)(3)	20-60-980 H 3 c	X			
take other actions	270.51(c)(4)	20-60-980 H 3 d	X			

**SUBPART F - SPECIAL FORMS OF PERMITS**

RCRA permit by rule if listed conditions are met	270.60	20-60-1040	X			
ocean disposal barges or vessels; specific conditions:	270.60(a)	20-60-1040 A	X			
permit under Part 220	270.60(a)(1)	20-60-1040 A 1	X			
compliance with conditions of that permit	270.60(a)(2)	20-60-1040 A 2	X			
compliance with specified hazardous waste regulations	270.60(a)(3)	20-60-1040 A 3	X			
injection wells	270.60(b)	20-60-270 B 4			X	

**Interpretive Comment:** Virginia prohibits underground injection of hazardous wastes. Therefore, the Commonwealth is more stringent at 20-60-270 B 4.



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			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
publicly owned treatment works; specific conditions:	270.60(c)	20-60-1040 B	X			
NPDES permit	270.60(c)(1)	20-60-1040 B 1	X			
compliance with conditions of permit	270.60(c)(2)	20-60-1040 B 2	X			
compliance with specified regulations	270.60(c)(3)	20-60-1040 B 3	X			
waste meets all pretreatment requirements	270.60(c)(4)	20-60-1040 B 4	X			
temporary emergency permit	270.61(a)	20-60-1050 A	X			
	270.61(b)(1) - (5)	20-60-1050 A 1- 5	X			
conditions of emergency permit	270.61(b)(6)	20-60-1050 A 6	X			X, as it relates to fees

**Interpretive Comment:** Virginia's provision at 9 VAC 20-60-1050 A 6 includes the requirements in Part XII addressing permit application fees, which are broader in scope than the federal requirements. Otherwise, it is equivalent to the federal requirements.

permit conditions to determine operational readiness; trial burn; permit modification	270.62(a)	20-60-1050 B 1	X			
submittal of statement with Part B for compliance with 264.343	270.62(a)(1)-(2)	20-60-1050 B 1 a-b	X			
permit conditions during trial burn; trial burn plan, Part B	270.62(b) intro	20-60-1050 B 2	X			
description of what trial burn plan must include	270.62(b)(1)-(b) (4)	20-60-1050 B 2 a-d	X			

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 as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
conditions for approval of trial burn plan by Director	270.62(b)(5) intro	20-60-1050 B 2 e	X			
	270.62(b)(5)(I)-(iii)	20-60-1050 B 2 e 1- e 3	X			
	270.62(b)(5)(iv)	20-60-1050 B 2 e 4	X			
determinations to be made during trial burn; certification; submittal of data; operating requirements	270.62(b)(6) - (10)	20-60-1050 B 2 f - j	X			
establishment of permit conditions following trial burn; permit application for existing incinerator	270.62(c) & (d)	20-60-1050 B 3 & 4	X			
treatment demonstration permit containing 264.272(c) requirements	270.63(a)	20-60-1050 C 1	X			
conditions for phased permit; effectiveness	270.63(b)	20-60-1050 C 2	X			
	270.63(b)(1)	20-60-1050 C 2 a	X			
	270.63(b)(2)	20-60-1050 C 2 b	X			
submittal of certification and data	270.63(c)	20-60-1050 C 3	X			
modification of second phase of permit to comply with Part 264, Subpart M	270.63(d)	20-60-1050 C 4	X			

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EPA Administered Permit Program: The Hazardous Waste  
Permit Program; Procedures for Decision Making  
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as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
permit modification under 270.42 or 270.41 (a)(2); when second phase of permit becomes effective	270.63(d)(1)	20-60-1050 C 4 a	X			
no second phase modifications; notice of final decision	270.63(d)(2)	20-60-1050 C 4 b	X			
issuance of UIC permit; compliance with Part 264, Subpart R; maximum of two years	270.64	No analog			X	

**Interpretive Comment:** The Commonwealth has not adopted an analog to 40 CFR 270.64 regarding the issuance of UIC permits because Virginia does not allow for the underground injection of hazardous wastes; therefore, the Commonwealth is more stringent.

permit for experimental activity not promulgated under Part 264 or 266; permit provisions	270.65(a)	20-60-1050 D 1	X			
construction of facilities; receipt and treatment of necessary wastes; requirements to protect health and environment	270.65(a)(1) - (3)	20-60-1050 D 1 a - c	X			
modify or waive Parts 124 and 270 requirements except financial responsibility	270.65(b)	20-60-1050 D 2	X			X, as it relates to fees

**Interpretive Comment:** Virginia's provision at 9 VAC 20-60-1050 D 2 includes the requirements in Part XII addressing permit application fees, which are broader in scope than the federal requirements. Otherwise, it is equivalent to the federal requirements.

immediate termination as necessary; maximum renewal	270.65(c) & (d)	20-60-1050 D 3 & 4	X			
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**VIRGINIA CONSOLIDATED CHECKLIST C9**  
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 40 CFR Parts 270 and 124 as of June 30, 1995  
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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
new boilers and industrial furnaces subject to 270.66(b)-(f); those under interim status standards of 266.103 subject to 270.66(g)	270.66	20-60-1050 E	X			
Reserved	No federal analog	20-60-1050 F-H	Reserved			

**SUBPART G - INTERIM STATUS**

existing HWM facility; treated as having been issued permit provided:	270.70(a)	20-60-990 A 1	X			
compliance with section 3010(a) of RCRA	270.70(a)(1)	20-60-990 A 1 a	X			
compliance with 270.10	270.70(a)(2)	20-60-990 A 1 b	X			
denial of interim status	No direct federal analog	20-60-990 A 2 a	X			

