

**CHAPTER 80**  
**SOLID WASTE MANAGEMENT REGULATIONS**

**PART I.**  
**DEFINITIONS**

**9 VAC 20-80-10.** The following words and terms, when used in this chapter shall have the following meaning, unless the context clearly indicates otherwise:

**"Abandoned facility"** means any inactive solid waste management facility that has not met closure and post-closure requirements.

**"Active life"** means the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities required by this chapter.

**"Active portion"** means that part of a facility or unit that has received or is receiving wastes and that has not been closed in accordance with this chapter.

**"Agricultural waste"** means all solid waste produced from farming operations, or related commercial preparation of farm products for marketing.

**"Airport"** means, for the purpose of this chapter, public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

**"Anaerobic Digestion"** means the decomposition of organic materials in the absence of oxygen or under low oxygen concentration. Anaerobic conditions occur when gaseous oxygen is depleted during respiration. Anaerobic decomposition is not considered composting.

**"Applicant"** means any and all persons seeking or holding a permit under this chapter.

**"Aquifer"** means a geologic formation, group of formations, or a portion of a formation capable of yielding significant quantities of groundwater to wells or springs.

**"Areas susceptible to mass movement"** means those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the solid waste management unit, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluction, block sliding, and rock fall.

~~**"Asbestos-containing material (ACM)"** means any material or product which contains more than 1 percent by weight asbestos.~~

**"Ash"** means the fly ash or bottom ash residual waste material produced from incineration or burning of solid waste or from any fuel combustion.

**"Base flood"** *see* "Hundred-year flood".

**"Bedrock"** means the rock that underlies soil or other unconsolidated, superficial material at a site.

"**Beneficial use**" means a use which is of benefit as a substitute for natural or commercial products and does not contribute to adverse effects on health or environment.

["**Bioremediation**" means remediation of contaminated media by the manipulation of biological organisms to enhance the degradation of contaminants.]

"**Bird hazard**" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

"**Board**" means the Virginia Waste Management Board.

"**Bottom Ash**" means ash or slag ~~remaining in a~~ that has been discharged from the bottom of the combustion unit after combustion.

"**By-product material**" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. By-product does not include a co-product that is produced for the general public's use and is ordinarily used in the form that is produced by the process.

["**Captive industrial landfill**" means an industrial landfill that is located on property owned or controlled by the generator of the waste disposed of in that landfill.]

"**Clean wood**" means uncontaminated natural or untreated wood. Clean wood includes but is not limited to by-products of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders, or resins; or painted, stained or coated.

"**Closed facility**" means a solid waste management facility which has been properly secured in accordance with ~~an approved facility closure plan~~ the requirements of this chapter.

"**Closure**" means the act of securing a solid waste management facility pursuant to the requirements of this chapter.

"**Coal combustion by-products**" means residuals, including fly ash, bottom ash, boiler slag, and flue gas desulfurization residue produced by coal-fired electrical or steam generating units.

"**Combustion unit**" means an incinerator, waste heat recovery unit or boiler.

"**Commercial chemical product**" means a chemical substance which is manufactured or formulated for commercial, agricultural or manufacturing use. This term includes a manufacturing chemical intermediate, off-specification chemical product, which, if it met specification, would have been a chemical product or intermediate. It includes any residues remaining in the container or the inner liner removed from the container that has been used to hold any of the above which have not been removed using the practices commonly employed to remove materials from that type of container and has more than one inch of residue remaining.

"**Commercial waste**" means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

"**Community activity**" means the normal activities taking place within a local community to include residential, site preparation and construction, government, commercial, institutional, and industrial activities.

"**Compliance schedule**" means a time schedule for measures to be employed on a solid waste management facility which will ultimately upgrade it to conform to this chapter.

"**Composite liner system**" means a system designed and constructed to meet the requirements of 9 VAC 20-80-250 B 9.

"**Compost**" means [a stabilized organic product produced by a controlled aerobic decomposition process in such a manner that the product can be handled, stored, and/or applied to the land without adversely affecting public health or the environment. Composted sludge shall be as defined by the Virginia Sewerage Regulations].

"**Conditionally exempt small quantity generator**" means a generator who [has been so defined in 9 VAC 20-60-120. That section applies to the persons who] generate[s] in that calendar month [generates] no more than 100 kilograms of hazardous waste or 1 kilogram of acutely hazardous waste.[-(For a complete definition see 9 VAC 20-60-120.)]

"**Confined composting system**" means a composting process that takes place inside an enclosed container.

"**Construction/Demolition/Debris landfill**" means a land burial facility engineered, constructed and operated to contain and isolate construction waste, demolition waste, debris waste, ~~[inert waste,]~~ or combinations of the above solid wastes.

"**Construction waste**" means solid waste which is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction wastes.

"**Contaminated soil**" means, for the purposes of this regulation, a soil that, as a result of a release or human usage, has absorbed or adsorbed physical, chemical, or radiological substances at concentrations above those consistent with nearby undisturbed soil or natural earth materials.

["**Container**" means any portable device in which a material is stored, transported, treated, or otherwise handled and includes transport vehicles that are containers themselves (e.g. tank trucks), and containers placed on or in a transport vehicle.]

"**Containment structure**" means a closed vessel such as a tank or cylinder.

"**Convenience center**" means a collection point for the temporary storage provided for individual solid waste generators who choose to transport solid waste generated on their own premises to an established centralized point, rather than directly to a disposal facility. To be classified as a convenience center, the collection point may not receive waste from collection vehicles that have collected waste from more than one real property owner. Convenience center shall be on a system of regularly scheduled collections

"**Cover material**" means compactable soil or other approved material which is used to blanket solid waste in a landfill.

"**Debris waste**" means wastes resulting from land clearing operations. Debris wastes include, but are not limited to stumps, wood, brush, leaves, soil, and road spoils.

"**Demolition waste**" means that solid waste which is produced by the destruction of structures and their foundations and includes the same materials as construction wastes.

"**Department**" means the Virginia Department of Environmental Quality.

"**Director**" means the Director of the Department of Environmental Quality.

"**Discard**" means to abandon, dispose of, burn, incinerate, accumulate, store or treat before or instead of being abandoned, disposed of, burned or incinerated.

"**Discarded material**" means a material which is:

A. Abandoned by being:

1. Disposed of;
2. Burned or incinerated; or
3. Accumulated, stored or treated (but not used, reused, or reclaimed) before or *in lieu* of being abandoned by being disposed of, burned or incinerated;

B. Used, reused, or reclaimed material as defined in this part; or

C. Considered inherently waste-like as described in ~~9 VAC 20-80-150~~ 9 VAC 20-80-140 C.

"**Discharge of dredged material**" means any release of material that is excavated or dredged from the waters of the U.S. or state waters and return[ed] to the waters of the U. S or state waters.

"**Disclosure statement**" means a sworn statement or affirmation, in such form as may be required by the Director (*see* Appendix 7.1), which includes:

1. The full name, business address, and social security number of all key personnel;
2. The full name and business address of any entity, other than natural person, that collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds an equity interest of five percent or more;
3. A description of the business experience of all key personnel listed in the disclosure statement;
4. A listing of all permits or licenses required for the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste issued to or held by any key personnel within the past ten years;
5. A listing and explanation of any notices of violation, prosecution, administrative orders (whether by consent or otherwise), license or permit suspensions or revocations, or enforcement actions of any sort by any state, federal or local authority, within the past ten years, which are pending or have concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation or requirement relating to the

collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by any key personnel, and an itemized list of all convictions within ten years of key personnel of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 of Title 54.1 of the Code of Virginia; racketeering; or violation of antitrust laws;

6. A listing of all agencies outside the Commonwealth which have regulatory responsibility over the applicant or have issued any environmental permit or license to the applicant within the past ten years, in connection with the applicant's collection, transportation, treatment, storage or disposal of solid waste or hazardous waste;

7. Any other information about the applicant and the key personnel that the Director may require that reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and competently operate a solid waste management facility in Virginia; and

8. The full name and business address of any member of the local governing body or planning commission in which the solid waste management facility is located or proposed to be located, who holds an equity interest in the facility.

**"Displacement"** means the relative movement of any two sides of a fault measured in any direction.

**"Disposal"** means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters.

**"Disposal boundary"** means the outermost perimeter of the solid waste (vertical projection on a horizontal plane) as it would exist at completion of the disposal activity within the property boundary. This term is synonymous with the "solid waste boundary."

**"EPA"** means the United States Environmental Protection Agency.

**"Existing unit"** means any permitted solid waste management unit that is receiving or has received solid waste and has not been closed in accordance with the regulations in effect at the time of closure. Waste placement in existing units shall be consistent with past operating practices, the permit, or modified practices to ensure good management.

**"Facility boundary"** means the boundary of the solid waste management facility approved to manage solid waste as defined in the Part A of the permit application.]

**"Facility structure"** means any building, shed, or utility or drainage line on the facility;

**"Facility"** means solid waste management facility unless the context clearly indicates otherwise.

**"Fault"** means a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to that on the other side.

"**Floodplain**" means the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands that are inundated by a base or hundred-year flood.

"**Fly ash**" means ash particulate collected from air pollution attenuation devices on combustion units.

"**Food chain crops**" means crops grown for human consumption, tobacco, and crops grown for pasture and forage or feed for animals whose products are consumed by humans.

"**Free liquids**" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure as determined by the Paint Filter Liquids Test, Method 9095, U.S. Environmental Protection Agency, Publication SW-846.

~~"**Friable asbestos**" means any material containing more than 1 percent asbestos by weight which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure and regulated as a special waste in Part VIII.~~

"**Garbage**" means readily putrescible discarded materials composed of animal, vegetable or other organic matter.

"**Gas condensate**" means the liquid generated as a result of gas control or recovery process(es) at the solid waste management unit.

"**Groundwater**" means any water, except capillary moisture or unsaturated zone moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this Commonwealth, whatever may be the subsurface geologic structure in which such water stands, flows, or otherwise occurs.

"**Hazardous constituent**" means a constituent of solid waste listed in Part V, Appendix 5.1, of this chapter.

"**Hazardous waste**" means a "hazardous waste" as described by the Virginia Hazardous Waste [Management] Regulations (9 VAC 20-60-10 *et seq.*)

"**Holocene**" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch to the present.

"**Home use**" means the use of compost for growing plants which is produced and used on a privately owned residential site.

"**Household hazardous waste**" means any [household] waste [material derived from households (including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas)] which, except for the fact that it is derived from a household, would otherwise be classified as a hazardous waste in accordance with 9 VAC 20-60-10 *et seq.*

"**Household waste**" means any waste material, including garbage, trash and refuse, derived from households. Households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Household wastes do not include sanitary waste in septic tanks (septage) which is regulated by other state agencies.

**"Hundred-year flood"** means a flood of that has a one-percent or greater chance of recurring in any given year or a flood of magnitude equaled or exceeded on the average only once in a hundred years on the average over a significantly long period.

**"Ignitable waste"** means: (a) Liquids having a flash point of less than 140° F (60° C) as determined by the methods specified in Part III of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.); (b) Non-liquids liable to cause fires through friction, absorption of moisture, spontaneous chemical change or retained heat from manufacturing or liable, when ignited, to burn so vigorously and persistently as to create a hazard; (c) Ignitable compressed gases; and/or oxidizers.

**"Incineration"** means the controlled combustion of solid waste for disposal.

**"Incinerator"** means a facility or device designed for the treatment of solid waste by combustion.

**"Industrial waste"** means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/ agricultural chemicals; food and related products/ by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

**"Industrial waste landfill"** means a solid waste landfill used primarily for the disposal of a specific industrial waste or a waste which is a by-product of a production process.

**"Inert waste"** means solid waste which is physically, chemically and biologically stable from further degradation and considered to be nonreactive. Inert wastes include rubble, concrete, broken bricks, bricks, and blocks.

~~"Infectious waste" means solid wastes defined to be infectious by the *Infectious Waste Management Regulations* (9 VAC 20-110 et seq.) as promulgated by the Virginia Waste Management Board.~~

**"Injection well"** means, for the purposes of this regulation, a well or bore hole into which fluids are injected into selected geological horizons.

**"Institutional waste"** means all solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and public or private schools. It can include ~~infectious~~ regulated medical waste from health care facilities and research facilities that must be managed as an ~~infectious~~ regulated medical waste.

**"Karst terrenes"** means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terrenes include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

**"Key personnel"** means the applicant itself and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions, with respect to the solid waste or

hazardous waste operations of the applicant in Virginia, but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste and such other employees as the Director may designate by regulation. If the applicant has not previously conducted solid waste or hazardous waste operations in Virginia, the term also includes any officer, director, partner of the applicant, or any holder of five percent or more of the equity or debt of the applicant. If any holder of five percent or more of the equity or debt of the applicant or of any key personnel is not a natural person, the term includes all key personnel of that entity, provided that where such entity is a chartered lending institution or a reporting company under the Federal Security and Exchange Act of 1934, the term does not include key personnel of such entity. Provided further that the term means the chief executive officer of any agency of the United States or of any agency or political subdivision of the Commonwealth, and all key personnel of any person, other than a natural person, that operates a landfill or other facility for the disposal, treatment, or storage of nonhazardous solid waste under contract with or for one of those governmental entities.

**"Lagoon"** means a body of water or surface impoundment designed to manage or treat waste water.

**"Land application unit"** means an area where solid or liquid wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for agricultural purposes or for treatment or disposal.

**"Landfill"** means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill.

**"Landfill disposal area"** means the area within the property boundary of a landfill facility in which solid waste is buried or permitted for actual burial.

**"Lateral expansion"** means a horizontal expansion of the waste management boundaries of an existing unit ~~or a facility~~.

**"Leachate"** means a liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials from such waste. Leachate and any material with which it is mixed is solid waste; except that leachate that is pumped from a collection tank for transportation to disposal in an off-site facility is regulated as septage, and leachate discharged into a waste water collection system is regulated as industrial waste water.

**"Lead acid battery"** means, for the purposes of this chapter, any wet cell battery.

**"Lift"** means the daily landfill layer of compacted solid waste plus the cover material.

**"Liquid waste"** means any waste material that is determined to contain "free liquids" as defined by this chapter.

**"Lithified earth material"** means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

**"Litter"** means, for purposes of this chapter, any solid waste that is discarded or scattered about a solid waste management facility outside the immediate working area.

**"Lower explosive limit"** means the lowest concentration by volume of a mixture of explosive gases in air that will propagate a flame at 25° C and at atmospheric pressure.

**"Materials recovery facility"** means a solid waste management facility for the collection, processing and recovery of material such as metals from solid waste or for the production of a fuel from solid waste. [This does not include the production of a waste derived fuel product].

**"Manufacturing or mining by-product"** means a material that is not one of the primary products of a particular manufacturing or mining operation, but is a secondary and incidental product of the particular operation and would not be solely and separately manufactured or mined by the particular manufacturing or mining operation. The term does not include an intermediate manufacturing or mining product which results from one of the steps in a manufacturing or mining process and is typically processed through the next process step within a short time.

**"Maximum horizontal acceleration in lithified earth material"** means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

**"Monitoring"** means all methods, procedures and techniques used to systematically analyze, inspect and collect data on operational parameters of the facility or on the quality of air, groundwater, surface water, and soils.

**"Monitoring wells"** means a well point below the ground surface for the purpose of obtaining periodic water samples from groundwater for quantitative and qualitative analysis.

**"Mulch"** means woody waste consisting of stumps, trees, limbs, branches, bark, leaves and other clean wood waste which has undergone size reduction by grinding, shredding, or chipping, and is distributed to the general public for landscaping purposes or other horticultural uses except composting as defined and regulated under this chapter or the [Vegetative Waste Management and]Yard Waste Composting Regulations (9 VAC [~~20-100-10~~ 20-101-10] *et seq.*)

**"Municipal solid waste"** means that waste which is normally composed of residential, commercial, and institutional solid waste and residues derived from combustion of these wastes.

[**"New solid waste management facility"** means a facility or a portion of a facility that was not included in a previous determination of site suitability (Part A approval).]

**"Nonsudden events"** mean those events continuing for an extended time period or for long term releases of contaminants into the environment which take place over time such as leachate contamination of ground water.

**"Nuisance"** means an activity which unreasonably interferes with an individual's or the public's comfort, convenience or enjoyment such that it interferes with the rights of others by causing damage, annoyance, or inconvenience.

**"Off-site"** means any site that does not meet the definition of on-site as defined in this part.

**"On-site"** means the same or geographically contiguous property, which may be divided by public or private right-of-way, provided the entrance and exit to the facility are controlled by the owner or the operator of the facility. Non-contiguous properties owned by the same person, but connected by a right-of-way, which he controls and to which the public does not have access, is also considered on-site property.

**"On-site industrial waste landfill"** means on property owned and operated by the industrial facility supported. Access is controlled and limited to the supported industrial facility.

**"Open burning"** means the combustion of solid waste without:

- A. Control of combustion air to maintain adequate temperature for efficient combustion;
- B. Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
- C. Control of the combustion products' emission.

**"Open dump"** means a site on which any solid waste is placed, discharged, deposited, injected, dumped or spilled so as to present a threat of a release of harmful substances into the environment or present a hazard to human health. For further detail see Part IV of this chapter.

**"Operating Record"** means records required to be maintained in accordance with the facility permit or this part.]

**"Operator"** means the person responsible for the overall operation and site management of a solid waste management facility.

**"Owner"** means the person who owns a solid waste management facility or part of a solid waste management facility.

**"Permit"** means the written permission of the ~~Executive~~ Director to own, operate or construct a solid waste management facility.

**"PCB"** means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contain such substance (see ? 761.3, Part 761, Title 40, Code of Federal Regulations).

**"Person"** means an individual, corporation, partnership, association, a governmental body, a municipal corporation or any other legal entity.

**"Point source"** means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel or other floating craft, from which pollutants are or may be discharged. Return flows from irrigated agriculture are not included.

**"Pollutant"** means any substance which causes or contributes to, or may cause or contribute to, environmental degradation when discharged into the environment.

**"Poor foundation conditions"** means those areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a solid waste management unit.

**"Post-closure"** means the requirements placed upon solid waste disposal facilities after closure to ensure environmental and public health safety for a specified number of years after closure.

**"Private solid waste disposal facility"** means any solid waste disposal facility including, without limitations, all solid waste disposal facilities other than facilities owned or operated by a local government, combination of local governments or public service authority.

**"Processing"** means preparation, treatment, or conversion of waste by a series of actions, changes, or functions that bring about a desired end result.

**"Progressive cover"** means cover material placed over the working face of a solid waste disposal facility advancing over the deposited waste as new wastes are added keeping the exposed area to a minimum.

**"Public land"** means any land, used for any purpose that is leased or owned by a governmental entity.

**"Putrescible waste"** means solid waste, which contains organic material capable of being decomposed by micro-organisms and cause odors.

**"Qualified groundwater scientist"** means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by State registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgements regarding groundwater monitoring, contaminant fate and transport, and corrective action.

**"RCRA"** means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.), the Hazardous and Solid Waste Amendments of 1984, and any other applicable amendments to these laws.

**"RDF (Refuse Derived Fuel)"** means solid waste, which is processed to be used as fuel to produce energy.

**"Reclaimed material"** means a material which is processed or reprocessed to recover a usable product or is regenerated to a usable form.

**"Refuse"** means all solid waste products having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

**"Registered professional engineer"** means an engineer licensed to practice engineering in the Commonwealth as defined by the rules and regulations set forth by the Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects.

**"Regulated hazardous waste"** means a solid waste that is a hazardous waste, as defined in the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.), that is not excluded from those regulations as a hazardous waste.

**"Regulated medical waste"** means solid wastes so defined by the Regulated Medical Waste Management Regulations (9 VAC 20-120-10 et seq.) as promulgated by the Virginia Waste Management Board.

**"Release"** means, for the purpose of this chapter, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping, or disposing into the environment solid wastes or hazardous constituents of solid wastes (including the abandonment or discarding of barrels, containers, and other closed receptacles containing solid waste). This definition does not include: any release which results in exposure to persons solely within a workplace; release of source, byproduct or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954; and the normal application of fertilizer. For the purpose of this chapter, release also means substantial threat of release.

**"Remediation waste"** means all solid waste, including all media (groundwater, surface water, soils and sediments) and debris, that are managed for the purpose of remediating a site under Parts IV or V of this chapter or under the Voluntary Cleanup Program (9 VAC 20-160-10 et seq.). For a given facility, remediation wastes may originate only from within the facility boundary, and may include wastes managed as a result of remediation beyond the facility boundary. Hazardous wastes as defined in 9 VAC 20-60-10 et seq., as well as "new" or "as generated" wastes, are excluded from this definition.

**"Remediation waste management unit" or RWMU** means an area within a facility that is designated by the director for the purpose of implementing remedial activities required under Parts IV or V of this chapter or under the Voluntary Remediation Program (9 VAC 20-160-10 et seq.). An RWMU shall only be used for the management of remediation wastes pursuant to implementing such remedial activities at the facility.]

**"Residential waste"** means household waste.

**"Resource recovery system"** means a solid waste management system, which provides for collection, separation, use, reuse, or reclamation of solid wastes, recovery of energy and disposal of non-recoverable waste residues.

**"Rubbish"** means combustible or slowly putrescible discarded materials which include but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags and other combustible or slowly putrescible materials not included under the term **"garbage."**

**"Runoff"** means any rainwater, leachate, or other liquid that drains over land from any part of a solid waste management facility.

**"Runon"** means any rainwater, wastewater, leachate, or other liquid that drains over land onto any part of the solid waste management facility.

**"Salvage"** means the authorized, controlled removal of waste materials from a solid waste management facility.

**"Sanitary landfill"** means an engineered land burial facility for the disposal of household waste which is so located, designed, constructed and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary

landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, [construction, demolition, debris,] and nonhazardous industrial solid waste.

"**Saturated zone**" means that part of the earth's crust in which all voids are filled with water.

"**Scavenging**" means the unauthorized or uncontrolled removal of waste materials from a solid waste management facility.

"**Scrap metal**" means bits and pieces of metal parts such as bars, rods, wire, empty containers, or metal pieces that may be combined together with bolts or soldering which are discarded material and can be used, reused, or reclaimed.

"**Secondary containment**" means an enclosure into which a container or tank is placed for the purpose of preventing discharge of wastes to the environment.

"**Seismic impact zone**" means an area with a ten percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10g in 250 years.

"**Site**" means all land and structures, other appurtenances, and improvements thereon used for treating, storing, and disposing of solid waste. This term includes adjacent land within the property boundary used for the utility systems such as repair, storage, shipping or processing areas, or other areas incident to the management of solid waste .

(Note: This term includes all sites whether they are planned and managed facilities or are open dumps.)

"**Sludge**" means any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of treated effluent from a wastewater treatment plant.

["**Small landfill**" means a landfill that disposed of 100 tons/day or less of solid waste during a representative period prior to October 9, 1993, and did not dispose of more than an average of 100 tons/day of solid waste each month between October 9, 1993, and April 9, 1994.]

"**Sole source aquifers**" means those aquifers designated pursuant to § 1424(e) of the Safe Drinking Water Act of 1974 (Public Law 95-5230) which solely or principally supply drinking water to a large percentage of a populated area.

"**Solid waste**" means any of those materials defined as 'solid waste' in Part III of this chapter.

"**Solid waste boundary**" means the outermost perimeter of the solid waste (vertical projection on a horizontal plane) as it would exist at completion of the disposal activity within the property boundary.

"**Solid waste disposal area**" means the area within the property boundary of a landfill facility in which solid waste is buried or permitted for actual burial.

"**Solid waste disposal facility**" means a solid waste management facility at which solid waste will remain after closure.

**"Solid waste management facility ("SWMF")"** means a site used for planned treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

**"Source separation"** means separation by the waste generator of materials that are collected for use, reuse or reclamation.

**"Special wastes"** mean solid wastes that are difficult to handle, require special precautions because of hazardous properties or the nature of the waste creates waste management problems in normal operations. {See Part VIII }

**"Speculatively accumulated material"** means any material that is accumulated before being used, reused, or reclaimed or in anticipation of potential use, reuse, or reclamation. A solid waste is not being accumulated speculatively when it can be used, reused or reclaimed, has a feasible means of use, reuse, or reclamation available and 75 per cent of the solid waste accumulated is being removed from the facility annually.

**"Stabilized compost"** means a compost which has passed the stability criteria outlined in 9 VAC 20-80-330D2a.

**"State solid waste management plan ("State Plan" or "Plan")"** means the plan of the Virginia Waste Management Board, which sets forth solid waste management goals and objectives, and describes planning and regulatory concepts to be employed by the Commonwealth.

**"State waters"** means all water, on the surface and under the ground, wholly or partially within, or bordering the Commonwealth, or within its jurisdiction.

**"Storage"** means the holding of waste, at the end of which the waste is treated, disposed, or stored elsewhere.

**"Structural components of a solid waste disposal unit"** means liners, leachate collection systems, final covers, run-on/run-off systems, and any other component used in the construction and operation of the solid waste disposal facility that is necessary for protection of human health and the environment.

**"Structural fill"** means an engineered fill with a projected beneficial end use, constructed using soil or coal combustion byproducts spread and compacted with proper equipment and covered with a vegetated soil cap.

**"Sudden event"** means a one time, single event such as a sudden collapse or a sudden, quick release of contaminants to the environment. An example would be the sudden loss of leachate from an impoundment into a surface stream caused by failure of a containment structure.

**"Surface impoundment" or "impoundment"** means a facility or part of a facility that is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), that is designed to hold an accumulation of liquid wastes or wastes containing free liquids and that is not an injection well.

**"SW-846"** means Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846, Second Edition, 1982 as amended by Update I (April, 1984), and Update II (April, 1985) and the third edition, November, 1986, as amended.

"**Tank**" means a stationary device, designed to contain an accumulation of liquid or semi-liquid components of solid waste which is constructed primarily of non-earthen materials which provide structural support.

"TEF" or "Toxicity Equivalency Factor" means a factor developed to account for different toxicities of structural isomers of polychlorinated dibenzodioxins and dibenzofurans and to relate them to the toxicity of 2,3,7,8-tetrachloro dibenzo-p-dioxin.

"Terminal" means the location of transportation facilities such as classification yards, docks, airports, management offices, storage sheds, and freight or passenger stations, where solid waste which is being transported may be loaded, unloaded, transferred, or temporarily stored.

"**Thermal treatment**" means the treatment of solid waste in a device which uses elevated temperature as the primary means to change the chemical, physical, or biological character, or composition of the solid waste.

["Tire chip" means a material processed from waste tires that is a nominal two square inches in size, and ranges from 1/4 inches to 4 inches in any dimension. Tire chips contain no wire protruding more than 1/4 inch.]

["Tire shred" means a material processed from waste tires that is a nominal 40 square inches in size, and ranges from 4 inches to 10 inches in any dimension.]

"**Transfer station**" means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration or resource recovery.

"**Trash**" means combustible and noncombustible discarded materials and is used interchangeably with the term rubbish.

"**Treatment**" means, for the purpose of this chapter, any method, technique or process, including but not limited to incineration, designed to change the physical, chemical or biological character or composition of any waste to render it more stable, safer for transport, or more amenable to use, reuse, reclamation or recovery.

"Unadulterated wood" means wood that is not painted, treated with chemicals such as preservatives or mixed with other wastes.

"**Underground source of drinking water**" means an aquifer or its portion:

- A. Which contains water suitable for human consumption; or
- B. In which the groundwater contains less than 10,000 mg/liter total dissolved solids.

"**Unit**" means a discrete area of land used for the management of solid waste.

"**Unstable area**" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and Karst terrains.

**"Uppermost aquifer"** means the geologic formation nearest the natural ground surface that is an aquifer, as well as, lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

**"Used or reused material"** means a material which is either:

- A. Employed as an ingredient (including use as an intermediate) in a process to make a product, excepting those materials possessing distinct components that are recovered as separate end products; or
- B. Employed in a particular function or application as an effective substitute for a commercial product or natural resources.

**"Vector"** means a living animal, insect or other arthropod which transmits an infectious disease from one organism to another.

"Vegetative waste" means decomposable materials generated by yard and lawn care or land clearing activities and includes, but is not limited to, leaves, grass trimmings, woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps. For more detail see 9 VAC 20-101-10 et seq.]

**"NPDES VPDES ("National Virginia Pollutant Discharge Elimination System")"** means the national Virginia program system for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing the issuance of permits on waste water discharges and imposing and enforcing pre-treatment requirements pursuant to the Permit Regulation (9 VAC ~~25-30-10~~ 25-31-10) et seq.), the State Water Control Law, and "307 ' 402, 318, and 405 of the Clean Water Act, Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117; 33 U.S.C. ' 1251 et seq.

**"Washout"** means carrying away of solid waste by waters of the base flood.

"Waste derived fuel product" means a solid waste or combination of solid wastes which have been treated (altered physically, chemically, or biologically) to produce a fuel product with a minimum heating value of 5,000 BTU/lb. Solid wastes used to produce a waste derived fuel product must have a heating value, or act as binders, and may not be added to the fuel for the purpose of disposal. Waste ingredients may not be listed or characteristic hazardous wastes. The fuel product must be stable at ambient temperature, and not degraded by exposure to the elements. This material may not be ARefuse Derived Fuel (RDF)@ as defined in 9 VAC 5-40-890.]

**"Waste management unit boundary"** means the vertical surface located at the boundary line of the unit. This vertical surface extends down into the uppermost aquifer.

**"Waste needing special handling (Special waste)"** means any solid waste which requires extra or unusual management when introduced into a solid waste management facility to insure protection of human health or the environment.

**"Waste pile"** means any non-containerized accumulation of nonflowing, solid waste that is used for treatment or storage.

"Waste tire" means a tire that has been discarded because it is no longer suitable for its original intended purpose because of wear, damage or defect (See 9 VAC 20-150-10 et seq. for other definitions dealing with the waste tire program.)

"Wastewaters" are, for the purpose of this chapter, wastes that contain less than 1% by weight total organic carbon (TOC) and less than 1% by weight total suspended solids (TSS).

"**Water pollution**" means such alteration of the physical, chemical, or biological properties of any state water as will or is likely to create a nuisance or render such waters:

- A. Harmful or detrimental or injurious to the public health, safety, or welfare, or to the health of animals, fish, or aquatic life or plants;
- B. Unsuitable, with reasonable treatment, for use as present or possible future sources of public water supply; or
- C. Unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses;

provided that:

- 1. An alteration of the physical, chemical, or biological properties of state waters or a discharge or deposit of sewage, industrial wastes, or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which in combination with such alteration or discharge or deposit to state waters by other persons is sufficient to cause pollution,
- 2. The discharge of untreated sewage by any person into state waters, and
- 3. The contribution to the degradation of water quality standards duly established by the State Water Control Board,

Is "**pollution**" for the terms and purposes of this chapter.

"**Water table**" means the upper surface of the zone of saturation in ground waters in which the hydrostatic pressure is equal to the atmospheric pressure.

"**Waters of the United States or waters of the U. S.**" means:

- A. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- B. All interstate waters, including interstate "wetlands;"
- C. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mud flats, sand flats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - 1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - 2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

3. Which are used or could be used for industrial purposes by industries in interstate commerce:
4. All impoundments of waters otherwise defined as waters of the United States under this definition:
5. Tributaries of waters identified in paragraphs 1 through 4 of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1 through 7 of this definition.

"**Wetlands**" mean those areas that are defined by the federal regulations under Part 323, Title 33, Code of Federal Regulations.

"**White goods**" means any stoves, washers, hot water heaters, other large appliances.

"**Working face**" means that area within a landfill which is actively receiving solid waste for compaction and cover.

"**Yard waste**" means that fraction of municipal solid waste that consists of grass clippings, leaves, brush and tree prunings arising from general landscape maintenance

**PART II**  
**LEGISLATIVE AUTHORITY AND GENERAL INFORMATION**

**9 VAC 20-80-20.** {Reserved}

**9 VAC 20-80-30 Policy.** It is the policy of the Virginia Waste Management Board to promote the development of comprehensive waste management programs that include the following components of a waste management hierarchy:

- A. Planning
- B. Source Reduction
- C. Reuse
- D. Reclamation
- E. Resource Recovery
- F. Incineration
- G. Landfilling

**9 VAC 20-80-40. Purpose of chapter.**

A. The purpose of this chapter is to establish standards and procedures pertaining to the [management of solid wastes, and] siting, design, construction, operation, maintenance, closure, and post-closure care of solid waste management facilities in this Commonwealth in order to protect the public health, public safety, the environment, and natural resources.

B. This chapter provides the means for identification of open dumping of solid waste and provide the means for prevention or elimination of open dumping of solid waste to protect the public health and safety and enhance the environment.

C. This chapter sets forth the requirements for undertaking corrective actions at solid waste management facilities.

**9 VAC 20-80-50. Administration of chapter.**

A. The Virginia Waste Management Board promulgates and enforces regulations that it deems necessary to protect the public health public safety, the environment, and natural resources.

B. The director is authorized and directed to administer this chapter in accordance with the Virginia Waste Management Act, §§ 10.1-1400 through 10.1-1457 of the Code.

C. At any time this chapter requires the director to review, approve, disapprove, modify, or amend any application for a permit or any other submission by an applicant or permittee, such action by the director shall be taken in a timely manner.

## 9 VAC 20-80-60. Applicability of chapter.

A. This chapter applies to all persons who manage or dispose of solid wastes as defined in Part III of this chapter.

### ~~B. Existing Permitted Facilities~~

B. Owners and operators of all new disposal facilities and units [regulated under Part V] and all existing storage and treatment facilities and units regulated under Part VI of this chapter shall comply with all provisions of this chapter. Owners and operators of existing disposal facilities and units may be partially exempt from certain specific requirements as shown in 9 VAC 20-80-60B1, 9 VAC 20-80-60B2, 9 VAC 20-80-60B3, and 9 VAC 20-80-60B4.

#### 1. Existing sanitary landfills.

a. ~~1.~~ Except as provided for in ~~9 VAC 20-80-60 B2., 3., or 4.,~~ 9 VAC 20-80-60B1b., all existing sanitary landfill facilities and units shall comply with all provisions of this chapter.

b. Those facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may continue to receive solid waste until they have reached their vertical design capacity, provided that the facility is in compliance with the requirements for liners and leachate control in effect at the time of permit issuance, and further provided that on or before October 9, 1993, the owner or operator of the solid waste management facility have submitted to the director:

(1) An acknowledgment that the owner or operator is familiar with state and federal law and regulations pertaining to solid waste management facilities operating after October 9, 1993, including post-closure care, corrective action and financial responsibility requirements;

(2) A statement signed by a registered professional engineer that he has reviewed the regulations established by the department for solid waste management facilities, including the open dump criteria contained therein, that he has inspected the facility and examined the monitoring data compiled for the facility in accordance with applicable regulations and that, on the basis of his inspection and review, has concluded:

(a) that the facility is not an open dump,

(b) that the facility does not pose a substantial present or potential hazard to human health and the environment, and

(c) that the leachate or residues from the facility do not pose a threat of contamination or pollution of the air, surface water or ground water in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health or the environment; and

(3) A statement signed by the owner or operator:

(a) that the facility complies with applicable financial assurance regulations, and

(b) estimating when the facility will reach its vertical design capacity.

c. The facility may not be enlarged prematurely to avoid compliance with this chapter when such enlargement is not consistent with past operating practices, the permit or modified operating practices to ensure good management.

d. The provisions of 9 VAC 20-80-60B1b. are not applicable to any sanitary landfill facility or unit undergoing lateral expansion after October 9, 1993.

~~2. Facilities owned or operated by a local government, combination of local governments or public service authority.~~

~~a. Upon written notice to the department, any existing solid waste disposal facility which was permitted prior to December 21, 1988, may continue to operate in accordance with standards regarding leachate collection systems and liners in effect at the time of issuance of permit, until a facility permitted in accordance with current regulations has been approved for operation by the department. However, in no event shall such sanitary landfill continue to operate after January 1, 1994, without either complying with current regulations or obtaining a variance to the standards from the director.~~

~~b. The provisions of 9 VAC 20-80-60B2a. shall not be applicable to any facility with respect to which the director has made a finding that continued operation of the facility constitutes a threat to the public health or the environment.~~

~~c. The provisions of 9 VAC 20-80-60B2a. shall not affect any variance granted by the director prior to February 23, 1991, or any variance granted pursuant to a petition filed with the director prior to February 23, 1991, where such petition extends the deadline for compliance with the leachate collection system and liner requirements of these regulations beyond January 1, 1994. The department shall have authority to grant a variance only upon a finding of good cause.~~

~~d. The provisions of 9 VAC 20-80-60B2a. are not applicable to any sanitary landfill facility or unit undergoing lateral expansion after October 9, 1993.~~

2. Existing captive industrial waste landfills.

a. Existing nonhazardous industrial waste facilities that are located on property owned or controlled by the generator of the waste disposed of in the facility shall comply with all the provisions of this chapter except as shown in 9 VAC 20-80-60B2b.

b. Facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may continue to receive nonhazardous industrial waste, provided that the facility is in compliance with the requirements for liners and leachate control in effect at the time of permit issuance until they have reached their vertical design capacity or the limits of the disposal area specified in the permit.

c. Owners or operators of facilities which are authorized under 9 VAC [20-60-60B2b.20-80-60B2b] to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities in 9 VAC 20-80-270A.

d. Facilities, or portions thereof, which have reached their vertical design capacity shall be closed in compliance with 9 VAC 20-80-270 E.

~~3. Privately owned solid waste disposal facilities.~~

~~a. Upon written notice to the department any existing private solid waste disposal facility which was permitted prior to December 21, 1988, and whose owner, operator or other authorized entity has on or before January 1, 1992:~~

~~(1) Submitted an application for a new solid waste management facility permit;~~

~~(2) Submitted a request for a variance;~~

~~(3) Filed a closure plan; or~~

~~(4) Has, in the determination of the director, adequately demonstrated a good faith effort to comply with the July 1, 1992, deadline,~~

~~may continue to operate until October 9, 1993, in accordance with standards regarding leachate collection systems and liners in effect at the time of issuance of the permit. However, in no event shall private solid waste disposal facilities operate after October 9, 1993, without complying with applicable regulations.~~

~~b The provisions of 9 VAC 20 80 60B2a. shall not impair the powers of the director pursuant to §10.1-1409 of the Code to revoke, amend, suspend or attach conditions to any permit to protect public human health and the environment, and shall not be applicable to any disposal facility with respect to which the director has made a finding that continued operation of the facility constitutes a threat to the public human health or the environment.~~

~~c. The written notice required by 9 VAC 20 80 60B2a. shall include:~~

~~(1) Certification that the owner or operator will maintain in effect its financial responsibility instruments for closure and post-closure care of the facility as long as such instruments are required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20 60 10 *et seq.*); and~~

~~(2) Documentation of good faith efforts to comply with the July 1, 1992, deadline in the event that the owner or operator or other authorized entity has not submitted a permit application, a variance request or a closure plan on or before January 1, 1992.~~

~~d. The provisions of 9 VAC 20 80 60B2a. shall not affect any variance granted by the director prior to March 7, 1992, nor shall they affect the authority of the department to grant any variance after March 7, 1992. Any private solid waste disposal facility operating under a variance may continue to operate under the provisions of this section upon written notice to the department.~~

~~e. Any person who operates a private solid waste disposal facility otherwise than in accordance with the requirements of these regulations effective December 21, 1988, shall be liable, jointly and severally, for the costs of any corrective action or clean up of ground or surface water contamination resulting from the failure to comply with such requirements.~~

~~Nothing shall be deemed to alter the responsibility for corrective action imposed by the state or federal law or regulation on any owner or operator of a private solid waste management facility.~~

3. Other existing industrial waste landfills.

a. Existing nonhazardous industrial waste facilities that are not located on property owned or controlled by the generator of the waste disposed of in the facility shall comply with all the provisions of this chapter except as shown in 9 VAC 20-80-60B3b.

b. Facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may continue to receive nonhazardous industrial waste, until they have reached their vertical design capacity or the limits of the disposal area specified in the permit, provided that:

(1) The facility accepts only industrial waste streams which the facility has lawfully accepted prior to July 1, 1995, or other nonhazardous industrial waste as approved by the department on a case-by-case basis; and

(2) Prior to the expansion of any such facility, the owner or operator submits to the director a written notice of the proposed expansion at least sixty days prior to commencement of construction. The notice shall include recent groundwater monitoring data sufficient to determine that the facility does not pose a threat of contamination of groundwater in a manner constituting an open dump or creating a substantial present or potential hazard to human health or the environment (see 9 VAC 20-80-180 B 4). The director shall evaluate the data included with the notification and may advise the owner or operator of any additional requirements that may be necessary to ensure compliance with applicable laws and prevent a substantial present or potential hazard to health or the environment.

c. Owners or operators of facilities which are authorized under 9 VAC 20-80-60B3b. to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities in 9 VAC 20-80-270 A.

d. Facilities, or portions thereof, which have reached their vertical design capacity shall be closed in compliance with 9 VAC 20-80-270E.

~~4. Vertical expansion of any solid waste disposal facility after October 9, 1993, and within the footprint of the disposal area as of October 9, 1993, is allowable only after the owner or operator has received a variance to the standards from the director as provided under 9 VAC 20-80-750A3.~~

4. Existing construction/demolition/debris landfills.

a. Existing facilities that accept only construction/demolition/debris waste shall comply with all the provisions of this chapter except as shown in 9 VAC 20-80-60B4b.

b. Facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may:

(1) Continue to receive solid waste until they have reached their vertical design capacity, provided that the facility is in compliance with the requirements for liners and leachate control in effect at the time of permit issuance, and further provided that on or before October 9, 1993, the owner or operator of the solid waste management facility have submitted to the director:

(a) An acknowledgment that the owner or operator is familiar with state and federal law and regulations pertaining to solid waste management facilities operating after October 9, 1993, including post-closure care, corrective action and financial responsibility requirements;

(b) A statement signed by a registered professional engineer that he has reviewed the regulations established by the department for solid waste management facilities, including the open dump criteria contained therein, that he has inspected the facility and examined the monitoring data compiled for the facility in accordance with applicable regulations and that, on the basis of his inspection and review, has concluded:

i. that the facility is not an open dump,

ii. that the facility does not pose a substantial present or potential hazard to human health and the environment, and

iii. that the leachate or residues from the facility do not pose a threat of contamination or pollution of the air, surface water or ground water in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health or the environment; and

(c) A statement signed by the owner or operator

i. that the facility complies with applicable financial assurance regulations, and

ii. estimating when the facility will reach its vertical design capacity.

(d) The facility may not be enlarged prematurely to avoid compliance with this chapter when such enlargement is not consistent with past operating practices, the permit or modified operating practices to ensure good management; or

(2) Expand laterally beyond the waste disposal boundaries existing on October 9, 1993, provided that:

(a) There is first installed, in such expanded areas, liners and leachate control systems meeting the applicable requirements of 9 VAC 20-80-260 B.; and

(b) Prior to the expansion of any such facility, the owner or operator submits to the director a written notice of the proposed expansion at least sixty days prior to commencement of construction. The notice shall include recent groundwater monitoring data sufficient to determine that the facility does not pose a threat of contamination of groundwater in a manner constituting an open dump or creating a substantial present or potential hazard to human health or the environment (see 9 VAC 20-80-180 B 4). The director shall evaluate the data included with the notification and

may advise the owner or operator of any additional requirements that may be necessary to ensure compliance with applicable laws and prevent a substantial present or potential hazard to health or the environment.

c. Owners or operators of facilities which are authorized under 9 VAC 20-80-60B4b(2) to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities in 9 VAC 20-80-260 A and 9 VAC 20-80-260 B.

d. Facilities, or portions thereof, which have reached their vertical design capacity shall be closed in compliance with 9 VAC 20-80-260 E.

5. Facilities or units undergoing expansion in accordance with the partial exemptions created by 9 VAC 20-80-60B1b., 9 VAC 20-80-60B2b., 9 VAC 20-80-60B3b., or 9 VAC 20-80-60B4b. may not receive hazardous wastes generated by the exempt small quantity generators as defined by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 *et seq.*), wastes containing more than 1.0 mg/kg PCBs, or free liquids for disposal on the expanded portions of the facility. Other wastes that require special handling in accordance with the requirements of Part VIII of this chapter or which contain hazardous constituents which would pose a risk to health or environment, may only be accepted with specific approval by the director.

6. Nothing in 9 VAC 20-80-60B1b., 9 VAC 20-80-60B2b., 9 VAC 20-80-60B3b., and 9 VAC 20-80-60B4b. shall alter any requirement for groundwater monitoring, financial responsibility, operator certification, closure, post-closure care, operation, maintenance or corrective action imposed under this chapter, or impair the powers of the director to revoke or amend a permit pursuant to ' 10.1-1409 of the Virginia Waste Management Act or Part VII of this chapter.

**C.** An owner or operator of a facility that managed materials previously exempt from this chapter shall submit a complete application for a solid waste management facility permit or a permit amendment in accordance with Part VII within six months after these materials have been defined or identified as solid wastes. If the director finds that the application is complete, the owner or operator may continue to manage the newly defined or identified waste until a permit or permit amendment decision has been rendered or until a date two years after the change in definition whichever occurs sooner, provided however, that in so doing he shall not operate or maintain an open dump, a hazard, or a nuisance.

**D.** Conditional Exemptions. The following solid waste management practices are exempt from this chapter provided no open dump, hazard, or public nuisance is created:

1. Composting of sewage sludge at the sewage treatment plant of generation without addition of other types of solid wastes.

2. Composting of household waste generated by owners of single[-family] residences at the site of generation.

3. Composting activities performed for educational purposes as long as no more than 5 tons of materials are on site at any time. Greater quantities will be allowed with suitable justification presented to the Department. For quantities greater than 5 tons approval from the Director will be required prior to composting.

4. ~~2.~~ Land application by surface spreading or incorporation into soil of wastes regulated by the State Board of Health, the State Water Control Board, or any other state agency with such authority.

5. ~~3.~~ On-site management ~~remediation~~ of soil contaminated with petroleum products to include diesel fuels, heating oil, kerosene, gasoline, hydraulic fluids, JP-4, and motor oil, ~~performed under a required as~~ corrective action ~~permit issued by the State Water Control Board (SWCB)~~ by the department under its Underground Storage Tank Cleanup Program Article 9 or Article 11 of the Water Control Law (§ 62.1-44.34:8 ff or § 62.1-44.34:14ff). Disposal Management of the [remediation materials contaminated soils] ~~so treated~~ away from the ~~[remediation]~~ site ~~[of generation]~~ is subject to the requirements of this chapter (see ~~Part VIII~~) unless specifically provided for in the approved corrective action permit issued by the SWCB plan. Off-site ~~[thermal]~~ treatment of contaminated soil is regulated under Part VI of this chapter.

6. ~~4.~~ Storage or compaction Management of solid waste in appropriate containers at the site of its generation, provided that:

- a. Putrescible waste is not stored more than 7 days between time of collections and time of [removal for] ~~for~~ disposal; and
- b. All nonputrescible wastes that are on a system of regularly scheduled collection for disposal with collections occurring at intervals of less than ninety days.

7. ~~5.~~ Landfilling of solid waste which includes only rocks, brick, block, dirt, broken concrete and road pavement and which contains no paper, yard, or wood wastes.

8. ~~6.~~ On-site management of solid wastes generated by the wastewater treatment facilities provided such management is regulated subject to a regulation promulgated by the State Water Control Board.

9. ~~7.~~ Placing of stumps and other land clearing debris from agricultural or forestall activities on site of the clearing where no debris is accepted from off-site.

10. ~~8.~~ Placing of solid wastes from mineral mining activities on a mineral mining site in compliance with a permit issued by the Department of Mines, Minerals and Energy where no such waste is accepted from off-site and does not contain any municipal solid wastes or special wastes. Placement of such solid wastes shall be accomplished in an environmentally sound manner.

11. ~~10.~~ Storage of less than [500 100] waste tires at the site of generation provided that no waste tires are accepted from off-site and that the storage will [be accomplished in an environmentally sound manner not present a hazard or a nuisance].

E. This chapter is not applicable to units or facilities closed in accordance with regulations or permits in effect prior to December 21, 1988, unless releases (as defined in Part I of this chapter) from such closed facilities cause the site to be classified as an open dump, a hazard or a nuisance under § ~~10.1-1402(19)~~ 10.1-1402(21) of the Code of Virginia, or a site where improper waste management has occurred under § ~~10.1-1402(21)~~ 10.1-1402.(19) of the Code of Virginia.

## 9 VAC 20-80-70 Prohibitions.

### A. Management of Lead Acid Batteries.

1. No person shall place a used lead acid battery in mixed municipal solid waste or discard or otherwise dispose of a lead acid battery except by delivery to a battery retailer or wholesaler, or to a secondary lead smelter, or to a collection or reclamation facility authorized under the laws of this Commonwealth or by the United States Environmental Protection Agency.
2. No battery retailer shall dispose of a used lead acid battery except by delivery to:
  - a. The agent of a battery wholesaler or a secondary lead smelter,
  - b. A battery manufacturer for delivery to a secondary smelter, or
  - c. A collection or reclamation facility authorized under the laws of this Commonwealth or by the United States Environmental Protection Agency.
3. No person selling new lead acid batteries at wholesale shall refuse to accept from customers at the point of transfer, used lead acid batteries of the type and in a quantity at least equal to the number of new batteries purchased, if offered by customers.
4. The requirements for proper management of lead acid batteries are shown in Part VIII of this chapter.
5. The provisions of 9 VAC 20-80-70A. shall not be construed to prohibit any person who does not sell new lead acid batteries from collecting and reclaiming such batteries.

**B.** Reserved.

#### **9 VAC 20-80-80 Open Dumps.**

**A.** Prohibition.

1. No person shall own, operate, or allow to be operated on his property any sanitary landfill or other facility for the disposal, treatment or storage of solid waste in a manner that constitutes open dumping as provided for in Part IV of this chapter.
2. No person shall dispose of solid waste in open dumps as defined in Part IV of this chapter.

**B.** Any person who violates 9 VAC 20-80-80A. ~~of this chapter~~ shall immediately cease accepting additional wastes and shall initiate such cleanup or corrective actions as are required by Part IV of this chapter to alleviate the conditions that cause the facility to be classified as an open dump or to take other appropriate measures to abate improper management of waste.

#### **9 VAC 20-80-90 Unpermitted Facilities.**

**A.** Prohibitions and duties.

1. No person shall operate any sanitary landfill or other facility for the disposal, treatment or storage of solid waste without a permit from the director.
2. No person shall allow waste to be disposed of or otherwise managed on his property without a permit from the director.
3. It shall be the duty of all persons to dispose of or otherwise manage their solid waste in a legal manner.

B. Any person who violates 9 VAC 20-80-90A. shall immediately cease treatment, storage, or disposal of any additional wastes and shall initiate such removal, cleanup, or corrective actions as are required by Part IV of this chapter.

### **9 VAC 20-80-100 Enforcement and Appeal**

A. All administrative enforcement and appeals taken from actions of the director relative to the provisions of this chapter shall be governed by the Virginia Administrative Process Act.

#### **B. Inspections, Right of Entry.**

1. In addition to the provisions of 9 VAC 20-80-550B, upon presentation of appropriate credentials and upon consent of the owner or custodian, the director or his designee shall have the right to enter at any reasonable time onto any property to include but not limited to conveyance, vehicle, facility or premises, to inspect, investigate, evaluate, conduct tests or take samples for testing in order to determine whether the provisions of this chapter are being complied with.

2. If the director or his designee is denied entry, he may apply to an appropriate circuit court for an inspection warrant authorizing such investigation, evaluation, inspection, testing or taking of samples for testing as provided in Chapter 24 of Title 19.2, of the Code of Virginia.

#### **C. Orders.**

1. The board or the director is authorized to issue orders to require any person to comply with the provisions of this chapter. Any such order shall be issued only after a hearing with at least thirty days notice to the affected person of the time, place, and purpose thereof. Such an order shall become effective not less than fifteen days after mailing a copy thereof by certified mail to the last known address of such person.

2. The provisions of 9 VAC 20-80-100C1., shall not affect the authority of the board or the director to issue separate orders and regulations to meet any emergency to protect public health, natural resources, and the environment from the release or imminent threat of release of waste.

3. If the director summarily suspends a permit pursuant to 9 VAC 20-80-100C2., the director shall hold a conference pursuant to §9-6.14:11 of the Virginia Administrative Process Act within forty-eight hours to consider whether to continue the suspension pending a hearing to amend or revoke the permit, or to issue any other appropriate order. Notice of the hearing shall be delivered at the conference or sent at the time the permit is suspended. Any person whose permit is suspended by the director shall cease activity for which permit was issued until the permit is reinstated by the director or by a court.

D. Penalties, Injunctions, Civil Penalties and Charges for Violations. Penalties, injunctions, civil penalties and charges for violations are specified in the Virginia Waste Management Act. Civil penalties and charges will take account of economic benefit of noncompliance with this chapter.

E. ~~By January 1, 1998, the department will establish a schedule of review of the compliance history of each permittee. Upon his review t~~he director shall [review and] issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel, and technical limitations, standards, or regulations on which the original permit was based. The time period for review of each permit shall be once every ten years. If, upon such review, the director finds

that repeated material or substantial violations of the permittee or material changes in the permittee's key personnel would make continued operation of the facility not in the best interests of human health or the environment, the director shall amend or revoke the permit, in accordance with provisions of Part VII of this chapter. Whenever such review is undertaken, the director may amend the permit to include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation or when any of the conditions in subsection B of § 10.1-1409 of the Virginia Waste Management Act exist. The director may deny, revoke, or suspend any permit for any of the grounds listed under subsection A of § 10.1-1409.

1. For facilities in existence prior to January 1, 1991, the first review will be completed by January 1, (2001).
2. For facilities permitted on or after January 1, 1991, the first review must be completed within 10 years of the anniversary date of permit issuance.
3. For facilities that have previously undergone review, each subsequent review will be at least once every ten years.

#### **9 VAC 20-80-110 Public Participation.**

A. All permits for solid waste management facilities will be ~~the~~ subject to public participation, as specified in Part VII of this chapter.

B. Amendments or modifications to solid waste management facility permits shall be subject to public participation in accordance with Part VII of this chapter.

C. Dockets of all permitting actions, enforcement actions, and administrative actions relative to this chapter shall be available to the public for review, consistent with the Commonwealth of Virginia Administrative Process Act, Virginia Freedom of Information Act, and the provisions of this chapter.

D. All reports and related materials received from the regulated entity, as required by this chapter, shall be open to the public for review in accordance with the Virginia Freedom of Information Act and Uniform Trade Secrets Act.

E. Public participation in the compliance evaluation and enforcement programs is encouraged. The department will:

1. Investigate and provide written responses to all citizen complaints addressed to the department;
2. Not oppose intervention by any citizen in a suit brought before a court by the department as a result of the enforcement action; and
3. Publish a notice in major daily or weekly newspaper of general circulation in the area and ~~[broadcast over local radio stations~~ on the department's Internet web site]; and provide at least 30 days of public comment on proposed settlements of civil enforcement actions except where the settlement requires some immediate action.[]

#### **9 VAC 20-80-113 Control program for unauthorized waste.**

A. The facility owner or operator shall institute a control program (including measures such as signs at all maintained access points indicating hours of operation and the types of solid waste

accepted and not accepted, monitoring, alternate collection programs, passage of local laws, etc.) to assure that only solid waste authorized by the department to be treated, disposed of or transferred at the facility is being treated, disposed of or transferred at that facility. The facility owner or operator must develop and implement a program to teach the facility's staff to recognize, remove and report receipt of solid waste not authorized by the department to be treated, disposed of or transferred at the facility.

B. If solid waste not authorized by the department to be treated, disposed of or transferred at the facility is observed in the solid waste at the facility or delivered to the facility, the facility owner or operator may refuse to accept the waste. If the owner or operator accepts the waste, the owner or operator shall remove it, segregate it, and provide to the department a record identifying that waste and its final disposition. The department shall be notified of each incident in the annual report and records of each incident shall be available for department review. Any unauthorized waste accepted by the facility owner or operator shall be managed in accordance with applicable federal or state laws and regulations.

C. Solid waste not authorized by the department to be treated, disposed of or transferred at the facility that is segregated shall be adequately secured and contained to prevent leakage or contamination of the environment. The facility owner or operator shall cause it to be removed as soon as practicable, but not to exceed 90 days after discovery, by a person authorized to transport such waste to a facility approved to receive it for treatment, disposal or transfer.

#### **9 VAC 20-80-115 Analysis of this chapter.**

~~— A. Within three years after the effective date of this amended chapter, the department shall perform an analysis on this chapter and provide the Board with a report on the results. The analysis shall include:~~

- ~~— 1. The purpose and need for the chapter;~~
- ~~— 2. Alternatives which would achieve the stated purpose of this chapter in a less burdensome and less intrusive manner;~~
- ~~— 3. An assessment of the effectiveness of this chapter;~~
- ~~— 4. The results of a review of current state and federal statutory and regulatory requirements, including identification and justification of requirements of this chapter which are more stringent than federal requirements, and~~
- ~~— 5. The results of a review as to whether this chapter is clearly written and easily understandable by affected entities.~~

~~— B. Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendment, (ii) repeal this chapter or (iii) amend this chapter. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.~~

#### **9 VAC 20-80-116 Solid Waste Information and Assessment Program.**

A. The owners or operators of all permitted facilities that treat, store, or dispose of solid waste shall report by March 31 of each year the amount of solid waste, by weight or volume, received and

managed in the Commonwealth during the preceding calendar year. The report shall identify solid waste by the following categories: (i) municipal solid waste; (ii) construction and demolition debris; (iii) industrial waste; (iv) regulated medical waste; (v) vegetative and yard waste; (vi) incinerator ash; (vii) sludge other than sludge that is land applied in accordance with § 32.1-164.5; (viii) tires; (ix) white goods; (x) friable asbestos; (xi) petroleum contaminated soil; and (xii) other special waste. For each such category the report shall include an estimate of the amount that was generated outside of the Commonwealth and the jurisdictions where such waste originated. The report shall also estimate the amount of solid waste managed or disposed of by each of the following methods: (i) recycling; (ii) composting; (iii) landfilling; (iv) incineration (v) sending off-site for further management; and (vi) stored on site on December 31 of the reporting year.

B. At the option of the facility owner, the data collected may include an accounting of the facility's economic benefits to the locality where the facility is located including the value of disposal and recycling facilities provided to the locality at no cost or reduced cost, direct employment associated with the facility, and other economic benefits resulting from the facility during the preceding calendar year.

C. No facility shall be required pursuant to this section to provide information that is a trade secret as defined in § 59.1-336.

D. The reporting form to be used is shown in Appendix 2.1

E. This section shall not apply to captive waste management facilities.]

## **9 VAC 20-80-120 Relationship with other regulations promulgated by the Virginia Waste Management Board.**

**A. Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 *et seq.*).**

1. ~~Solid wastes which are defined as hazardous wastes by the Virginia Hazardous Waste Management Regulations shall be managed in accordance with this chapter.~~ that have been declared hazardous by the generator in accordance with 9 VAC 20-60-340 E or that are regulated as hazardous wastes by the Commonwealth or another state, [and will be treated, stored, or disposed in Virginia] shall be managed in accordance with the requirements of 9 VAC 20-60-10 *et seq.* and not this chapter.

2. Wastes generated by generators who are conditionally exempt pursuant to 9 VAC 20-60-120 of the Virginia Hazardous Waste Management Regulations may be managed in solid waste management facilities provided that:

a.

(1) A specific approval is obtained from the director for acceptance of the material at a facility with an approved liner and leachate collection system, or

(2) It is included in the facility permit; and

b. Records are kept of the actual amount, type and source of these wastes.

NOTE: "Generators who are conditionally exempt pursuant to 9 VAC 20-60-120 of the Virginia Hazardous Waste Management Regulations" [in a calendar month] are persons who generate less than

100 kilograms of hazardous waste ~~per in that~~ month. For more detail see Virginia Hazardous Waste Management Regulations.

**B.** ~~Infectious Regulated Medical Waste Regulations~~ ~~9 VAC 20-110-10~~ 9 VAC 20-120-10 *et seq.*). Solid wastes which are defined as ~~infectious regulated medical~~ wastes by the ~~Infectious Regulated Medical Waste Regulations~~ shall be managed in accordance with those regulations. ~~Infectious Regulated medical~~ wastes which are excluded or exempt by ~~9 VAC 20-110-10~~ 9 VAC 20-120-10 *et seq.* shall be regulated by this chapter.

**C.** [Vegetative Waste Management and] Yard Waste Composting Facility Regulations ~~9 VAC 20-90-10~~ 9 VAC [20-100-10 20-101-10] *et seq.*). Solid wastes which are defined as [vegetative or] yard waste may be managed in accordance with the [Vegetative Waste Management and] Yard Waste Composting Facility Regulations.

**D.** Regulation Governing Management of Coal Combustion By-Products (9 VAC 20-85-10 *et seq.*). Coal combustion by-products that are used, reused or reclaimed by applying them placing them on land in a manner other than addressed in 9 VAC 20-80-150 or 9 VAC 20-80-160, may be managed in accordance with Regulation Governing Management of Coal Combustion By-Products.

**E.** ~~D.~~ Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70-10 *et seq.*). This regulation specifies the requirements for financial assurance and allowable financial assurance mechanisms.

**F.** ~~E.~~ Solid Waste Management Facility Permit Application Fees (9 VAC 20-90-10 *et seq.*). All applicants for solid waste management facility permits are required to pay a fee in accordance with the schedule shown in this chapter.

## APPENDIX 2.1 PENALTIES AND ENFORCEMENT

For the convenience of the regulated community, the latest version of the text contained in 10.1-1455 of Title 10.1, Code of Virginia (1950), as amended, is shown below. Consult the latest version of title 10.1 for definitive requirements.

10.1-1455 Penalties and enforcement

A. Any person who violates any provision of this chapter, any condition of permit or certification, or any regulation or order of the Board shall, upon such finding by an appropriate circuit court, be assessed a civil penalty of not more than \$25,000 for each day of such violation. All civil penalties under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth. Such civil penalties shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 (10.1-2500 et seq.) of this title.

B. In addition to the penalties provided above, any person who knowingly transports any hazardous waste to an unpermitted facility; who knowingly transports, treats, stores, or disposes of hazardous waste without a permit or in violation of a permit; or who knowingly makes any false statement or representation in any application, disclosure statement, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of hazardous waste program compliance shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than five years and a fine of not more than \$25,000 for each violation, either or both. The provisions of this subsection shall be deemed to constitute a lesser-included offense of the violation set forth under subsection A.

Each day of violation of each requirement shall constitute a separate offense.

