

US EPA ARCHIVE DOCUMENT

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

Demonstration of Adequate Authority
for
Virginia Hazardous Waste Management Program
Revisions from Program Revision I through June 30, 2001

Program Revision II

VIRGINIA PROGRAM REVISION II

DEMONSTRATION OF ADEQUATE AUTHORITY FOR THE VIRGINIA HAZARDOUS WASTE MANAGEMENT PROGRAM, INCLUDING CHANGES TO THE FEDERAL RCRA PROGRAM THROUGH JUNE 30, 2001

This document provides, as supplemented by the documents submitted in Revision I and the original application for authorization, a demonstration of the statutory and regulatory authority for the Virginia Hazardous Waste Management Program, as revised and set forth in the Program Description for Program Revision II. The specific authorities cited herein are contained in statutes or regulations adopted and effective at the date of this Demonstration. These authorities supplement those previously described in the Virginia Demonstration of Adequate Authority for the Virginia Hazardous Waste Management Program dated May 12, 2000, and in the letter dated January 12, 1998, regarding Virginia's Environmental Assessment Privilege and Immunity Law.

Since the Commonwealth received Final Authorization on September 29, 2000, it has improved its program and amended its regulations to incorporate changes to the federal regulations through June 30, 2001. The Commonwealth initiates this Revision II of its authorization under 40 CFR 271.21 to seek approval of the amended program. The pages below discuss those changes to the Commonwealth's statutes and regulations for which approval is sought. They address the differences between the Commonwealth's requirements and the parallel federal provisions. Equivalent, more stringent, broader in scope, and Commonwealth-initiated changes are addressed.

STATUTES

Statutes addressed in the previous program revision submission to the Environmental Protection Agency have not been amended, modified, or revised. The statutory authorities for the Commonwealth are documented in the May 12, 2000 Demonstration of Adequate Authority.

JUDICIAL DECISIONS

There have been no judicial decisions that are known to limit or interfere with Virginia's authority to implement, administer, or enforce the authorized hazardous waste program.

VIRGINIA PROGRAM REVISION II

**REGULATORY DOCUMENTATION FOR THE PROGRAM REVISIONS FOR WHICH
THE COMMONWEALTH IS SEEKING APPROVAL**

(Includes Federal Regulatory Changes from Program Revision I through June 30, 2001 and
Virginia-initiated Program Changes through June 30, 2001)

Title of Regulations: 9 VAC 20-60-12 et seq.,
Virginia Hazardous Waste Management Regulations

Effective Dates of Regulations:

Amendment 15 C:	<u>November 8, 2000</u>	(Adoption of July 1, 2000 CFR)
Immediate Final Rule 2001:	<u>November 21, 2001</u>	(Adoption of July 1, 2001 CFR)
Amendment 15 A:	<u>March 13, 2002</u>	(Commonwealth-initiated Changes)
Amendment 15 B:	<u>March 13, 2002</u>	(Commonwealth-initiated Changes)

Statutory Authority: §§ 10.1-1402 and Article 4 (§ 10.1-1426 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia. Legislation cited is current through the 2002 session of the Virginia General Assembly.

Date Prepared: August 8, 2002

A. COMMONWEALTH ANALOGS TO FEDERAL REGULATIONS

At VAC 20-60-18 in Amendment 15 C, Virginia incorporated by reference the federal regulations as published on July 1, 2001. Virginia is seeking approval for program revisions federal regulatory changes published in the Federal Register from December 6, 1994 through June 30, 2001.

FEDERAL RCRA CITATION	COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:		
		EQUIVALENT	MORE STRIN-GENT	BROADER IN SCOPE
40 CFR Part 124 Subpart B	20-60-124 A	X		
40 CFR Part 260	20-60-260 A	X		
40 CFR Part 261, except 261.2(c)(3)	20-60-261 A	X		
261.2(c)(3)	20-60-261 A			X

Interpretive Comment: On April 21, 2000, the U.S. D.C. Circuit Court of Appeals vacated the portion of the May 26, 1998 regulatory requirement (63 FR 28556) that attempted to regulate as waste certain sludges and by-products exhibiting a characteristic of hazardous waste that are not listed in 40 CFR 261.31 or 261.32. Virginia has not recognized this vacatur of the U.S. Court of Appeals in its regulations. Therefore, the Commonwealths regulations are broader in scope than the federal program because of the vacatur.