**Interpretive Comment:** The Virginia provision at 9 VAC 20-60-990 A 2 a gives the Director the authority to deny interim status, "if at the time the Part A application is submitted, the facility is in violation of any regulation of the Department of Environmental Quality so as to pose a substantial present or potential hazard to human health or environment." While this language is not found in the federal regulations under 40 CFR 270.70, it is consistent

failure to qualify	270.70(b)	20-60-990 A 2 b	X			
determination to deny interim status; appeal procedures	No direct federal analog: Part 124 General Procedures	20-60-990 A 3 & A 4	X			

**Interpretive Comment:** At 9 VAC 20-60-990 A 3, Virginia requires the Director to notify the owners or operators in writing of denial of interim status, state the reasons for denial and to inform the owner or operator that he is subject to enforcement action for operation without a permit. The 9 VAC 20-60-990 A 4 provision describes the appeal procedures for interim status denials. The federal code does not include such language; however, the Commonwealth's provisions are consistent with the federal Part 124 procedures as found at 124.6(e) and 124.15 regarding permit denials

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
previous denial of RCRA permit or authority to operate terminated	270.70(c)	20-60-990 A 5	X			
restrictions during interim status period	270.71(a)	20-60-990 B	X			
compliance with Part 265	270.71(b)	No direct analog: 20-60-264 A 20-60-265 A	X			
allowed changes at interim status facility	270.72(a)	20-60-990 C 1	X			
new hazardous wastes not identified in Part A application; addition of TSD units; submittal of revised Part A	270.72(a)(1)	20-60-990 C 1 a	X			
increases in design capacity	270.72(a)(2)	20-60-990 C 1 b	X			
lack of available capacity	270.72(a)(2)(I)	20-60-990 C 1 b 1	X			
compliance with Federal, Commonwealth or local requirement	270.72(a)(2)(ii)	20-6-990 C 1 b 2	X			
changes or addition of processes; revised Part A permit application	270.72(a)(3)	20-60-990 C 1 c	X			
emergency situation	270.72(a)(3)(I)	20-60-990 C 1 c 1	X			
compliance with Federal, Commonwealth or local requirement	270.72(a)(3)(ii)	20-60-990 C 1 c 2	X			

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
changes in ownership or operational control; compliance demonstrations; transfer of duties	270.72(a)(4)	20-60-990 C 1 d	X			
changes made in accordance with corrective action or court order; changes limited to releases that originate within facility boundary	270.72(a)(5)	20-60-990 C 1 e	X			
newly regulated units if a revised Part A permit application is submitted on or before the date the unit becomes subject to the new requirements	270.72(a)(6)	20-60-990 C 1 f	X			
changes not allowed if amount to reconstruction of facility; exceptions:	270.72(b)	20-60-990 C 2	X			
changes solely to comply with 265.193	270.72(b)(1)	20-60-990 C 2 a	X			
changes necessary to satisfy standards of 3004(o) because of Federal, Commonwealth, or local requirements	270.72(b)(2)	20-60-990 C 2 b	X			

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EPA Administered Permit Program: The Hazardous Waste  
Permit Program; Procedures for Decision Making  
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as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
changes necessary to allow continuing treatment of newly listed or identified wastes treated, stored or disposed of prior to rule's effective date, changes in plan	270.72(b)(3) - (5)	20-60-990 C 2 c-e	X			
changes to treat or store, in tanks, containers or containment buildings wastes subject to 268 or RCRA Section 3004 land disposal restrictions	270.72(b)(6)	20-60-990 C 2 f	X			
addition of newly regulated units under 270.72(a)(6)	270.72(b)(7)	20-60-990 C 2 g	X			
when interim status terminates	270.73	20-60-990 D 1	X			
final administrative disposition of a permit application	270.73(a)	20-60-990 D 2	X			
terminated as provided in 270.10(e)(5)	270.73(b)	20-60-990 D 2 a	X			
reasons for termination	No direct federal analog: implied by federal code	20-60-990 D 2 b-e	X			

**Interpretive Comment:** At 9 VAC 20-60-990 D 2 b-e, Virginia includes additional conditions under which interim status may be terminated. These include: (1) failure to furnish any required information; (2) falsification, misrepresentation or failure to disclose any information submitted or required to be kept; (3) violation of any requirement under Chapter 990; and (4) a determination that the facility poses a significant threat to public health or the environment.

voluntary termination	No direct federal analog	20-60-990 D 3	X			
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# **VIRGINIA CONSOLIDATED CHECKLIST C9**

EPA Administered Permit Program: The Hazardous Waste  
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40 CFR Parts 270 and 124 as of June 30, 1995  
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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**Interpretive Comment:** At 9 VAC 20-60-990 D 3, Virginia allows the Director to terminate the interim status upon receiving a voluntary request for such action from the owner or operator of a facility, and provided (1) the request is received prior to the issuance of the Part B application and (2) the request is accompanied by a waiver of procedures.

automatic termination	No direct federal analog 270.73 (c)	20-60-990 E	X			
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**Interpretive Comment:** Virginia's 9 VAC 20-60-990 A 1 a (analog to 40 CFR 270.72(a)(1)) provides that any owner or operator of an existing hazardous waste management facility has interim status to the extent that he has notified the Director "and has qualified for interim status in the opinion of U.S. EPA." Therefore, the determination of whether a facility has interim status depends upon the ongoing determination by EPA that it is qualified. If and when EPA determines a facility to be unqualified for any of the reasons specified in RCRA § 3005(c), or for any other reason, Virginia simultaneously terminates interim status without a hearing. This termination procedure is separate and apart from the procedures for termination for cause provided in 20-60-990 E. Therefore, by force of federal laws and Virginia regulation, interim status in Virginia must terminate automatically as required.