C. The Board is authorized to issue orders to require any person to comply with the provisions of any law administered by the Board, the Director or the Department, any condition of a permit or certification, or any regulations promulgated by the Board or to comply with any case decision, as defined in 9-6.14:4, of the Board or Director. Any such order shall be issued only after a hearing with at least thirty days' notice to the affected person of the time, place and purpose thereof. Such order shall become effective not less than fifteen days after mailing a copy thereof by certified mail to the last known address of such person. The provisions of this section shall not affect the authority of the Board to issue separate orders and regulations to meet any emergency as provided in 10.1-1402.

D. Any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the Board or the Director, any condition of a permit or certification or any provision of this chapter shall be guilty of a Class 1 misdemeanor unless a different penalty is specified.

Any person violating or failing, neglecting, or refusing to obey any lawful regulation or order of the Board or the Director, any condition of a permit or certification or any provision of this chapter may be compelled in a proceeding instituted in an appropriate court by the Board or the Director to obey such regulation, permit, certification, order or provision of this chapter and to comply therewith by injunction, mandamus, or other appropriate remedy.

E. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$25,000 for each violation. Such civil penalties shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 of this title. Each day of violation of each requirement shall constitute a separate offense. Such civil penalties may, in the discretion of the court

assessing them, be directed to be paid into the treasury of the county, city or town in which the violation occurred, to be used to abate environmental pollution in such manner as the court may, by order, direct, except that where the owner in violation is the county, city or town itself, or its agent, the court shall direct the penalty to be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 of this title.

F. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board or the Director, any condition of a permit or any provision of this chapter, the Board may provide, in an order issued by the Board against such person, for the payment of civil charges for past violations in specific sums, not to exceed the limits specified in this section. Such civil charges shall be instead of any appropriate civil penalty, which could be imposed under this section. Such civil charges shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 of this title.

G. In addition to all other available remedies, the Board may issue administrative orders for the violation of (i) any law or regulation administered by the Board; (ii) any condition of a permit or certificate issued pursuant to this chapter; or (iii) any case decision or order of the Board. Issuance of an administrative order shall be a case decision as defined in 9-6.14:4. Orders issued pursuant to this subsection may include penalties of up to \$25,000 per violation and may compel the taking of corrective actions or the cessation of any activity upon which the order is based. Orders issued pursuant to this subsection shall become effective five days after having been delivered to the affected persons or mailed by certified mail to the last known address of such persons. Should the Board find that any person is adversely affecting the public health, safety or welfare, or the environment, the Board shall, after a reasonable attempt to give notice, issue, without a hearing, an emergency administrative order directing the person to cease the activity immediately and undertake any needed corrective action, and shall within ten days hold a hearing, after reasonable notice as to the time and place thereof to the person, to affirm, modify, amend or cancel the emergency administrative order. If the Board finds that a person who has been issued an administrative order or an emergency administrative order is not complying with the order's terms, the Board may utilize the enforcement and penalty provisions of this article to secure compliance.

H. In addition to all other available remedies, the Department and generators of recycling residues shall have standing to seek enforcement **by injunction** of conditions which are specified by applicants in order to receive the priority treatment of their permit applications pursuant to 10.1-1408.1.

I. Any person who knowingly transports, treats, stores, disposes of, or exports any hazardous waste in violation of this chapter or in violation of the regulations promulgated by the Board and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years nor more than fifteen years and a fine of not more than \$250,000, either or both. A defendant that is not an individual shall, upon conviction of violating this section, be subject to a fine not exceeding the greater of one million dollars or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment for any subsequent conviction of the same person.

J. Criminal prosecutions under this chapter shall be commenced within three years after discovery of the offense, notwithstanding the provisions of any other statute.

K. The Board shall be entitled to an award of reasonable attorneys' fees and costs in any action brought by the Board under this section in which it substantially prevails on the merits of the case, unless special circumstances would make an award unjust.

**PART III.**  
**IDENTIFICATION OF SOLID WASTES**

**9 VAC 20-80-130. Purpose and scope .**

Wastes identified in Part III are solid wastes which are subject to this chapter.

**9 VAC 20-80-140. Definition of solid waste.**

**A.** A solid waste is any discarded material.

**B.** Materials are solid wastes if they are used, reused, or reclaimed, or accumulated, stored or treated before such use, reuse, or reclamation, when they are:

1. Regulated as hazardous wastes under the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 *et seq.*); or
2. Used in a manner constituting disposal by being:
  - a. Applied to or placed on the land; or
  - b. Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land. In the latter case, the product so containing remains a solid waste; or
3. Burned to recover energy, used to produce fuel, or are contained in fuels. In this case, the fuel so containing remains a solid waste; or
4. Reclaimed; or
5. Accumulated speculatively (see Part I, "Speculatively accumulated material")

**C.** The materials listed in Table 3-1-1, APPENDIX 3.1, of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 *et seq.*) under Waste Numbers FO20, FO21, FO22, FO23, FO26, FO28 as inherently waste-like are solid wastes.

[D. Respondents in actions to enforce these regulations who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, shall demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they shall provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials shall show that they have the necessary equipment to do so.]

**9 VAC 20-80-150. Exclusions .**

The following materials are not solid wastes for the purposes of this chapter:

**A.** Waste waters, ~~which include~~ that are:

1. Domestic sewage; or

2. Any mixture of domestic sewage and other wastes that pass through a sewer system to a treatment plant when the ~~State Water Control Board~~ department determines that regulations based upon the State Water Control Law, ~~Title 62.1~~, Chapter 3.1, (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia, have been met; ~~and~~ or

3. Industrial waste water discharges subject to regulation under the State Water Control Law;

**B.** Irrigation flow returns;

**C.** Source, special nuclear or nuclear by-product materials as defined by the Atomic Energy Act of 1954, 42 USC § 2011 *et seq.*;

**D.** Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process;

**E.** Materials that are:

1.

~~[a. Used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed;~~

a.b. ] Used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as effective substitutes for commercial products or natural resources provided the materials are not being reclaimed [or accumulated speculatively]; or

[b.e.] Returned to the original process from which they are generated; [~~and~~]

2. Beneficially used as determined by the department.

a. [The ~~Following~~ following] materials that were solid waste prior to their use, reuse, or reclamation are determined by the department to be exempt from this chapter because such use, reuse or reclamation is considered to be beneficial:

(1) Unadulterated wood, wood chips, or bark from land clearing, logging operations, utility line clearing and maintenance operations, pulp and paper production, and wood products manufacturing, when these materials are placed in commerce for service as mulch, landscaping, animal bedding, erosion control, ~~and~~ or] bulking agent at a compost facility operated in compliance with 9 VAC 20-80-330;

(2) Unadulterated wood combustion residues when used as a soil amendment or fertilizer, provided the application rate of the wood ash is limited to the nutrient need of the crop grown on the land on which the wood combustion residues will be applied and provided that such application meets the requirements of the Virginia Department of Agriculture and Consumer Affairs (~~1VR 115-04-10 and VR 115-04-11~~ 2 VAC 5-400-10 *et seq.* and 2 VAC 5-410-10 *et seq.*);

(3) Compost that satisfies the applicable requirements of the Virginia Department of Agriculture and Consumer Affairs (~~1VR 115-04-10 and VR 115-04-11~~ 2 VAC 5-400-10 *et seq.* and 2 VAC 5-410-10 *et seq.*);

(4) Nonhazardous, contaminated soil which has been excavated as part of a construction project and which is used as backfill for the same excavation or excavations containing similar contaminants at the same site[, at concentrations at the same level or higher]. Excess materials [on from] these projects are subject to the requirements of this chapter;

(5) Nonhazardous petroleum contaminated soil which has been treated to the satisfaction of the department in accordance with 9 VAC 20-80-700;

(6) Nonhazardous petroleum contaminated soil when incorporated into asphalt pavement products;

(7) Solid wastes which are approved in advance [of the placement], in writing, by the department [or which are specifically mentioned in the facility permit] for use as daily cover material or other protective materials for landfill liner or final cover system components;

~~[(8) Coal combustion bottom ash placed in commerce to serve as a component in the manufacture of roofing shingles or asphalt products; or as a traction agent on roadways, parking lots and other driving surfaces;~~

~~(9) Coal combustion fly ash or gas scrubbing by products placed in commerce to serve as an ingredient to produce light weight block, light weight aggregate, low strength backfill material (Aflowable fill@), manufactured gypsum or manufactured calcium chloride;~~

~~(10) Coal combustion fly ash or coal combustion bottom ash placed in commerce to serve as a cement or aggregate substitute in concrete or concrete products; as raw feed in the manufacture of cement; or placed in commerce to serve as structural fill within building foundations when placed above the seasonal high groundwater table;~~

(8) Coal combustion by-products when used as a material in the manufacturing of another product (e.g. concrete, concrete products, lightweight aggregate, roofing materials, plastics, paint, flowable fill) or as a substitute for a product or material resource (e.g. blasting grit, roofing granules, filter cloth precoat for sludge dewatering, pipe bedding);

(9) [(11)] Waste tire chips when used as a subbase fill for road base materials or asphalt pavements when approved by the Virginia Department of Transportation or by a local governing body;

(10) [(12)] Waste tire chips used in the production of commercial products such as mats, pavement sealers, playground surfaces, brake pads, blasting mats, and other rubberized commercial products;

(11) [(13)] Waste tire chips when used as backfill in landfill gas or leachate collection pipes, recirculation lines, and drainage material in landfill liner and cover systems[, and gas interception or remediation applications];

(12) [(14)] Waste tire chips when burned for energy recovery or pyrolyzed to produce fuel; [and

(13) [Waste Derived] Fuel [Product@], as defined in Part I, derived from non-hazardous solid waste; and

(14) (15)] Recognizable, uncontaminated concrete and concrete products, asphalt pavement, brick, glass, soil and rock placed in commerce for service as a substitute for conventional aggregate.

b. In addition to items specified in 9 VAC 20-80-150E2a, the department may consider other use, reuse or reclamation to be beneficial. The generator or proposed user of such materials may request the department make a case-specific determination that the solid waste may be beneficially used in a manufacturing process to make a product or as an effective substitute for a commercial product.

(1) The requestor shall provide the following information:

(a) A description of the solid waste under review and its proposed use;

(b) Chemical and physical characteristics of the solid waste under review and of each type of proposed product;

(c) A demonstration that there is a known or reasonably probable market for the intended use of the solid waste under review and of all proposed products by providing one or more of the following:

~~i. A contract to purchase the proposed product or to have the solid waste under review used in the manner proposed;~~

i. ~~ii~~] A description of how the proposed product will be used;

ii. ~~iii~~] A demonstration that the proposed product complies with industry standards and specifications for that product [if any]; or

iii. ~~iv~~] Other documentation that a market for the proposed product or use exists; and

(d) A demonstration that the management of the solid waste under review will not adversely affect human health and safety, the environment, and natural resources by providing:

i. A solid waste control plan that describes the following:

(A) The source of the solid waste under review~~[-including contractual arrangements with the supplier];~~

(B) Procedures for periodic testing of the solid waste under review and the proposed product to ensure that the proposed product's composition has not changed significantly;

(C) The disposition of any solid waste which may result from the manufacture of the product into which the solid waste under review is intended to be incorporated;

(D) A description of the type of storage (e.g., [container,] tank or pile) and the maximum anticipated inventory of the solid waste under review (not to exceed 90 days) before being used;

(E) Procedures for run-on and run-off control of the storage areas for the solid waste under review; and

(F) A program and implementation schedule of best management practices designed to minimize uncontrolled dispersion of the solid waste under review before and during all aspects of its storage as inventory and/or during beneficial use; and

ii. A contingency plan that contains the following information:

(A) A description of arrangements between the applicant and local police departments, fire departments, hospitals, and emergency response teams to coordinate emergency services and familiarize them with the layout of the facility, properties of the solid waste handled and associated hazards, as appropriate;

(B) A list of names, addresses and telephone numbers of all individuals [~~qualifies~~ qualified] to act as an emergency coordinator for the facility;

(C) A list of all relevant emergency equipment and the location of each item; and

(D) An evacuation plan for facility personnel.

(2) [Upon receipt of complete information required under 9 VAC 20-80-150E2b(1), ~~The~~ the] department will determine in writing [within 90 days], on a case-by-case basis, whether the proposal constitutes a beneficial use based on a showing that all of the following criteria have been met:

(a) The [~~essential nature of the~~] proposed use of the material constitutes a reuse rather than disposal;

~~[(b) The material under review must be intended to function or serve as an effective substitute for an analogous raw material or fuel;~~

(b) ~~(e)~~ For a material which is proposed for incorporation into a manufacturing process, the material [~~must not be~~ is not] required to be decontaminated or otherwise specially handled or processed before such incorporation, in order to minimize loss of material or to provide adequate protection, as needed, of public health, safety or welfare, the environment or natural resources; and

(c) [~~d-~~] Other criteria as the department shall determine in its discretion to be appropriate. Conversely, the department may determine that owing to the nature of the use, reuse, or reclamation process, some of the informational materials required under 9 VAC 20-80-150E2b(1) may not be required to make the determination.

(3) The department will either approve the request, disapprove it, or allow the proposed use of the solid waste under review subject to such conditions as the department may impose. When granting a beneficial use determination, the department shall determine, on a case-by-case basis, the precise point at which the solid waste under review ceases to be solid waste. Unless otherwise determined for the particular solid waste under review, that

point occurs when it is used in a manufacturing process to make a product or used as an effective substitute for a commercial product or [used] a fuel [for energy recovery]. As part of its request, the generator or the proposed user may request that such point occur elsewhere. In such a request, the proponent shall include a demonstration that there is little potential for improper disposal of the material or little potential for the handling, transportation, or storage of the solid waste under review to have an adverse impact upon the public health, safety or welfare, the environment or natural resources.

(4) The department may revoke any determination made if it finds that one or more of the items of information submitted serving as the basis for the department's determination was incorrect or is no longer valid, the department finds that there has been a violation of any condition that the department attached to such determination, or that the use, reuse or reclamation process has become a public nuisance.

c. Beneficial use determinations granted by the department before {the effective date of this amendment} shall remain in effect, subject to all conditions contained therein, unless specifically addressed by subsequent department action.

~~NOTE: Coal combustion by products are not solid wastes when used as a material in the manufacturing of another product (e.g., concrete, concrete products, lightweight aggregate, roofing materials, plastics, paint, flowable fill) or as a substitute for a product or material resource (e.g., blasting grit, roofing granules, filter cloth precoat for sludge dewatering, pipe bedding.~~

**F.** Materials generated by any of the following, which are returned to the soil as fertilizers:

1. The growing and harvesting of agricultural crops;
2. The raising and husbanding of animals, including animal manure's and used animal bedding;

**G.** Mining overburden returned to the mine site;

**H.** Scrap metal stored or being reclaimed for use, reuse or further reclamation;

**I.** Used, reused, or reclaimed commercial chemical products if they are applied to the land in their ordinary manner of use or if they are fuels.

**J.** Products produced for the general public's use that are used in the manner that constitutes disposal if they are applied to the land in their ordinary manner of use and that contain used, reused or reclaimed materials.

**K.** Wood wastes burned for energy recovery.

#### **9 VAC 20-80-160. Conditional Exemptions.**

**A.** The following solid wastes are exempt from this chapter provided that they are managed in accordance with the requirements promulgated by other applicable state agencies:

1. Drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal energy;

2. Solid waste from the extraction, beneficiation and processing of ores and minerals, including coal;
3. Coal combustion by-products used for mine reclamation[, mine subsidence,] or mine refuse disposal on a mine site permitted by the Virginia Department of Mines, Minerals and Energy when used in accordance with the standards developed by the Department of ~~[Waste Management Environmental Quality]~~;
4. ~~Coal combustion by products used for soil nutrient additive, stabilization agent, structural improvement or other agricultural purposes~~ Waste or by-product derived from an industrial process that meets the definition of fertilizer, soil amendment, soil conditioner or horticultural growing medium as defined in § 3.1-106.2 of the Code of Virginia, or whose intended purpose is to neutralize soil acidity (see § 3.1-126.2:1, Code of Virginia), and that is regulated under the authority of the Virginia Department of Agriculture and Consumer Services; and
5. Coal combustion bottom ash or boiler slag used as a traction control material or road surface material if the use is consistent with Virginia Department of Transportation ~~specifications practices~~;
6. Waste tires generated by and stored at salvage yards licensed by the Department of Motor Vehicles provided that they do not pose a hazard or a nuisance; and

[NOTE: Waste tires managed at the licensed salvage yards are not subject to the storage limitations.]

7. Chipped waste tires used as the drainage material in construction of septage drainfields regulated under the authority of the Virginia Department of Health.

**B.** Coal combustion by-products are exempt from this chapter provided they are used in one or more of the following applications or when handled, processed, transported, or stockpiled for such use:

1. Used as a base, sub-base or fill material under a paved road, the footprint of a structure, a paved parking lot, sidewalk, walkway or similar structure[, or in the embankment of a road. In the case of roadway embankments, materials will be placed in accordance with VDOT specifications, and exposed slopes not directly under the surface of the pavement must have a minimum of 18" of soil cover over the ash, the top 6" of which must be capable of sustaining the growth of indigenous plant species or plant species adapted to the area];
2. Processed with a cementitious binder to produce a stabilized structural fill product which is spread and compacted with proper equipment for the construction of a project with a specified end use; ~~and ]~~
3. Used for the extraction or recovery of materials and compounds contained within the coal combustion by-products.

NOTE: [1.] Residuals from the processing operations remain solid wastes.

[2.The use of coal ash outlined in this regulation has been evaluated only with regard to the protection of human health and the environment. A qualified professional engineer should evaluate any structural application of coal ash.]

C. The following solid wastes are exempt from this chapter provided that they are reclaimed or temporarily stored incidentally to reclamation, are not accumulated speculatively, and are managed without creating an open dump, hazard or a public nuisance:

1. Paper and paper products;
2. [Unadulterated wood waste which is to undergo size reduction in order to produce] mulch;
3. Cloth;
4. Glass; ~~and~~
5. Plastics;
6. Waste tire chips [that are no greater than two inches in any dimension]; and
7. Mixtures of above materials only. Such mixtures may include scrap metals exempt under 9 VAC 20-80-150H.

## PART IV.

### MANAGEMENT OF OPEN DUMPS AND UNPERMITTED FACILITIES

#### 9 VAC 20-80-170. Purpose and scope.

A. This part sets forth the criteria and standards that will be used to:

1. Determine whether a site on which solid waste has been placed, discharged, deposited, injected, dumped, or spilled creates a substantial present or potential hazard to human health or the environment including the pollution of air, land, surface water or groundwater; and
2. Prescribe the requirements for cleanup and corrective action for remediation of releases (as defined in Part I of this chapter) that may occur as the result of improper management of solid wastes.

B. The requirements in this part apply to all sites and practices used in management of solid waste with the following exceptions:

1. The requirements do not apply to sites that solely manage wastes that are excluded under 9 VAC 20-80-150.
2. The requirements do not apply to the land application of domestic sewage, septage, or waste treatment sludges from publicly owned waste treatment works regulated by the State Water Control Board and the Department of Health.
3. The requirements do not apply to hazardous waste management facilities regulated under Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.).

C. The requirements of this part do not apply to the persons allowed voluntarily to remediate releases of hazardous substances, hazardous wastes, solid wastes or petroleum where remediation is not clearly mandated by the United States Environmental Protection Agency, the department or a court pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("Superfund," 42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived[except as may be allowed under the provisions of the Voluntary Remediation Program (9 VAC 20-160-30E)].

#### 9 VAC 20-80-180. Open dump criteria.

A. ~~After October 9, 1993,~~ Municipal solid waste landfill units failing to satisfy the federal Solid Waste Disposal Facility Criteria contained in Part 258, Title 40, Code of Federal Regulations, constitute open dumps, which are prohibited under Section 4005 of the federal Resource Conservation and Recovery Act. For the purposes of this part, the *municipal solid waste landfill unit* [(MSWLF)] means a discrete area of land or an excavation that receives or has received household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined in Part I of this chapter. A MSWLF unit also may receive other types of non-hazardous solid

wastes, such as commercial solid waste, nonhazardous sludge, [nonhazardous industrial solid waste, and] hazardous waste from conditionally exempt small quantity generators[as provided for in 9 VAC 20-60-261B5, and nonhazardous industrial solid waste].

**B.** Any site, other than a municipal solid waste landfill ~~after October 9, 1993~~, that meets any of the following criteria shall be classified as an open dump:

1. Floodplains. Sites or practices in floodplains that restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste, so as to pose a potential hazard to human life and wildlife or to cause a potential for contamination of land or water resources.

2. Endangered species.

a. Sites or practices that cause or contribute to the taking of any endangered or threatened species of plants, fish or wildlife.

b. The site or practice that results in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in Part 17, Title 50, Code of Federal Regulations.

c. As used in this section:

(1) "Endangered or threatened species" means any species listed as such pursuant to section 4 of the Endangered Species Act.

(2) "Destruction or adverse modification" means a direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

(3) "Taking" means harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing, or collecting or attempting to engage in such conduct.

3. Surface water.

a. A site that causes a discharge of pollutants into state waters that is in violation of the requirements of the Virginia Pollutant Discharge Elimination System~~[Permit]~~.

b. A site that causes a discharge of dredged material or fill material to state waters or to the waters of the United States that is in violation of the requirements under §404 of the Clean Water Act as amended.

c. A site or practice that causes non-point source pollution of state waters that violates applicable legal requirements implementing [an area basin]wide water quality management plan that has been developed and approved under § ~~[208 303e]~~ of the Clean Water Act.

d. A site or practice that violates Virginia Pollution Abatement Permit issued by the State Water Control Board .

4. Groundwater

a. A site or practice that contaminates a sole source aquifer or contaminate[s] an underground drinking water source beyond the solid waste boundary or beyond an alternative boundary specified.

b. For the purposes of this part, a party in violation with these provisions may demonstrate that compliance should be determined at an alternative boundary instead of the solid waste boundary. The director may establish an alternative boundary if he finds that such a change would not result in contamination of groundwater which may be needed or used for human consumption. This finding shall be based on analysis and consideration of all the following relevant factors:

- (1) The hydrological characteristics of the site and surrounding land, including any natural attenuation and dilution characteristics of the aquifer;
- (2) The volume and physical and chemical composition of the leachate;
- (3) The quantity, quality, and direction of flow of groundwater underlying the site;
- (4) The proximity and withdrawal rates of groundwater users;
- (5) The availability of alternative drinking water supplies;
- (6) The existing quality of groundwater, including other sources of contamination and their cumulative impacts on the groundwater;
- (7) Public health, safety, and welfare effects[;];
- (8) Other factors as allowed by the director.

c. As used in this section, "contaminate" means introduce a substance that would cause:

- (1) The concentration of that substance in the groundwater to exceed the maximum contaminant level as specified by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), as amended; or
- (2) An increase in the concentration of that substance in the groundwater where the existing concentration of that substance exceeds the maximum contaminant level.

5. Application to land. Land application of solid wastes such as sewage sludge in violation of Virginia Sewerage Regulations or other regulations of the State Water Control Board.

6. Disease.

a. Vectors. A site where operation or practices exist that cause or contribute to the on-site population of disease vectors such that a potential threat to public health or environment is created.

b. Septage. Disposal of septage removed from residential septic tanks in sites not regulated by the Virginia Department of Health or ~~the State Water Control Board~~ this department.

7. Open burning.

- a. The site or practice that engages in open burning of residential, commercial, institutional, or industrial solid waste.
- b. The following practices are conditionally exempt from this requirement:
  - (1) Infrequent burning of land clearing debris provided that ~~permits required by the Department of Air Pollution Control~~ the requirements of 9 VAC 5-40-5600 *et seq.* have been met and any permits by applicable local authorities have been obtained;
  - (2) Burning of debris from emergency clean-up operations provided that emergency permits have been obtained from the department; ~~of Air Pollution Control and the department; and~~
  - (3) Infrequent burning of agricultural wastes in the field or silvicultural wastes for forest management purposes as specified in APPENDIX D to 9 VAC 5-40-5600 *et seq.*;
  - (4) Burning rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber- or petroleum-based wastes when conducting *bona fide* fire fighting instruction at fire fighting training schools having permanent facilities;
  - [(5)] Burning for training and instruction of government and public fire fighters under supervision of the designated official and industrial in-house fire fighting personnel with clearance from the local fire fighting authority, provided the designated official in charge notifies and obtains approval of the regional director of the department prior to conducting the training exercise;
  - [(5) (6)] Burning of leaves and tree, yard and garden trimmings [on the site of generation located on the premises of private property], provided that in urban areas no scheduled public or private collection service for such trimmings is available at the adjacent street or public road (*see* also 9 VAC 5-40-5630);
  - [(6) (7)] Burning for the destruction of classified military documents;
  - [(7)(8)] (4) Burning or other thermal treatment of ordnance, explosives, or other unstable materials provided emergency appropriate permits have been obtained from the Department of Air Pollution Control or the department, whichever is applicable. pursuant to 9 VAC 20-60-10 *et seq* or Part VII of this chapter; and
  - [(8) (9)](5) Burning or other treatment of hazardous waste regulated under the Virginia Hazardous Waste Management Regulations.

Note: State Air Pollution Control Board's *Emission Standards for Open Burning (Rule 4-40)* provide for certain exemptions from open burning prohibitions. Sections 9 VAC 5-40-4004 6, 9 VAC 5-40-4004 8, and 9 VAC 5-40-4004 10 could cause the finding of open dumping as the result of the violation of § 257.3-7, Part 257, Title 40, Code of Federal Regulations. [As indicated in 9 VAC 4-40-5620.E. and F. exemptions under air regulation do not relieve an individual from complying with

other applicable laws and ordinances, including the Solid Waste Management Regulations. Burning of wastes in a manner inconsistent with this regulation will require that the site be considered an open dump.]

8. Safety.

a. Explosive gases. The concentration of explosive gases generated by the site or practice exceeds:

(1) 25% of the lower explosive limit for the gases in structures (excluding gas control or recovery system components) or, in the absence of structures located on the site, in the nearest occupied structure in the vicinity of the site; and

(2) the lower explosive limit for the gases at the property boundary.

b. Fires. A site or practice that poses a hazard to the safety of persons and property from fires.

c. Hazards to Aircraft. A site or practice of disposing of putrescible waste that attracts birds and occurs within 10,000 feet of any airport runway used by turbojet aircraft or within 5,000 feet of any airport runway used by only piston-type aircraft and poses a bird hazard to aircraft.

d. Access. A site or practice that does not control public access or operates so as to expose the public to potential health and safety hazards at the site.

**9 VAC 20-80-190. Open dumps.**

A. Except as provided for in 9 VAC 20-80-170B, sites[, or practices] which violate criteria specified in 9 VAC 20-80-180, whether currently active or inactive, shall be classified as open dumps. Practices which violate the criteria shall be classified as open-dumping.

NOTE: Both permitted and unpermitted sites or facilities may be classified as open dumps.

B. The owner or operator of an active open dump shall immediately cease treatment, storage or disposal of any additional waste.

C. The owner and/or operator[, or other responsible party] shall initiate removal, cleanup, or [alternate remedial corrective] action in accordance with ~~9 VAC 20-80-210B~~ 9 VAC 20-80-210.

**9 VAC 20-80-200. Unpermitted solid waste management facilities.**

A. Any solid waste management facility receiving or having received waste without a permit, in violation of statutory requirements or these or predecessor state regulations, shall be classified as an unpermitted facility. An unpermitted facility may be an open dump if it meets the criteria of 9 VAC 20-80-180. In such a case, the site will be managed in accordance with the requirements of 9 VAC 20-80-190.

**B.** The owner, operator, or any other party responsible for an unpermitted facility shall immediately cease treatment, storage or disposal of any additional waste and shall initiate removal and cleanup as provided for in 9 VAC 20-80-~~[210A-200C]~~, or [closure in place as provided for in] 9 VAC 20-80-~~[210B]200D~~, or [an alternative remedial action in accordance with the remedial requirements of 9 VAC 20-80-210[C, or a combination of the three].

### **9 VAC 20-80-210. Remedial Action**

**A.** ~~C.~~ Removal[, cleanup,] and proper management. The owner, operator, or other responsible party shall remove the [solid] waste[and any hazardous constituents] and manage [them #] in accordance with any other applicable requirements. The director may require submission of evidence of proper management of the removed waste[, and may require evidence of removal of solid waste and any hazardous constituents in accordance with a sampling and analysis plan approved by the department.

1. The following factors at a minimum shall be considered in determining the appropriateness of a removal pursuant to this section:

a. Actual or potential exposure to nearby human populations, animals, or the food chain from solid waste or hazardous constituents of solid waste;

b. Actual or potential contamination of drinking water supplies or sensitive ecosystems;

c. Solid waste or hazardous constituents of solid waste in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;

d. Hazardous constituents of solid waste in soils largely at or near the surface, that may migrate;

e. Threat of fire or explosion;

f. Other situations or factors which may pose threats to public health or welfare or the environment; and

g. Costs of removal compared to the costs of closure in place or the costs of alternate remedial action.

2. In order for the owner/ operator to satisfy the requirements of 9 VAC 20-80-210A to provide evidence of removal of solid wastes, and any hazardous constituents, the following information can be provided:

a. The results of an engineering evaluation and a cost analysis of removal alternatives for the site.

b. Environmental samples may be collected, in accordance with a sampling and analysis plan that shall provide a process for obtaining data of sufficient quality and quantity to satisfy data needs. Sampling and analysis plans shall be reviewed and approved by the department. The sampling and analysis plans shall consist of two parts:

(1) The field sampling plan, which describes the number, type, and location of samples and the type of analyses; and

(2) The quality assurance project plan, which describes policy, organization, and functional activities and the data quality objectives and measures necessary to achieve adequate data for use in planning and documenting the removal action.

3. If the removal will not fully address the threat posed by the release, closure under Part V, or an alternate remedial action may be considered. An orderly transition from removal to closure in place or alternate remedial action will be provided.

4. Removal shall meet applicable or relevant and appropriate requirements under environmental laws.

5. The following removal actions are, as a general rule, appropriate in the types of situations shown; however, this list is not exhaustive and is not intended to prevent the responsible party or the director from taking any other actions deemed necessary by the director, and the list does not create a duty to take action at any particular time:

a. Excavation and removal of uncovered solid wastes or hazardous constituents of solid waste from waste piles, surface impoundments, or other units - where such actions will reduce the spread of, or direct contact with, the waste or waste constituents;

b. Excavation, or removal of contaminated soils from drainage or other areas C where such actions will reduce the spread of, or direct contact with, the contamination;

c. Removal of drums, barrels, tanks, or other bulk containers that contain or may contain solid wastes or hazardous constituents of solid wastes - where it will reduce the likelihood of spillage; leakage; exposure to humans, animals, or food chain; or fire or explosion;]

**B.** ~~D~~Closure in place ~~alternatives to removal of waste~~. If the owner, operator, or other party responsible for an [open dump] or unpermitted facility demonstrates that the facility will not pose a threat to human health or the environment when closed in place, the facility may be closed with the waste left in place under an administrative or judicial order [ , in accordance with the provisions of Part V. While pursuing a closure under the provisions of Part V, an owner, operator, or other responsible party shall undertake any removal or other interim measures (9 VAC 20-80-210C8) necessary to abate any immediate threat to human health or the environment.]

1. The demonstration shall contain, as a minimum, the following information:

a. ~~4-~~Type of Waste.

(1) ~~a-~~The amount, type, source, and generating process of all of the waste managed at the unpermitted facility.

(2) ~~b-~~Information required under Part VIII of this chapter for any waste that would require a letter of clarification from the director.

(3) ~~e-~~A statement that the waste contains no hazardous waste under the Virginia Hazardous Waste Management Regulations.

(4) ~~d.~~—The director may require the submission of verified statements from owner, operator, other responsible party, generators, or other sources of the waste to support the above information.

b. ~~2.~~—Siting. The owner, operator, or other party responsible for the unpermitted facility shall submit documentation from a registered professional engineer that closure of the facility in place will comply with the applicable siting requirements of Part V of this chapter, as follows:

(1) ~~a.~~—Airport safety;

(2) ~~b.~~—Floodplains;

(3) ~~c.~~—Unstable areas;

(4) ~~d.~~—Wetlands;

(5) ~~e.~~—Fault areas;

(6) ~~f.~~—Seismic impact zones;

(7) ~~g.~~—Setbacks from surface waters or rivers, facility boundaries, wells, springs or other groundwater sources of drinking water, public road right-of-ways, residences, schools, hospitals, nursing homes, or recreational park areas;

(8) ~~h.~~—Ability to conduct groundwater monitoring; and

(9) ~~i.~~—Engineering controls to address site specific characteristics that might prevent approval or require limitations on the site.

c. ~~3.~~—Certification by the registered professional engineer or qualified groundwater scientist that in his professional judgment that the facility can be closed with the waste left in place without posing a threat to human health or the environment. If the director makes a determination under 9 VAC 20-80-210[~~BA5e~~], he will enter into an [~~administrative or judicial~~] order to that effect.

2. Any such order issued pursuant to 9 VAC 20-80-210B will require the owner, operator, or other responsible party:

a. To submit a closure and a post-closure plan for the approval of the director in accordance with Part V of these regulation;

b. To perform the closure and post-closure care in accordance with the approved plan;

c. To perform any corrective action required under Part V of this chapter should the results of the groundwater monitoring performed during the post-closure care period warrant such an action;

d. To maintain financial assurance whenever required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70-10 *et seq.*); and

e. To perform any other actions deemed necessary to protect human health and the environment.

~~[E. Upon receipt of the demonstration the department will perform the site evaluation in accordance with 9 VAC 20-80-210A.] and render a decision as required under 9 VAC 20-80-210A5.~~

### **9 VAC 20-80-210 Remedial Requirements.**

C. ~~A. Initial site evaluation.~~ Alternate remedial action. Unless the procedures under 9 VAC 20-80-210A, or 9 VAC 20-80-210B have been implemented, the owner, operator, or other responsible party for an open dump or unpermitted facility will submit a letter of intent to pursue an alternate remedial action and an evaluation in accordance with the provisions of this 9 VAC 20-80-210C1. If waste or hazardous constituents are proposed to be left in place, a demonstration in accordance with 9 VAC 20-80-210B1 shall be submitted. In order to pursue an alternate remedial action, the owner, operator, or other responsible party will also demonstrate to the director that the facility will not pose a threat to human health or the environment upon completion of an alternate remedial action in compliance with this part. While pursuing an alternate remedial action, an owner, operator, or other responsible party shall undertake any removal or other interim measures (9 VAC 20-80-210C8) necessary to abate any immediate threat to human health or the environment.]

1. ~~[Whenever the director determines that a site may be classified as an open dump or that the site is an unpermitted solid waste management facility, he will perform an initial Site evaluation. The owner, operator or other responsible party will perform a ]~~ site evaluation to determine the scope of releases or potential releases.

a. ~~2. The [initial] site evaluation [will be based on readily available information or on information submitted by the owner, operator, or other responsible party for an open dump or an unpermitted facility. It may include collection or review of data such as site management practices, information from waste generators, photographs, analysis of historical photographs, literature searches, and personal interviews conducted, as appropriate. A site inspection may be performed if more information is needed. Such inspection may include a perimeter (i.e., off-site) or on-site inspection, taking into consideration whether such inspection can be performed safely.~~

b. ~~3. The evaluation may include, but is not limited to:~~

(1) ~~a.~~ Identification of the source and nature of the release or threat of release;

(2) ~~b.~~ Evaluation by other sources, for example, state public health agencies, of the threat to human health;

(3) ~~c.~~ Evaluation of the magnitude of the threat to human health and the environment;

(4) ~~d.~~ Evaluation of factors necessary to make the determination of whether a removal is necessary;

(5) ~~e.~~ Evaluation of the demonstration required under 9 VAC 20-80-~~[210B1200D]~~.; and

(6) ~~f.~~ Identification of the owners and operators and a determination of whether the owner or operator, another governmental agency or a third party is undertaking proper response.[]

(7) Identification of and Interim measures necessary to stabilize the site

2. The Director will evaluate the demonstration and the site evaluation based on the information submitted and determine:

a. If additional information is required; or

b. That no action is required; or

c. That the facility may close under the provisions of 9 VAC 20-80-210A or 9 VAC 20-80-210B only; or

d. That an alternate remedial action will be considered, and the owner or operator may proceed with the remedial investigation, and the corrective measures survey in accordance with 9 VAC 20-80-210C3, and 9 VAC 20-80-210C4.

e. If a combination of Remedial Action under 9 VAC 20-80-210 may be pursued; or

f. If an owner, operator, or other responsible party is not making timely progress toward alternate closure, the director may require closure under the provisions of 9 VAC 20-80-210A, or 9 VAC 20-80-210C.

~~2. The initial site evaluation under this chapter shall be terminated when the director determines:~~

~~———— a. There is no release;~~

~~———— b. The release involves neither a hazardous substance, nor a pollutant or contaminant (as defined by § 300.5, 40 CFR Part 300) that may present an imminent and substantial danger or potential danger to human health or the environment;~~

~~———— c. The release involves a hazardous substance, or a pollutant or contaminant (as defined by § 300.5, 40 CFR Part 300) that may present an imminent and substantial danger or potential danger to human health or the environment and is of a magnitude that warrants federal involvement;~~

~~———— d. The release involves a hazardous waste or a constituent of hazardous waste and shall be managed in accordance with the Virginia Hazardous Waste Management Regulations;~~

~~———— e. The release involves a solid waste or a constituent of solid waste at a hazardous waste management facility and shall be managed in accordance with the Virginia Hazardous Waste Management Regulations;~~

~~———— f. The release has occurred at an unpermitted facility;~~

- ~~g. The amount, quantity, or concentration released does not warrant department's [response further investigation];~~
- ~~h. A party responsible for the release, or any other person or agency, is providing appropriate response, and on scene monitoring by the department is not required; or~~
- ~~I. The initial site evaluation is completed.~~
- ~~5. Based on the information collected during the initial site evaluation, the **director** will:~~
  - ~~a. Determine that significant releases have occurred or are likely to occur which may warrant federal involvement under the Comprehensive Environmental Response, Compensation and Liability Act ("Superfund"); or~~
  - ~~b. Determine that the site shall be managed in accordance with the Virginia Hazardous Waste Management Regulations; or~~
  - ~~c. Determine that a release of a solid waste or constituents of solid waste has occurred and may require removal of solid waste or constituents of solid waste under 9 VAC 20 80 210B; or~~
  - ~~d. Determine that a release of a solid waste or constituents of solid waste that poses a risk or a potential risk to human health or the environment has occurred and may require corrective action under 9 VAC 20 80 210C; or~~
  - ~~e. Determine that the site may be closed in accordance with the appropriate closure and post closure care requirements of Part V and that no further cleanup or corrective action is warranted at this time.~~
- ~~6. If the director determines that the release resulted from a violation of this chapter and that it poses an imminent or potential threat to the human health or the environment, the director shall immediately notify the chief administrative officer of any potentially affected local government.~~
- ~~7. If the director makes a determination under 9 VAC 20 80 210A5e, he will enter into an administrative or judicial order to that effect. The order will require the owner, operator, or other responsible party:~~
  - ~~a. To submit a closure and a post closure plan for the approval of the director in accordance with Part V of these regulation;~~
  - ~~b. To perform the closure and post closure care in accordance with the approved plan;~~
  - ~~c. To perform any corrective action required under Part V of this chapter should the results of the groundwater monitoring performed during the post closure care period warrant such an action;~~
  - ~~d. To maintain financial assurance whenever required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20 70 10 et seq.); and~~

- ~~\_\_\_\_\_ e. To perform any other actions deemed necessary to protect human health and the environment.[~~
- ~~\_\_\_\_\_ B. Removal.~~
- ~~\_\_\_\_\_ 1. The following factors shall be considered in determining the appropriateness of a removal pursuant to this section:~~
  - ~~\_\_\_\_\_ a. Inability to meet the requirements in accordance with 9 VAC 20 80 200D.~~
  - ~~\_\_\_\_\_ b. Actual or potential exposure to nearby human populations, animals, or the food chain from solid waste or hazardous constituents of solid waste;~~
  - ~~\_\_\_\_\_ c. Actual or potential contamination of drinking water supplies or sensitive ecosystems;~~
  - ~~\_\_\_\_\_ d. Solid waste or hazardous constituents of solid waste in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;~~
  - ~~\_\_\_\_\_ e. Hazardous constituents of solid waste in soils largely at or near the surface, that may migrate;~~
  - ~~\_\_\_\_\_ f. Threat of fire or explosion;~~
  - ~~\_\_\_\_\_ g. Other situations or factors which may pose threats to public health or welfare or the environment; and~~
  - ~~\_\_\_\_\_ h. Costs of removal compared to costs of corrective action.~~
- ~~\_\_\_\_\_ 2. Where the responsible parties are known, an effort initially shall be made, to the extent practicable, to determine whether they can and will perform the necessary removal action promptly and properly.~~
- ~~\_\_\_\_\_ 3. Where the director makes the determination, based on the factors in 9 VAC 20 80 210B1, that there is a threat to human health or the environment, he may take any appropriate action to abate, prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release, or the threat resulting from that release or threat of release.~~
- ~~\_\_\_\_\_ 4. If the director determines that a removal is appropriate, actions shall, as appropriate, begin as soon as possible to abate, prevent, minimize, stabilize, mitigate, or eliminate the threat to human health or the environment. Whenever the director determines that a planning period of at least six months exists before on site activities can be initiated, the responsible party under 9 VAC 20 80 210B2 or the director, in case of actions under 9 VAC 20 80 210B3, shall:~~
  - ~~\_\_\_\_\_ a. Conduct an engineering evaluation and a cost analysis of removal alternatives for the site.~~
  - ~~\_\_\_\_\_ b. If the director determines that environmental samples are to be collected, develop sampling and analysis plans that shall provide a process for obtaining data of sufficient quality and quantity to satisfy data needs. Sampling and analysis plans shall be reviewed and approved by the director. The sampling and analysis plans shall consist of two parts:~~

- ~~————— (1) The field sampling plan, which describes the number, type, and location of samples and the type of analyses; and~~
- ~~————— (2) The quality assurance project plan, which describes policy, organization, and functional activities and the data quality objectives and measures necessary to achieve adequate data for use in planning and documenting the removal action.~~
- ~~————— 5. If the director determines that the removal will not fully address the threat posed by the release and the release may require further corrective action, the director will require an orderly transition from removal to corrective action activities in accordance with 9 VAC 20-80-210C. In such cases, the removal shall, to the extent practicable, contribute to the efficient performance of any anticipated corrective action with respect to the release concerned.~~
- ~~————— 6. Removal shall, to the extent practicable considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under environmental laws.~~
  - ~~————— a. In determining whether compliance is practicable, the director may consider appropriate factors, including:
    - ~~————— (1) The urgency of the situation; and~~
    - ~~————— (2) The scope of the removal action to be conducted.~~~~
  - ~~————— b. An alternative that does not attain all applicable or relevant and appropriate requirements may be selected when:
    - ~~————— (1) The alternative is an interim measure and will become part of a total corrective action that will attain all applicable or relevant and appropriate requirements;~~
    - ~~————— (2) Compliance with the requirement will result in greater risk to human health and the environment;~~
    - ~~————— (3) Compliance with the requirement is technically impracticable from an engineering perspective; or~~
    - ~~————— (4) If the removal is funded by the Virginia Environmental Emergency Response Fund, the costs exceed the funds available.~~~~
- ~~————— 7. The following removal actions are, as a general rule, appropriate in the types of situations shown; however, this list is not exhaustive and is not intended to prevent the responsible party or the director from taking any other actions deemed necessary by the director, and the list does not create a duty to take action at any particular time:
  - ~~————— a. Excavation and removal of uncovered solid wastes or hazardous constituents of solid waste from waste piles, surface impoundments, or other units where such actions will reduce the spread of, or direct contact with, the waste or waste constituents;~~
  - ~~————— b. Excavation, consolidation, or removal of contaminated soils from drainage or other areas C where such actions will reduce the spread of, or direct contact with, the contamination;~~~~

- ~~c. Removal of drums, barrels, tanks, or other bulk containers that contain or may contain solid wastes or hazardous constituents of solid wastes where it will reduce the likelihood of spillage; leakage; exposure to humans, animals, or food chain; or fire or explosion;~~
- ~~d. Erection of temporary fences, warning signs, or other security or site control precautions where humans or animals have access to the release during the removal;~~
- ~~e. Drainage controls, for example, run off or run on diversion C where needed to reduce migration of solid wastes or hazardous constituents of solid waste off site or to prevent precipitation or un off from other sources, for example, flooding, from entering the release area from other areas during the removal;~~
- ~~f. Stabilization of berms, dikes, or impoundments or drainage or closing of lagoons C where needed to maintain the integrity of the structures;~~
- ~~g. Temporary capping of uncovered solid wastes C where needed to reduce migration of hazardous constituents into soil, groundwater, or surface water, or air;~~
- ~~h. Using chemicals and other materials to retard the spread of the release or to mitigate its effects C where the use of such chemicals will reduce the spread of the release and shall not increase or create additional environmental or public health risks;~~
- ~~I. Provision of alternative water supply C where necessary immediately to reduce exposure to contaminated household water and continuing until such time as local authorities can satisfy the need for a permanent remedy.~~

~~C. Corrective Action.~~

~~1. Applicability~~

- ~~a. The owner or operator of an open dump or an unpermitted solid waste management facility in which the solid waste or hazardous constituents of solid waste will remain after a release shall institute investigations and/or corrective action, as necessary to protect human health and the environment, for all releases of solid waste, including hazardous constituents, from any solid waste management unit at the site, regardless of the time at which the waste was placed in such unit.~~
- ~~b. Requirements for investigations and/or corrective action will be specified in the compliance order or compliance agreement (CO/CA). The CO/CA will contain schedules of compliance for such investigations and/or corrective action.~~
- ~~c. The owner or operator shall implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the director that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such actions. The owner or operator is not relieved of responsibility to clean up a release that has migrated beyond the facility boundary where off site access is denied. On-site measures to address such releases will be determined on a case-by-case basis.]~~

3. Remedial investigations.

a. ~~[Requirement to perform R]~~ Remedial investigations. If ~~it is found~~ the director determines as the result of an initial site evaluation, that solid waste (including hazardous constituents) have been, are likely to have been, or based on site-specific circumstances, are likely to be released into the environment from a solid waste management unit at the site, the owner, operator, or other responsible party will ~~director may specify in the CO/CA [schedule of compliance that the owner or operator~~ investigate and characterize solid waste management units and releases from solid waste management units at the site.

b. Scope of remedial investigations.

(1) Investigations required under 9 VAC 20-80-210C~~32~~ shall characterize the nature, extent, direction, rate, movement and concentration of releases, as required by the director. In addition, such investigations may include, but are not limited to, the following:

(a) Characterizations of the environmental setting at the facility, including:

*i.* Hydrogeological conditions;

*ii.* Climatological conditions;

*iii.* Soil characteristics;

*iv.* Surface water and sediment quality and other characteristics; or

*v.* Air quality and meteorological conditions.

(b) Characterization of solid waste management units from which releases have been or may be occurring, including unit and waste characteristics.

(c) Descriptions of humans and environmental systems which are, may have been, or, based on site-specific circumstances, may be exposed to release.

(d) Information that will assist ~~[the director]~~ in assessing risks to human health and the environment from releases from solid waste management units. Such information shall be accompanied by:

*i.* Proposed action levels as defined in 9 VAC 20-80-220 for relevant hazardous constituents ~~if different from those in APPENDIX 5.3.~~, and

*ii.* Proposed points of applicability for the action levels.

(e) Extrapolations of future movement, degradation and fate of contaminants.

(f) Laboratory, bench-scale or pilot-scale tests or studies to determine the feasibility or effectiveness of treatment technologies or other technologies that may be appropriate in implementing remedies at the facility.

(g) Statistical analyses to aid in the interpretation of data required under 9 VAC 20-80-120C~~32~~, in accordance with statistical methods contained in Appendix 5.4 or otherwise approved by the director.

(2) Samples of groundwater, surface water, soils, or air which are collected as part of remedial investigations required under 9 VAC 20-80-210C~~32~~ shall be analyzed for those constituents and parameters determined to be necessary by the director to accurately and adequately characterize the presence of hazardous waste (including hazardous constituents) in the samples.

c. Plans for remedial investigations.

(1) ~~[The director may require the owner or operator to develop and submit a plan for conducting any remedial investigations required under 9 VAC 20-80-210C2. Such plans shall be subject to review and approval or modification by the director, and shall be developed and submitted according to the schedule specified in the schedule of compliance.]~~Such plans may include, but are not limited to, the following:

(a) Overall approach, including objectives, schedules, and qualifications of personnel conducting investigations.

(b) Technical and analytical approach and methods of investigations.

(c) Quality assurance procedures, including:

*i.* Data collection strategy;

*ii.* Sampling, chain of custody procedures; and

*iii.* Methods of sample analysis.

(d) Data management procedures, including formats for documenting analytical results and tracking sample custody, and other results of investigations.}

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~~(2) Upon approval or modification of the plan by the director, the plan shall be incorporated expressly or by reference as a part of the CO/CA schedule of compliance. The owner or operator shall conduct the studies and investigations in accordance with the plan and any other requirements specified in the CO/CA schedule of compliance.]~~

d. Reports of remedial investigations.

(1) The director may require periodic reports to be submitted by the owner or operator during remedial investigations required under 9 VAC 20-80-210C2, and may, based on information from the investigations, or other information, require new or modified investigations. ~~[Such modifications will, if necessary, be specified by modifying the CO/CA schedule of compliance.]~~

(2) Upon conclusion of the remedial investigations, the owner or operator shall submit to the director ~~[for approval]~~:

(a) A final report describing the procedures, methods, and results of the remedial investigations ~~[, in such format and containing such information as specified by the director];~~ and

(b) A summary of the report.

(3) If, upon receipt of the final report and summary, ~~[the director determines that]~~the final report and summary do not ~~[fully satisfy the requirements for the report and summary specified in the [CO/CA] schedule of compliance, or otherwise do not]~~ provide a full and accurate summary and description of the remedial investigations, the director may require the owner or operator to submit a revised report.

(4) All raw data, such as laboratory reports, drilling logs and other supporting information generated from the investigations required under 9 VAC 20-80-210C2 shall be maintained at the site (or other location approved by the director) for the period of three years after completion of corrective action. ]

~~3. Determination of no further action.~~

~~a.~~

~~(1) Based on the results of investigations required under 9 VAC 20-80-210C2 or other relevant information the owner or operator may submit a request to the director for a CO/CA modification to terminate the schedule of compliance for corrective action.~~

~~(2) The CO/CA modification request shall contain information demonstrating that there are no releases of solid waste (including hazardous constituents) from the solid waste management units at the site that may pose threat or potential threat to human health or the environment.~~

~~b. If the director, upon review of the request for a CO/CA modification, reports submitted under 9 VAC 20-80-210C2, or other information, determines that there is no such threat to human health and the environment from releases from solid waste management units at the facility, the director will grant the CO/CA modification.~~

~~c. Any determination made pursuant to 9 VAC 20-80-210C3b will not affect the authority or responsibility of the director to:~~

~~(1) Modify the CO/CA at a later date to require the owner or operator to perform such investigations and studies as may be necessary to comply with the requirements of 9 VAC 20-80-210C, if new information or subsequent analysis indicates that there are, or are likely to be, releases from solid waste management units at the site that may pose a threat to human health or the environment; or~~

~~(2) Require continued or periodic monitoring under the terms of the CO/CA, if the director determines, based on site specific circumstances, that releases are likely to occur.]~~

4. Corrective measure study.

a. Requirements to perform corrective measure study.

(1) If ~~[at any time the director determines that]~~ concentrations of hazardous constituents in groundwater in an aquifer, surface water, soils, or air exceed an action level (as defined under 9 VAC 20-80-220), and there is reason to believe that such hazardous constituents have been released from a solid waste management unit at the site, the ~~[director will require as part of the CO/CA schedule of compliance that the]~~ owner or operator [will] perform a corrective measure study, according to the requirements of 9 VAC 20-80-210C4, except as provided otherwise under 9 VAC 20-80-210C4a(3).

(2) If ~~[the director determines that]~~ a constituent present in a concentration below an action level (as defined under 9 VAC 20-80-220) may pose a threat to human health or the environment, given site-specific exposure conditions, and there is reason to believe that the constituent has been released from a solid waste management unit at the site, ~~[the director may require]~~ a corrective measure study [may be required] according to the requirements of 9 VAC 20-80-210C4.

(3) If an action level has been exceeded (as provided under 9 VAC 20-80-210C4a(1)), but the ~~[director determines that the]~~ release may nevertheless not pose a threat to human health and the environment, the ~~[director may allow the]~~ owner or operator [may] apply for a determination of no further action ~~[, according to 9 VAC 20-80-210C3].~~

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~~(4) The director will notify the owner or operator in writing of the requirement to conduct a corrective measure study. This notice will identify the hazardous constituents which exceed action levels defined under 9 VAC 20-80-220, as well as any hazardous constituents identified pursuant to 9 VAC 20-80-210C4a(2).]~~

b. Scope of corrective measure studies.

(1) ~~[As determined by the director, eC]~~ corrective measure studies required under 9 VAC 20-80-210C4a may include, but are not limited to, the following:

(a) Evaluation of performance, reliability, ease of implementation, and potential impacts of the remedy, including safety impacts, cross media impacts, and control of exposure to any residual contamination.

(b) Assessment of the effectiveness of potential remedies in achieving adequate control of sources and cleanup of the solid waste (including hazardous constituents) released from solid waste management units.

(c) Assessment of the time required to begin and complete the remedy.

(d) Estimation of the costs of remedy implementation.

(e) Assessment of institutional requirements, such as state or local permit requirements, or other environmental or public health requirements which may substantially affect implementation of the remedy.

(2) The ~~[director may require]~~ the owner ~~[ or]~~ operator~~[, or other responsible party must]~~ evaluate as part of the corrective measure study one or more specific potential remedies. These remedies may include a specific technology or combination of technologies that ~~[ in the director's judgment,]~~ achieves or may achieve the standards for remedies specified in 9VAC 20-80-210C4a given appropriate consideration of the factors specified in 9 VAC 20-80-210C5b.

c. Plans for corrective measure studies.

(1) The ~~[director may require the]~~ owner~~[, or]~~ operator~~[, or other responsible party will]~~ develop and submit a plan for conducting a corrective measure study required under 9 VAC 20-80-210C4a. The plan shall be subject to review and approval or modification by the director~~[, and shall be developed and submitted according to a schedule specified in the CO/CA schedule of compliance.]~~ Such plans may include, but are not limited to, the following:

- (a) Description of the general approach to investigating and evaluating potential remedies;
- (b) Definition of the overall objectives of the study;
- (c) Description of the specific remedy which will be studied;
- (d) Plans for evaluating remedies to ensure compliance with the standards for remedies specified in 9 VAC 20-80-210C5a;
- (e) Schedules for conducting the study; and
- (f) Proposed format for information presentation.

(2) Upon approval or modification of the corrective measure study plan~~[, by the director, the plan shall be incorporated expressly or by reference as part of the CO/CA schedule of compliance.—T~~ [the owner or operator shall conduct the studies and investigations in accordance with the plan~~[, and any other requirements as specified in the CO/CA schedule of compliance].~~

d. Reports of corrective measure studies.

(1) The director may require periodic reports during the conduct of the corrective measure study, and may, based on the information from these reports or other information, require the owner or operator to modify the corrective measure study. Such modifications will, if necessary, be specified by modifying the ~~CO/CA~~ schedule of compliance~~[specified in the order]~~.

(2) Upon completion of the corrective measure study, the owner or operator shall submit a report summarizing the results of the study. This report shall include a detailed description of the remedies assessed pursuant to 9 VAC 20-80-210C4b or 9 VAC 20-80-210C4d(1). The report shall describe how any proposed remedy meets the standards for remedies specified in 9 VAC 20-80-210C5a.

(3) Upon review of the corrective measure study report, the director may require the owner or operator to evaluate further, and report upon, one or more additional remedies, or develop particular elements of one or more proposed remedies. [~~Such further requirements will, if necessary, be specified by modifying the CO/CA schedule of compliance~~].

5. Selection of remedy. Based on the results of the corrective measure study, and any further evaluations conducted under 9 VAC 20-80-210C4d(3), the director shall, except as otherwise provided under 9 VAC 20-80-210C5f, [approve ~~select~~] a remedy that, at a minimum, meets the standards listed in 9 VAC 20-80-210C5a.

a. Standards for Remedies. Remedies must:

- (1) Be protective of human health and the environment;
- (2) Attain media cleanup standards pursuant to ~~9 VAC 20-80-210C5a~~ 9 VAC 20-80-210C5d;
- (3) Control the source of releases so as to reduce or eliminate, to the extent practicable, further releases of solid wastes (including hazardous constituents) that may pose a threat to human health and the environment; and
- (4) Comply with standards for management of wastes as specified in 9 VAC 20-80-210C9.

b. Remedy Selection Factors. In selecting a remedy which meets the standards of 9 VAC 20-80-210C5a, the director will consider the following evaluation factors as appropriate:

- (1) Long-term reliability and effectiveness. Any potential remedy may be assessed for the long-term reliability and effectiveness it affords, along with the degree of certainty that the remedy will prove successful. Factors that shall be considered in this evaluation include:
  - (a) Magnitude of residual risks in terms of amounts and concentrations of waste remaining following implementation of a remedy, considering the persistence, toxicity, mobility and propensity to bioaccumulate of such solid wastes (including hazardous constituents);
  - (b) The type and degree of long-term management required, including monitoring and operation and maintenance;
  - (c) Potential for exposure of humans and environmental receptors to remaining wastes;
  - (d) Long-term reliability of the engineering and institutional controls, including uncertainties associated with land disposal of untreated wastes and residuals; and
  - (e) Potential need for replacement of the remedy.

(2) Reduction of toxicity, mobility or volume. A potential remedy may be assessed as to the degree to which it employs treatment that reduces toxicity, mobility or volume of solid wastes (including hazardous constituents). Factors that shall be considered in such assessments include:

- (a) The treatment processes the remedy employs and materials it would treat;
- (b) The amount of solid wastes (including hazardous constituents) that would be destroyed or treated;
- (c) The degree to which the treatment is irreversible;
- (d) The residuals that will remain following treatment, considering the persistence, toxicity, mobility, and propensity to bioaccumulate of such solid wastes (including hazardous constituents).

(3) The short-term effectiveness of a potential remedy may be assessed considering the following:

- (a) Magnitude of reduction of existing risks;
- (b) Short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal or containment;
- (c) Time until full protection is achieved.

(4) Implementability. The ease or difficulty of implementing a potential remedy may be assessed by considering the following types of factors:

- (a) Degree of difficulty associated with constructing the technology;
- (b) Expected operational reliability of the technologies;
- (c) Need to coordinate with and obtain necessary approvals and permits from other agencies;
- (d) Availability of necessary equipment and specialists;
- (e) Available capacity and location of needed treatment, storage and disposal services.

(5) Cost. The types of costs that may be assessed include the following:

- (a) Capital costs;
- (b) Operation and maintenance costs;
- (c) Net present value of capital and operation and maintenance costs;
- (d) Potential future remedial action costs.

c. Schedule for Remedy. The director will specify as part of the selected remedy a schedule for initiating and completing remedial activities. The director will consider the following factors in determining the schedule of remedial activities:

- (1) Extent and nature of contamination;
- (2) Practical capabilities of remedial technologies in achieving compliance with media cleanup standards, and other objectives of the remedy;
- (3) Availability of treatment or disposal capacity for wastes managed during implementation of the remedy;
- (4) Desirability of utilizing technologies which are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;
- (5) Potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;
- (6) Other relevant factors.

d. Media Cleanup Standards. The director will specify in the selected remedy requirements for remediation of contaminated media in accordance with the provisions of 9 VAC 20-80-230.

e. Reserved.

f. Stabilizing Remedies.

(1) If the criteria of 9 VAC 20-80-210C5f(2) are met, the director may select a stabilizing remedy that protects human health and the environment under plausible exposure conditions during the term of the [order CO/CA].

(2) A stabilizing remedy must:

- (a) Protect human health and the environment; and
- (b) Achieve all media cleanup standards or levels as specified pursuant to 9 VAC 20-80-230 beyond the site boundary as soon as practicable; and
- (c) Prevent further significant environmental degradation by implementing, as soon as practicable:
  - i.* Treatment or other necessary engineering controls to control any source of releases; and
  - ii.* Engineered measures as necessary to prevent further significant migration of releases within the site boundary.
- (d) Institute effective institutional or other controls to prevent any significant exposure to hazardous wastes at the site; and

(e) Continue the monitoring of releases so as to determine whether further significant environmental degradation occurs; and

(f) Comply with standards for management of wastes as specified in 9 VAC 20-80-210C9.

(3) If at any time during the term of the [~~order CO/CA~~], any condition of 9 VAC 20-80-210C5f(2) is violated, the director will modify the [~~order CO/CA~~] to:

(a) Require the owner or operator to perform additional studies and actions, or implement additional controls to achieve compliance with the requirements of 9 VAC 20-80-210C5f(2); or

(b) Require additional studies, actions, or controls as necessary to implement a remedy which meets the standards of 9 VAC 20-80-210C5a.

(4) The [~~order CO/CA~~] shall not be terminated until a remedy which meets the standards of 9 VAC 20-80-210C5a has been implemented and certified complete according to 9 VAC 20-80-210C6e.

#### 6. Remedy.

a. ~~Modification of compliance order or compliance agreement~~ The remedy selected shall be implemented pursuant to an administrative or judicial order which may include the following elements:].

~~[(1)The director will [draft an order modify the CO/CA] to specify the remedy selected according to 9 VAC 20-80-210C5.]~~

(1) ~~[(2)]~~The [~~order CO/CA modification~~] shall include, at a minimum, the following:

(a) Description of the technical features of the remedy that are necessary for achieving the standards for remedies specified in 9 VAC 20-80-210C5a and/or 9 VAC 20-80-210C5f.

(b) All media cleanup standards established pursuant to ~~9 VAC 20-80-220A~~ 9 VAC 20-80-230A.

(c) Requirements for achieving compliance with media cleanup standards, pursuant to ~~9 VAC 20-80-220B~~ 9 VAC 20-80-230B.

(d) Requirements for complying with the standards for management of wastes, pursuant to 9 VAC 20-80-210C9.

(e) Requirements for removal, decontamination, closure, or postclosure of units, equipment, devices or structures that will be used to implement the remedy.

(f) A schedule for initiating and completing the major technical features and milestones of the remedy.

(g) Requirements for submission or reports and other information.

(2) ~~[(3)]~~ A remedy specified in a an order CO/CA modification may be separated into phases. A remedy phase may consist of any set of actions performed over time, or any actions that are concurrent but located at different areas, provided that the actions are consistent with the final remedy.

b. Remedy design.

