

US EPA ARCHIVE DOCUMENT

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL QUALITY**

**PROGRAM REVISION V**

**DEMONSTRATION OF ADEQUATE AUTHORITY  
FOR THE VIRGINIA HAZARDOUS WASTE MANAGEMENT PROGRAM,  
INCLUDING CHANGES TO THE FEDERAL RCRA PROGRAM  
THROUGH DECEMBER 31, 2010**

This document provides, as supplemented by the documents submitted in Revisions I through IV 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.

Since the U.S. Environmental Protection Agency (EPA) approved the Commonwealth's Program Revision IV on July 30, 2008 (73 FR 44168), the Commonwealth has made a number of amendments to its hazardous waste program, including regulatory amendments to incorporate certain changes to the federal regulations through December 31, 2010. The Commonwealth initiates this revision, Revision V, of its authorization under 40 CFR 271.21 to seek approval of the amended program. The following discusses those changes to the Commonwealth's statutes and regulations for which approval is sought.

## **STATUTES**

Statutes addressed in the previous program revision submissions to EPA continue undiminished with regard to the Commonwealth's program's powers to issues relevant to authorization. The statutory authorities for the Commonwealth are documented in the May 12, 2000 Demonstration of Adequate Authority. This submission explains changes to the statutes made to enhance the authority to conduct the hazardous waste program in the Commonwealth. Changes to the statutes that affect permit fees or other items not related to the federal program equivalency are not discussed.

### **2006 Changes**

No statutory changes affecting the hazardous waste program were made by the 2006 General Assembly of Virginia.

### **2007 Changes**

No statutory changes affecting the hazardous waste program were made by the 2007 General Assembly of Virginia.

### **2008 Changes**

The 2008 General Assembly of Virginia amended the statute at § 10.1-1425.26.1.C of the Code of Virginia to allow localities to prohibit the disposal of cathode ray tubes in any waste-to-energy or solid waste disposal facility within its jurisdiction, provided the locality has implemented a recycling program that is capable of handling all cathode ray tubes generated within its jurisdiction. Previously the ban only applied to privately operated landfills. Since the statute allows localities to conduct waste management activities not prohibited by federal requirements, the Commonwealth's statute is broader in scope than the federal by defining regulatory bounds for the management of a waste that federal requirements do not contain. This does not affect the state regulations that govern hazardous waste, and does not affect the authority of the state program.

### **2009 Changes**

No statutory changes affecting the hazardous waste program were made by the 2009 General Assembly of Virginia.

### **2010 Changes**

The 2010 General Assembly of Virginia amended the statute at § 10.1-1425.26 of the Code of Virginia to require the Virginia Waste Management Board to adopt regulations to encourage the recycling of thermostats containing mercury. The statute also authorizes localities to prohibit the disposal of mercury thermostats in any privately operated landfill within its jurisdiction, so long as the locality has implemented a recycling program that is capable of handling all of the mercury thermostats within the jurisdiction. This program is similar to that for the recycling of cathode ray tubes. Since the statute allows localities to conduct waste management activities not prohibited by federal requirements, the Commonwealth's statute is broader in scope than the federal by defining regulatory bounds for the management of a waste that federal requirements do not contain. This does not affect the authority of the state program.

The 2010 General Assembly of Virginia amended the statute at § 10.1-1402.1:1 of the Code of Virginia to authorize the Virginia Waste Management Board to establish a fee system for hazardous waste facilities sufficient to pay 100 percent of the direct costs of processing an initial permit or the reissuance of an existing permit. This does not affect the authority of the state program.

### **2011 Changes**

No statutory changes affecting the hazardous waste program were made by the 2011 General Assembly of Virginia.

## **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.

## REGULATORY PROGRAM REVISIONS

Federal hazardous waste standards are adopted by reference in 9VAC20-60, Virginia Hazardous Waste Management Regulations. The Virginia Waste Management Board adopts such federal standards under the 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. This section describes incorporation by the Commonwealth of federal regulatory changes from Program Revision IV through June 30, 2011.

### Commonwealth Analogs to Federal Regulations

At 9VAC20-60-18, in Immediate Final Rule 2007, Virginia incorporated by reference the federal regulations as published on June 20, 2006. At 9VAC20-60-18, in Immediate Final Rule 2008-2009 and Immediate Final Rule 2010, Virginia incorporated by reference the federal regulations as published on December 31, 2010. Virginia is therefore seeking approval for program revisions relative to certain specific federal regulatory changes published in the Federal Register from June 21, 2006 through December 31, 2010. Since the Commonwealth has adopted these federal changes by reference without exceptions, the Commonwealth's regulations are identical, and therefore equivalent, to the federal regulations.