VIRGINIA - REGULATORY DOCUMENTATION
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FEDERAL RCRA CITATION	COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:		
		EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE
40 CFR Part 262	20-60-262 A 20-60-262 B 7	X		

Interpretive Comment: Virginia has incorporated the federal hazardous waste export provisions at 40 CFR part 262, subpart H into its regulations. At 9 VAC 20-60-262 B 7, the Commonwealth clarifies that the terms EPA and Environmental Protection Agency mean the United States Environmental Protection Agency. The exercise of foreign relations and international commerce powers is reserved to the federal government under the United States Constitution. Therefore, the Commonwealth is not seeking authority for federal regulatory provisions that concern international commerce involving solid or hazardous waste and for which the delegation of authority to the states is prohibited by federal statutes.

40 CFR Part 263	20-60-263 A	X		
40 CFR Part 264	20-60-264 A	X		
40 CFR Part 265	20-60-265 A	X		

Interpretive Comment: Virginia has adopted by reference and is seeking approval for the Project XL provisions at 40 CFR 264.1030(d), 264.1050(g), 264.1080(e), 265.1030(c), 265.1050(f) and 265.1080(e). These provisions provide alternate regulatory requirements for the RCRA air emission standards for certain existing hazardous waste units at the Merck Stonewall Plant, as well as equipment brought into hazardous waste service in the future. Under this Project XL site, the hazardous waste management units at Merck Stonewall Plant will be regulated through an enforceable PSD permit and a preventive maintenance program.

40 CFR Part 266	20-60-266 A	X		
40 CFR Part 268	20-60-268 A	X		
40 CFR Part 270	20-60-270 A 20-60-270 B 14	X		

Interpretive Comment: At 9 VAC 20-60-270 B 14, Virginia clarifies that the EPA appeal rights and procedures related to a remedial action plan (RAP), as specified in 40 CFR 270.155, are not incorporated into the Virginia regulations. Appeals of actions related to RAPs are governed by the Commonwealth's Administrative Process Act, Title 2.2, Chapter 40, §§ 2.2-4000 through 2.2-4033, Code of Virginia.

40 CFR Part 273, except 273.5(c)	20-60-273 A	X		
40 CFR 273.5(c)	20-60-273 A 20-60-273 B 3 a	X		

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FEDERAL RCRA CITATION	COMMONWEALTH CITATION	COMMONWEALTH ANALOG IS:		
		EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE

Interpretive Comment: At 9 VAC 20-60-273 B 3 a, Virginia clarifies that for a used lamp, the date the generator discards the lamp is the date the generator permanently removes the lamp from its fixture. For unused lamps, the date the generator decides to discard the lamp is interpreted to be the date the generator actually discards the lamp.

No analog in 40 CFR Part 273	20-60-273 B 3 b 20-60-273 B 3 c	X		
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Interpretive Comment: At 9 VAC 20-60-273 B 3 b & c, the Commonwealth has adopted requirements for handlers of universal waste when crushing mercury-containing lamps. The federal code does not include such requirements. However, Virginia's lamp crushing requirements are no less stringent than EPA Region III's criteria dated November 19, 2001.

B PROGRAM REVISIONS FOR WHICH VIRGINIA IS NOT SEEKING AUTHORITY

The following two federal program elements were changed since the approval of Revision I; however, Virginia is still not seeking authorization for these elements. Virginia has incorporated the changes to the federal regulations into its hazardous waste management regulations.

1. Virginia is not seeking authority for provisions for the regulation of used oil under 40 CFR 279, including the recycled used oil management standards.
2. Virginia is not seeking authority for the federal export requirements. The export requirements are not delegable to States. EPA retains authority for this program element.

