

US EPA ARCHIVE DOCUMENT

Commonwealth of Virginia
Department of Environmental Quality

Program Description
Revision II
2002

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SECTION 1. INTRODUCTION

Since the inception of the federal hazardous waste management program, the Commonwealth has participated in the process created by the EPA for states to assume their roles in this important national program. On December 18, 1984, the EPA Region III Administrator granted final authorization to the Virginia Department of Health to operate the base hazardous waste management program. The 1986 session of the Virginia General Assembly created the Department of Waste Management under the new cabinet-level Secretary of Natural Resources. The same action made the new Department the successor in interest to the Department of Health in authority, duty and responsibility for solid, hazardous, or radioactive waste. The Assembly also retained in force all the regulations that the Board of Health had issued in those areas. The 1992 General Assembly established the new Department of Environmental Quality consisting of the Department of Air Pollution Control, the Department of Waste Management, the State Water Control Board and the Council on the Environment. On September 29, 2000, the EPA Region III Administrator granted final authorization to the Virginia Department of Environmental Quality (VDEQ) to operate the full hazardous waste management program. The Virginia Waste Management Act (VWMA) enacted by the 1986 session of the General Assembly and recodified in 1988 as Chapter 14, Title 10.1, Code of Virginia, forms the basis for the Virginia program. During the years it has operated its program, the Commonwealth made all the changes that were necessary to keep it consistent with the federal program authorization requirements.

In 2000, the VDEQ submitted a Program Description and other documents, known as Revision I, that was the basis on which the EPA Region III Administrator granted final authorization in that same year. Revision I corresponded to federal regulatory amendments through July 1, 1995, with exceptions as noted therein. That revised Program Description (as required by the Part 271, Title 40, Code of Federal Regulations (CFR) and prepared in accordance with 40 CFR 271.6) and other pertinent documents of Revision I replaced those submitted for base level authorization of 1984. This Program Description and other pertinent documents of Revision II amend those submitted in 2000 for full authorization, and are being submitted to obtain the Administrator's approval of the program changes through July 1, 2002. Revision II includes all federal all amendments to the pertinent federal regulations that were adopted as final regulations prior to July 1, 2001 (as set out in Title 40 of the Code of Federal Regulations). The Department of Environmental Quality makes these regulations and pertinent parts of the federal regulations available through its website (www.deq.state.va.us).

Revision I and Revision II address the same issues in the same format. Where the discussion of Revision I needs to be amended in this revision, Revision II, the discussion herein will focus on the program changes since Revision I. Where no change is required, the text of Revision II will refer back to Revision I and not restate that text. In some cases it is advisable to include some of the text of Revision I for better clarity. Revision I is amended and supplemented by Revision II

The Commonwealth is seeking to continue and extend all previously authorized program elements such that it has full and final authorization except for four items.

The Commonwealth has incorporated 40 CFR 279 into its regulations and can enforce the provisions thereof; however, the maximum criminal penalty for violations involving non-hazardous used oil is one year in prison and a fine of \$2,500. This criminal sanction is insufficient to meet the test of 40 CFR 271.16(a)(3)(ii); therefore, the Commonwealth does not seek authorization for the used oil provisions of 40 CFR 279 at this time.

The Commonwealth has not sought and does not seek authorization for review of petitions regarding the exclusion of a particular waste at a specific facility from being listed as a hazardous waste (40 CFR 260.22). These matters will not be entertained as petitions; however, they will be considered during the Commonwealth's rulemaking process. Such petitions are directed to the Administrator by the regulations and will be transferred to the USEPA Regional Office if received by

the Department. The Administrator or his designee may continue to review these petitions and render a final decision in accordance with federal regulations. The Department makes provision in its regulations to recognize the delisting pending the next rulemaking opportunity.

The Commonwealth has not sought and does not seek authorization for review of petitions regarding equivalent testing or analytical methods (40 CFR 260.21).

The Commonwealth freedom of information statutes do not provide for holding confidential business information by the hazardous waste management program; therefore, the Commonwealth hazardous waste management program does not seek authorization for any federal program element that requires such information to be maintained as confidential.

Federal statutes do not allow the EPA to delegate to states certain authorities, such as those associated with international commerce and assigned elements under the Hazardous and Solid Waste Amendments of 1984 (HSWA). Statutorily non-delegable program elements should not be construed to be a part of full and final authorization when discussed herein.

The purpose of Section 1 is to introduce the Virginia Department of Environmental Quality and explain its history as an agency, to set out the extent of the authorization for which this application is made and to indicate the nature of the remainder of the document. Section 2 focuses, in Part A, on the changes to the regulation since base authorization in 1984 and indicates which elements of the current regulatory program of the Commonwealth are more stringent or broader in scope than the federal program. Part B discusses, item by item, how the Commonwealth's program is equivalent and no less stringent regarding key statutory tests of RCRA. Section 3 explains the structure and resources of the Department of Environmental Quality that are available for conducting the hazardous waste management program and the relationship of the Department with the USEPA. Section 4 lists the personnel and financial resources available for the program. Twelve significant processes used by the Department to conduct the program are explained in Section 5, including regulatory development, permitting and corrective action. Section 6 explains how compliance with the regulations will be determined and the procedures for enforcement action in case of non-compliance. Estimates of the numbers of regulated activities that will provide the caseload of the program are listed in Section 7. Section 8 would normally contain a list of forms used by the program; however, in this case, all the forms are a part of either the federal or Commonwealth regulations. Section 9 consists of the Appendices that support the other sections. These nine parts work together to describe in detail the program for which authorization is sought, to show not only that the program is equivalent and consistent with the analogous federal program, but to demonstrate that the Department's program has the developed systems and resources it must have to be the equivalent of the federal effort.

SECTION 2. PROGRAM SCOPE, STRUCTURE, COVERAGE, AND PROCESSES

A. SCOPE AND COVERAGE OF PROGRAM

The Virginia Hazardous Waste Management Program provides the coverage of program elements corresponding to 40 CFR Parts 124, 261-266, 268, 270, 273, and 279 and 49 CFR Part 172, 173, 178, and 179 as required by the regulations of the federal program in 40 CFR 271. This coverage was achieved through a series of regulatory and program related actions. The 2000 Program Description, Revision I, submitted in application for final authorization, listed sixteen significant changes to the program and regulations. (These items remain accurate and, except for the discussion of Amendment 14, will not be repeated here.) Since Amendment 13 (1993) the Virginia Hazardous Waste Management Regulations (VHWMR), 9 VAC 20-60-12, et seq., have undergone the following additional significant changes:

1. With Amendment 14, the Commonwealth adopted the "incorporation by reference" mode for developing its hazardous waste management regulations. Most of the previous text of the Commonwealth's regulations was replaced with references to analogous federal text that was incorporated, with exceptions, into the Commonwealth's regulations. The incorporated regulations are those existing on a specific date, which must have occurred prior to the adoption by the Virginia Waste Management Board (VWMB). Amendment 14 specifies dates in 1994 and 1995. In August of 2000 the VWMB adopted an immediate final rule that became effective November 8, 2000. This amendment was officially titled, Amendment 15 C; however, using new nomenclature designed to differentiate this limited amendment and similar future actions from more comprehensive amendments, Amendment 15 C will hereafter be referred to as Immediate Final Rule 2000 (IFR2000). The only effect of IFR2000 was to specify that any and all federal regulations incorporated into the Commonwealth's hazardous waste management regulations were those existing and in effect on July 1, 2000.

2. Immediate Final Rule 2001 (IFR2001) was adopted in August of 2001 and became effective on November 21, 2001. The only effect of IFR2001 was to specify that any and all federal regulations incorporated into the Commonwealth's hazardous waste management regulations were those adopted before July 1, 2001. The text made it clear that the effective date of the federal amendments would be the date specified as the effective date in the Federal Register notice of the amendment or November 21, 2001, whichever was later.

Amendment 14, at 9 VAC 20-60-18, established the date of final federal regulations adopted by incorporation into the Virginia hazardous waste management regulations. It included those regulations through September 19, 1994 and included the Universal Waste Rule of May 11, 1995. It specified nine postings of final amendments to the federal regulations in the *Federal Register*, by date of posting, that were not incorporated into the Virginia regulations. In IFR2000, the exclusion of these nine federal regulations was eliminated. Those amendments that were the subject of the nine postings, as amended by subsequent federal action, and all other amendments to the federal regulations through June 30, 2000 were incorporated into the Virginia regulations. This incorporation is subject to several very specific exceptions to the federal regulations that are set out in detail in the regulation and will be discussed later in this document. IFR2001 continued and extended this practice of including all pertinent federal regulatory amendments made final before previous July 1 (in the case of IFR2001, that date is July 1, 2001). This practice of annual immediate final rules to update the date of federal amendments incorporated into Virginia regulations is established and expected to continue into the foreseeable future.

3. In January of 2002 Amendments 15 A and 15 B were adopted and became effective March 13, 2002. Amendment 15 B repealed 9 VAC 20-60-261 B 8. of the regulations. This item was a confusing and unneeded statement related to certain radioactive wastes being hazardous wastes. Amendment 15 A was comprehensive in that it instituted changes in many sections of the regulations. The main effect of Amendment 15 A was deletion of text describing the permitting

process located in Part XI (9 VAC 20-60-960 through 9 VAC 20-60-1250) and replacement with incorporation of analogous text at 40 CFR 124, 40 CFR 270 and elsewhere in Title 40 of the federal regulations.