termination of interim status for land disposal facility granted interim status prior to November 8, 1984 on November 8, 1985, unless:	270.73(c)	20-60-990 E 1	X			
Part B submittal	270.73(c)(1)	20-60-990 E 1 a	X			
certification of compliance with groundwater monitoring and financial responsibility requirements	270.73(c)(2)	20-60-990 E 1 b	X			
for land disposal facility in existence on the effective date of statutory or regulatory amendment, twelve months after RCRA permit requirement; exceptions:	270.73(d)	20-60-990 E 2	X			



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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
submittal of Part B application	270.73(d)(1)	20-60-990 E 2 a	X			
certification of compliance with groundwater monitoring and financial responsibility requirements	270.73(d)(2)	20-60-990 E 2 b	X			
for land disposal units operating under 270.72 (a)(1), (2), or (3); 12 months after effective date unless certification of compliance	270.73(e)	20-60-990 E 3	X			
for incinerators, which have achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1989 unless Part B applications by November 8, 1986	270.73(f)	20-60-990 E 4	X			
any facility (other than land disposal or incinerator facility) which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1992 unless Part B applications by November 8, 1988	270.73(g)	20-60-990 E 5	X			
Reserved	No federal analog	20-60-990 F-K	Reserved			
Reserved	No federal analog	20-60-960	Reserved			

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 as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Fees	No federal analog	20-60-1260 20-60-1270 20-60-1280 Appendix 12.1				X

**Interpretive Comment:** The Commonwealth's Part XII of 9 VAC applies to hazardous waste management permit fee regulations. This Part of the Commonwealth's VHWMR is broader in scope than federal.

**PART 124 - PROCEDURES FOR DECISION MAKING**

**SUBPART A - GENERAL PROGRAM REQUIREMENTS APPLICATION FOR A PERMIT**

if permit required, then must submit application; exceptions; when processing shall begin; signature and certification requirements	124.3(a)	20-60-124 A & 20-60-124 B 5	X			
	124.3(a)(1) - (3)	20-60-124 A	X			
who initiates a modification, revocation and reissuance or termination of permit; reasons actions taken	124.5(a)	20-60-124 A 20-60-124 B 5 20-60-1140 A	X			
if request is not justified; denials not subject to public notice, comment or hearings	124.5(b)	20-60-1140 B	X			
modify or revoke and reissue procedures:	124.5(c)(1)	20-60-124 A 20-60-1140 C	X			
only those conditions to be modified shall be reopened; entire permit is reopened if permit revoked and reissued	124.5(c)(2)	20-60-124 A 20-60-1140 C 1	X			
minor modifications are not subject to 124.5	124.5(c)(3)	20-60-124 A 20-60-124 B 5 20-60-1140 C 2	X			

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
termination procedures; notice of intent to terminate	124.5(d)	20-60-124 A 20-60-124 B 2 & B 3 20-60-1140 D	X			
decision to prepare draft or deny application	124.6(a)	20-60-124 B 5 20-60-1180 A	X			
tentative decision to deny permit application	124.6(b)	20-60-1180 B	X			
contents of a draft permit	124.6(d)	20-60-124 B 5 20-60-1180 C	X			
	124.6(d)(1) - (3)	20-60-1180 C 1- 3	X			
	124.6(d)(4)(I)	20-60-124 B 5 20-60-1180 C 4	X			
statement of basis or fact sheet accompanies draft permit; available to public; public hearing; issue final decision; respond to comments; appeals	124.6(e)	20-60-124 B 2 & B 3 20-60-124 B 5 20-60-1180 D	X			
what the fact sheet must be prepared for; what the sheet will set forth; who receives fact sheet	124.8(a)	20-60-124 B 5 20-60-1190 A- A 2	X			
what the fact sheet shall include	124.8(b)	20-60-1190 B	X			
what the Director must give public notice of	124.10(a)(1)	20-60-124 B 5 20-60-1200 A	X			
	124.10(a)(1)(ii)	20-60-1200 A 1	X			
	124.10(a)(1)(iii)	20-60-1200 A 2	X			
timing	124.10(b)	20-60-1200 B	X			

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 as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
	124.10(b)(1)	20-60-124 B 2 & B 3 20-60-1200 B 1	X			
	124.10(b)(2)	20-60-124 B 2 & B 3 20-60-1200 B 2	X			
timing of public notice						
how public notice shall be given	124.10(c)	20-60-1200 C	X			
by mail; persons to whom notice must be mailed	124.10(c)(1)	20-60-1200 C 1	X			
	124.10(c)(1)(I)	20-60-1200 C 1 a	X			
	124.10(c)(1)(ii)	20-60-124 B 4 & 20-60-1200 C 1 b			X	
	124.10(c)(1)(iii)	20-60-1200 C 1 c	X			
	124.10(c)(1)(ix)	20-60-1200 C 1 e	X			
	124.10(c)(1)(ix) (A) - (C)	20-60-1200 C 1 e 1 - 3	X			
	124.10(c)(1)(x) (A)&(B)	20-60-1200 C 1 d	X			

**Interpretive Comment:** At 9 VAC 20-60-1200 C 1 b (analog to 40 CFR 124.10(c)(1)(ii)), Virginia requires that, in addition to any other agency which the Director knows has issued or is required to issue a permit for the same facility or activity, public notice must also be mailed to each Commonwealth agency having an authority under the Commonwealth law with respect to the construction or operation of such a facility.