C. COMMONWEALTH-INITIATED CHANGES TO THE PREVIOUSLY AUTHORIZED PROGRAM

(Amendment 15 A: Amendments to 9 VAC 20-60-et seq. Virginia Hazardous Waste Management Regulations, as published in the *Virginia Register*, February 11, 2001, effective March 13, 2002.

In Amendment 15A, Virginia has amended its hazardous waste regulations by incorporating by reference additional federal text in replacement of analogous Virginia text which was previously authorized. In particular, the language describing the permitting process located in Part XI (9 VAC 20-60-960 through 9 VAC 20-60-1250) has been deleted and replaced with incorporation of analogous text at 40 CFR Part 270 and elsewhere in Title 40 of the federal regulations. Corresponding internal references have been made throughout the Virginia regulations to conform to the deletion of Part XI. Virginia has also made wording changes and technical corrections to certain internal references in order to clarify its regulations.

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Virginia has made other changes to its regulations, including the following:

1. Virginia has reinstated a number of forms and procedures regarding transporters and petitions to the Director that were previously in the regulations.
2. The Commonwealth has amended its regulations to specify that all appeals will be conducted under the Virginia Administrative Process Act. The Act, which was previously located at § 9-6.14:1, is now codified at § 2.2-4000 *et seq.* of the Code of Virginia.
3. The Commonwealth has adopted and is seeking authority for the federal provisions at 40 CFR 260.30 and 260.31, addressing petitions for a variance from the classification as a solid waste.

Because of these Commonwealth-initiated changes, Virginia is seeking authorization of the previously authorized provisions, as well as the newly adopted provisions, as documented below:

PREVIOUSLY AUTHORIZED CITATION	CURRENT COMMONWEALTH CITATION	RELATED FEDERAL ANALOG	COMMONWEALTH ANALOG IS:		
			EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE

PART I. DEFINITIONS:

At 9 VAC 20-60-14, the Commonwealth has redesignated 9 VAC 20-60-14 B 3 through B 5 as 9 VAC 20-60-14 B 4 through B6 and added a new provision at 9 VAC 20-60-14 B 3 which provides the appropriate Commonwealth substitution for the terms "EPA Environmental Appeals Board" and "Environmental Appeals Board". Virginia has also clarified its definition for "Qualified engineer" or "engineer".

At 9 VAC 20-60-17 A, Virginia has made slight wording changes to several definitions, and added the following Commonwealth definitions not found in the federal code: "Board", "Department", "HWM", "Qualified engineer" or "engineer" and "VHWMR". The changes do not affect the stringency of the Virginia hazardous waste program.

PART II. GENERAL INFORMATION AND LEGISLATIVE AUTHORITY

The Commonwealth has revised this Part (9 VAC 20-60-20 through 20-60-90) in order to provide consistency between its regulations and statutes, and has made conforming changes to internal references as a result of incorporating 40 CFR Part 270 by reference. The changes made by Virginia in Part II do not affect the stringency of the Commonwealth's authorized program. Virginia's provisions are consistent with the federal program.

9 VAC 20-60-124. ADOPTION OF 40 CFR PART 124 BY REFERENCE

Virginia has deleted the permit procedures provisions formerly located in Part XI of its authorized regulations (9 VAC 20-60-960 through 20-60-1250). At 9 VAC 20-60-124 A, the Commonwealth now incorporates by reference and has requirements that are equivalent to the federal provisions at 40 CFR Part 124, Subparts A and B, with the following modifications to previously authorized provisions:

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PREVIOUSLY AUTHORIZED CITATION	CURRENT COMMONWEALTH CITATION	RELATED FEDERAL ANALOG	COMMONWEALTH ANALOG IS:		
			EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE
20-60-124 A 20-60-124 B 5 20-60-1140 A	20.60.124 A 20-60-124 B 2	124.5(a)	X		

Interpretive Comment: At 9 VAC 20-60-124 B 2, Virginia states that permits may be modified, revoked and reissued, or terminated for reasons in 9 VAC 20-60-270 B and Part XIV. This is consistent with and equivalent to the federal regulations.