- a. In Part I, other old language was removed that is no longer appropriate because of new incorporations of federal text by reference. New language is added that substitutes Virginia Administrative Process Act procedures for the federal Environmental Appeals Board procedures where they might be called for in incorporated federal text
- b. Changes in Part II of the regulations include the removal of outdated and conflicting review provisions now covered by executive order. Other changes are the removal of verbatim quotation of the statutes regarding enforcement penalties and options and the replacement of that text with direct citations to the statute. In 9 VAC 20-60-70 G 3, a requirement that notices appear in radio announcement is removed for consistency.
- c. In Part III of the regulations, the incorporation of federal text into Virginia regulations is expanded in 9 VAC 20-60-124 and 9 VAC 20-60-270 to coincide with the removal of all analogous text of Part XI. In addition, text from Part XI that is not clearly contained in and redundant with federal regulations is transferred to 9 VAC 20-60-124 B and 9 VAC 20-60-270 B. In 9 VAC 20-60-261, text now direct "conditionally exempt small quantity generators" to the Solid Waste Management Regulations for the rule about the disposal of exempt hazardous waste in solid waste facilities, removing a redundant regulatory control (the rule is unchanged since the two regulations have the same rule). In 9 VAC 20-60-262, generators are required to see that the transporters or facility, to which they transfer the hazardous waste, have the proper identification number and permit required by the regulations. In addition, in 9 VAC 20-60-262, the requirement is removed for generators to give a fifteen day prior notification before creating a new accumulation area. In 9 VAC 20-60-262 B 4., a clarifying reference to federal text is inserted to prevent the inadvertent addition of new requirements to otherwise exempt generators. Grammatical changes are made in 9 VAC 20-60-262 B 6 for clarity, and a new section, 9 VAC 20-60-262 B 7 is added to coordinate incorporated federal text that concerns reserved federal authority. In 9 VAC 20-60-264, the use of "hazardous constituent" as used in 40 CFR 294.93 is expanded to include 40 CFR 294, Appendix IX constituents, and 40 CFR 264.94(a)(2) is changed to include current maximum contaminant levels from the primary drinking water regulations rather than an out-dated table included in the federal text. In 9 VAC 20-60-266 B 3, a federal citation is corrected. In 9 VAC 20-60-270 B, items 3, 10, 11 and 15 are removed because they are redundant with federal regulatory text incorporated by reference. In item 6, a sentence is inserted to clarify how the item is to be applied and its substitution for federal regulatory text. In item 8.b., a cross-reference to exceptions is added. In new item 13, an existing Virginia requirement that was inadvertently left out of the proposed regulations is reinstated in the final regulations. New item 15 is added to coordinate with other sections and note the substitution of Virginia's Administrative Process Act procedures for USEPA's Environmental Appeals Board procedures. Since Amendment 14 was adopted, the USEPA has adopted its own universal waste standards for mercury containing lamps. This result is that there is no longer a need for a separate Virginia universal waste, and in Part XVI the previous standard is removed. However, provisions related to crushing of bulbs that were a part of the current Virginia standard but are not a part of the federal standard are retained, made equivalent to federal standards, and relocated to 9 VAC 20-60-273.
- d. In Part IV at 9 VAC 20-60-328, the generator is required to have and use a USEPA identification number. The section explains that these are available from the department and establishes procedures to allow for issuance of provisional numbers.
- e. In Part VII, the requirement for transporters to file an annual report and the forms for that report are reinstated as they existed before Amendment 14. The amendment also returns to the regulations transportation provisions and forms that were a part of the

regulations in the past and allow for improved management of the transportation of hazardous waste.

f. In Part XII, the nomenclature for permit modification classification is changed to match the federal nomenclature. In addition, language is added to clarify how corrective action permits fit with the permit fee schedule.

g. In Part XIV, new language allows the department to issue a matching variance from state regulations after the USEPA has delisted a waste from being a hazardous waste. In addition, procedures were reinstated to allow the department to issue a variance to recycled materials such that they are no longer defined to be a solid waste for the purposes of the regulations. New section 9 VAC 20-60-1435 allows the department to approve variances from applicable treatment standards under the land disposal restrictions. The Demonstration of Adequate Authority indicates the difference between the federal program and Virginia's. Virginia's program has conformed to every major requirement instituted by EPA for Final Authorization and program revisions, and is, therefore, equivalent to the federal program.

Differences between Federal and Commonwealth Regulations

Because the Virginia Waste Management Board must adopt each amendment of the federal regulations as an amendment to Virginia regulations before it becomes effective in the Commonwealth, Virginia regulations lag federal regulations chronologically. Experience since Revision I has shown that the lag following any particular federal amendment is between four and sixteen months. Each year, on or about July 1, an amendment of Virginia's regulations will be initiated to incorporate by reference the changes in federal regulations for the preceding year as set out in federal register notices of the period. Except for the adoption time difference, Virginia's regulations are equivalent but different, broader in scope, more stringent or identical to federal regulations. There have been several changes to the listings since Revision I; therefore, the lists of differences in this section of Revision II, Section 2 A, should be considered to replace the list of differences in the same section of Revision I.

In some areas Virginia regulations are more stringent than federal regulations. It should be noted that the regulations contain two types of provisions: those that are incorporations of federal regulations and specific regulation. In some cases, both types will address the same subject. Both incorporated and specific requirements must be complied with if possible. If mutually exclusive requirements result from the incorporated and specific requirements, the more specific requirement is the equivalent or more stringent requirement and must be complied with in lieu of the incorporated requirement. The following list contains the principal Virginia regulations that are more stringent than the federal requirements.

9 VAC 20-60-261 B 1 requires agreements submitted in accordance with 40 CFR 261.4(b)(11)(ii) to be submitted to both the USEPA and the Director.

In 9 VAC 20-60-262 B 4, generators accumulating hazardous waste in accordance with 40 CFR 262.34 on March 1, 1988, were required to notify the Department of that activity. Generators opening an accumulation area after March 1, 1998 are required to notify the Department upon establishing the accumulation area. New generators are required to identify the location of accumulation areas when filing a Notification of Hazardous Waste Activity.

In 9 VAC 20-60-263 B 1, a requirement is made that transportation of hazardous waste must comply with Part VII of the regulations. Part VII contains some provisions that are more stringent and broader in scope than the federal requirements of 40 CFR 263. The more stringent items are: 9 VAC 20-60-440 C requires that identification numbers be placed on correspondence and spill documents; 9 VAC 20-60-480 G 2 does not allow the generator to designate an alternate facility on the manifest and requires the manifest to be revised instead; and 9 VAC 20-60-490 C and D require additional parties be notified in the case of a discharge.

In 9 VAC 20-60-264 B 4 and 9 VAC 20-60-265 B 5, facilities are required to maintain records of tests and inspections of equipment required by 40 CFR 264.33 and 40 CFR 265.33.

In 9 VAC 20-60-264 B 5, 9 VAC 20-60-265 B 6 and 9 VAC 20-60-264 B 15 d, facilities are required to make a notice of imminent or actual emergency to both the on-scene coordinator and the National Emergency Response Center, as opposed to choosing between the two as set out in 40 CFR 264.56(d)(2) and 40 CFR 265.56(d)(2). Further, in 9 VAC 20-60-264 B 6 and 9 VAC 20-60-265 B 6 the facilities are required to file the notice with the Virginia Department of Emergency Management, Emergency Operations Center and to include other information required by the Director in the incident report made as required by 40 CFR 264.56(j) and 40 CFR 265.56(j).

In 9 VAC 20-60-264 B 11, the requirements of 40 CFR 264.196(d) are expanded to require that reports on leaks and spills from tanks also be sent to the local government with jurisdiction. Also, the requirements are expanded since reporting under Superfund procedures of 40 CFR 302 does not relieve the facility from the requirement to report under 40 CFR 264.196.

In 9 VAC 20-60-264 B 14, 9 VAC 20-60-265 B 17, and 9 VAC 20-60-270 B 4, underground injection of hazardous waste is prohibited. From the beginning of the hazardous waste program in Virginia, it has been determined that suitable geology for underground injection facilities does not exist in the Commonwealth.

In 9 VAC 20-60-264 B 15 a, notices set out in 40 CFR 264.12(a) are required to be sent to the Director and to the Administrator.

In 9 VAC 20-60-265 B 3, notices set out in 40 CFR 265.12(a) are required to be sent to the Director and to local governments.

9 VAC 20-60-265 B 7, in addition to the requirements of 40 CFR 265.91, requires that a log must be made of each groundwater monitoring well describing the soils or rock encountered, the permeability of formations, and the cation exchange capacity of soils encountered, and a copy of the logs with appropriate maps must be sent to the Department.

In 9 VAC 20-60-265 B 15, in addition to the requirements of 40 CFR 265.310, the owner or operator must consider the following factors in addressing the closure and post-closure care objectives:

- a. Type and amount of hazardous waste and hazardous waste constituents in the landfill;
- b. The mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;
- c. Site location, topography, and surrounding land use, with respect to the potential effects of pollutant migration;
- d. Climate, including amount, frequency and pH of precipitation;
- e. Characteristics of the cover, including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope, and type of vegetation on the cover; and
- f. Geological and soil profiles and surface and subsurface hydrology of the site.