publication in a newspaper	124.10(c)(2)(I)	20-60-124 A	X			
	124.10(c)(2)(ii)	20-60-1200 C 2	X			
legal notice to public under Commonwealth law	124.10(c)(3)	20-60-124 A	X			

**VIRGINIA CONSOLIDATED CHECKLIST C9**  
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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
any other method to give notice to persons potentially affected	124.10(c)(4)	20-60-1200 C 3	X			
minimum information which must be contained in a public notice	124.10(d)(1)	20-60-1200 D 1	X			
	124.10(d)(1)(I)	20-60-1200 D 1a	X			
	124.10(d)(1)(ii)	20-60-1200 D 1b	X			
	124.10(d)(1)(iii)	20-60-1200 D 1c	X			
	124.10(d)(1)(iv)	20-60-1200 D 1d	X			
	124.10(d)(1)(v)	20-60-1200 D 1e	X			
	124.10(d)(1)(vi)	20-60-124 A	X			
	124.10(d)(1)(ix)	20-60-1200 D 1f	X			
public notices for hearings; contents	124.10(d)(2)	20-60-1200 D 2	X			
	124.10(d)(2)(I)	20-60-1200 D 2a	X			
	124.10(d)(2)(ii)	20-60-1200 D 2b	X			
	124.10(d)(2)(iii)	20-60-1200 D 2c	X			
all persons identified in 124.10(c)(1)(I)-(iv) must be mailed fact sheet, the permit application and the draft permit	124.10(e)	20-60-1200 E			X	

**Interpretive Comment:** At 9 VAC 20-60-1200 E, Virginia includes a reference to its more stringent provision at 20-60-1200 C 1 b (analog to 40 CFR 124.10(c)(1)(ii)). The Commonwealth requires that a fact sheet, the permit application (if any) and the draft permit (if any) must also be mailed to each Commonwealth agency having an authority under the Commonwealth law with respect to the construction or operation of such a facility. The federal code lists specific agencies to receive copies of the listed information.

procedures	124.11	20-60-124 A 20-60-124 B 5 20-60-1210	X			
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**VIRGINIA CONSOLIDATED CHECKLIST C9**  
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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL OR EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
when Director must or may hold a public hearing; how public notice shall be given	124.12(a)(1)	20-60-124 A	X			
	124.12(a)(2)	20-60-1220 B	X			
	124.12(a)(3)(I)	20-60-1220 A	X			
	124.12(a)(3)(ii)	20-60-1220 C 20-60-1220 C 2	X			
	124.12(a)(4)	20-60-1220 C 1	X			
obligation to raise issues	124.13	20-60-1230	X			
Director's response to comments and what it must contain	124.17(a)	20-60-124 A & 20-60-124 B 5 20-60-1240 A	X			
	124.17(a)(1)	20-60-1240 A 1	X			
	124.17(a)(2)	20-60-1240 A 2	X			
response to comments available to the public	124.17(c)	20-60-124 A & 20-60-124 B 5 20-60-1240 B	X			

- <sup>1</sup> At 9 VAC 20-60-12 and 20-60-14, the Commonwealth clarifies the general meaning and use of definitions derived from the Code of Virginia, the incorporation of reference texts, and the substitutions of terms.
- <sup>2</sup> Although the Commonwealth incorporates by reference, certain text from 40 CFR Part 270, and the listed terms and definitions have been specifically included in 9 VAC 20-60-14 B, 20-60-17 A, or 20-60-270 B to clarify either meaning or use in Virginia's regulations.

**VIII. REQUIREMENTS FOR USED OIL MANAGEMENT (RESERVED)**

**IX. DELETED LEGALLY OBSOLETE RULES**

*A. State statutes and regulations do not include changes to remove legally obsolete rules as indicated by Revision Checklist 144 and included in Consolidated Checklists C2, C7 and C9.*

Federal Authority: See the Preamble in Federal Register for Rule 40 CFR 261.31(a), 266.103(c)(5), 266.104(f)-(h), 270.2, 270.10(e)(4), 270.10(f)(2), 270.10(g)(1), as amended June 29, 1995 (60 FR 33912).

Citation of Laws and Regulations; Date of Enactment and Adoption

No Commonwealth analogs.

Interpretive Remarks

At 9 VAC 20-60-18, Virginia has not yet adopted the federal final rule addressed by Revision Checklist 144. The Commonwealth is not seeking authorization for this checklist.

**X. UNIVERSAL WASTES**

*A. State statutes and regulations provide universal waste standards equivalent to 40 CFR Part 273 for: 1) small quantity generators, 2) large quantity handlers, 3) transporters 4) destination facilities, 5) imports of universal wastes, and 6) petitions to include other wastes under the Part 273 requirements. These standards for universal waste management are as indicated in Revision Checklists 142A-142E, and included in Consolidated Checklist C11.*

Federal Authority: RCRA §§3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR Part 273, as amended May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations; Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(1), 10.1-1402(7), 10.1-1402(8), 10.1-1402(11), 10.1-1450, 10.1-1426 A & C. .  
9 VAC 20-60-273, 20-60-305, 20-60-315, 20-60-325, effective February 17, 1999.