20-60-1140 B	20-60-124 B 3	124.5(b)	Not applicable		
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Interpretive Comment: Virginia does not incorporate by reference 40 CFR 124.5(b) in the revised regulations. In the authorized regulations, Virginia had an analog to the first sentence of the federal provision which required the Director to send a brief response regarding his decision, to any person who requests that a permit be modified, revoked and reissued or terminated. The federal provision is not required for State authorization; therefore, its removal does not impact the Commonwealth's hazardous waste program. At 9 VAC 20-60-124 B 3, Virginia has adopted a new provision that indicates that administrative appeals shall be conducted in accordance with the Virginia Administrative Process Act.

20-60-124 A 20-60-124 B 2 20-60-124 B 3 20-60-1140 D	20-60-124 A 20-60-124 B 4 20-60-124 B 5	124.5(d)	X		
20-60-124 B 2 20-60-124 B 3 20-60-124 B 5 20-60-1180 D	20-60-124 A 20-60-124 B 4 20-60-124 B 5	124.6(e)	X		
20-60-124 B 2 20-60-124 B 3 20-60-1200 B	20-60-124 A 20-60-124 B 4 20-60-124 B 5	124.10(b)	X		
20-60-124 B 4 20-60-1200 C 1 b	20-60-124 A 20-60-124 B 6	124.10(c)(1)(ii)	X		

Interpretive Comment: In its analogs to 40 CFR 124.5(d), 124.6(e), 124.10(b) and 124.10(c)(1)(ii) above, Virginia has removed the duplicative text formerly located in Part XI and redesignated the remaining provisions in the subparagraphs of 20-60-124 B, without making any changes to these provisions. The Commonwealth's regulations remain equivalent to the federal code.

Not in the authorized regulations	20-60-124 B 7	124.19	Not applicable		
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Interpretive Comment: In order to receive final authorization, States are not required to adopt an analog to 40 CFR 124.19. Virginia does not incorporate the federal appeals process as outlined in 40 CFR 124.19. Appeals under the Virginia regulations are in accordance with the Commonwealth's Administrative Process Act, Title 2.2 Chapter 40 §§ 2.2-4000 through 2.2-4033, Code of Virginia.

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PREVIOUSLY AUTHORIZED CITATION	CURRENT COMMONWEALTH CITATION	RELATED FEDERAL ANALOG	COMMONWEALTH ANALOG IS:		
			EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE
9 VAC 20-60-260. ADOPTION OF 40 CFR PART 260 BY REFERENCE					

Virginia has corrected typographical errors, made slight wording changes, and revised incorrect citations at 9 VAC 20-60-260 B 3 b, 9 VAC 20-60-260 B 8 and 9 VAC 20-60-260 B 9. The Commonwealth's provisions remain equivalent to the federal code.

9 VAC 20-60-261. ADOPTION OF 40 CFR PART 261 BY REFERENCE

PREVIOUSLY AUTHORIZED CITATION	CURRENT COMMONWEALTH CITATION	RELATED FEDERAL ANALOG	EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE
20-60-261 A 20-60-261 B 5	20-60-261 A 20-60-261 B 5	261.5(g)(3)(iv) & (v)		X	

Interpretive Comment: Virginia has modified 9 VAC 20-60-261 B 5 but retains more stringent requirements. In the previously authorized regulations, the Commonwealth required that a solid waste management facility must receive written permission from the Department before receiving hazardous waste from a conditionally exempt small quantity generator. At 9 VAC 20-60-261 B 5, as amended, Virginia still requires that hazardous waste managed as described in 40 CFR 261.5(g)(3)(iv)&(v) must be in full compliance with all the requirements of the Commonwealth's Solid Waste Management Regulations (9 VAC 20-80-10 et seq.), which includes this requirement.

PREVIOUSLY AUTHORIZED CITATION	CURRENT COMMONWEALTH CITATION	RELATED FEDERAL ANALOG	EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE
20-60-261 B 8	Removed	No direct federal analog			Not applicable

Interpretive Comment: Virginia has removed this provision that stated that low-level radioactive materials are regulated as hazardous waste. There is no federal analog to this Commonwealth provision. At Va. Code § 10.1-1402(22), Virginia has the statutory authority to regulate the management of mixed radioactive waste and at § 10.1-1400, the Commonwealth defines "solid waste" exactly as does the Federal program. The removal of the provision does not affect the stringency of the Virginia regulations.