In 9 VAC 20-60-265 B 16, in addition to the requirements of 40 CFR 265.116, during the post-closure care period, the owner or operator of a hazardous waste landfill must comply with the following items:

- a. Maintain the function and integrity of the final cover as specified in the approved closure plan;
- b. Maintain and monitor the leachate collection, removal, and treatment system, if present, to prevent excess accumulation of the leachate in the system;

- c. Maintain and monitor the landfill gas collection and control system, if present, to control the vertical and horizontal escape of gases;
- d. Protect and maintain, if present, surveyed benchmarks; and
- e. Restrict access to the landfill as appropriate for its post-closure use.

At 9 VAC 20-60-265 B 18, regulated units at interim status facilities are defined and required to comply with the indicated standards for closure and post-closure care applicable under federal regulations to permitted facilities (40 CFR 264). Some of these provisions are more stringent than would have been required for interim status facilities under federal requirements. The following items contain those provisions that are different from the federal requirements and may be more stringent or contain more stringent elements:

- a. Regulated units of the facility are defined as those units used for storage treatment or disposal of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills that received hazardous waste after July 26, 1982.
- b. In addition to the requirements of Subpart G of 40 CFR Part 265, owners or operators of regulated units who manage hazardous wastes in regulated units must comply with the closure and post-closure requirements contained in Subpart G, Subpart H, and Subpart K through Subpart N of 40 CFR Part 264, as applicable, and must comply with the requirements in Subpart F of 40 CFR Part 264 during any post-closure care period and for the extended groundwater monitoring period, rather than the equivalent requirements contained in 40 CFR Part 265.
- c. For owners or operators of surface impoundments or waste piles included above who intend to remove all hazardous wastes at closure in accordance with 40 CFR 264.228(a)(1) or 40 CFR 264.258(a), as applicable, submittal of contingent closure and contingent post-closure plans is not required. However, if the facility is subsequently required to close as a landfill in accordance with Subpart N of 40 CFR Part 264, a modified closure plan shall be submitted no more than 30 days after that determination is made, and these plans are processed as closure plan amendments. For such facilities, the corresponding post-closure plan must be submitted within 90 days of the determination that the unit must be closed as a landfill.
- d. A permit application to address the post-closure care requirements of 40 CFR 264.117 and for groundwater monitoring requirements of 40 CFR 264.98, 40 CFR 264.99, or 40 CFR 264.100, as applicable, must be submitted for all regulated units which fail to satisfy the requirements of closure by removal or decontamination in 40 CFR 264.228(a)(1), 40 CFR 264.258(a), or 40 CFR 264.280(d) and 40 CFR 264.280(e), as applicable. The permit application must be submitted at the same time as the closure plan for those units closing with wastes in place and six months following the determination that closure by removal or decontamination is unachievable for those units attempting such closure. The permit application must address the post-closure care maintenance of both the final cover and the groundwater monitoring wells as well as the implementation of the applicable groundwater monitoring program whenever contaminated soils, subsoils, liners, etc., are left in place. When all contaminated soils, subsoils, liners, etc., have been removed yet groundwater contamination remains, the permit application must address the post-closure care maintenance of the groundwater monitoring wells as well as the implementation of the applicable groundwater monitoring program.
- e. In addition to the requirements of 40 CFR 264.112(d)(2)(i) for requesting an extension to the one-year limit, the owner or operator must demonstrate that he will continue to take all steps to prevent threats to human health and the environment. In addition to the requirements of 40 CFR 264.119(c), the owner or operator must also request a modification to the post-closure permit if he wishes to remove contaminated structures and equipment.

At 9 VAC 20-60-266 B 1 through 3, those materials that are used in a manner constituting disposal or are recyclable materials that are precious metals or lead acid batteries are subject to Virginia regulations in Parts IV, VII and XII for notice of activity, transportation requirements and permit fee requirements. These Commonwealth requirements are in addition to requirements of 40 CFR 266, and some of these requirements are more stringent or broader in scope.

Throughout 9 VAC 20-60-270 and incorporated 40 CFR 270, it is required that a professional engineer be certified for practice in Virginia, which is not required by the federal regulations.

In 9 VAC 20-60-270 B, more extensive information is required in the application than in the federal regulations.

In 9 VAC 20-60-270 B. 4. the permitting of underground injection facilities is prohibited, which is more stringent than federal regulations.

The regulations do not provide for the extension of the submission date for a Part A permit in the event of confusion caused by the federal regulatory process, which is described in 40 CFR 270.10(e)(2).

Section 9 VAC 20-60-270 B 9 is more stringent than analogous federal rules. It requires that Part B applications contain information on the general inspection schedules and traffic patterns at the facility.

Section 9 VAC 20-60-270 B 10 is more stringent than analogous federal rules. Notice before a hearing must be given for 30 days in Virginia compared with the federal requirement for 15 days. Under the Virginia Administrative Process Act, the regulated community has a shorter time, 15 days, to schedule a hearing than the 30 days allowed by the federal rule.

At 9 VAC 270 B 11, written notices are required, while the specific manner of communication is not specified in the federal requirements.

Section 9 VAC 20-60-270 B 12 is more stringent than analogous federal rules. The Virginia program allows for exemptions under 40 CFR 264 Subpart F and 264.251; however, it requires an engineering report plus other descriptions and plans regarding the operation of waste piles.

At 9 VAC 20-60-273 B 3, universal waste handlers are required to give a notice of activity similar to that of a generator or facility. Further, if they will transport the waste, they are subject to the rules for transporters, including a requirement to have a permit.

In Part XIV, a series of petitions and processes for making those petitions are described in a manner analogous to those in 40 CFR 260. The Commonwealth has chosen not to list or de-list solid waste as hazardous waste in a petition process and is not seeking authorization for this program element. It may consider requests for variance from regulations when those variances are consistent with a listing action taken by USEPA in response to a petition; however, it does not expect variance actions to be frequent. The additional time following the granting of a petition by USEPA and the incorporation or variance implementing the action in the Commonwealth may be construed as a more stringent process.

In Part XIV, a series of petitions and processes for making those petitions are described in a manner analogous to those in 40 CFR 260. The Commonwealth has chosen not to accept petitions for equivalent testing or analytical methods. It may consider requests for variance from regulations when those variances are consistent with a listing action taken by USEPA in response to a petition; however, it does not expect variance actions to be frequent. The additional time following the granting of a petition by USEPA and the incorporation or variance implementing the action in the Commonwealth may be construed as more stringent process.

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.

Virginia has replaced a previously unauthorized section with new sections. 9 VAC 20-60-1390 A 2 and 9 VAC 20-60-1390 B, that are analogous to 40 CFR 260.30 and 260.31. The Commonwealth is now seeking authorization for 9 VAC 20-60-1390. 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.

Section 9 VAC 20-60-1420 B 2 requires the Director to publish final decisions on a variance in a local newspaper, whereas, the federal requirement is not specific.

Section 9 VAC 20-60-1420.C 1 a empowers the Director to require compliance by generators with 40 CFR 262, Subpart B (manifests) which is not a power of the USEPA Administrator.

Areas Where Virginia Regulations Are Broader In Scope Include The Following

In Part VII (transporters) a permit and permit application fee are required. Part XII establishes a permit and permit modification fee system applicable to transporters and all facility owners and operators. Also, transporters are required to file an annual report on transport activities. The requirements of a transporter permit, annual report, and fees for permits or permit amendments are not a part of the federal requirements and are therefore broader in scope. To the degree the Commonwealth places the full burden of these requirements on transporters regarding shipments of spent acid-lead batteries destined for recovery, Virginia is broader in scope than federal requirements, which exempt these materials at 40 CFR 266.80.

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 because the USEPA has not formally amended the federal regulation. Therefore, in the case of 40 CFR 261.2(c)(3), the Commonwealths regulations are broader in scope than the federal program as modified by the vacatur.

Areas Where Virginia Regulations Are Different But Equivalent Include The Following Items

All the areas of departure from the federal program by the Commonwealth are areas where the Commonwealth is more stringent or broader in scope than the federal programs. There are many differences in the programs where the phrasing of a particular requirement or an effective date is not the same. These are explained in the Demonstration of Adequate Authority in appropriate detail and need not be discussed individually here. In all cases of date differences, they result from the structuring of federal statutes and their handling of statutory requirements at different times based on state or federal implementation. Phrasing differences are inconsequential either because they are of a trivial nature or because the effect of the federal and Commonwealth provisions are the same. In all cases, the differences result in the Commonwealth being equivalent, more stringent or broader in scope than the federal program.

The most significant example of equivalent regulations is 9 VAC 20-60-273 B 4, which provides an additional universal waste, "lamps" with controlled crushing. The Commonwealth recognizes and allows the same "lamps" category of universal waste as that adopted by USEPA, and it recognizes the delineated and controlled universal waste of lamps with crushing. Controls are prescribed so as to make the category the equivalent to the federally defined universal waste for lamps without crushing.