(1) The ~~order director~~ may require the owner ~~[, or]~~ operator~~[, or other responsible party]~~, ~~upon modification of the CO/CA according to 9 VAC 20-80-210C6a~~, to prepare detailed construction plans and specifications to implement the approved remedy at the site, unless such plans and specifications have already been provided specified in the CO/CA modification. Such plans shall be subject to review and approval or modification by the director~~[, and shall be developed and submitted in accordance with the CO/CA schedule of compliance]~~. Upon approval by the director, the plan shall be incorporated expressly or by reference into ~~part of the order CO/CA schedule of compliance~~. The plans and specifications shall include, but are not limited to, the following:

- (a) Designs and specifications for units in which solid wastes will be managed, as specified in the approved remedy.
- (b) Implementation and long-term maintenance plans.
- (c) Project schedule.
- (d) Construction quality assurance program.

(2) Upon approval of the plans and specifications for the remedy, the owner or operator shall implement the remedy in accordance with the plans and specifications~~;~~ ~~and consistent with the objectives of the remedy specified in the CO/CA~~;

c. Progress reports.

(1) The owner or operator may be required by the director to provide progress reports during the design, construction, operation, and maintenance of the remedy. Frequency and format of reports will be determined by the director and specified in the order CO/CA schedule of compliance. Such reports may include, but are not limited to:

- (a) Summaries of progress of remedy implementation, including results of monitoring and sampling activities, progress in meeting media cleanup standards, and description of other remediation activities.
- (b) Problems encountered during the reporting period, and actions taken to resolve the problems.
- (c) Changes in personnel conducting or managing the remedial effort.
- (d) Project work for next reporting period.
- (e) Copies of laboratory reports and field sampling reports.

(2) All raw data, such as laboratory reports, drilling logs and other supporting information generated from the remedial activities shall be maintained at the site (or other location approved by the director) for a period of three years after the termination of the CO/CA.

d. Review of remedy implementation. The director will periodically review the progress of the remedy. Based on such review, the director may modify the [~~order CO/CA schedule of compliance~~] to require additional remedial measures to ensure prompt completion, safety, effectiveness, protectiveness, or reliability of the remedy.

e. Completion of remedies.

(1) Remedies specified pursuant to 9 VAC 20-80-210C6a shall be considered complete when the director determines that:

(a) Compliance with all media cleanup standards (or alternate levels) as specified in the [~~order CO/CA~~] have been achieved, according to the requirements of 9 ~~VAC 20-80-220B~~ 9 VAC 20-80-230B; and

(b) All actions required to control the source of contamination have been satisfied; and

(c) Procedures specified for removal, decontamination, closure, or post-closure care of units, equipment, devices, or structures required to implement the remedy have been complied with.

(2) Upon completion of the remedy, the owner or operator shall submit to the director, by registered mail, a request for termination of the [~~order corrective action schedule of compliance~~]. The request shall include a certification that the remedy has been completed in accordance with the requirements of 9 VAC 20-80-210C6e(1), and that all other terms and conditions specified in the [~~order CO/CA~~] pursuant to 9 VAC 20-80-210C have been satisfied. The certification shall be signed by the owner or operator and by a registered professional engineer.

(3) When, upon receipt of the certification and any other relevant information, the director determines that the corrective measure remedy has been completed in accordance with the terms and conditions of the [~~order CO/CA~~] and the requirements for remedy completion under 9 VAC 20-80-210C6e(1), the director will [~~modify the CO/CA to terminate the order corrective action schedule of compliance~~].

(4) If a remedy includes one or more identified phases, the director may require separate certification that the remedy phase has been completed as specified in the [~~order CO/CA~~], to be signed by the owner or operator and an [~~independent~~ certified or licensed] professional skilled in the appropriate technical discipline.

7. Determination of technical impracticability.

a. The director may determine, based on information developed by the owner or operator or other information, that compliance with a requirement for the remedy is not technically practicable. In making such determinations, the director will consider:

- (1) The owner or operator's efforts to achieve compliance with the requirements; and
- (2) Whether other currently available or new and innovative methods or technologies could practicably achieve compliance with the requirements.

b. If the director determines that compliance with a remedy requirement is not technically practicable, the director will modify the order CO/CA schedule of compliance] to specify as necessary and appropriate:

- (1) Further measures that may be required of the owner or operator to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment; and
- (2) Alternate levels or measures for cleaning up contaminated media, controlling the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures required to implement the remedy which:
  - (a) Are technically practicable; and
  - (b) Are consistent with the overall objectives of the remedy.

8. Interim measures.

a. If, at any time the director determines, based on consideration of the factors specified in 9 VAC 20-80-210C8b, that a release or, based on site-specific circumstances, a threatened release from a solid waste management unit at the site poses a threat to human health or the environment, the [owner, operator, or other responsible party director] may specify ~~in the CO/CA~~ interim measures required ~~[of the owner or operator]~~ to abate, stabilize, mitigate, or eliminate the releases or threat of releases.

b. The following factors may be considered by the director in determining whether an interim measure is required:

- (1) Time required to develop and implement a final remedy;
- (2) Actual or potential exposure of nearby populations or environmental receptors to solid wastes (including hazardous constituents);
- (3) Actual or potential contamination of drinking water supplies or sensitive ecosystems;
- (4) Further degradation of the medium which may occur if remedial action is not initiated expeditiously;

- (5) Presence of uncovered solid wastes (including hazardous constituents) or such wastes in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;
- (6) Presence of high levels of solid wastes (including hazardous constituents) in soils largely at or near the surface, that might migrate;
- (7) Weather conditions that may cause solid wastes (including hazardous constituents) to migrate or be released;
- (8) Risks of fire or explosion, or potential for exposure to solid wastes (including hazardous constituents) as a result of an accident or failure of a container or handling system;
- (9) Other situations that may pose threats to human health and the environment.

c. If the director determines that an interim measure is necessary pursuant to 9 VAC 20-80-210C8a, the director will notify the owner or operator of the necessary actions required. Such actions shall be implemented as soon as practicable, in accordance with a schedule as specified by the director. ~~[The director will modify the CO/CA schedule of compliance, if necessary, to require implementation of an interim measure.]~~

d. Interim measures should, to the extent practicable, be consistent with the objectives of, and contribute to the performance of any remedy which may be required pursuant to 9 VAC 20-80-210C5.

## 9. Management of wastes.

### a. General.

(1) All solid wastes which are managed pursuant to a remedy required under 9 VAC 20-80-210C5, or an interim measure required under 9 VAC 20-80-210C8, shall be managed in a manner:

- (a) That is protective of human health and the environment; and
- (b) That complies with applicable federal, state and local requirements.

(2) The director will specify in the ~~[order-CO/CA]~~ requirements for units in which wastes will be managed, and other waste management activities, as determined by the director to be necessary for protection of human health and the environment.

b. Management of hazardous wastes. Any treatment, storage or disposal of listed or identified hazardous waste necessary to implement a remedy or an interim measure shall be in accordance with the applicable requirements of Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 *et seq.*).

c. Management of non-hazardous solid wastes.

(1) Except as provided in 9 VAC 20-80-210C9c(3), treatment, storage and disposal of solid wastes pursuant to a remedy or interim measure required under 9VAC 20-80-210C shall be in accordance with applicable technical standards for solid waste management as specified in Parts III, V, VI, and VIII of this chapter.

(2) For any unit in which solid wastes will be managed pursuant to a remedy or interim measure, the director may specify additional design and operating standards for the unit, as necessary to protect human health and the environment. In determining appropriate design and operating requirements for such units, the director will consider the factors specified under 9 VAC 20-80-210C9c(3)(b).

(3)

(a) For temporary units in which solid wastes will be stored or treated, the director may determine that a design, operating, or closure standards applicable to such units solely by regulation may be replaced by alternative requirements which are protective of human health and the environment.

(b) Any temporary unit to which alternative requirements are applied according to 9 VAC 20-80-210C9c(2), shall:

*i.* Be operated for a period not exceeding 180 calendar days, unless the period is extended under 9 VAC 20-80-210C9c(3)(c); and

*ii.* Be located at the site; and

*iii.* Be used only for treatment or storage of solid wastes (including hazardous constituents) that have originated within the boundary of the site.

(c) The director may grant an extension to the 180-day period of a temporary unit if solid wastes shall remain in the unit due to unforeseen, temporary, and uncontrollable circumstances. [~~The owner or operator shall request this extension CO/CA modification.~~]

(d) In establishing standards to be applied to temporary units, the director will consider the following factors:

*i.* The length of time such units will be in operation.

*ii.* Type of unit, and volume of wastes to be managed.

*iii.* Potential for releases from the units.

- iv. Physical and chemical characteristics of the wastes to be managed in the units.
  - v. Hydrogeological and other relevant environmental conditions at the site which may influence the migration of any potential releases.
  - vi. Potential for exposure of humans and environmental receptors if releases were to occur from the units.
- (e) The director will specify in the order ~~CO/CA~~ the length of time that such units will be allowed to operate, and specific design, operating, and closure requirements for the units.

**9 VAC 20-80-220. Action levels.**

Action levels are defined as follows:

**A.** Action levels for constituents in groundwater in an aquifer which the director has reason to believe may have been released from a solid waste management unit at the site shall be concentration levels specified as:

1. Maximum contaminant levels (MCLs) promulgated under § 141.2 of the Safe Drinking Water Act (40 CFR Part 141 Subpart B)<sup>1</sup>; or
2. For constituents for which MCLs have not been promulgated, a concentration which satisfies the following criteria, assuming exposure through consumption of the water contaminated with the constituent:
  - a. Is derived in a manner consistent with most recent federal guidelines for assessing the health risks of environmental pollutants ; and
  - b. Is based on scientifically valid studies conducted in accordance with the Toxic Substances Control Act (TSCA) Good Laboratory Practice Standards (40 CFR Part 792), or equivalent; and
  - c. For carcinogens, represents a concentration associated with an excess upper bound lifetime cancer risk of  $1 \times 10^{-6}$  due to continuous constant lifetime exposure, and considers the overall weight of evidence for carcinogenicity; and
  - d. For systemic toxicants, represents a concentration to which the human population (including sensitive subgroups) could be exposed on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime.

**B.** Action levels for constituents in air which the director has reason to believe may have been released from a solid waste management unit at the site shall be defined as concentrations which meet the criteria specified in 9 VAC 20-80-220A2a through 9 VAC 20-80-220A2d, assuming exposure through inhalation of the air contaminated with the constituent, as measured or estimated at the site boundary, or another location closer to the unit if necessary to protect human health and the environment.

C. Action levels for constituents in surface water which the director has reason to believe may have been released from a solid waste management unit at the site shall be specified as:

1. Water Quality Standards established pursuant to §303(c) of the Clean Water Act (40 CFR Part 131) by the State Water Control Board, where such standards are expressed as numeric values; or
2. Numeric interpretations of narrative water quality standards, if appropriate, where water quality standards expressed as numeric values have not been established; or
3. MCLs promulgated under the Safe Drinking Water Act for constituents in surface waters designated by the State Water Control Board for drinking water supply, where numeric values or numeric interpretations, described in 9 VAC 20-80-220C1 and 9 VAC 20-80-220C2, are not available; or
4. For constituents in surface waters designated by the State Water Control Board for drinking water supply for which numeric values, numeric interpretations, or MCLs (as described in 9 VAC 20-80-220C1 through 9 VAC 20-80-220C3) are not available, a concentration which meets the criteria specified in 9 VAC 20-80-220A2a through 9 VAC 20-80-220A2d, assuming exposure through consumption of water contaminated with the constituent; or
5. For constituents in surface waters designated for use or uses other than drinking water supply and for which numeric values or numeric interpretations (as described in 9VAC 20-80-220C1. and 9 VAC 20-80-220C2) have not been established, a concentration established by the director which meets the criteria specified in 9 VAC 20-80-220A2a through 9 VAC 20-80-220A2d, considering the use or uses of the receiving waters.

D. Action levels for constituents in soils that the director has reason to believe may have been released from a solid waste management unit at the site shall be defined as concentrations which meet the criteria specified in 9 VAC 20-80-220A2a through 9 VAC 20-80-220A2d, assuming exposure through consumption of the soil contaminated with the constituent.

E. If, for a constituent detected in groundwater in an aquifer, air, surface water or soils, a concentration level that meets the criteria of 9 VAC 20-80-220A through 9 VAC 20-80-220D is not available, the director may establish an action level for the constituent as:

1. A level that is an indicator for protection of human health and the environment, using the exposure assumptions for the medium specified under 9 VAC 20-80-220A through 9 VAC 20-80-220D; or
2. The background concentration of the constituent.

**9 VAC 20-80-230. Cleanup standards.**

A. Except as otherwise provided by 9 VAC 20-80-230B, the director will establish the cleanup standards for remediation of contaminated media as follows:

1. The director will specify concentration levels of hazardous constituents in groundwater, surface water, air and soils that the remedy shall achieve, as necessary to protect human health and the environment. Such media cleanup standards will be established as follows:

a. The cleanup standards shall be concentration levels in the affected media which protect human health and the environment.

b. Unless a lower concentration level is deemed necessary to protect environmental receptors, cleanup standards shall be established as follows:

(1) For known or suspected carcinogens, cleanup standards shall be established at concentration levels which represent an excess upperbound lifetime risk to an individual of between  $1 \times 10^{-4}$  and  $1 \times 10^{-6}$ . The director will use the  $1 \times 10^{-6}$  risk level as the point of departure in establishing such concentration levels.

(2) For systemic toxicants, cleanup standards shall represent concentration levels to which human population (including sensitive subgroups) could be exposed on a daily basis without appreciable risk of deleterious effect during a lifetime.

c. In establishing media cleanup standards which meet the requirements of 9VAC 20-80-230A1a and 9 VAC 20-80-230A1b, the director may consider the following:

(1) Multiple contaminants in the medium;

(2) Exposure threats to sensitive environmental receptors;

(3) Other site-specific exposure or potential exposure to contaminated media;

(4) The reliability, effectiveness, practicability, or other relevant features of the remedy.

d. For groundwater and surface water that is a current or potential source of drinking water, the director will consider maximum, contaminant levels promulgated under § 141.2 of the Safe Drinking Water Act (40 CFR Part 141, Subpart B) in establishing media cleanup standards.

e. If the owner or operator can demonstrate to the satisfaction of the director that a specific concentration of a constituent in a medium at the site is naturally occurring or from a source other than a solid waste management unit at the site, the cleanup level established under 9 VAC 20-80-230 for the constituent in the medium shall not be below that specific concentration, unless the director establishes that:

(1) Remediation to levels below that specified concentration is necessary to protect human health and the environment; and

(2) Such remediation is in connection with an area wide cleanup under RCRA or other authorities.

2. The director may determine that remediation of a release of a constituent from a solid waste management unit to a media cleanup standard established pursuant 9 VAC 20-80-230A is not necessary if the owner or operator demonstrates to the director's satisfaction that:

a. The affected medium is also contaminated by substances that are naturally occurring or have originated from a source other than a solid waste management unit at the site, and those substances are present in concentrations such that remediation of the release from the solid waste management unit would provide no significant reduction in risks to actual or potential receptors; or

b. The constituent is present in groundwater that:

(1) Is not a current or potential source of drinking water, and

(2) Is not hydraulically connected with waters to which the hazardous constituents are migrating or are likely to migrate in a concentration greater than an action level specified according to 9 VAC 20-80-220; or

c. Remediation of the release to media cleanup standards is technically impracticable.

3. If a determination is made pursuant to 9 VAC 20-80-230A2, the director may require any alternative measure or standard he determines are necessary to protect human health and the environment, including the control of further releases.

**B.** Compliance with media standards. The director will specify in the remedy requirements for achieving compliance with the media cleanup standards established under 9 VAC 20-80-230A (or alternative levels under 9 VAC 20-80-230A1e or 9 VAC 20-80-230A3), as follows:

1. The director will specify where compliance with each standards or levels shall be achieved, as follows:

a. For groundwater, the cleanup standards or levels shall be achieved throughout the contaminated groundwater, or, at the director's discretion, when waste is left in place, up to the boundary of a waste management area encompassing the original source of release. The director will specify the locations at which groundwater monitoring wells shall be located for the purposes of:

(1) Monitoring the effectiveness of the groundwater remediation program; and

(2) Demonstrating compliance with the groundwater cleanup standards or levels.

b. For air, the cleanup standard or level shall be achieved at the location of the most exposed individual, or other specified points of exposure closer to the source of the release, if determined by the director to be necessary to protect human health and the environment. The director will approve locations where air monitoring devices shall be installed, or what emission modeling or testing, atmospheric dispersion models, or other methods shall be used to demonstrate that compliance with any air cleanup standard or level has been achieved at the points of exposure.

- c. For surface water, the cleanup standard or level shall be achieved at the point where the release enters the surface water. For releases that have accumulated in surface water sediments, the director may, as necessary to protect human health and the environment, require that a cleanup standard or level be achieved at designated locations in the sediments. The director will approve the locations where surface water or sediment samples shall be taken to monitor surface water quality, and demonstrate that compliance with any surface water cleanup standard or level has been achieved.
  - d. For soils, the cleanup standard shall be achieved at any point where direct contact exposure to the soils may occur. The director will approve the locations, or methods for determining appropriate locations, where soil samples shall be taken to demonstrate compliance with the soil cleanup standard or level.
  - e. If the owner or operator is unable to obtain the necessary permission to undertake corrective action beyond the site boundary, and can demonstrate to the satisfaction of the director that despite the owner's or operator's best efforts, he is as a result unable to achieve media cleanup standards or levels beyond the site boundary, then media cleanup standards or levels shall be achieved to the extent practicable, as approved by the director.
2. The director will specify in the remedy the sampling and analytical methods, any statistical analyses that may be required, and the frequency of sampling or monitoring that may be required to characterize levels of hazardous constituents in groundwater, surface water, air or soils.
3. The director will specify in the remedy the length of time during which the practices must, in order to achieve compliance with a media cleanup standard or level, demonstrate the concentrations of hazardous constituents have not exceeded the standard. Factors that may be considered by the director in determining these timing requirements include:
- a. Extent and concentration of the release;
  - b. Behavior characteristics of the hazardous constituents in the affected medium;
  - c. Accuracy of monitoring or modeling techniques;
  - d. Characteristics of the affected media; and
  - e. Seasonal, meteorological, or other environmental variabilities which may affect the accuracy of monitoring or modeling results.

APPENDIX 4.1  
OPEN DUMP EVALUATION GUIDE

OPEN DUMP EVALUATION CRITERIA

PART I – FLOOD PLAINS

1. Is the solid waste applied to the land surface and incorporated into the soil for the purpose of beneficial utilization as a soil conditioner or

Yes – Complies	
<input type="checkbox"/>	Waste incorporated into soil
<input type="checkbox"/>	Waste used as fertilizer/conditioner
No – Continue to 2	

2. Is the site located in the base flood floodplain?

Yes – Continue to 3	
<input type="checkbox"/>	Stated in permit
<input type="checkbox"/>	In designated floodplain
<input type="checkbox"/>	Computation of flood flow/level
No -- Complies	

3. Does the site restrict the flow of the base flood or reduce temporary water storage capacity?

<input type="checkbox"/>	Yes –Does not comply— Continue to 4
<input type="checkbox"/>	Site has filled the floodplain or is diked up to or above base flood level
<input type="checkbox"/>	Site is below floodplain grade
<input type="checkbox"/>	Site is located in a floodplain where channel is diked to contain the base flood level
<input type="checkbox"/>	Site increases base flood level
<input type="checkbox"/>	No – Continue to 4

4. Is the site protected from washout by the base flood?

Yes – Complies	
	Degree of Protection
<input type="checkbox"/>	Dike or levee
<input type="checkbox"/>	Berm
<input type="checkbox"/>	Riprap
<input type="checkbox"/>	Flood flow velocity
<input type="checkbox"/>	Diversion of flow
No – Does not comply – No or inadequate protection	

**OPEN DUMP EVALUATION CRITERIA**

**PART II -- SURFACE WATER**

**1. Is there a point source discharge of pollutants to surface waters?**

<input type="checkbox"/>	Yes -- Continue to 2
<input type="checkbox"/>	Site has VPDES permit
<input type="checkbox"/>	Discharge from leachate collection system
<input type="checkbox"/>	Discharge from leachate treatment system
<input type="checkbox"/>	Discharge of solid waste to surface water
<input type="checkbox"/>	Surface impoundment with discharge
<input type="checkbox"/>	Landspreading discharge
<input type="checkbox"/>	Landspreading in or into surface waters
<input type="checkbox"/>	No -- Continue to 2

**2. Does the site violate requirements for VPDES permit?**

<input type="checkbox"/>	Yes – Does not comply
<input type="checkbox"/>	Violates VPDES permit
<input type="checkbox"/>	Discharge without VPDES permit
<input type="checkbox"/>	No – Continue to 3
<input type="checkbox"/>	Operates under VPDES permit
<input type="checkbox"/>	Has applied for VPDES permit

**3. Is there discharge of dredge or fill materials to surface waters?**

<input type="checkbox"/>	Yes -- Continue to 5
<input type="checkbox"/>	No -- Continue to 4

**4. Is there non-point source discharge from the site?**

<input type="checkbox"/>	Yes – Does not comply
<input type="checkbox"/>	Leachate leakage or spill over
<input type="checkbox"/>	Solid waste spillage or wash
<input type="checkbox"/>	Other – see Remarks
<input type="checkbox"/>	No -- Continue to 5

**5. Does the site cause non-point pollution of surface waters?**

<input type="checkbox"/>	Yes--Does not comply
<input type="checkbox"/>	No--Complies

Remarks:


OPEN DUMP EVALUATION CRITERIA

PART III - GROUNDWATER

<b>1. Does the site have installed a groundwater monitoring system?</b>	
<input type="checkbox"/>	Yes -- Continue to 2
<input type="checkbox"/>	No -- Continue to Part IV

<b>2. Is groundwater unusable as a human drinking water source?</b>	
<input type="checkbox"/>	Yes -- Complies
<input type="checkbox"/>	Groundwater is not present beneath the site
<input type="checkbox"/>	Groundwater has > 10,000 mg/lit TDS and is not used as a human drinking water source
<input type="checkbox"/>	Groundwater is not present in usable quantities beneath the site
<input type="checkbox"/>	No -- Continue to 3

<b>3. Does site have substantial potential for groundwater contamination?</b>	
<input type="checkbox"/>	Yes -- Continue to 4
<input type="checkbox"/>	Site overlies sole source aquifer
<input type="checkbox"/>	Site overlies aquifer recharge
<input type="checkbox"/>	Site has leachate problem history
<input type="checkbox"/>	Saturated zone permeability >10 <sup>-7</sup> cm/sec
<input type="checkbox"/>	Unsaturated zone < 3 feet
<input type="checkbox"/>	Unsaturated zone permeability >10 <sup>-5</sup> cm/sec

<input type="checkbox"/>	Disposal site does not have liner with leachate collection system or leachate containment
<input type="checkbox"/>	No--Continue to 4

<b>4. Has groundwater under the site been contaminated beyond the solid waste boundary or alternate boundary?</b>	
<input type="checkbox"/>	Yes -- Does not comply
<input type="checkbox"/>	Groundwater monitoring results show contamination from the site
<input type="checkbox"/>	No -- Complies
<input type="checkbox"/>	Site does not overlie a drinking water source
<input type="checkbox"/>	Monitoring shows no contamination beyond the solid waste boundary

Remarks:

DEQ Form SW 4-3

**OPEN DUMP EVALUATION CRITERIA**

**PART IV DISEASE VECTORS**

Does the site control the on-site population of disease vectors?

<input type="checkbox"/>	Yes -- Complies
<b>Landfills:</b>	
<input type="checkbox"/>	Site applied daily cover
<input type="checkbox"/>	Site is not required to apply daily cover
<input type="checkbox"/>	Site employs regular application of insecticides
<input type="checkbox"/>	No Visible Evidence of flies, rats or other pests
<b>Other sites:</b>	
<input type="checkbox"/>	No visible evidence of files, rats, or other pests
<input type="checkbox"/>	Proper site sanitation employed
<input type="checkbox"/>	No accumulation of putrescible solid waste
<input type="checkbox"/>	Effective pest control program
<input type="checkbox"/>	No -- Does not comply

OPEN DUMP EVALUATION CRITERIA

PART V - OPEN BURNING

1. Is open burning of solid wastes practiced at the site?

<input type="checkbox"/> Yes -- Continue to 2
<input type="checkbox"/> Records of previous open burning
<input type="checkbox"/> Visual observation of open burning
<input type="checkbox"/> Evidence of previous open burning
<input type="checkbox"/> Open burning with a permit
<input type="checkbox"/> No -- Complies

2. Is open burning of solid waste occurring from emergency clean up or from open burning of ordinance?

<input type="checkbox"/> Yes -- Continue 3
<input type="checkbox"/> Records of previous open burning
<input type="checkbox"/> Visual observation of open burning
<input type="checkbox"/> Evidence of previous open burning
<input type="checkbox"/> Open burning with a permit
<input type="checkbox"/> No -- Continue to 3

3. Does the site control air emissions in accordance with standards and permit conditions established by the Air Pollution Control Board?

<input type="checkbox"/> Yes -- Complies
<input type="checkbox"/> No -- Does not comply

# OPEN DUMP EVALUATION CRITERIA

## PART VI - SAFETY: LANDFILL GAS

1. Is methane generated?

		Yes – Continue to 2
		Landfill with organic waste
		No – Complies
		Landfill with no organic waste
		Landfill less than one year old

2. Is methane prevented from migrating beyond the property boundary and accumulating in site structure?

<input type="checkbox"/>	Yes -- Complies
<input type="checkbox"/>	Site located on impervious rock
<input type="checkbox"/>	Site located on saturated soil or surrounded by surface water
<input type="checkbox"/>	Site has gas venting or recovery system
<input type="checkbox"/>	Site with current monitoring records showing no migration of methane
<input type="checkbox"/>	No -- Does not comply
<input type="checkbox"/>	-- Continue to 3

3. Site ranked as having substantial potential for methane hazard

		History of methane-related fires or explosions
		<b>Monitoring results indicate a migration problem</b>
		Structure within 1200 feet and site located over permeable soils
		Vegetation stress within 1200 feet

		Remarks:

## OPEN DUMP EVALUATION CRITERIA

### PART VII SAFETY: FIRES

1. Does site have a potential for fire occurrence?

	<b>Yes – Continue to 2</b>
	No -- Complies

2. Is periodic cover applied so as to reduce the risk of fire?

	<b>Yes – Complies</b>
	The site applies and compacts cover at the end of the operating day
	The site applies and compacts cover at least once every 24 hours
	The site incorporates all solid waste into the soil at the end of operating day
	No – Continue to 3

3. Does the site have adequate operating procedures to control fires should they occur?

	<b>Yes – Complies</b>
	Site conducts open burning in accordance with permit
	Open burning in approved areas only
	Established arrangements with local fire department
	Earth stockpile near the burning area
	On-site availability of heavy equipment to extinguish fires
	Water supply under adequate pressure is available
	Firebreaks or fire lanes are present
	Previous inspections and reports indicate no problem
	Permit conditions being followed
	No complaints
	Hot or burning loads not received or unloaded
	No – Does not comply

OPEN DUMP EVALUATION CRITERIA

**PART VIII - SAFETY: BIRD HAZARD**

1. Is the site within the specified distance of an airport?

	Yes – Continue to 2
	10,000 feet from airport used by turbojet aircraft
	5,000 feet from airport used by piston aircraft
	No -- Complies

2. Does the site receive putrescible waste?

	<b>Yes – Continue to 3</b>
	Food waste
	Sewage sludge
	Animal carcasses
	Other --
	No - Complies

3. Does the site pose a bird hazard to aircraft?

	Yes – Does not comply
	Bird population at site greater than natural in the area
	Site attracts birds
	There is bird hazard at airport from outside source
	Bird fly pattern shows birds flying from site to the airport area
	No – Complies
	Bird population less than natural in the area
	Bird attraction due tot he airport facility
	Bird fly pattern does not show birds flying from site to the airport area
	Site does not attract birds

DEQ Form SW 4-8

## PART V.

### SOLID WASTE DISPOSAL FACILITY STANDARDS.

#### 9 VAC 20-80-240 General.

A. Any person who constructs, or operates any solid waste disposal facility (e.g. sanitary landfill, construction/demolition/debris landfill, or an industrial waste landfill), not otherwise exempt under 9 VAC 20-80-60D, shall comply with the requirements of this part. Further, all applications for permits pursuant to these standards shall demonstrate specific means proposed for compliance with requirements set forth in this part.

B. Solid waste disposal facilities shall be maintained and operated in accordance with the permit issued pursuant to this chapter, and in accordance with the approved design and intended use of the facility.

C. Hazardous wastes shall not be disposed or managed in solid waste disposal facilities subject to this chapter unless specifically authorized by the facility permit or the director.

D. ~~[Privately owned or operated]~~ Solid waste disposal facilities shall comply with the Financial Assurance Regulations for Solid Waste Facilities of the Virginia Waste Management Board (9 VAC 20-70-10 et seq.).

E. Establishment, operation or maintenance of any solid waste disposal facility as an open dump is prohibited (see Part IV of this chapter).

F. A solid waste management facility regulated under Part VI of this chapter will become subject to the appropriate closure and post-closure care standards contained in this part if solid waste will remain after the closure of such a facility.

#### 9 VAC 20-80-250 Sanitary Landfill.

The following shall apply to the siting, design, construction, operation, monitoring, and closure of a sanitary landfill.

##### A. Siting.

##### 1. Airport Safety.

a. Owners or operators of all sanitary landfills that are located within 10,000 feet (3,048 meters) of any airport runway end used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway end used by only piston-type aircraft shall demonstrate that the units are designed and operated so that the facility does not pose a bird hazard to aircraft.

b. Owners or operators proposing to site new sanitary landfill and lateral expansions of an existing facility within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft shall notify the affected airport and the Federal Aviation Administration (FAA).

c. The owner or operator of an existing facility shall submit the demonstration in 9 VAC 20-80-250A1a to the director by October 9, 1993.

2. Floodplains. Owners or operators of all sanitary landfills located in 100-year floodplains shall demonstrate that the facility will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health and the environment. The owner or operator of an existing facility shall submit the demonstration to the director by October 9, 1993. [No new sanitary landfill after July 1, 1999 shall be constructed in a 100-year flood plain.]

3. Unstable Areas.

a. Owners or operators of all sanitary landfills located in an unstable area shall demonstrate that engineering measures have been incorporated into the facility's design to ensure that the integrity of the structural components of the facility will not be disrupted. He shall consider the following factors, at a minimum, when determining whether an area is unstable:

- (1) On-site or local soil conditions that may result in differential settling and subsequent failure of structural components;
- (2) On-site or local geologic or geomorphologic features that may result in sudden or non-sudden events and subsequent failure of structural components; and
- (3) On-site or local man-made features or events (both surface and subsurface) that may result in sudden or non-sudden events and subsequent failure of structural components.

b. The owner or operator of an existing facility shall submit the demonstration to the director by October 9, 1993.

4. Wetlands. [After July 1, 1999 N]ew sanitary landfills and lateral expansions of existing facilities, [except those lateral expansions allowed under §10.1-1408.5 of the Code,] shall not be [constructed located] in [any tidal ]wetland [or non-tidal wetland contiguous to any surface water body., unless the owner or operator can make the following demonstrations to the director:

- ~~a. Where applicable under ' 404 of the Clean Water Act or applicable Virginia wetlands laws, the presumption that practicable alternative to the proposed landfill is available which does not involve wetlands is clearly rebutted;~~
- ~~b. The construction and operation of the facility will not:
  - ~~(1) Cause or contribute to violations of any applicable water quality standard,~~
  - ~~(2) Violate any applicable toxic effluent standard or prohibition under ' 307 of the Clean Water Act,~~
  - ~~(3) Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973, and~~
  - ~~(4) Violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;~~~~
- ~~c. The facility will not cause or contribute to significant degradation of wetlands. The owner or operator shall demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:~~

- ~~(1) Erosion, stability, and migration potential of native wetland soils, muds and deposits used to support the facility;~~
  - ~~(2) Erosion, stability, and migration potential of dredged and fill materials used to support the facility;~~
  - ~~(3) The volume and chemical nature of the waste managed in the facility;~~
  - ~~(4) Impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;~~
  - ~~(5) The potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and~~
  - ~~(6) Any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected.~~
- ~~d. To the extent required under ' 404 of the Clean Water Act or applicable Virginia wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by 9 VAC 20 80 250A4a, then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and~~
- ~~e. Furnish a copy of final determinations on 9 VAC 20 80 250A4a through 9 VAC 20 80 250A4d obtained from the U.S. Army Corps of Engineers as they pertain to federal wetlands; and~~
- ~~f. e. Sufficient other information is available to enable the department to make a reasonable determination with respect to these demonstrations.]~~

5. Fault areas. New sanitary landfills and lateral expansions of existing facilities shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the owner or operator demonstrates to the director that an alternative setback distance of less than 200 feet (60 meters) will prevent damage to the structural integrity of the facility and will be protective of human health and the environment.

6. Seismic impact zones. New sanitary landfills and lateral expansions of existing facilities shall not be located in seismic impact zones, unless the owner or operator demonstrates to the director that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

7. No sanitary landfill disposal unit or leachate storage unit shall extend closer than:

- a. 100 feet of any regularly flowing surface water body or river,
- b. 50 feet from the facility boundary,
- c. 500 feet of any well, spring or other groundwater source of drinking water in existence at the time of application,

d. One thousand feet from the nearest edge of the right-of-way of any interstate or primary highway or 500 feet from the nearest edge of the right-of-way of any other highway or city street except the following:

- (1) Units which are screened by natural objects, plantings, fences, or other appropriate means so as ~~not to be visible~~ to minimize the visibility from the main-traveled way of the highway or city street, or otherwise removed from sight;
- (2) Units which are located in areas which are zoned for industrial use under authority of state law or in unzoned industrial areas as determined by the Commonwealth Transportation Board;
- (3) Units which are not visible from the main-traveled way of the highway or city street; or

NOTE: This requirement is based on §33.1-348, Chapter 6, Title 33.1, of the Code. The regulatory responsibility for this standard rests with the Virginia Department of Transportation.

- e. 200 feet from the active filling areas to any residence, school, hospital, nursing home or recreational park area in existence at the time of application.

NOTE: All distances are to be measured in the horizontal plane.

8. No new facility shall be located in areas where groundwater monitoring cannot be conducted in accordance 9 VAC 20-80-250D unless this requirement is suspended by the director pursuant to 9 VAC 20-80-250D1c.[]

9. No new sanitary landfill shall be constructed:

- a. Within five miles upgradient of any existing surface or groundwater public water supply intake or resevoir;
- b. In any area vulnerable to flooding resulting from dam failures;
- c. Over a sinkhole or less than 100 feet over a solution cavern associated with karst topography;
- d. In any park or recreational area, wildlife management area or area designated by the federal or state agency as the critical habitat of any endangered species; or
- e. Over an active fault.

10. 9.] The following site characteristics may also prevent approval or require substantial limitations on the site use or require incorporation of sound engineering controls:

- a. Excessive slopes (greater than 33%)~~[-over more than half the site area];~~
- b. Lack of readily available cover materials on site or lack of a firm commitment for adequate cover material from a borrow site;

- c. Springs, seeps, or other groundwater intrusion into the site;
- d. The presence of gas, water, sewage, or electrical or other transmission lines under the site; or
- e. The prior existence on the site of an open dump, unpermitted landfill, lagoon, or similar facility, even if such facility is closed, will be considered a defect in the site unless the proposed landfill can be isolated from the defect by facility construction and the groundwater for the facility can be effectively monitored.

1[10]. Specific site conditions may be considered in approving an exemption of a site from the siting restrictions of 9 VAC 20-80-250A.[910]. ~~above.~~

1[24]. Facilities unable to furnish the demonstration required under 9 VAC 20-80-250A1c., 9 VAC 20-80-250A2., or 9 VAC 20-80-250A3b, shall close in accordance with the requirements of 9 VAC 20-80-250E and initiate post-closure care as required by 9 VAC 20-80-250F by October 9, 1996.

1[32]. The deadline for closure required by 9 VAC 20-80-250A.[4412]. may be extended by the director up to two years if the owner or operator demonstrates that:

- a. There is no alternate disposal capacity; and
- b. There is no immediate threat to human health and the environment.

**B. Design/construction.** The following design and construction requirements apply to all sanitary landfills:

1. All facilities shall be surrounded on all sides by natural barriers, fencing, or an equivalent means of controlling vehicular access and preventing illegal disposal. All access will be limited by gates, and such gates shall be securable and equipped with locks.
2. Access roads extending from [the] public road to the entrance of a facility or site and any public access area shall be all-weather, and shall be provided with a base capable of withstanding anticipated heavy vehicle loads.
3. Each solid waste disposal facility should be provided with an adequately lighted and heated shelter where operating personnel can exercise site control and have access to essential sanitation facilities. Lighting, heat and sanitation facilities may be provided by portable equipment as necessary.
4. Aesthetics shall be considered in the design of a facility or site. Use of artificial or natural screens shall be incorporated into the design for site screening and noise attenuation to less than 80 dBA at the boundary line. The design should reflect those requirements, if any, that are determined from the long-range plan for the future use of the site.

5. All sanitary landfills shall be equipped with permanent or mobile telephone or radio communications.
6. All facilities shall be designed to provide and maintain:
  - a. A run-on control system to prevent flow onto the active portion of the landfill during the peak discharge from a 25-year storm;
  - b. A run-off control system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm. Run-off from the active portion of the landfill unit shall be handled in a manner that will not cause the discharge of:
    - (1) Pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act, including, but-not limited to, the Virginia Pollutant Discharge Elimination system (VPDES) requirements; and
    - (2) Cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or State-wide water quality management plan that has been approved under section 208 or 319 of the Clean Water Act, as amended.
  - c. Drainage structures to prevent ponding and erosion, and to minimize infiltration of water into solid waste cells.
7. A groundwater monitoring system shall be installed at all sanitary landfills in accordance with 9 VAC 20-80-250D3.
8. Each site design shall include a gas management plan to control decomposition gases generated within a sanitary landfill in accordance with 9 VAC 20-80-280.
9. All sanitary landfills shall be underlain by a composite liner system as follows:
  - a. Base preparation to protect the liner by preventing liner failure through subsidence or structural failure of the liner system.
  - b. A lower liner consisting of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  cm/sec.
  - c. An upper component consisting of a minimum 30-mil flexible membrane liner (FML). If high density polyethylene (HDPE) is used as an FML, it shall be at least 60-mil thick. The FML component shall be:
    - (1) Installed in direct and uniform contact with the compacted soil liner;
    - (2) Placed in accordance with an approved construction quality control/quality assurance program submitted with the design plans; and
    - (3) Placed with a minimum of two percent slope for leachate drainage.
10. The applicant may submit a petition in accordance with 9 VAC 20-80-780 to allow for an alternate design of the liner system.
11. The design shall provide for leachate management which shall include its collection, treatment, storage, and disposal . Leachate control and monitoring systems are subject to the requirements in 9 VAC 20-80-290. ~~[The facilities for treatment and storage of leachate shall be~~

~~in structures or synthetic lined impoundments that are impermeable and will not be a source of groundwater contamination.]~~

12. Landfill site designs shall provide sufficient area to allow for management of leachate. Leachate from a solid waste disposal facility shall not be permitted to drain or discharge into surface waters except when authorized under a VPDES permit issued by the State Water Control Board or otherwise approved by that agency.

13. Compacted lifts of deposited waste shall be designed for a height compatible with daily waste volumes keeping work face areas to a minimum and allowing for a daily compacted cover. Lift height is not recommended to exceed 10 feet for maximum compaction.

14. Final contours of the finished landfill shall be specified. Design of final contours shall consider subsequent site uses, existing natural contours, surface water management requirements, and the nature of the surrounding area. The final elevation of the landfill shall be limited by the structural capacity of the liner and leachate collection and removal system and by stability of foundation and slopes. The final contour shall not cause structural damage or collapse of the leachate collection system.

15. Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33 percent will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual. The top slope shall be at least two percent after allowance for settlement to prevent ponding of water.

16. Two survey bench marks shall be established and maintained on the landfill site, and their location identified or recorded on drawings and maps of the facility.

17. Each sanitary landfill shall be constructed in accordance with approved plans, which shall not be subsequently modified without approval by the department.

18. Construction quality assurance program.

a. General.

(1) A construction quality assurance (CQA) program is required for all landfill units. The program shall ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program shall be developed and implemented under the direction of a ~~n-independent~~ CQA officer who is a registered professional engineer.

(2) The CQA program shall address the following physical components, where applicable:

- (a) Foundations;
- (b) Low- hydraulic conductivity soil liners;
- (c) Synthetic membrane liners;
- (d) Leachate collection and removal systems; and
- (e) Final cover systems.

b. Written CQA plan. The owner or operator shall develop and implement a written CQA plan. The plan shall identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan shall include:

- (1) Identification of applicable units, and a description of how they will be constructed.
- (2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.
- (3) A description of inspection and sampling activities for all unit components identified in 9 VAC 20-80-250B18a(2) including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description shall cover: sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded.

c. Contents of program. The CQA program shall include observations, inspections, tests, and measurements sufficient to ensure:

- (1) Structural stability and integrity of all components of the unit identified in 9 VAC 20-80-250B18A(2);
- (2) Proper construction of all components of the liners, leachate collection and removal system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g., pipes) according to design specifications;
- (3) Conformity of all materials used with design and other material specifications;
- (4) [Confirmation of the Pp]ermeability of the soil liner using an *in situ* testing method.

d. Certification. Waste shall not be received in a landfill unit until the owner or operator has submitted to the director by certified mail or hand delivery a certification signed by ~~the~~ [an independent the] CQA officer that the approved CQA plan has been successfully carried out and that the unit meets the requirements of this section. Documentation supporting the CQA officer's certification shall be submitted to the director upon request.

### C. Operation.

1. No hazardous wastes as defined by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.) or materials offering an undue hazard to landfill personnel or the landfill operations shall be accepted at the landfill except as specifically authorized by the facility permit or by the director. The owner or operator shall implement an inspection program to detect and prevent disposal of hazardous waste~~], and~~ polychlorinated biphenyls (PCB)[regulated medical waste, and other unauthorized solid waste.] This program shall include, at a minimum: [

- a. Routine observation of incoming waste by landfill personnel;

- b. ~~a.~~] Random inspections of incoming loads unless the owner or operator takes other [approved means—steps] to ensure that incoming loads do not contain regulated hazardous wastes[, ~~or~~] PCB wastes~~[ regulated medical waste, or other unauthorized solid waste ]~~ ;
- c. ~~b.~~] Records of any inspections~~[, to include at a minimum time and date of the inspection, the personnel involved, the hauler and the results of the inspection;~~
- d. ~~e.~~] Training of facility personnel to recognize regulated hazardous waste~~[, —and]PCB wastes[, regulated medical waste, and other unauthorized solid wastes; and~~
- e. ~~d.~~] Notification of the director if a regulated hazardous waste[, ~~or~~] PCB waste~~[, regulated medical waste or other unauthorized waste]~~ is discovered at the facility.[ This notification will be made orally within 24 hours of the occurrence and shall be followed within 5 days by a written report that includes a description of the event, the cause of the event, the time and date of the event and the actions taken to respond to the event; and
- f. All regulated medical waste, PCB waste, regulated medical waste or other unauthorized solid waste that are detected at a facility shall be isolated from the incoming waste and properly contained until arrangements can be made for proper transportation for treatment or disposal at an approved facility.]

2. Compaction and cover requirements.

- a. Unless provided otherwise in the permit, solid waste shall be spread into two-foot layers or less and compacted at the working face; which shall be confined to the smallest area practicable.
- b. Lift heights shall be sized in accordance with daily waste volumes. Lift height is not recommended to exceed 10 feet.
- c. Daily cover consisting of six inches of compacted soil or other approved material shall be placed upon all exposed solid waste prior to the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging. Alternate materials of an alternate thickness may be approved by the director if the owner or operator demonstrates that the alternate material and thickness control disease vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. At least three days of acceptable cover soil or approved material at the average usage rate should be maintained at the landfill or readily available at all times.
- d. Intermediate cover of at least six inches of additional compacted soil shall be applied whenever an additional lift of refuse is not to be applied within 30 days. Further, all areas with intermediate cover exposed shall be inspected as needed, but not less than weekly. Additional cover material shall be placed on all cracked, eroded, and uneven areas as required to maintain the integrity of the intermediate cover system.
- e. Final covering cap designed in accordance with the requirements of 9 VAC 20-80-250E1b. shall be applied when the following pertain:
  - (1) An additional lift of solid waste is not to be applied within one year.

- (2) Any area of a landfill attains final elevation and within 90 days after such elevation is reached.
  - (3) An entire landfill's permit is terminated for any reason, and within 90 days of such denial or termination.
- f. Vegetative cover with proper support layers shall be established and maintained on all exposed final cover material within four months after placement, or as otherwise specified by the department when seasonal conditions do not otherwise permit.
3. Access to a solid waste disposal facility shall be permitted only when an attendant is on duty and only during daylight hours, unless otherwise specified in the facility permit.
4. Disease vectors shall be controlled using techniques appropriate for the protection of human health and the environment.
5. Safety hazards to operating personnel shall be controlled through an active safety program.
6. Adequate numbers and types of properly maintained equipment shall be available to a facility for operation. Provision shall be made for substitute equipment to be available within 24-hours should the former become inoperable or unavailable. Operators with training appropriate to the tasks they are expected to perform and in sufficient numbers for the complexity of the site shall be on the site whenever it is in operation. Equipment and operators provided will not be satisfactory unless they ensure that the site is managed with a high degree of safety and effectiveness.
7. Owners or operators shall implement a gas management plan in accordance with 9 VAC 20-80-280 that will ensure that:
  - a. The concentration of methane gas generated by the facility does not exceed 25 percent of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components); and
  - b. The concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary.
8. [Burning Waste.]
  - a. Owners or operators shall ensure that the units do not violate any applicable requirements developed by the ~~Department of Air Pollution Control~~ State Air Pollution Control Board or promulgated by the EPA Administrator pursuant to Section 110 of the Clean Air Act, as amended.
  - b. Open burning of solid waste, except for infrequent burning of agricultural wastes, silvicultural wastes, landclearing debris, diseased trees, or debris from emergency cleanup operations shall be is prohibited except pursuant to a permit issued by the Department of Air Pollution Control under Part IV (Rule 4-40), Regulations for the Control and Abatement of Air Pollution. There shall be no open burning permitted on areas where solid waste has been disposed or is being used for active disposal.
9. The owner or operator shall be responsible for prompt extinguishing of fires that may occur. At the facility there shall be a fire control plan to be available for review upon request by the public.

10. Solid waste shall not be deposited in, nor shall it be permitted to enter any surface waters or groundwaters.
11. Owners or operators shall maintain the run-on/runoff control systems designed and constructed in accordance with 9 VAC 20-80-250B6.
12. Sanitary landfills shall not:
  - a. Cause a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act, including, but-not limited to, the Virginia Pollutant Discharge Elimination system (VPDES) requirements and Virginia Quality Standards (9 VAC 25-260-10 *et seq.*).
  - b. Cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or State-wide water quality management plan that has been approved under section 208 or 319 of the Clean Water Act, as amended or violates any requirement of the Virginia Water Quality Standards (9 VAC 25-260-10 *et seq.*).
13. Housekeeping.
  - a. Litter and blowing paper shall be confined to refuse holding and operating areas by fencing or other suitable control means.
  - b. Dust and odors shall be controlled so they do not constitute nuisances or hazards.
  - c. Salvaging may be permitted by a solid waste disposal facility operator, but shall be controlled within a designated salvage area to preclude interference with operation of the facility and to avoid the creation of hazards or nuisances.
  - d. Fugitive dust and mud deposits on main off-site roads and access roads shall be minimized at all times to limit nuisances.
  - e. Internal roads in the landfill shall be maintained to be passable in all weather by ordinary vehicles. All operation areas and units shall be accessible; gravel or other finish materials are usually required to accomplish this. Provisions shall be made to prevent tracking of mud onto public roads by vehicles leaving the site.
  - f. The open working face of a landfill shall be kept as small as practicable, determined by the tipping demand for unloading.
  - g. A sanitary landfill which is located within 10,000 feet of any airport runway used for turbojet aircraft or 5,000 feet of any airport runway used by only piston type aircraft, shall operate in such a manner that the facility does not increase or pose additional bird hazards to aircraft.
  - h. All items designed in accordance with the requirements of 9 VAC 20-80-250B, shall be properly maintained.
14. Groundwater monitoring program meeting the requirements of 9 VAC 20-80-250D shall be implemented.
15. A corrective action program meeting the requirements of 9 VAC 20-80-310 is required whenever the groundwater protection standard is exceeded.

16. Sanitary landfills may receive the following types of solid wastes subject to specific limitations in the permit:

- a. Agricultural waste
- b. Ashes and air pollution control residues that are not classified as hazardous waste. Incinerator and air pollution control residues should be incorporated into the working face and covered at such intervals as necessary to prevent them from becoming airborne.
- c. Commercial waste
- d. Compost
- e. Construction waste
- f. Debris
- g. Demolition waste
- h. Discarded material
- i. Garbage
- j. Household waste
- k. Industrial waste meeting all criteria contained herein
- l. Inert waste
- m. Institutional waste except anatomical waste from health care facilities or ~~infectious~~ regulated medical waste as specified in Waste Management Board's ~~Infectious~~ Regulated Medical Waste Regulations (9 VAC 20-110 9 VAC 20-120-10 et seq.).
- n. Municipal solid waste
- o. Putrescible waste. Occasional animal carcasses may be disposed of within a sanitary landfill. Large number of animal carcasses shall be placed in a separate area within the disposal unit and provided with a cover of compacted soil or other suitable material.
- p. Refuse
- q. Residential waste
- r. Rubbish
- s. Scrap metal
- t. Sludges. Water treatment plant sludges containing no free liquid and stabilized, digested or heat treated wastewater treatment plant sludges containing no free liquid may be placed on the working face along with municipal solid wastes and covered with soil or municipal solid wastes. The quantities accepted should be determined by operational conditions encountered at the working face. For existing facilities without an adequate leachate collection system, only a limited quantity of sludge may be accepted. A maximum ratio of one ton of sludge per five tons of solid waste per day will be considered. Generation of leachate will be a basis for restriction of sludge disposal at such existing facilities.
- u. Trash

- v. White goods free of chlorofluorocarbons and PCBs
- w. Non-regulated hazardous wastes and treated wastes rendered non-hazardous by specific approval only
- x. Special wastes as approved by the director
- y. Waste oil that has been adequately adsorbed in the course of a site cleanup

17. Sanitary landfills may not receive the following wastes:

- a. Free liquids.
  - (1) Bulk or noncontainerized liquid waste, unless:
    - (a) The waste is household waste; or
    - (b) The waste is leachate or gas condensate derived from that landfill and the facility is designed with a composite liner and leachate collection system as described in 9 VAC 20-80-250B9 and 9 VAC 20-80-290B; or
  - (2) Containers holding liquid waste, unless:
    - (a) The container is a small container similar in size to that normally found in household waste;
    - (b) The container is designed to hold liquids for use other than storage; or
    - (c) The waste is household waste.
- b. Regulated hazardous wastes
- c. Solid wastes, residues, or soils containing more than 1.0 ppb (parts per billion) TEF of (dioxins)
- d. Solid wastes, residues, or soils containing 50.0 ppm (parts per million) or more of PCB's
- e. Unstabilized sewage sludge as defined by the Department of Health or sludges that have not been dewatered
- f. Pesticide containers that have not been triple rinsed and crushed
- g. Drums that are not empty, properly cleaned and opened.
- ~~h. Waste oil that has not been adequately adsorbed in the course of a site cleanup.~~
- h. i. Contaminated soil unless approved by the director in accordance with the requirements of 9 VAC 20-80-700.

18. Reasonable records to include date, quantity by weight or volume, and origin shall be maintained on solid waste received and processed. Such information shall be made available to the department for examination or use when requested.

**D. Groundwater monitoring.**

1. Applicability.

a. Owners or operators of existing sanitary landfills shall be in compliance with the groundwater monitoring requirements specified in this section, except as provided for in 9 VAC 20-80-250D1c

b. Owners or operators of new facilities shall be in compliance with the groundwater monitoring requirements specified in this section before waste can be placed in the landfill except as provided for in 9 VAC 20-80-250D1c.

c. Groundwater monitoring requirements under 9 VAC 20-80-250D may be suspended by the director for a sanitary landfill unit or facility if the owner or operator can demonstrate that there is no potential for migration of constituents of solid wastes listed in APPENDIX 5.1 to the uppermost aquifer during the active life of the unit and the post-closure care period. This demonstration shall be certified by a qualified groundwater scientist and shall be based upon:

(1) Site-specific field collected measurements, sampling and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and

(2) Contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and environment.

2. General requirements.

a. Owners or operators of sanitary landfills shall implement a groundwater monitoring program capable of determining the facility's impact on the quality of groundwater in the uppermost aquifer underlying the facility.

b. Owners or operators shall install, operate, and maintain a groundwater monitoring system which meets the requirements of 9 VAC 20-80-250D3 and shall comply with all other applicable requirements of this section. This groundwater monitoring shall be carried out during the active life of the facility and during the post-closure care period.

c. The groundwater monitoring and reporting requirements set forth herein are minimum requirements. The director may require, by amending the permit, any owner or operator to install, operate and maintain a groundwater monitoring system and program that contains the requirements more stringent than this chapter imposes, whenever he ~~or the State Water Control Board~~ determines that such requirements are necessary to prevent significant adverse effects on public health and environment. ~~The director will consult with and obtain assistance from the State Water Control Board before imposing more stringent monitoring requirements under § 5.1.D.2.e.~~

3. Groundwater monitoring system.

a. A groundwater monitoring system shall be installed consisting of a sufficient number of wells at appropriate locations and depths, capable of yielding groundwater samples from the uppermost aquifer that:

(1) Represent the quality of background groundwater that has not been affected by leakage from the unit; and

(2) Represent the quality of groundwater at the waste management unit boundary. The downgradient monitoring system shall be installed at the waste management unit boundary that ensures detection of groundwater contamination in the uppermost aquifer unless a variance has been granted by the director under 9 VAC 20-80-770. When physical obstacles preclude installation of groundwater monitoring wells at the waste management boundary, the down-gradient monitoring system may be installed at the closest practicable distance hydraulically down-gradient from the boundary that ensures detection of groundwater contamination in the uppermost aquifer.

b. The director may approve a multiunit groundwater monitoring system instead of separate groundwater monitoring systems for each disposal unit when the facility has several units, provided the multi-unit groundwater monitoring system meets the requirement of 9 VAC 20-80-250D3a and will be as protective of human health and the environment as individual monitoring systems for each disposal unit, based on the following factors:

(1) Number, spacing, and orientation of the disposal units;

(2) Hydrogeologic setting;

(3) Site history;

(4) Engineering design of the disposal units, and

(5) Type of waste accepted at the disposal units.

c. All monitoring wells of a size adequate for sampling shall be cased and grouted in a manner that maintains the integrity of the monitoring well bore hole. This casing shall be screened or perforated, and packed with gravel or sand where necessary, to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space above the sampling depth shall be sealed with a suitable material to prevent contamination of samples and the groundwater.

d. A log shall be made of each newly installed monitoring well describing the soils or rock encountered, and the hydraulic conductivity of formations. A copy of the final logs with appropriate maps shall be sent to the department ~~for transmission to the State Water Control Board~~.

e. The monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

f. The number, spacing, and depths of monitoring systems shall be:

(1) Determined based upon site-specific technical information that shall include thorough characterization of:

(a) Aquifer thickness, groundwater flow rate, groundwater flow direction including seasonal and temporal fluctuations in groundwater flow; and

(b) Saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer; including, but not limited to: thicknesses, stratigraphy, lithology, hydraulic conductivities, porosities and effective porosities.

(2) At the minimum, at least one up-gradient and three down-gradient monitoring wells shall be installed.

(3) Certified by a qualified groundwater scientist that the wells have been installed in accordance with the submitted plans. Within 14 days of this certification, the owner or operator shall transmit the certification to the director.

4. Sampling and analysis. The groundwater sampling and analysis requirements for the groundwater monitoring system are as follows:

a. The groundwater monitoring program shall include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of the groundwater quality at the background and downgradient wells. At a minimum the program shall include procedures and techniques for:

- (1) Sample collection,
- (2) Sample preservation and shipment,
- (3) Analytical procedures,
- (4) Chain of custody control, and
- (5) Quality assurance and quality control.

b. The groundwater monitoring program shall include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure solid waste constituents in groundwater samples. The sampling, analysis and quality control/quality assurance methods set forth in EPA document SW-846 shall be used. The department may require resampling if it believes the samples were not properly sampled or analyzed.

c. Groundwater elevations at each monitoring well shall be determined immediately prior to purging each time a sample is obtained. The owner or operator shall determine the rate and direction of groundwater flow each time groundwater is sampled. Groundwater elevations in wells which monitor the same waste management area shall be measured within a period of time short enough to avoid temporal variations in groundwater flow which could preclude accurate determination of groundwater flow rate and direction.

d. The owner or operator shall establish background groundwater quality in a hydraulically upgradient or background well(s) for each of the monitoring parameters or constituents required in the particular groundwater monitoring program that applies to the disposal unit, as determined under 9 VAC 20-80-250D5. or 9 VAC 20-80-250D6. Background groundwater quality may be established at wells that are not located hydraulically upgradient from the disposal unit if it meets the requirements of 9 VAC 20-80-250D4e.

e. A determination of background quality may be based on sampling of wells that are not upgradient from the waste management area where:

(1) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; and

(2) Sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells.

f. The number of samples collected to establish groundwater quality ~~data~~ shall be consistent with the appropriate statistical procedures determined pursuant to 9 VAC 20-80-250D4g.

g. The owner or operator shall specify in the operation plan one of the statistical methods listed in APPENDIX 5.4 to be used in evaluating groundwater monitoring data for each monitoring parameter or constituent. The statistical test chosen shall be conducted separately for each parameter or constituent in each well.

NOTE: It may be necessary to substitute a statistical method if the original does not meet the performance standard.

h. The owner or operator shall determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the disposal unit, as determined under 9 VAC 20-80-250D5. or 9 VAC 20-80-250D6.

(1) In determining whether a statistically significant increase has occurred, the owner or operator shall compare the groundwater quality of each parameter or constituent at each monitoring well designated pursuant to 9 VAC 20-80-250D3a(1) to the background value of that constituent, according to the statistical procedures and performance standards specified in APPENDIX 5.4 except as provided for in 9 VAC 20-80-250D5b(5)(a).

(2) Within 30 days after completing sampling and analysis, the owner or operator shall determine whether there has been a statistically significant increase over background at each monitoring well.

