

US EPA ARCHIVE DOCUMENT

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

Demonstration of Adequate Authority
For
Virginia Hazardous Waste Management Program Revisions
From Program Revision II through June 30, 2004

Program Revision III

March 24, 2005

VIRGINIA PROGRAM REVISION III

DEMONSTRATION OF ADEQUATE AUTHORITY FOR THE VIRGINIA HAZARDOUS WASTE MANAGEMENT PROGRAM, INCLUDING CHANGES TO THE FEDERAL RCRA PROGRAM THROUGH JUNE 30, 2004

This document provides, as supplemented by the documents submitted in Revision I, Revision II, and the original application for authorization, a demonstration of the statutory and regulatory authority for the Virginia Hazardous Waste Management Program. The specific authorities cited herein are contained in statutes or regulations adopted and effective at the date of this Demonstration. These authorities supplement those previously described in the Virginia Demonstrations of Adequate Authority for the Virginia Hazardous Waste Management Program dated May 12, 2000 and September 18, 2002, and in the letter dated January 12, 1998, regarding Virginia's Environmental Assessment Privilege and Immunity Law.

Since the Commonwealth received approval of Program Revision II on June 20, 2003, it has improved its program and amended its regulations to incorporate changes to the federal regulations through June 30, 2004. Commonwealth-initiated changes are addressed herein. The Commonwealth initiates this, Revision III, of its authorization under 40 CFR 271.21 to seek approval of the amended program. The pages below discuss those changes to the Commonwealth's statutes and regulations for which approval is sought. They address the differences between the Commonwealth's requirements and the parallel federal provisions.

STATUTES

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

JUDICIAL DECISIONS

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

VIRGINIA - REGULATORY DOCUMENTATION
Federal Amendments July 1, 2001 - June 30, 2004 & Virginia-initiated Amendments through July 1, 2004)

VIRGINIA PROGRAM REVISION III

**REGULATORY DOCUMENTATION FOR THE PROGRAM REVISIONS FOR WHICH
THE COMMONWEALTH IS SEEKING APPROVAL**
**(Includes Federal Regulatory Changes from Program Revision II through June 30, 2004
and Virginia-initiated Program Changes through July 1, 2004)**

Title of Regulations: 9 VAC 20-60, Virginia Hazardous Waste Management Regulations

Effective Dates of Regulations:

Immediate Final Rule 2002 March 26, 2003	(Adoption of July 1, 2002 CFR)
Immediate Final Rule 2003 November 5, 2003	(Adoption of July 1, 2003 CFR)
Immediate Final Rule 2004 September 8, 2004	(Adoption of July 1, 2004 CFR)
Amendment 16 July 1, 2003	(Commonwealth-initiated Changes)
Amendment 17 July 1, 2004	(Commonwealth-initiated Changes)

Statutory Authority: §§ 10.1-1402 and 10.1-1402.1 and Article 4 (§ 10.1-1426 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia. Legislation cited is current through the 2004 session of the Virginia General Assembly.

Date Prepared: March 24, 2005

A. COMMONWEALTH ANALOGS TO FEDERAL REGULATIONS

At VAC 20-60-18, in Immediate Final Rule 2002, Virginia incorporated by reference the federal regulations as published on July 1, 2002, in Immediate Final Rule 2003, Virginia incorporated by reference the federal regulations as published on July 1, 2003, and in Immediate Final Rule 2004, Virginia incorporated by reference the federal regulations as published on July 1, 2004. Virginia is seeking approval for program revisions federal regulatory changes published in the Federal Register from July 1, 2001 through June 30, 2004.

Federal Rule Reference(s)	Date(s) Federal Rule Published	CFR Sections Affected by Federal Amend.	Commonwealth Citation(s)	Date Incorporated Into Commonwealth Regulations
66 <u>FR</u> 35087	July 3, 2001	40 CFR 264	9 VAC 20-60-18 9 VAC 20-60-264 A	March 26, 2003
66 <u>FR</u> 50332	Oct. 3, 2001	40 CFR 261	9 VAC 20-60-18 9 VAC 20-60-261 A	March 26, 2003
66 <u>FR</u> 58258 67 <u>FR</u> 17119	Nov. 20, 2001 April 9, 2002	40 CFR 261 40 CFR 268	9 VAC 20-60-18 9 VAC 20-60-261 A 9 VAC 20-60-268 A	March 26, 2003
67 <u>FR</u> 2962	Jan. 22, 2002	40 CFR 260 40 CFR 264	9 VAC 20-60-18 9 VAC 20-60-260 A 9 VAC 20-60-264 A	March 26, 2003