9 VAC 20-60-262. ADOPTION OF 40 CFR PART 262 BY REFERENCE

PREVIOUSLY AUTHORIZED CITATION	CURRENT COMMONWEALTH CITATION	RELATED FEDERAL ANALOG	EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE
20-60-262 A 20-60-262 B 4	20-60-262 A 20-60-262 B 4	262.34		X	

Interpretive Comment: At 9 VAC 20-60-262 B 4, Virginia has modified the provision to clarify that it does not apply to conditionally-exempt small quantity generators. Virginia requires generators who establish accumulation areas to notify the Director that they are accumulating waste (or intend to accumulate waste) in accordance with 40 CFR 262.34. As part of the notification, generators must specify the exact location of the accumulation area at the site. Existing generators who establish accumulation areas after March 1, 1988, must also document in the operation record, their intention to accumulate waste. The Commonwealth's provision remains more stringent than the federal program.

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PREVIOUSLY AUTHORIZED CITATION	CURRENT COMMONWEALTH CITATION	RELATED FEDERAL ANALOG	COMMONWEALTH ANALOG IS:		
			EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE
20-60-262 B 6	20-60-262 A 20-60-262 B 6	262.12(c)	X		

Interpretive Comment: Virginia has replaced the previous more stringent provision with a new provision that is equivalent to the federal code. The old provision required the generator to designate on the manifest all subsequent transporters of the hazardous waste. The new provision at 9 VAC 20-60-262 B 6 prohibits generators from offering hazardous waste to a transporter or to a facility that has not received a permit and an EPA identification number. This is equivalent to and consistent with the federal provision at 40 CFR 262.12(c) which Virginia has also incorporated by reference at 9 VAC 20-60-262 A.

9 VAC 20-60-264. ADOPTION OF 40 CFR PART 264 BY REFERENCE

At 9 VAC 20-60-264 B 7 and 9 VAC 20-60-264 B 15 a & c (partial analogs to 264.12(a)&(c)), Virginia has inserted phrases and made changes to its internal references to conform with its adoption by reference of 40 CFR Part 270. The Commonwealth's provisions remain equivalent in the case of 9 VAC 20-60-264 B 7 and 9 VAC 20-60-264 B 15 c, and are more stringent in the case of 9 VAC 20-60-264 B 15 a. The Commonwealth has also made the following changes:

20-60-264 A	20-60-264 A	264.56(d)(2)		X	
20-60-264 B 5	20-60-264 B 5				
20-60-264 B 15 d	20-60-264 B 15 d				

Interpretive Comment: At 9 VAC 20-60-264-B 5, Virginia has replaced "Commonwealth Emergency Response Team" with "Virginia Department of Emergency Management, Emergency Operations Center". While the federal code requires that notification be made to either the on-scene coordinator or the National Response Center, Virginia requires that notification must also be made to the Virginia Department of Emergency Management, Emergency Operations Center. Virginia remains more stringent at 9 VAC 20-60-264 B 5.

20-60-264 A	20-60-264 A 20-60-264 B 16	264.93	X		
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Interpretive Comment: At 9 VAC 20-60-264 B 16, Virginia has modified its incorporation by reference to clarify that "hazardous constituents" includes constituents identified in 40 CFR Part 264, Appendix IX. The Commonwealth's provision is equivalent to the federal code.

20-60-264 A	20-60-264 B 17	264.94(a)(2)	X		
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Interpretive Comment: Virginia no longer incorporates 40 CFR 264.94(a)(2) by reference. The reference to Table 1 in the federal code is outdated; therefore, Virginia has replaced the reference to Table 1 with a reference to the maximum contaminant levels as found in EPA's National Primary Drinking Water regulations. Virginia's provision is equivalent to the federal code.