5. Detection monitoring. Detection monitoring is required at all sanitary landfills except as otherwise provided in 9 VAC 20-80-250D6.

a. ~~Compliance Schedule.~~ Applicability. Unless exempt under 9 VAC 20-80-250D5b, owners and operators of sanitary landfills shall comply with the detection monitoring requirements according to the following schedule:

(1) [All]E[e]xisting facilities and closed facilities that have accepted waste after October 9, 1993,[ and in the case of a "small landfill" after April 9, 1994,] less than one mile from a drinking water intake (surface or subsurface) shall be in compliance with the final detection monitoring requirements specified in 9 VAC 20-80-250D5c. by October 9, 1994 [the effective date of Amendment 2];

~~(2) Existing facilities greater than one mile but less than two miles from a drinking water intake (surface or subsurface) shall be in compliance with the final detection monitoring requirements specified in 9 VAC 20-80-250D.5.c by October 9, 1995;~~

~~(3) Existing facilities greater than two miles from a drinking water intake (surface or subsurface) shall be in compliance with the final detection monitoring requirements specified in 9 VAC 20-80-250D.5c by October 9, 1996;~~

~~(2) (4) New facilities placed in operation after October 9, 1993, shall be in compliance with the final detection monitoring requirements specified in 9 VAC 20-80-250D5c. before waste can be placed in the unit.~~

~~b. (5) All facilities in existence prior to the above dates Unless an extension to the deadline [above below] has been granted by the director, closed facilities that have ceased to accept any waste on or before October 9, 1993, [ and in the case of a "small landfill" after April 9, 1994,] may [continue to] comply with the interim (Phase I) monitoring requirements specified in 9 VAC 20-80-250D5b APPENDIX 5.6 until the appropriate compliance deadline specified in 9 VAC 20-80-250D5a(1) through (4).~~

~~b. Interim (Phase I) Monitoring Program.~~

~~(1) At a minimum, the owner or operator shall determine the concentration or value of the following parameters in groundwater samples:~~

~~(a) Parameters establishing groundwater quality:~~

~~Hardness~~

~~Sodium~~

~~Chloride~~

~~Iron~~

~~Lead~~

~~(b) Parameters used as indicators of groundwater contamination:~~

~~Specific conductance~~

~~pH~~

~~TOC~~

~~TOX~~

~~(2) During the first year of groundwater monitoring:~~

~~(a) For all monitoring wells, the owner or operator shall establish background groundwater quality for each of the monitoring parameters specified in 9 VAC 20-80-250D5b(1)(a). He shall do this quarterly for one year.~~

~~(b) For each of the indicator parameters specified in 9 VAC 20-80-250D5b(1)(b), at least four replicate measurements shall be obtained for each sample and the initial background shall be determined by pooling the replicate measurements for~~

~~the respective parameter concentrations or values in samples obtained from upgradient wells during the first year.~~

~~(3) After the first year, all monitoring wells shall be sampled and the samples analyzed with the following frequencies:~~

~~(a) Samples collected to establish groundwater quality (9 VAC 20 80-250D5b(1)(a)) shall be obtained and analyzed for the specified parameters at least annually.~~

~~(b) Samples collected to indicate groundwater contamination (9 VAC 20 80-250D5b(1)(b)) shall be obtained and analyzed with at least four (4) replicate measurements on each sample for the parameters at least semiannually.~~

~~(4) At least annually the owner or operator shall evaluate the data on static groundwater surface elevations to determine whether the requirements for locating the monitoring wells continue to be satisfied. If the evaluation shows that 9 VAC 20 80-250D3. is no longer satisfied, the owner or operator shall immediately modify the number, location, or depth of the monitoring wells to bring the groundwater monitoring system into compliance with that requirement.~~

~~(5) Evaluation and response.~~

~~(a) After the first year information has been collected, for each indicator parameter specified in 9 VAC 20 80 250D5b(1)(b) the owner or operator shall calculate the arithmetic mean and variance, based on at least four replicate measurements on each sample, for each well monitored, and compare these results with the upgradient wells and each well's own initial background arithmetic mean. The comparison shall consider individually, each of the wells in the monitoring system, and shall use the Student's t test (see APPENDIX 5.2) at the 0.05 level of significance to determine statistically significant increases (and decreases in the case of pH) over initial background. As an alternative to the use of the Student's t test, the owner or operator may chose to apply one of the statistical methods listed in APPENDIX 5.4, provided the test chosen meets the required performance standards.~~

~~(b) If the comparisons for:~~

~~*i.* The upgradient wells show a statistically significant increase (or pH decrease), the owner or operator shall submit this information in accordance with 9 VAC 20 80 250D8a(2).~~

~~*ii.* Downgradient wells show a statistically significant increase (or pH decrease) the owner or operator shall obtain within 30 days additional groundwater samples from those wells, split the samples in two, and obtain analyses of all additional samples to determine whether the significant difference was a result of laboratory error.~~

~~(c) If the preceding analysis confirms the statistically significant increase (or pH decrease), the owner of operator shall provide written notice to the director, within fourteen days of the date of such confirmation, that the facility may be~~

~~affecting groundwater quality and that assessment monitoring program will be implemented.~~

~~(d) Within 60 days, establish an assessment monitoring program meeting the requirements of 9 VAC 20 80 250D6~~

~~(e) If the comparison required by 9 VAC 20 80 250D5b(5)(a) does not show a statistically significant increase (or pH decrease), the owner or operator shall submit this information in accordance with 9 VAC 20 80 250D8a(2).~~

~~(f) On the basis of the information received from the owner or operator under 9 VAC 20 80 250D5b(5)(c), the director shall amend the facility permit in accordance with 9 VAC 20 80 620 by specifying conditions that are designed to ensure that solid waste constituents under 9 VAC 20 80 250D5b(6) entering the groundwater do not exceed the concentration limits under 9 VAC 20 80 250D5b(7) in the uppermost aquifer underlying the waste management boundary during the compliance period.~~

~~(6) Solid waste constituents for groundwater monitoring.~~

~~(a) The director will specify in the facility permit the solid waste constituents to which the groundwater protection level applies. Solid waste constituents are constituents identified in APPENDIX 5.3. that may have been detected in groundwater in the uppermost aquifer underlying the waste management boundary or that are reasonably expected to be in or derived from waste contained in the solid waste disposal facility, unless the director has excluded them under 9 VAC 20 80 250D5b(6)(b).~~

~~(b) The director will exclude an APPENDIX 5.3. constituent from the list of solid waste constituents specified in the facility permit if he finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the director will consider the following:~~

~~i. Potential adverse effects on groundwater quality, considering:~~

~~(A) The physical and chemical characteristics of the waste in the solid waste disposal facility, including its potential for migration;~~

~~(B) The hydrogeological characteristics of the facility and surrounding land;~~

~~(C) The quantity of groundwater and the direction of groundwater flow;~~

~~(D) The proximity and withdrawal rates of groundwater users;~~

~~(E) The current and future uses of groundwater in the area;~~

~~(F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;~~

- ~~(G) The potential for health risks caused by human exposure to waste constituents;~~
- ~~(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;~~
- ~~(I) The persistence and permanence of the potential adverse effects; and~~
- ~~ii. Potential adverse effects on hydraulically connected surface water quality, considering:~~
  - ~~(A) The volume and physical and chemical characteristics of the waste in the solid waste disposal facility;~~
  - ~~(B) The hydrogeological characteristics of the facility and surrounding land;~~
  - ~~(C) The quantity and quality of groundwater, and the direction of groundwater flow;~~
  - ~~(D) The patterns of rainfall in the region;~~
  - ~~(E) The proximity of the regulated unit to surface waters;~~
  - ~~(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;~~
  - ~~(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;~~
  - ~~(H) The potential for health risks caused by human exposure to waste constituents;~~
  - ~~(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and~~
  - ~~(J) The persistence and permanence of the potential adverse effects.~~
- ~~(c) In making any determination under 9 VAC 20-80-250D5b(6)(b) about the use of groundwater in the area around the facility, the director will consider any identification of underground sources of drinking water as identified by EPA under 40 CFR 144.8.~~
- ~~(7) Concentration limits. The director will specify in the facility permit concentration limits in the groundwater for solid waste constituents established under 9 VAC 20-80-250D5b(6). The concentration of a solid waste constituent:~~
  - ~~(a) Shall not exceed the background level of that constituent in the groundwater at the time that limit is specified in the permit; or~~

~~(b) Shall not exceed an alternate limit established by the director under '9.3. 9 VAC 20-80-760.~~

c. ~~Final~~ Detection monitoring program.

(1) ~~Final~~ Detection monitoring program shall be instituted at all facilities ~~after the compliance schedule deadlines~~ as specified in 9 VAC 20-80-250D5a. at all groundwater monitoring wells [specified in 9 VAC 20-80-250D3A(1), and 9VAC 20-80-250D2a(2)]. At a minimum, a detection monitoring program shall include the monitoring for the constituents listed in APPENDIX 5.5.

(2) The monitoring frequency for all constituents listed in APPENDIX 5.5 shall be at least semiannual during the active life of the facility (including closure) and the post-closure period. A minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed for the APPENDIX 5.5 constituents during the first semiannual sampling event. At least one sample from each well (background and downgradient) shall be collected and analyzed during subsequent semiannual sampling events. The director may specify an appropriate alternate frequency for repeated sampling and analysis during the active life (including closure) and the post-closure care period. The alternate frequency during the active life (including closure) shall be no less than annual. The alternate frequency shall be based on consideration of the following factors:

- (a) Lithology of the aquifer and unsaturated zone;
- (b) Hydraulic conductivity of the aquifer and unsaturated zone;
- (c) Groundwater flow rates;
- (d) Minimum distance between upgradient edge of the disposal unit and down-gradient monitoring well screen (minimum distance of travel); and
- (e) Resource value of the aquifer.

(3) If the owner or operator determines that there is a statistically significant increase over background as determined by a method meeting the requirements of APPENDIX 5.4.B., for one or more of the constituents listed in APPENDIX 5.5 at any monitoring well at the boundary specified under 9 VAC 20-80-250D3a(2), the owner or operator shall:

- (a) Within 14 days of this finding, notify the director of this fact indicating which constituents have shown statistically significant changes from background levels; and
- (b) Establish an assessment monitoring program meeting the requirements of 9 VAC 20-80-250D6. within 90 days except as provided for in 9 VAC 20-80-250D5c(4).

(4) The owner/operator may demonstrate that a source other than the ~~landfill unit~~ caused the contamination or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. A report documenting this demonstration shall be certified by a qualified

groundwater scientist and approved by the director. If a successful demonstration is made and approved, the owner or operator may continue detection monitoring as specified in this section. If, after 90 days, a successful demonstration is not made, the owner or operator shall initiate an assessment monitoring program as required in 9 VAC 20-80-250D6.

6. Assessment monitoring program

a. Unless exempt under 9 VAC 20-80-250D5b, the owner or operator shall implement the assessment monitoring program whenever a statistically significant increase over background has been detected for one or more of the constituents listed in the APPENDIX 5.5. The program shall, at a minimum, determine:

- (1) The rate and extent of migration of the solid waste constituents in the groundwater; and
- (2) The concentrations of the solid waste constituents in the groundwater.

b. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the owner or operator shall sample and analyze the groundwater for all constituents identified in APPENDIX 5.1. A minimum of one sample from each [~~downgradient~~ well specified in 9 VAC 20-80-250D3a(1), and 9 VAC 20-80-250D3a(2),] shall be collected and analyzed during each sampling event. For any constituent detected in the downgradient wells as a result of the complete APPENDIX 5.1 analysis, a minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed to establish background for the constituents. The director may approve an appropriate subset of monitoring wells to be sampled and analyzed for APPENDIX 5.1 constituents during assessment monitoring. The director may delete any of the APPENDIX 5.1 monitoring parameters for a landfill unit if the owner or operator demonstrates that the deleted constituents are not reasonably expected to be in or derived from the waste contained in the unit.

c. The director may specify an appropriate alternate frequency for repeated sampling and analysis for the full set of APPENDIX 5.1 constituents required by 9 VAC 20-80-250D6b during the active life (including closure) and post-closure care of the unit considering the following factors:

- (1) Lithology of the aquifer and unsaturated zone;
- (2) Hydraulic conductivity of the aquifer and unsaturated zone;
- (3) Groundwater flow rates.;
- (4) Minimum distance between upgradient edge of the disposal unit and downgradient monitoring well screen (minimum distance of travel);
- (5) Resource value of the aquifer; and
- (6) Nature (fate and transport) of any constituents detected in response to ~~this section~~ 9 VAC 20-80-250D6.

d. After obtaining the results from the initial or subsequent sampling events required in 9 VAC 20-80-250D6b., the owner or operator shall:

(1) Within 14 days, notify the director identifying the APPENDIX 5.1 constituents that have been detected;

(2) Within 90 days, and on at least a semiannual basis thereafter, resample all wells, conduct analyses for all constituents in APPENDIX 5.5, and for those constituents in APPENDIX 5.1 that are detected in response to 9 VAC 20-80-250D6b., and record their concentrations in the facility operating record. At least one sample from each well (background and downgradient) shall be collected and analyzed during these sampling events;

(3) [Within 60 days, eE]establish background concentrations for any constituents detected pursuant to 9 VAC 20-80-250D6b. or 9 VAC 20-80-250D6d(2);

(4) [Within 60 days, eE]establish groundwater protection standards for all constituents detected pursuant to paragraph 9 VAC 20-80-250D6b. or 9 VAC 20-80-250D6d. The groundwater protection standards shall be established in accordance with 9 VAC 20-80-250D6h. or 9 VAC 20-80-250D6i.]; and

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~~(5) Within 90 days after establishment of the groundwater protection standards, request an amendment to the facility permit in accordance with 9 VAC 20-80-620 to incorporate the groundwater protection standards established under 9 VAC 20-80-250D6d4.]~~

e. If the concentrations of all APPENDIX 5.1 constituents are shown to be at or below background values, using the statistical procedures in APPENDIX 5.4, for two consecutive sampling events, the owner or operator shall notify the director of this finding and may return to detection monitoring.

f. If the concentrations of any APPENDIX 5.1 constituents are above background values, but all concentrations are below the groundwater protection standard established under 9 VAC 20-80-250D6h or 9 VAC 20-80-250D6i., using the statistical procedures in APPENDIX 5.4, the owner or operator shall continue assessment monitoring in accordance with this section.

g. If one or more APPENDIX 5.1 constituents are detected at statistically significant levels above the groundwater protection standard established under 9 VAC 20-80-250D6h. or 9 VAC 20-80-250D6i in any sampling event, the owner or operator shall, within 14 days of this finding, notify the director identifying the APPENDIX 5.1 constituents that have exceeded the groundwater protection standard. The owner or operator also shall:

(1)

(a) Characterize the nature and extent of the release by installing additional monitoring wells as necessary;

(b) Install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with 9 VAC 20-80-250D6d(2);

(c) Notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated

off-site if indicated by sampling of wells in accordance with 9 VAC 20-80-250D6g(1); and

(d) Initiate an assessment of corrective measures as required by 9 VAC 20-80-310A within 90 days; or

(2) May demonstrate that a source other than [the unit facility] caused the contamination, or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. A report documenting this demonstration shall be certified by a qualified groundwater scientist or approved by the director. If a successful demonstration is made the owner or operator shall continue monitoring in accordance with the assessment monitoring program pursuant to 9 VAC 20-80-250D6, and may return to detection monitoring if the APPENDIX 5.1 constituents are at or below background as specified in 9 VAC 20-80-250D6e. Until a successful demonstration is made, the owner or operator shall comply with 9 VAC 20-80-250D6g. including initiating an assessment of corrective measures.

h. The owner or operator shall determine a groundwater protection standard for each APPENDIX 5.1 constituent detected in the groundwater. The groundwater protection standard shall be:

(1) For constituents for which a maximum contaminant level (MCL) has been promulgated under Section 1412 of the Safe Drinking Water Act (Part 141, Title 40, Code of Federal Regulations), the MCL for that constituent;

(2) For constituents for which MCLs have not been promulgated, the background concentration [as approved by the director,] for the constituent established from wells in accordance with 9 VAC 20-80-250D3a1; or

(3) For constituents for which the background level is higher than the MCL identified under 9 VAC 20-80-250D6h(1) or health based levels identified under 9 VAC 20-80-250D6i., the background concentration [as approved by the director].

i. The director may establish an alternate groundwater protection standard for constituents for which MCLs have not been established by granting a variance based on the petition submitted by the owner or operator in accordance with 9 VAC 20-80-760.

7. Reserved.

8. Recordkeeping and reporting.

a. If the groundwater is monitored to satisfy the requirements of 9 VAC 20-80-250D5, the owner or operator shall:

(1) Keep records of the analyses , the associated static water level surface elevations , and the evaluations required in 9 VAC 20-80-250D5b. or 9 VAC 20-80- 250D6. throughout the active life of the facility and the post-closure care period; and

(2) Report the following groundwater monitoring information to the director:

(a) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters for each groundwater monitoring well within 15 days after completing each analysis.

(b) Annually for concentrations or values of the parameters for each groundwater monitoring well, along with the required evaluations for these parameters . During the active life of the facility, this information shall be submitted no later than March 1 following each calendar year.

(c) No later than March 1 following each calendar year as part of the annual report: results of the evaluations of groundwater surface elevations[plotted on a potentiometric map using recent groundwater data], and a description of the response to that evaluation, where applicable.

b. If the groundwater is monitored to satisfy the requirements of 9 VAC 20-80-250D6 , the owner or operator shall:

(1) Keep records of the analyses and evaluations throughout the active life of the facility, and throughout the post-closure care period as well; and

(2) Annually, until final closure of the facility, submit to the director a report containing the results of his groundwater quality assessment program which includes, but is not limited to, the calculated or measured rate of migration of solid waste constituents in the groundwater during the reporting period. This information shall be submitted no later than March 1 following each calendar year.

#### E. Closure.

1. Closure criteria. All sanitary landfills shall be closed in accordance with the procedures set forth as follows:

a. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, decomposition gas migration, or to the atmosphere.

b. Final cover system. Owner or operator of all sanitary landfills shall install a final cover system that is designed to achieve the performance requirements of 9 VAC 20-80-250E1a.

(1) The final cover system shall be designed and constructed to:

(a) Have a hydraulic conductivity less than or equal to the hydraulic conductivity of any bottom liner system or natural subsoils present, or a hydraulic conductivity no greater than  $1 \times 10^{-5}$  cm/sec, whichever is less, and

(b) Minimize infiltration through the closed disposal unit by the use of an infiltration layer that contains a minimum 18 inches of earthen material, and

(c) Minimize erosion of the final cover by the use of an erosion layer that contains a minimum of 6 inches of earthen material that is capable of sustaining native plant growth[and provide for protection of the infiltration layer from the effects of erosion, frost, and wind].

(2) Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33% will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual. To prevent ponding of water, the top slope shall be at least two percent after allowance for settlement.

2. The director may approve an alternate final cover design that includes:
  - a. An infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer specified in 9 VAC 20-80-250E1b(1)(a), and
  - b. An erosion layer that provides equivalent protection from wind and water erosion as the erosion layer specified 9 VAC 20-80-250E1b(1)(c). ~~If the director approves the use of synthetic flexible membrane liner as the infiltration layer or the upper portion of the infiltration layer, the erosion layer shall be no less than two feet thick.~~
3. Closure plan and amendment of plan.
  - a. The owner or operator of a solid waste disposal facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at the point of the permit period when the operation will be the most extensive and at the end of its intended life. The closure plan shall include, at least:
    - (1) A description of those measures to be taken and procedures to be employed to comply with 9 VAC 20-80-250E.
    - (2) An estimate of the largest area ever requiring a final cover as required at any time during the active life;
    - (3) An estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility; and
    - (4) A schedule for final closure which shall include, at a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.
  - b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan. The amended closure plan shall be placed in the operating record.
  - c. ~~Unless the director has previously approved the closure plan, The owner or operator shall notify the director that a closure plan or whenever an amended closure plan has been prepared and placed in the operating record no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.~~ The owner or operator shall notify the director that a closure plan or whenever an amended closure plan has been prepared and placed in the operating record no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.
  - d. Prior to beginning closure of each solid waste disposal unit, the owner or operator shall notify the director of the intent to close.

e. If the owner or operator intends to use an alternate final cover design, he shall submit a proposed design meeting the requirements of 9 VAC 20-80-250E2 to the director at least 180 days before the date he expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt. [

f. Closure plans, and amended closure plans not previously approved by the director shall be submitted to the department at least 180 days before the date the owner or operator expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt. ]

4. Time allowed for closure.

a. The owner or operator shall begin closure activities of each unit no later than 30 days after the date on which the unit receives the known final receipt of wastes or, if the unit has remaining capacity and there is a reasonable likelihood that the unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the director if the owner or operator demonstrates that the unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed unit.

b. The owner or operator shall complete closure activities of each unit within six months following the beginning of closure[~~, as specified in § 5.1.E.4.a. [9 VAC 20-80-250E4a, 260E3a, 270E3a.]~~The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that the owner or operator has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive unit.

5. Closure implementation.

a. The owner or operator shall close each unit with a final cover as specified in 9 VAC 20-80-250E1b., grade the fill area to prevent ponding, and provide a suitable vegetative cover. Vegetation shall be deemed properly established when it has survived the first mowing and there are no large areas void of vegetation.

b. Following closure of each unit, the owner or operator shall submit to the director a certification, signed by ~~a[n independent]~~ registered professional engineer verifying that closure has been completed in accordance with the ~~closure plan~~ requirements of this part This certification shall include the results of the CQA/QC requirements under 9 VAC 20-80- 250B18a(2)(e).

c. The owner or operator shall properly bait the site for rodent and vector control before final closure is initiated.

d. Following the closure of all units the owner or operator shall:

(1) Post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

(2) Within 90 days, submit to the local land recording authority a survey plat prepared by a professional land surveyor registered by the Commonwealth or a person qualified in accordance with Title 54 of the Code indicating the location and dimensions of landfill disposal areas. Monitoring well locations should be included and identified by the number on the survey plat. The plat filed with the local land recording authority shall contain a note, prominently displayed, which states the owner's or operator's future obligation to restrict disturbance of the site as specified.

(3) Record a notation on the deed to the facility property, or on some other instrument which is normally examined during title searches, notifying any potential purchaser of the property that the land has been used to manage solid waste and its use is restricted under 9 VAC 20-80-250F4c. A copy of the deed notation as recorded shall be filed with the department.

6. Inspection. The department shall inspect all solid waste management units ~~[that have been closed to~~ at the time of closure to confirm that ~~determine if~~ the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with these regulations. Notification by the department that the closure is satisfactory does not relieve the operator of responsibility for corrective action to prevent or abate problems caused by the facility.

[7. Post Closure Period. The post closure care period begins on the date of the certification signed by a registered professional engineer as required in 9 VAC 20-80-250E5b. Unless a facility completes all provisions of 9 VAC 20-80-250E.5. the department will not consider the facility closed, and the beginning of the post closure care period will be postponed until all provisions have been completed. If the department's inspection required by 9 VAC 20-80-250E6. reveals that the facility has not been properly closed in accordance with this part, post closure will begin on the date that the department acknowledges proper closure has been completed.]

#### **F. Post-Closure Care Requirements**

1. Following closure of each disposal unit, the owner or operator shall conduct post-closure care. Post-closure care shall consist of at least the following:

- a. Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover;
- b. Maintaining and operating the leachate collection system in accordance with the requirements in 9 VAC 20-80-290 and 9 VAC 20-80-300. The director may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;
- c. Monitoring the groundwater in accordance with the requirements of 9 VAC 20-80-250D. and maintaining the groundwater monitoring system, if applicable; and

- d. Maintaining and operating the gas monitoring system in accordance with the requirements of 9 VAC 20-80-280.
2. The post-closure care shall be conducted:
  - a. For 10 years in case of facilities that ~~will~~ ceased to accept wastes ~~by~~ before October 9, 1993; or
  - b. For 30 years in case of facilities that ~~will~~ received wastes after October 9, 1993; or
  - c. As provided in 9 VAC 20-80-250F3.
3. The length of the post-closure care period may be:
  - a. Decreased by the director if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the director; or
  - b. Increased by the director if the director determines that the lengthened period is necessary to complete the corrective measures or to protect human health and the environment. [If the post-closure period is increased, the owner or operator shall submit a revised post-closure plan for review and approval, and continue post-closure monitoring and maintenance in accordance with the approved plan.]
4. The owner or operator shall prepare a written post-closure plan that includes, at a minimum, the following information:
  - a. A description of the monitoring and maintenance activities required in 9 VAC 20-80-250F1. for each disposal unit, and the frequency at which these activities will be performed;
  - b. Name, address, and telephone number of the person or office to contact about the facility during the post-closure period; and
  - c. A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements of this chapter. The director may approve any other disturbance if the owner or operator demonstrates that disturbance of the final cover, liner or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.
5. ~~Unless the director has previously approved the post-closure care plan,~~ The owner or operator shall [submit a post-closure care plan for review and approval by ~~notify~~ ] the director that whenever a post-closure care plan has been prepared or amended [and placed in the ~~Those post-closure care plans that have been placed in a facility's~~ ] operating record [must be reviewed and approved by the director prior to implementation] not later than October 9, 1993[during the life of the facility].
6. Following completion of the post-closure care period for each disposal unit, the owner or operator shall submit to the director a certificate~~ion~~, signed by an ~~independent~~ registered professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan.[The certificate shall be accompanied by an evaluation, prepared by a professional engineer licensed in the Commonwealth and signed by the owner or

operator, assessing and evaluating the landfill's potential for harm to human health and the environment in the event that post-closure monitoring and maintenance are discontinued.]

**9 VAC 20-80-260 Construction/demolition/debris (CDD) Landfills.** Construction/demolition/debris landfills may only receive demolition waste, construction waste, debris waste, land clearing debris, ~~and discarded tires, and white goods free of chloroflouorocarbons and PCBs~~ . No other wastes are authorized for the CDD landfill. ~~White goods free of chlorofluorohydrocarbons and PCBs may also be accepted.~~

A. Siting. The following criteria apply to all CDD landfills:

1. CDD landfills shall not be sited or constructed in areas subject to base floods unless it can be shown that the facility can be protected from inundation or washout and that the flow of water is not restricted.
2. CDD landfills shall not be sited in geologically unstable areas where inadequate foundation support for the structural components of the landfill exists. Factors to be considered when determining unstable areas shall include:
  - a. Soil conditions that may result in differential settling and subsequent failure of containment structures;
  - b. Geologic or geomorphologic features that may result in sudden or non-sudden events and subsequent failure of containment structures;
  - c. Man-made features or events (both surface and subsurface) that may result in sudden or non-sudden events and subsequent failure of containment structures;
  - d. Presence of sink holes within the disposal area.
3. Acceptable CDD landfill sites shall allow for adequate area and terrain for management of leachate if generated.
4. CDD landfill disposal area shall not be closer than 200 feet to any residence, school, hospital, nursing home or recreational park area.
5. CDD ~~landfill~~ disposal or leachate storage unit may not be located closer than:
  - a. 100 feet of any regularly flowing surface water body or river,
  - b. 200 feet of any well, spring or other groundwater source of drinking water, or
  - c. One thousand feet from the nearest edge of the right-of-way of any interstate or primary highway or 500 feet from the nearest edge of the right-of-way of any other highway or city street, except the following:
    - (1) Units which are screened by natural objects, plantings, fences, or other appropriate means so as ~~not to be visible~~ to minimize the visibility from the main-traveled way of the highway or city street, or otherwise removed from sight;
    - (2) Units which are located in areas which are zoned for industrial use under authority of state law or in unzoned industrial areas as determined by the Commonwealth Transportation Board; or

- (3) Units which are not visible from the main-traveled way of the highway or city street.

NOTE: This requirement is based on § 33.1-348, Chapter 6, Title 33.1, of the Code, which should be consulted for detail. The regulatory responsibility for this standard rests with the Virginia Department of Transportation.

6. Wetlands. New CDD landfills and lateral expansions of existing facilities shall not be located in wetlands, unless the owner or operator can make the following demonstrations to the director:
  - a. Where applicable under § 404 of the Clean Water Act or applicable Virginia wetlands laws, the presumption that practicable alternative to the proposed landfill is available which does not involve wetlands is clearly rebutted;
  - b. The construction and operation of the facility will not:
    - (1) Cause or contribute to violations of any applicable water quality standard,
    - (2) Violate any applicable toxic effluent standard or prohibition under § 307 of the Clean Water Act,
    - (3) Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973, and
    - (4) Violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;
  - c. The facility will not cause or contribute to significant degradation of wetlands. The owner or operator shall demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:
    - (1) Erosion, stability, and migration potential of native wetland soils, muds and deposits used to support the facility;
    - (2) Erosion, stability, and migration potential of dredged and fill materials used to support the facility;
    - (3) The volume and chemical nature of the waste managed in the facility;
    - (4) Impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;
    - (5) The potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and
    - (6) Any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected.
  - d. To the extent required under § 404 of the Clean Water Act or applicable Virginia wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by 9 VAC 20-80-260A6a., then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable

wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); ~~and~~

e. Furnish a copy of final determinations on 9 VAC 20-80-260A6a through 9 VAC 20-80-260A6d obtained from the U.S. Army Corps of Engineers as they pertain to federal wetlands; and

f. Sufficient other information ~~is available~~ to enable the department to make a reasonable determination with respect to these demonstrations.

7. No new facility shall be located in areas where groundwater monitoring cannot be conducted in accordance 9 VAC 20-80-260D. Factors to be considered in determining whether or not a site can be monitored shall include:

a. Ability to characterize the direction of groundwater flow within the uppermost aquifer;

b. Ability to characterize and define any releases from the landfill so as to determine what corrective actions are necessary; and

c. Ability to perform corrective action as necessary.

d. Ability to install a double liner system with a leachate collection system above the top liner and a monitoring collection system between the two liners.

8. The following site characteristics may also prevent approval or require substantial limitations on the site use or require substantial limitations on the site use or require incorporation of sound engineering controls:

a. Excessive slopes (greater than 33%);

b. ~~[Unavailability of cover materials]~~ Lack of readily available cover materials on site, or lack of a firm commitment for adequate cover material from a borrow site];

c. Springs, seeps, or other groundwater intrusion into the site;

d. The presence of gas, water, sewage, or electrical or other transmission lines under the site; or

e. The prior existence on the site of an open dump, unpermitted landfill, lagoon, or similar facility, even if such facility is closed, will be considered a defect in the site unless the proposed landfill can be isolated from the defect by facility construction and the groundwater under the site can be effectively monitored.

9. In strip mine pits, all coal seams and coal outcrops shall be isolated from solid waste materials by a minimum of 5 feet of natural or compacted soils with a hydraulic conductivity equal to or less than  $1 \times 10^{-7}$  cm per second.

10. Specific site conditions may be considered in approving an exemption of a site from the siting restrictions of 9 VAC 20-80-260A7 and 9 VAC 20-80-260A8 ~~above~~.

**B. Design/construction.**

1. All CDD landfill facilities shall be surrounded on all sides by natural barriers, fencing, or an equivalent means of controlling vehicular access. All access will be limited to gates, and such gates shall be securable and equipped with locks.

2. Access roads extending from the public road to the entrance of a facility or site shall be all weather, and shall be provided with a base capable of withstanding anticipated heavy vehicle loads.

3. CDD landfill facilities should be provided with an adequately lighted and heated shelter where operating personnel have access to essential sanitation facilities. Lighting, sanitation facilities and heat may be provided by portable equipment as necessary.

4. Aesthetics shall be considered in the design of a facility or site. Use of artificial or natural screens shall be incorporated into the design for site screening and noise attenuation. The design should reflect those requirements, if any, that are determined from the long-range plan for the future use of the site.

5. All CDD landfill facilities shall be equipped with permanent or mobile telephone or radio communications.

6. A CDD landfills shall be designed to divert surface water runoff from a 25 year, 24 hour storm away from disposal areas. The design shall provide that any surface water runoff is managed so that erosion is well controlled and environmental damage is prevented.

7. Each CDD landfill facility shall be constructed in accordance with approved plans, which shall not be subsequently modified without approval by the department.

8. A leachate collection system and removal system and leachate monitoring program shall be required as detailed in 9 VAC 20-80-290. Surface impoundments or other leachate storage structures shall be so constructed that discharge to groundwater will not occur. Leachate derived from the CDD landfill may be recirculated provided the CDD disposal unit is designed with a composite liner as required by 9 VAC 20-80-250B9 and a leachate collection system as required by 9 VAC 20-80-290.

9. A decomposition gas venting system or gas monitoring program is ~~not~~ required unless the [owner or operator can demonstrate to the] department ~~[finds,]~~ that gas formation is [not] a problem at the permitted landfill. A venting system will be essential at any time the concentration of methane generated exceeds twenty five per cent of the lower explosive limit within any structure or at the boundary line. When required, the control of the decomposition gases shall be carried out in accordance with 9 VAC 20-80-280. Gas migration to the boundary requires the immediate installation of barriers to prevent migration off site.

10. Final contours of the finished landfill shall be specified. Design of final contours shall consider subsequent site uses, existing natural contours, surface water management requirements, and the nature of the surrounding area. The final elevation of the landfill shall be limited by the structural capacity of the liner and leachate collection and removal system. The

final contour shall not cause structural damage or collapse of the leachate collection system. [Two survey bench marks shall be established and maintained on the landfill site, and its location identified or recorded on drawings and maps of the facility.]

11. A groundwater monitoring system shall be installed at all new and existing CDD landfills in accordance with the requirements of 9 VAC 20-80-260D3.
12. Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33 percent will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual.
13. Solid waste disposal shall be at least 50 feet from the facility boundary.
14. All CDD landfills shall be underlain by a liner system as follows:
  - a. Compacted clay:
    - (1) A liner consisting of at least one foot layer of compacted soil with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  cm per second.
    - (2) The liner shall be placed with a minimum of two percent slope for leachate drainage.
    - (3) The liner shall be covered with a minimum one-foot thick drainage layer composed of material having a hydraulic conductivity of no less than  $1 \times 10^{-5}$  cm per second when placed.
  - b. Synthetic liners:
    - (1) Synthetic liner consisting of a minimum 30-mil thick flexible membrane. If high density polyethylene is used, it shall be at least 60-mil thick. Synthetic liners shall be proven to be compatible with the solid waste and its leachate.
    - (2) The liner shall be placed in accordance with an approved construction quality control/quality assurance program submitted with the design plans.
    - (3) The base under the liner shall be a smooth rock-free base or otherwise prepared to prevent causing liner failure.
    - (4) The liner shall be placed with a minimum of two percent slope for leachate drainage.
    - (5) The liner shall be protected with a 12-inch drainage layer and six inches of a protective layer.
  - c. Other Liners:
    - (1) Other augmented compacted clays or soils may be used as a liner provided the thickness is equivalent and the hydraulic conductivity will be equal to or less than that for compacted clay alone.
    - (2) The effectiveness of the proposed augmented soil liner shall be documented by using appropriate laboratory tests.

(3) Be placed with a minimum of two percent slope for leachate drainage.

d. In-place soil:

(1) Where the landfill will be separated from the groundwater by low hydraulic conductivity soil as indicated by appropriate laboratory tests, which is natural and undisturbed, and provides equal or better performance in protecting groundwater from leachate contamination, a liner can be developed by manipulation of the soil to form a liner with equivalent thickness and hydraulic conductivity equal to or less than that of the clay liner.

(2) Be prepared with a minimum of two percent slope for leachate drainage.

e. Double liners required or used in lieu of groundwater monitoring shall include:

(1) Base preparation to protect the liner.

(2) A bottom or secondary liner which is ~~synthetic or clay~~, synthetic or augmented soil as indicated in 9 VAC 20-80-260B14a, 9 VAC 20-80-260B14b, and 9 VAC 20-80-260B14c.

(3) A drainage layer of 12 inches of  $1 \times 10^{-3}$  cm per second permeable material with a network of 4 inch diameter schedule 80 PVC perforated pipe leachate drain above the bottom or secondary liner to function as a witness zone or monitoring zone.

(4) The primary liner as indicated in 9 VAC 20-80-260B14b.

(5) A drainage layer for leachate removal and protective layer of 12 inches of granular material with a hydraulic conductivity of  $1 \times 10^{-3}$  cm per second or greater (lab tested) placed above the drainage layer.

15. If five-foot separation from seasonal high groundwater can be demonstrated, a separate, unlined area may be established to receive only stumps, brush, leaves and land clearing debris. Such an unlined area may not receive any other solid waste.

16. A fire break of 50 feet shall be designed around the disposal area and all tree lines.

17. Construction quality assurance program.

a. General.

(1) A construction quality assurance (CQA) program is required for all landfill units. The program shall ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program shall be developed and implemented under the direction of ~~[an independent]~~ CQA officer who is a registered professional engineer.

(2) The CQA program shall address the following physical components, where applicable:

(a) Foundations;

(b) Low-hydraulic conductivity soil liners;

- (c) Synthetic membrane liners;
- (d) Leachate collection and removal systems; and
- (e) Final cover systems.

b. Written CQA plan. The owner or operator shall develop and implement a written CQA plan. The plan shall identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan shall include:

- (1) Identification of applicable units, and a description of how they will be constructed.
- (2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.
- (3) A description of inspection and sampling activities for all unit components identified in 9 VAC 20-80-260B17a(2) including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description shall cover: sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded.

c. Contents of program. The CQA program shall include observations, inspections, tests, and measurements sufficient to ensure:

- (1) Structural stability and integrity of all components of the unit identified in 9 VAC 20-80-260B17A2;
- (2) Proper construction of all components of the liners, leachate collection and removal system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g.. pipes) according to design specifications;
- (3) Conformity of all materials used with design and other material specifications;
- (4) [Confirmation of the Pp]ermeability of the soil liner using an *in situ* testing method.

d. Certification. Waste shall not be received in a landfill unit until the owner or operator has submitted to the director by certified mail or hand delivery a certification signed by [the ~~an independent~~] CQA officer that the approved CQA plan has been successfully carried out and that the unit meets the requirements of this section. Documentation supporting the CQA officer's certification shall be submitted to the director upon request.

C. Operation.

1. Access to a facility shall be permitted only when an attendant is on duty and only during daylight hours, unless otherwise specified in the permit for the facility. ~~The operator shall designate the disposal locations for each load of waste in accordance with the approved operation plan.~~
2. Litter shall be confined to refuse holding and operating areas by fencing or other suitable means.
3. Dust, odors, and vectors shall be effectively controlled so they do not constitute nuisances or hazards.
4. Safety hazards to operating personnel shall be prevented through an active safety program.
5. Adequate numbers and types of properly maintained equipment shall be available to a facility for the performance of operation. Provision shall be made for substitute equipment to be available within 24-hours should the former become inoperable or unavailable.
6. Open burning shall be prohibited.
7. Solid waste shall not be deposited in, nor shall it be permitted to enter any surface waters or ground waters.
8. Salvaging may be permitted by a solid waste disposal facility operator, but shall be controlled within a designated salvage area to preclude interference with operation of the facility and to avoid the creation of hazards or nuisances.
9. Reasonable records shall be maintained on the amount of solid waste received and processed to include date, quantity by weight or volume, and origin. Such information shall be made available to the department for examination or use when requested.
10. Fire breaks shall be installed in layers periodically as established in the facility permit. Such fire breaks shall consist of borrow materials deemed suitable as intermediate cover, and shall be placed on the top, side slopes, and working faces of the fill to a depth of at least one foot. The requirements for fire breaks may be waived, however, if the waste materials are non-combustible.
11. Compaction and cover requirements.
  - a. Waste materials shall be compacted in shallow layers during the placement of disposal lifts to minimize differential settlement.
  - b. Compacted soil cover shall be applied as needed for safety and aesthetic purposes. A minimum one foot thick progressive cover shall be maintained weekly such that top of the lift is fully covered at the end of the work week. A fire break will be installed on the work

face as required in the facility permit. The open working face of a landfill shall be kept as small as practicable, determined by the tipping demand for unloading.

c. When waste deposits have reached final elevations, or disposal activities are interrupted for 15 days or more, waste deposits shall receive a one-foot thick intermediate cover and graded to prevent ponding and to accelerate surface run-off.

d. Upon completion of disposal operations, or when operations are to be suspended for six months or more, a final covering cap designed in accordance with 9 VAC 20-80- 260E. shall be placed, graded, and seeded with appropriate vegetative cover and cover support layers.

e. Vegetative cover with proper support layers shall be established and maintained on all exposed final cover material within four months after placement, or as otherwise specified by the department when seasonal conditions do not otherwise permit.

12. Groundwater monitoring program meeting the requirements of 9 VAC 20-80-260D shall be implemented.

13. Corrective Action Program. A corrective action program meeting the requirements of 9 VAC 20-80-310. is required whenever the groundwater protection level is exceeded.

14. Leachate from a solid waste disposal facility shall not be permitted to drain or discharge into surface waters except when authorized under a ~~Virginia NPDES~~ VPDES permit issued pursuant to the State Water Control Board Regulation (9 VAC 25-30-10 *et seq.*), ~~NPDES Program or otherwise approved by that agency.~~

15. All items designed in accordance with the requirements of 9 VAC 20-80-260B shall be properly maintained.

#### **D. Groundwater monitoring.**

##### **1. Applicability.**

a. Owners or operators of existing CDD landfills shall be in compliance with the groundwater monitoring requirements specified in this section, except as provided for in 9 VAC 20-80-260D1c.

b. Owners or operators of new facilities shall be in compliance with the groundwater monitoring requirements specified in this section before waste can be placed in the landfill except as provided for in 9 VAC 20-80-260D.1.c.

c. Groundwater monitoring requirements under 9 VAC 20-80-260D may be suspended by the director for a CDD landfill unit or facility if the owner or operator can demonstrate that there is no potential for migration of constituents of solid wastes listed in APPENDIX 5.1 to the uppermost aquifer during the active life of the unit and the post-closure care period. This demonstration shall be certified by a qualified groundwater scientist and shall be based upon:

- (1) Site-specific field collected measurements, sampling and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and

(2) Contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and environment.

2. General requirements.

a. Owners or operators of CDD landfills shall implement a groundwater monitoring program capable of determining the facility's impact on the quality of groundwater in the uppermost aquifer underlying the facility.

b. Owners or operators shall install, operate, and maintain a groundwater monitoring system which meets the requirements of 9 VAC 20-80-260D3 and shall comply with 9 VAC 20-80-260D4 ~~through 9 VAC 20-80-260D.8.~~ and 9 VAC 20-80-260D5. This groundwater monitoring shall be carried out during the active life of the facility and during the post-closure care period.

c. The groundwater monitoring and reporting requirements set forth herein are minimum requirements. The director may require, by amending the permit, any owner or operator to install, operate and maintain a groundwater monitoring system and program that contains the requirements more stringent than this chapter imposes, whenever he ~~or the State Water Control Board~~ determines that such requirements are necessary to prevent significant adverse effects on public health and environment. ~~The Director will consult with and obtain assistance from the State Water Control Board before imposing more stringent monitoring requirements under 9 VAC 20-80-260D.2.e.~~

3. Groundwater monitoring system.

a. A groundwater monitoring system shall be capable of yielding groundwater samples for analysis and shall consist of:

(1) At least one monitoring well installed hydraulically upgradient from the waste management unit boundary. Their number, locations, and depths shall be sufficient to yield groundwater samples that are:

(a) Representative of background groundwater quality in the uppermost aquifer near the facility; and

(b) Not affected by the facility.

(2) At least three monitoring wells installed hydraulically downgradient at the waste management unit boundary or closest practicable distance from such boundary. Their number, locations, and depths shall insure that they immediately detect any statistically significant amounts of solid waste constituents that migrate from the waste management area to the uppermost aquifer.

b. All monitoring wells, sized adequately for proper sampling, shall be cased and grouted in a manner that maintains the integrity of the monitoring well bore hole. This casing shall be screened or perforated, and packed with gravel or sand where necessary, to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space above the sampling depth shall be sealed with a suitable material to prevent contamination of samples and the groundwater.

c. A log shall be made of each newly installed monitoring well describing the soils or rock encountered and the hydraulic conductivity of formations. A copy of the logs with appropriate maps shall be sent to the department ~~for transmission to the State Water Control Board.~~

4. Sampling and analysis. The groundwater sampling and analysis requirements for the groundwater monitoring system are as follows:

a. The groundwater monitoring program shall include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of the groundwater quality at the background and downgradient wells. At a minimum the program shall include procedures and techniques for:

- (1) Sample Collection,
- (2) Sample preservation and shipment,
- (3) Analytical procedures, ~~and~~
- (4) Chain of custody control, and
- (5) Quality assurance and quality control.

b. The groundwater monitoring program shall include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure solid waste constituents in groundwater samples. The sampling and analysis methods set forth in EPA document SW-846 shall be used, and the department may require resampling if it believes the samples were not properly sampled or analyzed.

c. The owner or operator shall determine the groundwater flow rate and direction of groundwater in the uppermost aquifer at least annually.

d. Elevation of the static water level at each monitoring well shall be determined each time a sample is obtained.

e. Background quality at existing units may be based on sampling of wells that are not upgradient from the waste management area where:

- (1) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; and
- (2) Sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells.

~~5. Phase I monitoring. Phase I monitoring is required at all CDD landfills except as otherwise provided in Phase II and Phase III (9 VAC 20-80-260D6 and 9 VAC 20-80-260D7).~~

~~a. At a minimum, the owner or operator shall determine the concentration or value of the following parameters in groundwater samples:~~

~~(1) Parameters establishing groundwater quality:~~

- ~~\_\_\_\_\_~~ Hardness
- ~~\_\_\_\_\_~~ Sodium
- ~~\_\_\_\_\_~~ Chloride
- ~~\_\_\_\_\_~~ Iron
- ~~\_\_\_\_\_~~ Lead

~~\_\_\_\_\_~~ (2) Parameters used as indicators of groundwater contamination:

- ~~\_\_\_\_\_~~ Specific conductance
- ~~\_\_\_\_\_~~ pH
- ~~\_\_\_\_\_~~ TOC
- ~~\_\_\_\_\_~~ TOX

~~\_\_\_\_\_~~ b. During the first year of groundwater monitoring:

~~\_\_\_\_\_~~ (1) For all monitoring wells, the owner or operator shall establish background groundwater quality for each of the monitoring parameters of constituent specified in 9 VAC 20 80 260D.5.a shall do this quarterly for one year.

~~\_\_\_\_\_~~ (2) For each of the indicator parameters specified in 9 VAC 20 80 260D5a(2) at least four replicate measurements shall be obtained for each sample and the initial background arithmetic mean and variance shall be determined by pooling the replicate measurements for the respective parameter concentrations or values in samples obtained from upgradient wells during the first year.

~~\_\_\_\_\_~~ c. After the first year, all monitoring wells shall be sampled and the samples analyzed with the following frequencies:

~~\_\_\_\_\_~~ (1) Samples collected to establish groundwater quality (9 VAC 20 80 260D5a(1)) shall be obtained and analyzed for the specified parameters at least annually.

~~\_\_\_\_\_~~ (2) Samples collected to indicate groundwater contamination (9 VAC 20 80 260D5a(2)) shall be obtained and analyzed with at least four (4) replicate measurements on each sample for the parameters at least semiannually.

~~\_\_\_\_\_~~ d. At least annually the owner or operator shall evaluate the data on static groundwater surface elevations to determine whether the requirements for locating the monitoring wells continue to be satisfied. If the evaluation shows that 9 VAC 20 80 260D3a is no longer satisfied, the owner or operator shall immediately modify the number, location, or depth of the monitoring wells to bring the groundwater monitoring system into compliance with that requirement.

~~\_\_\_\_\_~~ e. Evaluation and response.

~~\_\_\_\_\_~~ (1) After the first year information has been collected, for each indicator parameter specified in 9 VAC 20 80 260D5a(2) the owner or operator shall calculate the arithmetic mean and variance, based on at least four replicate measurements on each

~~sample, for each well monitored, and compare these results with the upgradient wells and each well's own initial background arithmetic mean. The comparison shall consider individually, each of the wells in the monitoring system, and shall use the Student's t test (see APPENDIX 5.2) at the 0.05 level of significance to determine statistically significant increases (and decreases in the case of pH) over initial background. As an alternative to the use of the Student's t test, the owner or operator may chose to apply one of the statistical methods listed in APPENDIX 5.4, provided the test chosen meets the required performance standards.~~

~~(a) If the comparisons for the upgradient wells show a statistically significant increase (or pH decrease), the owner or operator shall submit this information in accordance with 9 VAC 20 80 260D8a(2).~~

~~(b) If the comparisons for downgradient wells show a statistically significant increase (or pH decrease) the owner or operator shall obtain within 30 days additional groundwater samples from those wells, split the samples in two, and obtain analyses of all additional samples to determine whether the statistically significant difference was a result of laboratory error.~~

~~(2) If the preceding analysis confirms the statistically significant increase (or pH decrease), the owner or operator shall provide written notice to the director, within fourteen days of the date of such confirmation, that the facility may be affecting groundwater quality and that Phase II monitoring program will be implemented.~~

~~(3) Within 60 days, establish a Phase II detection monitoring program meeting the requirements of 9 VAC 20 80 260D6.~~

~~(4) If the comparison required by 9 VAC 20 80 260D5e(1) does not show a statistically significant increase (or pH decrease), the owner or operator shall submit this information in accordance with 9 VAC 20 80 270D8a(2).~~

~~(5) On the basis of the information received from the owner or operator under 9 VAC 20 80 260D5e(3), the director shall amend the facility permit in accordance with 9 VAC 20 80 620 by specifying conditions that are designed to ensure that solid waste constituents under 9 VAC 20 80 260D9, entering the groundwater do not exceed the concentration limits under 9 VAC 20 80 260D10 in the uppermost aquifer underlying the waste management boundary during the compliance period.~~

5. Groundwater Monitoring Program. Groundwater monitoring program shall be instituted at all CDD landfills in accordance with the requirements contained in APPENDIX 5.6.

6. Phase II Monitoring Program

~~a. The owner or operator shall implement the Phase II monitoring program which satisfies the requirements of 9 VAC 20 80 260D6. at a minimum, determine:~~

~~(1) The rate and extent of migration of the solid waste constituents in the groundwater; and~~

~~(2) The concentrations of the solid waste constituents in the groundwater.~~

b. In addition to parameters specified in 9 VAC 20-80-260D6a, at a minimum, a Phase II monitoring program shall include the following monitoring parameters:

(1) The following inorganic constituents:

- \_\_\_\_\_ Arsenic
- \_\_\_\_\_ Barium
- \_\_\_\_\_ Cadmium
- \_\_\_\_\_ Chromium
- \_\_\_\_\_ Copper
- \_\_\_\_\_ Cyanide
- \_\_\_\_\_ Mercury
- \_\_\_\_\_ Selenium
- \_\_\_\_\_ Silver
- \_\_\_\_\_ Zinc

(2) The following organic constituents:

- |  |                                 |
|--|---------------------------------|
| _____ Acrylonitrile                    | _____ Hexachlorobenzene         |
| _____ Aldrin                           | _____ Hexachlorobutadiene       |
| _____ Benzene                          | _____ Hexachloroethane          |
| _____ Bis(2-chloroethyl) ether         | _____ Lindane                   |
| _____ ethyl ketone) Methylene chloride | _____ 2-Butanone (Methyl        |
| _____ Carbon disulfide                 | _____ Nitrobenzene              |
| _____ Carbon tetrachloride             | _____ Pentachlorophenol         |
| _____ Phenol                           | _____ Chlordane                 |
| _____ Chlorobenzene                    | _____ 1,1,2,2-Tetrachloroethane |
| _____ Chloroform                       | _____ Tetrachloroethylene;      |
| _____ o-Cresol                         | _____ Perchloroethylene         |
| _____ o-Dichlorobenzene                | _____ Toluene                   |
| _____ p-Dichlorobenzene                | _____ Toxaphene                 |
| _____ 1,2-Dichloroethane; Ethylene     | _____ 1,1,1-Trichloroethane;    |
| _____ dichloride                       | _____ Methylchloroform          |
| _____ 1,1-Dichloroethylene             | _____ 1,1,2-Trichloroethane     |
| _____ trans-1,2-Dichloroethene         | _____ Trichloroethene;          |
| _____ Dieldrin                         | _____ Trichloroethylene         |
| _____ 2,4-Dinitrotoluene               | _____ 2,4,6-Trichlorophenol     |

~~Endrin~~

~~Vinyl chloride~~

~~Heptachlor/Heptachlor epoxide~~

~~c. The owner or operator shall:~~

~~(1) Make his first determination under 9 VAC 20 80 260D6a. as soon as technically feasible but no later than one year after implementing Phase II monitoring program.~~

~~(2) Within 15 days after that determination, submit to the director, a written report containing an assessment of the groundwater quality.~~

~~d. If the owner or operator finds, based on the results of the first determination, that no solid waste constituents from the facility have entered the groundwater, he may then reinstate the Phase I monitoring program. If the owner or operator reinstates the Phase I monitoring program, he shall so notify the director in the report submitted under 9 VAC 20 80 260D5e(2).~~

~~e. If the owner or operator finds, based on the first determination that solid waste constituents from the facility may have entered the groundwater, then he:~~

~~(1) Shall continue to make the required determinations on a quarterly basis until Phase III monitoring program is implemented;~~

~~(2) Within a reasonable time period, sample the groundwater in all monitoring wells and determine the concentration of all constituents identified in APPENDIX 5.1 that are present in the groundwater;~~

~~(3) Establish a background value for each APPENDIX 5.1 constituent that has been found at the waste management unit boundary.~~

~~(4) Within 90 days of the completion of actions required under 9 VAC 20 80 260D6e(3), submit to the department an evaluation of the concentration of any APPENDIX 5.1 constituents found in the groundwater at each monitoring well at the waste management unit boundary.~~

~~(5) Within 180 days of the completion of actions under 9 VAC 20 80 260D6e(4), submit to the department:~~

~~(a) All data necessary to justify any variance sought for groundwater protection levels (see § 9.3.) established in the facility permit; or~~

~~(b) A plan for corrective action program in accordance with 9 VAC 20 80 310 necessary to meet the requirements for corrective action.~~

~~(6) Implement a Phase III monitoring program.~~

~~f. If the owner or operator determines that there is a statistically significant increase of parameters or constituents specified at any monitoring well at the waste management unit boundary, he may demonstrate that a source other than the landfill unit caused increase or that an error in sampling, analysis, or evaluation was committed. While the owner or operator may make a demonstration under this paragraph in addition to or in lieu of submitting the information under 9 VAC 20 80 260D6e(5), he is not relieved of the requirement to submit this information within the time specified in 9 VAC 20 80~~

~~260D6e(5) unless the demonstration made under this paragraph successfully shows that a source other than a landfill unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this paragraph, the owner or operator shall:~~

- ~~(1) Notify the director in writing within fourteen days of determining a statistically significant increase at the waste management unit boundary that he intends to make a demonstration under 9 VAC 20-80-260D6f.~~
  - ~~(2) Within 90 days, submit a report to the department which demonstrates that a source other than a landfill unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation.~~
  - ~~(3) Continue to monitor in accordance with the Phase II monitoring program established under 9 VAC 20-80-260D6, until a decision has been rendered by the department in accordance with 9 VAC 20-80-260D6g.~~
- ~~g. Based on the information submitted in accordance with 9 VAC 20-80-260D6f(2), the director will:~~
- ~~(1) In case of the demonstrated error in sampling, analysis or evaluation, allow the owner or operator to resume Phase II monitoring program under 9 VAC 20-80-260D6.; or~~
  - ~~(2) Require changes in the groundwater monitoring system which will correctly reflect the groundwater contamination from the solid waste disposal unit and allow the owner or operator to resume Phase II monitoring program under 9 VAC 20-80-260D6.; or~~
  - ~~(3) require the owner or operator to perform actions under 9 VAC 20-80-260D6e.~~
- ~~7. Phase III Monitoring Program. The purpose of the Phase III monitoring program is to support the corrective action undertaken in accordance with 9 VAC 20-80-310.~~
- ~~a. Phase III monitoring is required whenever any Phase II parameter has been detected at levels above background concentrations.~~
  - ~~b. The compliance period for Phase III monitoring programs is the number of years equal to the active life of the waste management unit (including any waste management activity prior to permitting and the closure period). This period begins when the owner or operator initiates a Phase III monitoring program meeting the requirements of 9 VAC 20-80-260D7.~~
  - ~~c. If the owner or operator is engaged in a corrective action program at the end of the minimum compliance period specified in 9 VAC 20-80-260D7b, the compliance period is extended until the owner or operator can demonstrate that the groundwater protection level has not been exceeded for a period of three consecutive years.~~
  - ~~d. Phase III monitoring parameters and constituents shall include:~~
    - ~~(1) All those listed under Phase I.~~
    - ~~(2) All constituents in APPENDIX 5.1 that are determined to be present at levels above background concentrations at the waste management unit boundary.~~

- ~~e. The department shall determine an appropriate monitoring frequency on a site specific basis by considering aquifer flow rate. The following minimum frequencies apply:
  - ~~(1) Quarterly for those constituents in APPENDIX 5.1 that exceed background concentrations.~~
  - ~~(2) Annually for other parameters listed in APPENDIX 5.1.~~~~
- ~~f. If the owner or operator determines that there is a statistically significant increase over background for any constituent in 9 VAC 20 80 260D7d(2), at any monitoring well at the waste management unit boundary, he shall:
  - ~~(1) Notify the department of this finding in writing within fourteen days. The notification shall indicate what parameters or constituents have shown statistically significant increases.~~
  - ~~(2) Within 90 days, submit to the director the following information:
    - ~~(a) An evaluation of the concentration of any APPENDIX 5.1 constituents found in groundwater at each monitoring well at the compliance point.~~
    - ~~(b) Any proposed changes to the groundwater monitoring system necessary to meet the requirements of corrective action programs in accordance with 9 VAC 20 80 310.~~
    - ~~(c) Any proposed changes to the monitoring frequency or sampling procedures used at the facility necessary to meet the requirements of corrective action programs in accordance with 9 VAC 20 80 310.~~~~
  - ~~(3) Within 180 days, submit to the department:
    - ~~(a) All data necessary to justify any variance sought from the groundwater protection level or the corrective active program; or~~
    - ~~(b) A change to the plan for corrective action program in accordance with 9 VAC 20 80 310 necessary to meet the requirements of the corrective action program specified in this chapter.~~~~~~
- ~~8. Recordkeeping and reporting.
  - ~~a. If the groundwater is monitored to satisfy the requirements of 9 VAC 20 80 260D5, the owner or operator shall:
    - ~~(1) Keep records of the analyses required in 9 VAC 20 80 260D5b. and 9 VAC 20 80 260D5c., the associated static water level surface elevations required in 9 VAC 20 80 260D5d., and the evaluations required in 9 VAC 20 80 260D5e(1) throughout the active life of the facility and the post closure care period; and~~
    - ~~(2) Report the following groundwater monitoring information to the director:
      - ~~(a) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters for each groundwater monitoring well within 15 days after completing each quarterly analysis.~~~~~~~~

~~(b) Annually: concentrations or values of the parameters listed in 9 VAC 20 80-260D5a(2) for each groundwater monitoring well, along with the required evaluations for these parameters under 9 VAC 20 80-260D5e(1). The owner or operator shall separately identify any statistically significant differences from the initial background found in the upgradient wells in accordance with 9 VAC 20-80-260D5e(2)(a). During the active life of the facility, this information shall be submitted no later than March 1 following each calendar year.~~

~~(c) No later than March 1 following each calendar year as part of the annual report: results of the evaluations of groundwater surface evaluations under 9 VAC 20 80-260D5d. and a description of the response to that evaluation, where applicable.~~

~~b. If the groundwater is monitored to satisfy the requirements of 9 VAC 20 80-260D6. or 9 VAC 20 80-260D7. the owner or operator shall:~~

~~(1) Keep records of the analyses and evaluations throughout the active life of the facility, and throughout the post-closure care period as well; and~~

~~(2) Annually, until final closure of the facility, submit to the director a report containing the results of his groundwater quality assessment program which includes, but is not limited to, the calculated or measured rate of migration of solid waste constituents in the groundwater during the reporting period. This information shall be submitted no later than March 1 following each calendar year.~~

#### ~~9. Solid Waste Constituents for Groundwater Monitoring.~~

~~a. The director will specify in the facility permit the solid waste constituents to which the groundwater protection level applies. Solid waste constituents are constituents identified in APPENDIX 5.3. that may have been detected in groundwater in the uppermost aquifer underlying the waste management boundary or that are reasonably expected to be in or derived from waste contained in the solid waste disposal facility, unless the director has excluded them under 9 VAC 20 80-260D9b.~~

~~b. The director will exclude an APPENDIX 5.3. constituent from the list of solid waste constituents specified in the facility permit if he finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the director will consider the following:~~

~~(1) Potential adverse effects on groundwater quality, considering:~~

~~(a) The physical and chemical characteristics of the waste in the solid waste disposal facility, including its potential for migration;~~

~~(b) The hydrogeological characteristics of the facility and surrounding land;~~

~~(c) The quantity of groundwater and the direction of groundwater flow;~~

~~(d) The proximity and withdrawal rates of groundwater users;~~

~~(e) The current and future uses of groundwater in the area;~~

- ~~(f) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;~~
- ~~(g) The potential for health risks caused by human exposure to waste constituents;~~
- ~~(h) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;~~
- ~~(i) The persistence and permanence of the potential adverse effects; and~~
- ~~(2) Potential adverse effects on hydraulically connected surface water quality, considering:
  - ~~(a) The volume and physical and chemical characteristics of the waste in the solid waste disposal facility;~~
  - ~~(b) The hydrogeological characteristics of the facility and surrounding land;~~
  - ~~(c) The quantity and quality of groundwater, and the direction of groundwater flow;~~
  - ~~(d) The patterns of rainfall in the region;~~
  - ~~(e) The proximity of the regulated unit to surface waters;~~
  - ~~(f) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;~~
  - ~~(g) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;~~
  - ~~(h) The potential for health risks caused by human exposure to waste constituents;~~
  - ~~(i) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and~~
  - ~~(j) The persistence and permanence of the potential adverse effects.~~~~
- ~~c. In making any determination under 9 VAC 20 80 260D9b. about the use of groundwater in the area around the facility, the director will consider any identification of underground sources of drinking water as identified by EPA under 40 CFR 144.8.~~
- ~~10. Concentration limits. The director will specify in the facility permit concentration limits in the groundwater for solid waste constituents established under 9 VAC 20 80 260D9. The concentration of a solid waste constituent:
  - ~~a. Shall not exceed the background level of that constituent in the groundwater at the time that limit is specified in the permit; or~~~~

~~b. Shall not exceed an alternate limit established by the director under 9 VAC 20-80-760.~~

**E. Closure.**

1. Closure criteria. All CDD landfills shall be closed in accordance with the procedures set forth below.

a. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates the post-closure escape of uncontrolled leachate, surface runoff, decomposition gas migration, or waste decomposition products to the groundwater, surface water, or to the atmosphere.

b. Final cover system. Except as specified in 9 VAC 20-80-260E1c., owner or operator of CDD landfills shall install a final cover system that is designed to achieve the performance requirements of 9 VAC 20-80-260E1a.

(1) The final cover system shall be designed and constructed to:

(a) Have a hydraulic conductivity less than or equal to the hydraulic conductivity of any bottom liner system or natural subsoils present, or a hydraulic conductivity no greater than  $1 \times 10^{-5}$  cm/sec, whichever is less, and

(b) Minimize infiltration through the closed disposal unit by the use of an infiltration layer that contains a minimum 18 inches of earthen material, and

(c) Minimize erosion of the final cover by the use of an erosion layer that contains a minimum of 6 inches of earthen material that is capable of sustaining native plant growth [and provide for protection of the infiltration layer from the effects of erosion, frost, and wind].

(2) Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33 percent will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual. To prevent ponding of water, the top slope shall be at least two percent after allowance for settlement.

(3) The director may approve an alternate final cover design that includes:

(a) An infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer specified in 9 VAC 20-80-260E1b(1)(a) and 9 VAC 20-80-260E1b(1)(b); and

(b) An erosion layer that provides equivalent protection from wind and water erosion as the erosion layer specified 9 VAC 20-80-260E1b(1)(c). ~~If the director approves the use of synthetic flexible membrane liner as the infiltration layer or the upper portion of the infiltration layer, the erosion layer shall be no less than two feet thick.~~

c. Owners or operators of units used for the disposal of wastes consisting only of stumps, wood, brush, and leaves from landclearing operations may apply two feet of compacted soil as final cover material in lieu of the final cover system specified in 9 VAC 20-80-260E1b(1). The provisions of this section shall not be applicable to any facility with respect to which the director has made a finding that continued operation of the facility constitutes a threat to the public health or the environment.

2. Closure plan and amendment of plan.

a. The owner or operator of a solid waste disposal facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at the time when the operation will be the most extensive and at the end of its intended life. The closure plan shall include, at least:

(1) A description of those measures to be taken and procedures to be employed to comply with 9 VAC 20-80-260E when the facility will be at the point of permit issuance, when the operation will be the most extensive planned operation, and when it is to be closed. The description shall be based on conditions that would normally exist at the midpoint of the facility permit period and at the termination of the useful life of the facility;

(2) An estimate of the largest area ever requiring a final cover as required at any time during the active life;

(3) An estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility; and

(4) ~~(2)~~ A schedule for final closure shall also be provided which shall include, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan.

c. ~~Unless the director has previously approved the closure plan,~~ The owner or operator shall notify the director ~~that a closure plan or~~ whenever an amended closure plan has been prepared and placed in the operating record ~~no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.~~

d. Prior to beginning closure of each solid waste disposal unit, the owner or operator shall notify the director of the intent to close.

e. If the owner or operator intends to use an alternate final cover design, he shall submit a proposed design meeting the requirements of 9 VAC 20-80-260E1b(3) to the director at least 180 days before the date he expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt.[]

f. Closure plans, and amended closure plans not previously approved by the director shall be submitted to the department at least 180 days before the date the owner or operator

expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt. ]

3. Time allowed for closure.

a. The owner or operator shall begin closure activities of each unit no later than 30 days after the date on which the unit receives the known final receipt of wastes or, if the unit has remaining capacity and there is a reasonable likelihood that the unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the director if the owner or operator demonstrates that the unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed unit.

b. The owner or operator shall complete closure activities in accordance with the closure plan within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that the owner or operator has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. Closure implementation.

a. The owner or operator shall close each unit with a final cover as specified in 9 VAC 20-80-260E1b, grade the fill area to prevent ponding, and provide a suitable vegetative cover. Vegetation shall be deemed properly established when it has survived the first mowing and there are no large areas void of vegetation.

b. Following closure of each unit, the owner or operator shall submit to the director a certification, signed by an ~~independent~~ registered professional engineer verifying that closure has been completed in accordance with the closure plan requirements of this part. This certification shall include the results of the CQA/QC requirements under 9 VAC 20-80-260B17a(2)(e).

c. Following the closure of all units the owner or operator shall:

~~(1) 4. The owner or operator shall~~ Post one sign notifying all persons of the closing, and the prohibition against further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

~~(2) 5. Within 90 days after closure is completed, the owner or operator of a landfill shall submit to the local land recording authority a survey plat prepared by a professional land surveyor registered by the Commonwealth indicating the location and dimensions of landfill disposal areas. Monitoring well locations should be included and identified by the number on the survey plat. The plat filed with the local land recording authority shall contain a note which states the owner's or operator's future obligation to restrict disturbance of the site as specified.~~

~~(3) 6. The owner of the property on which a disposal facility is located shall record a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, notifying any potential purchaser of the~~

property that the land has been used to manage solid waste. A copy of the deed notation as recorded shall be filed with the department.