VIRGINIA - REGULATORY DOCUMENTATION

Federal Amendments July 1, 2001 - June 30, 2004 & Virginia-initiated Amendments through July 1, 2004)

Federal Rule Reference(s)	Date(s) Federal Rule Published	CFR Sections Affected by Federal Amend.	Commonwealth Citation(s)	Date Incorporated Into Commonwealth Regulations
67 <u>FR</u> 6792	Feb. 13, 2002	40 CFR 264 40 CFR 265 40 CFR 266 40 CFR 270	9 VAC 20-60-18 9 VAC 20-60-264 A 9 VAC 20-60-265 A 9 VAC 20-60-266 A 9 VAC 20-60-270 A	March 26, 2003
67 <u>FR</u> 6968	Feb. 14, 2002	40 CFR 266 40 CFR 270	9 VAC 20-60-18 9 VAC 20-60-266 A 9 VAC 20-60-270 A	March 26, 2003
67 <u>FR</u> 11251	Mar. 13, 2002	40 CFR 261	9 VAC 20-60-18 9 VAC 20-60-261 A	March 26, 2003
67 <u>FR</u> 48393	July 24, 2002	40 CFR 261 40 CFR 266 40 CFR 268	9 VAC 20-60-18 9 VAC 20-60-261 A 9 VAC 20-60-266 A 9 VAC 20-60-268 A	Nov. 5, 2003
67 <u>FR</u> 62618	Oct. 7, 2002	43 CFR 268	9 VAC 20-60-18 9 VAC 20-60-268 A	Nov. 5, 2003
67 <u>FR</u> 77687	Dec. 19, 2002	40 CFR 270	9 VAC 20-60-18 9 VAC 20-60-270 A	Nov. 5, 2003
68 <u>FR</u> 44659	July 30, 2003	40 CFR 261 40 CFR 279	9 VAC 20-60-18 9 VAC 20-60-261 A 9 VAC 20-60-279 A	August 26, 2004
68 <u>FR</u> 44652	July 30, 2003	40 CFR 261	9 VAC 20-60-18 9 VAC 20-60-261 A	August 26, 2004
68 <u>FR</u> 46951	August 7, 2003	40 CFR 261	9 VAC 20-60-18 9 VAC 20-60-261 A	August 26, 2004
68 <u>FR</u> 53517	September 11, 2003	40 CFR 261	9 VAC 20-60-18 9 VAC 20-60-261 A	August 26, 2004
69 <u>FR</u> 6567	February 11, 2004	40 CFR 268	9 VAC 20-60-18 9 VAC 20-60-268 A	August 26, 2004
69 <u>FR</u> 8828	February 26, 2004	40 CFR 261	9 VAC 20-60-18 9 VAC 20-60-261 A	August 26, 2004
69 <u>FR</u> 21754	April 22, 2004	40 CFR 261	9 VAC 20-60-18 9 VAC 20-60-261 A	August 26, 2004
69 <u>FR</u> 21737	April 22, 2004	40 CFR 262	9 VAC 20-60-18 9 VAC 20-60-262 A	August 26, 2004
69 <u>FR</u> 22602	April 26, 2004	40 CFR 264 40 CFR 264	9 VAC 20-60-18 9 VAC 20-60-264 A 9 VAC 20-60-265 A	August 26, 2004

Interpretive Comment: Since the Commonwealth has adopted these federal changes by reference without exceptions, the Commonwealth's regulations are identical, therefore equivalent, to federal regulations on these points.

VIRGINIA - REGULATORY DOCUMENTATION

Federal Amendments July 1, 2001 - June 30, 2004 & Virginia-initiated Amendments through July 1, 2004)

B. FEDERAL PROGRAM REVISIONS FOR WHICH VIRGINIA IS NOT SEEKING AUTHORITY

The Commonwealth is seeking authority for all Federal program revisions.

C. COMMONWEALTH-INITIATED CHANGES TO THE PREVIOUSLY AUTHORIZED PROGRAM

(Amendments 16 and 17: Amendments to 9 VAC 20-60. Virginia Hazardous Waste Management Regulations)

In Amendments 16 and 17, Virginia amended its hazardous waste regulations to change the fee structure for permit applications, to add annual fees for facilities and large quantity generators, to shift the cost of certain public participation activities to applicants and petitioners, to require additional financial assurance documentation, and to allow for continuation of permits under specific circumstances. Virginia has also made wording changes and technical corrections in order to clarify its regulations; for example, “director” has been replaced by “department” in many locations. Significant changes are discussed below and an attached table identifies the location and nature of all changes.