Interpretive Remarks

The directives contained in §§ 10.1-1402(1) and 10.1-1402(11) give the Board the authority to “supervise and control waste management activities in the Commonwealth” and to “promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts.” This authority includes authority to promulgate regulations for universal wastes. Additional authority for regulating the activities of generators, transporters and other universal waste handlers is provided by §§ 10.1-1402(7) (recordkeeping, manifests and reporting systems), 10.1-1402(8) (identification and listing of hazardous waste), 10.1-1450 (packaging requirements) and 10.1-1426 A & C (permitting and waiver of permitting requirements).

At 9 VAC 20-60-273 A, Virginia has incorporated by reference the federal provisions at 40 CFR Part 273, subject to certain additions, modifications and exceptions at 9 VAC 20-60-273 B. Except for the provisions identified in Consolidated Checklist C11 in Subsection X.B, the Commonwealth’s provisions are identical to, or a reworded but equivalent version of, the federal provisions in 40 CFR Part 273 as it exists June 30, 1995 (published July 1, 1995). However, in addition to the federal universal wastes, at 9 VAC 20-60-273 B 2 and 20-60-1495, et seq., Virginia regulates a Commonwealth-only universal waste, in the form of mercury-containing lamps. The Commonwealth is not seeking authorization for its provisions for the Commonwealth-only universal waste.

**B. Consolidated Checklist C11— 40 CFR Part 273 as of June 30, 1995 and Commonwealth Analogs**

**VIRGINIA CONSOLIDATED CHECKLIST C11**

Consolidated Checklist for Universal Wastes

40 CFR PART 273 as of June 30, 1995

as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE

**PART 273--STANDARDS FOR UNIVERSAL WASTE MANAGEMENT**

**SUBPART A--GENERAL**

Scope	273.1	20-60-273 A	X			
State-only universal waste -- mercury-containing lamps	No federal analog in Part 273	20-60-273 B 2 20-60-1495 A-B 20-60-1505 A-C	Virginia has adopted regulations for State-only universal waste			

**Interpretive\*Comment:** In addition to the universal wastes included in 40 CFR Part 273, Virginia has defined other wastes addressed in Part XVI (9 VAC 20-60-1495, et seq.) as universal wastes. At 9 VAC 20-60-273 B 2, Virginia clarifies that any references to universal wastes in 40 CFR Part 273 should be interpreted as including the State-only universal wastes. Part XVI currently addresses provisions for mercury-containing lamps. Virginia is not seeking authorization for the regulation of the mercury-containing lamps as universal waste.

Applicability - batteries, pesticides, thermostats, household and conditionally exempt small quantity generator waste	273.2 - 273.5	20-60-273 A	X			
Definitions	273.6	20-60-273 A	X			

**SUBPART B--STANDARDS FOR SMALL QUANTITY HANDLERS OF UNIVERSAL WASTE**

Applicability; prohibitions	273.10-273.11	20-60-273 A	X			
Notification; a small quantity handler of a universal waste is not required to notify EPA	273.12	20-60-273 A 20-60-305 20-60-315 20-60-325	X			



# VIRGINIA CONSOLIDATED CHECKLIST C11

Consolidated Checklist for Universal Wastes

40 CFR PART 273 as of June 30, 1995

as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**Interpretive Comment:** At 9 VAC 20-60-305 through 20-60-325, the Commonwealth has adopted regulations for the notification of hazardous waste management activity. These regulations ensure that all persons who did not notify the EPA, or persons who initiated hazardous waste management activities subsequent to the EPA notification requirements, as specified in the final rule published at 45 FR 12746 (February 26, 1980), notify the Director of their hazardous waste management activities. The Commonwealth's provisions are consistent with the federal notification requirements at RCRA § 3010.

Waste management; labeling/marketing; accumulation time limits; training; response to releases; off-site shipments; universal waste shipment tracking; exports	273.13- 273.20 except 273.13(a)(3)(i)	20-60-273 A	X			
If a characteristic is exhibited, the electrolyte and/or solid waste is subject to Parts 260 through 272, the handler is considered a hazardous waste generator	273.13(a)(3)(i)	20-60-273 A 20-60-273 B 3			X	

**Interpretive Comment:** At 9 VAC 20-60-273 B 3, Virginia also subjects small quantity handlers to the requirements in Parts IV (notification requirements), VII (transporter requirements), XI (permit requirements) and XII (permit fees) of its hazardous waste regulations. The Commonwealth's provision is broader in scope to the extent that it requires transporter permits and permit fees.

## SUBPART C--STANDARDS FOR LARGE QUANTITY HANDLERS OF UNIVERSAL WASTE

Part 273, Subpart C applies to large quantity handlers of universal waste	273.30- 273.40 except 273.32(a)(3)	20-60-273 A	X			
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# **VIRGINIA CONSOLIDATED CHECKLIST C11**

Consolidated Checklist for Universal Wastes

40 CFR PART 273 as of June 30, 1995

as published in the July 1, 1995 CFR

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:			
			IDENTICAL or EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
a large quantity handler of 273.3(a)(1) recalled pesticides who has sent EPA notification as per 40 CFR 165 is not required to notify under 273.32 for those recalled universal wastes	273.32(a)(3)	20-60-273 A 20-60-273 B 1	X			
<b>SUBPART D--STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS</b>						
Part 273, Subpart D applies to universal waste transporters	273.50 -273.56	20-60-273 A	X			
<b>SUBPART E--STANDARDS FOR DESTINATION FACILITIES</b>						
Part 273, Subpart E - Standards for destination facilities	273.60-273.62	20-60-273 A	X			
<b>SUBPART F--IMPORT REQUIREMENTS</b>						
Part 273, Subpart F - Import Requirements	273.70	20-60-273 A	X			
<b>SUBPART G--PETITIONS TO INCLUDE OTHER WASTES UNDER 40 CFR PART 273</b>						
persons seeking to add a hazardous waste or a category, may petition under 260.20, 260.23, and Part 273, Subpart G.	273.80	20-60-273 A	X			
waste or waste category, as generated by a wide variety of generators	273.81(a)-(h)	20-60-273 A	X			

## **XI. INSPECTIONS**

*State law provides authority for officers engaged in compliance evaluation activities to enter any conveyance, vehicle, facility or premises subject to regulation or in which records relevant to program operation are kept in order to inspect, monitor or otherwise investigate compliance with the State program including compliance with permit terms and conditions and other program requirements. (States whose law requires a search warrant prior to entry conform with this requirement.)*

Federal Authority: RCRA §3007; 40 CFR 271.15.