~~7. Evidence of proper closure. A landfill shall be deemed properly closed when the above actions have been taken by the owner or operator and a representative of the department verifies same by an on-site inspection.~~

5. Inspection. The department shall inspect all solid waste management units [that have been closed to at the time of closure to confirm that ~~determine if~~ the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with these regulations. Notification by the department that the closure is satisfactory does not relieve the operator of responsibility for corrective action to prevent or abate problems caused by the facility.]

6. Post Closure Period. The post closure care period begins on the date of the certification signed by a registered professional engineer as required in 9 VAC 20-80-260E4b. Unless a facility completes all provisions of 9 VAC 20-80-260E4 the department will not consider the facility closed, and the beginning of the post closure care period will be postponed until all provisions have been completed. If the department's inspection required by 9 VAC 20-80-250E5 reveals that the facility has not been properly closed in accordance with this part, post closure will begin on the date that the department acknowledges proper closure has been completed.]

#### **F. Post-Closure Care Requirements**

1. Following closure of each disposal unit, the owner or operator shall conduct post-closure care. Except as provided under 9 VAC 20-80-260F2., post-closure care shall be conducted for 10 years after the date of completing closure or for as long as leachate is generated, whichever is later, and shall consist of at least the following:

- a. Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover;
- b. Maintaining and operating the leachate collection system in accordance with the requirements in 9 VAC 20-80- 290 and 9 VAC 20-80-300, if applicable. The director may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;
- c. Monitoring the groundwater in accordance with the requirements of 9 VAC 20-80- 260D and maintaining the groundwater monitoring system, if applicable; and
- d. If applicable, maintaining and operating the gas monitoring system in accordance with the requirements of 9 VAC 20-80-280.

2. The length of the post-closure care period may be:

- a. Decreased by the director if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the director; or
  - b. Increased by the director if the director determines that the lengthened period is necessary to complete the corrective measures or to protect human health and the environment. [ If the post-closure period is increased, the owner or operator shall submit a revised post-closure plan for review and approval, and continue post-closure monitoring and maintenance in accordance with the approved plan. ]
3. The owner or operator shall prepare a written post-closure plan that includes, at a minimum, the following information:
- a. A description of the monitoring and maintenance activities required in 9 VAC 20-80-260F1 for each disposal unit, and the frequency at which these activities will be performed;
  - b. Name, address, and telephone number of the person or office to contact about the facility during the post-closure period; and
  - c. A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements of this chapter. The director may approve any other disturbance of the owner or operator demonstrates that disturbance of the final cover, liner or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.
4. ~~Unless the director has previously approved the post-closure plan,~~ The owner or operator shall [submit a post-closure care plan for review and approval by notify] the director ~~that whenever a post-closure care plan has been prepared or amended [and placed in the Those post-closure care plans that have been placed in a facility's ] and placed in the operating record [must be reviewed and approved by the director prior to implementation] not later than October 9, 1993.~~
5. Following completion of the post-closure care period for each disposal unit, the owner or operator shall submit to the director a certifi~~cation~~, signed by an ~~independent~~ registered professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan.[The certificate shall be accompanied by an evaluation, prepared by a professional engineer licensed in the Commonwealth and signed by the owner or operator, assessing and evaluating the landfill's potential for harm to human health and the environment in the event that post-closure monitoring and maintenance are discontinued.]

**9 VAC 20-80-270 Industrial waste disposal facilities.**

Facilities intended primarily for the disposal of non-hazardous industrial waste shall be subject to design and operational requirements dependent on the volume and the physical, chemical, and biological nature of the waste. Household wastes may not be disposed of in industrial waste disposal facilities. Additional requirements, to include added groundwater and decomposition gas monitoring,

may be imposed by the director depending on the volume and the nature of the waste involved as necessary to protect health or the environment.

**A. Siting.**

1. Landfills shall not be sited or constructed in areas subject to base floods unless it can be shown that the facility can be protected from inundation or washout and that flow of water is not restricted.
2. Landfills shall not be sited in geologically unstable areas where inadequate foundation support for the structural components of the landfill exists. Factors to be considered when determining unstable areas shall include:
  - a. Soil conditions that may result in differential settling and subsequent failure of containment structures;
  - b. Geologic or geomorphologic features that may result in sudden or non-sudden events and subsequent failure of containment structures;
  - c. Man-made features or events (both surface and subsurface) that may result in sudden or non-sudden events and subsequent failure of containment structures;
3. Acceptable landfill sites shall have sufficient area and terrain to allow for management of leachate.
4. No new industrial waste landfill disposal ~~area~~ leachate storage unit or expansion of existing ~~facilities~~ units shall extend closer than:
  - a. 100 feet of any regularly flowing surface water body or river,
  - b. 500 feet of any well, spring or other groundwater source of drinking water,
  - c. One thousand feet from the nearest edge of the right-of-way of any interstate or primary highway or 500 feet from the nearest edge of the right-of-way of any other highway or city street, except the following:
    - (1) Units which are screened by natural objects, plantings, fences, or other appropriate means so as ~~not to be visible~~ to minimize the visibility from the main-traveled way of the highway or city street, or otherwise removed from sight;
    - (2) Units which are located in areas which are zoned for industrial use under authority of state law or in unzoned industrial areas as determined by the Commonwealth Transportation Board;
    - (3) Units which are not visible from the main-traveled way of the highway or city street; or

NOTE: This requirement is based on §33.1-348, Chapter 6, Title 33.1, of the Code, which should be consulted for detail. The regulatory responsibility for this standard rests with the Virginia Department of Transportation.

- d. 200 feet from the active filling areas to any residence, school or recreational park area.
- e. 50 feet from the active filling areas to the facility boundary.

5. Wetlands. New industrial landfills and lateral expansions of existing facilities shall not be located in wetlands, unless the owner or operator can make the following demonstrations to the director:

a. Where applicable under § 404 of the Clean Water Act or applicable Virginia wetlands laws, the presumption that practicable alternative to the proposed landfill is available which does not involve wetlands is clearly rebutted;

b. The construction and operation of the facility will not:

- (1) Cause or contribute to violations of any applicable water quality standard,
- (2) Violate any applicable toxic effluent standard or prohibition under § 307 of the Clean Water Act,
- (3) Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973, and
- (4) Violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;

c. The facility will not cause or contribute to significant degradation of wetlands. The owner or operator shall demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:

- (1) Erosion, stability, and migration potential of native wetland soils, muds and deposits used to support the facility;
- (2) Erosion, stability, and migration potential of dredged and fill materials used to support the facility;
- (3) The volume and chemical nature of the waste managed in the facility;
- (4) Impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;
- (5) The potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and
- (6) Any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected.

d. To the extent required under § 404 of the Clean Water Act or applicable Virginia wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by 9 VAC 20-80-270A4a., then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

e. Sufficient information is available to make a reasonable determination with respect to these demonstrations.

6. No new facility shall be located in areas where groundwater monitoring cannot be conducted in accordance with 9 VAC 20-80-270D. Factors to be considered in determining whether or not a site can be monitored shall include:

- a. Ability to characterize the direction of groundwater flow within the uppermost aquifer;
- b. Ability to characterize and define any releases from the landfill so as to determine what corrective actions are necessary;
- c. Ability to perform corrective action as necessary; and,
- d. Ability to install a double liner system with a leachate collection system above the top liner and a monitoring collection system between the two liners.

7. The following site characteristics may also prevent approval or require substantial limitations on the site use or require incorporation of sound engineering controls:

- a. Excessive slopes (greater than 33%) over more than half the site area;
- b. Lack of readily available cover materials [or lack of a firm commitment for adequate cover material from a borrow site];
- c. Springs, seeps, or other groundwater intrusion into the site; ~~and~~
- d. The presence of gas, water, sewage, or electrical or other transmission lines under the site; or
- e. The prior existence on the site of a dump, unpermitted landfill, lagoon, or similar facility, even if such facility is closed, will be considered a defect in the site unless the proposed landfill can be isolated from the defect by facility construction and the groundwater under the site can be effectively monitored.

8. Specific site conditions may be considered in approving an exemption of a site from the siting restrictions of 9 VAC 20-80-270A5a and 9 VAC 20-80-270A6 ~~above~~.

**B.** Design/construction. The following design and construction requirements apply to all industrial waste landfills:

1. All facilities shall be surrounded on all sides by natural barriers, fencing, or an equivalent means of controlling public access and preventing illegal disposal. Except where the solid waste disposal facility is on site of the industrial facility where access is limited, all access will be limited to gates, and such gates shall be securable and equipped with locks.
2. Access roads to the entrance of a solid waste disposal facility or site and to the disposal area shall be passable in all weather conditions, and shall be provided with a base capable of withstanding anticipated heavy vehicle loads.
3. Each off-site solid waste disposal facility should be provided with an adequately lighted and heated shelter where operating personnel can exercise site control and have access to essential sanitation facilities. Lighting, heat and sanitation facilities may be provided by portable equipment as necessary.
4. Aesthetics shall be considered in the design of a solid waste disposal facility. Use of artificial or natural screens shall be incorporated into the design for site screening and noise attenuation.

The design should reflect those requirements, if any, that are determined from the long-range plan for the future use of the site.

5. All landfills should be equipped with permanent or mobile telephone or radio communications except where other on-site resources are available.
6. All facilities shall be designed to divert surface water runoff from a 25-year, 24-hour storm away from disposal areas. The design shall provide that any surface water runoff is managed so that erosion is well controlled and environmental damage is prevented.
7. The design shall provide for leachate management which shall include its collection, treatment, storage, and disposal and a leachate monitoring program in accordance with 9 VAC 20-80- 290.
8. Each landfill shall be constructed in accordance with approved plans, which shall not be subsequently modified without approval by the department.
9. [TwoA] survey bench mark[s] shall be established and maintained on the landfill site, and its location identified or recorded on drawings and maps of the facility.
10. Compacted lifts of deposited waste shall be of a height that is compatible with the amount received daily and the specific industrial waste being managed keeping work face to a minimum.
11. Acceptable landfill sites shall have sufficient area and terrain to allow for management of leachate.
12. A groundwater monitoring system shall be installed at all new and existing industrial landfills in accordance with the requirements of 9 VAC 20-80-270D3.
13. Drainage structures shall be installed and continuously maintained to prevent ponding and erosion, and to minimize infiltration of water into solid waste cells.
14. All landfills shall be underlain by a liner system as follows:
  - a. Compacted clay:
    - (1) A liner consisting of at least one foot layer of compacted soil with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  cm per second.
    - (2) The liner shall be placed with a minimum of two percent slope for leachate drainage.
    - (3) The liner shall be covered with a minimum one-foot thick drainage layer composed of material having a hydraulic conductivity of no less than  $1 \times 10^{-3}$  cm per second when placed.
  - b. Synthetic liners:
    - (1) Synthetic liner consisting of a minimum 30-mil thick flexible membrane. If high density polyethylene is used, it shall be at least 60-mil thick. Synthetic liners shall be proven to be compatible with the solid waste and its leachate.
    - (2) The liner shall be placed in accordance with an approved construction quality control/quality assurance program submitted with the design plans.

(3) The base under the liner shall be a smooth rock-free base or otherwise prepared to prevent causing liner failure.

(4) The liner shall be placed with a minimum of two percent slope for leachate drainage.

(5) The liner shall be protected with a 12-inch drainage layer and six inches of a protective layer.

c. Other Liners:

(1) Other augmented compacted clays or soils may be used as a liner provided the thickness is equivalent and the hydraulic conductivity will be equal to or less than that for compacted clay alone.

(2) The effectiveness of the proposed augmented soil liner shall be documented by using appropriate laboratory tests.

(3) The liner shall be placed with a minimum of two percent slope for leachate drainage.

d. In-place soil:

(1) Where the landfill will be separated from the groundwater by low hydraulic conductivity soil as indicated by appropriate laboratory tests, which is natural and undisturbed, and provides equal or better performance in protecting groundwater from leachate contamination, a liner can be developed by manipulation of the soil to form a liner with equivalent thickness and hydraulic conductivity equal to or less than that of the clay liner.

(2) The liner shall be prepared with a minimum of two percent slope for leachate drainage.

e. Double liners required or used in lieu of groundwater monitoring shall include:

(1) Base preparation to protect the liner.

(2) A bottom or secondary liner which is ~~synthetic or clay~~, synthetic or soil as indicated in 9 VAC 20-80-270B14a, 9 VAC 20-80-270B14b, 9 VAC 20-80-270B14c, or 9 VAC 20-80-270B14d.

(3) A drainage layer of 12 inches of  $1 \times 10^{-3}$  cm per second permeable material with a network of 4 inch diameter schedule 80 PVC perforated pipe leachate drain above the bottom or secondary liner to function as a witness zone or monitoring zone[, or an equivalent design].

(4) The primary liner as indicated in 9 VAC 20-80-270B14a, 9 VAC 20-80-270B14b, or 9 VAC 20-80-270B14c.

15. Leachate collection system shall be placed above the top liner in accordance with the requirements of 9 VAC 20-80-290. Surface impoundments or other leachate storage structures shall be so constructed that discharge to groundwater will not occur. Leachate derived from the industrial waste landfill may be recirculated provided the disposal unit is designed with a

composite liner as required by 9 VAC 20-80-250B9 and a leachate collection system as required by 9 VAC 20-80-290.

16. Final contours of the finished landfill shall be specified. Design of final contours shall consider subsequent site uses, existing natural contours, surface water management requirements, and the nature of the surrounding area.

17. Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33 percent will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual. The top slope shall be at least two percent to prevent ponding of water.

18. Each design shall include a gas management plan developed to control decomposition gases, unless the owner or operator can demonstrate that the chemical composition of wastes disposed clearly shows that no gases will be generated. The plan shall address the requirements of 9 VAC 20-80-280.

19. ~~18.~~ Construction quality assurance program.

a. General.

(1) A construction quality assurance (CQA) program is required for all landfill units. The program shall ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program shall be developed and implemented under the direction of a ~~an independent~~ CQA officer who is a registered professional engineer.

(2) The CQA program shall address the following physical components, where applicable:

- (a) Foundations;
- (b) Low-hydraulic conductivity soil liners;
- (c) Synthetic membrane liners;
- (d) Leachate collection and removal systems; and
- (e) Final cover systems.

b. Written CQA plan. The owner or operator shall develop and implement a written CQA plan. The plan shall identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan shall include:

- (1) Identification of applicable units, and a description of how they will be constructed.
- (2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.
- (3) A description of inspection and sampling activities for all unit components identified in 9 VAC 20-80-270B19a(2) including observations and tests that will be

used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description shall cover: sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded.

c. Contents of program. The CQA program shall include observations, inspections, tests, and measurements sufficient to ensure:

(1) Structural stability and integrity of all components of the unit identified in 9 VAC 20-80-270B19a(2);

(2) Proper construction of all components of the liners, leachate collection and removal system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g., pipes) according to design specifications;

(3) Conformity of all materials used with design and other material specifications;

(4) Confirmation of the Pp[ermeability of the soil liner using an *in situ* testing method.

d. Certification. Waste shall not be received in a landfill unit until the owner or operator has submitted to the director by certified mail or hand delivery a certification signed by [the ~~an~~ independent] CQA officer that the approved CQA plan has been successfully carried out and that the unit meets the requirements of this section. Documentation supporting the CQA officer's certification shall be submitted to the director upon request.

### C. Operation.

1. Access to an off-site solid waste disposal facility shall be permitted only when an attendant is on duty and during times specified in the permit for the facility. An on-site solid waste disposal facility may operate during the normal hours of the industrial facility it directly supports.

2. Dust, odors, and vectors shall be effectively controlled so they do not constitute nuisances or hazards.

3. Safety hazards to operating personnel shall be prevented through an active safety program.

4. Adequate numbers and types of properly maintained equipment shall be available to a facility for the performance of operation. Provision shall be made for substitute equipment to be available within 24-hours should the former become inoperable or unavailable.

5. Open burning shall be prohibited except pursuant to ~~a permit issued by the State Air Pollution Control Board under Part IV (Rule 4-40), Regulations for the Control and Abatement of Air Pollution.~~ the appropriate conditional exemptions among those listed in 9 VAC 20-80-180 B 7 b. The means shall be provided on a facility to promptly extinguish any non-permitted open burning and to provide adequate fire protection for the solid waste disposal facility as a whole. There shall be no open burning permitted on areas where solid waste has been disposed or is being used for active disposal.

6. Solid waste shall not be deposited in, nor shall it be permitted to enter any surface waters or ground waters.

7. Records of waste received from off-site sources shall be maintained on the amount of solid waste received and processed, type of waste, and source of waste. Such information shall be made available to the department on request.
8. The groundwater monitoring program shall be implemented in accordance with 9 VAC 20-80-270D.
9. Corrective Action Program. A corrective action program in accordance with 9 VAC 20-80-310 is required whenever the groundwater protection levels in ~~APPENDIX 5.3~~ are exceeded.
10. Fugitive dust and mud deposits on main site and access roads shall be controlled at all times to minimize nuisances.
11. Incinerator and air pollution control residues containing no free liquids should be incorporated into the working face and covered at such intervals as necessary to minimize them from becoming airborne.
12. Compaction and cover requirements.
  - a. Unless provided otherwise in the permit, solid waste shall be spread and compacted at the working face; which shall be confined to the smallest area practicable.
  - b. Lift heights shall be sized according to the volume of waste received daily and the nature of the industrial waste. A lift height is not required for materials such as fly ash that are not compactable.
  - c. Where it is appropriate for the specific waste, daily cover consisting of six inches of compacted earth or other suitable material shall be placed upon all exposed solid waste prior to the end of each operating day. For wastes such as fly ash and bottom ash from burning of fossil fuels, periodic cover to minimize exposure to precipitation and control dust or dust control measures such as surface wetting or crusting agents shall be applied.
  - d. Intermediate cover of at least one foot of compacted soil shall be applied whenever an additional lift of refuse is not to be applied within 30 days unless the owner or operator demonstrates to the satisfaction of the director that an alternate cover material or an alternate schedule will be protective of public health and the environment. Further, all areas with intermediate cover exposed shall be inspected as needed but not less than weekly and additional cover material shall be placed on all cracked, eroded, and uneven areas as required to maintain the integrity of the intermediate cover system.
  - e. Final covering cap designed in accordance with the requirements of 9 VAC 20-80-270E. shall be applied when the following pertain:
    - (1) When an additional lift of solid waste is not to be applied within two years.
    - (2) When any area of a landfill attains final elevation and within 90 days after such elevation is reached. The director may approve a longer period in case of inclement weather.
    - (3) When a landfill's permit is terminated within 90 days of such denial or termination.

13. Vegetative cover with proper support layers shall be established and maintained on all exposed final cover material within four months after placement, or as otherwise specified by the department when seasonal conditions do not otherwise permit.
14. No hazardous wastes as defined by the Virginia Hazardous Waste Management Regulations shall be accepted at the landfill.
15. The open working face of a landfill shall be kept as small as possible.
16. At least three days of acceptable cover soil or approved material at the average usage rate shall be maintained at the fill at all times at facilities where daily cover is required unless an off-site supply is readily available on a daily basis.
17. Equipment of appropriate size and numbers shall be on site at all times. Operators with training appropriate to the tasks they are expected to perform and in sufficient numbers for the complexity of the site shall be on the site whenever it is in operation. Equipment and operators provided will not be satisfactory unless they ensure that the site is managed with a high degree of safety and effectiveness.
18. Internal roads in the landfill shall be maintained to be passable in all weather by ordinary vehicles. All operation areas and units shall be accessible; gravel or other finish materials are usually required to accomplish this. Provisions shall be made to prevent tracking of mud onto public roads by vehicles leaving the site.
19. Leachate from a solid waste disposal facility shall not be permitted to drain or discharge into surface waters except when authorized under a ~~Virginia NPDES~~ VPDES Permit issued pursuant to the State Water Control Board Regulation (9 VAC 25-30-10 *et seq.*) ~~No. VR-680-14-01, NPDES Program or otherwise approved by that agency.~~

**D. Groundwater monitoring.**

1. Applicability.

- a. Owners or operators of existing industrial landfills shall be in compliance with the groundwater monitoring requirements specified in this section, except as provided for in 9 VAC 20-80-270D1c.
- b. Owners or operators of new facilities shall be in compliance with the groundwater monitoring requirements specified in this section before waste can be placed in the landfill except as provided for in 9 VAC 20-80-270D1c.
- c. Groundwater monitoring requirements under 9 VAC 20-80-270D may be suspended by the director for a industrial landfill unit or facility if the owner or operator can demonstrate that there is no potential for migration of constituents of solid wastes listed in APPENDIX 5.1 to the uppermost aquifer during the active life of the unit and the post-closure care period. This demonstration shall be certified by a qualified groundwater scientist and shall be based upon:
  - (1) Site-specific field collected measurements, sampling and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and

(2) Contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and environment.

2. General Requirements.

a. Owners or operators of industrial waste disposal facilities shall implement a groundwater monitoring program capable of determining the facility's impact on the quality of groundwater in the uppermost aquifer underlying the facility.

b. Owners or operators shall install, operate, and maintain a groundwater monitoring system which meets the requirements of 9 VAC 20-80-270D3 and shall comply with 9 VAC 20-80-270D4 through ~~9 VAC 20-80-270D.8~~ and 9-VAC 20-80-270D5. This groundwater monitoring shall be carried out during the active life of the facility and during the post-closure care period.

c. The groundwater monitoring and reporting requirements set forth herein are minimum requirements. The director may require, by amending the permit, any owner or operator to install, operate and maintain a groundwater monitoring system and program that contains the requirements more stringent than this chapter imposes, whenever he ~~or the State Water Control Board~~ determines that such requirements are necessary to prevent significant adverse effects on public health and environment. ~~The Director will consult with and obtain assistance from the State Water Control Board before imposing more stringent monitoring requirements under 9 VAC 20-80-270D2e.~~

3. Groundwater monitoring system.

a. A groundwater monitoring system shall be capable of yielding groundwater samples for analysis and shall consist of:

(1) At least one monitoring well installed hydraulically upgradient from the waste management unit boundary. Their number, locations, and depths shall be sufficient to yield groundwater samples that are:

(a) Representative of background groundwater quality in the uppermost aquifer near the facility; and

(b) Not affected by the facility.

(2) At least three monitoring wells installed hydraulically downgradient at the waste management unit boundary or closest practicable distance from such boundary. Their number, locations, and depths shall insure the early detection of any statistically significant amounts of solid waste constituents that migrate from the waste management area to the uppermost aquifer.

b. All monitoring wells shall be cased and grouted in a manner that maintains the integrity of the monitoring well bore hole. This casing shall be screened or perforated, and packed with gravel or sand where necessary, to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space above the sampling depth shall be sealed with a suitable material to prevent contamination of samples and the groundwater.

c. A log shall be made of each newly installed monitoring well describing the soils or rock encountered, the hydraulic conductivity of formations, and the cation exchange capacity of

soils encountered. A copy of the final logs with appropriate maps shall be sent to the department ~~for transmission to the State Water Control Board.~~

4. Sampling and analysis. The groundwater sampling and analysis requirements for the groundwater monitoring system are as follows:

a. The groundwater monitoring program shall include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of the groundwater quality at the background and downgradient wells. At a minimum the program shall include procedures and techniques for:

- (1) Sample Collection,
- (2) Sample preservation and shipment,
- (3) Analytical procedures, ~~and~~
- (4) Chain of custody control, and
- (5) Quality assurance and quality control.

b. The groundwater monitoring program shall include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure hazardous constituents in groundwater samples. The sampling and analysis methods set forth in EPA document SW-846 shall be used, and the department may require resampling if it believes the samples were not properly sampled or analyzed.

c. The owner or operator shall determine the groundwater flow rate and direction of groundwater in the uppermost aquifer at least every three years.

d. Elevation of the static water level at each monitoring well shall be determined each time a sample is obtained.

e. Background quality at existing units may be based on sampling of wells that are not upgradient from the waste management area where:

- (1) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; and
- (2) Sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells.

~~5. Phase I monitoring. Phase I monitoring is required at all industrial waste disposal facilities except as otherwise provided in Phase II and Phase III (9 VAC 20 80 270D6 and 9 VAC 20 80 270D7).~~

~~a. (1) On the effective date of this chapter, the director will specify site-specific groundwater quality monitoring parameters for each industrial waste disposal facility to be monitored in the Phase I program.~~

~~(2) In addition to parameters specified in 9 VAC 20 80 270D5a(1), a Phase I monitoring program shall include the following parameters used as indicators of groundwater contamination:~~

~~Specific conductance~~

~~pH~~

~~TOX~~

~~TOC~~

~~b. During the first year of groundwater monitoring:~~

~~(1) For all monitoring wells, the owner or operator shall establish background groundwater quality for each of the monitoring parameters of constituent specified in 9 VAC 20 80 270D.5.a He shall do this quarterly for one year.~~

~~(2) For each of the indicator parameters specified in 9 VAC 20 80 270D.5.a(2) at least four replicate measurements shall be obtained for each sample and the initial background arithmetic mean and variance shall be determined by pooling the replicate measurements for the respective parameter concentrations or values in samples obtained from upgradient wells during the first year.~~

~~c. After the first year, all monitoring wells shall be sampled and the samples analyzed with the following frequencies:~~

~~(1) Samples collected to establish groundwater quality (9 VAC 20 80 270D.5.a(1)) shall be obtained and analyzed for the specified parameters at least annually.~~

~~(2) Samples collected to indicate groundwater contamination (9 VAC 20 80 270D.5.a(2)) shall be obtained and analyzed with at least four replicate measurements on each sample for the parameters at least semiannually.~~

~~d. At least annually the owner or operator shall evaluate the data on static groundwater surface elevations to determine whether the requirements for locating the monitoring wells continue to be satisfied. If the evaluation shows that 9 VAC 20 80 270D.3.a. is no longer satisfied, the owner or operator shall immediately modify the number, location, or depth of the monitoring wells to bring the groundwater monitoring system into compliance with that requirement.~~

~~e. Evaluation and response.~~

~~(1) After the first year information has been collected, for each indicator parameter specified in 9 VAC 20 80 270D.5.a(2) the owner or operator shall calculate the arithmetic mean and variance, based on at least four replicate measurements on each sample, for each well monitored, and compare these results with the upgradient wells and each well's own initial background arithmetic mean. The comparison shall consider individually, each of the wells in the monitoring system, and shall use the Student's t test (see APPENDIX 5.2) at the 0.05 level of significance to determine statistically significant increases (and decreases in the case of pH) over initial background. As an alternative to the use of the Student's t test, the owner or operator may chose to apply one of the statistical methods listed in APPENDIX 5.4, provided the test chosen meets the required performance standards.~~

~~(2) If the comparisons for:~~

~~(a) The upgradient wells show a statistically significant increase (or pH decrease), the owner or operator shall submit this information in accordance with 9 VAC 20 80 270D.8.a(2);~~

~~(b) Downgradient wells show a statistically significant increase (or pH decrease) the owner or operator shall obtain within 30 days additional groundwater samples from those wells, split the samples in two, and obtain analyses of all additional samples to determine whether the statistically significant difference was a result of laboratory error.~~

~~(3) If the preceding analysis confirms the statistically significant increase (or pH decrease), the owner of operator shall provide written notice to the director, within fourteen days of the date of such confirmation, that the facility may be affecting groundwater quality and that Phase II monitoring program will be implemented.~~

~~(4) Within 60 days, establish a Phase II detection monitoring program meeting the requirements of 9 VAC 20 80 270D.6.~~

5. Groundwater Monitoring Program. Groundwater monitoring program shall be instituted at all industrial waste landfills in accordance with the requirements contained in APPENDIX 5.6.

6. Phase II Monitoring Program

~~a. The owner or operator shall implement the Phase II monitoring program which satisfies the requirements of 9 VAC 20 80 270D.6. and at a minimum, determine:~~

~~(1) The rate and extent of migration of the hazardous constituents in the groundwater; and~~

~~(2) The concentrations of the hazardous constituents in the groundwater.~~

~~b. In addition to parameters specified in 9 VAC 20 80 270D.5.a. at a minimum, a Phase II monitoring program shall include the following monitoring parameters:~~

~~(1) The following inorganic constituents:~~

~~Arsenic~~

~~Barium~~

~~Cadmium~~

~~Chromium~~

~~Copper~~

~~Cyanide~~

~~Mercury~~

~~Selenium~~

~~Silver~~

~~Zinc~~

~~(2) The following organic constituents:~~

<del>Acrylonitrile</del>	<del>Hexachlorobenzene</del>
<del>Aldrin</del>	<del>Hexachlorobutadiene</del>
<del>Benzene</del>	<del>Hexachloroethane</del>
<del>Bis(2-chloroethyl) ether</del>	<del>Lindane</del>
<del>2-Butanone (Methyl ethyl ketone)</del>	<del>Methylene chloride</del>
<del>Carbon disulfide</del>	<del>Nitrobenzene</del>
<del>Carbon tetrachloride</del>	<del>Pentachlorophenol</del>
<del>Chlordane</del>	<del>Phenol</del>
<del>Chlorobenzene</del>	<del>1,1,2,2-Tetrachloroethane</del>
<del>Chloroform</del>	<del>Tetrachloroethylene;</del>
<del>o-Cresol</del>	<del>Perchloroethylene</del>
<del>o-Dichlorobenzene</del>	<del>Toluene</del>
<del>p-Dichlorobenzene</del>	<del>Toxaphene</del>
<del>1,2-Dichloroethane; Ethylene dichloride</del>	<del>1,1,1-Trichloroethane;</del>
<del>1,1-Dichloroethylene</del>	<del>Methylchloroform</del>
<del>trans-1,2-Dichloroethene</del>	<del>1,1,2-Trichloroethane</del>
<del>Dieldrin</del>	<del>Trichloroethene;</del>
<del>2,4-Dinitrotoluene</del>	<del>Trichloroethylene</del>
<del>Endrin</del>	<del>2,4,6-Trichlorophenol</del>
<del>Heptachlor/Heptachlor epoxide</del>	<del>Vinyl chloride</del>

- ~~c. The owner or operator shall:~~
- ~~(1) Make his first determination under 9 VAC 20-80-270D.6.a. as soon as technically feasible but no later than one year after implementing Phase II monitoring program.~~
  - ~~(2) Within 15 days after that determination, submit to the director, a written report containing an assessment of the groundwater quality.~~
- ~~d. If the owner or operator finds, based on the results of the first determination, that no hazardous constituents from the facility have entered the groundwater, he may then reinstate the Phase I monitoring program. If the owner or operator reinstates the Phase I monitoring program, he shall so notify the director in the report submitted under 9 VAC 20-80-270D.8.a(2).~~
- ~~e. If the owner or operator finds, based on the first determination that hazardous constituents from the facility may have entered the groundwater, then he:~~

- ~~(1) Shall continue to make the required determinations on a quarterly basis until Phase III monitoring program is implemented;~~
- ~~(2) Within a reasonable time period, sample the groundwater in all monitoring wells and determine the concentration of all constituents identified in APPENDIX 5.1 that are present in the groundwater;~~
- ~~(3) Establish a background value for each APPENDIX 5.1 constituent that has been found at the waste management unit boundary.~~
- ~~(4) Within 90 days of the completion of actions required under 9 VAC 20 80-270D.6.e(3) submit to the department an evaluation of the concentration of any APPENDIX 5.1 constituents found in the groundwater at each monitoring well at the waste management unit boundary.~~
- ~~(5) Within 180 days of the completion of actions under 9 VAC 20 80-270D.6.e(4) submit to the department:
  - ~~(a) All data necessary to justify any variance sought for groundwater protection levels (see 9 VAC 20 80-760) established in the facility permit; or~~
  - ~~(b) A plan for corrective action program in accordance with 9 VAC 20 80-310 necessary to meet the requirements for corrective action.~~~~
- ~~(6) Implement a Phase III monitoring program.~~
- ~~f. If the owner or operator determines that there is a statistically significant increase of parameters or constituents specified at any monitoring well at the waste management unit boundary, he may demonstrate that a source other than the landfill unit caused increase or that an error in sampling, analysis, or evaluation was committed. While the owner or operator may make a demonstration under this paragraph in addition to or in lieu of submitting the information under 9 VAC 20 80-270D.6.e(5) he is not relieved of the requirement to submit this information within the time specified in 9 VAC 20 80-270D.6.e(5) the demonstration made under this paragraph successfully shows that a source other than a landfill unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this paragraph, the owner or operator shall:
  - ~~(1) Notify the director in writing within fourteen days of determining a statistically significant increase at the waste management unit boundary that he intends to make a demonstration under 9 VAC 20 80-270D6f.~~
  - ~~(2) Within 180 days, submit a report to the department which demonstrates that a source other than a landfill unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation.~~
  - ~~(3) Continue to monitor in accordance with the Phase II monitoring program established under 9 VAC 20 80-270D6. until a decision is rendered by the department in accordance with 9 VAC 20 80-270D6g.~~~~
- ~~g. Based on the information submitted in accordance with 9 VAC 20 80-270Df(2) the director will:~~

- ~~————— (1) In case of the demonstrated error in sampling, analysis or evaluation, allow the owner or operator to resume Phase II monitoring program under 9 VAC 20-80-270D6.; or~~
- ~~————— (2) Require changes in the groundwater monitoring system which will correctly reflect the groundwater contamination from the solid waste disposal unit and allow the owner or operator to resume Phase II monitoring program under 9 VAC 20-80-270D6.; or~~
- ~~————— (3) Require the owner or operator to perform actions under 9 VAC 20-80-270D6e.~~
- ~~————— 7. Phase III Monitoring Program. The purpose of the Phase III monitoring program is to support the corrective action undertaken in accordance with 9 VAC 20-80-310.~~
  - ~~————— a. Phase III monitoring is required whenever any Phase II parameter has been detected at levels above background concentrations.~~
  - ~~————— b. The compliance period for Phase III monitoring programs is the number of years equal to the active life of the waste management unit (including any waste management activity prior to permitting and the closure period). This period begins when the owner or operator initiates a Phase III monitoring program meeting the requirements of 9 VAC 20-80-270D7.~~
  - ~~————— c. If the owner or operator is engaged in a corrective action program at the end of the minimum compliance period specified in 9 VAC 20-80-270D7b, compliance period is extended until the owner or operator can demonstrate that the groundwater protection level specified in APPENDIX 5.3 has not been exceeded for a period of three consecutive years.~~
  - ~~————— d. Phase III monitoring parameters and constituents shall include:
    - ~~————— (1) All those listed under Phase I.~~
    - ~~————— (2) All constituents in APPENDIX 5.1 that are determined to be present at levels above background concentrations at the waste management unit boundary.~~~~
  - ~~————— e. The department shall determine an appropriate monitoring frequency on a site specific basis by considering aquifer flow rate. The following minimum frequencies apply:
    - ~~————— (1) Quarterly for those constituents in APPENDIX 5.1 that exceed background concentrations.~~
    - ~~————— (2) Annually for other parameters listed in APPENDIX 5.1.~~~~
  - ~~————— f. If the owner or operator determines that there is a statistically significant increase over background for any constituent in § 5.3.D.7.d(2) monitoring well at the waste management unit boundary, he shall:
    - ~~————— (1) Notify the department of this finding in writing within fourteen days. The notification shall indicate what parameters or constituents have shown statistically significant increases.~~
    - ~~————— (2) Within 90 days, submit to the director the following information:
      - ~~————— (a) An evaluation of the concentration of any APPENDIX 5.1 constituents found in groundwater at each monitoring well at the compliance point.~~~~~~

- ~~(b) Any proposed changes to the groundwater monitoring system necessary to meet the requirements of corrective action programs in accordance with 9 VAC 20-80-310.~~
  - ~~(c) Any proposed changes to the monitoring frequency or sampling procedures used at the facility necessary to meet the requirements of corrective action programs in accordance with 9 VAC 20-80-310.~~
  - ~~(2) Within 180 days, submit to the department:~~
    - ~~(a) All data necessary to justify any variance sought from the groundwater protection level or the corrective active program.~~
    - ~~(b) A change to the plan for corrective action program in accordance with 9 VAC 20-80-310 necessary to meet the requirements of the corrective action program specified in this chapter.~~
- ~~8. Recordkeeping and reporting.~~
- ~~a. If the groundwater is monitored to satisfy the requirements of 9 VAC 20-80-270D5., the owner or operator shall:~~
    - ~~(1) Keep records of the analyses required in 9 VAC 20-80-270D5b and c, the associated static water level surface elevations required in 9 VAC 20-80-270D5d, and the evaluations required in 9 VAC 20-80-270D5e(1) throughout the active life of the facility and the post-closure care period; and~~
    - ~~(2) Report the following groundwater monitoring information to the director:~~
      - ~~(a) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters for each groundwater monitoring well within 15 days from the end of each quarterly monitoring period.~~
      - ~~(b) Annually: concentrations or values of the parameters listed in 9 VAC 20-80-270D5a(2) for each groundwater monitoring well, along with the required evaluations for these parameters under 9 VAC 20-80-270D5e(1). The owner or operator shall separately identify any significant differences from the initial background found in the upgradient wells in accordance with 9 VAC 20-80-270D5e(2)(a). During the active life of the facility, this information shall be submitted no later than March 1 following each calendar year.~~
      - ~~(c) No later than March 1 following each calendar year as part of the annual report: results of the evaluations of groundwater surface evaluations under 9 VAC 20-80-270D5d. and a description of the response to that evaluation, where applicable.~~
  - ~~b. If the groundwater is monitored to satisfy the requirements of 9 VAC 20-80-270D6 or 7, the owner or operator shall:~~
    - ~~(1) Keep records of the analyses and evaluations throughout the active life of the facility, and throughout the post-closure care period as well; and~~

~~(2) Annually, until final closure of the facility, submit to the director a report containing the results of his groundwater quality assessment program which includes, but is not limited to, the calculated or measured rate of migration of hazardous constituents in the groundwater during the reporting period. This information shall be submitted no later than March 1 following each calendar year.~~

~~9. Solid Waste Constituents for Groundwater Monitoring.~~

~~a. The director will specify in the facility permit the solid waste constituents to which the groundwater protection level applies. Solid waste constituents are constituents identified in APPENDIX 5.3. that may have been detected in groundwater in the uppermost aquifer underlying the waste management boundary or that are reasonably expected to be in or derived from waste contained in the solid waste disposal facility, unless the director has excluded them under 9 VAC 20-80-270D9b.~~

~~b. The director will exclude an APPENDIX 5.3. constituent from the list of solid waste constituents specified in the facility permit if he finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the director will consider the following:~~

~~(1) Potential adverse effects on groundwater quality, considering:~~

~~(a) The physical and chemical characteristics of the waste in the solid waste disposal facility, including its potential for migration;~~

~~(b) The hydrogeological characteristics of the facility and surrounding land;~~

~~(c) The quantity of groundwater and the direction of groundwater flow;~~

~~(d) The proximity and withdrawal rates of groundwater users;~~

~~(e) The current and future uses of groundwater in the area;~~

~~(f) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;~~

~~(g) The potential for health risks caused by human exposure to waste constituents;~~

~~(h) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;~~

~~(i) The persistence and permanence of the potential adverse effects; and~~

~~(2) Potential adverse effects on hydraulically connected surface water quality, considering:~~

~~(a) The volume and physical and chemical characteristics of the waste in the solid waste disposal facility;~~

~~(b) The hydrogeological characteristics of the facility and surrounding land;~~

~~(c) The quantity and quality of groundwater, and the direction of groundwater flow;~~

- ~~(d) The patterns of rainfall in the region;~~
- ~~(e) The proximity of the regulated unit to surface waters;~~
- ~~(f) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;~~
- ~~(g) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;~~
- ~~(h) The potential for health risks caused by human exposure to waste constituents;~~
- ~~(i) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and~~
- ~~(j) The persistence and permanence of the potential adverse effects.~~
- ~~c. In making any determination under 9 VAC 20 80 270D9b about the use of groundwater in the area around the facility, the director will consider any identification of underground sources of drinking water as identified by EPA under 40 CFR 144.8.~~
- ~~10. Concentration limits. The director will specify in the facility permit concentration limits in the groundwater for solid waste constituents established under 9 VAC 20 80 270D9. The concentration of a solid waste constituent:~~
  - ~~a. Shall not exceed the background level of that constituent in the groundwater at the time that limit is specified in the permit; or~~
  - ~~b. Shall not exceed an alternate limit established by the director under 9 VAC 20 80 760.~~

**E. Closure.**

1. Closure Criteria. All industrial waste landfills shall be closed in accordance with the procedures set forth as follows:
  - a. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, or to the atmosphere.
  - b. Owner or operator of all industrial landfills shall install a final cover system that is designed to achieve the performance requirements of 9 VAC 20-80-270E1a.
    - (1) The final cover system shall be designed and constructed to:
      - (a) Have a hydraulic conductivity less than or equal to the hydraulic conductivity of any bottom liner system or natural subsoils present, or a hydraulic conductivity no greater than  $1 \times 10^{-5}$  cm/sec, whichever is less, and
      - (b) Minimize infiltration through the closed disposal unit by the use of an infiltration layer that contains a minimum 18 inches of earthen material, and
      - (c) Minimize erosion of the final cover by the use of an erosion layer that contains a minimum of 6 inches of earthen material that is capable of sustaining native plant growth[,and provide for protection of the infiltration layer from the effects of erosion, frost, and wind].

(2) Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33 percent will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual.

(3) e. The director may approve an alternate final cover design that includes:

(a) ~~(1)~~ An infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer specified in 9 VAC 20-80-270E1b(1)(a) and 9 VAC 20-80-270E1b(1)(b); and

(b) ~~(2)~~ An erosion layer that provides equivalent protection from wind and water erosion as the erosion layer specified ~~9 VAC 20-80-270E1b(1)(b) 9 VAC 20-80-270E1b(1)(c)~~. ~~If the director approves the use of synthetic flexible membrane liner as the infiltration layer or the upper portion of the infiltration layer, the erosion layer shall be no less than two feet thick.~~

## 2. Closure plan and amendment of plan.

a. The owner or operator of a solid waste disposal facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at the time when the operation will be the most extensive and at the end of its intended life. The closure plan shall include, at least:

(1) A description of those measures and procedures to be employed to comply with 9 VAC 20-80-270E; to be taken when the facility will be at the point of permit issuance, when the operation will be the most extensive planned operation, and when it is to be ultimately closed. The description shall be based on conditions that would normally exist at the midpoint of the facility permit period and at the termination of the useful life of the facility;

(2) An estimate of the largest area ever requiring a final cover as required at any time during the active life;

(3) An estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility; and

(4) ~~(2)~~ A schedule for final closure shall also be provided which shall include, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan. The amended closure plan shall be placed in the operating record.

c. ~~Unless the director has previously approved the closure plan,~~ The owner or operator shall notify the director ~~that a closure plan or~~ whenever an amended closure plan has been

prepared and placed in the operating record ~~no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.~~

d. Prior to beginning closure of each solid waste disposal unit, the owner or operator shall notify the director of the intent to close.

e. If the owner or operator intends to use an alternate final cover design, he shall submit a proposed design meeting the requirements of ~~9 VAC 20-80-270E1e.~~ 9 VAC 20-80-270E1b(3) to the director at least 180 days before the date he expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt. ]

f. Closure plans, and amended closure plans not previously approved by the director shall be submitted to the department at least 180 days before the date the owner or operator expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt. ]

### 3. Time allowed for closure.

a. The owner or operator shall begin closure activities of each unit no later than 30 days after the date on which the unit receives the known final receipt of wastes or, if the unit has remaining capacity and there is a reasonable likelihood that the unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the director if the owner or operator demonstrates that the unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed unit.

b. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

### 4. Closure Implementation.

a. The owner or operator shall close each unit with a final cover as specified in 9 VAC 20-80-270E1b, grade the fill area to prevent ponding, and provide a suitable vegetative cover. Vegetation shall be deemed properly established when it has survived the first mowing and there are no large areas void of vegetation.

b. Following closure of each unit, the owner or operator shall submit to the director a certification, signed by a ~~n independent~~ registered professional engineer verifying that closure has been completed in accordance with the closure plan requirements of this part. This certification shall include the results of the CQA/QC requirements under 9 VAC 20-80-270B19a(2)(e).

c. Following the closure of all units the owner or operator shall:

(1) ~~4. The owner or operator shall~~ Post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable

barriers shall be installed at former accesses to prevent new waste from being deposited.

~~(2) 5.~~ The owner or operator shall Provide a suitable vegetative cover. Vegetation shall be deemed properly established when it has survived the first mowing and there are no large areas void of vegetation.

~~(3) 6.~~ Within 90 days after closure is completed, ~~the owner or operator of an industrial waste landfill shall~~ submit to the local land recording authority a survey plat indicating the location and dimensions of landfill disposal areas prepared by a professional land surveyor registered by the Commonwealth. Monitoring well locations should be included and identified by the number on the survey plat. The plat filed with the local land recording authority shall contain a note, prominently displayed, which states the owner's or operator's future obligation to restrict disturbance of the site as specified.

~~(4) 7.~~ The owner of the property on which a solid waste disposal facility is located shall record a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, notifying any potential purchaser of the property that the land has been used to manage solid waste. A copy of the deed notation as recorded shall be filed with the department.

5. Inspection. The department shall inspect all solid waste management units [that have been closed to— at the time of closure to confirm that ~~determine if~~] the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with these regulations. Notification by the department that the closure is satisfactory does not relieve the operator of responsibility for corrective action to prevent or abate problems caused by the facility.]

6. Post Closure Period. The post closure care period begins on the date of the certification signed by a registered professional engineer as required in 9 VAC 20-80-270E4b. Unless a facility completes all provisions of 9 VAC 20-80-270E4, the department will not consider the facility closed, and the beginning of the post closure care period will be postponed until all provisions have been completed. If the department's inspection required by 9 VAC 20-80-270E5, reveals that the facility has not been properly closed in accordance with this part, post closure will begin on the date that the department acknowledges proper closure has been completed.]

#### **F. Post-Closure Care Requirements**

1. Following closure of each disposal unit, the owner or operator shall conduct post-closure care. Except as provided under 9 VAC 20-80-270F2., post-closure care shall be conducted for 10 years after the date of closure or for as long as leachate is generated, whichever is later, and shall consist of at least the following:

- a. Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover;

- b. Maintaining and operating the leachate collection system in accordance with the requirements in 9 VAC 20-80-290 and 9 VAC 20-80-300. The director may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;
  - c. Monitoring the groundwater in accordance with the requirements of 9 VAC 20-80-270D and maintaining the groundwater monitoring system; and
  - d. If applicable, maintaining and operating the gas monitoring system in accordance with the requirements of 9 VAC 20-80-280.
2. The length of the post-closure care period may be:
- a. Decreased by the director if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the director; or
  - b. Increased by the director if the director determines that the lengthened period is necessary to complete the corrective measures or to protect human health and the environment. [If the post-closure period is increased, the owner or operator shall submit a revised post-closure plan for review and approval, and continue post-closure monitoring and maintenance in accordance with the approved plan.]
3. The owner or operator shall prepare a written post-closure plan that includes, at a minimum, the following information:
- a. A description of the monitoring and maintenance activities required in 9 VAC 20-80-270F1 for each disposal unit, and the frequency at which these activities will be performed;
  - b. Name, address, and telephone number of the person or office to contact about the facility during the post-closure period; and
  - c. A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements of this chapter. The director may approve any other disturbance of the owner or operator demonstrates that disturbance of the final cover, liner or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.
4. ~~Unless the director has previously approved the post-closure care plan,~~ The owner or operator shall [submit a post-closure care plan for review and approval by notify] the director ~~that~~ whenever a post-closure care plan has been prepared or amended [and placed in the Those post-closure care plans that have been placed in a facility's ] operating record [must be reviewed and approved by the director prior to implementation] ~~not later than October 9, 1993, or by initial receipt of the waste, whichever is later.~~
5. Following completion of the post-closure care period for each disposal unit, the owner or operator shall submit to the director a [certificateion], signed by an [independent] registered professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan.[The certificate shall be accompanied by an evaluation, prepared by a

professional engineer licensed in the Commonwealth and signed by the owner or operator, assessing and evaluating the landfill's potential for harm to human health and the environment in the event that post-closure monitoring and maintenance are discontinued.]

## **9 VAC 20-80-280 Control of decomposition gases.**

Owners or operators of ~~sanitary and CDD landfills~~ disposal facilities shall develop a gas management plan in accordance with this section. Venting and control of decomposition gases shall be implemented where required under 9 VAC 20-80-250B8, ~~or 9 VAC 20-80-260B9, or 9 VAC 20-80-270B18~~ to protect the facility cap, and to prevent migration into structures or beyond the facility boundary. The contents of the plan shall also reflect the requirements contained in Subparts WWW and Cc, Part 60, Title 40, Code of Federal Regulations (*Standards of performance for new and guidelines for control of existing municipal solid waste landfills*) and 9 VAC 5-40-5800, as appropriate.

### **A. General Requirements.**

1. To provide for the protection of public health and safety, and the environment, the operator shall ensure that decomposition gases generated at a facility are controlled during the periods of operation, closure and post-closure care, in accordance with the following requirements:
  - a. The concentration of methane gas generated by the facility shall not exceed 25 percent of the lower explosive limit (LEL) for methane in facility structures (excluding gas control or recovery system components); and
  - b. The concentration of methane gas migrating from the landfill shall not exceed the lower explosive limit for methane at the facility property boundary
2. The program implemented pursuant to 9 VAC 20-80-280B through 9 VAC 20-80-280E shall continue throughout the active life of the facility and the closure and post-closure care periods or until the operator receives written authorization to discontinue by the department. Authorization to cease gas monitoring and control shall be based on a demonstration by the operator that there is no potential for gas migration beyond the property boundary or into facility structures.
3. Gas monitoring and control systems shall be modified, during the closure and post-closure maintenance period, to reflect changing on-site and adjacent land uses. Post closure land use at the site shall not interfere with the function of gas monitoring and control systems.
4. The operator may request a reduction of monitoring or control activities based upon the results of monitoring data collected. The request for reduction of monitoring or control activities shall be submitted in writing to the director.

**B. Monitoring.** To ensure that the conditions of 9 VAC 20-80-280 are met, the operator shall implement a gas monitoring program at the facility in accordance with the following requirements:

1. The gas monitoring network shall be designed to ensure detection of the presence of decomposition gas migrating beyond the landfill property boundary and into facility structures.
2. The monitoring network shall be designed to account for the following specific site characteristics, and potential migration pathways or barriers, including, but not limited to:
  - a. Local soil and rock conditions;

- b. Hydrogeological and hydraulic conditions surrounding the facility;
- c. Locations of buildings and structures relative to the waste deposit area,
- d. Adjacent land use, and inhabitable structures within 1000 feet of the landfill property boundary;
- e. Man-made pathways, such as underground construction; and
- f. The nature and age of waste and its potential to generate decomposition gas.

3. Owners or operators of certain large sanitary landfills and landfills located in non-attainment areas may be required to perform additional monitoring as provided in Subparts WWW and Cc, Part 60, Title 40, Code of Federal Regulations and 9 VAC 5-40-5800.

#### **C. Monitoring Frequency**

1. As a minimum, quarterly monitoring is required.
2. More frequent monitoring may be required by the department at those locations where results of monitoring indicate that decomposition gas migration is occurring or is accumulating in structures to detect migrating gas and ensure compliance with 9 VAC 20-80-280A.

**D. Recordkeeping.** The owner or operator shall keep the records of the results of gas monitoring throughout the active life of the facility and the post-closure care period. The monitoring records shall include:

1. The concentrations of the methane, as measured at each probe and within each on-site structure;
2. The documentation of date, time, barometric pressure, atmospheric temperatures, general weather conditions, and probe pressures;
3. The names of sampling personnel, apparatus utilized, and a brief description of the methods used;
4. A numbering system to correlate monitoring results to a corresponding probe location.

#### **E. Control**

1. When the results of gas monitoring indicate concentrations of methane in excess of the compliance levels required by 9 VAC 20-80-280A1, the operator shall:
  - a. Take all immediate steps necessary to protect public health and safety as required by the contingency plan.
  - b. Notify the department in writing within five working days of learning that compliance levels have been exceeded, and indicate what has been done or is planned to be done to resolve the problem.
  - c. Within 60 days of detection, develop a remediation plan for the methane gas releases and submit it to the director for approval. The plan shall describe the nature and extent of the problem and the proposed remedy.

- d. As soon as technically practicable, design and construct a gas control system, within a period of time specified in the approved plan. Installation of the system shall be in accordance with a design and in a manner approved for construction by the department.
2. A gas control system shall be designed to:
    - a. Prevent methane accumulation in on-site structures.
    - b. Reduce methane concentrations at monitored property boundaries to below compliance levels [in the timeframes specified in the gas remediation plan].
    - c. Provide for the collection and treatment and/or disposal of decomposition gas condensate produced at the surface. Condensate generated from gas control systems may be recirculated into the landfill provided the facility complies with the liner and leachate control systems requirements of this Part. [Condensate collected in condensate traps and drained by gravity into the waste mass will not be considered recirculation.]
  3. Extensive systems to control emissions of non-methane organic compounds may be required under Clean Air Act (Subparts WWW and Cc, Part 60, Title 40, Code of Federal Regulations) and 9 VAC 5-40-5800. Facilities that are required to construct and operate systems designed to comply with those regulations will be considered to be in compliance with the requirements of 9 VAC 20-80-280E2a and 9 VAC 20-80-280E2b. [Gas control systems also may be subject to the Virginia Operating Permit Program 9 VAC 5-80-40 or other state air pollution control regulations.]

**9 VAC 20-80-290 Leachate Control System and Monitoring.**

**A.** Design Plan. The design shall contain a plan for leachate collection, storage and treatment. The plan shall include the following:

1. An estimate of the quality and quantity of leachate to be produced annually by the facility. The estimate shall include the 30-day leachate volume and average flow rate of each month of the year. A separate estimate shall be submitted for anticipated leachate generation at the end of 5 year increments of operation for 20 years, or until closure, whichever date is earlier. For existing facilities, current leachate generation shall be included with this separate estimate. If leachate is to be discharged directly to a wastewater treatment facility possessing an appropriate approval from the department or the local government, the plan need not contain the quantity estimates required above.
2. Plans, designs and cross sections for the proposed collection and handling system.
3. Plans, designs and cross sections for onsite leachate storage or treatment systems, including system appurtenances for storage, pretreatment or treatment of leachate from the facility.
4. In the case of a CDD landfill, leachate storage and treatment may be specified in a contingency plan. Such plan shall be implemented within 90 days of leachate development or notice by the department that implementation is required. Interim storage of leachate in leak proof containers or management of leachate during the 90 days shall also be detailed in the contingency plan.

**B.** The leachate collection system shall be designed and placed:

1. To prevent causing failure of the liner;

2. To filter and prevent migration of fines to the drainage layer from above; and
3. So that no more than one foot head of leachate may accumulate over the liner at its lowest point excluding manifold trenches and sumps.

C. The tanks or impoundments used for storage of leachate shall have a flow equalization and surge capacity at least equal to the maximum expected production of leachate for any seven-day period for the life of the facility estimated under 9 VAC 20-80-290A1. Leachate storage capacity may not be considered to include leachate that may have collected in or on the liner system. The storage tanks and impoundments shall be aerated as necessary to prevent and control odors. Leachate storage impoundments shall be equipped with a liner system which shall provide equal or greater protection of human health and the environment as the liner of the cells producing the leachate. At a minimum, a synthetic component will be required.

D. The collected leachate (in the order of preference) shall be:

1. Discharged directly or after pre-treatment into a line leading to the publicly-owned treatment works or other permitted wastewater treatment facility;
2. Transported by a vehicle to an off-site permitted wastewater treatment facility;
3. Recirculated within the landfill, provided that the irrigated area is underlain by a composite liner and that the operation causes no odors, runoff or ponding; or
4. Treated on-site and discharged into surface water when authorized under VPDES Permit [issued by the State Water Control Board] or otherwise approved by [that agency ~~the~~ department].

E. The collected leachate shall not be discharged to an underground drain field.

**9 VAC 20-80-300 Leachate control system appurtenances.** {Reserved}

**9 VAC 20-80-310 Corrective action program.**

A corrective action program is required whenever the groundwater protection level standard is exceeded. An owner or operator of a facility may elect to initiate the corrective action program at any time, however prior to such initiation, he shall determine appropriate groundwater protection standards for all APPENDIX 5.1 constituents.

A. Assessment of corrective measures [~~/proposal for presumptive remedy~~].

1. Within 90 days of finding that any of the constituents listed in APPENDIX 5.1 have been detected at a statistically significant level exceeding the groundwater protection standards, the owner or operator shall initiate an assessment of corrective measures [or a proposal for presumptive remedies]. The assessment of corrective measures, or the proposal for presumptive remedies ~~Such an assessment~~ shall be completed within 180 days from the date the constituents have been detected. The 180-day period may be extended by the director for good cause.

2. A corrective action monitoring program shall comply with the groundwater monitoring requirements of 9 VAC 20-80-250D6, ~~9 VAC 20-80-260D.7~~ 9 VAC 20-80-260D5, or ~~9 VAC 20-80-270D.7~~ 9 VAC 20-80-270D5, as applicable. Additional monitoring shall be implemented as necessary to:

- a. Determine areal extent of any plume of contamination for each constituent under the groundwater protection level standard that has been measured at concentrations that exceed background levels; and
  - b. Demonstrate the effectiveness of the corrective action program.
3. ~~The a~~ Assessment of corrective measures.
- a. ~~[3-]~~ The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described under 9 VAC 20-80-310A, addressing at least the following:
    - (1) ~~a-~~ The performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;
    - (2) ~~b~~ The time required to begin and complete the remedy;
    - (3) ~~e-~~ The costs of remedy implementation; and
    - (4) ~~d-~~ The institutional requirements such as state or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedies.]
- ~~[4.—The owner or operator shall discuss the results of the corrective measures assessment, prior to the selection of remedy, in a public meeting.]~~
4. ~~[5-]~~ Presumptive remedies.
- a. To expedite corrective action, in lieu of an analysis meeting the requirements of 9 VAC 20-80-310A3, the owner or operator may choose to propose containment of contamination as a presumptive remedy for a disposal unit. Any such proposal shall be accompanied by:
    - (1) Assessment of risks resulting from the contamination at the waste boundary and at the facility boundary; and
    - (2) A schedule for initiating and completing remedial activities.
  - b. The presumptive remedy for solid waste landfills shall be limited to one or more of the following:
    - (1) Containment of the landfill mass, including an impermeable cap;
    - (2) Control of the landfill leachate;
    - (3) Control of the migration of contaminated groundwater;
    - (4) Collection and treatment of landfill gas; and
    - (5) Reduction of saturation of the landfill mass.
  - c. Containment may be selected as a sole or partial remedy until a determination is made under 9 VAC 20-80-310C2 that another remedy shall be employed to meet the requirements of 9 VAC 20-80-310. An assessment of corrective measures meeting the requirements of 9 VAC 20-80-310A3 shall then be initiated within ~~[30~~ 90] days of such a determination.

d. The selection of presumptive remedy may not be made as a sole remedy for facilities exhibiting contamination beyond facility boundaries [unless approved by the director].

e. The proposed corrective action plan shall be submitted to the director for approval. Upon receiving the proposal for the presumptive remedy, the director will consider the information submitted by the owner or operator or other responsible party and any other readily available information. Prior to rendering his approval, the director may:

(1) Request a technical modification of the program;

(2) Request a change in the time schedule; or

(3) Determine that the remediation of the release of an APPENDIX 5.1 constituent from the disposal unit is not necessary, if the owner or operator demonstrates to the satisfaction of the director that:

(a) The groundwater is additionally contaminated by substances that have originated from a source other than the facility and those substances are present in concentrations such that cleanup of the release from the facility would provide no significant reduction in risk to actual or potential receptors; or

(b) The constituent is present in groundwater that:

i. Is not currently or reasonably expected to be a source of drinking water; and

ii. Is not hydraulically connected with waters to which the constituents are migrating or are likely to migrate in a concentration that would exceed the groundwater protection standards established; or

(c) Remediation of the release is technically impracticable; or

(d) Remediation results in unacceptable cross-media impacts.

f. A determination by the director pursuant to 9 VAC 20-80-310A5e. shall not affect the authority of the director to require the owner or operator to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and significantly reduce threats to human health or the environment.

g. After an evaluation of the proposed remedy, the director will:

(1) Approve the proposed presumptive remedy as written or modified by the owner or operator; or

(2) Disapprove the proposed remedy and require the owner or operator to perform an assessment of corrective action in accordance with 9 VAC 20-80-310A3.]

e. h. Upon receiving an approval from the director of the proposed presumptive remedy, the owner or operator may proceed with the implementation of the remedy in accordance with 9 VAC 20-80-310C.]

5. The owner or operator shall discuss the results of the corrective measures assessment or the proposal for presumptive remedy, prior to the selection of remedy, in a public meeting.]

**B. Selection of remedy.**

1. Based on the results of the corrective measures assessment[or the proposal of presumptive remedy] conducted under 9 VAC 20-80-310A., the owner or operator shall select a remedy that, at a minimum, meets the standards listed in 9 VAC 20-80-310B2. The owner or operator shall prepare a written corrective action plan containing the proposed selected remedy.

2. The selected remedies to be included in the corrective action plan shall:

- a. Be protective of human health and the environment;
- b. Attain the groundwater protection standard as specified pursuant to 9 VAC 20-80-250D, 9 VAC 20-80-260D, or 9 VAC 20-80-270D;
- c. Control the sources of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of solid waste constituents into the environment that may pose a threat to human health or the environment; and
- d. Comply with standards for management of wastes as specified in 9 VAC 20-80-310C4.