9 VAC 20-60-70		
Virginia Citation	Related Federal Analog	Virginia Analog Is:
9 VAC 20-60-70 B	40 CFR 124 40 CFR 270	Equivalent
Interpretive Comment: Virginia previously required that permits for hazardous waste management facilities, including permits by rule, be the subject of a public hearing. This was more stringent than federal requirements of 40 CFR 124 and 40 CFR 270. Since public hearings are not always necessary, this requirement has been removed. Virginia now has the same requirement for public hearings as the federal program which it incorporates by reference in 9 VAC 20-60-124 A and 9 VAC 20-60-270 A. Since the federal and Virginia are identical, they are equivalent.		

9 VAC 20-60-124		
Virginia Citation	Related Federal Analog	Virginia Analog Is:
9 VAC 20-60-124 B 7	40 CFR 124.10, 40 CFR 124.10(a)(1)(ii), and 40 CFR 124.10(b)(2)	Equivalent
9 VAC 20-60-124 B 9	None	Broader In Scope
Interpretive Comment: Virginia now requires the applicant for permit actions and petitioners for variance to publish and announce the required public hearings at their expense. The department will provide the necessary draft text and details of the advertisement and publication. If necessary, the department has the right to proceed with publishing and announcement if circumstances warrant. The federal regulations do not address who shall bear these expenses; therefore, the Virginia requirements are broader in scope.		

9 VAC 20-60-262		
Virginia Citation	Related Federal Analog	Virginia Analog Is:
9 VAC 20-60-262 B 8	None	Broader In Scope
Interpretive Comment: Beginning July 1, 2004, Virginia requires large quantity generators to pay an annual fee to be use to help fund the regulatory programs. This item is added so as to cross reference the fees schedule and payment rules located in Part XII of the regulations. As a fee requirement, it is broader in scope.		

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9 VAC 20-60-264		
Current Virginia Citation	Related Federal Analog	Virginia Analog Is:
9 VAC 20-60-264 General	40 CFR 264	Not Applicable
Summary Comment: Item B 6 was replaced with B 16; Items B8 through B 22 are new requirements. These changes limit the scope of financial assurance options by adding more specific requirements, require additional financial assurance documentation, and give the director authority to collect additional documentation or data if necessary.		
9 VAC 20-60-264 B 6 (former)	40 CFR 264.143(h), 40 CFR 264.145(h), and 40 CFR 264.151	Not Applicable
Interpretive Comment: The text of this section was removed and replaced with 9 VAC 20-60-264 B 16, which is also more stringent than federal requirements.		
9 VAC 20-60-264 B 8	40 CFR 264.142	More Stringent
Interpretive Comment: This section enables the director to require a written copy of the detailed closure cost estimate. 40 CFR 264.142 only requires that the estimate be available at the facility.		
9 VAC 20-60-264 B 9	40 CFR 264.143(b)(1), 40 CFR 264.143(c)(1), 40 CFR 264.145(b)(1), and 40 CFR 264.145(c)(1)	More Stringent
Interpretive Comment: In addition to federal requirements, this section requires sureties to be licensed in Virginia under §38.2-1000 et seq. of the Code of Virginia.		
9 VAC 20-60-264 B 10	40 CFR 264.143(b), 40 CFR 264.143(c), 40 CFR 264.145(b), and 40 CFR 264.145(c)	More Stringent
Interpretive Comment: In addition to federal requirements, this section requires documentation of the recording of surety bonds and power of attorney in accordance with §38.2-2416 of the Code of Virginia.		
9 VAC 20-60-264 B 11	40 CFR 264.143(c)(5)	Equivalent
Interpretive Comment: This section substitutes the Commonwealth's process for making an administrative determination under § 2.2-4000 of the Code of Virginia for section 3008 of RCRA.		
9 VAC 20-60-264 B 12	40 CFR 264.143(d)(8)	Equivalent
Interpretive Comment: This section makes it clear that the director may draw on a letter of credit following an administrative determination of failure by the owner or operator to perform the required closure.		
9 VAC 20-60-264 B 13	40 CFR 264.143(e)(1)	More Stringent
Interpretive Comment: In addition to federal requirements, this section requires that a complete copy of the insurance policy offered for financial assurance be submitted to the department with the certificate of insurance. The section also requires the specific and more rigorous requirements of §38.2-1000 et seq. of the Code of Virginia instead of the lesser federal provision that the insurer be licensed and eligible in some (unspecified) state.		
9 VAC 20-60-264 B 14	40 CFR 264.143(f)(3)(ii), 40 CFR 264.145(f)(3)(ii), 40 CFR 264.147(f)(3)(ii)	More Stringent
Interpretive Comment: In addition to federal requirements for submission of an annual auditor's report, this section requires the owner or operator to submit audited annual financial statements.		