### **Citation of Laws and Regulations: Date of Enactment and Adoption**

1999 Va. Code §§ 10.1-1456 & 19.2-393 through 397.

### **Interpretive Remarks**

Virginia Code § 10.1-1456 provides that the Director or his designee may enter any property to inspect, investigate, evaluate, conduct tests or take samples for testing after appropriate credentials have been presented and consent has been granted by the owner or custodian. The Director's right of entry is not limited to the site of a permitted facility and includes authority to inspect places where records are kept and to copy records. If consent is refused, the Director or his designee may make application to a circuit court for the issuance of an inspection warrant pursuant to Code §§ 19.2-393 through 19.2-397. Such warrants may be obtained to enter and conduct inspections and collect samples in connection with the manufacture, emission, or presence of a toxic substance. The term "toxic substance" as defined in § 19.2-393 includes "any raw material, intermediate product, catalyst, final product and by-product of any operation conducted in a commercial establishment...." This definition would include any material that exhibits the characteristics of ignitability, corrosivity, reactivity, and toxicity characteristic, as defined in 9 VAC 20-60-261, and would encompass the universe of hazardous wastes defined by the Virginia and federal regulations. Virginia 9 VAC 20-60-1060 I provides that the Director or his authorized representative may have access to premises and to copy at reasonable times any records which are kept under the conditions of the permit. The term "property" as used in the context of Code § 10.1-1456 and 19.2-393 includes realty as well as personalty such as vehicles and conveyances.

## **XII. ENFORCEMENT REMEDIES**

State statutes and regulations provide the following:

*A. Authority to restrain immediately by order or by suit in State court any person from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment.*

Federal Authority: RCRA §3006; 40 CFR 271.16(a)(1).

### **Citation of Laws and Regulations: Date of Enactment and Adoption**

1999 Va. Code §§ 10.1-1402(11), 10.1-1402(18), 10.1-1402(19), 10.1-1402(21), 10.1-1455 D & G, 10.1-1182, -1186(6).

### Interpretive Remarks

The Commonwealth has both administrative and judicial mechanisms to stop any unauthorized activity under the Hazardous Waste Program that is endangering public health or the environment. These authorities and mechanisms are summarized as follows. The Board and the Director have available several authorities to restrain any person from engaging in unauthorized activity that is endangering or causing damage to public health or the environment. The Board has been given the statutory authority to "[t]ake actions to contain or clean up sites or to issue orders to require cleanup of sites where solid or hazardous waste, or other substances within the jurisdiction of the Board have been improperly managed." Va. Code §10.1-1402(19). In addition, the Board has the authority to "[m]ake separate orders and regulations it deems necessary to meet any emergency to protect the public health, natural resources and the environment from the release or *imminent threat of release* of waste." Va. Code §10.1-1402(18) (emphasis added). Also, the Board has authority to abate hazards and nuisances *dangerous* to public health, safety or the environment, both emergency and otherwise, created by the improper disposal, treatment, storage, transportation or management of substances within the jurisdiction of the Board." Va. Code §10.1-1402(21) (emphasis added). Nuisance has been defined as "anything that endangers life or health or obstructs the reasonable and comfortable use of property." National Energy Corp. v. O'Quinn, 223 Va. 83, 85, 286 S.E.2d 181, 182 (1982). The Director may act for the Board when it is not in session. Va. Code §10.1-1405.

In addition, the Board and Director have been given several authorities for the issuance of orders and for seeking injunctions. The Board has authority to issue orders to require any person to comply with the provisions of any law administered by the Board, the Director, or the Department, any condition of a permit or certification, or any regulations promulgated by the Board or to comply with any case decision. Va. Code §10.1-1455C. This section requires a hearing under the Virginia Administrative Process Act, Va. Code §9-6.14:12. The Board also has separate authority to issue administrative orders under similar circumstances. Va. Code §10.1-1455G. In addition, the Board has authority to issue special orders after informal administrative procedures, though the penalties in this type of proceeding are limited to \$10,000 and the Director may not delegate his authority for special orders. Va. Code §10.1-1182, -1186(6). The Board has specific authority to issue emergency orders. Va. Code §10.1-1455C, G. Finally, the Commonwealth has authority to seek injunction, mandamus or other appropriate remedy to compel a person to obey regulations, permits, certifications, orders, or provisions of the Waste Management Act. Va. Code §10.1-1455D. Any court with the power to issue injunction decrees is also empowered to grant temporary injunctions, with or without notice to the adverse party. See §§ 8.01-620 to -634. Thus there is authority for immediate restraint of any person from engaging in any unauthorized activity. The Virginia Supreme Court has addressed the question of whether the statutes authorizing -injunctions apply to threatened or continuing violations. The court has stated that:

The purpose to be served by injunctions, whether mandatory or prohibitory, has been the prevention of future wrongs. The function of the mandatory injunction is to undo an existing wrongful condition, but its use is justified only when it appears that, if it is not applied, the wrongful condition is likely to continue. The function of the prohibitory injunction is, not to repair or penalize a wrong previously consummated, but either to maintain the status quo, to restrain the continued commission of an on-going wrong, or to prevent the future commission of an anticipated wrong.