3. In preparing a proposed corrective action plan, the owner or operator will consider the following evaluation factors:

a. The long- and short-term effectiveness and protectiveness of the potential remedies, along with the degree of certainty that the remedy will prove successful based on consideration of the following:

- (1) Magnitude of reduction of existing risks;
- (2) Magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;
- (3) The type and degree of long-term management required, including monitoring, operation, and maintenance;
- (4) Short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal or containment;
- (5) Time until full protection is achieved;
- (6) Potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;
- (7) Long-term reliability of the engineering and institutional controls; and
- (8) Potential need for replacement of the remedy.

b. The effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:

- (1) The extent to which containment practices will reduce further releases;
    - (2) The extent to which treatment technologies may be used.
  - c. The ease or difficulty of implementing a potential remedy based on consideration of the following types of factors:
    - (1) Degree of difficulty associated with constructing the technology;
    - (2) Expected operational reliability of the technologies;
    - (3) Need to coordinate with and obtain necessary approvals and permits from other agencies;
    - (4) Availability of necessary equipment and specialists; and
    - (5) Available capacity and location of needed treatment, storage, and disposal services.
  - d. Practicable capability of the owner or operator, including a consideration of the technical and economic capability.
  - e. The degree to which community concerns raised as the result of the public meeting required by 9 VAC 20-80-310A4 are addressed by a potential remedy.
4. The owner or operator shall specify as part of the selected remedy a schedule for initiating and completing remedial activities. Such a schedule shall require the initiation of remedial activities within a reasonable period of time taking into consideration the factors set forth in this section. The owner or operator shall consider the following factors in determining the schedule of remedial activities:
- a. Extent and nature of contamination;
  - b. Practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established under 9 VAC 20-80-250D, 9 VAC 20-80-260D, or 9 VAC 20-80-270D and other objectives of the remedy;
  - c. Availability of treatment or disposal capacity for wastes managed during implementation of the remedy;
  - d. Desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;
  - e. Potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;
  - f. Resource value of the aquifer including:
    - (1) Current and future uses;
    - (2) Proximity and withdrawal rates of users;
    - (3) Groundwater quantity and quality;
    - (4) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to the waste constituents;

- (5) The hydrological characteristics of the facility and surrounding land;
  - (6) Groundwater removal and treatment costs; and
  - (7) The cost and availability of alternate water supplies;
  - g. Practical capability of the owner or operator.
  - h. Other relevant factors.
5. The proposed corrective action plan shall be submitted to the director for approval. Prior to rendering his approval, the director may:
- a. Request a technical modification of the program;
  - b. Request a change in the time schedule; or
  - c. Determine that the remediation of the release of an APPENDIX 5.1 constituent from the disposal unit is not necessary, if the owner or operator demonstrates to the satisfaction of the director that:
    - (1) The groundwater is additionally contaminated by substances that have originated from a source other than the facility and those substances are present in concentrations such that cleanup of the release from the facility would provide no significant reduction in risk to actual or potential receptors; or
    - (2) The constituent is present in groundwater that:
      - (a) Is not currently or reasonably expected to be a source of drinking water; and
      - (b) Is not hydraulically connected with waters to which the constituents are migrating or are likely to migrate in a concentration that would exceed the groundwater protection standards established; or
    - (3) Remediation of the release is technically impracticable; or
    - (4) Remediation results in unacceptable cross-media impacts.
6. A determination by the director pursuant to 9 VAC 20-80-310A5e(3), 310B5c. shall not affect the authority of the state to require the owner or operator to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and significantly reduce threats to human health or the environment.
7. After an evaluation of the proposed plan, the director will:
- a. Approve the proposed corrective action plan as written or modified by the owner or operator; or
  - b. Disapprove the proposed corrective action plan and undertake appropriate containment or clean up actions in accordance with § 10.1-1402 (18) of the Virginia Waste Management Act.
- C. Implementation of the corrective action plan.

1. Based on the schedule established under 9 VAC 20-80-310A5 or 9 VAC 20-80-310B4, for initiation and completion of remedial activities the owner/operator shall:

a. Establish and implement a corrective action groundwater monitoring program that:

- (1) At a minimum, meets the requirements of a groundwater monitoring program under 9 VAC 20-80-250D6, ~~9 VAC 20-80-260D7~~ 9 VAC 20-80-260D5, or ~~9 VAC 20-80-270D7~~ 9 VAC 20-80-270D5;
- (2) Indicates the effectiveness of the corrective action remedy; and
- (3) Demonstrates compliance with groundwater protection standard, pursuant to 9 VAC 20-80-310C5.

b. Implement the corrective action remedy selected under 9 VAC 20-80-310A5 or 9 VAC 20-80-310B.; and

c. Take any interim measures necessary to ensure the protection of human health and the environment. Interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to 9 VAC 20-80-310B. The following factors shall be considered by an owner or operator in determining whether interim measures are necessary:

- (1) Time required to develop and implement a final remedy;
- (2) Actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;
- (3) Actual or potential contamination of drinking water supplies or sensitive ecosystems;
- (4) Further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;
- (5) Weather conditions that may cause the constituents to migrate or be released;
- (6) Risks of fire or explosion, or potential for exposure to constituents as a result of an accident or failure of a container or handling system; and
- (7) Other situations that may pose threats to human health and the environment.

2. An owner or operator or the director may determine, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of 9 VAC 20-80-310B2 are not being achieved through the remedy selected. In such cases, the owner or operator shall implement other methods or techniques that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination under 9 VAC 20-80-310C3.

3. If the owner or operator determines that compliance with requirements under 9 VAC 20-80-310B2 cannot be practically achieved with any currently available methods, the owner or operator shall:

- a. Based on a certification of a qualified groundwater scientist, obtain an approval of the director that compliance with requirements under 9 VAC 20-80-310B2 cannot be practically achieved with any currently available methods;
  - b. Implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment; and
  - c. Implement alternate measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:
    - (1) Technically practicable; and
    - (2) Consistent with the overall objective of the remedy.
  - d. Submit a report to the director justifying the alternate measures at least 14 days prior to implementing the alternate measures.
4. All solid wastes that are managed pursuant to a remedy required under 9 VAC 20-80-310A5, 9 VAC 20-80-310B., or an interim measure required under 9 VAC 20-80-310C1c, shall be managed in a manner:
- a. That is protective of human health and the environment; and
  - b. That complies with all applicable federal and Virginia requirements.
5. Remedies selected pursuant to 9 VAC 20-80-310A5 or 9 VAC 20-80-310B. shall be considered complete when:
- a. The owner or operator complies with the groundwater protection standards at all points within the plume of contamination that lie beyond the groundwater monitoring well system.
  - b. Compliance with the groundwater protection standards has been achieved by demonstrating that concentrations of APPENDIX 5.1 constituents have not exceeded the groundwater protection standard(s) for a period of three consecutive years using the appropriate statistical procedures and performance standards.
  - c. All actions required to complete the remedy have been satisfied.
6. Upon completion of the remedy, the owner or operator shall notify the director within 14 days by submitting a certification that the remedy has been completed in compliance with the requirements of 9 VAC 20-80-310C5. The certification shall be signed by the owner or operator and by a qualified groundwater scientist.
7. When, upon completion of the certification, the director determines that the corrective action remedy has been completed in accordance with the requirements under 9 VAC 20-80-310C5, he will release the owner or operator from the requirements for financial assurance for corrective action under 9 VAC 20-70-10 *et seq.*

## APPENDIX 5.1 LIST OF HAZARDOUS CONSTITUENTS<sup>ii</sup>

Common Name <sup>iii</sup>	CAS RN <sup>iv</sup> Methods <sup>v</sup> (µg/L) <sup>vi</sup>	Analytical Chemical Abstracts Service Index Name	PQL
Acenaphthene.....	83-32-9 Acenaphthylene, 1,2-dihydro	8100	200
Acenaphthylene.....	208-96-8 Acenaphthylene-	8270	10
Acetone .....	67-64-1 2-Propenone	8260	100
Acetonitrile; Methyl cyanide.....	75-05-8 Acetonitrile	8015	100
Acetophenone.....	98-86-2 Ethanone, 1-phenyl-	8270	10
2-Acetylaminofluorene; 2-AAF.....	53-96-3 Acetamide, N-9H-fluoren-2-yl	8270	20
Acrolein .....	107-02-8 2-Propenal	8030	5
		8260	100
Acrylonitrile .....	107-13-1 2-Propenenitrile	8030	5
		8260	200
Aldrin.....	309-00-2 1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro- 1,4,4a,5,8,aa-hexahydro- (1a,4a,4aβ,5a,8a,8aβ)-	8080	0.05
		8270	10
Allyl chloride .....	107-05-1 1-Propene, 3-chloro	8010	5
		8260	10
4-Aminobiphenyl.....	92-67-1 [1,11-Biphenyl-4-amine	8270	20
Anthracene .....	120-12-7 Anthracene	8100	200
		8270	10
Antimony .....	(Total) Antimony	6010	300
		7040	2000
		7041	30
Arsenic.....	(Total) Arsenic	6010	500
		7060	10
		7061	20
Barium .....	(Total) Barium	6010	20
		7080	1000
Benzene	71-43-2 Benzene	8020	2
		8021	0.1
		8260	5
Benzo[a]anthracene; Benzanthracene.....	56-55-3 Benz[a]anthracene	8100	200
		8270	10
Benzo[b]fluoranthene	205-99-2 Benz[e]acephenanthrylene	8100	200
		8270	10
Benzo[k]fluoranthene	207-08-9 Benzo[k]fluorenthene	8100	200
		8270	10
Benzo[ghi]perylene	191-24-2 Benzo[ghi]perylene	8100	200
		8270	10
Benzo[a]pyrene.....	50-32-8 Benzo[a]pyrene	8100	200
		8270	10
Benzyl alcohol	100-51-6 Benzenemethanol	8270	20
Beryllium	(Total) Beryllium	6010	3
		7090	50
		7091	2
alpha-BHC	319-84-6 Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1a,2a,3β,4a,5β,6β)-	8080	0.05
		8270	10
beta-BHC	319-85-7 Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1a,2β,3a,4β,5a,6β)-	8080	0.05
		8270	20
delta-BHC	319-86-8 Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1a,2a,3a,4β,5a,6β)-	8080	0.1
		8270	20
gamma-BHC; Lindane	58-89-9 Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1a,2a,3β,4a,5a,6β)-	8080	0.05
		8270	20
Bis(2-chloroethoxy)methane	111-91-1 Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-	8110	5

			8270	10
Bis(2-chloroethyl) ether;	111-44-4	Ethane, 1,1'-oxybis[2-chloro-	8110	3
Dichloroethyl ether			8270	10
Bis(2-chloro-1-methyl) ether;...	108-60-1	Propane, 2,2'-oxybis(1-chloro-	8110	10
2,2'-Dichlorodiisopropyl ether; DCIP, See note			8270	10
Bis(2-ethylhexyl)phthalate	117-81-7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester	8060	20
Bromochloromethane; .....	74-97-5	Methane, bromochloro	8021	0.1
Chlorobromomethane			8260	5
Bromodichloromethane;.....	75-27-4	Methane, bromodichloro	8010	1
Dibromochloromethane			8021	0.2
			8260	5
Bromoform; Tribromomethane.....	75-25-2	Methane, tribromo	8010	2
			8021	15
			8260	5
4-Bromophenyl phenyl ether.....	101-55-3	Benzene, 1-bromo-4-phenoxy	8110	25
			8270	10
Butyl benzyl phthalate; .....	85-68-7	1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester	8060	5
Benzyl butyl phthalate			8270	10
Cadmium .....	(Total)	Cadmium	6010	40
			7130	50
			7131	1
Carbon disulfide .....	75-15-0	Carbon disulfide	8260	100
Carbon tetrachloride.....	56-23-5	Methane, tetrachloro	8010	1
			8021	0.1
			8260	10
Chlordane.....	Note	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-	8080	0.1
		2,3,3a,4,7,7a-hexahydro-	8270	50
p-Chloroaniline .....	106-47-8	Benzenamine, 4-chloro	8270	20
Chlorobenzene .....	108-90-7	Benzene, chloro	8010	2
			8020	2
			8021	0.1
			8260	5
Chlorobenzilate.....	510-15-6	Benzeneacetic acid, 4-chloro-a-(4-chlorophenyl)-a-	8270	10
		hydroxy-, ethyl ester		
p-Chloro-m-cresol; .....	59-50-7	Phenol, 4-chloro-3-methyl-	8040	5
4-Chloro-3-methylphenol			8270	20
Chloroethane; Ethyl chloride .....	75-00-3	Ethane, chloro-	5010	5
			8021	1
			8260	10
Chloroform; Trichloromethane.....	67-66-3	Methane, trichloro-	6010	0.5
			8021	0.2
			8260	5
2-Chloronaphthalene .....	91-58-7	Naphthalene, 2-chloro	8120	10
			8270	10
2-Chlorophenol.....	95-57-8	Phenol, 2-chloro	8240	5
			8270	10
4-Chlorophenyl phenyl ether.....	7005-72-3	Benzene, 1-chloro-4-phenoxy	8110	40
			8270	10
Chloroprene .....	126-99-8	1,3-Butadiene, 2-chloro	8010	50
			8260	20
Chromium .....	(Total)	Chromium	6010	70
			7190	500
			7191	10
Chrysene.....	218-01-9	Chrysene	8100	200
			8270	10
Cobalt .....	(Total)	Cobalt	6010	70
			7200	500
			7201	10
Copper.....	(Total)	Copper	6010	60
			7210	200
			7211	10
m-Cresol; 3-methylphenol.....	108-39-4	Phenol, 3-methyl	8270	10
o-Cresol; 2-methylphenol .....	95-48-7	Phenol, 2-methyl	8270	10
p-Cresol; 4-methylphenol .....	106-44-5	Phenol, 4-methyl	8270	10
Cyanide .....	57-12-5	Cyanide	9010	200
2,4-D; 2,4-Dichlorophenoxyacetic acid.....	94-75-7	Acetic acid, (2,4-dichlorophenoxy)-	8150	10
4,4'-DDD .....	72-54-8	Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-	8080	0.1

4,4'-DDE.....72-55-9 Benzene, 1,1'-(dichloroethenylidene)bis[4-chloro	<del>8270</del> 10
	<del>8080</del> 0.05
4,41-DDT .....50-29-3 Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-	<del>8270</del> 10
	<del>8080</del> 0.1
	<del>8270</del> 10
Diallate.....2303-16-4Carbamothioic acid,	
..... bis(l-methylethyl) S-(2,3-dichloro-2-propenyl) ester	8270 10
Dibenz[a,h]anthracene .....53-70-3 Dibenz[a,h]anthracene	8100 200
	<del>8270</del> 10
Dibenzofuran.....132-64-9 Dibenzofuran	8270 10
Dibromochloromethane; .....124-48-1 Methane, dibromochloro	8010 1
Chlorodibromomethane	8021 0.3
	<del>8260</del> 5
1,2-Dibromo-3-chloropropane; DBCP96-12-8 Propane, 1,2-dibromo-3-chloro-	8011 0.1
	<del>8021</del> 30
	<del>8260</del> 25
1,2-Dibromoethane; Ethylene dibromide;106-93-4Ethane, 1,2-dibromo-	8011 0.1
EDB	8021 10
	<del>8260</del> 5
Di-n-butyl phthalate.....84-74-2 1,2- Benzenedicarboxylic acid, dibutyl ester	8060 5
	<del>8270</del> 10
o-Dichlorobenzene; .....95-50-1 Benzene, 1,2-dichloro-	8010 2
1,2-Dichlorobenzene	8020 5
	8021 0.5
	<del>8120</del> 10
	<del>8260</del> 5
	<del>8270</del> 10
m-Dichlorobenzene; .....541-73-1 Benzene, 1,3-dichloro-	8010 5
1,3-Dichlorobenzene	8020 5
	8021 0.2
	<del>8120</del> 10
	<del>8260</del> 5
	<del>8270</del> 10
p-Dichlorobenzene; .....106-46-7 Benzene, 1,4-dichloro	8010 2
1,4-Dichlorobenzene	8020 5
	8021 0.1
	<del>8120</del> 15
	<del>8260</del> 5
	<del>8270</del> 10
3,3'-Dichlorobenzidine .....91-94-1 [1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro	8270 20
trans-1,4-Dichloro-2-butene.....110-57-6 2-Butene, 1,4-dichloro-, (E)-	8260 100
Dichlorodifluoromethane; CFC 12;.....75-71-8 Methane, dichlorodifluoro	8021 0.5
	<del>8260</del> 5
1,1-Dichloroethane; Ethylidene.....75-34-3 Ethane, 1,1-dichloro	8010 1
chloride	8021 0.5
	<del>8260</del> 5
1,2-Dichloroethane; Ethylene .....107-06-2 Ethane, 1,2-dichloro-	8010 0.5
dichloride	8021 0.3
	<del>8260</del> 5
1,1-Dichloroethylene; 1,1-Dichloroethene;5-35-4Ethene, 1,1-dichloro-	8010 1
Vinylidene chloride	8021 0.5
	<del>8260</del> 5
cis-1,2-Dichloroethylene; .....156-59-2 Ethene, 1,2-dichloro-, (Z)	8021 0.2
cis-1,2-Dichloroethene	8060 5
trans-1,2-Dichloroethylene.....156-60-5 Ethene, 1,2-dichloro-, (E)	8010 1
trans-1,2-Dichloroethene	8021 0.5
	<del>8260</del> 5
2,4-Dichlorophenol.....120-83-2 Phenol, 2,4-dichloro	8040 5
	<del>8270</del> 10
2,6-Dichlorophenol.....87-65-0 Phenol, 2,6-dichloro	8270 10
1,2-Dichloropropane; Propylene dichloride78-87-5Propane, 1,2-dichloro	8010 0.5
	8021 0.05
	<del>8260</del> 5
1,3-Dichloropropane;.....142-28-9 Propane, 1,3-dichloro	8021 0.3
Trimethylene dichloride	<del>8260</del> 5
2,2-Dichloropropane;.....594-20-7 Propane, 2,2-dichloro	8021 0.5
Isopropylidene chloride	<del>8260</del> 15

1,1-Dichloropropene.....	563-58-6	1-Propene, 1,1-dichloro	8021	0.2
			<del>8260</del>	5
cis-1,3-Dichloropropene .....	10061-01-51	Propene, 1,3-dichloro-, (Z)	8010	20
			<del>8260</del>	10
trans-1,3-Dichloropropene.....	10061-02-61	Propene, 1,3-dichloro-, (E)	8010	5
			<del>8260</del>	10
Dieldrin .....	60-57-1	2,7:3,6-Dimethanonaphth[2,3-bioxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a- octahydro-, (1aa,2b,2aa,3b,6b,6aa,7b,7aa)-	8080	0.05
			<del>8270</del>	10
Diethyl phthalate.....	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester	8060	5
			<del>8270</del>	10
O,O-Diethyl O-2-pyrazinyl.....	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester phosphorothioate; Thionazin	8141	5
			<del>8270</del>	20
Dimethoate.....	60-51-5	Phosphorodithioic acid, O,O-dimethyl- S-[2-(methylamino)-2-oxoethyl] ester	8141	3
			<del>8270</del>	20
p-(Dimethylamino)azobenzene .....	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-	8270	10
7,12-Dimethylbenz[a]anthracene .....	57-97-6	Benz[a]anthracene, 7,12-dimethyl-	8270	10
3,3'-Dimethylbenzidine .....	119-93-7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl	8270	10
2,4-Dimethylphenol; m-Xylenol.....	105-67-9	Phenol, 2,4-dimethyl	8040	5
			<del>8270</del>	10
Dimethyl phthalate.....	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester	8060	5
			<del>8270</del>	10
m-Dinitrobenzene .....	99-65-0	Benzene, 1,3-dinitro	8270	20
4,6-Dinitro-o-cresol.....	534-52-1	Phenol, 2-methyl-4,6-dinitro	8040	150
		4,6-Dinitro-2-methylphenol	8270	50
2,4-Dinitrophenol.....	51-28-5	Phenol, 2,4-dinitro	8040	150
			<del>8270</del>	50
2,4-Dinitrotoluene .....	121-14-2	Benzene, 1-methyl-2,4-dinitro	8090	0.2
			<del>8270</del>	10
2,6-Dinitrotoluene .....	606-20-2	Benzene, 2-methyl-1,3-dinitro-	8090	0.1
			<del>8270</del>	10
Dinoseb; DNBP;.....	86-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro	8150	1
		2-sec-Butyl-4,6-dinitrophenol	8270	20
Di-n-octyl phthalate .....	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl est* r	8060	30
			<del>8270</del>	10
Diphenylamine.....	122-39-4	Benzenamine, M-phenyl	8270	10
Disulfoton .....	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester	8140	2
			8141	0.5
			<del>8270</del>	10
Endosulfan I.....	959-96-8	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10- hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide,	8080	0.1
			<del>8270</del>	20
Endosulfan II	33213-65-9	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10- hexachloro-1,5,5s,6,9,9a-hexahydro-, 3-oxide, (3a,5aa,6b,9b,9aa)-	8080	0.05
			<del>8270</del>	20
Endosulfan sulfate.....	1031-07-86	9-Methano-2,4,3-banzodioxathiepin, 6,7,8,9,10,10- hexachloro-1,5,5a,6,9,9a-hexahydro-,3,3-dioxide	8080	0.5
			<del>8270</del>	10
Endrin .....	72-20-8	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9- hexachloro-1a,2,2*,3,6,6a,7,7a-octahydro-, (1aa,2b,2aß,3a,6a,6aß,7b,7aa)-	8080	0.1
			<del>8270</del>	20
Endrin aldehyde.....	7421-93-41	2,4-Methenocyclopenta[cd]pentalene-5-carboxaldehyde, 2,2a,3,3,4,7-hexachlorodecahydro-, (1a,2b,2aß,4b, 4aß,5b,6aß,6bß,7R*)-	8080	0.2
			<del>8270</del>	10
Ethylbenzene .....	100-41-4	Benzene, ethyl	8020	2
			<del>8221</del>	0.05
			<del>8260</del>	5
Ethyl methacrylate.....	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester	8015	5
			<del>8260</del>	10
			<del>8270</del>	10
Ethyl methanesulfonate .....	62-50-0	Methanesulfonic acid, ethyl ester	8270	20
Famphur.....	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl] phenyl] O,O-dimethyl ester	8270	20
Fluoranthene.....	206-44-0	Fluoranthene	8100	200
			<del>8270</del>	10
Fluorene.....	86-73-7	9H-Fluorene	8100	200
			<del>8270</del>	10
Heptachlor.....	76-44-8	4,7-Methano-1H-Indene, 1,4,5,6,7,8,8-heptachloro- 3a,4,7,7a-tetrahydro-	8080	0.05
			<del>8270</del>	10

Heptachlor epoxide .....	1024-57-32,5-Methano-2H-indeno[1,2-b]oxirene, 2,3,4,5,6,7,7-heptachloro-1a,1b,5,5a,6,6a-hexahydro-, (1aa,1bB,2a,5a,5aB,6,6aa)	8080	1
		8270	10
Hexachlorobenzene .....	118-74-1 Benzene, hexachloro	8120	0.5
		8270	10
Hexachlorobutadiene .....	87-68-3 1,3-Butadiene, 1,1,2,3,4,4-hexachloro	8021	0.5
		8120	5
		8260	10
		8270	10
Hexachlorocyclopentadiene .....	77-47-4 1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro	8120	5
		8270	10
Hexachloroethane .....	67-72-1 Ethane, hexachloro	8120	0.5
		8260	10
		8270	10
Hexachloropropene.....	1888-71-71-Propene, 1,1,2,3,3,3-hexachloro-	8270	10
2-Hexanone; Methyl butyl ketone.....	591-78-6 2-Hexanone	8260	50
Indeno[1,2,3-cd]pyrene.....	193-39-5 Indeno[1,2,3-cd]pyrene	8100	200
		8270	10
Isobutyl alcohol.....	78-83-1 1-Propanol, 2-methyl	8015	50
		8240	100
Isodrin.....	465-73-6 1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a hexahydro-(1a,4a,4aB,5B,8B,8aB)-	8270	20
		8260	10
Isophorone.....	78-59-1 2-Cyclohexen-1-one, 3,5,5-trimethyl	8090	60
		8270	10
Isosafrole .....	120-58-1 1,3-Benzodioxole, 5-(1-propenyl)	8270	10
Kepone .....	143-50-0 1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one	8270	20
	1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-		
Lead.....(Total)	Lead	6010	400
		7420	1000
		7421	10
Mercury .....	(Total) Mercury	7470	2
Methacrylonitrile .....	126-98-7 2-Propenenitrile, 2-methyl-	8015	5
		8260	100
Methapyrilene.....	91-80-5 1,2-Ethanedimine, N,N-dimethyl-N'-2-pyridiny-N'-2-thianylmethyl)	8270	100
Methoxychlor.....	72-43-5 Benzene, 1,1'-(2,2,2,2-trichloroethylidene)bis[4-methoxy-	8080	2
		8270	10
Methyl bromide; Bromomethane.....	74-83-9 Methane, bromo-	8010	20
		8021	10
Methyl chloride; Chloromethane.....	74-87-3 Methane, chloro-	8010	1
		8021	0.3
3-Methylcholanthrene .....	56-49-5 Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-	8270	10
Methyl ethyl ketone; MEK; .....	78-93-3 2-Butanone	8015	10
	2-Butanone	8260	100
Methyl iodide; Iodomethane .....	74-88-4 Methane, iodo-	8010	40
		8260	10
Methyl methacrylate.....	80-62-6 2-Propenoic acid, 2-methyl-, methyl ester	8015	2
		8260	30
Methyl methanesulfonate.....	66-27-3 Methanesulfonic acid, methyl ester	8270	10
2-Methylnaphthalene.....	91-57-6 Naphthalene, 2-methyl	8270	10
Methyl parathion; Parathion methyl.....	298-00-0 Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester	8140	0.5
		8141	1
		8270	10
4-Methyl-2-pentanone;.....	108-10-1 2-Pentanone, 4-methyl	8015	5
	Methyl isobutyl ketone	8260	100
Methylene bromide; Dibromomethane.....	74-95-3 Methane, dibromo	8010	15
		8021	20
		8260	10
Methylene chloride; .....	75-09-2 Methane, dichloro	8010	5
Dichloromethane		8021	0.2
		8260	10
Naphthalene.....	91-20-3 Naphthalene	8021	0.5
		8100	200
		8260	5
		8270	10
1,4-Naphthoquinone .....	130-15-4 1,4-Naphthalenedione	8270	10

1-Naphthylamine .....	134-32-7	1-Naphthalenamine	8270	10
2-Naphthylamine .....	91-59-8	2-Naphthalenamine	8270	10
Nickel .....	(Total)	Nickel	6010	150
			7520	400
o-Nitroaniline; 2-Nitroaniline .....	88-74-4	Benzenamine, 2-nitro	8270	50
m-Nitroaniline; 3-Nitroaniline .....	99-09-2	Benzenamine, 3-nitro	8270	50
p-Nitroaniline; 4-Nitroaniline .....	100-01-6	Benzenamine, 4-nitro	8270	20
Nitrobenzene.....	98-95-3	Benzene, nitro	8090	40
			8270	10
o-Nitrophenol; 2-Nitrophenol.....	88-75-5	Phenol, 2-nitro	8040	5
			8270	10
p-Nitrophenol; 4-Nitrophenol.....	100-02-7	Phenol, 4-nitro	8040	10
			8270	50
N-Nitrosodi-n-butylamine .....	924-16-3	1-Butenamine, N-butyl-N-nitroso	8270	10
N-Nitrosodiethylamine.....	55-18-5	Ethanamine, N-ethyl-N-nitroso	8270	20
N-Nitrosodimethylamine.....	62-75-9	Methanamine, N-methyl-N-nitroso-	8070	2
N-Nitrosodiphenylamine .....	86-30-6	Benzenamine, N-nitroso-N-phenyl-	8070	5
N-Nitrosodipropylamine; .....	621-64-7	1-Propanamine, N-nitroso-N-propyl	8070	10
N-Nitroso-N-dipropylamine; Di-n-propylnitrosamine				
N-Nitrosamethylethylamine.....	10595-95-6	Ethanamine, N-methyl-N-nitroso-	8270	10
N-Nitrosopiperidine .....	100-75-4	Piperidine, 1-nitroso	8270	20
N-Nitrosopyrrolidine.....	930-55-2	Pyrrolidine, 1-nitroso	8270	40
5-Nitro-o-toluidine.....	99-55-8	Benzenamine, 2-methyl-5-nitro	8270	10
Parathion .....	56-38-2	Phosphorothioic acid, O,O-diethyl	8141	0.5
		O-(4-nitrophenyl) ester	8270	10
Pentachlorobenzene .....	608-93-5	Benzene, pentachloro	8270	10
Pentachloronitrobenzene .....	82-68-8	Benzene, pentachloronitro-	8270	20
Pentachlorophenol.....	87-86-5	Phenol, pentachloro	8040	5
			8270	50
Phenacetin .....	62-44-2	Acetamide, N-(4-ethoxyphenyl)	8270	20
Phenanthrene.....	85-01-8	Phenanthrene	8100	200
			8270	10
Phenol .....	108-95-2	Phenol	8040	1
p-Phenylenediamine.....	106-50-3	1,4-Benzenediamine	8270	10
Phorate.....	298-02-2	Phosphorodithioic acid, O,O-diethyl-	8140	2
		S-[(ethylthio)methyl] ester	8141	0.5
			8270	10
Polychlorinated biphenyls; PCBS;...Note		1,1'-Biphenyl, chloro derivatives	8080	50
Aroclors			8270	200
Pronamide .....	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	8270	10
Propionitrile; Ethyl cyanide .....	107-12-0	Propanenitrile	8015	60
			8260	150
Pyrene .....	129-00-0	Pyrene	8100	200
			8270	10
Safrole.....	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)	8270	10
Selenium.....	(Total)	Selenium	6010	750
			7740	20
			7741	20
Silver.....	(Total)	Silver	6010	70
			7760	100
			7761	10
Silvex; 2,4,5-TP.....	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)	8150	2
Styrene.....	100-42-5	Benzene, ethenyl	8020	1
			8021	0.1
			8260	10
Sulfide .....	18496-25-8	Sulfide	9030	4000
2,4,5-T;.....	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)	8150	2
2,4,5-Trichlorophenoxyacetic acid				
1,2,4,5-Tetrachlorobenzene .....	95-94-3	Benzene, 1,2,4,5-tetrachloro	8270	10
1,1,1,2-Tetrachloroethane .....	630-20-6	Ethane, 1,1,1,2-tetrachloro	8010	5
			8021	0.05
			8260	5
1,1,2,2-Tetrachloroethane .....	79-34-5	Ethane, 1,1,2,2-tetrachloro	8010	0.5
			8021	0.1
			8260	5
Tetrachloroethylene; Tetrachloro-.....	127-18-4	Ethene, tetrachloro-	8010	0.5
ethene; Perchloroethylene			8021	0.5

2,3,4,6-Tetrachlorophenol.....	58-90-2	Phenol, 2,3,4,6-tetrachloro	8260	5
Thallium .....	(Total)	Thallium	8270	10
			6010	400
			7840	1000
			7541	10
Tin.....	(Total)	Tin	6010	40
Toluene .....	108-88-3	Benzene, methyl-	8020	2
			8021	0.1
			8260	5
o-Toluidine.....	95-53-4	Benzenamine, 2-methyl	8270	10
Toxaphene .....	Note	Toxaphene	8080	2
1,2,4-Trichlorobenzene.....	120-82-1	Benzene, 1,2,4-trichloro	8021	0.3
			8120	0.5
			8260	10
			8270	10
1,1,1-Trichloroethane;.....	71-55-6	Ethane, 1,1,1-trichloro-	8010	0.3
Methylchloroform			8021	0.3
			8260	5
1,1,2-Trichloroethane.....	79-00-5	Ethane, 1,1,2-trichloro-	8010	0.2
			8260	5
Trichloroethylene; Trichloroethene...	79-01-6	Ethene, trichloro	8010	1
ethene			8021	0.2
			8260	5
Trichlorofluoromethane; CFC-11 .....	75-69-4	Methane, trichlorofluoro	8010	10
			8021	0.3
			8260	5
2,4,5-Trichlorophenol .....	95-95-4	Phenol, 2,4,5-trichloro	8270	10
2,4,6-Trichlorophenol .....	88-06-2	Phenol, 2,4,6-trichloro	8040	5
			8270	10
1,2,3-Trichloropropane .....	96-18-4	Propane, 1,2,3-trichloro	8010	10
			8021	5
			8260	15
O,O,O-Triethyl phosphorothioate .....	126-68-1	Phosphorothioic acid, O,O,O-triethylester	8270	10
sym-Trinitrobenzene.....	99-35-4	Benzene, 1,3,5-trinitro	8270	10
Vanadium.....	(Total)	Vanadium	6010	80
			7910	2000
			7911	40
Vinyl acetate .....	108-05-4	Acetic acid, ethenyl ester	8260	50
Vinyl chloride; Chloroethene .....	75-01-4	Ethene, chloro	8010	2
			8021	0.4
			8260	10
Xylene (total) .....	Note	Benzene, dimethyl-	8020	5
			8021	0.2
			8260	5
Zinc .....	(Total)	Zinc	6010	20
			7950	50
			7951	0.5

NOTES:

## APPENDIX 5.2

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### COCHRAN'S APPROXIMATION TO THE BEHRENS-FISHER STUDENT'S T TEST

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Using all the available background data ( $n_b$  readings), calculate the background mean ( $\bar{X}_b$ ) and background variance ( $s_b^2$ ). For the single monitoring well under investigation ( $n_m$  readings), calculate the monitoring mean ( $\bar{x}_m$ ) and monitoring variance ( $s_m^2$ ).

$$\bar{X} = \frac{X_1 + X_2 + \dots + X_n}{n}$$

For any set of data ( $X_1, X_2, \dots, X_n$ ) the mean is calculated by:

$$s^2 = \frac{(X_1 - \bar{X})^2 + (X_2 - \bar{X})^2 + \dots + (X_n - \bar{X})^2}{n - 1}$$

and the variance is calculated by:

where "n" denotes the number of observations in the set of data.

The t test uses these data summary measures to calculate a t statistic ( $t^*$ ) and a comparison t statistic ( $t_c$ ). The  $t^*$  value is compared to the  $t_c$  value and a conclusion reached as to whether there has been a statistically significant change in any indicator parameter.

The t statistic for all parameters except pH and similar monitoring parameters is:

$$t^* = \frac{\bar{X}_m - \bar{X}_n}{\left[ \frac{s_m^2}{n_m} + \frac{s_n^2}{n_n} \right]^{1/2}}$$

If the value of this t statistic is negative then there is no significant difference between the monitoring data and background data. It should be noted that significantly small negative values may be indicative of a failure of the assumption made for test validity or errors have been made in collecting the background data.

The t statistic ( $t_c$ ), against which  $t^*$  will be compared, necessitates finding  $t_b$  and  $t_m$  from standard (one-tailed) tables where:

$t_b$  = t tables with ( $n_b - 1$ ) degrees of freedom, at the 0.05 level of significance.

$t_m$  = t tables with ( $n_m - 1$ ) degrees of freedom, at the 0.05 level of significance.

$$W_B = \frac{S_B^2}{n_B} \quad \text{and} \quad W_m = \frac{S_m^2}{n_m}$$

Finally, the special weightings  $W_b$  and  $W_m$  are defined as:

and so the comparison t statistic is:

$$t_c = \frac{W_B \bullet t_B + W_m \bullet t_m}{W_B + W_m}$$

The t statistic ( $t^*$ ) is now compared with the comparison t statistic ( $t_c$ ) using the following decision rule:

If  $t^*$  is equal to or larger than  $t_c$ , then conclude that there most likely has been a significant increase in this specific parameter.

If  $t^*$  is less than  $t_c$ , then conclude that most likely there has not been a change in this specific parameter.

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Standard t Tables

0.05 Level of Significance

Degrees of Freedom	t values (one tail)	t values (two tail)
1	6.314	12.706
2	2.920	4.303
3	2.353	3.182
4	2.132	2.776
5	2.015	2.571
6	1.943	2.447
7	1.895	2.365
8	1.860	2.306
9	1.833	2.262
10	1.812	2.228
11	1.796	2.201
12	1.782	2.179
13	1.771	2.160

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<sup>1</sup> Adopted from Table III of R. A. Fisher and F. Yates, "Statistical Tables for Biological, Agricultural, and Medical Research" (1974).

14	1.761	2.145
15	1.753	2.131
16	1.746	2.120
17	1.740	2.110
18	1.734	2.101
19	1.729	2.093
20	1.725	2.086
21	1.721	2.080
22	1.717	2.074
23	1.714	2.069
24	1.711	2.064
25	1.708	2.060
30	1.697	2.042
40	1.684	2.021

The t statistic for testing pH and similar monitoring parameters is constructed in the same manner as previously described except the negative sign (if any) is discarded and the caveat concerning the negative value is ignored. The standard (two tailed) tables are used in the construction  $t_c$  for pH and similar monitoring parameters.

APPENDIX 5.3  
GROUNDWATER PROTECTION LEVELS  
LIST OF HAZARDOUS CONSTITUENTS

COMMON NAME <sup>viii</sup>	CAS <sup>ix</sup> NR	Chemical abstracts service index Name <sup>x</sup>	Protection Level (µg/lit)
Acrylonitrile	107-13-1	2-Propenenitrile	2.
Aldrin	309-00-2	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-(1a,4a,4a,4aB,5a,8a,8aB)-	0.003
Arsenic	(Total)	Arsenic	50.
Barium	(Total)	Barium	1000.
Benzene	71-43-2	Benzene	5.
Bis(2-chloroethyl) ether	111-44-4	Ethane, 1,1'-oxybis(2-chloro-	0.3
Cadmium	(Total)	Cadmium	0.4
Carbon disulfide	5-15-0	Carbon disulfide	1000.
Carbon tetrachloride	56-23-5	Methane, tetrachloro	5.
Chlordane	57-74-9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octa-chloro-2,3,3a,4,7,7a-hexahydro-	0.01
Chlorobenzene	108-90-7	Benzene, chloro-	100.
Chloroform	67-66-3	Methane, trichloro-	5.
Chromium	(Total)	Chromium	50.
Copper	(Total)	Copper	1000.
m-Cresol	108-39-4	Phenol, 3-methyl-	700.
o-Cresol	95-48-7	Phenol, 2-methyl-	700.
p-Cresol	106-44-5	Phenol, 4-methyl-	700.
Cyanide	57-12-5	Cyanide	5.
2,4-D; 2,4-Dichlorophenoxy-acetic acid	94-75-7	Acetic acid, (2,4-dichlorophenoxy)-	100.
4,4' DDT	50-29-3	Benzene 1,1'-(2,2,2-trichloroethylidene)bis(4-chloro-	0.001
o-Dichlorobenzene	95-50-1	Benzene, 1,2-dichloro-	300.
p-Dichlorobenzene	106-46-7	Benzene, 1,4-dichloro-	75.
1,2-Dichloroethane; Ethylene dichloride	107-06-2	Ethane, 1,2-dichloro-	5.
1,1-Dichloroethylene; Vinylidene chloride	75-35-4	Ethene, 1,1-dichloro-	7.
Dieldrin	60-57-1	2,7:3,6-Dimethanonaphth[2,3]oxirene, -3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, 1aa,2B,2aa,3B,6B,6aa,7B,7aa)-	0.003
2,4-Dinitrotoluene	121-14-2	Benzene, 1-methyl-2,4-dinitro-	1.
Endrin	72-20-8	5,8-Dimethano-naphthalene, 1,2,3,4,10,10-hexachloro-1,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1,4-endo,endo-	0.004
Foaming Agents (MBAS (Total)			0.05
Heptachlor	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-	0.001
Heptachlor epoxide	1024-57-3	2,5-Methano-2H-indeno[1,2-b]oxirene, 2,3,4,5,6,7,7-heptachloro-1a,1b,5,5a,6,6a,hexahydro-, (1aa,1bB,2a,5a,5aB,6B,6aa)	0.001

Hexachlorobenzene	118-74-1	Benzene, hexachloro	0.2
Hexachlorobutadiene	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro	50.
Hexachloroethane	67-72-1	Ethane, hexachloro	300.
Isobutyl alcohol	78-63-1	1-Propanol, 2-methyl	2500.
Kepone	143-50-0	1,3,4-Metheno-2H-cyclobuta-[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachloro-octahydro-	None
Lead	(Total)	Lead	50.
Lindane	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro	0.01
Mercury	(Total)	Mercury	0.05
Methoxychlor	72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene)- bis(4-methoxy-	0.03
Methylene chloride; Dichloromethane	75-09-2	Methane, dichloro-	600.
Methyl ethyl ketone; MEK	78-93-3	2-Butanone	500.
Mirex	2385-85-5	Cyclobutaedpentalene, 1,1a,2,2,3,3a,4,5,5, 5a,5b,6-dodecachloro-octahydro-1,3,4-metheno-1H-	None
Nitrobenzene	98-95-3	Benzene, nitro-	4.
Pentachlorophenol	87-86-5	Phenol, pentachloro-	250.
Petroleum hydrocarbons (Total)			1000.
Phenol	108-95-2	Phenol	1.
Pyridine	110-86-1	Pyridine	30.
Selenium	(Total)	Selenium	10.
Silver	(Total)	Silver	None
Silvex; 2,4,5-TP	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-	10.
Sodium (Total)		Sodium	270 mg./lit
1,1,1,2-Tetrachloroethane	630-20-6	Ethane, 1,1,1,2-tetrachloro	700.
1,1,2,2-Tetrachloroethane	79-34-5	Ethane, 1,1,2,2-tetrachloro	20.
Tetrachloroethylene; Perchloroethylene; Tetrachloroethene	127-18-4	Ethene, tetrachloro	7.
2,3,4,6-Tetrachlorophenol	58-90-2	Phenol, 2,3,4,6-tetrachloro	100.
Toluene	108-88-3	Benzene, methyl-	1000.
Toxaphene	8001-35-2	Toxaphene	None
1,1,1-Trichloroethane; Methylehloroform	71-55-6	Ethane, 1,1,1-trichloro	200.
1,1,2-Trichloroethane	79-00-5	Ethane, 1,1,2-trichloro	60.
Trichloroethylene; Trichloroethene	79-01-6	Ethene, trichloro	5.
2,4,5-Trichlorophenol	95-95-4	Phenol, 2,4,5-trichloro	400.
2,4,6-Trichlorophenol	88-06-2	Phenol, 2,4,6-trichloro	20.
Vinyl chloride	75-01-4	Ethene, chloro-	2.
Zinc	(Total)	Zinc	50.

Notes:

## APPENDIX 5.4 STATISTICAL TESTS METHODS

I. **Acceptable Test Methods.** The following statistical test methods may be used to evaluate groundwater monitoring data:

1. A *parametric analysis of variance* (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.
2. An *analysis of variance* (ANOVA) *based on ranks* followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.
3. A *tolerance or prediction interval procedure* in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.
4. A *control chart approach* that gives control limits for each constituent.
5. Another statistical test method that meets the performance standards specified below. Based on the justification submitted to the Department, the Director may approve the use of an alternative test. The justification must demonstrate that the alternative method meets the performance standards shown below.

A. **Performance Standards.** Any statistical method chosen by the owner or operator shall comply with the following performance standards, as appropriate:

1. The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of monitoring parameters or constituents. If the distribution is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.
2. If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment-wise error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

3. If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter values shall be protective of human health and the environment. The parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.
4. If a tolerance interval or a predictional interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, shall be protective of human health and the environment. These parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.
5. The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (PQL) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.
6. If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

**APPENDIX 5.5**  
**CONSTITUENTS FOR ~~DETECTION~~ GROUNDWATER MONITORING**

Common Name<sup>xi</sup> CAS RN<sup>xii</sup>

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**Inorganic Constituents**

1) Antimony. ....	(Total)
2) Arsenic. ....	(Total)
3) Barium. ....	(Total)
4) Beryllium. ....	(Total)
5) Cadmium. ....	(Total)
6) Chromium. ....	(Total)
7) Cobalt. ....	(Total)
8) Copper. ....	(Total)
9) Lead. ....	(Total)
10) Nickel. ....	(Total)
11) Selenium. ....	(Total)
12) Silver. ....	(Total)
13) Thallium. ....	(Total)
14) Vanadium. ....	(Total)
15) Zinc. ....	(Total)

**Organic Constituents**

16) Acetone .....	67-64-1
17) Acrylonitrile .....	107-13-1
18) Benzene .....	71-43-2
19) Bromochloromethane. ....	74-97-5
20) Bromodichloromethane. ....	75-27-4
21) Bromoform; Tribromomethane. ....	75-25-2
22) Carbon disulfide. ....	75-15-0
23) Carbon tetrachloride. ....	56-23-5
24) Chlorobenzene .....	108-90-7
25) Chloroethane; Ethyl chloride. ....	75-00-3
26) Chloroform; Trichloromethane. ....	67-66-3
27) Dibromochloromethane; Chlorodibromomethane .....	124-48-1
28) 1,2-Dibromo-3-chloropropane; DBCP .....	96-12-8
29) 1,2-Dibromoethane; Ethylene dibromide; EDB .....	106-93-4
30) o-Dichlorobenzene; 1,2-Dichlorobenzene. ....	95-50-1
31) p-Dichlorobenzene; 1,4-Dichlorobenzene. ....	106-46-7
32) trans-1,4-Dichloro-2-butene .....	110-57-6

33)	1,1-Dichloroethane; Ethylidene chloride .....	75-34-3
34)	1,2-Dichloroethane; Ethylene dichloride .....	107-06-2
35)	1,1-Dichloroethylene; 1,1-Dichloroethene; Vinyl chloride .....	75-35-4
36)	cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene .....	156-59-2
37)	trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene .....	156-60-5
38)	1,2-Dichloropropane; Propylene dichloride .....	78-87-5
39)	cis-1,3-Dichloropropene. ....	10061-01-5
40)	trans-1,3-Dichloropropene. ....	10061-02-6
41)	Ethylbenzene .....	100-41-4
42)	2-Hexanone; Methyl butyl ketone. ....	591-78-6
43)	Methyl bromide; Bromomethane .....	74-83-9
44)	Methyl chloride; Chloromethane .....	74-87-3
45)	Methylene bromide; Dibromomethane. ....	74-95-3
46)	Methylene chloride; Dichloromethane. ....	75-09-2
47)	Methyl ethyl ketone; MEK; 2-Butanone .....	78-93-3
48)	Methyl iodide; Iodomethane .....	74-88-4
49)	4-Methyl-2-pentanone; Methyl isobutyl ketone .....	108-10-1
50)	Styrene. ....	100-42-5
51)	1,1,1,2-Tetrachloroethane. ....	630-20-6
52)	1,1,2,2-Tetrachloroethane. ....	79-34-5
53)	Tetrachloroethylene; Tetrachloroethene; Perchloroethylene .....	127-18-4
54)	Toluene. ....	108-88-3
55)	1,1,1-Trichloroethane; Methylchloroform. ....	71-55-6
56)	1,1,2-Trichloroethane. ....	79-00-5
57)	Trichloroethylene; Trichloroethene .....	79-01-6
58)	Trichlorofluoromethane; CFC-11 .....	75-69-4
59)	1,2,3-Trichloropropane .....	96-18-4
60)	Vinyl acetate. ....	108-05-4
61)	Vinyl chloride .....	75-01-4
62)	Xylenes .....	1330-20-7

NOTES:

This list contains 47 volatile organics for which possible analytical procedures provided in EPA Report SW-846 "Test Methods for Evaluating Solid Waste," third edition, November 1986, as revised December 1987, includes Method 8260; and 15 metals for which SW-846 provides either Method 6010 or a method from the 7000 series of methods.

APPENDIX 5.6  
STATE MONITORING PROGRAM

A. Applicability.

1. Owners or operators of [sanitary] disposal facilities that have ceased to accept solid waste prior to the federally imposed deadlines shown in § B are eligible[, with the directors approval,] to continue to conduct state groundwater monitoring program described in this APPENDIX in lieu of the groundwater monitoring program required under 9 VAC 20-80-250D.5 and 9 VAC 20-80-250 D.6.

2. Owners or operators of disposal facilities not subject to the federal groundwater monitoring requirements prescribed under Parts 257 and 258, Title 40, Code of Federal Regulations, may elect to perform groundwater monitoring described in this APPENDIX in lieu of the program required under 9 VAC 20-80-[260250D.5] and 9 VAC 20-80-[270250D.6].

B. Deadlines.

1. Sanitary landfills: October 9, 1993 [ and in the case of a "small landfill" after April 9, 1994,].

2. All other landfills that accepted hazardous waste from conditionally exempt small quantity generators: (Date to be determined)

C. Phase I monitoring program.

1. At a minimum, the owner or operator shall determine the concentration or value in groundwater samples of the following parameters used as indicators of groundwater contamination:

Specific conductance

pH

TOC

TOX

2. At least during the first year of groundwater monitoring, for each of the indicator parameters specified in § C.1, obtain an appropriate number of samples applicable to the statistical test method selected from APPENDIX 5.4 [from each well] and establish the background level.

3. After the first year, [at least semiannually, sample] all monitoring wells [~~shall be sampled~~ and [~~the~~ analyze the] samples collected [ and analyzed] to [evaluate potential indicate] groundwater contamination (§ C.1)[~~at least semiannually~~].

4. At least annually the owner or operator shall evaluate the data on static groundwater surface elevations to determine whether the requirements for locating the monitoring wells continue to be satisfied. If the evaluation shows that requirements are no longer satisfied, the owner or operator shall immediately modify the number, location, or depth of the monitoring wells to bring the groundwater monitoring system into compliance with that requirement.

5. Evaluation and response.

a. After the first year information has been collected for each well and for each indicator parameter specified in § C.1, the owner or operator shall perform [a] statistical evaluation of the analytical results comparing each well to its own background and to the upgradient wells. The owner or operator may chose to apply any one of the statistical methods listed in APPENDIX 5.4, provided the test chosen meets the required performance standards.

(1) If the comparisons for the upgradient wells show a statistically significant increase (or pH decrease), the owner or operator shall submit this information to the department as required by § F.1.b.

(2) If the comparison for downgradient wells show a statistically significant increase (or pH decrease) the owner or operator [mayshall] obtain within 30 days additional groundwater samples from those wells, split the samples in two, and obtain analyses of all additional samples to determine whether the significant difference was a result of laboratory error.

b. If the preceding analysis confirms the statistically significant increase (or pH decrease), the owner of operator shall provide written notice to the director, within fourteen days of the date of such confirmation, that the facility may be affecting groundwater quality and that Phase II monitoring program will be implemented.

c. Within 60 days, establish a Phase II monitoring program meeting the requirements of § D.

d. If the comparison required by § C.5.a does not show a statistically significant increase (or pH decrease), the owner or operator shall submit this information in accordance with § F.1.b.

D. Phase II Monitoring Program

1. The owner or operator shall implement the Phase II monitoring program and at a minimum, determine:

- a. The rate and extent of migration of the solid waste constituents in the groundwater; and
    - b. The concentrations of the solid waste constituents in the groundwater.
  2. A Phase II monitoring program shall include the monitoring parameters shown in APPENDIX 5.5.
  3. The owner or operator shall:
    - a. Make his first determination under § D.1 as soon as technically feasible but no later than 18 months after implementing Phase II monitoring program. The number and frequency of sampling shall be determined in accordance with the requirements of the statistical method selected.
    - b. Within 15 days after that determination, submit to the director, a written report containing an assessment of the groundwater quality.
  4. If the owner or operator finds, based on the results of the first determination, that no Appendix 5.5 constituents from the facility have entered the groundwater, he may then reinstate the Phase I monitoring program. If the owner or operator reinstates the Phase I monitoring program, he shall so notify the director in the report submitted under § C.5.b.
  5. If the owner or operator reinstates the Phase I monitoring and continues to find that one or more indicator parameters show statistically significant increases (or decrease in case of pH), he shall ~~[continue Phase II monitoring on semiannual basis without implementing a Phase III monitoring program]~~ proceed with the actions required under § D.6.b. However, if no Appendix 5.1 constituents are detected in the groundwater he shall continue sampling and analyzing Appendix 5.1 constituents every 2 years, and not proceed to § D.6.c. until a constituent is detected].
- Should the results of continuing Phase II monitoring indicate a statistically significant increase in any APPENDIX 5.5 constituent, the owner or operator shall proceed with the actions required under § D.6.
6. If the owner or operator finds a statistically significant increase in any APPENDIX 5.5 constituent, then he:
    - a. Shall continue to make the required determinations on a semiannual basis until Phase III monitoring program is implemented [(At the request of the applicant, the director may approve an appropriate set of monitoring wells applicable to this phase of monitoring)];

b. Within 90 days, sample the groundwater in all monitoring wells and determine the concentration of all constituents identified in APPENDIX 5.1 that are present in the groundwater;

c. [No later than 18 months after a statistically significant increase for Appendix 5.1 constituents eE]establish a background value for each APPENDIX 5.1 constituent that has been found at the waste management unit boundary.

7. [Within 60 days, F]he owner or operator shall propose a groundwater protection standard for each APPENDIX 5.1 constituent detected in the groundwater. The groundwater protection standard shall be:

a. For constituents for which a maximum contaminant level (MCL) has been promulgated under Section 1412 of the Safe Drinking Water Act (Part 141, Title 40, Code of Federal Regulations), the MCL for that constituent;

b. For constituents for which MCLs have not been promulgated, the background concentration[, as approved by the director] for the constituent established from wells in accordance with 9 VAC 20-80-250D.3.a(1), 9 VAC 20-80-260D.3.a(1)(a), or 9 VAC 20-80-270D.3.a(1)(a), as applicable; or

c. For constituents for which the background level is higher than the MCL identified under § D.7.a or health based levels identified under § D.9, the background concentration,] as approved by the director.

~~8. On the basis of information received from the owner or operator under § D.7, the director shall amend the facility permit in accordance with 9 VAC 20-80-620 by specifying the conditions that are designed to ensure that solid waste constituents entering the groundwater do not exceed groundwater protection standards in the uppermost aquifer underlying the unit boundary during the compliance period.]~~

8. [9:]The director may establish an alternate groundwater protection standard for constituents for which MCLs have not been established by granting a variance based on the petition submitted by the owner or operator in accordance with 9 VAC 20-80-760.

9. [10:]Within 90 days of the completion of actions required under § D.6.c submit to the department an evaluation of the concentration of any APPENDIX 5.1 constituents found in the groundwater at each monitoring well at the waste management unit boundary. If the concentration of [all APPENDIX 5.1 constituents]:

a. [All Appendix 5.1 constituents aA]re shown to be at or below background values, using the statistical procedures in APPENDIX 5.4, for two consecutive sampling events,

the owner or operator shall notify the director of this finding and may return to Phase I monitoring;

b. [Any Appendix 5.1 constituents aA]Are above background values, but all concentrations are below the groundwater protection standard established under § D.8 or § D.9, using the statistical procedures in APPENDIX 5.4, the owner or operator shall continue Phase II monitoring;

c. [Any Appendix 5.1 constituents sS]how that there is a statistically significant increase in the concentration of constituents specified at any monitoring well at the waste management unit boundary, he may demonstrate that a source other than the unit caused increase or that an error in sampling, analysis, or evaluation was committed. While the owner or operator may make a demonstration under this paragraph in addition to or in lieu of submitting the information under § D.12, he is not relieved of the requirement to submit this information within the time specified in §D.12 unless the demonstration made under this paragraph successfully shows that a source other than a landfill unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this paragraph, the owner or operator shall:

(1) Notify the director in writing within fourteen days of determining a statistically significant increase at the waste management unit boundary that he intends to make a demonstration under § D.10.c.

(2) Within 90 days, submit a report to the department which demonstrates that a source other than a landfill unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation.

(3) Continue to monitor in accordance with the Phase II monitoring program until a decision has been rendered by the department in accordance with § D.11.

10. [~~11.~~]Based on the information submitted in accordance with § D.10.c(2), the director will:

a. In case of the demonstrated error in sampling, analysis or evaluation, allow the owner or operator to resume Phase II monitoring program; or

b. Require changes in the groundwater monitoring system which will correctly reflect the groundwater contamination from the solid waste disposal unit and allow the owner or operator to resume Phase II monitoring program; or

c. Require the owner or operator to commence actions under §§ D.6 through D.10.

11. [~~12.~~]Within 180 days of the completion of actions under § D.10, submit to the department:

a. All data necessary to justify any variance sought for groundwater protection levels (see 9 VAC 20-80-760) established in the facility permit; or

b. A plan for corrective action program in accordance with 9 VAC 20-80-310 necessary to meet the requirements for corrective action.

12. [43.]Implement a Phase III monitoring program[ and initiate corrective action in accordance with the procedures of 9 VAC 20-80-310].

E. Phase III Monitoring Program. The purpose of the Phase III monitoring program is to support the corrective action undertaken in accordance with 9 VAC 20-80-310.

1. Phase III monitoring is required whenever [the] corrective action program has been initiated[, and shall continue until it is demonstrated that Appendix 5.1 constituent concentrations are statistically below the established groundwater protection standard (GPS) in accordance with § D.7 for a period of three years after corrective action is in place].

2. The compliance period for Phase III monitoring programs is the number of years equal to the active life of the waste management unit (including any waste management activity prior to permitting and the closure period). This period begins when the owner or operator initiates a Phase III monitoring program.

3. If the owner or operator is engaged in a corrective action program at the end of the minimum compliance period specified in § E.2, the compliance period is extended until the owner or operator [provides the demonstration required under § E.1. ~~can demonstrate that the groundwater protection level has not been exceeded for a period of three consecutive years after the corrective action is completed under 9 VAC 20-80-310D~~].

4. Phase III monitoring parameters and constituents shall include all constituents in APPENDIX 5.1 that are determined to be present at the waste management unit boundary.

5. The department shall determine an appropriate monitoring frequency [and an appropriate set of monitoring wells]on a site-specific basis[ ~~by considering aquifer flow rate~~]. The following minimum frequencies apply:

a. Semiannually for those constituents in APPENDIX 5.1 that [were detected in groundwater ~~exceed background concentrations~~].

b. Annually for all other [APPENDIX 5.1] parameters [(not detected in groundwater) ~~listed in APPENDIX 5.1~~] unless [it is demonstrated that] the history of analyses of leachate [from the unit] indicates that other parameters are not present.[

c. Every two years for those APPENDIX 5.1 parameters that were not present in the analysis presented in accordance with § E.5.b.]

6. If the owner or operator determines that there is a statistically significant increase over background for any constituent in § E.4, at any monitoring well at the waste management unit boundary, he shall:

a. Notify the department of this finding in writing within fourteen days. The notification shall indicate what parameters or constituents have shown statistically significant increases.

b. Within 90 days, submit to the director the following information:

(1) An evaluation of the concentration of any APPENDIX 5.1 constituents found in groundwater at each monitoring well [or an approved subset of wells] at the compliance point.

(2) Any proposed changes to the groundwater monitoring system necessary to meet the requirements of corrective action programs in accordance with 9 VAC 20-80-310.

(3) Any proposed changes to the monitoring frequency or sampling procedures used at the facility necessary to meet the requirements of corrective action programs in accordance with 9 VAC 20-80-310.

c. Within 180 days, submit to the department:

(1) All data necessary to justify any variance sought from the corrective active program; or

(2) A change to the plan for corrective action program in accordance with 9 VAC 20-80-310 necessary to meet the requirements of the corrective action program specified in these regulations.

**F. Recordkeeping and reporting.**

1. If the groundwater is monitored to satisfy the requirements for Phase I monitoring, the owner or operator shall:

a. Keep records of the analyses required in §§ C.2 and C.3, the associated static water level surface elevations required in § C.4, and the evaluations required in § C.5.a throughout the active life of the facility and the post-closure care period; and

b. Report the following groundwater monitoring information to the director:

(1) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters for each groundwater monitoring well within 15 days after completing each quarterly analysis.

(2) Annually: concentrations or values of the indicator parameters listed in §C.1 for each groundwater monitoring well. The owner or operator shall separately identify any statistically significant differences from the [initial] background found in the upgradient wells in accordance with § C.5.a(1). During the active life of the facility, this information shall be submitted no later than March 1 following each calendar year.

(3) No later than March 1 following each calendar year as part of the annual report: results of the evaluations of groundwater surface evaluations under § C.4, and a description of the response to that evaluation, where applicable.

2. If the groundwater is monitored to satisfy the requirements of Phase II or Phase III monitoring, the owner or operator shall:

a. Keep records of the analyses and evaluations throughout the active life of the facility, and throughout the post-closure care period as well; and

b. Annually, until final closure of the facility, submit to the director a report containing the results of his groundwater quality assessment program which includes, but is not limited to, the calculated or measured rate of migration of solid waste constituents in the groundwater during the reporting period. This information shall be submitted no later than March 1 following each calendar year.

## PART VI.

### OTHER SOLID WASTE MANAGEMENT FACILITY STANDARDS

#### 9 VAC 20-80-320. General

##### A. Purpose, Scope, and Applicability.

1. Any person who designs, constructs, or operates any solid waste treatment or storage facility not otherwise exempt under 9 VAC 20-80-60D, shall comply with the requirements of this part.
2. Facilities shall be maintained and operated in accordance with the permit issued pursuant to this chapter, and in accordance with the approved design and intended use of the facility.
3. Hazardous wastes shall not be disposed or managed in solid waste management facilities subject to these regulations unless specified in the permit or by specific approval of the director.

**B. Siting.** Siting standards for each type of solid waste management facility in this part shall be governed by the siting standards as established for each separate facility.

**C. Closure.** Solid waste management facilities regulated under this part which, upon closure, will dispose of solid waste residues on-site, are subject to the groundwater monitoring requirements in 9 VAC 20-80-250D, closure and post-closure care requirements in 9 VAC 20-80-250E and 9 VAC 20-80-250F, and permitting requirements of Part VII. All other facilities shall close in accordance with the closure plan prepared in accordance with the requirements described in this part and 9 VAC 20-80-530 or 9 VAC 20-80-540, as applicable. [Owners and operators of facilities that treat solid wastes are required to demonstrate financial assurance for closure in accordance with 9 VAC 20-70-10 et seq.]

**D. Solid Waste Left in Place.** Solid waste management facilities regulated under this part which place solid wastes or residues on site for disposal or leave such wastes in place after closure, are subject to the provisions of Part V of these regulations.

#### 9 VAC 20-80-330. Compost facilities.

##### A. General [~~Applicability~~ General].

1. The standards in this section shall apply to the siting, design and construction, and operation of facilities producing compost from refuse or combinations of refuse and sludges or animal manures.

- a. [Composting facilities may be classified in accordance with the general process used. Facilities that employ the enclosed vessel method are called Type A (“confined”) compost facilities. Type B facilities are those that employ the windrow or aerated static pile method. If the process requires materials to be stabilized or cured in piles such facilities are also classified as Type B facilities even if the composting is performed in an enclosed vessel.] The only composting processes that may be employed are those with prior operational performance in the United States. Any other proposed composting process shall conform to the standards contained in 9 VAC 20-80-470 and will require an experimental solid waste management facility permit.