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9 VAC 20-60-264 B 15	40 CFR 264.143(f)(3), 40 CFR 264.145(f)(3), 40 CFR 264.147(f)(3),	More Stringent
Interpretive Comment: In addition to federal requirements, this section requires submittal of confirmation from the bond rating firm of the most recent rating and required that the rating be above specified rankings.		
9 VAC 20-60-264 B 16	40 CFR 264.143(h), 40 CFR 264.145(h)	More Stringent
Interpretive Comment: This section, in contrast to federal requirements, only allows the same financial mechanism to be used for multiple facilities if all the facilities are within Virginia.		
9 VAC 20-60-264 B 17	40 CFR 264.144	More Stringent
Interpretive Comment: This section enables the director to require submittal of a written copy of the detailed closure cost estimate. 40 CFR 264.144 only requires that the estimate be available at the facility.		
9 VAC 20-60-264 B 18	40 CFR 264.144(b)	More Stringent
Interpretive Comment: In addition to federal requirements, this section requires that the owner operator continue to adjust the post-closure cost estimate through the post-closure period.		
9 VAC 20-60-264 B 19	40 CFR 264.144(c)	More Stringent
Interpretive Comment: In addition to federal requirements, this section requires that the owner operator continue to adjust the post-closure cost estimate through the post-closure period including revisions to the post-closure plan if the plan revisions increase the costs.		
9 VAC 20-60-264 B 20	40 CFR 264.145(c)(5)	Equivalent
Interpretive Comment: This section substitutes the Commonwealth's process for making an administrative determination under § 2.2-4000 of the Code of Virginia for section 3008 of RCRA.		
9 VAC 20-60-264 B 21	40 CFR 264.145(d)(9)	Equivalent
Interpretive Comment: This section substitutes the Commonwealth's process for making an administrative determination under § 2.2-4000 of the Code of Virginia for section 3008 of RCRA.		
9 VAC 20-60-264 B 22	40 CFR 264.145(e)(1)	More Stringent
Interpretive Comment: In addition to federal requirements, this section requires that a complete copy of the insurance policy offered for financial assurance be submitted to the department with the certificate of insurance. The section also requires the specific and more rigorous requirements of §38.2-1000 et seq. of the Code of Virginia instead of the lesser federal provision that the insurer be licensed and eligible in some (unspecified) state. The insurance documentation required by this section must be received before receipt of the waste for storage, treatment and disposal; whereas, the federal requirements only specifies that it must be received prior to receipt of waste for disposal.		

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9 VAC 20-60-265		
9 VAC 20-60-265 B 8	40 CFR 265.143(g) and 40 CFR 265.145(g)	More Stringent
Interpretive Comment: This section, in contrast to federal requirements, only allows the same financial mechanism to be used for multiple facilities if all the facilities are within Virginia.		
9 VAC 20-60-270		
9 VAC 20-60-270 B 15	None	Equivalent
Interpretive Comment: This section provides that the conditions of an expired state-permit continue in force until the effective date of the new permit if the permittee has submitted a timely reapplication that is a complete application for a new permit; and the director, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit. Permits that are continued remain fully effective and enforceable. When the permittee is not in compliance with the conditions of the expiring or expired permit, this section lists the director's options. USEPA does not address in its regulations how it will continue a state-issued-permit; therefore, this provision allows the Commonwealth to exercise the same policy as USEPA and is equivalent to the federal regulations at 40 CFR 270.51.		
9 VAC 20-60-270 B 16	None	Broader In Scope
Interpretive Comment: Beginning July 1, 2004, Virginia requires all permitted facilities, all facilities operating under interim status, and all facilities subject to an order or agreement to pay an annual fee to be used to help fund the regulatory programs. This item is added to provide a cross reference to the fees schedule and payment rules located in Part XII of the regulations. As a fee requirement, it is broader in scope.		
9 VAC 20-60-315		
9 VAC 20-60-315 D	None	More Stringent
Interpretive Comment: In addition to federal notifications requirements, the Commonwealth requires large quantity generators to notify the department in writing when their status changes or when they cease to be a large quantity. They must also place a record of the notification in their operating record.		
9 VAC 20-60-420		
9 VAC 20-60-420 A	None	Equivalent
Interpretive Comment: The Commonwealth added a clarifying statement to ensure that its transporter permitting requirements are not applied to universal waste transporters.		