<b>Federal Rule Reference</b>	<b>Applicable CFR Sections</b>	<b>Commonwealth Citations</b>	<b>Commonwealth Effective Date</b>
71 FR 35395 (June 20, 2006)	261	9VAC20-60-18 (9VAC20-60-261 A)	February 6, 2008
71 FR 35547 (June 21, 2006)	262	9VAC20-60-18 (9VAC20-60-262 A)	February 6, 2008
71 FR 40254 (July 14, 2006)	260, 261, 262, 264, 265, 266, 268, 270, 273, 279	9VAC20-60-18 (9VAC20-60-260 A, 9VAC20-60-261 A, 9VAC20-60-262 A, 9VAC20-60-264 A, 9VAC20-60-265 A, 9VAC20-60-266 A, 9VAC20-60-268 A, 9VAC20-60-270 A, 9VAC20-60-273 A, 9VAC20-60-279 A)	February 6, 2008
71 FR 42928 (July 28, 2006)	260, 261	9VAC20-60-18 (9VAC20-60-260 A, 9VAC20-60-261 A)	February 6, 2008

71 FR 43067 (July 31, 2006)	261	9VAC20-60-18 (9VAC20-60-261 A)	February 6, 2008
72 FR 43 (January 3, 2007)	261	9VAC20-60-18 (9VAC20-60-261 A)	February 6, 2008
72 FR 4645 (February 1, 2007)	261	9VAC20-60-18 (9VAC20-60-261 A)	February 6, 2008
72 FR 31185 (June 6, 2007)	261	9VAC20-60-18 (9VAC20-60-261 A)	February 6, 2008
72 FR 35666 (June 29, 2007)	273	9VAC20-60-18 (9VAC20-60-273 A)	February 6, 2008
73 FR 57 (January 2, 2008)	260, 261	9VAC20-60-18 (9VAC20-60-260 A, 9VAC20-60-261 A)	March 3, 2010
73 FR 18970 (April 8, 2008)	264, 266	9VAC20-60-18 (9VAC20-60-264 A, 9VAC20-60-266 A)	March 3, 2010
73 FR 31756 (June 4, 2008)	261	9VAC20-60-18 (9VAC20-60-261 A)	March 3, 2010
73 FR 72912 (December 1, 2008)	261, 262	9VAC20-60-18 (9VAC20-60-261 A, 9VAC20-60-262 A)	March 3, 2010
73 FR 77954 (December 19, 2008) <sup>1</sup>	261	9VAC20-60-18 9VAC20-60-261	March 2, 2011
75 FR 1236 (January 8, 2010)	262, 263, 264, 265, 266	9VAC20-60-18 (9VAC20-60-262 A, 9VAC20-60-263 A, 9VAC20-60-264 A, 9VAC20-60-265 A, 9VAC20-60-266 A)	March 2, 2011
75 FR 12989 (March 18, 2010)	260, 261, 262, 263, 264, 265, 266, 268, 270	(9VAC20-60-260 A, 9VAC20-60-261 A, 9VAC20-60-262 A, 9VAC20-60-263 A, 9VAC20-60-264 A, 9VAC20-60-265 A, 9VAC20-60-266 A, 9VAC20-60-268 A, 9VAC20-60-270 A)	March 2, 2011

<sup>1</sup> Adopted changes to comparable fuel provisions amended on this date, not the emissions comparable fuel provisions that were subsequently withdrawn (see below).

75 FR 31716 (June 4, 2010)	260, 261, 262, 263, 264, 265, 266, 268, 270	(9VAC20-60-260 A, 9VAC20-60-261 A, 9VAC20-60-262 A, 9VAC20-60-263 A, 9VAC20-60-264 A, 9VAC20-60-265 A, 9VAC20-60-266 A 9VAC20-60-268 A, 9VAC20-60-270 A)	March 2, 2011
75 FR 78918 (December 17, 2010)	261, 268	9VAC20-60-18 (9VAC20-60-261 A, 9VAC20-60-268 A)	March 2, 2011
75 FR 79304 (December 20, 2010)	262	9VAC20-60-18 (9VAC20-60-262 A)	March 2, 2011

**Federal Program Revisions for Which Virginia Is Not Seeking Authority**

The Commonwealth is not seeking authority for the following federal program revisions.

<b>Federal Rule Reference</b>	<b>Applicable CFR Sections</b>
73 FR 64668 (October 30, 2008)	260
73 FR 64668 (October 30, 2008)	261
73 FR 77954 (December 19, 2008) <sup>2</sup>	261
73 FR 64668 (October 30, 2008)	270

**Commonwealth-initiated Changes to the Previously Authorized Program**

There have been no Commonwealth-initiated changes to the previously approved program during this period.

<sup>2</sup> This rule was subsequently withdrawn, except the part dealing with comparable fuels (see above), which we adopted.