[NOTE: Finished compost that meets the requirements of this part is not regulated as a solid waste.]

- b. Use of solid waste containing hazardous waste, ~~infectious regulated medical~~ waste, ~~[or non-biodegradable waste—construction, debris, or demolition waste, and non-biodegradable industrial-solid-waste]~~ is prohibited.
2. The standards contained in 9 VAC 20-80-330. are not applicable to facilities that operate under a permit-by-rule issued under ~~[Vegetative Waste Management and]~~ Yard Waste Composting ~~[Facility]~~ Regulations (9 VAC ~~[20-100-10 20-101-10]~~ *et seq.*) and are in full compliance with that chapter.
3. The standards contained in 9 VAC 20-80-330 are not applicable to ~~household~~ composting units exempt under 9 VAC 20-80-60D2[, or 9 VAC 20-80--60D3] of this chapter.
4. The feedstocks for composting are classified on the basis of the type of waste used in the composting process. The categories of feedstocks are as follows:
  - a. Category I -- Pre-consumer, plant or plant-derived materials such as:
    - (1) agriculture crop residues including but not limited to harvesting residuals, straw, and cornstalks;
    - (2) Livestock feed including but not limited to hay, grain, silage, cottonseed meal, soybean meal;
    - (3) Non-food agricultural processing waste including but not limited to cotton gin trash, wool carding residue, field corn cobs;
    - (4) Source-separated pre-consumer food wastes including but not limited to wholesale and retail market residuals (*e.g.* overripe, damaged, or otherwise rejected fruit or vegetables) and institutional kitchen culls;
    - (5) Food processing wastes including culls, peelings, hulls, stems, pits, seed, pulp, shucks, nut shells, apple pomace, corn cobs, cranberry filter cake, olive husks, potato tops, cocoa shells, fruit and vegetable processing waste, rejected products, and bakery wastes; and
    - (6) Source-separated clean waste paper.
  - b. Category II -- Animal-derived waste material such as:
    - (1) Dairy and fish processing wastes including but not limited to eggs, spoiled milk, cheese, curd, and yogurt, fish gurry and racks, clam bellies, fish shells, fish processing sludge, fish breading crumbs, mussel, crab, lobster, and shrimp wastes; and
    - (2) Rendered animals.
  - c. Category III -- Animal and post-consumer food wastes with pathogen potential such as:

(1) Source-separated wastes including but not limited to restaurant waste, institutional kitchen wastes, food preparation wastes, prepared but unserved foods, plate scrapings; and

(2) Animal manures including but not limited to spoiled stable straw bedding, livestock feedlot, holding pen and cage scrapings, dairy manure semi-solids, poultry litter and manure.

d. Category IV -- Other wastes such as:

(1) Non-rendered animal meat waste including but not limited to animal carcasses, slaughterhouse waste, paunch manure;

(2) Mixed non-source separated organic wastes including but not limited to municipal solid waste; and

(3) Sewage sludge.]

**B. Siting.**

1. Solid waste composting facilities shall not be sited or constructed in areas subject to base floods.

2. No facility shall be closer than 50 feet to any regularly flowing stream.

3. Composting facilities shall be adjacent to or have direct access to roads which are paved or surfaced and capable of withstanding anticipated load limits.

4. A facility shall not be located within 200 feet of any residential area, a health care facility, school, recreational park area, or similar type public institution.

5. Sites shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

6. No composting unit shall extend closer than 50 feet to any property line.

7. 3. Acceptable sites must have sufficient area and terrain to allow for proper management of leachate.

8. 2. [~~For non-confined composting, Type B~~] facilities shall not be located in areas which are geologically unstable or where the site topography is heavily dissected.

9. 5. [~~A non-confined Type B~~] facility shall not be located in any area where the seasonal high water table lies within ~~five~~ two feet of the ground surface.

**C. Design/construction.**

~~1. Sludge, animal manure, and/or municipal solid waste composition analyses shall accompany any permit application for a compost facility.~~

1. 3. Facilities for the composting of municipal solid waste shall be provided with covered areas for receiving, segregation, and grading of municipal solid waste.

~~2.~~ 5. Where ~~liquid or semiliquid~~ [sludge or animal manure Category IV material] is processed, [or where more than 700 tons/quarter of Category I, II, or III material is processed, by a compost facility, all receiving[, mixing, composting, curing, screening, and storing] operations shall be ~~performed in~~ provided with either:

a. A [~~n asphalt, or concrete~~ hard surfaced or impervious] area that drains directly to a wastewater storage, treatment, or disposal facility; or

b. ~~The handling area shall be~~ An asphalt, or concrete, hard surfaced] and diked [or bermed] area to prevent entry of [~~rainfall run-on or escape of~~] run-off[, leachate, or ~~or escape of other~~] liquids, and a sump with [~~either a gravity discharge or an~~] adequately sized pump located at the low point of the hard-surfaced area ~~shall be provided to convey spills~~ liquids to a wastewater [~~treatment,~~] disposal or holding facility [~~discharged under a VPDES permit issued pursuant to the State Water Control Board Regulation, 9 VAC 25-30-10 et. seq., or recirculated within the composting process.~~]

~~3.~~ [~~2.~~] Area and facilities appropriate equipment shall be provided for municipal solid waste that is to be processed to segregate non-biodegradable or otherwise undesirable components from the municipal solid waste to be processed.

~~4.~~ All solid waste shall be weighed on permanently installed or portable truck scales which are checked annually, for accuracy, or measured in a consistent manner acceptable to the Department.

~~4.~~ 6. [~~Land surface areas used for mixing, curing, and storing of compost shall be graded to collect run off, paved with asphaltic concrete or reinforced concrete, and provided with a drainage system to route the collected run off to a wastewater storage, treatment, or disposal facility. For Type B facilities, sound engineering controls shall be incorporated into design of facilities located on sites with:~~

a. Springs, seeps, and other groundwater intrusions;

b. Gas, water, or sewage lines under the active areas; or

c. Electrical transmission lines above or below the active areas.]

~~5.~~ 7. Roads serving the unloading, composting, and storage areas shall be of all-weather construction.

~~8.~~ On site laboratory facilities or other acceptable means shall be provided for operational and quality control and to support monitoring activities.

~~9.~~ A buffer zone with the minimum size of 100 feet shall be incorporated in the facility design between facility boundaries and process operations.

~~5.~~ 10. [~~The design shall provide for complete separation and isolation of all wastewaters, leachate and site run off from groundwater.~~

~~6.~~ 11. [~~Wastewater or leachate shall be collected for treatment and disposal in a permitted facility.~~

~~6. 7]12. Auxiliary power[, and/or] standby equipment[, or contingency arrangements] shall be [available to the site required] to ensure continuity of composting operations. [~~

7. For uncovered sites, calculations for sizing of surface water control features will be based on a rainfall intensity of one-hour duration and a 10-year return period.]

**D. Operations.**

~~1. Solid waste shall be collected and transported in a manner that will prevent hazards to public health and safety, and nuisances.~~

~~1. 2. Non-compostable or other undesirable solid waste shall be segregated from the material to be composted. Non-compostable Solid waste which is not composted, salvaged, reused, or sold must be disposed of at a [n appropriately permitted solid waste management facility site permitted by the department].~~

~~3. Exhaust air from aeration blowers employed in the aerated pile composting method shall be passed through an odor control system prior to discharge to the atmosphere. The ability of the odor control system to remove odors in the exhaust system shall be demonstrated through previous experience or pilot studies.~~

2.4. [Waste analyses:

~~a. Sludge and animal manure will be analyzed for nitrogen, potassium and phosphorus, and in the case of sludge, for the following heavy metals: cadmium, chromium, copper, lead, mercury and zinc.~~

~~b. Initial sludge, animal manure, and municipal solid waste composition analyses shall accompany any permit application for a compost facility.~~

~~c. b. Periodic composition analyses shall be conducted monthly; however, testing frequency and parameters may be reduced by the department upon review of records of previous analyses. Similarly, additional analyses may be required when heavy metals or other undesirable components are suspected or found to be present in excessive concentrations.~~

Product testing and standards. Products will continue to be considered as solid wastes until the testing indicates that they attain appropriate standards. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity and shall be conducted in a manner consistent with SW-846 and other applicable standards. A minimum number of samples that shall be collected and analyzed is shown in the table below. Samples to be analyzed for metals shall be composited prior to the analysis.

<u>Average compost produced (dry tons per day)</u>	<u>Frequency of Analyses</u>	<u>Number of Samples</u>
<u>Less than 1</u>	<u>Annually</u>	<u>12 ( 1 sample/month composited for metals)</u>
<u>1 to 10</u>	<u>Quarterly</u>	<u>3 (1 sample/month composited for metals)</u>

<u>over 10</u>	<u>Monthly</u>	<u>4 (1 sample/week composited for metals)</u>
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a. Compost stability. All finished products will be tested for compost stability using one of the methods listed below.

(1) Temperature decline to near ambient conditions when not the result of improper management of the composting process. Composting records shall indicate appropriate schedules for turning, monitoring of moisture within the required range, and an appropriate mix of composting feedstocks. This method may only be used for Type A facilities receiving Category I materials or Type B facilities that receive less than 700 tons per calendar quarter of Category I materials.

(2) Reheat potential using the Dewar Compost Self-Heating Flask. The results must indicate a stable product.

(3) Specific oxygen uptake. To be classified as stable the product must have a specific oxygen uptake rate of less than 0.1 milligrams per gram of dry solids per hour.

(4) Solvita™ Compost Maturity Test. To be classified as stable the product must exhibit color equal or greater than 6.

(5) Carbon dioxide evolution. To be classified as stable the product must not evolve more than 1,000 milligrams of carbon dioxide per liter per day.

b. Pathogens. In addition to testing required by 9 VAC 20-80-330D2a, finished products produced from Category III, and IV materials will be tested for the presence of the following organisms using the methods indicated below.

(1) Viruses. No infective viruses shall be detected by an acceptable laboratory method with a minimum detection limit of 0.1 to 0.25 PFU (plaque forming unit) per gram of dry solids or less.

(2) Parasites. No viable Ascaris ova shall be detected by an acceptable laboratory method with a minimum detection limit of 0.5 viable ova per gram of dry solids or less. Ascaris will be considered to be representative of all parasites, i.e., helminth ova and protozoan cysts.

(3) Bacterial pathogens. Salmonella will be considered representative of all bacterial pathogens capable of regrowth. Median of all samples shall be less than 1 MPN (most probable number) per gram of dry solids. No more than 10% of samples shall exceed 10 MPN per gram of dry solids. No single sample shall exceed 100 MPN per gram of dry solids.

(4) Fecal coliform. Although the coliform group is not generally considered to be pathogenic, their destruction is indicative of good composting practice. Median of all samples shall be less than 10 MPN fecal coliform per gram of dry solids. Specifically,

less than 1,000 MPN fecal coliform per gram of dry solids shall be found in any sample when incubated for 0.5 hr at 70°C, 3 days at 55°C. or 5 days at 53°C.

(5) Other test methods, or facility operating standards as approved by the director.

c. Metals. In addition to the requirements contained in 9 VAC 20-80-330D2a and 9 VAC 20-80-330D2b, all finished products produced from Category IV materials shall be analyzed for the metals shown below. The concentration of contaminants shall not exceed the following levels:

<u>Metal</u>	<u>Concentration, mg/kg dry solids</u>
<u>Arsenic</u>	<u>41</u>
<u>Cadmium</u>	<u>21</u>
<u>Copper</u>	<u>1500</u>
<u>Lead</u>	<u>300</u>
<u>Mercury</u>	<u>17</u>
<u>Molybdenum</u>	<u>54</u>
<u>Nickel</u>	<u>420</u>
<u>Selenium</u>	<u>28</u>
<u>Zinc</u>	<u>2,800</u>

- ~~5. Sampling and testing for airborne spores shall be conducted monthly in the vicinity of the composting process and at the site boundary in the same direction as the predominant wind pattern.~~
- ~~6. The following records shall be maintained and made available to the Department upon request:
  - ~~a. Quantities and composition analyses of sludge or animal manure received on site. The results of the analyses are to be calculated on dry basis.~~
  - ~~b. Quantities of compost produced (dry tons/year).~~
  - ~~c. Distribution of compost to users receiving more than five hundred (500) pounds at any one time. Record date, name, address, and intended use.~~
  - ~~d. Monitoring data on airborne spores.~~~~
- ~~4. 7. Leachate and run off that has been in contact with unprocessed waste or uncured compost from a compost facility shall not be permitted to drain or discharge into surface waters except~~

~~when authorized under a Virginia NPDES VPDES Permit issued pursuant to the State Water Control Board Regulation, 9 VAC 25-30-10 et seq. No. VR-680-14-01, NPDES Program or otherwise approved by that agency.~~

~~3. 5.8.~~ 3. 5.8. Designed buffer zones shall be maintained.

4. The owner or operator shall prepare an operation plan which shall include as a minimum:

a. The description of types of wastes that will be managed at the facility. This description will be sufficient to properly categorize the compost feedstocks in accordance with 9 VAC 20-80-330A4. If the specific materials are not listed in that section, a discussion will be prepared which compares the materials that the facility will receive with the materials listed in the appropriate feedstock category and justifies the categorization of the proposed feedstock. For each type of material an approximate C:N ratio will be provided. The expected quantity of any bulking agent or amendment will be provided (if applicable); and any expected recycle of bulking agent or compost. The plan shall include the annual solid waste input, the service area population (both present and projected if applicable), and any seasonal variations in the solid waste type and quantity;

b. A discussion of the composting process including:

(1) For Type A compost facilities the following will be provided:

(a) A copy of the manufactures operating manual, and drawings and specifications of the composting unit will be provided.

(b) A discussion of the units requirements for power, water supply, and wastewater removal, and the steps taken to accommodate these requirements.

(2) For Type B compost facilities the following will be provided:

(a) A description of the configuration of the composting process including compost pile sizing, and orientation, provisions for water supply, provisions for wastewater disposal, and an equipment list.

(b) A discussion of procedures and frequency for moisture, and temperature monitoring, and aeration. A discussion of pile formation, and feedstock proportioning and feedstock preparation

c. A discussion of the method and frequency of final product testing in accordance with 9 VAC 20-80-330D2. will be provided

d. A schedule of operation, including the days and hours that the facility will be open, preparations before opening, and procedures followed after closing for the day;

e. Anticipated daily traffic flow to and from the facility, including the number of trips by private or public collection vehicles;

f. The procedure for unloading trucks (including frequency, rate, and method);

g. A contingency plan detailing corrective or remedial action to be taken in the event of equipment breakdown; air pollution (odors); unacceptable waste delivered to the facility;

spills; and undesirable conditions such as fires, dust, noise, vectors, and unusual traffic conditions;

h. Special precautions or procedures for operation during wind, heavy rain, snow, and freezing conditions; and

i. A description of the ultimate use for the finished compost, method for removal from the site, and a plan for use or disposal of finished compost that cannot be used in the expected manner due to poor quality or change in market conditions.

j. A discussion of inspections in accordance with 9 VAC 20-80-330D5c.

k. A discussion of records to be maintained in accordance with 9 VAC 20-80-330D6.

#### 5. Maintenance.

a. Facility components shall be maintained and operated in accordance with the permit and intended use of the facility.

b. Adequate numbers, types and sizes of properly maintained equipment shall be available at the facility during all hours of operation to prevent curtailment of operations because of equipment failure except under extraordinary conditions beyond the control of the facility's owner or operator.

c. Self inspection. The facility owner or operator shall monitor and inspect the facility for malfunctions, deteriorations, operator errors, and discharges that may cause a release to the environment or a threat to human health. The facility owner or operator shall promptly remedy any deterioration or malfunction of equipment or structures or any other problems revealed by the inspections to ensure that no environmental or human health hazard develops. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.

#### 6. Recordkeeping.

a. Operational records shall be maintained at the facility; these records shall include, at the minimum, temperature data and quantity of materials processed.

b. The facility owner or operator shall retain records of all unauthorized solid waste accepted identifying the waste and its final disposition. Such records shall include the date solid waste was received, the type of solid waste received, the date of disposal, the disposal method and location.

c. The facility owner or operator shall record self inspections in an inspection log. These records shall be retained for at least three years from the date of inspection. They must include the date and time of the inspection, the name of the inspector, a description of the inspection including the identity of specific equipment and structures inspected, the observations recorded, and the date and nature of any remedial actions implemented or repairs made as a result of the inspection.

d. The facility owner or operator shall retain records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; and copies of all reports required by, or by a permit issued under, this Part) for a period of at least three years from the date of the sample analysis, measurement, report or application. Records for monitoring information shall include: the date, exact place, and time of sampling or measurements; the name of the individual who performed the sampling and measurement; the date analyses were performed; the name of the individual who performed the analyses; the analytical techniques or methods used; and the result of such analyses. Additional information relating to the analysis, including records of internal laboratory quality assurance and control, shall be made available to the department at its request.]

**E. Closure.**

1. Closure standards. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, or to the atmosphere.

a. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate.

b. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in 9 VAC 20-80-330E1a, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he shall install a groundwater monitoring system, close the facility and perform post-closure care in accordance with the groundwater monitoring, closure and post-closure care requirements of Part V.

2. Closure plan and amendment of plan.

a. The owner or operator of a compost facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at its full operation under the permit conditions. The closure plan shall include, at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan. The amended closure plan shall be placed in the operating record.

c. ~~Unless the Director has previously approved the closure plan,~~ The owner or operator shall notify the director ~~that a closure plan or~~ whenever an amended closure plan has been

prepared and placed in the operating record ~~no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.~~

d. Prior to beginning closure of each solid waste management unit, the owner or operator shall notify the director of the intent to close.

3. Time allowed for closure. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, if necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. The owner or operator shall post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being delivered.

5. Inspection. The department shall inspect all solid waste management facilities that have been closed to determine if the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with this chapter.

#### **9 VAC 20-80-340. [Solid waste transfer stations ~~Storage in containers and tanks~~].**

##### **A. General Applicability.**

1. The siting, design, construction, and operation of a solid waste [transfer station ~~management facility that is engaged in storage or treatment of solid wastes in containers or tanks~~] shall be governed by the standards as set forth in this section.

~~2.. Storage or treatment of solid waste in enclosures constructed primarily of earthen materials or open pads are not subject to the requirements this section. If solid waste managed in such facilities contains free liquids, its management shall be governed by 9 VAC 20 80 380; management of solid waste not containing free liquids shall be governed by 9 VAC 20 80 350.~~

~~3. Age of household and commercial wastes in [tanks,] containers or collection vehicles at convenience centers is exempt from 9 VAC 20 80 340 and Part VII of this chapter provided they are managed without creating an open Stor dump, hazard or a public nuisance. The containers and collection vehicles may be equipped with volume reduction equipment. Putrescible wastes shall not remain in the convenience centers longer than seven days.~~

2. 4.-]Storage of nonhazardous solid wastes and hazardous wastes from conditionally exempt small quantity generators as defined in Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 *et seq.*) at a transportation terminal in closed containers meeting the U.S. Department of Transportation specifications is exempt from 9 VAC 20-80-340 and Part VII of this chapter provided such wastes are removed to a permitted storage or disposal facility within ten days from the initial receipt from the waste generator. To be eligible for this exemption, each shipment must be properly documented to show the name of the generator, the date of receipt by the transporter and the date and location of the final destination of the shipment. The

documentation shall be kept at the terminal for at least three years after the shipment has been completed and shall be made available to the department upon request.

[5. Treatment of industrial waste in containers and tanks in on-site wastewater treatment facilities is exempt from the requirements of 9 VAC 20-80-340 and Part VII of this chapter.

3. 6.-]Any [petroleum-contaminated] material from a state other than Virginia that is classified as a hazardous waste in that state shall be managed in accordance with 9 VAC 20-60-10 et seq. Such wastes are not acceptable for treatment or storage in a solid waste management facility in the Commonwealth.

#### **B. Siting.**

1. Solid waste [transfer stations storage or treatment facilities] shall be adjacent to or have direct access to roads which are paved or surfaced and capable of withstanding anticipated load limits.

2. [Solid waste transfer stations facilities for storage and/or treatment of solid waste in containers or tanks] shall not be sited or constructed in areas subject to base floods. [This siting prohibition does not apply to facilities for treatment of industrial wastewaters received from off-site.]

3. No solid waste [transfer station storage or treatment facility] shall be closer than[:

a. 50 feet to any surface stream; This siting prohibition does not apply to facilities for treatment of industrial wastewaters received from off-site.

b. 4. No transfer station storage or treatment facility] shall extend closer than fifty (50) feet to any property line; nor

c. Closer than 200 feet to any home residential area, health care facility, school or recreational park area, or similar type public institution.]

4. 3. Sites shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

#### **C. Design/construction.**

1. An all-weather road suitable for loaded collection vehicles shall be provided from the entrance gate to the unloading, receiving or tipping area.

2. The floors in the unloading, receiving, or tipping areas shall be constructed of easily cleanable materials, provided with a water supply for [storage and transfer] area cleaning purposes, and equipped with drains or pumps, or equivalent means to facilitate the removal of wastewater to proper storage or disposal.

3. Truck wheel curbs or other safety facilities shall be provided to prevent backing or falling into a pit if one is used for tipping.

4. The [transfer ]unloading, receiving, tipping, [ and storage and/or treatment] structures, buildings, and ramps shall be of a material that can be easily cleaned.

5. Sufficient on-site queuing capacity shall be provided for the expected traffic so that the waiting collection vehicles do not back up onto the public road.

6. Portions of the ~~[transfer station permitted solid waste management facility~~ used solely for storage of household hazardous waste shall have a containment system designed in accordance with ~~§ 10.8.F 9 VAC 20-60-820F~~ of the Virginia Hazardous Waste Management Regulations (~~9 VAC 20-60-820 F~~). The requirements of ~~this section 9 VAC 20-80-340~~ do not apply to household hazardous waste packaged in the U. S. Department of Transportation approved shipping containers and removed from the site within 10 days from the date of collection.

7. ~~[If the transfer station is used to store waste materials, The storage or treatment units shall be designed to reduce the potential for fires and migration of vectors, and to prevent escape of wastes, washwaters, odors, dust, and litter from the facility.~~

~~[8. Materials and energy recovery, incineration, or thermal treatment facilities shall be provided with:~~

- ~~a. Sufficient internal storage areas for unprocessed incoming solid waste to insure an environmentally sound operation and afford sufficient space to allow for proper processing of maximum anticipated daily incoming solid waste.~~
- ~~b. Areas and appropriate equipment to segregate non-recoverable or otherwise undesirable components from the solid waste being processed. If these residual components are not containerized or placed in tanks, the design of the areas shall be in accordance with the requirements for waste piles (see 9 VAC 20-80-350).~~
- ~~c. Fire alarm and protection systems capable of detecting, controlling and extinguishing any and all fires shall be provided.~~
- ~~c. d.]Facilities shall be designed with perimeter security fencing and gate controls to prevent unauthorized access to the site.~~
- ~~9. Owners or operators of off site wastewater treatment, materials recovery, energy recovery, incineration, or thermal treatment facilities shall prepare and submit to the department a design description manual describing or showing:~~
  - ~~d. The rated capacity of the facility;~~
  - ~~e. The designation of normal loading, unloading and storage areas and their capacities;~~
  - ~~f. For facilities engaged in storage or treatment of wastes containing free liquids, a description of the secondary containment system that will prevent releases of solid waste to the environment;~~
  - ~~g. The designation of emergency loading, unloading, storage or other disposal capabilities to be used when the facility system down time exceeds 24 hours;~~
  - ~~h. The designation of alternate disposal areas or plans for transfer of solid wastes in the event facility down time exceeds 72 hours;~~
  - ~~i. The expected daily quantity of waste residue generation;~~
  - ~~j. The proposed ultimate disposal location for all facility generated waste residues including, but not limited to, ash residues and by pass material, by products resulting from air and water pollution control devices, and the proposed alternate disposal locations for any~~

~~unauthorized waste types, which may have been unknowingly accepted. The schedule for securing contracts for the disposal of these waste types at the designated locations shall be provided;~~

~~k. A descriptive statement of any materials use, reuse or reclamation activities to be operated in conjunction with the facility, either on the incoming solid waste or the outgoing residue;~~

~~l. Plan views showing building dimensions, building setbacks, side and rear distances between the proposed structure and other existing or proposed structures, roadways, parking areas and site boundaries;~~

~~m. Interior floor plans showing the layout, profile view and dimensions of the processing lines, interior unloading, sorting, storage and loading areas as well as other functional areas.~~

~~10. The owner/operator of a material recovery facility engaged in bioremediation shall design, construct and maintain systems for application of nutrients, provision of air or oxygen, and regulation of moisture content designed to promote aerobic microbiological degradation. At a minimum the systems shall be:~~

~~n. Designed to be chemically resistant to any waste or leachate that may come into contact with the system;~~

~~o. Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying waste, waste cover materials, and by any equipment used in the area; and~~

~~p. Designed to provide operational temperatures that are favorable to the bioremediation process.]~~

#### **D. Operation.**

1. No ~~uncontainerized [putrescible]~~ solid waste shall remain at the ~~[transfer station a storage and/or treatment facility]~~ at the end of the working day, ~~unless it is stored in interim transportation vehicles (trailers, roll-off containers) designed specifically for storage.~~

2. A written operating plan shall be prepared covering at the minimum:

~~a. Facility housekeeping, [procedures for detection of regulated hazardous and medical wastes,] on-site traffic control, schedules for waste delivery vehicle flow, wastewater collection, storm water collection, vector control, odor control, noise control, and methods of enforcement of traffic flow plans for the waste delivery vehicles;]~~

~~b. The rated capacity of the facility. The capacities of any waste storage areas. The ultimate disposal location for all facility generated waste residue~~

~~b. In case of materials recovery facilities, a description of methods to determine the usefulness of the recovered material, frequency of testing and the action the facility owner/operator will take whenever the material fails the standards applicable to the recovered product and must be disposed of as waste;~~

~~c. In case of materials and energy recovery, incineration or thermal treatment facilities, arrangements for disposal of facility generated waste that will be established and maintained throughout the life of the facility.~~

~~d. In addition to the requirements of 9 VAC 20-80-340D2a through 9 VAC 20-80-340D2c, the operation plan for the facility engaged in bio-remediation of solid waste shall:~~

~~(1) Contain the description of the pilot study or other mechanism used to determine:~~

~~(a) nutrient application methods and amounts;~~

~~(b) air or oxygen application methods and amounts;~~

~~(c) moisture application methods and amounts;~~

~~(d) treatment timeframes under the conditions that will be employed;~~

~~(e) sufficient air emission monitoring of volatile constituents to support the mass balances calculated for each combination of waste, nutrients, air, temperature and moisture conditions.~~

~~(2) Based on the results of the pilot study, the description of treatment parameter limitations, procedures that will be employed to operate the full scale bioremediation facility, and the test methods that will be used to determine the progress of the process.]~~

3. A written contingency plan shall be prepared [for a transfer station facility] covering operating procedures to be employed during periods of non-operation. This plan shall set forth procedures to be employed in the event of equipment breakdown which will require standby equipment, extension of operating hours, or diversion of solid waste to other facilities.

4. Leachate and washwater from a [transfer station storage or treatment unit] shall not be permitted to drain or discharge into surface waters except when authorized under a ~~Virginia NPDES Permit~~ VPDES permit issued pursuant to ~~the State Water Control Board Regulation (9 VAC 25-30-10 et seq.)~~ NPDES Program or otherwise approved by that agency.

5. No regulated hazardous wastes shall be accepted for processing unless they are specifically exempted by the provisions of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.). Storage of household hazardous waste at facilities designed in accordance with 9 VAC 20-80-340C6 shall be accomplished in accordance with requirements of 9 VAC 20-60-820B through 9 VAC 20-60-820E, 9 VAC 20-60-820G, and 9 VAC 20-60-820H. Storage in such facilities may not exceed one year.

[6. Analyses:

~~a. Waste supply analyses. The operation plan for materials and energy recovery, incineration and thermal treatment facility shall describe a waste supply analysis program characterizing the quantity and composition of the solid waste in the service area. The waste characterization shall be performed by utilizing a statistically relevant plan which justifies the population sample. The sampling program shall provide for seasonal fluctuations in the quantity and composition of the waste types to be handled at the facility. Anticipated~~

~~changes in solid waste quantity and composition for each of the waste types to be serviced by the proposed facility shall be projected for that term reflecting anticipated facility life. Within this framework, the effect of existing or future source separation programs on the supply of solid waste within the service area shall be described and quantified. Quantity and compositions analyses indicating percent by weight shall be carried out simultaneously where possible and shall provide information relating to anticipated maximum, minimum and average daily loading for the following components of the waste stream:~~

- ~~\_\_\_\_\_ (1) Aluminum;~~
- ~~\_\_\_\_\_ (2) Ferrous metals;~~
- ~~\_\_\_\_\_ (3) Other non ferrous metals;~~
- ~~\_\_\_\_\_ (4) Paper and paper products;~~
- ~~\_\_\_\_\_ (5) Plastics;~~
- ~~\_\_\_\_\_ (6) Glass;~~
- ~~\_\_\_\_\_ (7) Cloth;~~
- ~~\_\_\_\_\_ (8) Rubber and rubber products;~~
- ~~\_\_\_\_\_ (9) Yard wastes (if applicable);~~
- ~~\_\_\_\_\_ (10) Wood;~~
- ~~\_\_\_\_\_ (11) Oversize bulky items; and~~
- ~~\_\_\_\_\_ (12) Materials not amenable to use, reuse, or reclamation.~~

~~\_\_\_\_\_ b. The requirements of 9 VAC 20 80 340D6a do not apply to facilities engaged in reclamation of materials contaminated with petroleum and petroleum products. Before accepting any shipment of such materials, the owner/operator of the reclamation facility will require a statement from the generator certifying that the material in that shipment is a non-hazardous solid waste as defined in 9 VAC 20 60 10 et seq. If generated in a state other than Virginia, the certification will also contain a statement that the material to be reclaimed is not classified as a hazardous waste in the state of origin.~~

~~\_\_\_\_\_ c. Chemical analyses of residues. The operating plan for an energy recovery or incineration facility shall describe the methods and frequency at which the owner or operator of facility shall perform a chemical analyses of all residual ash.~~

~~\_\_\_\_\_ (1) Samples and measurements taken for this purpose shall be representative of the process or operation and shall be performed in accordance with the procedures outlined in the most recent edition of "Test Methods for Evaluating Solid Waste—Physical/Chemical Methods," EPA publication SW 846.~~

~~\_\_\_\_\_ (2) At a minimum the sampling shall include analyses for toxicity and shall be performed at the frequency specified in the facility's permit. The department may require the operator to perform additional analyses on ash removed from exhaust gases~~

~~and collected by emission control equipment, at a frequency established by the department in the facility's permit.~~

~~(3) A report containing following information shall be submitted to the department within 90 days of sample collection:~~

~~(a) The date and place of sampling and analysis;~~

~~(b) The names of the individuals who performed the sampling and analysis;~~

~~(c) The sampling and analytical methods utilized;~~

~~(d) The results of such sampling and analyses; and~~

~~(e) The signature and certification of the report by an appropriate authorized agent for the facility.~~

~~d. Analysis of reclaimed product. The operating plan for facilities engaged in reclamation of soil shall describe the frequencies and methods of analyses of the reclaimed product as required by 9 VAC 20-80-700 [C-D].~~

#### E. Closure.

1. Closure Standards. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, or to the atmosphere.

a. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate.

b. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in 9 VAC 20-80-340E1a., the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he shall install a groundwater monitoring system, close the facility and perform post-closure care in accordance with the groundwater monitoring, closure and post-closure care requirements of Part V.

2. Closure plan and amendment of plan.

a. The owner or operator of a [transfer station ~~storage~~ facility] shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at its full operation under the permit conditions. The closure plan shall include, at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator with the approval of the department may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his

plan any time changes in operating plans or facility design affects the closure plan. The amended closure plan shall be placed in the operating record.

c. ~~Unless the director has previously approved the closure plan,~~ The owner or operator shall notify the director ~~that a closure plan or~~ whenever an amended closure plan has been prepared and placed in the operating record ~~no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.~~

d. Prior to beginning closure of each solid waste management unit, the owner or operator shall notify the director of the intent to close. [

e. The owner or operator shall provide to the department a certification from a registered professional engineer that the facility has been closed in accordance with the closure plan.]

3. Time allowed for closure. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, if necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. The owner or operator shall post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being delivered.

5. Inspection. The department shall inspect all solid waste management facilities [at the time of closure to confirm] that [have been closed to determine if] the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with this chapter.

### **9 VAC 20-80-350. {Reserved}**

**Note: The following text was stricken in the previous draft. The reintroduced text and format are enclosed in brackets below. The end of the section is indicated by the next note of this type.**

[

### **9 VAC 20-80-360. Materials Recovery Facilities.**

#### **A. Applicability.**

1. The siting, design, construction, and operation of a solid waste management facility which operates to reclaim solid waste shall be governed by the standards as set forth in this section.

2. The regulations of this section do not apply to:

a. The landfill gas recovery systems operated at active and closed solid waste disposal facilities which are regulated under 9 VAC 20-80-390;

- b. The storage and treatment facilities associated with the management of materials conditionally exempt from these regulations on the basis of 9 VAC 20-80-160.C.;
  - c. The facilities that use materials in a manner that constitutes disposal which are regulated under Part VIII of this chapter; or
  - d. The disposal of residues from the materials recovery facilities which is regulated under Part V of this chapter.
3. Materials recovery facilities or processes located on the solid waste disposal facilities regulated under Part V of these regulations shall conform to the standards of that part.[]
4. Any [petroleum-contaminated] material from a state other than Virginia that is classified as a hazardous waste in the state shall be managed in accordance with 9 VAC 20-60-10 et. seq. Such wastes are not acceptable for treatment or storage in a solid waste management facility in the Commonwealth.

**B. Siting.**

- 1. Materials recovery facilities shall be adjacent to or have direct access to roads which are paved or surfaced and capable of withstanding anticipated load limits.
- 2. Materials recovery facilities shall not be sited or constructed in areas subject to base floods. This siting prohibition does not apply to facilities recovering materials from industrial wastewater received from off-site.
- 3. No materials recovery facility shall be closer than:
  - a. 50 feet to any surface stream. This siting prohibition does not apply to facilities recovering materials from industrial wastewater received from off-site
  - b. .4.No materials recovery facility shall extend closer than 50 feet to any property line nor;
  - c. eCloser than 200 feet to any home residential area, health care facility, school or recreational park area, or similar type public institution .
- 4. 3.Sites shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

**C. Design/construction.**

- 1. A materials recovery facility shall be so designed to reduce the potential of elements which may degrade health or the environment from crossing the facility boundaries. Such elements include fire, vectors, wash water odor, and litter.
- 2. An all-weather road suitable for loaded delivery vehicles shall be provided from the entrance gate to the unloading area.
- 3. The unloading, receiving, or tipping areas shall be constructed of impervious materials, provided with a water supply for storage and transfer area cleaning purposes, and equipped with

drains or pumps, or equivalent means to facilitate the removal of wastewater to proper storage or disposal.

4. Truck wheel curbs or other safety facilities shall be provided to prevent backing or falling into a pit if one is used for tipping.

5. The ~~transfer~~ unloading tipping receiving, and storage structures, buildings, and ramps shall be of material that can be easily cleaned.

6. Sufficient internal storage areas for unprocessed incoming solid waste will be provided to insure an environmentally sound operation and afford sufficient space to allow for proper processing of maximum anticipated daily incoming solid waste.

7. Facility shall be designed in a manner which will prevent the migration of odors and dust off-site. The facility must meet all appropriate requirements of the regulations of the Department of Air Pollution Control where air releases are contemplated.

8. Sufficient on-site queuing capacity shall be provided for the expected traffic so that the waiting delivery vehicles do not back up onto the public road.

9. Fire alarm and protection systems capable of detecting, controlling and extinguishing any and all fires shall be provided.

10. Facilities shall be designed with perimeter security fencing and gate controls to prevent unauthorized access to the site

11. The owner/operator of a material recovery facility engaged in bioremediation shall design, construct and maintain systems for application of nutrients, provision of air or oxygen, and regulation of moisture content designed to promote aerobic microbiological degradation. At a minimum the systems shall be:

a. Designed to be chemically resistant to any waste or leachate that may come into contact with the system;

b. Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying waste, waste cover materials, and by any equipment used in the area; and

c. Designed to provide operational temperatures that are favorable to the bioremediation process.

#### **D. Operation.**

1. No uncontainerized putrescible waste shall remain at the materials recovery facility at the end of the working day, unless it is stored in interim transportation vehicles (trailers, roll off containers) designed specifically for storage.

~~2. A waste supply analysis program characterizing the quantity and composition of the solid waste in the service area shall be submitted. The waste characterization shall be performed by utilizing a statistically relevant plan which justifies the population sample. The sampling program shall provide for seasonal fluctuations in the quantity and composition of the waste types to be handled at the facility. Anticipated changes in solid waste quantity and composition for each of the waste types to be serviced by the proposed facility shall be projected for that term~~

~~reflecting anticipated facility life. Within this framework, the effect of existing or future source separation programs on the supply of solid waste within the service area shall be described and quantified. Quantity and compositions analyses indicating percent by weight shall be carried out simultaneously where possible and shall provide information relating to anticipated maximum, minimum and average daily loading for the following components of the waste stream:~~

- ~~\_\_\_\_\_ a. Aluminum;~~
- ~~\_\_\_\_\_ b. Ferrous metals;~~
- ~~\_\_\_\_\_ c. Other non-ferrous metals;~~
- ~~\_\_\_\_\_ d. Paper and paper products;~~
- ~~\_\_\_\_\_ e. Plastics;~~
- ~~\_\_\_\_\_ f. Glass;~~
- ~~\_\_\_\_\_ g. Cloth;~~
- ~~\_\_\_\_\_ h. Yard wastes (if applicable);~~
- ~~\_\_\_\_\_ i. Wood;~~
- ~~\_\_\_\_\_ j. Oversize bulky items; and~~
- ~~\_\_\_\_\_ k. Materials not amenable to use, reuse, or reclamation.~~

~~2. 3. Requirements of 9 VAC 20-80-360D2 do not apply to facilities engaged in reclamation of soil contaminated with petroleum and petroleum products. These facilities~~ Facilities engaged in the reclamation of petroleum contaminated soils shall instead perform the analyses required by 9 VAC 20-80-700C.

~~3. 4.—Operating Plan. A written operating plan shall be prepared covering at the minimum:~~

- ~~a. Facility housekeeping, on-site traffic control, schedules for waste delivery vehicle flow, wastewater collection, storm water collection, vector control, odor control, noise control, and methods of enforcement of traffic flow plans for the waste delivery vehicles.~~
- ~~b. A description of methods to determine the usefulness of the recovered material, frequency of testing and the action the facility owner/operator will take whenever the material fails the standards applicable to the recovered product and must be disposed of as waste.~~
- ~~c. The rated capacity of the facility. The capacities of any waste storage areas. The expected daily quantity of waste residue generation. The ultimate disposal location for all facility generated waste residue~~
- ~~d. For facilities engaged in the reclamation of soil, a description of the methods and frequencies of analysis of the reclaimed product shall be provided as required by 9 VAC 20-80-700C.~~

~~4. 5.—A written contingency plan shall be prepared for a materials recovery facility covering operating procedures to be employed during periods of non- processing. This plan shall set forth~~

procedures to be employed in the event of equipment breakdown which will require standby equipment, extension of operating hours, or diversion of solid waste to other facilities. The plan will include emergency loading, unloading, storage, transfer or other disposal capabilities to be used when the facility down-time exceeds 24 hours.

5. ~~6.~~ Leachate and washwater from a materials recovery facility shall not be permitted to drain or discharge into surface waters except when authorized under a ~~Virginia NPDES~~ VPDES Permit issued pursuant to ~~the State Water Control Board Regulation (9 VAC 25-30-10 et seq.),~~ NPDES Program or otherwise approved by that agency.

6. ~~7.~~ No hazardous wastes shall be accepted by the materials recovery facility unless they are specifically exempted by the recycling provisions of the Virginia Hazardous Waste Management Regulations.

#### **E. Closure.**

1. Closure Standards. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, or to the atmosphere.

a. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components, contaminated subsoils, and structures and equipment contaminated with waste and leachate.

b. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in 9 VAC 20-80-360E1a the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he shall close the facility and perform post-closure care in accordance with the closure and post-closure care requirements of Part V.

2. Closure plan and amendment of plan.

a. The owner or operator of a material recovery facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at its full operation under the permit conditions. The closure plan shall include, at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan.

c. ~~Unless the director has previously approved the closure plan,~~ The owner or operator shall notify the director ~~that a closure plan or~~ whenever an amended closure plan has been prepared and placed in the operating record. ~~no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.~~

d. Prior to beginning closure of each solid waste management unit, the owner or operator shall notify the director of the intent to close.

e. The owner shall provide to the department a certification from a registered professional engineer that the facility has been closed in accordance with the closure plan.

3. Time allowed for closure. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. The owner or operator shall post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

5. Inspection. The department shall inspect all solid waste management facilities[at the time of closure to confirm] that ~~have been closed to determine if~~ the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with this chapter.

## **9 VAC 20-80-370. Energy Recovery and Incineration Facilities.**

### **A. Applicability.**

1. The siting, design, construction, and operation of the solid waste and process residue storage and handling facilities associated with the energy recovery from or incineration of solid wastes shall be governed by the standards as set forth in this section.

2. The regulations of this section do not apply to:

a. Design and operation of the combustor units regulated by the Department of Air Pollution Control; or

b. The disposal of residues from the energy recovery or incineration facilities which is regulated under Part V of this chapter.

### **B. Siting.**

1. Energy recovery and incineration facilities shall be adjacent to or have direct access to roads which are paved or surfaced and capable of withstanding anticipated load limits.

2. Energy recovery and incineration facilities shall not be sited or constructed in areas subject to base floods.

3. No facilities for storage or handling of unconverted solid waste or combustion residues shall extend:

a. Closer than 50 feet to any surface stream;

- b. Closer than 50 feet to any property line; or
  - c. Closer than 200 feet to any ~~home, hospital, nursing home~~ residential area, health care facility, school or recreational park area, or similar type public institution.
4. Sites shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

**C. Design/construction.**

1. The solid waste and combustion residue storage and handling facilities associated with an energy recovery or incineration system shall be designed to reduce the potential of elements which may degrade health or the environment from crossing the facility boundaries. Such elements include fire, vectors, wash water, odor, and litter.
2. An all-weather road suitable for loaded delivery vehicles shall be provided from the entrance gate to the unloading, receiving, or tipping area.
3. All tipping floors, sorting pads, waste storage areas, bunkers and pits shall be constructed of concrete or other similar quality material that will withstand heavy vehicle usage. Floor drains shall be provided in all such area and surfaces shall be appropriately graded to facilitate wash down operations. Floor drains shall be designed to discharge wastewater into a collection system for proper disposal. In those cases where waste or residue storage pits are to be utilized, the base and sidewalls shall be designed to prevent groundwater intrusion.
4. Truck wheel curbs or other safety facilities shall be provided to prevent backing or falling into a pit if one is used for tipping.
5. The unloading, receiving, tipping structures, buildings, and ramps shall be of material that can be easily cleaned.
6. Facilities shall be designed with sufficient internal storage area for unprocessed incoming solid waste, facility process waste residues and effluents, and recovered materials, if applicable. The design shall allow for, at a minimum, three days of storage at maximum anticipated loading rates.
7. Facility shall be designed in a manner which will prevent the migration of odors and dust off-site.
8. Sufficient on-site queuing capacity shall be provided for the expected traffic so that the waiting delivery vehicles do not back up onto the public road.
9. Fire alarm and protection systems capable of detecting, controlling and extinguishing any and all fires shall be provided.
10. Facilities shall be designed with perimeter security fencing and gate controls to prevent unauthorized access to the site and to control the off-site escape of litter.
11. A design description manual will be prepared and submitted to the department describing or showing:
  - a. The rated capacity of the facility;

- b. The designation of normal loading, unloading and storage areas and their capacities;
- c. The designation of emergency loading, unloading, storage or other disposal capabilities to be used when the facility system down-time exceeds 24 hours;
- d. The designation of alternate disposal areas or plans for transfer of solid wastes in the event facility down-time exceeds 72 hours;
- e. The expected daily quantity of waste residue generation;
- f. The proposed ultimate disposal location for all facility-generated waste residues including, but not limited to, ash residues and by-pass material, by-products resulting from air pollution control devices, and the proposed alternate disposal locations for any unauthorized waste types, which may have been unknowingly accepted. The schedule for securing contracts for the disposal of these waste types at the designated locations shall be provided;
- g. A descriptive statement of any materials use, reuse or reclamation activities to be operated in conjunction with the facility, either on the incoming solid waste or the ongoing residue;
- h. Plan views showing building dimensions, building setbacks, side and rear distances between the proposed structure and other existing or proposed structures, roadways, parking areas and site boundaries;
- i. Interior floor plans showing the layout, profile view and dimensions of the processing lines, interior unloading, sorting, storage and loading areas as well as other functional areas.

12. A waste supply analysis program characterizing the quantity and composition of the solid waste in the service area shall be submitted. The waste characterization shall be performed by utilizing a statistically relevant plan which justifies the population sample. The sampling program shall provide for seasonal fluctuations in the quantity and composition of the waste types to be handled at the facility. Anticipated changes in solid waste quantity and composition for each of the waste types to be serviced by the proposed facility shall be projected for that term reflecting anticipated facility life. Within this framework, the effect of existing or future source separation programs on the supply of solid waste within the service area shall be described and quantified. Quantity and compositions analyses shall be carried out simultaneously where possible and shall provide information relating to anticipated maximum, minimum and average daily loading in accordance with the following:

- a. The composition data for the non-combustible solid waste, indicating percent by weight and percent by volume, generated within the service area shall be defined within the following framework:
  - (1) Aluminum;
  - (2) Ferrous metals;
  - (3) Other non-ferrous metals;
  - (4) Glass;

- (5) Ceramics and fines, and
  - (6) Oversize bulky items.
- b. The composition data for combustible solid waste, indicating percent by weight by volume, generated within the service area shall be defined for the following:
- (1) Paper products;
  - (2) Plastics;
  - (3) Wood;
  - (4) Yard wastes;
  - (5) Food wastes; and
  - (6) Textiles, rubber, leather and other combustibles.
- c. The composition data for the proximate analysis of the solid waste, indicating percent by weight, generated within the service area shall be defined for the following:
- (1) Total Moisture;
  - (2) Ash (including percent by volume);
  - (3) Volatiles;
  - (4) Fixed Carbon; and
  - (5) Heating value in BTU/pound on an as-received and moisture-free basis.
- d. The composition data for the ultimate analysis of the solid waste, indicating percent by weight, generated within the service area shall be defined for the following:
- (1) Ash;
  - (2) Carbon;
  - (3) Chlorine;
  - (4) Hydrogen;
  - (5) Nitrogen;
  - (6) Oxygen; and
  - (7) Sulfur;
- e. The quantity data for the solid waste generated within the service area shall be defined by weight, volume and corresponding load density characteristics expressed in terms of daily, average, peak and minimum flow to the facility.

**D. Operation.**

- 1. Unprocessed incoming waste, facility process waste residues and effluents, and recovered materials, if applicable, shall be stored in bunkers, pits, bins, or similar containment vessels and

shall be kept at all times at levels that prevent spillage or overflow. [Any waste materials temporarily stored on the facility's tipping floor shall be stored as stated above by the end of the working day, or other time frame approved by the director.]

2. A written operating plan shall be prepared covering at the minimum facility housekeeping, on-site traffic control, schedules for waste delivery vehicle flow, wastewater collection, storm water collection, vector control, odor control, noise control, and methods of enforcement of traffic flow plans for the waste delivery vehicles.
3. The owner or operator shall implement waste receiving area control procedures that provide for the inspection of the incoming waste stream for the purpose of removing unprocessable or potentially explosive materials prior to the initiation of processing. In addition, the inspection shall effectively prevent the acceptance of unauthorized waste types. These procedures and necessary contingency plans shall be incorporated into the approved operating plan.
4. A written contingency plan shall be prepared for an energy recovery facility covering operating procedures to be employed during periods of non-operation. This plan shall set forth procedures to be employed in the event of equipment breakdown which will require standby equipment, extension of operating hours, or diversion of solid waste to other facilities.
5. Leachate and washwater from an energy recovery facility shall not be permitted to drain or discharge into surface waters except when authorized under a Virginia-NPDES Permit issued pursuant to the State Water Control Board Regulation (9 VAC 25-30-10 *et seq.*), NPDES Program or otherwise approved by that agency.
6. No hazardous wastes shall be accepted for processing unless they are specifically exempted by the provisions of the Virginia Hazardous Waste Management Regulations.
7. Arrangements for disposal of facility-generated waste shall be established and maintained throughout the life of the energy recovery or incineration facility.
8. Chemical analyses of residues.
  - a. The owner or operator shall perform a chemical analyses of all residual ash, in accordance with the conditions of the solid waste management facility permit and current solid waste management regulations.
  - b. Samples and measurements taken for this purpose shall be representative of the process or operation and shall be performed in accordance with the procedures outlined in the most recent edition of "Test Methods for Evaluating Solid Waste-- Physical/Chemical Methods," EPA publication SW-846. At a minimum the sampling shall include analyses for toxicity and shall be performed at the frequency specified in the facility's permit.
  - c. The department may require the operator to perform additional analyses on ash removed from exhaust gases and collected by emission control equipment, at a frequency established by the department in the facility's permit.
  - d. A report containing following information shall be submitted to the department within 90 days of sample collection:
    - (1) The date and place of sampling and analysis;

- (2) The names of the individuals who performed the sampling and analysis;
- (3) The sampling and analytical methods utilized;
- (4) The results of such sampling and analyses; and
- (5) The signature and certification of the report by an appropriate authorized agent for the facility.

**E. Closure.**

1. Closure Standards. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, or to the atmosphere.

a. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components, and structures and equipment contaminated with waste and leachate.

b. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, structures, and equipment as required in 9 VAC 20-80-370E1a, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he shall close the facility and perform post-closure care in accordance with the closure and post-closure care requirements of Part V.

2. Closure plan and amendment of plan.

a. The owner or operator of an energy recovery facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at its full operation under the permit conditions. The closure plan shall include, at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan.

c. Unless the director has previously approved the closure plan, the owner or operator shall notify the director that a closure plan or an amended closure plan has been prepared and placed in the operating record no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.

d. Prior to beginning closure of each solid waste management unit, the owner or operator shall notify the director of the intent to close.

3. Time allowed for closure. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of

wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, if necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. The owner or operator shall post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.]

**Note: The above text was stricken in the previous draft. The reintroduced text and format are enclosed in brackets. The beginning of this section is indicated above by a note of this type.**

### **9 VAC 20-80-380. Surface Impoundments and Lagoons.**

#### **A. [Applicability.**

1. ] Lagoons and surface impoundments are regulated under state water control law ~~and by agencies other than the Department~~. During the operating life of these facilities, these regulations do not apply. If the operator intends to close such a facility by burial of sludges and residue in place, these regulations shall not apply where ~~the regulating agency~~ facility permit establishes the closure requirements in accordance with ~~its~~ water pollution control regulations. If new wastes not contained in the lagoon or impoundment are proposed to be disposed of with the residue, the operation and closure of the facility constitutes construction and operation of a landfill and must be accomplished as specified in Part V of these regulations. ]

2. Leachate lagoons are regulated under Part V of this chapter and are subject to the requirements for liners in 9 VAC 20-80-290C.]

#### **B. Closure. At closure, the owner or operator shall:**

1. Remove all waste residue, contaminated containment system components (liners, etc.), contaminated subsoils, and decontaminate structures and equipment contaminated with waste, and manage them as solid waste (or hazardous waste, if applicable) unless exempt under Part III; or

2. Close the impoundment and provide post-closure care for a landfill under Part V, including the following:

a. Eliminate free liquids by removing liquid waste and waste residue;

b. Install a groundwater monitoring system and initiate groundwater monitoring in accordance with the requirements of Part V of this chapter.

c. Stabilize remaining waste residues to a bearing capacity sufficient to support the final cover; and

d. Cover the surface impoundment with a final cover designed and constructed in accordance to the requirements of Part V.

3. Inspection. The department shall inspect all solid waste management facilities [at the time of closure to confirm] that ~~have been closed to determine if~~ [the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with this chapter.

**9 VAC 20-80-390. Landfill Gas Recovery Facilities. {Reserved.**

**9 VAC 20-80-400. ~~9 VAC 20-80-350. {Reserved}~~ 9 VAC 20-80-400 Waste Piles.**

**A. Applicability.**

1. The regulations in this section apply to owners and operators of facilities that store or treat non-putrescible solid waste in piles, ~~except as 9 VAC 20-80-330 through 9 VAC 20-80-370 may provide otherwise.~~

2. The regulations in this section do not apply to owners or operators of waste piles that will be closed with wastes left in place. Such waste piles are subject to regulations contained in Part V.

~~3. The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run off nor leachate is generated is not subject to regulation under 9 VAC 20-80-480C provided that:~~

~~a. Liquids or materials containing free liquids are not placed in the pile;~~

~~b. The pile is protected from surface water run on by the structure or in some other manner;~~

~~c. The pile is designed and operated to control dispersal of the waste by wind, where necessary, by means other than wetting;~~

~~d. The pile will not generate leachate through decomposition or other reactions; and~~

~~e. The structures, buildings, and ramps shall be of concrete, brick, or other material that can be easily cleaned.~~

3. [Unless the uncontainerized putrescible waste does not remain at the facility at the end of the working day, the regulations in this section do not apply to owners and operators of facilities that store or treat putrescible solid waste in piles] This section applies to units that manage uncontainerized putrescible wastes in piles that do not remain in the unit at the end of the working day. If the such wastes remain in waste piles at the end of the day, this section does not apply and the] Management of such wastes [in other than containers and tanks] shall be in accordance with the requirements shown in 9 VAC 20-80-330 or 9 VAC 20-80-470, as applicable.

4. Any ~~petroleum-contaminated~~ material from a state other than Virginia that is classified as a hazardous waste in that state shall be managed in accordance with 9 VAC 20-60-10 et seq. Such wastes are not acceptable for treatment or storage in a solid waste management facility in the Commonwealth.

**B. Siting.**

1. Solid waste management facilities storing or treating waste in piles shall be adjacent to or have direct access to roads which are paved or surfaced and capable of withstanding anticipated load limits.

2. Waste piles shall not be sited or constructed in areas subject to base floods.

3. Facility treating or storing solid waste in piles shall not be closer than 50 feet to any surface stream.

4. No facility treating or storing wastes in piles shall extend closer than 50 feet to any property line nor closer than 200 feet to any ~~home~~ residential area, a health care facility, school or recreational park area, or similar type public institution.

5. Unless the waste pile is located inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated, such units shall:

a. Be provided with an adequate area to allow for proper management of leachate and runoff;

b. Not be located in areas which are geologically unstable or where site topography is heavily dissected; and

c. Not be located in any area where a seasonal high water table lies within two feet of the ground surface.

**C. Design/construction.**

1. The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated is not subject to regulation under 9 VAC 20-80-400C2., provided that:

a. Liquids or materials containing free liquids are not placed in the pile;

b. The pile is protected from surface water run-on by the structure or in some other manner;

c. The pile is designed and operated to control dispersal of the waste by wind, where necessary, by means other than wetting;

d. The pile will not generate leachate through decomposition or other reactions; and

e. The structures, buildings, and ramps shall be of concrete, brick, or other material that can be easily cleaned.

2. Exposed waste piles.

a. Liners. 4. A waste pile (except for an existing portion of a waste pile) shall have:

(1) a. A liner that is designed, constructed, and installed to prevent any migration of wastes out of the pile into the adjacent soil or groundwater or surface water at any time during the active life (including the closure period) of the waste pile. The liner shall be:

(a) ~~(4)~~ Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(b) ~~(2)~~ Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(c) ~~(3)~~ Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(2) b. A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The design and operating conditions shall ensure that the leachate depth over the liner does not exceed one foot at its lowest point. The leachate collection and removal system shall be:

(a) ~~(4)~~ Constructed of materials that are:

*i.* ~~(a)~~ Chemically resistant to the waste managed in the pile and the leachate expected to be generated; and

*ii.* ~~(b)~~ Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying wastes, waste cover materials, and by any equipment used at the pile; and

(b) ~~(2)~~ Designed and operated to function without clogging through the scheduled closure of the waste pile.

b. 2. The owner or operator will be exempted from the requirements of ~~9 VAC 20-80-400C1~~ 9 VAC 20-80-400C2a if the director finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any waste constituents into the groundwater or surface water at any future time. In deciding whether to grant an exemption, the director will consider:

(1) a. The nature and quantity of the wastes;

(2) b. The proposed alternate design and operation;

(3) e. The hydrogeologic setting of the facility, including attenuating capacity and thickness of the liners and soils present between the pile and groundwater or surface water; and

~~(4) d.~~ All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water;

~~c. 3.~~ During construction or installation, liners shall be inspected by the owner's or operator's construction quality assurance personnel for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials).

~~d. 4.~~ Immediately after construction or installation.

~~(1) a.~~ Synthetic liners shall be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

~~(2) b.~~ Soil-based liners shall be inspected for imperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the hydraulic conductivity of the liner.

~~e. 5.~~ The owner or operator shall design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm.

~~f. 6.~~ The owner or operator shall design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

3. Area[, and] facilities[, and] appropriate equipment shall be provided to segregate undesirable components from the incoming solid waste to be processed.

4. Roads serving the unloading, treatment, and storage areas shall be of all-weather construction.

5. The storage or treatment units shall be designed to reduce the potential for fires and migration of vectors, and to prevent escape of wastes, washwaters, odors, dust, and litter from the facility.

6. Materials and energy recovery, incineration, or thermal treatment facilities that treat or store materials in piles shall be provided with:

a. Sufficient internal storage areas for unprocessed incoming solid waste to [insure ensure] an environmentally sound operation and afford sufficient space to allow for proper processing of maximum anticipated daily incoming solid waste.

b. Areas and appropriate equipment to segregate non-recoverable or otherwise undesirable components from the solid waste being processed.

c. Fire alarm and protection systems capable of detecting, controlling and extinguishing any and all fires shall be provided.

d. Facilities shall be designed with perimeter security fencing and gate controls to prevent unauthorized access to the site.

~~7. Owners or operators of materials recovery, energy recovery, incineration, or thermal treatment facilities that manage materials in piles shall prepare and submit to the department a design description manual describing or showing:~~

~~a. The rated capacity of the facility;~~

- ~~b. The designation of normal loading, unloading and storage areas and their capacities;~~
- ~~c. The designation of emergency loading, unloading, storage or other disposal capabilities to be used when the facility system down time exceeds 24 hours;~~
- ~~d. The designation of alternate disposal areas or plans for transfer of solid wastes in the event facility down time exceeds 72 hours;~~
- ~~e. The expected daily quantity of waste residue generation;~~
- ~~f. The proposed ultimate disposal location for all facility generated waste residues including, but not limited to, ash residues and by pass material, by products resulting from air and water pollution control devices, and the proposed alternate disposal locations for any unauthorized waste types, which may have been unknowingly accepted. The schedule for securing contracts for the disposal of these waste types at the designated locations shall be provided;~~
- ~~g. A descriptive statement of any materials use, reuse or reclamation activities to be operated in conjunction with the facility, either on the incoming solid waste or the outgoing residue;~~
- ~~h. Plan views showing building dimensions, building setbacks, side and rear distances between the proposed structure and other existing or proposed structures, roadways, parking areas and site boundaries;~~
- ~~i. Interior floor plans showing the layout, profile view and dimensions of the processing lines, interior unloading, sorting, storage and loading areas as well as other functional areas.~~
- ~~8. The owner/operator of a material recovery facility engaged in bioremediation shall design, construct and maintain systems for application of nutrients, provision of air or oxygen, and regulation of moisture content designed to promote [aerobic] microbiological degradation. At a minimum the systems shall be:~~
  - ~~a. Designed to be chemically resistant to any waste or leachate that may come into contact with the system;~~
  - ~~b. Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying waste, waste cover materials, and by any equipment used in the area; and~~
  - ~~c. Designed to provide operational temperatures that are favorable to the bioremediation process;]~~

**D. Operation.**

1. No uncontainerized putrescible solid waste shall remain at the storage and/or treatment facility at the end of the working day, unless it is stored in interim transportation vehicles (trailers, roll-off containers) designed specifically for storage.
2. A written operating plan shall be prepared covering at the minimum:

a. Facility housekeeping, on-site traffic control, schedules for waste delivery vehicle flow, wastewater collection, storm water collection, vector control, odor control, noise control, and methods of enforcement of traffic flow plans for the waste delivery vehicles;]

b. A description of types of wastes that will be managed at the facility. A description of the storage or treatment activity. A description of any required testing including test methods and frequencies, and sampling techniques.

~~b. In case of all materials recovery facilities, a description of methods to determine the usefulness of the recovered material, frequency of testing and the action the facility owner/operator will take whenever the material fails the standards applicable to the recovered product and must be disposed of as waste;~~

~~c. In case of all materials and energy recovery, incineration or thermal treatment facilities, arrangements for disposal of facility generated waste that will be established and maintained throughout the life of the facility.~~

~~d. In addition to the requirements of 9 VAC 20-80-350D2a through 9 VAC 20-80-350D2c, the operation plan for the facility engaged in bio-remediation of solid waste shall:~~

~~(1) Contain the description of the pilot study or other mechanism used to determine:~~

~~(a) nutrient application methods and amounts;~~

~~(b) air or oxygen application methods and amounts;~~

~~(c) moisture application methods and amounts;~~

~~(d) treatment timeframes under the conditions that will be employed;~~

~~(e) sufficient air emission monitoring of volatile constituents to support the mass-balances calculated for each combination of waste, nutrients, air, temperature and moisture conditions.~~

~~(2) Based on the results of the pilot study, the description of treatment parameter limitations, procedures that will be employed to operate the full scale bioremediation facility, and the test methods that will be used to determine the progress of the process.]~~

3. A written contingency plan shall be prepared covering operating procedures to be employed during periods of non-operation. This plan shall set forth procedures to be employed in the event of equipment breakdown which will require standby equipment, extension of operating hours, or diversion of solid waste to other facilities.

4. Leachate and run-off that has been in contact with the contents of the waste pile shall not be permitted to drain or discharge into surface waters except when authorized under a VPDES permit issued pursuant to 9 VAC 25-30-10 *et seq.*

5. No regulated hazardous wastes shall be accepted for processing unless they are specifically exempted by the provisions of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 *et seq.*).