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PREVIOUSLY AUTHORIZED CITATION	CURRENT COMMONWEALTH CITATION	RELATED FEDERAL ANALOG	COMMONWEALTH ANALOG IS:		
			EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE

9 VAC 20-60-265. ADOPTION OF 40 CFR PART 265 BY REFERENCE

General: At 9 VAC 20-60-265 B 7, B 9, B 18 and B 18 b, Virginia has inserted phrases and made changes to its internal references to conform with its adoption by reference of 40 CFR Part 270. The Commonwealth's provisions remain equivalent to the federal code. The Commonwealth has also made the following changes:

20-60-265 A	20-60-265 A	265.56(d)(2)		X	
20-60-265 B 6	20-60-265 B 6				

Interpretive Comment: At 9 VAC 20-60-265-B 6, Virginia has replaced "Commonwealth Emergency Response Team" with "Virginia Department of Emergency Management, Emergency Operations Center". While the federal code requires that notification be made to either the on-scene coordinator or the National Response Center, Virginia requires that notification must also be made to the Virginia Department of Emergency Management, Emergency Operations Center. Virginia remains more stringent at 9 VAC 20-60-265 B 6.

9 VAC 20-60-266. ADOPTION OF 40 CFR PART 266 BY REFERENCE

Except for the correction of an incorrect citation at 9 VAC 20-60-266 B 3, no changes have been made to the Commonwealth's analogs to 40 CFR Part 266. The Commonwealth's regulations remain equivalent to the federal code.

9 VAC 20-60-270. ADOPTION OF 40 CFR PART 270 BY REFERENCE

Virginia has moved to 9 VAC 20-60-270, a number of the authorized provisions formerly located in Part XI. Except as indicated below, Virginia has renumbered the authorized provisions without changing the content. A crosswalk between the previously authorized provisions and the newly redesignated provisions is presented below.

20-60-1100 A	20-60-270 A	270.4(a)(3)	X		
20-60-270 B 5					

Interpretive Comment: Virginia has deleted its previous provisions and now incorporates the federal provision by reference. The Commonwealth's provision is identical to the federal code.

20-60-980 C 1, C 2, C 4, C 5	20-60-270 A 20-60-270 B 6	270.10(c)	X, except 1 st sentence		X, first senten ce
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Interpretive Comment: Virginia now incorporates the federal provision by reference at 20-60-270 A. In addition, the Commonwealth has adopted a provision at 20-60-270 B 6 that clarifies the Commonwealth's criteria for deeming an application complete. The first sentence of the provision, which requires that an application be accompanied by an application fee, is broader in scope.

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			EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE
20-60-1010 B 5	20-60-270 B 9 intro 20-60-270 B 9 a	270.14(b)(5)		X	

Interpretive Comment: The Commonwealth's provision remains more stringent. Virginia includes a reference to 40 CFR 264.573 and 264.574; thus, Virginia requires a copy of the specific inspection schedules for drip pads which the federal code does not require.

20-60-1010 B10	20-60-270 B 9 b	270.14(b)(10)	X		
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Interpretive Comment: Virginia requires applicants to describe access road surfacing and load bearing capacity, and to show traffic control signs. This is equivalent to the federal code.

20-60-1170 B 4 20-60-1170 C 4	20-60-270 A 20-60-270 B 10	270.42(b)(4) & 270.42(c)(4)		X	
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Interpretive Comment: At 9 VAC 20-60-270 B 10, Virginia modifies its incorporation by reference of the federal provisions to require that a period of 30 days shall elapse between the date of the public notice and the date of a public hearing. The Commonwealth remains more stringent in that at 9 VAC 20-60-270 B 10, Virginia allows the public to have a longer time period (a minimum of 30 days compared to a minimum of 15 days for federal) between the public notice and the meeting.

20-60-1060 L 1	20-60-270 A 20-60-270 B 11	270.30(l)(1)		X	
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Interpretive Comment: The Commonwealth's provision remains more stringent in that at 9 VAC 20-60-270 B 11, Virginia requires that the notice must be written.

Not in authorized regulations	20-60-270 B 13	No direct federal analog	X		
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Interpretive Comment: Virginia has adopted a new provision clarifying to the regulated community that incorporated federal provisions which reference the publication of notices in the *Federal Register* should be construed to mean the *Virginia Register*. This is consistent with and equivalent to the federal code.