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9 VAC 20-60-1260, -1270, -1280, -1283, -1284, -1285, and -1286		
9 VAC 20-60-1260 A 9 VAC 20-60-1260 B 9 VAC 20-60-1260 E 9 VAC 20-60-1260 G 9 VAC 20-60-1260 H 9 VAC 20-60-1270 A 9 VAC 20-60-1270 C 9 VAC 20-60-1270 E 9 VAC 20-60-1270 F 9 VAC 20-60-1280 Tag Line 9 VAC 20-60-1280 B 9 VAC 20-60-1280 D 9 VAC 20-60-1283 All 9 VAC 20-60-1284 All 9 VAC 20-60-1285 All 9 VAC 20-60-1286 New	None	Broader In Scope
Interpretive Comment: Part XII (9VAC20-60-1260 through 9VAC20-60-1286) applies to all permitted facilities, to facilities operating under interim status, to facilities subject to an order or agreement, and to all large quantity generators. In addition to permit application fees previously required, a permitted treatment, storage, and disposal facility is assessed an annual fee. A facility that operates under interim status, a facility that is subject to an order or agreement, and a large quantity generator are also assessed annual fees. These new fees, new fee schedules, payment instructions, and related regulations begin July 1, 2004.		

List of Changes to Virginia Hazardous Waste Management Regulations in Amendments 16 and 17

Location of Change	Description of change
9 VAC 20-60-17 "EPA Identification Number"	"director" → "department"
9 VAC 20-60-18	Deleted second occurrence: "March 26, 2003 " Added: "or November 5, 2003, whichever is later."
9 VAC 20-60-40 A	typographical error corrected
9 VAC 20-60-70 B, subsequent sections renumbered	Deleted: "B. All permits for hazardous waste management facilities, including permits by rule, will be the subject of a public hearing, as specified in 9VAC20-60-270."
9 VAC 20-60-124 B 7, subsequent sections renumbered	Added: "7. In 40 CFR 124.10 procedures are described for giving public notice in newspapers and radio broadcast when a draft permit has been prepared (40 CFR 124.10(a)(1)(ii)) or when a public hearing will be held on the draft permit (40 CFR 124.10(b)(2)). The applicant for a permit shall arrange for the newspaper publication and radio broadcast and bear the cost of the publication and broadcast. The department shall send notification to the applicant that the publication and broadcast are required and the notification shall include the text of the notice, dates of publication and broadcast, and acceptable newspapers and radio stations wherein the notice may be published. The department may arrange for the newspaper publication and radio broadcast and require the applicant to remit the cost of such publication and broadcast."
9 VAC 20-60-124 B.9	Added: "9. The petitioner for a variance from any regulation shall arrange for any newspaper publication and radio broadcast required under these regulations (9 VAC 20-60) and to bear the cost of such publication and broadcast. The department shall send notification to the applicant that the publication and broadcast are required and the notification shall include the text of the notice, dates of publication and broadcast, and acceptable newspapers and radio stations wherein the notice may be published. The department may arrange for the newspaper publication and radio broadcast and require the applicant to remit the cost of such publication and broadcast."
9 VAC 20-60-261 B 1	"director" → department's name and address
9 VAC 20-60-262 B 4	"director" → "department" at 3 locations
9 VAC-20-60-262 B 8	Added: "8. In addition to the requirements of this section, large quantity generators are required to pay an annual fee. The fee schedule and fee regulations are contained in Part XII (9VAC20-60-1260 through 9VAC20-60-1285).".
9 VAC 20-60-264 B 6, subsequent sections renumbered	Deleted: "6. In 40 CFR 264.143(h), 40 CFR 264.145(h), and 40 CFR 264.151, an owner or operator may use the same financial mechanism for multiple facilities. If the facilities covered by the mechanism are located in more than one state, identical evidence of financial assurance must be submitted to and maintained with all RCRA authorized state agencies where facilities covered by the financial mechanism are located or with the regional administrators where facilities are located in states without RCRA authorization."
9 VAC 20-60-264 B 8, subsequent sections renumbered	Added: "8. The owner or operator must submit the detailed, written closure cost estimate described in 40 CFR 264.142 upon the written request of the director."
9 VAC 20-60-264 B 9, subsequent sections renumbered	Added: "9. In 40 CFR 264.143 (b)(1), 40 CFR 264.143(c)(1), 40 CFR 264.145(b)(1), and 40 CFR 264.145(c)(1), any surety issuing surety bonds to guarantee payment or performance must be licensed pursuant to Chapter 10 (§38.2-1000 et seq.) of the Code of Virginia."
9 VAC 20-60-264 B 10, subsequent sections renumbered	Added: "10. In 40 CFR 264.143(b), 40 CFR 264.143(c), 40 CFR 264.145(b) and 40 CFR 264.145(c), any owner or operator demonstrating financial assurance for closure or post-closure care using a surety bond shall submit with the surety bond a copy of the deed book page documenting that the power of attorney of the attorney-in-fact executing the bond has been recorded pursuant to §38.2-2416 of the Code of Virginia."
9 VAC 20-60-264 B 11, subsequent sections renumbered	Added: '11. Where 40 CFR 264.143(c)(5) the phrase "final administrative determination pursuant to section 3008 of RCRA" appears, it shall be replaced with "final determination pursuant to Chapter 40 (§ 2.2-4000 et seq. of the Code of Virginia)".'