WTAR Radio-TV Corp. v. City Council of Virginia Beach, 216 Va. 892, 894-5, 223 S.E.2d 895, 898 (1976).

Therefore, the power of the Board, or Director on its behalf, to seek injunctions may be directed to threatened or continuing violations.

***B. Authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit.***

Federal Authority: RCRA §3006; 40 CFR 271.16(a)(2).

Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code § 10.1-1455 D.

Interpretive Remarks

The express authority to bring suit for injunctive relief against violations of program requirements is contained in Va. Code § 10.1-1455 D. This provision specifies that any person violating any regulation, order, permit condition, or statute may be compelled to comply therewith by injunction in a proceeding instituted in an appropriate court by the Board or Director. That section imposes no condition precedent upon the Director's ability to seek injunctive relief.

***C. Authority to assess or sue to recover in court civil penalties in at least the amount of \$10,000 per day for any program violation.***

Federal Authority: RCRA §3006; 40 CFR 271.16(a)(3)(I).

Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code § 10.1-1455(A).

Interpretive Remarks

Va. Code § 10.1-1455(A) provides for civil penalties of not more than \$25,000 for each day of violation. This is a more stringent requirement than the maximum of \$10,000 required for State authorization.

***D. Authority to obtain criminal penalties in at least the amount of \$10,000 per day for each violation, and imprisonment for at least six months against any person who knowingly transports any hazardous waste to an unpermitted facility; who treats, stores, or disposes of hazardous waste without a permit; who knowingly transports, treats, stores, disposes, recycles, causes to be transported, or otherwise handles any used oil regulated by EPA under section 3014 of RCRA that is not listed or identified as a hazardous waste under the state's hazardous waste program in violation of standards or regulations for management of such used oil; or who makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of program compliance (including compliance with any standards or regulations for used oil regulated by EPA under section 3014 of RCRA that is not listed or identified as hazardous waste).***

Federal Authority: RCRA §3006; 40 CFR 271.16(a)(3)(ii).

Citation of Laws and Regulations; Date of Enactment and Adoption

1999 Va. Code § 10.1-1455(B).

Interpretive Remarks

Under § 10.1-1455(B), 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 in violation of a permit; or who knowingly makes false statement or representation in any application, disclosure statement, label, manifest, record, report, permit, or other document used for compliance with the hazardous waste program shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than five years and a fine of not more than \$25,000 for each violation, either or both. For State authorization, 40 CFR 271.16(a)(3)(ii) requires States to have the authority to obtain criminal penalties for specific violations in the amount of at least \$10,000 per day for each violation and imprisonment for at least six months. Therefore, Virginia's requirements exceed federal minimum standards for authorization. At Va. Code § 10.1-1400, Virginia has adopted the federal definition for hazardous waste at RCRA § 1004(5). The Commonwealth is not seeking authorization for the used oil program. As required under 40 CFR 271.16(b)(2), the burden of proof and degree of knowledge or intent for establishing violations are not greater than the burden of proof or degree of knowledge or intent required by EPA.

**XIII. PUBLIC PARTICIPATION IN THE STATE ENFORCEMENT PROCESS**

*State laws and regulations provide for public participation in the State enforcement process by providing that the Department of Environmental Quality will:*

- (A) Investigate and provide written response to all citizen complaints duly submitted to the Department;*
- (B) Not oppose intervention by any citizen in a suit brought before a court by the Department as a result of the enforcement action where permissive intervention may be authorized by statute, rule, or regulations; and*
- (C) Publish a notice in major daily or weekly newspaper of general circulation in the area and broadcast over local radio stations; and provide at least 30 days for public comment on any proposed settlement of civil enforcement action, except where the settlement requires immediate action, and in accordance with the Memorandum of Agreement, this exception is limited to situations "which if otherwise delayed could result in substantial damage to either public health or the environment."*

Federal Authority: RCRA §7004; 40 CFR 271.16(d).

Citation of Laws and Regulations; Date of Enactment and Adoption

Va. Rules of Court 2:15 (Nov. 22, 1972).

1999 Va. Code § 10.1-1402(11).

9 VAC 20-60-70 G, effective February 17, 1999.

#### Interpretive Remarks

The authority to provide for public participation is vested in the Board by Va. Code § 10.1-1402(11). The Commonwealth's public participation requirements, set forth above, are largely identical to those at 40 CFR § 271.16(d)(2). The Commonwealth's provision at 9 VAC 20-60-70 G 2 provides that the department will "not oppose intervention by any citizen in a suit brought before a court by the department as a result of enforcement action." Although 9 VAC 20-60-70-G 2 does not employ the exact language of 40 CFR § 271.16(d)(2)(ii), the differences in language do not create a different result. The federal regulation forbids the state agency from opposing intervention by any citizen "where permissive intervention may be authorized by statute, rule, or regulation...." 40 CFR § 271.16(d)(2)(ii). The federal regulation is directed specifically to protecting public participation in the enforcement process, and all actions contemplated thereunder are necessarily brought by the state agency. The Commonwealth rules regarding intervention limit intervention to suits before the court. See Virginia Rules of Court 2:15. In recognition of this, 9 VAC 20-60-70 G 2 contains language to that effect. The state regulation, then, incorporates in its language the state-specific intent of 40 CFR § 271.16(d)(2)(ii). Finally, the provision at 9 VAC 20-60-70 G 3 (analogous to 40 CFR 271.16(d)(2)(iii)), requires public notice and at least 30 days for public comment on proposed settlements of civil enforcement actions "except where the settlement requires some immediate action." The Commonwealth has agreed in the Memorandum of Agreement that this exception is limited to situations which if otherwise delayed could result in substantial damage to either public health or the environment.