Other significant examples of equivalent but different approaches occur. In 9 VAC 20-60-261 B 5, where a conditionally exempt small quantity generator cannot send exempt hazardous waste to a solid waste facility unless all rules of the Solid Waste Management Regulations, 9 VAC 20-80-10 et seq., are met. This means that the facility must have written permission from the Department to receive such wastes. In 9 VAC 20-60-264 B 16, it is required that in 40 CFR 264.93, "hazardous constituents" shall include constituents identified in 40 CFR Part 264 Appendix IX in addition to those in 40 CFR Part 261 Appendix VIII. In 9 VAC 20-60-264 B 17, the following text is substituted for 40 CFR 264.94(a)(2): "For any of the constituents for which the USEPA has established a Maximum Contaminant Level (MCL) under the National Primary Drinking Water Regulations, 40 CFR Part 141 (regulations under the Safe Drinking Water Act), the concentration must not exceed the value of the MCL if the background level of the constituent is below the MCL..." This has the effect of eliminating the option of using "Table 1" criteria that may not be sufficiently protective of public health and the environment.

The Commonwealth's program is based on the federal program as adopted on July 1, 2001. It is the Commonwealth's intent to amend its program each year once the Commonwealth has determined all federal rules finalized by June 30 of that year. It will initiate rulemaking to update the Commonwealth's regulations and program to incorporate the federal changes. The rulemaking process in the Commonwealth will require time that will mean that the Commonwealth final annual regulations are a few months behind the federal final annual regulation. This lag time should normally be less than six months using the immediate final rulemaking procedure; however, when amendments to Commonwealth regulation represent a substantial change in the text of the Commonwealth's regulations, this lag period may approach eighteen months to allow more extensive public participation in accordance with Virginia's Administrative Process Act, Title 2.2, Chapter 40, §§ 2.2-4000 through 2.2-4033, Code of Virginia.

B. A DISCUSSION OF EACH OF THE SIX STATUTORY TESTS (RCRA STANDARDS 1 THROUGH 6).

RCRA Standards #1 and #2 - Equivalent and No Less Stringent Program

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

[This item is not amended from Revision I.]

2. *Requirements for Generators - § 271.10*

[Revision I is amended by substituting the following text for this item.]

The Commonwealth controls all the generators that are controlled by the federal program, including small quantity generators as required under HSWA Cluster I. Section 9 VAC 20-60-315 requires new generators to notify the Director of their activities; requires generators to get an EPA identification number from the Administrator (using EPA Form 8700-12); requires all generators to follow reporting and record-keeping requirements contained in 40 CFR 262.40, 262.42, and 262.43; requires generators to submit annual activity reports that contain all the information requirements shown in 40 CFR 262.41; requires generators to package, label, mark and placard hazardous waste during transportation in accordance with parts of Title 49, Code of Federal Regulations; and provides requirements respecting international shipments which mirror those contained in 40 CFR 262.50 through 40 CFR 262.58 and 40 CFR 262.60 as promulgated by EPA.

The Commonwealth's manifest system follows that of EPA, including the use of exception and discrepancy reports. Virginia has not chosen to require its own manifest form, nor has it set up a manifest-matching program. Virginia requires the use of the Uniform Manifest as provided by joint EPA/DOT rule. Virginia's manifest system is marginally more stringent than the federal system in that additional notice of generator activities is required. This is accomplished by incorporation of federal text into the Commonwealth's regulations at 9 VAC 20-60-262 and the establishment of specific notice requirements in 9 VAC 20-60-305 through 9 VAC 20-60-328. With the exception of the Commonwealth's more stringent requirements previously discussed, generators in the Commonwealth must comply with the federal requirements.

3. *Requirements for Transporters - § 271.11*

[This item is not amended from Revision I.]

4. *Requirements for Facilities - § 271.12*

[This item is not amended from Revision I.]

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

[Revision I is amended by substituting the following text for this item.]

The universe of facilities requiring permits in Virginia is the same as that under the federal RCRA program. Further, Virginia regulations provide for the "interim status" standards, which are at least as stringent as those contained in 40 CFR 265.

In 9 VAC 20-60-124 and 9 VAC 20-60-270, the Commonwealth incorporates the federal text of 40 CFR 124 and 40 CFR 270. In Amendment 15 A, the Virginia permitting regulations contained in Part XI were deleted or combined with the requirements of both 40 CFR Parts 270 B and 124 B if they were pertinent to state programs but different from the equivalent (or less stringent or narrower in scope) federal requirement. The Virginia permitting regulations are more stringent in two significant areas: they prohibit underground injection of hazardous wastes, and they omit provisions for the confidentiality of information. The omission is predicated on the provisions of the Virginia Freedom of Information Act (VFOIA), Chapter 37, Title 2.2, Code of Virginia. VFOIA does not specifically exempt information that is submitted under the Virginia Waste Management Act.

6. *Variance, Waiver and Compliance Schedule Provisions*

[Revision I is amended by substituting the following text for this item.]

Variance, waiver and compliance schedule provisions are similar to the federal requirements in that Virginia allows few exceptions. Virginia does not consider petitions regarding delisting of hazardous wastes, preferring that this function remain with USEPA. The regulations refer such petitions to the Administrator or Regional Administrator. Virginia will recognize EPA final delistings through the variance process pending the next rulemaking opportunity. The Department does not have the appropriate resources to properly evaluate these petitions, and it feels that, in most cases, these decisions may effect a regional or national precedent.

In Amendment 14, the provisions to consider petitions for changes in the classification of a recycled waste as a solid waste were removed and such petitions deferred to the regional administrator. In Amendment 15 A, these provisions were reinstated in the regulations, and the Commonwealth will now receive and consider these petitions and not defer them to the regional administrator. The Commonwealth also added language to the regulations to facilitate the consideration of variance petitions to extend to the state level the federal delisting of a waste from being a hazardous waste. Further, the Commonwealth added a new provision for consideration of variances to applicable treatment standards under the land disposal restrictions using the criteria in 40 CFR 268.44.

7. Availability of Information (§ 3006(f)).

[This item is not amended from Revision I.]

RCRA Standard #3 - Consistent Program

[This item is not amended from Revision I.]

RCRA Standard #4 - More Stringent Program

[Revision I is amended by substituting the following text for this item.]

The Virginia program for generators and owners and operators of TSD facilities is only marginally more stringent than that required by the EPA. Previous discussions touched upon these areas and need not be repeated here.

The Virginia regulatory program for transporters of hazardous waste is more extensive than required for authorization. Commonwealth regulations provide that transporters must obtain a permit from the Commonwealth. Transporters are also required to furnish an annual report of their activities.

In 1992, the General Assembly amended the Virginia Waste Management Act to empower the Director to revoke, suspend or amend any permit if the owner's or operator's key personnel have been convicted of any of a list of felonies (under the laws of Commonwealth or the equivalent laws of any other jurisdiction), or they have been adjudged by an administrative agency or a court of competent jurisdiction to have violated the environmental protection laws (of the United States, the Commonwealth or any other state). In order to be able to do this, the Director must determine that such conviction or adjudication is sufficiently probative of the permittee's or applicant's inability or unwillingness to operate a facility in a lawful manner.

RCRA Standard #5 - Adequate Enforcement

[This item is not amended from Revision I.]

RCRA Standard #6 - Notice and Hearing in the Permit Process

[Revision I is amended by substituting the following text for this item.]

This standard is based on § 7004(b)(2) of RCRA which stipulates that no State permit program may be authorized unless it: (1) provides notice of its intent to issue a permit through publication in "major local newspapers of general circulation"; (2) broadcasts such notice over local radio stations; (3) provides for at least a 45 day public comment period; and (4) holds an informal public hearing if one is requested during the comment period. Virginia incorporates the relevant items 40 CFR 124 and 40 CFR 270.

In Virginia, once an application has been determined to be technically complete, the Director will tentatively decide whether to prepare a draft permit or to deny the application, which is a type of a draft permit. Other types of draft permits include modifications, revocation and re-issuance, and notices of intent to terminate. The requirements for the contents of the draft permit are contained in 9 VAC 20-60-270 B of the Virginia Hazardous Waste Management Regulations.

Once a draft permit or the notice of intent to deny a permit has been prepared, the Director will give public notice providing for the opportunity to comment and to request a hearing. The notice will allow at least 45 days for comments and requests. During the public comment period, any interested person may submit written comments on the draft permit and may request a hearing in writing. The Director will hold a public hearing either upon receiving a request or upon his own discretion in the absence of such a request, to receive written or oral comments which may clarify issues involved in permit decisions.

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

The mechanism for the appeal of a decision on the issuance or denial of permits is addressed in the Virginia Administrative Process Act (VAPA) in the Article dealing with the case decisions (Chapter 40, Title 2.2, Code of Virginia (1950), as amended). Section 2.2-4019 of VAPA provides for informal fact finding proceedings before the Director, or his agent, in cases which parties fail to consent. These proceedings provide for the right of the parties to have reasonable notice, to appear in person or by counsel, to have notice of any contrary fact basis or information, to receive prompt decisions and to be informed of the factual of procedural basis for an adverse decision.

The Department is enabled to first attempt to resolve controversies by consent. Should such consent not be achieved, § 2.2-4020, VAPA, provides for the opportunity for the formal taking of evidence upon relevant fact issues. Decisions or recommended decisions and findings of fact arising from such a formal hearing become a part of the record. In support of its fact-finding procedures, the Department may issue subpoenas requiring testimony or the production of evidence subject to certain rights specified in § 2.2-4022, VAPA.