9 VAC 20-60-264 B 12, subsequent sections renumbered	Added: '12. The following text shall be substituted for 40 CFR 264.143(d)(8): "Following a final administrative determination pursuant to Chapter 40 (§2.2-4000 et seq.) of the Code of Virginia that the owner or operator has failed to perform final closure in accordance with the approved closure plan, the applicable regulations or other permit requirements when required to do so, the director may draw on the letter of credit." '
9 VAC 20-60-264 B 13, subsequent sections renumbered	Added: "13. The following text shall be substituted for 40 CFR 264.143(e)(1): "An owner or operator may satisfy the requirements of this section by obtaining closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance, along with a complete copy of the insurance policy, to the department. An owner or operator of a new facility must submit the certificate of insurance along with a complete copy of the insurance policy to the department at least 60 days before the date on which the hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed pursuant to Chapter 10 (§38.2-1000 et seq.) of the Code of Virginia." "
9 VAC 20-60-264 B 14, subsequent sections renumbered	Added: '14. The following text shall be substituted for 40 CFR 264.143(f)(3)(ii), 40 CFR 264.145(f)(3)(ii) and 40 CFR 264.147(f)(3)(ii): "A copy of the owner's or operator's audited financial statements for the latest completed fiscal year; including a copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and" '
9 VAC 20-60-264 B 15, subsequent sections renumbered	Added: "15. In addition to the other requirements in 40 CFR 264.143(f)(3), 40 CFR 264.145(f)(3) and 40 CFR 264.147(f)(3), an owner or operator must submit confirmation from the rating service that the owner or operator has a current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's if the owner or operator passes the financial test with a bond rating as provided in subsection 1(ii)(A)."
9 VAC 20-60-264 B 16, subsequent sections renumbered	Added: '16. The following text shall be substituted for 40 CFR 264.143(h) and 40 CFR 264.145(h): "An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more than one facility in Virginia. Evidence of financial assurance submitted to the department must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure [or post-closure] assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure or post-closure care of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.'
9 VAC 20-60-264 B 17, subsequent sections renumbered	Added: "17. In 40 CFR 264.144, the owner or operator must submit a detailed, written post-closure cost estimate upon the written request of the director."
9 VAC 20-60-264 B 18, subsequent sections renumbered	Added: '18. The following text shall be substituted for 40 CFR 264.144(b): "During the active life of the facility and the post-closure period, the owner or operator must adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with 40 CFR 264.145. For owners or operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in 40 CFR 264.145(f)(5). The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U. S. Department of Commerce in its <i>Survey of Current Business</i> as specified in 40 CFR 264.142(b)(1) and (2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year. a. The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate. b. Subsequent adjustments are made by multiplying the latest adjusted post-closure cost

