

US EPA ARCHIVE DOCUMENT

ATTACHMENT 5 to the PROGRAM DESCRIPTION  
Corrective Action Self Assessment

**Capability Self-Assessment for  
the Virginia Department of Environmental Quality's  
Hazardous Waste Program**

**September, 1999**

The following narrative is intended to supplement the Capability Assessment checklist for the Commonwealth of Virginia's Authorization Package Revision 1. This self-assessment addresses the ability of the Virginia Department of Environmental Quality's Waste Program to perform the necessary functions associated with authorization in areas including the following: Corrective Action, Land Disposal Restrictions, Mixed Waste, Subparts AA & BB, and BIFs. This narrative is based on EPA's "Criteria for Identifying Acceptable State Capability (Acceptable Criteria)." Specific criteria are bolded, followed by the Virginia DEQ's self-assessment in each of the criteria areas.

**ENFORCEMENT**

**The State has and uses an Enforcement Strategy that is consistent with national priorities and guidance.** The Commonwealth of Virginia uses the current revision of its Enforcement Manual, which is consistent with EPA's Hazardous Waste Civil Enforcement Response Policy. A copy of the current revision was provided as part of the Authorization Package Revision 1. Also, in the existing, as well as the newly submitted, Memorandum of Agreement (MOA) between the Commonwealth and EPA Region III, Virginia commits to perform enforcement actions in accordance with the Timely and Appropriate Policy as defined in EPA's current Enforcement Response Policy.

**Inspections are of good quality and consistent with current guidance.** The Commonwealth of Virginia has repeatedly been commended for meeting and/or exceeding inspections by the RCRA Compliance & Enforcement Branch, as documented in the end of year reports for the past three fiscal years (FY96, FY97 and FY98). DEQ ensures that the compliance inspection staff performs high quality inspections and prepares complete and accurate inspection reports following the principles established in the OECA Inspection Guidance Manual and in accordance with the 1996 Enforcement Response Policy. DEQ also maintains an internal inspection guidance manual, which includes current inspection checklists, compliance assistance materials, and inspection procedure protocols. DEQ conducts an annual training seminar for inspectors to address new issues, regulations changes, and review established agency procedures, and also provides several EPA sponsored training opportunities on specific topics throughout the year. DEQ central office evaluates and ensures consistency in the quality of the regional inspection program by periodic review of inspection reports, joint inspections with each regional inspector at a rate of not less than twice a year, a monthly conference call with regional staff to address specific compliance related issues, and by providing daily technical assistance to regional staff through the hazardous waste technical advisor position. The State targets facilities each year in accordance with EPA's inspection initiatives.

**The State is generally able to identify alleged violators and make reasonably rapid progress meeting prescribed time frames in final enforcement orders according to current enforcement**

**policy (e.g., Enforcement Response Policy).** For FY96, Virginia had 9 facilities on EPA's RCRA Timely and Appropriate List as a result of EPA's re-definition of "SNCs" (Significant Non-Compliers). In FY97, the State had 22 facilities on this list at the end of the year, though during the year the number had risen as high as 49, which meant the state effectively removed 27 facilities from the list during FY97. For FY98, the State had 62 facilities on this list, but succeeded in removing 39 to reduce the list to 23 by the end of the year. The State has been successful in increasing the number of facilities removed from the T&A list during the past three years. It should also be noted that several of the facilities remaining on the T & A list are cases in which conventional enforcement action would not be fruitful (e.g. responsible party bankrupt). DEQ and EPA are currently exploring ways to address these cases. As stated previously, the State commits to perform enforcement actions in accordance with the Timely & Appropriate Policy as defined in EPA's current Enforcement Response Policy. In addition, Virginia's newly revised Enforcement Manual has established procedures for identifying SNCs, and for taking appropriate enforcement actions to ensure their timely return to compliance, consistent with EPA's ERP. Enforcement orders are issued in accordance with EPA's Enforcement Response Policy. In developing these enforcement orders, DEQ takes into account economic benefit of non-compliance in assessing penalties. Also, Virginia DEQ's recently strengthened administrative penalty authority under the Waste Management Act (Va. Code 10.1-1455(G)) provides an additional enforcement tool to address violations of environmental regulations and statutes.