The final permit decision will be furnished to the applicants and, together with the full record or case file, will be made available for public inspection or copying subject to certain exceptions specified in § 2.2-4002, VAPA. Any party aggrieved by and claiming unlawfulness of the permit decision has a right to the direct court review. The conditions and the mechanisms for such review are specified in § 2.2-4026 to -4030, VAPA.

The procedures under Virginia statutes more than adequately provide for the notice and hearing intentions of the EPA in the permit process. The above-stated procedure provides a greater input opportunity for the public during the permit process than required by the EPA under Standard #6.

General Correspondence between Virginia Regulations and Federal Regulations

[REVISION I IS AMENDED BY SUBSTITUTING THE FOLLOWING TEXT FOR THIS ITEM.]

USEPA REGULATION Code of Federal Regulations (CFR)	VIRGINIA REGULATION	DESCRIPTION
PARTS 124	9 VAC 20-60-124 Part XIV	The Hazardous Waste Program Procedures
PART 260	9 VAC 20-60-260	Hazardous Waste Management System: General
PART 261	9 VAC 20-60-261	Identification and Listing of Hazardous Waste
PART 262	9 VAC 20-60-262 Part IV	Standards Applicable to Generators of Hazardous Waste
PART 263	9 VAC 20-60-263 Part VII	Standards Applicable to Transporters of Hazardous Waste
PART 264	9 VAC 20-60-264	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
PART 265	9 VAC 20-60-265	Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
PART 266	9 VAC 20-60-266	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
PART 268	9 VAC 20-60-268	Land Disposal Restrictions
PARTS 270	9 VAC 20-60-270	The Hazardous Waste Permit Program
PART 273	9 VAC 20-60-273 Part XVI	Standards for Universal Waste Management
PART 279	9 VAC 20-60-279	Standards for the Management of Used Oil

SECTION 3. STATE AGENCY RESPONSIBILITIES

A. ORGANIZATION AND STRUCTURE OF THE HAZARDOUS WASTE PROGRAM

1. Identification of Virginia Agency Administering Program-

[This item is not amended from Revision I.]

2. Structure Virginia Department Of Environmental Quality - § 270.6(B)(1):

[Revision I is amended by substituting the following text for this item.]

The Department of Environmental Quality (organization chart shown in Appendix I) is comprised of seven divisions and seven regional offices. All agency programs are organized under one of the fourteen branches except for the Office of Enforcement Coordination, the Chief Deputy and the Internal Auditor. Hazardous waste enforcement is a function of the Office of Enforcement Coordination and the enforcement staff in the regional offices. The Pollution Prevention Program is located in the Division of Pollution Prevention and Compliance Assistance. Inspections and enforcement staff are located in regional offices. All other hazardous waste program elements are within the Division of Waste Program Coordination.

Compliance inspectors and their supervisors are located in and under the administrative control of the seven regional offices; however, program control for hazardous waste inspections and compliance activities are under the Division of Waste Program Coordination. The Division of Waste Program Coordination coordinates the training of the regional staff and supervises for quality and consistency of inspections and compliance activities. The Office of Waste Programs provides technical support in toxicology, statistics, geotechnical sciences, corrective action, regulatory development, program tracking and reporting, and maintenance of program authorization. The Office of Waste Permitting provides for the review and issuance of permits, including corrective action permits, groundwater monitoring and sampling, and other permit-related functions. The Office of Financial Assurance provides technical support in the review and monitoring of financial assurance provided in accordance with hazardous waste management regulations.

Function	Location
Permitting and Closure	Office of Waste Permitting in Division of Waste Program Coordination
Corrective Action	Office of Waste Permitting and Office of Waste Programs in the Division of Waste Program Coordination
Compliance	Regional Offices - Compliance and Enforcement Sections Compliance Oversight/Support - Division of Waste Program Coordination
Financial Assurance	Office of Financial Assurance
Groundwater Compliance	Office of Waste Permitting in Division of Waste Program Coordination
Enforcement	Regional Office - Compliance and Enforcement Sections Enforcement Oversight/Support - Office of Enforcement Coordination
Regulations/Authorization	Office of Waste Programs in the Division of Waste Program Coordination
RCRIS/BRS & Reporting	Office of Waste Programs in the Division of Waste Program Coordination
Mixed Waste	All staff with support provided by Office of Waste Programs in the Division of Waste Program Coordination
Waste Minimization	All Staff including Pollution Prevention staff in the Division of Pollution Prevention and Compliance Assistance

B. PROCEDURES FOR COORDINATION AMONG AGENCIES

[This item is not amended from Revision I.]

C. DESCRIPTION OF RELEVANT MEMORANDUMS OF UNDERSTANDING BETWEEN AGENCIES

[This item is not amended from Revision I.]

D. DIVISION OF RESPONSIBILITY BETWEEN COMMONWEALTH AND USEPA

[This item is not amended from Revision I.]

SECTION 4. STAFFING AND FUNDING RESOURCES

[Revision I is amended by substituting the following text for this item, both A. and B. included..]

A. DESCRIPTION OF STAFFING OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

1. Number of Staff

A table in Attachment 5 shows the current allocation of staff effort by tasks. Not counted in the total is the staff support made available to the program by other divisions of the Department and other State agencies. They include:

Departmental secretarial support

Division of Administration, Department of Environmental Quality, furnishes fiscal, training, and human resources support.

Division of Policy and Planning, Department of Environmental Quality, assists with support of environmental justice efforts.

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

Virginia Department of Emergency Management (formerly known as the Virginia Department of Emergency Services) supports the program in providing emergency response to hazardous materials and hazardous waste incidents.

Forensic laboratory support is obtained from the Department of Criminal Justice Services and the contract laboratories, if the former cannot support the analysis requirements. The Department has entered into contractual arrangements with three private laboratories to support its sampling and QA/QC program.

2. Occupations and General Duties

While the tasks are allocated in accordance with the negotiated workplan with USEPA, the structure and general involvement of the staff, typical occupational background, and responsibilities are as follows:

Directors

- | | |
|-------------------------------|--|
| Agency Director | - Agency executive officer |
| Manager III (Central Office) | - Provide overall support for the conduct of the hazardous waste program. |
| Manager III (Regional Office) | - Provide leadership and responsibility for the hazardous waste enforcement and compliance program in their particular region. |

Permitting, Closure, and Corrective Action

- | | |
|----------------|--|
| Manager II (a) | - Acts for the Waste Operations Division Director in his absence regarding permitting, closure, or corrective action issues. Authorized for responsibility of the hazardous waste permitting and corrective action |
|----------------|--|

programs. (typically engineering background)

- (b) - Supervises and provides expert technical support and review of the hazardous waste permitting, closure, and corrective action programs. (typically engineering background)

Specialist II

- Reviews HWM permit applications and drafts HWM facility permits, responds to emergencies, reviews closure plans/financial assurance cost estimates, and corrective action documents. Coordinates with EPA and enforcement regarding facilities and provides technical assistance to owners/operators and others. (typically engineering background)

Groundwater Compliance and Support for Permitting/Corrective Action

Manager II (a)

- Provides geologic and hydrogeologic expertise for the hazardous waste groundwater monitoring and Corrective Action/groundwater corrective action programs. Manages the hazardous waste program groundwater staff. (typically geology/engineering background)

(b)

- Provides assistance with QA/QC laboratory evaluations. Performs comprehensive monitoring evaluations and operation and maintenance inspections of hazardous waste facilities with groundwater monitoring. (typically chemistry background)

Specialist II

- Inspects hazardous waste management facilities with groundwater monitoring by performing comprehensive monitoring evaluations and operation and maintenance inspections. Reviews groundwater portions of hazardous waste management facility permit applications, closure/post-closure plans, and corrective action documents. Drafts groundwater-monitoring portions of permits/plans. Provides assistance to hazardous waste facilities and their consultants involved with groundwater monitoring programs. (typically geology background)

Compliance and Enforcement

Manager II (a)

- Provides second level of management and leadership for compliance staff and manages the enforcement program for the regions. (typically chemistry/engineering background)

(b)

- Coordinates and supervises the compliance staff for the regional offices. (typically chemistry/engineering background)

Scientist II (a)

- Conducts comprehensive evaluation inspections (CEIs) of hazardous waste TSD facilities and field inspections for other hazardous waste facilities/non-notifiers. (typically chemistry/engineering background)

(b)

- Provides compliance information for regulated community and public. Additionally, provides guidance and assistance to junior staff and is responsible for more complex compliance issues. (typically chemistry/engineering background)

(c)

- Conducts CEIs for hazardous waste facilities to determine compliance and field inspection for other hazardous waste facilities/non-notifiers.