The language from the MOA quoted in XIII C above can be agreed to and carried out without the necessity for rulemaking.

#### **XIV. AUTHORITY TO SHARE INFORMATION WITH EPA**

*State statutes and regulations provide authority for any information obtained or used in the administration of the State program to be available to EPA upon request without restriction.*

Federal Authority: RCRA §3007(b); 40 CFR 271.17.

#### Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(2) and 10.1-1402(9).

#### Interpretive Remarks

Va. Code § 10.1-1402(9) provides that the Virginia Waste Management Board is authorized to "[c]onsult and coordinate with the heads of any other appropriate state and federal agencies...for the purpose of achieving maximum effectiveness and enforcement of this article...." The Board also may consult, advise and coordinate with federal agencies for the purpose of implementing the VWMA and the federal acts pursuant to § 10.1-1402(2). There is no statute or regulation limiting the authority of the Commonwealth to provide information obtained or used in the administration of the State Program to EPA. The Commonwealth does not provide for confidential business information.



## **XV. AUTHORITY OVER INDIAN LANDS**

Federal Authority: 40 CFR 271.7(b).

Citation of Laws and Regulations: Date of Enactment and Adoption  
Remarks of the Attorney General

There are no federally recognized Indian Lands in Virginia.

## **XVI. EXPOSURE ASSESSMENTS**

*A. State laws and regulations allow the State to make assessment information available to the Agency for Toxic Substances and Disease Registry. [See CERCLA §104(I).]*

Federal Authority: RCRA §3019(b).

Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1402(1), 10.1-1402(2) and 10.1-1402(9).

### Interpretive Remarks

Va. Code § 10.1-1402(1) gives the Board the authority to control waste management activities in the Commonwealth. Under §10.1-1402(2), the Board has the authority to consult, advise, and coordinate with other State and federal agencies for the purpose of implementing its hazardous waste management act and the federal acts. In addition, §10.1-1402(9) gives the Board the authority to consult and coordinate with the heads of appropriate State and federal agencies for the purpose of achieving maximum effectiveness of the hazardous waste management act, while imposing the least burden of duplicative requirements on those persons subjects to the provisions of the act. Therefore, the Commonwealth's authority covers the federal requirement.

## **XVII. RADIOACTIVE MIXED WASTES**

*A. State statutes and regulations define solid wastes to include the hazardous components of radioactive mixed wastes, July 3, 1986 [51 FR 24504]. See State Program Advisory (SPA) #2.*

Federal Authority: RCRA §§1004(27) and 3001(b).

Citation of Laws and Regulations: Date of Enactment and Adoption

1999 Va. Code §§ 10.1-1400 "Solid waste", 10.1-1402(22).  
9 VAC 20-60-261 B 8, effective February 17, 1999.

### Interpretive Remarks

The laws of the Commonwealth of Virginia provide authority to regulate the hazardous component of wastes containing source, special nuclear and by product material as defined by the Atomic Energy Act of 1954, as amended ("radioactive mixed waste"). This authority is derived from the definition of



“mixed low-level radioactive waste” found in Va. Code § 10.1-1400 and the regulatory power found in Va. Code § 10.1-1402(22). Virginia’s definition of solid waste at Va. Code § 10.1-1400 is the same as the federal definition at RCRA § 1004(27). In addition, the Commonwealth’s provision at § 10.1-1402 (22) gives the Board the authority to regulate radioactive mixed waste. “Mixed radioactive waste” is defined to mean “radioactive waste that contains a substance which renders the mixture a hazardous waste.” Va. Code § 10.1-1400.

“Radioactive waste” as defined in Va. Code § 10.1-1400 includes:

- a. “Low-level radioactive waste” material that:
  - a. Is not high-level radioactive wastes, spent nuclear fuel, transuranic waste, or by-product material as defined in Section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. § 2014(e)(2)); and
  - b. The Nuclear Regulatory Commission, consistent with existent law, classifies as low-level radioactive waste; or
- b. “High-level radioactive waste” which means:
  - a. The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and
  - b. Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

At 9 VAC 20-60-261 B 8, it is stated that “[a]ll radioactive wastes classified as low-level radioactive material by the United States Nuclear Regulatory Commission shall be a hazardous waste.” The subsequent note clarifies that a waste may be both a hazardous waste and a low-level radioactive waste. These “mixed wastes” are required to comply with the regulations governing both hazardous wastes and nuclear wastes. Virginia has issued formal guidance construing this section as applying hazardous waste requirements to low-level mixed radioactive waste, consistent with the provisions cited above and Va. Code §10.1-1402(8) (Guidance on the Application of 9 VAC 20-60-261.B.8 to Mixed Low-Level Radioactive and Hazardous Waste, Guidance No 00-01). Virginia is consistent with the federal regulations under RCRA which requires the regulations of the hazardous waste in radioactive mixed waste. Virginia has the authority to regulate radioactive mixed waste, regardless of the classification as low-level, high-level, transuranic, or other.

#### **XVIII. AVAILABILITY OF INFORMATION (RESERVED)**