	estimate by the latest inflation factor.”
9 VAC 20-60-264 B 19, subsequent sections renumbered	Added: ‘19. The following text shall be substituted for 40 CFR 264.144(c): “During the active life of the facility and the post-closure period, the owner or operator must revise the post-closure cost estimate within 30 days after the director has approved the request to modify the post-closure plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in §264.144(b).”
9 VAC 20-60-264 B 20, subsequent sections renumbered	Added: ‘20. Where in 40 CFR 264.145(c)(5) the phrase “final administrative determination pursuant to section 3008 of RCRA” appears, it shall be replaced with “final determination pursuant to Chapter 40 (§ 2.2-4000 et seq. of the Code of Virginia”.
9 VAC 20-60-264 B 21, subsequent sections renumbered	Added: ‘21. The following text shall be substituted for 40 CFR 264.145(d)(9): “Following a final administrative determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of the Code of Virginia that the owner or operator has failed to perform post-closure in accordance with the approved post-closure plan, the applicable regulations, or other permit requirements when required to do so, the director may draw on the letter of credit.”
9 VAC 20-60-264 B 22, subsequent sections renumbered	Added: ‘22. The following text shall be substituted for 40 CFR 264.145(e)(1): “An owner or operator may satisfy the requirements of this section by obtaining post-closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the department. An owner or operator of a new facility must submit the certificate of insurance along with a complete copy of the insurance policy to the department at least 60 days before the date on which the hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed pursuant to Chapter 10 (§ 38.2-1000 et seq.) of the Code of Virginia.”
9 VAC 20-60-264 B 27	“director” → “department”
9 VAC 20-60-264 B 31 a. and d.	“director” → “department”
9 VAC 20-60-265 B 3	“director” → “department”
9 VAC 20-60-265 B 7	“director” → “department” and deleted “or his designee”
9 VAC 20-60-265 B 8	Deleted: “8. In 40 CFR 265.143(g) and 40 CFR 265.145(g), an owner or operator may use the same financial mechanism for multiple facilities. If the facilities covered by the mechanism are located in more than one state, identical evidence of financial assurance must be submitted to and maintained with all RCRA authorized state agencies where facilities covered by the financial mechanism are located or with the regional administrators where facilities are located in states without RCRA authorization.” Added: “8. The following text shall be substituted for 40 CFR 265.143(g) and 40 CFR 265.145(g): “An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more than one facility in Virginia. Evidence of financial assurance submitted to the department must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure or post-closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure or post-closure care of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.”
9 VAC 20-60-270 B 5	“director” → “department” at 2 locations
9 VAC 20-60-270 B 6	“director” → “department” at 2 locations Added “to the department’s” and deleted “his” in fourth sentence
9 VAC 20-60-270 B 7 c.(1)	“director” → “department”
9 VAC 20-60-270 B 15	Added: “15. The conditions of an expired permit continue in force until the effective date of the new permit if the permittee has submitted a timely reapplication that is a complete application for a new permit; and the director, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit. Permits that are continued remain fully effective and enforceable. When the permittee is not in compliance with the conditions of the expiring or expired permit, the