Provides compliance information to regulated community and public.
(typically chemistry/engineering background)

- (d) - Provides effective enforcement support to regional offices regarding hazardous waste enforcement issues. Assist and manages exceptionally complex hazardous waste enforcement cases and assists with training and providing guidance to regional enforcement staff. (typically legal background)
- (e) - Manages the more complex enforcement cases involving hazardous waste management facilities. (typically legal background)
- Specialist I (a) - Receives, assesses, refers, or initiates actions on enforcement cases to address violations of the regulations by hazardous waste facilities. (typically legal background)
- (b) - Reviews financial assurance documents for TSD facilities. (typically financial/law background)

Program Development and Support

- Manager II - Manages and administers the technical support of the hazardous waste program. Reviews hazardous waste program and prepares authorization package for furthering state's program ability. Prepares amendment packages to the regulations in order to maintain consistency between state and federal program. (typically engineering background)
- Specialist II (a) - Provides headquarters' support to regional compliance staff regarding application of regulations, assistance with completion of commitment inspections, writes guidance and assists with training of regional compliance staff. Advises public and professionals on hazardous waste management issues. (typically chemistry/waste management background)
- (b) - Manages and coordinates the RCRAInfo/BRS system. Reviews RCRAInfo/BRS forms to insure accuracy and inputs BRS data for biennial reporting. Supervises reporting and notification programs/issues provisional ID numbers. (typically database background)
- Admin. & Program Specialist II - Maintains the data for the RCRAInfo system. QA/QCs all RCRAInfo entries in accordance with proper procedures. (typically database background)
- Manager II - Provides management of the grant and acts as grant program manager regarding the workplan. Provides assistance regarding environmental justice efforts. Coordinates and performs tasks for environmental justice efforts. (typically chemistry/engineering background)
- Specialist I - Administers the daily requirements for the hazardous waste program grant. Maintains and coordinates grant project status. (typically financial background)
- Manager II - Provides technical assistance for permitting/groundwater staff regarding QA/QC of environmental data and provides expert technical guidance

and evaluation for statistical analysis procedures and risk assessment.
(typically chemistry/engineering background)

Admin. & Program Specialist II - Maintains central file system for the hazardous waste program.

Waste Minimization

Manager II - Directs the development, implementation and refinement of the pollution prevention/waste minimization program. (typically chemistry/engineering background)

Specialist II - Assists permitting/compliance/enforcement staff with waste minimization concepts. (typically chemistry/engineering background)

Other

Legal services are available as needed from the Office of the Attorney General

In order to provide better assistance to the regulated community and the public, the Department has adopted a regional concept. There are seven regional offices that are responsible for the compliance and enforcement efforts of the hazardous waste program. The regional staff can utilize the expert support staff that are located in the central office. These support staff are also important to providing consistency of the hazardous waste compliance and enforcement programs. The permitting, closure, and groundwater functions have remained in the central office because these programs are not extensive enough for regionalization and the direct access to technical experts is more readily available in the central office. These central office staff are also responsible for the corrective action program.

B. OVERALL CHANGES TO EXISTING RESOURCES FOR PREVIOUSLY AUTHORIZED PROGRAM

The last authorization of the Virginia program for hazardous waste management was in 2000 with full authorization. The projected funding at that time was approximately \$2,155,000 per annum for federal fiscal years 2001 and 2002. The current funding level for 2002 and 2003 is \$2,520,000 per annum. See the program grant application in Attachment 5 for details.

C. ITEMIZATION OF ESTIMATED COSTS AND SOURCES OF FUNDING

1. Personnel

See Item A, above, for a description of the staff available and Attachment 5 for the allocation of the staff to specific workplan goals. No additional positions are expected to be added due to current federal and state level funding postures.

2. Funding - § 271.6(B)(2)

The current funding level for 2002 and 2003 is \$2,520,000 per annum. See the program grant application in Attachment 5 for details.

3. Sources of Funds and Restrictions - § 271.6(B)(3)

Budget requirements for the present fiscal year are met through the funds made available by the federal grant (75%) and the funds appropriated by the Virginia General Assembly or permit fees (25%). Recognizing potential shortages of the general funds in future years and the requirements for the growth of the hazardous waste management program, the 1983 General Assembly authorized the establishment a special fund to be supported by the permit application fees collected from the regulated community starting

with the 1984-1986 Biennium (July 1, 1984 through June 30, 1986). In its 2002 session, the Virginia General Assembly authorized the Board to promulgate regulations establishing a fee schedule sufficient to cover no more than 20% of the direct cost of the hazardous waste management program, provided that no fee could increase more than 300%. This provision expires July 1, 2004.

**SECTION 5. STATE PROCEDURES, PERMITTING, PROGRAMS AND COORDINATION
WITH OTHER AGENCIES**

A. REGULATORY DEVELOPMENT - § 271.6(C)

[Revision I is amended by substituting the following text for this item.]

The normal time frame for the adoption of a regulatory amendment by the Virginia Waste Management Board does not exceed 18 months between the cut-off date for federal changes and final adoption. Much of the time is devoted to the planning of the amendment and in the involvement of the public and the regulated community in the early formulation of the regulatory proposals. Availability of time to plan is important to the development of sound proposals.

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

The regulation promulgation procedure consists of the steps submitted and approved in Authorization Revision I and need not be repeated here. However, in 2000 and 2001 the regulations were revised using an immediate final rulemaking. The substance of the rulemaking is limited to changing the date of federal regulatory text that is incorporated by rule into Virginia's regulations. Each year in August or September, a new immediate final rule will be proposed to Waste Management Board that would designate this date as July 1 of that year. If approved by the Board, the new would become effective in 60 to 90 days. Using this method, Virginia hopes to keep its hazardous waste rules consistent with the current federal rules as adopted.

B. NOTIFICATION

[This item is not amended from Revision I.]

C. MANIFEST TRACKING SYSTEM

[This item is not amended from Revision I.]

**D. COORDINATION OF INFORMATION REGARDING INTERSTATE AND INTERNATIONAL
SHIPMENTS**

[This item is not amended from Revision I.]

E. PERMITTING/CLOSURE/CORRECTIVE ACTION REVIEW PROCEDURES- § 271.6(C)33

1. Permitting

[Revision I is amended by substituting the following text for this item.]

Both the enabling legislation (Chapter 14, Title 10.1, Code of Virginia (1950), as amended) and the regulations (VHWMR 9 VAC 20-60-270) require a permit for the treatment, storage, or disposal of hazardous wastes. The permit process is specified in incorporate federal regulations at 9 VAC 20-60-124 A

and 9 VAC 20-60-270 A, and exceptions to the incorporated process as stated in 9 VAC 20-60-270 B. The combination of these provisions and citations to the Virginia Administrative Process Act, Title 2.2, Chapter 40 of the Code of Virginia and the Board's Public Participation Regulations, 9 VAC 20-60-10 et seq., provide a process equivalent to the federal process. The regulations provide for specific inclusions and exclusions for various facilities. There is a specific prohibition of disposal of hazardous wastes by means of underground injection. To eliminate duplication of regulatory effort and to minimize the burden of duplicate requirements upon the regulated entities as provided for in §10.1-1402(9), Code of Virginia, the regulations also provide for the continued validity of federally issued permits (9 VAC 20-60-270 B 5).

The operators of hazardous waste TSD facilities are required to submit complete applications to the Director (VHWMR 9 VAC 20-60-980) prior to construction of a new facility, and/or prior to expiration of an existing permit. The owners of the facilities operated by another party also are required to sign the application. The parties who operate facilities subject to permits-by-rule, emergency permits and continued federal permits are exempt from the completeness requirements.

Hazardous waste management facilities that were in existence when RCRA was promulgated in 1980 are required to submit the Part A application and, upon request, submit Part B applications to the Director. This same procedure is also applicable to facilities that become newly regulated because of amendments to RCRA. Failure to submit Part B applications upon request results in the termination of interim status. In the case of new facilities, Parts A and B have to be simultaneously submitted to the Director prior to construction of the facility. Construction cannot begin prior to the receipt of a finally effective hazardous waste management (HWM) permit, since Virginia does not provide for a two stage permitting process.

All applications must be properly signed and certified, and must contain information required as a part of the federal Part A and Part B application, and they must submit additional information listed in 9 VAC 20-60-270 B 6, 9, and 12. The requirements reflect the latest federal requirements for surface impoundments, incinerators and land disposal activities and HSWA land-ban requirements.

Once an application has been determined to be technically complete, the Director will tentatively decide whether to prepare a draft permit or to deny the application, which is a type of draft permit. In case of permits for major facilities or facilities subject to significant public interest, a fact sheet will be prepared. Once the draft permit or the notice of intent to deny a permit has been prepared, Director will give public notice providing for the opportunity to comment and to request a hearing. The procedure allows at least 45 days for comments and requests. The Director will hold a public hearing either upon receiving a request or upon his own discretion in the absence of such a request, to receive written or oral comments which may clarify issues involved in permit decisions. All persons contesting the permit or permit conditions have an obligation to raise issues and provide information during the public comment. Based on the merits of the application and the results of the public participation, Director will render the final permit decision. At that time he will issue a response to the comments received which will be made available to the public.

The mechanism for the appeal of a decision on the issuance or denial of permits is addressed in the Virginia Administrative Process Act (VAPA), § 2.2.-4000 through 4033. Section 4019 of VAPA provides for informal fact finding proceedings before the Director or his agent. These proceedings provide for the right of the parties to have reasonable notice to appear in person or by counsel, to have notice of any contrary fact basis or information, to receive prompt decision and to be informed of the factual or procedural basis for an adverse decision. This section enables the Department to first attempt to resolve controversies by consent. Should such consent not be achieved, § 4020, VAPA, provides for the formal taking of evidence upon relevant fact issues. Decisions or recommended decisions and findings of act arising from such a formal hearing become a part of the record. In support of its fact-finding procedures, the Department may issue subpoenas requiring testimony or the production of evidence. The final permit decision will be furnished to the applicants and, together with the full record or case file, will be made available for public inspection or copying subject to certain exceptions. Any party aggrieved by and claiming unlawfulness of the permit

decision has a right to the direct court review. The conditions and the mechanism of such review are specified in VAPA.