20-60-970 D	20-60-270 B 5	No direct analog; see 270.51	X		
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Interpretive Comment: The Commonwealth's requirements remain consistent with and equivalent to the federal requirements at 40 CFR 270.51, and the federal requirements under HSWA.

20-60-990 A 2 a	20-60-270 B 7 a	No direct federal analog	X		
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Interpretive Comment: The Virginia has redesignated the provision without changes. Virginia's provision addressing the authority of the Director to deny interim status, remains consistent with the federal code.

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			EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE
20-60-990 D 2	20-60-270 B 7 b	270.73(a)	X		
20-60-990 D 2 a	20-60-270 B 7 b(1)	270.73(b)	X		
20-60-990 D 2 b-e	20-60-270 B 7 b(2)-(5)	No direct analog; implied in the federal code.	X		

Interpretive Comment: Virginia has redesignated 9 VAC 20-60-990 D 2 as 20-60-270 B 7 b without changes. The Virginia provisions include additional conditions under which interim status may be terminated. These include: (1) failure to submit a completed Part B application on time; (2) failure to furnish any required information; (3) falsification, misrepresentation or failure to disclose any information submitted or required to be kept; (4) violation of any requirement under the hazardous waste regulations, and (5) a determination that the facility poses a significant threat to public health or the environment. The provisions are consistent with the federal code.

20-60-990 D 3	20-6-0-270 B 7 c & (d)	No direct analog	X		
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Interpretive Comment: Virginia has redesignated 9 VAC 20-60-990 D 3 as 9 VAC 20-60-270 B 7 c and d, without changes. Virginia allows the Director to terminate 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.

20-60-1130 B	20-60-270 A 20-60-270 B 8	270.32(b)(1)	X		
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Interpretive Comment: Although Virginia incorporates the federal provision by reference, the Commonwealth has also chosen to retain the previously authorized text in order to allow the Director to address Commonwealth requirements that are broader in scope or more stringent.

20-60-1010 K 4 b	20-60-270 B 12	270.18(b)		X	
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Interpretive Comment: Other than wording changes and restructuring of the paragraph, the Virginia provisions remain the same as the more stringent authorized version. Virginia requires an explanation of how the standards of 264.250(c) will be complied with and detailed plans and an engineering report describing how the requirements of 264.90(b)(2) will be met.

Not in previously authorized regulations	20-60-270 B 13	No federal analog	X		
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Interpretive Comment: Virginia has added a provision which clarifies that any references to incorporated federal text that indicated a publication is to be made in the Federal Register shall be construed to mean the Virginia Register when such publication is to be made an agency of the Commonwealth. This is consistent with and equivalent to the federal code.

20-60-270 C	20-60-270 A	270	X		
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PREVIOUSLY AUTHORIZED CITATION	CURRENT COMMONWEALTH CITATION	RELATED FEDERAL ANALOG	COMMONWEALTH ANALOG IS:		
			EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE

Interpretive Comment: Virginia has removed 9 VAC 20-60-270 C, which is no longer needed because the Commonwealth has repealed Part XI and now incorporates by reference all of 40 CFR Part 270.

PART IV. NOTIFICATION OF HAZARDOUS WASTE MANAGEMENT ACTIVITY REGULATIONS

20-60-315 B & C	20-60-315 B & C	Related to 262.12 263.11 264.11 265.11	X		
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Interpretive Comment: Virginia now requires that the use of EPA Form 8700-12 for the notification of hazardous waste activities. Previously, the Commonwealth allowed a person to provide the information in any other manner selected by the notifier. Virginia's provision is equivalent to the federal code.

20-60-315 H	No longer in the regulations	Not applicable			
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Interpretive Comment: Virginia has removed the provision which required a generator of hazardous waste on site to file a notification form. The provision was redundant; therefore, its removal does not affect the authorized program.