**The State has consistently met the majority of compliance monitoring grant commitments, or has demonstrated a trend of significant improvements toward meeting commitments.** For the past three fiscal years (FY96, FY97 and FY98), the State has met, or exceeded, the grant commitments with regard to compliance monitoring as documented in each year's end-of-year report.

## PERMITS AND CLOSURE PLANS

**The State has and uses a multi-year permitting strategy that addresses the most environmental significant facilities and is consistent with current national priorities and guidances.** The State has applied priorities present in the National RCRA Implementation Plan and the Regional Beginning-of-Year Plan. Virginia works on all types of facilities concurrently, and in accordance with prioritization direction and initiatives from EPA Region III. All permits have been issued for facilities for which Virginia has authority to issue permits, and permit renewals are issued in a timely manner. Currently, Virginia's permitted universe consists of 27 operating permits and 14 post-closure care permits. Two permit renewal applications have been submitted this fiscal year, 180 days prior to the permits' expiration dates, and are being processed in a timely manner.

**Permits are generally of good quality as established by current guidances, manuals and policies.** Virginia has consistently received favorable mid-year and end-of-year reviews for its permitting program for the past three fiscal years (FY96, FY97 and FY98). The State utilizes EPA guidance for permit issuance, modification and denial. The State maintains constant contact with EPA Region III on complex technical issues, and seeks EPA assistance on questionable regulatory interpretations prior to making decisions. EPA has raised no issues or concerns based upon their

ongoing involvement with Virginia's permitting program. In 1996, Virginia was recognized by EPA Region III for Outstanding Achievement in its Hazardous Waste Permitting Program.

**The State has consistently met the majority of permitting grant commitments, or is making significant improvements toward meeting commitments.** As documented in the past three fiscal year end-of-year reports and corresponding State reports, the State has met its permitting commitments. All permits for which the state is authorized have been issued, and permit renewals are issued promptly. Over the past five years, the state has made tremendous improvements from not meeting its permitting commitments, to meeting and/or exceeding its commitments. In addition, the backlog of outstanding closures has been significantly reduced, and continues to be reduced on an almost weekly basis. At the beginning of fiscal year 1996, the backlog of outstanding closures in the closure universe was 56 closure plans; in FY99, this backlog has dropped to 25, despite the addition of 38 additional closure plans during this three year period. EPA is kept fully apprised of the status of any permitting and closure commitments, and is contacted regularly concerning technical issues and concerns related to permitting.

#### **CORRECTIVE ACTION PROGRAM**

**The State has and uses a prioritization system which provides results consistent with national priorities to address the most environmentally significant sites first.** Virginia has actively participated in and supported EPA's efforts to rank Virginia's sites using the National Corrective Action Prioritization System (NCAPS). Virginia will continue to use this system in the future for new sites, or sites which still need to be ranked. Virginia intends to support EPA Region III's efforts to meet GPRA goals by addressing high priority sites first, and by continuing to address these high priority facilities until groundwater releases and human exposures have been controlled.

**Corrective Action activities (interim measures, RFAs, RFIs, CMSs, CMIs, etc.) are of good quality and are completed using current EPA guidances, manuals and policies. The State makes consistent progress toward completing cleanups.** Virginia has been participating in a workshare program with EPA Region III since 1990, with increased emphasis over the past three years to assist EPA Region III in performing Corrective Action functions. The early 90's functions consisted of performing RCRA Facility Assessments and drafting Corrective Action permits on behalf of EPA Region III. This fiscal year, involvement includes drafting Corrective Action permits, performing Environmental Indicator determinations, performing NCAPS assessments, drafting Findings of Fact for Corrective Action orders, and performing technical support through document review and meeting attendance at numerous facilities that have entered the Corrective Action process. Based on the end-of-year reports for the last three fiscal years, EPA has been complimentary of Virginia's document reviews and Corrective Action activities. With the assistance of Virginia's worksharing efforts, sites currently in the active Corrective Action universe have progressed steadily toward completing cleanups.