The VHWMR provide for the same exemptions from the full permit issuance procedures as the federal rules. The authority to issue such exemptions is based on § 10.1-1402(9) of the Code of Virginia (1950), as amended.

In accordance with VHWMR 9 VAC 20-60-270 B 5, hazardous waste management facilities that possess a RCRA permit issued by EPA are deemed to possess a valid permit in Virginia for the unexpired term of the EPA issued permit. Additionally, EPA permits, which were issued to Virginia facilities pursuant to HSWA requirements and constitute the federal portion of the combined Virginia-EPA permit, are considered as addenda to the Virginia permits and remain in effect for the unexpired term of the Virginia permit.

Facilities in operation on the date that applicable regulations become effective (i.e. "existing facilities") are considered to have interim status and are treated as having been issued a permit providing they meet the qualifications required by VHWMR 9 VAC 20-60-270 A and 9 VAC 20-60-270 B 7. Changes during interim status may be approved if the requirements of VHWMR 9 VAC 20-60-270 A and 9 VAC 20-60-270 B 7 are met. VHWMR provide for termination of interim status for cause as described in VHWMR 9 VAC 20-60-270 A and 9 VAC 20-60-270 B 7. Such termination is subject to appeal procedures contained in VAPA and described previously.

Owners or operators of vessels used for ocean disposal and owners and operators of publicly owned treatment works are deemed to have a hazardous waste management permit if the conditions listed in VHWMR 9 VAC 20-60-1040 are met. Since Virginia regulations specifically prohibit disposal of hazardous waste by underground injection, no "permit-by-rule" provisions exists for such disposal.

Virginia regulations provide for modification, revocation and reissuance, or termination of permits, including the modification procedure streamlining promulgated by EPA. Modifications, revocations, reissuance and notices of intent to terminate are considered to be a type of draft permit and are governed by appropriate regulations mentioned previously. Virginia Administrative Process Act procedures are applicable in all such cases.

Upon receipt of the Final Authorization, the Commonwealth assumed the responsibility for the land disposal facilities permits called in by the EPA in 1984. As the result of HSWA requirements, all land-based facilities in the Commonwealth elected to undergo closure proceedings rather than continue the operation beyond November 8, 1988. The Department reprogrammed its resources into the issuance of post-closure permits and meeting the other deadlines established by the HSWA. The Department met the deadline for incineration facilities and has called in Part B applications for all other remaining facilities. To date, all treatment and storage facility operating permits have been issued except for 2 BIF facilities; post-closure permits under study; Subpart X units, for which guidance was more recently issued by EPA; and for facilities that became newly regulated as a result of new waste listings, such as TCLP.

2. Facility Closure Plan Reviews - § 40 CFR 271.6(B)(1)

[This item is not amended from Revision I.]

3. Corrective Action Program - 40 CFR §271.6(B)(1)

[Revision I is amended by substituting the following text for this item.]

The Commonwealth uses a prioritization system that provides results consistent with national priorities to address the most environmentally significant sites first. Virginia actively participated in and supported EPA's effort 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 supports EPA Region III's efforts to meet Government Performance for Results Act (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.

Virginia's corrective action regulations are incorporated federal regulations and entirely consistent with the federal program. Two more stringent provisions have been adopted at 9 VAC 20-60-264 B as was previously discussed. Corrective Action activities (interim measures, RFAs, RFIs, CMSs, CMIs, etc.) are completed using current EPA and state guidances, manuals and policies. The State makes consistent progress toward completing cleanups. Virginia participated in a workshare program with EPA Region III and is actively performing Corrective Action functions. The early 1990's functions consisted of performing RCRA Facility Assessments and drafting Corrective Action permits on behalf of EPA Region III. The year 2000 involvement included 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. Today the program is staffed and fully functioning. Based on the end-of-year reports for the last several fiscal years, EPA has been complimentary of Virginia's document reviews and Corrective Action activities. Sites currently in the active Corrective Action universe are progressed steadily toward completing cleanups. The State consistently meets corrective action grant commitments.

As the base program permitting and closure universe has decreased, Virginia has continually increased the amount of corrective action work 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 lead corrective actions at facilities for which Virginia is responsible. Virginia has created its own multi-media database, CEDS (Comprehensive Environmental Data System), which will eventually be available on-line to the citizens of Virginia.

Virginia incorporated portions of the Land Disposal Restrictions and RCRA Subparts AA and BB regulations into its program in 1993. The staff has been 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.

F. INTERIM FACILITY STATUS

[This item is not amended from Revision I.]

G. BIENNIAL REPORTS

[Revision I is amended by substituting the following text for this item.]

The Commonwealth's regulations incorporate the federal regulations regarding biennial reporting and are identical in their requirements. Reports are processed through the Biennial Reporting System and RCRAInfo process. The system is a cooperative effort between the Department of Environmental Quality and USEPA, and the data will be shared through the system.

H. ENFORCEMENT GENERAL INSPECTIONS

[This item is not amended from Revision I.]

I. GROUNDWATER MONITORING INSPECTIONS

[Revision I is amended by substituting the following text for this item.]

Groundwater inspections are conducted by geologists and engineers from the Office of Waste Permitting staff, often in cooperation with the regional compliance inspectors. Samples are collected in accordance with an approved quality assurance/quality control plan and submitted to commercial laboratories for analyses. The results are reviewed by the permitting staff, and the results are submitted to RCRAInfo and the regional compliance inspectors.

J. WASTE MINIMIZATION/POLLUTION PREVENTION

[This item is not amended from Revision I.]

K. AVAILABILITY OF INFORMATION PROCEDURES

[This item is not amended from Revision I.]

L. APPEAL PROCEDURES

[This item is not amended from Revision I.]

SECTION 6. COMPLIANCE TRACKING AND ENFORCEMENT

IDENTIFICATION OF REGULATED COMMUNITY, INSPECTIONS AND WORKLOAD ANALYSIS, DATA MANAGEMENT, COMPLIANCE MONITORING AND ENFORCEMENT PROCESS

[Revision I is amended by substituting the following text for this item.]

The Department has a comprehensive enforcement strategy. An Enforcement Manual reflecting the organization of the program functions is shown in Attachment 6 to this document. The following description is keyed to the appropriate sections of Part 271, Title 40, Code of Federal Regulations, and only briefly address most pertinent highlights. It should be read in conjunction with the formal Enforcement Manual document.

A. GENERAL - SECTION 271.6(E)

[Revision I is amended by substituting the following text for this item.]

Virginia's enforcement procedures are based on the Virginia Waste Management Act, the Virginia Administrative Process Act, and current regulations and are consistent with federal requirements under 40 CFR Section 271.6(e).

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

More specifically, VHWMR Part II and 9 VAC 20-60-270 B authorize the State to conduct all necessary inspections, investigations, sampling and follow-up activities required to assure compliance. Coordination with state agencies and the federal Department of Transportation is assured under Part VII.

B. IDENTIFICATION OF THE REGULATED COMMUNITY

[Revision I is amended by substituting the following text for this item.]

Since base authorization was granted the universe of hazardous waste has changed and grown. The inclusion of new listed solvents brought many small generators under the rules. BIF rules brought new facilities under the regulations. Amendment 14 brought the handlers of waste oil within the regulations by the incorporation of 40 CFR 279. Universal waste rules will bring additional handlers under the regulations. In the 1984 program, identification of non-notifiers was a major compliance effort.

In 2002, identification of non-notifiers has diminished by successful past investigations and broader education in the affected community. In 2002, new business are much more likely to manage their environmental responsibilities before beginning operation and are better informed about the laws and regulations that apply. Also, the solid waste facilities, fire and police officers, and many others are likely to spot inappropriate activity and know the Department as the place to report suspected acts. When new wastes were added to the hazardous waste category, the Department surveyed industries in the state that might produce waste in that category and visited selected sites to determine the pattern of use in the business community. The Department also operates the SARA Title III program and has information available to it from its Clean Water Act and Clean Air Act programs, among others.

C. INSPECTIONS AND WORKLOAD ANALYSIS

[This item is not amended from Revision I.]

D. DATA MANAGEMENT

[This item is not amended from Revision I.]

E. COMPLIANCE MONITORING

[Revision I is amended by substituting the following text for this item.]

In addition to inspectors in the regional offices, the Department has deputy regional directors or regional compliance managers and a compliance program coordinator in the headquarters. These individuals have established a system of continuous communication and consultation to maintain the quality and consistency of the compliance program. They have developed and implemented a quality assurance and quality control program for groundwater sampling. Further, the Department has established an inspector training program, including a semiannual training meeting and annual short schools, special sessions for new program element (air emissions standards, for example) and the hosting of EPA-sponsored seminars and similar seminars by national organizations. These existing efforts are felt to be adequate to carry on the fully authorized program.

F. ENFORCEMENT PROCESS

1. PATHWAYS - § 271.15(B)

[Revision I is amended by substituting the following text for this item.]