20-60-315 I	20-60-315 H	Related to 262.12 263.11 264.11 265.11	X		
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Interpretive Comment: Virginia has amended the provision to allow new generators, transporters, treaters, storers, and disposers to obtain an identification number from either the EPA Administrator or the Director. The change does not affect stringency. Virginia's provision is equivalent to the federal code.

Not in previous regulations	20-60-328 A-C	262.12(a)-(c)	X		
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Interpretive Comment: In addition to the 40 CFR 262.12 notification requirement which Virginia incorporates by reference at 20-60-262 A, the Commonwealth has adopted the federal text again in the Notification Section of its regulations. Virginia is equivalent to the federal code.

Not in Part IV of the previous regulations; see 20-60-440 E	20-60-328 D	related to 263.11(b)	X		
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Interpretive Comment: Virginia has added a new provision at 9 VAC 20-60-328 D which is a duplicate of the authorized provision at 9 VAC 20-60-440 E. Virginia allows a transporter to call the Department to obtain a provisional identification number for emergency transportation of hazardous waste. Virginia is equivalent to the federal code.

PART VI. REGULATIONS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

Throughout this Part, Virginia has made wording changes, as well as conforming changes to internal

VIRGINIA - REGULATORY DOCUMENTATION
(Federal Final Rules Published Between December 6, 1994 and June 30, 2001
and Virginia-initiated Program Changes through June 30, 2001)

PREVIOUSLY AUTHORIZED CITATION	CURRENT COMMONWEALTH CITATION	RELATED FEDERAL ANALOG	COMMONWEALTH ANALOG IS:		
			EQUIVALENT	MORE STRINGENT	BROADER IN SCOPE
references and telephone numbers. These changes were made in order to clarify the Commonwealth's regulations. The Commonwealth has also made the following changes:					
Not in previous regulations	20-60-430 F	No federal analog			X

Interpretive Comment: The Commonwealth has added a new provision at 9 VAC 20-60-430 F which requires all transporters permitted by the Director to submit an annual report of hazardous waste transportation activities. The federal code does not require transporters to have permits, nor does it require transporters to submit annual reports. Virginia's new provision 9 VAC 20-60-430 F is broader in scope than the federal program.

20-60-480 N	20-60-124 A	related to 263.10(a)	X		
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Interpretive Comment: Virginia has removed the redundant provision at 9 VAC 20-60-480 N from its regulations because the Commonwealth now incorporates by reference 40 CFR 263.10(a). The new provision is identical to the federal code.

PART XIV. RULEMAKING PETITIONS AND PROCEDURES

Throughout this Part, Virginia has made wording changes, as well as conforming changes to internal references and telephone numbers. These changes were made in order to clarify the Commonwealth's regulations. The Commonwealth has also made the following changes:

20-60-260 B 9	20-60-260 B 9				
20-60-1370 A	20-60-1370 A	260.20		X	
20-60-1370 B	20-60-1370 B	260.22			
	20-60-1380 B				

Interpretive Comment: Virginia has added a new provision at 20-60-1380 B to require copies of delisting petitions and the EPA Administrator's decision to be submitted to the Director. Additionally, the Commonwealth requires that the person petition the Director to allow the application of the delisting within the Commonwealth. The additional requirements make Virginia more stringent.

20-60-1390 (unauthorized)	20-60-1390	260.30 260.31		X	
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Interpretive Comment: Virginia has replaced the previously unauthorized section with a new section that is analogous to 40 CFR 260.30 and 260.31. The Commonwealth is now seeking authorization for 9 VAC 20-60-1390. The Commonwealth's provisions at 9 VAC 20-60-1390 A 2 and 9 VAC 20-60-1390 B are analogous to 40 CFR 260.30 and 260.31, respectively. At 9 VAC 20-60-1390 A 1, the Commonwealth clarifies the petition procedures for (a) persons who recycle waste that is managed entirely within the Commonwealth; (b) persons who generate wastes to be transported across state boundaries; (c) persons who recycle waste brought in from outside Virginia; and (d) persons who receive a favorable decision from the administrator in response to a petition for a variance. Virginia is more stringent in that a person who receives a favorable decision from the EPA Administrator must provide notification to the Director.