**The State has consistently met the majority of corrective action grant commitments, or is making significant improvements toward meeting commitments.** Virginia has met, and in many cases exceeded, its Corrective Action grant commitments over the last three years. During each of

the last three fiscal years, Virginia has been amenable to taking on additional corrective action projects that have cropped up during the course of the year after the initial grant commitment had been negotiated. Many of these projects involved a rapid turn-around which Virginia has always been able to provide. During FY98, many of Virginia's Corrective Action staff received commendations from EPA Region III for their Corrective Action worksharing efforts based on the Region's newly instituted process for evaluating States on worksharing projects.

## MANAGEMENT

**Resource and Skill Mix** - The State has consistently devoted sufficient resources necessary to match Federal Section 3011 grant funds, and has consistently maintained a staff that is large enough and has the technical skills and experience necessary to effectively manage the existing program and the additional program responsibilities that the State is seeking. Over the past three fiscal years, Virginia has provided its required 25% match to the 3011 Federal grant. Staff vacancies are filled in a timely manner. Through worksharing, the State has built its capability with respect to technical skills, and experience for the additional program responsibilities to be authorized (i.e., Corrective Action, LDR, organic air emission, etc.). As the base program permitting and closure universe has decreased, Virginia has continually increased the amount of corrective action worksharing included in the annual work plan. Virginia's capability to increase the volume of corrective action work performed should continue to increase with the significant reduction in the backlog of closure facilities that has taken place over the past few years which was discussed previously. Staff have been trained in various aspects of the corrective action process, and are prepared to take the lead for corrective action at facilities for which Virginia is to assume full responsibility.

**Training** - The State ensures that all staff are adequately trained, commensurate with their program responsibilities and applicable order requirements (e.g., Order 3500.1 for inspectors). Virginia provides ample training to its employees, and in many cases has opened up its hazardous waste training to other states in the Region when the training provided was coordinated through or with EPA or an EPA contractor. As documented in the report submitted by the State at the end of each fiscal year, Virginia provides a variety of program training for the staff, including health & safety, enforcement, inspector, permit writing, innovative technologies, etc. Not only does Virginia ensure that all staff are trained in their program responsibilities, Virginia trains staff in a variety of other courses to ensure a diverse and productive workplace. For example, over the past three fiscal years, the State has supported employee training in the following areas: Internet Overview, How to Write a Quality Management Plan, Statistics, Computer Modeling - Reams, and various other computer and personal-growth training courses.

**Information Management** - The State has and effectively uses an appropriate data system (e.g., CARS, RCRIS, etc.) That provides timely and accurate information to the program and EPA. Virginia is an "implementer of record" for the RCRIS database for permitting and enforcement data. DEQ has been issuing EPA Identification numbers within one day as a result of a Memorandum of Understanding signed on July 15, 1996. In addition, Virginia is in the process of creating its own multi-media database, CEDS (Comprehensive Environmental Data System), which will be available

on-line to the citizens of Virginia.

## **COMBUSTION**

Consistent with EPA's Combustion Initiative, DEQ has consistently been responsive in providing technical reviews and trial burn plan reviews, as well as performing inspections, for combustion facilities. Additionally, Virginia has taken the lead in reviewing the risk-assessments for several combustion facilities. State permit writers have attended Advanced Permit Writer Training specific to combustion facilities to enhance State combustion capabilities. The Hazardous Waste Program has obtained the concurrence of internal DEQ Air Modeling programs that they are willing to assist in the review of and/or perform air dispersion modeling for combustion facilities. Contractor help will also be sought, as necessary, to assist in air dispersion modeling where internal capabilities are not adequate.

## **FUTURE EXPECTATIONS**

**The State demonstrates that it has the necessary resources, experience and organizational structure to successfully implement the new provisions for which it is seeking authorization.** Virginia incorporated portions of the Land Disposal Restrictions and RCRA Subparts AA and BB regulations into its program in 1993. Staff have been fully trained on these aspects of the regulations. Since incorporation of these provisions into the regulations, inspectors have been inspecting facilities for compliance with these provisions. Permitting staff members have been performing extensive worksharing activities in Corrective Action for the last three fiscal years, with less extensive Corrective Action worksharing efforts beginning in the early 1990s.