	director may choose to do any or all of the following: a. Initiate enforcement action based on the permit that has been continued; b. Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease activities authorized by the continued permit or be subject to enforcement action for operating without permit; c. Issue a new permit with appropriate conditions; or d. Take other actions authorized by this chapter."
9 VAC 20-60-270 B 16	Added: "16. Part XII (9VAC20-60-1260 through 9VAC20-60-1285) of this chapter applies to all permitted facilities, to facilities operating under interim status, to facilities subject to an order or agreement, and to all large quantity generators. In addition to permit application fees, a permitted treatment, storage, and disposal facility is assessed an annual fee. A facility that operates under interim status, a facility that is subject to an order or agreement, and a large quantity generator are also assessed annual fees."
9 VAC 20-60-305 A	"director" → "department"
9 VAC 20-60-305 C	"director" → "department"
9 VAC 20-60-315 A	"director" → "department"
9 VAC 20-60-315 B	"director" → "department"
9 VAC 20-60-315 C	"director" → "department"
9 VAC 20-60-315 D	"(Reserved.)" → "Anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record. Any large quantity generator who ceases to be a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record."
9 VAC 20-60-315 H	"director" → "department"
9 VAC 20-60-328 A	"director" → "department"
9 VAC 20-60-328 B	"director" → "department" at 2 locations
9 VAC 20-60-420 A	Added sentence to end: "Nothing in this Part (9VAC20-60-420 through 9VAC20-60-500) shall be construed as imposing any requirement on transporters of or the transportation of universal waste not otherwise imposed in 9VAC20-60-273."
9 VAC 20-60-440 A	"director" → "department"
9 VAC 20-60-440 B	"director" → "department"
9 VAC 20-60-440 E	"director" → "department" and deleted "or his designee"
9 VAC 20-60-450 D	"director" → "department"
9 VAC 20-60-450 E	"director" → "department" at 2 locations
9 VAC 20-60-450 G	"director" → "department" "director or his representative" → "department"
9 VAC 20-60-490 C 4	Deleted: "Director,"
9 VAC 20-60-490 E	"director" → "department" and deleted "or his designee"
Part XII	Added: "and Annual" to the title of the part after "Application."
9 VAC 20-60-1260 A	Deleted: " permit issuance " Added: ", Part IV (9VAC20-60-305 et seq.)" to the listing of citations.
9 VAC 20-60-1260 B	Added: ", to facilities operating under interim status, to facilities subject to an order or agreement, and to all large quantity generators." to the end of the first sentence and "et seq." to the end of the second sentence.
9 VAC 20-60-1260 E	Added: "The holder shall not be assessed a permit modification fee for minor modifications." to the end of the paragraph
9 VAC 20-60-1260 G	"Part XII" → "9VAC20-60-1270" at 4 locations
9 VAC 20-60-1260 H	Deleted: "H. The effective date of Part XII of this chapter is October 1, 1984."
9 VAC 20-60-1270 A 1.	Added: "or renewed" before "permit" in first sentence.
9 VAC 20-60-1270 A 2.	Deleted last sentence, " These schedules will be re-evaluated annually and the results of such re-evaluations will be used to recommend to the Virginia Waste Management Board the necessary adjustments."
9 VAC 20-60-1270 C 1.	Added: "or renewed" before "hazardous" in first sentence.
9 VAC 20-60-1270 E	Added: "not" before "assessed a fee" before "assessed" in second sentence.

	Deleted: ". shown in 9VAC20-60-1285 D" at end of second sentence.
9 VAC 20-60-1270 F	Added to end of paragraph: "No permit fee will be assessed for emergency treatment, storage, or disposal necessary for the remediation of abandoned or orphaned hazardous waste by the U. S. Environmental Protection Agency, the Virginia Department of Environmental Quality, the Virginia Department of Emergency Management, the Virginia State Police the Virginia Department of Transportation, a U.S. Department of Defense Explosive Ordnance Disposal Team, a U. S. Army Technical Escort Unit or other Federal government entities trained in explosive or munitions emergency response. No permit fee will be assessed for emergency treatment, storage, or disposal when a determination has been made by the Commonwealth that circumstances dictate expedient action to protect human health and environmental quality."
9 VAC 20-60-1280 Tag Line	Changed title to: "Payment of application fees."
9 VAC 20-60-1280 B	"Acceptable payment is cash or check made payable to the Commonwealth of Virginia, Department of Environmental Quality." → "Fees shall be paid by check, draft or postal money order made payable to "Treasurer of Virginia", and shall be sent to the Department of Environmental Quality, Receipts Control, P. O. Box 10150, Richmond, VA 23240. When the department is able to accept electronic payments, payments may be submitted electronically."
9 VAC 20-60-1280 D	"director" → "department"
9 VAC 20-60-1283	Added new section: "9 VAC 20-60-1283. Determination of annual fee amount." to require that facilities, including interim status facilities and facilities subject to an order or agreement, pay an annual fee to the department.
9 VAC 20-60-1284	Added new section: "9 VAC 20-60-1284. Payment of annual fees." to establish the method for the payment of annual fees.
9 VAC 20-60-1285 Tag Line	Changed title to: "Permit application fee and annual fee schedules."
9 VAC 20-60-1285	Effective date changed from "October 1, 1984" to "July 1, 2004" Sections reformatted from schedule in text into a table. All fees increased in amount and text clarifications were added. Annual fees tables added. Numerical values in examples removed creating formulae.
9 VAC 20-60-1286	Added new section: "9VAC20-60-1286. Discounted annual fees for Environmental Excellence program participants." This section defines how a program may receive discounts from annual fees assessed based on participation in an "Environmental Excellence" program.
9 VAC 20-60-1370 C	"director" → "department"
9 VAC 20-60-1380 B	"director" → "department" "or his designee" added to second sentence of second paragraph
9 VAC 20-60-1390 A 1.d.	"director" → "department"
9 VAC 20-60-1420 A 1.	"director" → "department"
9 VAC 20-60-1420 B 1.	"director" → "department"
9 VAC 20-60-1420 C 2.	"director" → "department" at 5 locations