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

Reinspection of all handlers with unresolved non-compliance history;

Annual inspection of all Federal/State/Local TSDs

Annual and special inspections of major handlers;

Biennial inspection of other treatment and storage facilities; and

Other generators and transporters, including hazardous waste fuel generators, burners of used oil and mixed waste generators.

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

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

conditions will save considerable field time. Thus, the workload associated with the evaluation program is expected to remain essentially unchanged.

The number of inspections and priorities for inspections for future years will be negotiated annually between the Commonwealth and the Region as part of the grant process and will reflect the annual RCRA guidance. In addition to regularly scheduled compliance-assurance visits, the Department investigates all reported or suspected violations brought to its attention by other State Offices (e.g., Department of Labor, Department of State Police, local health Departments, etc.) or by private citizens. As part of our regionalization concept, attention to these reported/suspected violations is increased, as the staff performing the compliance-assurance visit is more accessible in the regional offices.

The last pathway by which violations are detected is the review of documents required for periodic submissions such as the financial responsibility requirements and the biennial generator, transporter and treatment, storage and disposal facility reports. In 2001, the Department established a special office for management of financial assurance documentation so that specially trained staff could be applied to the financial assurance requirements of the RCRA programs.

The Virginia Regulations Governing Transportation of Hazardous Materials (9 VAC 20-110-10, et seq., Attachment 7) are enforced by the Virginia Department of State Police and local law enforcement officers that have received training in hazardous materials transportation. Any violations of the Hazardous Waste Management Regulations detected in transit are reported to the Department for further enforcement. The staff routinely inspects fixed transportation facilities of transporters of hazardous waste.

2. VIOLATION CLASSIFICATION - §§ 271.6(E) AND 271.16(C)

[This item is not amended from Revision I.]

3. ENFORCEMENT EVENTS AND TOOLS - § 271.6(E)

[This item is not amended from Revision I.]

4. PENALTY ASSESSMENT - § 271.16(C)

[This item is not amended from Revision I.]

5. LEGAL STAFF RESOURCES - § 271.6(B)

[This item is not amended from Revision I.]

G. INSPECTION PRACTICES AND PROCEDURES

1. TYPES OF INSPECTIONS - §§ 271.15(B) AND (D)

[Revision I is amended by substituting the following text for this item.]

It is the policy of the Department to perform compliance evaluation inspections (CEI) of persons engaged in hazardous waste management subject to Virginia regulations. These comprehensive surveys are performed during field visits irrespective of the nature of the handler (generator, transporter, or operator of a facility) or the reason for such a visit (periodic inspection, compliance reinspection, investigation of a complaint, result of the record review). This policy is based on the philosophy that the resources expenditures involving travel justify expenditure of time required to perform CEI's and would often eliminate the need to schedule a routine periodic inspection at a later date, thus saving resources for both the State and company personnel. As a part of each CEI, all applicable checklists are filled out. These checklists are filled out at the time of CEI or shortly thereafter in the office. A copy of completed documents is mailed to the

inspected activity, along with a letter summarizing the results of the visit and requiring corrective action, if any.

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

Unless the investigation of a complaint indicates that the activity should not be regulated under Virginia Hazardous Management Regulations, a CEI may be performed at the time of the visit. The Department investigates all reported or suspected violations. The investigation will involve a visit if the information is available to locate the site of the violation.

In addition to scheduled compliance evaluation inspections, the Department performs comprehensive groundwater monitoring evaluations at a number of major facilities. These evaluations are intensive investigations into the engineering and hydrogeologic features of the ground water monitoring system in place at interim status, land disposal facilities. The Central Office's Office of Groundwater/Corrective Action staff performs these groundwater inspections.

Whenever sampling is performed, the field personnel observe the following chain-of-custody procedures:

- each sample is uniquely identified and numbered;
- a field chain-of-custody document is prepared (see Attachment 9);
- each sample is sealed and the seal is signed by the collector;
- all samples collected are either kept in view of the sample collector or placed in a locked box with the key kept on the collector's person;
- upon completion of the sampling the locked box and the custody document are placed within a cooler or another large overpack container;
- the overpack container is sealed with tape and seals are signed by the sample collector;
- in case of an in-State laboratory, the container is transported by the collector to the sample custodian of the laboratory, or in case of out-of-state laboratory to a common carrier; and
- the container is surrendered against a receipt.

Forensic samples leading to a possible criminal prosecution are taken to the Department of Criminal Justice Services or a contract laboratory, if the state laboratory cannot support the analysis required, and are handled by the laboratory in accordance with standard procedures accorded to such samples. Other samples are either taken or sent to contract laboratories.

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

2. INSPECTION PERSONNEL - §§ 271.6(B)(1) AND 271.15(B)

[This item is not amended from Revision I.]

3. PERSONNEL QUALIFICATIONS - § 271.6(B)(1) AND 271.15(B)

[This item is not amended from Revision I.]

H. Compliance/Enforcement Organization - §§ 271.6(B), 271.6(E) and 271.15(B)

[This item is not amended from Revision I.]

I. Radioactive and Hazardous (Mixed) Waste Management Capabilities - § 271.6(B)(1)

[Revision I is amended by substituting the following text for this item.]

Key personnel in the Department of Environmental Quality, by virtue of their college education, training, and experience, have the ability to effectively regulate mixed waste.

J. Manifest System - § 271.6(F)

[Revision I is amended by substituting the following text for this item.]

The Commonwealth has elected to incorporate by reference and follow the federal manifest system procedures and has not required submission of the individual manifests to the Department for processing. However, the Commonwealth does require submission of the biennial reports by the generators, transporters, and owners or operators of TSD facilities.

The VHWMR by incorporated federal text requires the use of manifests by all that manage hazardous wastes, unless excluded by the regulations. This is consistent with Federal requirements.

SECTION 7. ESTIMATED REGULATED ACTIVITIES

A. ESTIMATED TYPES AND NUMBER OF REGULATED ACTIVITIES-§§271.6(G)-(H)

[Revision I is amended by substituting the following text for this item, both A. and B. included.]

The estimated types and numbers of regulated activities in the Commonwealth are presented in Table 3.

It is estimated that there are seven mixed radioactive waste generators in Virginia. These include the Virginia Power nuclear reactors in Surry and Louisa counties, the Norfolk Naval Shipyard, as well as hospitals, industry, disposal service companies, and the federal and state agencies.

TABLE 3. ESTIMATED TYPES AND NUMBER OF REGULATED ACTIVITIES

	PERMIT STATUS			
	INTERIM	PERMITTED		
Large Quantity Generators	NA	NA	332	
Small Quantity/Conditionally	NA	NA	8164	
Transporters	NA	380	380	
Treatment & Storage Facilities:				
on-site	4	35	39	
off-site	1	7	8	
Combustion Facilities:				
on-site	0	4	4	
off-site	2	0	2	
Disposal Facilities:				
on-site	0	0	0	
off-site	0	0	0	
	Closing	Require Post-Closure Permits	Post-Closure Permitted	Total
Land-Disposal Facilities	15	6	15	36

Based on data from the 1999 biennial reports, the estimated quantities of waste managed by Virginia facilities are listed in Table 4.

TABLE 4. Waste Quantities

Type of Activity	Number of Handlers	Waste Quantities (tons)
Generators (LQG, SQG, CESQG)	7681 (329 TSDs)	121,787*
Transported into the State	n/a	85,481
Transported out of the State	n/a	48,000

*Breakout of Table 4

Waste Type	Amount (tons)
Only Ignitable	6,154
Only Corrosive	2,299
Only Reactive	49
Only D004-17	39,198
Only D018-43	319
More than one characteristic	11,146
Only F Code	9,741
Only K Code	9,520
Only P Code	13
Only U Code	42
More than one listed code	266
Both Characteristic and Listed	42,988

B. USE OF FEDERAL FORMS - § 271.6(D)

The Department presently requires the use of federal forms and does not intend to publish forms other than those contained within the regulations themselves.

SECTION 8

COPIES OF STATE FORMS

All forms used by the Commonwealth for hazardous waste management are a part of the regulations themselves or are forms of the USEPA located in Title 40 of the Code of Federal Regulations and are incorporated by reference into the Commonwealth's regulations.

SECTION 9

ATTACHMENTS

ATTACHMENT 1 to the PROGRAM DESCRIPTION
Organizational Charts: Department of Environmental Quality
[Revision I is amended by substituting new material for this item.]

ATTACHMENT 2 to the PROGRAM DESCRIPTION
Virginia Waste Management Act and Other Statutes
[Revision I is amended by substituting new material for this item.]

ATTACHMENT 3 to the PROGRAM DESCRIPTION
Virginia Hazardous Waste Management Regulations
[Revision I is amended by substituting new material for this item.]

ATTACHMENT 4 to the PROGRAM DESCRIPTION
Hazardous Material Transportation Regulations
[This item is not amended from Revision I.
This material is found in Revision I and is not included in Revision II.]

ATTACHMENT 5 to the PROGRAM DESCRIPTION
Program Grant Application
[Revision I is amended by substituting new material for this attachment.]

ATTACHMENT 6 to the PROGRAM DESCRIPTION
Enforcement Manual
[This item is not amended from Revision I.
This material is found in Revision I and is not included in Revision II.]

ATTACHMENT 7 to the PROGRAM DESCRIPTION
Inspection Checklists
[Revision I is amended by substituting new material for this item.]