[6. Analyses:

~~a. Waste supply analyses. The operation plan for materials and energy recovery, incineration and thermal treatment facility shall describe a waste supply analysis program characterizing the quantity and composition of the solid waste in the service area. The waste characterization shall be performed by utilizing a statistically relevant plan which justifies the population sample. The sampling program shall provide for seasonal fluctuations in the quantity and composition of the waste types to be handled at the facility. Anticipated changes in solid waste quantity and composition for each of the waste types to be serviced by the proposed facility shall be projected for that term reflecting anticipated facility life. Within this framework, the effect of existing or future source separation programs on the supply of solid waste within the service area shall be described and quantified. Quantity and compositions analyses indicating percent by weight shall be carried out simultaneously where possible and shall provide information relating to anticipated maximum, minimum and average daily loading for the following components of the waste stream:~~

- ~~(1) Aluminum;~~
- ~~(2) Ferrous metals;~~
- ~~(3) Other non ferrous metals;~~
- ~~(4) Paper and paper products;~~
- ~~(5) Plastics;~~
- ~~(6) Glass;~~
- ~~(7) Cloth;~~
- ~~(8) Rubber and rubber products;~~
- ~~(9) Yard wastes (if applicable);~~
- ~~(10) Wood;~~
- ~~(11) Oversize bulky items; and~~
- ~~(12) Materials not amenable to use, reuse, or reclamation.~~

~~b. The requirements of 9 VAC 20 80 350D6a do not apply to facilities engaged in reclamation of materials contaminated with petroleum and petroleum products. Before accepting any shipment of such materials, the owner/operator of the reclamation facility will require a statement from the generator certifying that the material in that shipment is a non hazardous solid waste as defined in 9 VAC 20 60 10 et seq. If generated in a state other than Virginia, the certification will also contain a statement that the material to be reclaimed is not classified as a hazardous waste in the state of origin.~~

~~c. Chemical analyses of residues. The operating plan for an energy recovery or incineration facility shall describe the methods and frequency at which the owner or operator of facility shall perform a chemical analyses of all residual ash.~~

~~(1) Samples and measurements taken for this purpose shall be representative of the process or operation and shall be performed in accordance with the procedures outlined in the most recent edition of "Test Methods for Evaluating Solid Waste—Physical/Chemical Methods," EPA publication SW-846.~~

~~(2) At a minimum the sampling shall include analyses for toxicity and shall be performed at the frequency specified in the facility's permit. The department may require the operator to perform additional analyses on ash removed from exhaust gases and collected by emission control equipment, at a frequency established by the department in the facility's permit.~~

~~(3) A report containing following information shall be submitted to the department within 90 days of sample collection:~~

~~(a) The date and place of sampling and analysis;~~

~~(b) The names of the individuals who performed the sampling and analysis;~~

~~(c) The sampling and analytical methods utilized;~~

~~(d) The results of such sampling and analyses; and~~

~~(e) The signature and certification of the report by an appropriate authorized agent for the facility.~~

~~d. Analysis of reclaimed product. The operating plan for facilities engaged in reclamation of soil shall describe the frequencies and methods of analyses of the reclaimed product as required by 9 VAC 20-80-700C.]~~

~~6. 1.~~ Collection and holding facilities associated with run-on and run-off control systems shall be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

~~7. 2.~~ If the pile contains any particulate matter which may be subject to wind dispersal, the owner or operator shall cover or otherwise manage the pile to control wind dispersal.

~~8. 3.~~ While a waste pile is in operation, it shall be inspected weekly and after storms to detect evidence of any of the following:

a. Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

b. Proper functioning of wind dispersal control systems, where present; and

c. The presence of leachate in and proper functioning of leachate collection and removal systems, where present.

~~9. 4.~~ Incompatible wastes, or incompatible wastes and materials shall not be placed in the same pile.

**E. Closure.**

1. Closure Standards. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, or to the atmosphere.

a. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate.

b. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in [9 VAC 20-80-400E1a ~~9 VAC 20-80-350E1a~~], the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he shall close the facility and perform post-closure care in accordance with the closure and post-closure care requirements of Part V.

2. Closure plan and amendment of plan.

a. The owner or operator of a waste pile shall have a written closure plan. This plan shall identify the steps necessary to completely close the unit at its full operation under the permit conditions. The closure plan shall include, at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan.

c. ~~Unless the director has previously approved the closure plan,~~ The owner or operator shall notify the director ~~that a closure plan or~~ whenever an amended closure plan has been prepared and placed in the operating record ~~no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.~~

d. Prior to beginning closure of each solid waste disposal unit, the owner or operator shall notify the director of the intent to close.[]

e. The owner or operator shall provide to the department a certification from a registered professional engineer that the facility has been closed in accordance with the closure plan.]

3. Time allowed for closure. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, if necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. The owner or operator shall post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

5. Inspection. The department shall inspect all solid waste management facilities [at the time of closure to confirm] that ~~have been closed to determine if~~ the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with this chapter.

~~9 VAC 20-80-410 9 VAC 20-80-400 through 9 VAC 20-80-460 [9 VAC 20-80-450 9 VAC 20-80-440] {Reserved} [~~

### 9 VAC 20-80-450. Remediation Waste Management Units

#### A. General.

1. For the purpose of implementing remedies under Part IV of this chapter or under the Voluntary Remediation Program (9 VAC 10-160-10 et seq.), the director may designate an area of a facility as a remediation waste management unit (RWMU), as defined in Part I of this chapter. One or more RWMUs may be designated at a facility.

2. The director may designate a unit subject to this chapter as an RWMU, or incorporate such a unit into a designated RWMU if:

a. The unit is closed or has begun the closure process under 9 VAC 20-80-250E4a, 9 VAC 20-80-260E3, or 9 VAC 20-80-270E3; and

b. Inclusion of the unit will enhance implementation of effective, protective, and reliable remedial actions for the facility.

3. Consolidation or placement of remediation wastes into a designated RWMU does not constitute creation of a unit subject to the siting, design and operation requirements of Part V and the permitting requirements of Part VII of this chapter.

4. The applicable requirements for groundwater monitoring and closure under 9 VAC 20-80-250D and 9 VAC 20-80-250E, 9 VAC 20-80-260D and 9 VAC 20-80-260E, or 9 VAC 20-80-270D and 9 VAC 20-80-270E will continue to apply to the RWMU.

B. Criteria for Designating RWMUs. The director will designate an RWMU if he finds that:

1. The RWMU shall facilitate the implementation of reliable, protective and cost-effective remedies;

2. Waste management activities associated with the RWMU shall not create unacceptable risks to humans or to the environment resulting from exposure to solid wastes and solid waste constituents;

3. If an inclusion of uncontaminated areas of the facility into an RWMU is requested, such an inclusion will be more protective than management of such wastes at contaminated areas of the facility;

4. Areas within the RWMU where wastes remain in place after closure of the RWMU shall be managed and contained so as to minimize future releases, to the extent practicable;

5. The RWMU shall expedite the timing of the remedial activity implementation when appropriate and practicable;

6. The RWMU shall enable the use, when appropriate, of treatment technologies (including innovative treatment technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility or volume of wastes that will remain in place after closure of the RWMU; and

7. The RWMU shall, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the RWMU.

C. Requirements. The director will specify the requirements for RWMUs to include but not be limited to the following:

1. The areal configuration of the RWMU;

2. Requirements for remediation waste management to include the specification of applicable design, operation and closure requirements;

3. Requirements for groundwater monitoring that are sufficient to:

a. Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of solid waste constituents in groundwater from sources located within the RWMU; and

b. Detect and subsequently characterize releases of solid waste constituents to groundwater that may occur from areas of the RWMU in which wastes will remain in place after closure of the RWMU.

4. Closure and post-closure care requirements.:

a. Closure of RWMUs shall:

(1) Minimize the need for further maintenance; and

(2) Control, minimize, or eliminate, to the extent necessary to protect human health and the environment, for areas where wastes remain in place, post-closure escape of solid waste, solid waste constituents, leachate, contaminated run-off, or waste decomposition products to the ground, to surface waters, or to the atmosphere.

b. Requirements for closure of an RWMU shall include the following, as appropriate and deemed necessary by the director for a given RWMU:

(1) Requirements for excavation, removal, treatment or containment of wastes;

(2) For areas in which wastes will remain in place after closure of the RWMU, requirements for capping of such areas; and

(3) Requirements for decontamination of equipment, devices, and structures in remediation waste management activities within the RWMU.

c. In establishing specific closure requirements for RWMUs, the director will consider the following factors:

(1) RWMU characteristics;

(2) Volume of waste which remain in place after closure;

(3) Potential for releases from the RWMU;

(4) Physical and chemical characteristics of the waste;

(5) Hydrological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases; and

(6) Potential for exposure of humans and environmental receptors if releases were to occur from the RWMU.

d. Post-closure requirements as necessary to protect human health and the environment to include, for areas where wastes will remain in place, monitoring and maintenance activities and the frequency with which such activities shall be performed in order to ensure the integrity of any final cap, final cover, or other containment system.

5. The director will document the rationale for designating RWMUs.

6. The designation of an RWMU does not change the department's existing authority to address clean-up levels, media specific points of compliance to be applied to remediation at a facility, or other remedy selection decisions.

#### **D. Temporary Units**

1. Temporary tanks and container storage areas may be used for treatment or storage of remediation wastes during remedial activities, if the director determines that design, operating, or closure standards applicable to RWMUs may be replaced by alternative requirements which are protective of human health and the environment.

2. Any temporary unit to which alternative requirements are applied shall be:

a. Located within the facility boundary; and

b. Used only for the treatment or storage of remediation wastes.

3. In establishing standards to be applied to temporary units, the directors will consider the following factors:

a. Length of time such unit will be in operation;

b. Type of unit;

c. Volumes of waste to be managed;

- d. Physical and chemical characteristics of the waste to be managed in the unit;
  - e. Potential for releases from the unit;
  - f. Hydrogeological and other relevant environmental conditions at the facility which may influence migration of any potential releases; and
  - g. Potential for exposure of humans and environmental receptors if releases were to occur from the unit.
4. The director will specify the length of time a temporary unit will be allowed to operate, to be no longer than a period of one year. The director will also specify the design, operating, and closure requirements for the unit.
5. The director may extend the operational period of a temporary unit once for a period of one year beyond that originally specified, if the director determines that:
- a. Continued operation of the unit will not pose a threat to human health and the environment; and
  - b. Continued operation of the unit is necessary to ensure timely and efficient implementation of the remedial actions at the facility.]

**9 VAC 20-80-460. Landfill Mining.**

A. Because of the varied and experimental nature of the landfill mining processes currently employed, 9 VAC 20-80-470 offers the most appropriate management standards. For this reason, appropriate portions of that section shall be made applicable to the mining process.

B. In addition to fulfilling appropriate requirements of 9 VAC 20-80-470, the owner or operator of a landfill mining facility shall prepare an operational plan which will describe in detail the procedures that will be employed in opening the closed landfill areas, the phased description of opened areas, the procedures that will be employed in excavation of opened areas, the management of excavated materials, and disposition of recovered materials and unusable residues. The operational plan shall also contain and estimate of the duration of the mining process and the final use of the recovered air space.

C. In case that residues will be disposed on site, the disposal units shall be regulated under Part V of this chapter.

## **9 VAC 20-80-470. Miscellaneous Units.**

**A.** The requirements in 9 VAC 20-80-470 apply to owners and operators of facilities that treat or store solid waste in facilities or units not otherwise regulated under Part V or 9 VAC 20-80-330 through 9 VAC 20-80-460.

**B.** A miscellaneous unit shall be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate, siting, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of solid waste or ~~hazardous~~ constituents of solid wastes from the unit. Permit terms and provisions shall include those requirements of Part V (9 VAC 20-80-330 through 9 VAC 20-80-460), and Parts VII and VIII, that are appropriate for the miscellaneous unit being permitted.

**C.** Protection of human health and the environment includes, but is not limited to:

1. Proper location of the facility and the unit considering:

- a. The hydrologic and geologic characteristics of the unit and the surrounding area, including the topography of the land around the facility and the unit;
- b. The atmospheric and meteorologic characteristics of the unit and the surrounding area;
- c. The patterns of precipitation in the region;
- d. The patterns of land use in the surrounding area;
- e. The potential for health risks caused by human exposure to waste constituents; and
- f. The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

2. Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the groundwater or subsurface environment, considering:

- a. The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;
- b. The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater;
- c. The quantity and direction of groundwater flow;
- d. The proximity to and withdrawal rates of current and potential groundwater uses;
- e. The potential for deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food-chain crops and other vegetation;

3. Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering:

- a. The volume and physical and chemical characteristics of the waste in the unit;
  - b. The effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;
  - c. The quantity, quality, and direction of groundwater flow;
  - d. The proximity of the unit to surface waters;
  - e. The current and potential uses of nearby surface waters and any water quality standards established for those surface waters; and
  - f. The existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils.
4. Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering;
- a. The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols and particulates;
  - b. The effectiveness and reliability of systems and structures to reduce or prevent emissions of waste constituents to the air;
  - c. The operating characteristics of the unit; and
  - d. The existing quality of the air, including other sources of contamination and their cumulative impact on the air.

**D.** Monitoring, analysis, inspection, response, reporting, and corrective action. Monitoring, testing, analytical data, inspections, response, and reporting procedures and frequencies when called for by the performance standards in 9 VAC 20-80-470C shall ensure compliance with any applicable requirements of Parts V, VI, or VIII, as well as meet any additional requirements needed to protect human health and the environment as specified in the permit.

**E.** Closure.

1. The owner or operator shall close the facility or the unit in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, or to the atmosphere. All waste, materials contaminated with waste constituents, and treatment residue shall be removed and disposed in a permitted facility.
2. Closure plan and amendment of plan.
  - a. The owner or operator of a miscellaneous unit shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at its full operation under the permit conditions. The closure plan shall include, at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan.

c. [~~Unless the director has previously approved the closure plan,~~] The owner or operator shall notify the director that a closure plan or an amended closure plan has been prepared and placed in the operating record[~~, no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.~~]

d. Prior to beginning closure of each solid waste disposal unit, the owner or operator shall notify the director of the intent to close.

3. Time allowed for closure. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. The owner or operator shall post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being delivered.

5. Inspection. The department shall inspect all solid waste management facilities [at the time of closure to confirm] that ~~have been closed to determine if~~ the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with this chapter.

**F. Post-Closure Care.** If a treatment or storage unit has contaminated soils or groundwater that cannot be completely removed or decontaminated during closure, it shall close as a disposal unit in accordance with the requirements of Part V.

## **PART VII.**

### **PERMITTING OF SOLID WASTE MANAGEMENT FACILITIES**

#### **9 VAC 20-80-480. Applicability**

**A.** No person shall construct, operate or modify a solid waste management facility in this Commonwealth without a permit issued by the director unless otherwise specified in 9 VAC 20-80-480D.

**B.** Each solid waste management facility permit shall be limited to one site and shall be non-transferable between sites.

**C.** Issuance of a new permit is required when there is:

1. Any new solid waste management facility; or

2. Any change in design or process of a solid waste management facility that will, in the opinion of the director, result in a substantially different type of facility. [

3. Any expansion beyond the facility property boundary specified in the existing permit. Expansions solely for remedial purposes will be considered permit amendments only for the purpose of establishing permit fees under the provisions of 9 VAC 20-90-10 et. seq. For all other considerations, expansions for remedial purposes will be considered a new permit.]

**D. Exemptions From Permit Requirements.** Notwithstanding the above, the following shall not require a permit:

1. The management of materials excluded under 9 VAC 20-80-150 or conditionally exempt under 9 VAC 20-80-160;
2. The solid waste management practices conditionally exempt under 9 VAC 20-80-60D;
3. Use or reuse or temporary storage incidental to use or reuse whereby material which would otherwise be solid waste is used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as effective substitute for a commercial product; [ø]

NOTE: This exemption does not include reclamation processes, storage prior to reclamation, and storage of speculatively accumulated materials.

4. The management of wastes regulated under other regulations of the department as specified in 9 VAC 20-80-120[; or

5. The management of wastes in remediation waste management units regulated under 9 VAC 20-80-450.]

**E. H.** Variances. The director may grant a variance from any regulation contained in this part to a permittee provided the requirements of Part IX are met.

**9 VAC 20-80-485. Permits-by-rule and other special permits.**

**A. E.** Permits by Rule. Unless the owner or operator of the following facilities chooses to apply for and receive a full permit, he shall be deemed to have a solid waste management facility permit notwithstanding any other provisions of Part VII except 9 VAC 20-80-500B2 and 9 VAC 20-80-500B3, if the conditions listed are met:

1. Transfer Stations. The owner or operator of a transfer station, if he:
  - a. Notifies the director of his intent to operate such a facility and provides to the department documentation required under 9 VAC 20-80-500B;
  - b. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-340B;
  - c. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-340C;
  - d. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-340D will be met;

- e. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-340E will be met; and
  - f. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70-10 *et seq.*).
  - g. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in ~~9 VAC 20-80-480 E.5~~ 9 VAC 20-80-485A5.
2. Materials Recovery Facilities. The owner or operator of a materials recovery facility, if the owner or operator:
- a. Notifies the director of his intent to operate such a facility and provides the department with documentation required under 9 VAC 20-80-500B;
  - b. Provides the director with a certification that the facility meets the siting standards of [9 VAC 20-80-360B ~~9 VAC 20-80-340B or 9 VAC 20-80-350B~~], as applicable;
  - c. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of [9 VAC 20-80-360C ~~9 VAC 20-80-340C or 9 VAC 20-80-350C~~], as applicable;
  - d. Submits to the director an operational plan describing how the standards of [9 VAC 20-80-360D ~~9 VAC 20-80-340D or 9 VAC 20-80-350D~~], as applicable, will be met;
  - e. Submits to the director a closure plan describing how the standards of [9 VAC 20-80-360 E ~~9 VAC 20-80-340E or 9 VAC 20-80-350E~~], as applicable, will be met;
  - f. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70-10 *et seq.*);
  - g. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in ~~9 VAC 20-80-480 E.5~~ 9 VAC 20-80-485A5; and
  - h. In addition to the above, in the case of ~~soil reclamation~~ [bioremediation] facilities engaged in reclamation of petroleum-contaminated materials, submits to the director:
    - (1) A copy of the facility permit issued by the of Air Pollution Control Board in accordance with the regulations promulgated by the Air Pollution Control Board, when applicable; and
    - (2) A description how the requirements of 9 VAC 20-80-700 will be met.
  - i. Existing soil reclamation facilities which became operational prior to March 15, 1993, on the basis of written approval from the director, are considered to be operating under a permit-by-rule.
3. Energy Recovery, Thermal Treatment, or Incineration Facility. The owner or operator of an energy recovery, thermal treatment, or incineration facility, if he:
- a. Notifies the director of his intent to operate such a facility and provides to the department documentation required under 9 VAC 20-80-500B;

- b. Provides the director with a certification that the facility meets the siting standards of [9 VAC 20-80-370 B ~~9 VAC 20-80-34.B~~ or ~~9 VAC 20-80-350B~~], as applicable;
  - c. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of [9 VAC 20-80-370 C ~~9 VAC 20-80-340C~~ or ~~9 VAC 20-80-350C~~], as applicable; and
  - d. Submits to the director an operational plan describing how the standards of [9 VAC 20-80-370 D ~~9 VAC 20-80-340D~~ or ~~9 VAC 20-80-350D~~], as applicable, will be met.
  - e. Submits to the director a closure plan describing how the standards of [9 VAC 20-80-370 E ~~9 VAC 20-80-340E~~ or ~~9 VAC 20-80-350E~~], as applicable, will be met;
  - f. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70-10 *et seq.*); and
  - g. Furnishes to the director a copy of the facility permit issued in accordance with the regulations promulgated by the Air Pollution Control Board.
  - h. In addition to the above, in the case of thermal treatment facilities engaged in reclamation of petroleum-contaminated materials, submits to the director a description how the requirements of 9 VAC 20-80-700 will be met.
- ~~4. Use of Materials in a Manner Constituting Disposal. {Reserved.} [Captive industrial waste facilities. The owner or operator of a non hazardous industrial waste disposal facility that is located on property owned by the generator of waste, if he:~~
- ~~i. Notifies the director of his intent to operate such a facility and provides to the department documentation required under 9 VAC 20-80-500B;~~
  - ~~j. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-270 A;~~
  - ~~k. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-270 B;~~
  - ~~l. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-270 C will be met;~~
  - ~~m. Submits to the director design and operation plans for the groundwater monitoring system and a certification by a qualified groundwater scientist that the system was constructed in accordance with the requirements of 9 VAC 20-80-270 D;~~
  - ~~n. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-270 E will be met; and~~
  - ~~o. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70-10 *et seq.*);~~
  - ~~p. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in 9 VAC 20-80-485A5.~~

4. Composting facilities. The owner or operator of all Type A or Type B facilities that receive no more than 700 tons per quarter of compostable materials, if he:

- a. Notifies the director of his intent to operate such a facility and provides to the department documentation required under 9 VAC 20-80-500B;
- b. Provides the director with the description of the type of facility and the classification of materials that will be composted as classified under 9 VAC 20-80-330A4;
- c. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-330B;
- d. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-330C;
- e. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-330D will be met;
- f. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-330E will be met; and
- g. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70-10 et seq.).
- h. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in 9 VAC 20-80-485A5.]

5. Public participation.

a. Before the initiation of any construction at the facility under ~~9 VAC 20-80-480E1~~ 9 VAC 20-80-485A1[, or ~~9 VAC 20-80-480E2~~ 9 VAC 20-80-485A2, 9 VAC 20-80-485A3, or 9 VAC 20-80-485A4.]the owner or operator shall publish a notice [once a week for two consecutive weeks] in a major local newspaper of general circulation informing the public that he intends to construct and operate a facility eligible for a permit-by-rule. The notice shall include:

- (1) A brief description of the proposed facility [and its location];
- (2) A statement that the purpose of the public participation is to acquaint the public with the technical aspects of the facility and how the standards and the requirements of these regulations will be met[, to identify issues of concern, to facilitate communication and to establish a dialogue between the permittee and persons who may be affected by the facility];
- (3) Announcement of a 30-day comment period, in accordance with ~~9 VAC 20-80-480E.5.d~~ 9 VAC 20-80-485A5d, and the name[, telephone,] and address of the owner's or operator's representative [who can be contacted by the interested persons to answer questions or] where comments shall be sent;
- (4) Announcement of the date, time, and place for a public meeting held in accordance with ~~9 VAC 20-80-480E5e~~ 9 VAC 20-80-485A5c.; and

(5) Location where copies of the documentation to be submitted to the department in support of the permit-by-rule notification and any supporting documents can be viewed and copied.

b. The owner or operator shall place a copy of the documentation and support documents in a location accessible to the public in the vicinity of the proposed facility.

c. The owner or operator shall hold a public meeting not earlier than 15 days after the publication of the notice required in ~~9 VAC 20-80-480E5a~~ 9 VAC 20-80-485A5a and no later than seven days before the close of the 30-day comment period. The meeting shall be held to the extent practicable in the vicinity of the proposed facility.

d. The public shall be provided 30 days to comment on the technical and the regulatory aspects of the proposal. The comment period will begin on the date the owner or operator publishes the notice in the local newspaper.

e. The requirements of this section do not apply to the owners or operators of a material or energy recovery facility, an incinerator or a thermal treatment unit that has received a permit from the department based on the regulations promulgated by the State Air or Water Control Board that required facility-specific public participation procedures.

6. Upon receiving the certifications and other required documents, including the results of the public meeting and the applicant's response to the comments received, the director will acknowledge their receipt within 10 working days. If the applicant's submission is administratively incomplete, the letter will state that the facility will not be considered to have a permit-by-rule until the missing certifications or other required documentation is submitted. At the time of the initial receipt or at a later date, the director may require changes in the documents designed to assure compliance with the standards of Part VI and Part VIII, if applicable. Should such changes be not accomplished by the facility owner or operator, the director may require the operator to submit the full permit application and to obtain a regular solid waste management facility permit.

7. Change of ownership. A permit by rule may not be transferred by the permittee to a new owner or operator. However, when the property transfer takes place without proper closure, the new owner shall notify the department of the sale and fulfill all the requirements contained in ~~9 VAC 20-80-480E1~~ 9 VAC 20-80-485A1 through ~~9 VAC 20-80-480E3~~ 9 VAC 20-80-485A.34, with the exception of those dealing with the financial assurance. Upon presentation of the financial assurance proof required by 9 VAC 20-70-10 *et seq.* by the new owner, the department will release the old owner from his closure and financial responsibilities and acknowledge existence of the new permit by rule in the name of the new owner.

8. Facility modifications. The owner or operator of a facility operating under a permit by rule may modify its design and operation by furnishing the department a new certificate prepared by the professional engineer and ~~a new operational plan~~ new documentation required under 9 VAC 20-80-485A1, 9 VAC 20-80-485A2, 9 VAC 20-80-485A3, or 9 VAC 20-80-485A4, as applicable, and 9 VAC 20-80-485A5. Whenever modifications in the design or operation of the facility affect the provisions of the approved closure plan, the owner or operator shall also submit an amended closure plan. Should there be an increase in the closure costs, the owner or operator shall submit a new proof of financial responsibility as required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70-10 *et seq.*).

9. Loss of permit by rule status. In the event that a facility operating under a permit by rule violates any applicable siting, design and construction, or closure provisions of Part VI, the owner or operator of the facility will be considered to be operating an unpermitted facility as provided for in 9 VAC 20-80-80 and shall be required to either obtain a new permit as required by Part VII or close under Part V or VI of these regulations, as applicable.

10. Termination. The director shall terminate permit by rule and shall require closure of the facility whenever he finds that:

- a. As a result of changes in key personnel, the requirements necessary for a permit by rule are no longer satisfied;
- b. The applicant has knowingly or willfully misrepresented or failed to disclose a material fact in his disclosure statement, or any other report or certification required under this regulation, or has knowingly or willfully failed to notify the director of any material change to the information in the disclosure statement; or
- c. Any key personnel have been convicted of any of the crimes listed in § 10.1-1409 of the Code, punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction; or has 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 and the director determines that such conviction or adjudication is sufficiently probative of the permittee's inability or unwillingness to operate the facility in a lawful manner.

**B. F.—Emergency Permits.** Notwithstanding any other provision of Part VII, in the event the director finds an imminent and substantial endangerment to human health or the environment, the director may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal of solid waste for a nonpermitted facility or solid waste not covered by the permit for a facility with an effective permit. Such permits:

1. May be oral or written. If oral, it shall be followed within five days by a written emergency permit;
2. Shall not exceed 90 days in duration;
3. Shall clearly specify the solid wastes to be received, and the manner and location of their treatment, storage, or disposal; and
4. Shall be accompanied by a public notice including:

- a. Name and address of the office granting the emergency authorization;
  - b. Name and location of the facility so permitted;
  - c. A brief description of the wastes involved;
  - d. A brief description of the action authorized and reasons for authorizing it;
  - e. Duration of the emergency permit; and
5. Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of these regulations.

**C. G.** Experimental facility permits.

1. The director may issue an experimental facility permit for any solid waste treatment facility which proposes to utilize an innovative and experimental solid waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under Part VI. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

- a. Shall provide for the construction of such facilities based on the standards shown in 9 VAC 20-80-470, as necessary, and
- b. Shall provide for operation of the facility for no longer than one calendar year unless renewed as provided in ~~9 VAC 20-80-480G.3~~ 9 VAC 20-80-485C3, and
- c. Shall provide for the receipt and treatment by the facility of only those types and quantities of solid waste which the director deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and
- d. Shall include such requirements as the director deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, closure and remedial action), and such requirements as the director deems necessary regarding testing and providing of information to the director with respect to the operation of the facility.

2. For the purpose of expediting review and issuance of permits under ~~9 VAC 20-80-480G~~ 9 VAC 20-80-485C, the director may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in Parts VII except that there may be no modification or waiver of regulations regarding local certification, disclosure statement requirements, financial responsibility (including insurance) or of procedures regarding public participation.

3. Any permit issued under ~~9 VAC 20-80-480G~~ 9 VAC 20-80-485C. may be renewed not more than three times. Each such renewal shall be for a period of not more than one calendar year.

**9 VAC 20-80-490. Permit conditions.** When issuing a permit, the director may include conditions that he finds necessary to protect public health or the environment or to ensure compliance with these regulations.

## 9 VAC 20-80-500. Permit Application Procedures.

A. Any person who proposes to establish a new solid waste management facility ("SWMF"), or modify an existing SWMF, shall submit a permit application to the department, using the procedures set forth in 9 VAC 20-80-500 and other pertinent sections of this part.

### B. Notice of Intent.

1. To initiate the permit application process, any person who proposes to establish a new solid waste management facility ("SWMF"), or modify an existing SWMF, or to amend an existing permit shall file a notice of intent with the director stating the desired permit or permit amendment, the precise location of the proposed facility, and the intended use of the facility. The notice shall be in letter form and be accompanied by area and site location maps.

2. No application shall be deemed complete unless it is accompanied by a disclosure statement as shown in APPENDIX 7.1. for all key personnel.

3. No application for a permit for a solid waste management facility shall be considered complete unless the notice of intent is accompanied by a certification from the governing body of the county, city, or town in which the facility is to be located stating that the location and operation of the facility are consistent with all applicable ordinances. No certification shall be required for the application for an amendment or modification of an existing permit. For the convenience of the regulated community, a certification form is shown in APPENDIX 7.2.

4. If the location and operation of the facility is stated by the local governing body to be consistent with all its ordinances, without qualifications, conditions, or reservations, the applicant will be notified that he may submit his application for a permit. This application shall be submitted in two parts, identified as Part A and Part B . [

5. If the applicant proposes to operate a new sanitary landfill or transfer station, the notice of intent shall include a statement describing the steps taken by the applicant to seek the comments of the residents of the area where the sanitary landfill or transfer station is proposed to be located regarding the siting and operation of the proposed sanitary landfill or transfer station. The public comment steps shall be taken prior to filing with the Department the notice of intent.

a. The public comment steps shall include publication of a public notice once a week for two consecutive weeks in a newspaper of general circulation serving the locality where the sanitary landfill or transfer station is proposed to be located and holding at least one public meeting within the locality to identify issues of concern, to facilitate communication and to establish a dialogue between the applicant and persons who may be affected by the issuance of a permit for the sanitary landfill or transfer station.

b. At a minimum, the public notice shall include:

(1) a statement of the applicant's intent to apply for a permit to operate the proposed sanitary landfill or transfer station,

(2) the proposed sanitary landfill or transfer station site location,

(3) the date, time and location of the public meeting the applicant will hold, and

(4) the name, address and telephone number of a person employed by an applicant who can be contacted by interested persons to answer questions or receive comments on siting and operation of the proposed sanitary landfill or transfer station.

c. The first publication of the public notice shall be at least fourteen days prior to the public meeting date.]

**C. Part A application.** Part A application provides the information essential for assessment of the site suitability for the proposed facility. It contains information on the proposed facility to be able to determine site suitability for intended uses. It provides information on all siting criteria applicable to the proposed facility.

1. The applicant shall complete, sign and submit three copies of the Part A application containing required information and attachments as specified in 9 VAC 20-80-510 to the director.
2. The Part A application will be reviewed for completeness. The applicant will be notified within fifteen days whether the application is administratively complete or incomplete. If complete information is not provided within thirty days after the applicant is notified, the application will be returned to the applicant without further review.
3. Upon receipt of a complete Part A application, the department shall conduct a technical review of the submittal. Additional information may be required or the site may be visited before the review is completed. The director shall notify the applicant in writing of approval or disapproval of the Part A application or provide conditions to be made a part of the approval.
4. In case of the approval or conditional approval, the applicant may submit the Part B application providing the required conditions are addressed in the Part B application.

**D. Part B Application.** The Part B application involves the submission of the detailed engineering design and operating plans for the proposed facility.

1. The applicant, after receiving Part A approval, may submit to the director a Part B application to include the required documentation for the specific solid waste management facility as provided for in 9 VAC 20-80-520, 9 VAC 20-80-530, or 9 VAC 20-80-540. The Part B application and supporting documentation shall be submitted in three copies. The Part B ~~submitted by privately owned or operated facilities~~ must include the ~~required~~ financial assurance documentation as required by 9 VAC 20-70-10 et seq. Until the closure plans are approved and a draft permit is being prepared, the applicant must provide evidence of commitment to provide the required financial assurance from a financial institution or insurance company. If financial assurance is not provided within 30 days of notice by the director, the permit shall be denied.
2. The Part B application shall be reviewed for administrative completeness before technical evaluation is initiated. The applicant shall be advised in writing within thirty days whether the application is complete or what additional documentation is required. The Part B application will not be evaluated until a administratively complete application is received.
3. The administratively complete application will be coordinated with other state agencies according to the nature of the facility. The comments received shall be considered in the permit review by the department. The application will be evaluated for technical adequacy and regulatory compliance. In the course of this evaluation, the department may require the applicant

to provide additional information. At the end of the evaluation, the department will notify the applicant that the application is technically and regulatorily adequate or that the department intends to deny the application.

4. The procedures addressing the denial are contained in 9 VAC 20-80-580.

**E. Permit Issuance.**

1. If the application is found to be technically adequate and in full compliance with these regulations, a draft permit shall be developed by the department.

2. A notice of the availability of the proposed draft permit shall be made in a newspaper with general circulation in the area where the facility is to be located. A public hearing will be scheduled and the notice shall be published at least 30 days in advance of the public hearing on the draft permit. Copies of the proposed draft permit will be available for viewing at the applicant's place of business and/or at the regional office of the department upon request in advance of the public hearing.

3. The department shall hold the announced public hearing 30 days or more after the notice is published in the local newspaper. The public hearing shall be conducted by the department within the local government jurisdiction where the facility is to be located. A comment period shall extend for a ~~ten~~ 15-day period after the conclusion of the public hearing.

4. A final decision to permit, to deny a permit or to amend the draft permit shall be rendered by the director within 30 days of the close of the hearing comment period.

5. The permit applicant and the persons who commented during the public participation period shall be notified in writing of the decision on the draft permit. That decision may include denial of the permit (see also 9 VAC 20-80-580), issuance of the permit as drafted, or amendment of the draft permit and issuance. [

6. Before issuing a permit the director shall make a determination in writing in accordance with the provisions of §10.1-1408.1D of the Code.

**9 VAC 20-80-510. Part A Permit application.**

The following information shall be included in the Part A of the permit application for all solid waste management facilities unless otherwise specified in this section.

**A.** The Part A permit application consists of a letter stating the type of the facility for which the permit application is made and the certification required in 9 VAC 20-80-510G, the Part A application form shown in APPENDIX 7.3 with all pertinent information and attachments required by this section.

**B.** A key map of the Part A permit application, delineating the general location of the proposed facility, shall be prepared and attached as part of the application. The key map shall be plotted on a seven and one-half minute United States Geological Survey topographical quadrangle. The quadrangle shall be the most recent revision available, shall include the name of the quadrangle and shall delineate a minimum of one mile from the perimeter of the proposed facility boundaries. One or more maps may be utilized where necessary to insure clarity of the information submitted.

C. A near-vicinity map shall be prepared and attached as part of the application. The vicinity map shall have a minimum scale of one inch equals 200 feet (1" = 200'). The vicinity map shall delineate an area of 500 feet from the perimeter of the property line of the proposed facility. The vicinity maps may be an enlargement of a United States Geological Survey topographical quadrangle or a recent aerial photograph. The vicinity map shall depict the following:

1. All homes, buildings or structures including the layout of the buildings which will comprise the proposed facility;
2. The ~~[facility property boundaries of the proposed facility boundary]~~;
3. The limits of the actual disposal operations within the boundaries of the proposed facility, if applicable;
4. Lots and blocks taken from the tax map for the site of the proposed facility and all contiguous properties;
5. The base flood plain, where it passes through the map area; or, otherwise, a note indicating the expected flood occurrence period for the area;
6. Existing land uses and zoning classification;
7. All water supply wells, springs or intakes, both public and private;
8. All utility lines, pipelines or land based facilities (including mines and wells); and
9. All parks, recreation areas[, surface water bodies,] dams, historic areas, wetlands areas, monument areas, cemeteries, wildlife refuges, unique natural areas or similar features.

D. Except in the case of a local governing body or a public service authority possessing a power of eminent domain, copy of lease or deed (showing page and book location) or certification of ownership of the site. The department will not consider an application for a permit from any person who does not demonstrate legal control over the site for a period of the permit life. A documentation of an option to purchase will be considered as a temporary substitute for a deed; however, the true deed must be provided to the department before construction at the site begins.

E. For solid waste disposal facilities regulated under Part V of these regulations, site hydrogeologic and geotechnical report by geologist or engineer registered for practice in the Commonwealth.

1. The site investigation for a proposed landfill facility shall provide sufficient information regarding the geotechnical and hydrogeologic conditions at the site to allow a reasonable determination of the usefulness of the site for development as a landfill. The geotechnical exploration efforts shall be designed to provide information regarding the availability and suitability of onsite soils for use in the various construction phases of the landfill including liner, cover, drainage material, and cap. The hydrogeologic information shall be sufficient to determine the characteristics of the uppermost aquifer underlying the facility. Subsurface investigation programs conducted shall meet the minimum specifications herein.

- a. Borings shall be located to identify the uppermost aquifer ~~under~~ within the proposed facility boundary], determine the ability to perform groundwater monitoring at the site, and

provide data for the evaluation of the physical properties of soils and soil availability. Borings completed for the proposed facility shall be sufficient in number and depth to identify the thickness of the uppermost aquifer and the presence of any significant underlying impermeable zone. ~~[Unpermeable~~ Impermeable] zone shall not be fully penetrated within the anticipated fill areas, whenever possible. The number of borings shall be at a minimum in accordance with Table 7-1:

**TABLE 7-1**

Acreage	Total Number of Borings
Less than 10	4
10 - 49	8
50 - 99	14
100 - 200	20
More than 200	24 + 1 boring for each additional 10 acres

- b. The department reserves the right to require additional borings in areas in which the number of borings required by Table 7-1 is not sufficient to describe the geologic formations and groundwater flow patterns below the proposed solid waste disposal facility .
- c. In highly uniform geological formations, the number of borings may be reduced, as approved by the department.
- d. The borings should employ a grid pattern, wherever possible, such that there is, at a minimum, one boring in each major geomorphic feature. The borings pattern shall enable the development of detailed cross sections through the proposed landfill site.
- e. Subsurface data obtained by borings shall be collected by standard soil sampling techniques. Diamond bit coring shall be used for competent rock . [The borings shall be logged from the surface to the lowest elevation (base grade) or to bedrock whichever is shallower according to standard practices and procedures. In addition, ~~The sampling interval for the boring~~ the borings] required by Table 7-1 shall be performed on a continuous basis for the first 20 feet below the lowest elevation of the solid waste disposal facility or to the bed rock. Additional samples as determined by the registered geologist or engineer shall be collected at five foot intervals thereafter.
- f. Excavations, test pits and geophysical methods may be employed to supplement the soil boring investigation.
- g. At a minimum, four of the borings shall be converted to water level observations wells, well nests, piezometers or piezometer nests to allow determination of the rate and direction of groundwater flow across the site. All groundwater monitoring points or

water level measurement points shall be designed to allow proper abandonment by backfilling with an impermeable material. The total number of wells or well nests shall be based on the complexity of the geology of the site.

- h. Field analyses shall be performed in representative borings to determine the in-situ hydraulic conductivity of the uppermost aquifer.
  - i. All borings, not to be utilized as permanent monitoring wells, and wells within the active disposal area shall be sealed and excavations and test pits shall be backfilled and properly compacted to prevent possible paths of leachate migration. Boring sealing procedures shall be documented in the hydrogeologic report.
2. The geotechnical and hydrogeologic reports shall at least include the following principal sections:
- a. Field procedures. Boring records and analyses from properly spaced borings in the facility portion of the site. Final boring logs shall be submitted for each boring, recording soils or rock conditions encountered. Each log shall include the type of drilling and sampling equipment, date the boring was started, date the boring was finished, a soil or rock description in accordance with the United Soil Classification System or the Rock Quality Designation, the method of sampling, the depth of sample collection, the water levels encountered, and the Standard Penetration Test blow counts, if applicable. Boring locations and elevations shall be surveyed with a precision of 0.01 foot. At least one surveyed point shall be indelibly marked by the surveyor on each well. All depths of soil and rock as described within the boring log shall be corrected to National Geodetic Vertical Datum, if available.
  - b. Geotechnical interpretations and report including complete engineering description of the soil units underlying the site.
    - (1) Soil unit descriptions shall include estimates of soil unit thickness, continuity across the site, and genesis. Laboratory determination of the soil unit's physical properties shall be discussed.
    - (2) Soil units that are proposed for use as a drainage layer, impermeable cap or impermeable liner material shall be supported by laboratory determinations of the remolded permeability. Remolded hydraulic conductivity tests require a Proctor compaction test (ASTM D698) soil classification liquid limit, plastic limit, particle size distribution, specific gravity, percent compaction of the test sample, remolded density and remolded moisture content, and the percent saturation of the test sample. Proctor compaction test data and hydraulic conductivity test sample data should be plotted on standard moisture-density test graphs.
    - (3) The geotechnical report shall provide an estimate of the available volume of materials suitable for use as liner, cap, and drainage layer. It should also discuss the anticipated uses of the on-site materials, if known.
  - c. Hydrogeologic report.

- (1) The report shall include water table elevations, direction and calculated rate of groundwater flow and similar information on the hydrogeology of the site. All raw data shall be submitted with calculations.
- (2) The report shall contain a discussion of field test procedures and results, laboratory determinations made on undisturbed samples, recharge areas, discharge areas, adjacent or areal usage, and typical radii of influence of pumping wells.
- (3) The report shall also contain a discussion of the regional geologic setting, the site geology and a cataloging and description of the uppermost aquifer from the site investigation and from referenced literature. The geologic description shall include a discussion of the prevalence and orientation of fractures, faults, and other structural discontinuities, and presence of any other significant geologic features. The aquifer description should address homogeneity, horizontal and vertical extent, isotropy, the potential for groundwater remediation, if required, and the factors influencing the proper placement of a groundwater monitoring network.
- (4) The report shall include a geologic map of the site prepared from one of the following sources as available, in order of preference:
  - (a) Site specific mapping prepared from data collected during the site investigation;
  - (b) Published geologic mapping at a scale of 1:24,000 or larger;
  - (c) Published regional geologic mapping at a scale of 1:250,000 or larger; or
  - (d) Other published mapping.
- (5) At least two generally orthogonal, detailed site specific cross sections which shall sufficiently describe the geologic formations identified by the geologic maps prepared in accordance with 9 VAC 20-80-510E2c(4) at a scale which clearly illustrates the geologic formations shall be included in the hydrogeologic report. Cross sections shall show the geologic units, approximate construction of existing landfill cells [base grades], water table, and surficial features along the line of the cross section. Cross section locations shall be shown on an overall facility map.
- (6) Potentiometric surface maps for the uppermost aquifer which sufficiently define the groundwater conditions encountered below the proposed solid waste disposal facility area based upon stabilized groundwater elevations Potentiometric surface maps shall be prepared for each set of groundwater elevation data available. The applicant shall include a discussion of the effects of site modifications, seasonal variations in precipitation, and existing and future land uses of the site on the potentiometric surface.
- (7) If a geological map or report from either the Virginia Division of Mineral Resources or the U.S. Geological Survey is published, it shall be included.

F. For solid waste management facilities regulated under Part VI of these regulations:

1. A cataloging and description of aquifers, geological features or any similar characteristic of the site that might affect the operation of the facility or be affected by that operation.
2. If a geological map or report from either the Virginia Division of Mineral Resources or the U.S. Geological Survey is published, it shall be included.

G. A signed statement by the applicant that he has sent written notice to all adjacent property owners or occupants that he intends to develop a SWMF on the site, a copy of the notice and the names and addresses of those to whom the notices were sent.

**9 VAC 20-80-520. Part B permit application for solid waste disposal facilities.**

Part B permit application requirements for all solid waste disposal facilities regulated under Part V of these regulations are contained in this section. The Part B applications shall include the following requirements and documentation:

A. Plans submitted as part of the Part B application shall include the following:

1. Design Plans. Design plans prepared by a firm registered to practice professional engineering in the Commonwealth and certified by a ~~[licensed]~~ professional engineer [registered in the Commonwealth] shall consist of, at least, the following:
  - a. A title sheet indicating the project title, who prepared the plans, the person for whom the plans were prepared, a table of contents, and a location map showing the location of the site and the area to be served.
  - b. An existing site conditions plans sheet indicating site conditions prior to development.
  - c. A base grade plan sheet indicating site base grades or the appearance of the site if it were excavated in its entirety to the base elevation, before installation of any engineering modifications or the beginning of any filing.
  - d. An engineering modification plan sheet indicating the appearance of the site after installation of engineering modifications. More than one plan sheet may be required for complicated sites. This plan is required only for those sites with engineering modifications.
  - e. A final site topography plan sheet indicating the appearance of the site, and final contours of the site at closing including the details necessary to prepare the site for long-term care.
  - f. A series of phasing plan sheets showing the progression of site development through time. At a minimum, a separate plan shall be provided for initial site preparations and for each subsequent major phase or new area where substantial site preparation must be performed. Each such plan shall include a list of construction items and quantities necessary to prepare the phase indicated.
  - g. A site monitoring plan sheet showing the location of all devices for the monitoring of leachate production, groundwater quality and gas production and venting. This plan shall include a table indicating the parameters to be monitored for the frequency of

monitoring before and during site development. This separate plan sheet is required only for sites with a design capacity of more than 3 acres. Smaller projects may display this information on other plan sheets for submittal.

- h. A series of site cross-sections shall be drawn perpendicular and parallel to the site base line at a maximum distance of 500 feet between cross-sections and at points of grade break and important construction features. The location of the cross-sections shall be shown on the appropriate plan sheet(s) and the section labeled using the site grid system. Where applicable, each cross-section shall show existing, proposed base and final grades; soil borings and monitoring wells which the section passes through or is adjacent to; soil types, bedrock and water table; leachate control, collection and; monitoring systems; limits of filling for each major waste type; drainage control structures; access roads and ramps on the site parameter and within the active fill area; the filling sequence or phases; and other appropriate site features.
- i. Detailed drawings and typical sections for, as appropriate, drainage control structures, access roads, fencing, leachate and gas control systems and monitoring devices, buildings, signs, and other construction details.
- j. Plan sheet(s) shall include:
  - (1) A survey grid with base lines and bench marks to be used for field control.
  - (2) Limits of filling for each major waste type or fill area.
  - (3) All drainage patterns and surface water drainage control structures both within the actual fill area and at the site periameter. Such structures may include berms, ditches, sedimentation basins, pumps, sumps, culverts, pipes, inlets, velocity breaks, sodding, erosion matting, or other methods of erosion control.
  - (4) The direction and sequence of filling within each phase.
  - (5) Ground surface contours at the time represented by the drawing. Spot elevations should be indicated for key features.
  - (6) Areas to be cleared and grubbed and stripped of topsoil.
  - (7) Borrow areas for liner materials, gas venting materials, berms, roadway construction, daily cover and final cover.
  - (8) All soil stockpiles including daily and final cover, topsoil, liner materials, gas venting materials and other excavation.
  - (9) Access roads and traffic flow patterns to and within the active fill area.
  - (10) All temporary and permanent fencing.
  - (11) The methods of screening such as berms, vegetation or special fencing.
  - (12) Leachate collection, control, storage, and treatment systems which may include pipes, manholes, trenches, berms, collection sumps, storage units, pumps, risers, liners, and liner splices.

- (13) Gas, leachate and groundwater monitoring devices and systems.
  - (14) Severe weather disposal areas.
  - (15) Support buildings, scale, utilities, gates and signs.
  - (16) Special waste handling areas.
  - (17) Construction notes and references to details.
  - (18) Other appropriate site features.
2. Closure Plan. A detailed closure plan be prepared and submitted. Such a plan shall be prepared in two parts, one reflecting those measures to be accomplished at the midpoint of the permit period, and the other when the useful life of the landfill is reached. The plan shall show how the facility will be closed to meet the requirements of Part V of these regulations. The plan shall include the procedures to be followed in closing the site, sequence of closure, time schedules, final plans of completion of closure to include final contours, and long-term care plan sheets showing the site at the completion of closing and indicating those items anticipated to be performed during the period of long-term care for the site. The plans shall include a table listing the items and the anticipated schedule for monitoring and maintenance. In many instances this information can be presented on the final site topography sheet.

**B. Design Report.** A design report shall be submitted which shall include supplemental discussions and design calculations to facilitate department review and provide supplemental information including the following information:

1. The design report shall identify the project title; engineering consultant(s); site owner, permittee and operator; proposed permitted acreage; site life and capacity; municipalities, industries and collection and transportation agencies served; and waste types and quantities to be disposed. It shall also identify any exemptions desired by the applicant.
2. A discussion of the reasoning and logic behind the design of the major features of the site, such as traffic routing, base grade and relationships to subsurface conditions, anticipated waste types and characteristics, phases of development, liner design, leachate management system design, facility monitoring, and similar design features shall be provided. A list of the conditions of site development as stated in the department determination of site feasibility and the measures taken to meet the conditions shall be included. A discussion of all calculations, such as refuse-cover balance computations, stockpile sizing estimates, estimate of site life and run-off and leachate volume estimates shall be included. The calculations shall be summarized with the detailed equations presented in an appendix.
3. Specifications for site construction and operation shall be presented, including detailed instructions to the site operator for all aspects of site construction and operation. References to specifications on the plan sheet shall be pointed out as well as additional instructions included, where appropriate. The specifications shall include, at a minimum, the following information:
  - a. Initial site preparations including specifications for clearing and grubbing, topsoil stripping, other excavations, berm construction, drainage control structures, leachate

collection system, access roads and entrance, screening, fencing, groundwater monitoring and other special design features.

- b. A plan for initial site preparation including a discussion of the field measurements, photographs to be taken, sampling and testing procedures to be utilized to verify that the in-field conditions encountered were the same as those defined in the feasibility report, and to document that the site was constructed according to the engineering plans and specifications submitted for department approval.

C. Operations Manual. An operations manual shall be prepared and included on how the design and construction plans will be implemented with the initial phase of operation until closure. The manual for a landfill operation shall consist of at least the following information:

1. Municipalities, industries and collection and transportation agencies served; and waste types and quantities to be disposed.
2. Detailed instructions to the site operator for all aspects of site operation. References to specifications on the plan sheet shall be pointed out as well as additional instructions included, where appropriate. The specifications shall include, at a minimum, the following information:
  - a. Initial site preparations including specifications for clearing and grubbing, topsoil stripping, other excavations, berm construction, drainage control structures, leachate collection system, access roads and entrance, screening, fencing, groundwater monitoring and other special design features.
  - b. The initial site preparation including a discussion of the field measurements, photographs to be taken, sampling and testing procedures to be utilized to verify that the in-field conditions encountered were the same as those defined in the plans and design report, and to document that the site was constructed according to the engineering plans and specifications submitted for department approval.
  - c. Daily operations including a discussion of the timetable for development, waste types accepted or excluded [, inspection of incoming waste], typical waste handling techniques, hours of operation, traffic routing, drainage and erosion control, windy, wet and cold weather operations, fire protection equipment, manpower, methods for handling of any unusual waste types, methods for vector, dust and odor control, daily cleanup, direction of filling, salvaging, record keeping, parking for visitors and employees, monitoring, closure of filled areas, gas and leachate control methods, backup equipment with names and telephone numbers where equipment may be obtained, and other special design features.
  - d. Development of subsequent phases.
  - e. Site closing information consisting of a discussion of the anticipated sequence of events for site closing and discussion of those actions necessary to prepare the site for long-term care and final use in the implementation of the closure plan.
  - f. An inspection plan, which shall include a schedule for inspecting all applicable major aspects of facility operations necessary to ensure compliance with the requirements of Part V of these regulations. The frequency of inspection shall be based on the rate of

potential equipment deterioration or malfunction and the probability of an adverse incident occurring if the deterioration or malfunction goes undetected between inspections. Areas of the facility subject to spills such as loading and unloading areas and areas in which significant adverse environmental or health consequences may result if breakdown occurs, shall be inspected daily, when in use. The plan shall include a schedule for inspecting monitoring, safety, and emergency equipment; security devices and process operating and structural equipment. The plan shall identify the types of problems which are to be looked for during the inspection and the frequency of inspection.

- g. A post-closure care plan containing long-term care information including a discussion of the procedures to be utilized for the inspection and maintenance of run-off control structures, settlement, erosion damage, gas and leachate control facilities, monitoring for gas; leachate and groundwater, and other long-term care needs.
- h. A safety plan which shall include a description of the proposed measures to protect facility and other personnel from injury during operation;
- i. The control methods to be used by the operator to prevent unauthorized disposal of hazardous wastes, bulk liquids or other wastes not authorized for management or disposal in the facility.
- j. A landscaping plan delineating the existing site vegetation to be retained, and discussing the methods to be employed in order to ensure protection during the clearing, grading and construction phases of the project and the supplemental vegetation to be planted. Information relating to vegetation type, location and purpose, such as for buffer, screening or aesthetics, and schedules for planting, shall accompany the plan.
- k. An emergency contingency plan which delineates procedures for responding to fire, explosions or any unplanned sudden or non-sudden releases of harmful constituents to the air, soil, or surface water. This emergency contingency plan will be submitted to the local police and fire department, and to the nearby health care facilities when the permit will be issued. The emergency plan shall contain:
  - (1) A description of the actions facility personnel shall take in the event of various emergency situations;
  - (2) A description of arrangements made with the local police and fire department which allow for immediate entry into the facility by their authorized representatives should the need arise, such as in the case of personnel responding to an emergency situation; and
  - (3) A list of names, addresses and phone numbers (office and home) of all persons qualified to act as emergency coordinator for the facility. This list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and the others shall be listed in the order in which they will assume responsibility as alternates.

**D.** Financial Assurance Documentation. When required by the Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70-10 *et seq.*), the applicant shall provide the completed documentation to demonstrate compliance with those regulations.

**9 VAC 20-80-530. Part B permit application requirements for energy recovery[, thermal treatment,] and incineration facilities.**

Owners or operators of energy recovery, thermal treatment, and incineration facilities regulated under [9 VAC 20-80-370 ~~9 VAC 20-80-340~~ or ~~9 VAC 20-80-350~~] who do not dispose of solid wastes on-site and who will remove all solid wastes or solid waste residues at closing, will use the application procedures of this section. The following information is required in a Part B permit application:

**A.** Design plans. Design plans shall be prepared by a person or firm registered to practice professional engineering in the Commonwealth. The plans shall demonstrate compliance with [9 VAC 20-80-370 ~~9 VAC 20-80-340~~ or ~~9 VAC 20-80-350~~], as applicable, and include at least the following:

1. Existing site conditions plans sheet indicating site conditions prior to development.
2. Engineering modification plan sheet indicating the appearance of the site after installation of engineering modifications. More than one plan sheet may be required for complicated sites.
3. Phasing plan sheets showing the progression of site development through time. At a minimum, a separate plan shall be provided for initial site preparations and for each subsequent major phase or new area where substantial site preparation must be performed. Each such plan shall include a list of construction items and quantities necessary to prepare the phase indicated.
4. Design drawings of the solid waste management facility to include:
  - a. Profile and plan views of all structures and enclosures showing dimensions. Plan views showing building setbacks, side and rear distances between the proposed structure and other existing or proposed structures, roadways, parking areas and site boundaries;
  - b. Interior floor plans showing the layout, profile view and dimensions of the processing lines, interior unloading, sorting, storage and loading areas as well as other functional areas;
  - c. A plan identifying, locating and describing utilities which will service the facility including, but not limited to, the storm water drainage system, sanitary sewer system, water supply system and energy system; interface of the proposed facility with the existing utility systems;
5. When applicable, the following information shall be presented on plan sheets:
  - a. All information on existing site conditions map unless including this information leads to confusion with the data intended for display.
  - b. A survey grid with base lines and monuments to be used for field control.
  - c. All drainage patterns and surface water drainage control structures both within the area and at the site perimeter to include berms, ditches, sedimentation basins, pumps,

sumps, culverts, pipes, inlets, velocity breaks, sodding, erosion matting, or other methods of erosion control.

- d. Access roads and traffic flow patterns to and within the storage and transfer areas.
  - e. All temporary and permanent fencing.
  - f. The methods of screening such as berms, vegetation or special fencing.
  - g. Wastewater collection, control and treatment systems which may include pipes, manholes, trenches, berms, collection sumps or basins, pumps, and risers.
  - h. Special waste handling areas.
  - i. Construction notes and references to details.
  - j. Other appropriate site features.
6. Detailed drawings and typical sections for, as appropriate, drainage control structures, access roads, fencing, buildings, signs, and other construction details.

**B. Design Report.** A design report for the facility is required and will provide the technical details and specifications necessary to support the design plans consisting of, at least, the following information:

1. The introduction to the design report shall identify the project title; engineering consultant(s); site owner, licensee and operator; site life and capacity; municipalities, industries and collection and transportation agencies served; and waste types to be disposed. It shall also identify any exemptions desired by the applicant.
2. The design capacity specifications shall include, at a minimum, the following information:
  - a. The rated capacity of the facility, in both tons per day and tons per hour;
  - b. The expected short term and projected future long term daily loadings;
  - c. The designation of normal loading, unloading and storage areas, including capacities in cubic yards and tons. Description of the time such areas can be practically used, based on expected short term daily loadings;
  - d. The designation of emergency loading, unloading, storage or other disposal capabilities to be used when facility system down time exceeds 24 hours;
  - e. The designation of alternate ~~disposal areas~~ management facilities or plans for transfer of stored waste in the event facility system down time exceeds 72 hours;
3. The design specifications for process residues to include the following:
  - a. The expected daily quantity of waste residue generations;
  - b. The proposed ultimate disposal location for all facility-generated waste residues including, but not limited to, ash residues and by-pass material, residues resulting from air pollution control devices, and the proposed alternate disposal locations for any unauthorized waste types, which may have been unknowingly accepted. The schedule

for securing contracts for the disposal of these waste types at the designated locations shall be provided;

- c. A descriptive statement of any materials use, reuse, or reclamation activities to be operated in conjunction with the facility, either on the incoming solid waste or the ongoing residue;
4. A descriptive statement and detailed specification of the proposed onsite and offsite transportation system intended to service vehicles hauling waste to the facility for processing, and vehicles removing reclaimed materials and or process residues from the facility. Onsite parking, access and exit points, and the mechanisms or features which will be employed to provide for an even flow of traffic into, out of, and within the site, shall be identified.
5. A detailed analysis shall be made of the financial responsibility for the time of site closing.
6. An appendix to the design plan shall be submitted which shall include any additional data not previously presented, calculations, material specifications, operating agreements, wastewater treatment agreements, documents related to long-term care funding and other appropriate information.

C. The results of a waste supply analysis program characterizing the quantity and composition of the solid waste in the service area shall be submitted. The waste characterization shall be performed by utilizing a statistically relevant plan which justifies the population sample. The sampling program shall provide for seasonal fluctuations in the quantity and composition of the waste types to be handled at the facility. Anticipated changes in solid waste quantity and composition for each of the waste types to be serviced by the proposed facility shall be projected for that term reflecting anticipated facility life. Within this framework, the effect of existing or future source separation programs on the supply of solid waste within the service area shall be described and quantified. Quantity and compositions analyses shall be carried out simultaneously where possible and shall provide information relating to anticipated maximum, minimum and average daily loading in accordance with the following: In the case of thermal treatment facilities engaged in reclamation of materials contaminated with petroleum or petroleum-containing products, the waste supply analysis may be limited to the projected throughput rates and expected chemical composition and the concentration range of the contaminants. The submissions for these facilities shall also contain information on expected composition of the reclaimed materials that might have a bearing on their subsequent management.

1. ~~The composition data for the non combustible solid waste, indicating percent by weight and percent by volume, generated within the service area shall be defined within the following framework:~~
  - a. ~~Aluminum;~~
  - b. ~~Ferrous metals;~~
  - c. ~~Other non ferrous metals;~~
  - d. ~~Glass; and~~
  - e. ~~Oversize bulky items.~~

- ~~2. The composition data for combustible solid waste, indicating percent by weight and by volume, generated within the service area shall be defined for the following:~~
- ~~a. Paper products;~~
  - ~~b. Plastics;~~
  - ~~c. Wood;~~
  - ~~d. Yard wastes;~~
  - ~~e. Food wastes; and~~
  - ~~f. Textiles, rubber, leather and other combustibles.~~
- ~~3. The composition data for the proximate analysis of the solid waste, indicating percent by weight, generated within the service area shall be defined for the following:~~
- ~~a. Total Moisture;~~
  - ~~b. Ash (including percent by volume);~~
  - ~~c. Volatiles;~~
  - ~~d. Fixed carbon; and~~
  - ~~e. Heating value in BTU per pound on an as received and moisture free basis.~~
- ~~4. The composition data for the ultimate analysis of the solid waste, indicating percent by weight, generated within the service area shall be defined for the following:~~
- ~~a. Ash;~~
  - ~~b. Carbon;~~
  - ~~c. Chlorine;~~
  - ~~d. Hydrogen;~~
  - ~~e. Nitrogen;~~
  - ~~f. Oxygen; and~~
  - ~~g. Sulfur.~~
- ~~5. The quantity data for the solid waste generated within the service area shall be defined by weight, volume and corresponding load density characteristics expressed in terms of daily, average, peak and minimum flow to the facility.~~

**D. Operations Manual.** The operations manual shall provide the detailed procedures by which the operator will implement the design plans and specifications. As a minimum, the operations manual shall include:

1. Daily operations including a discussion of the timetable for development, waste types accepted or excluded, typical waste handling techniques, hours of operation, traffic routing, drainage and erosion control, windy, wet and cold weather operations, fire protection

equipment, manpower, methods for handling of any unusual waste types, methods for vector, dust and odor control, daily cleanup, salvaging, record keeping, parking for visitors and employees, monitoring, backup equipment with names and telephone numbers where equipment may be obtained, and other special design features. This may be developed as a removable section to improve accessibility for the site operator.

2. Site closing information consisting of a discussion of the anticipated sequence of events for site closing and discussion of those actions necessary to prepare the site for long-term care and final use.
3. Long-term care information including a discussion of the procedures to be utilized for the inspection and maintenance of run-off control structures, erosion damage, wastewater control, and other long-term care needs as required by the specific facility design.

**E.** An emergency contingency plan which delineates procedures for responding to fire, explosions or any unplanned sudden or non-sudden releases of harmful constituents to the air, soil, or surface or ground water shall be submitted to the department as part of the Part B application. Before submission to the department it will be coordinated with the local police and fire departments, and the appropriate health care facility. The contingency plan shall contain;

1. A description of the actions facility personnel shall take in the event of various emergency situations;
2. A description of arrangements made with the local police and fire department which allow for immediate entry into the facility by their authorized representatives should the need arise, such as in the case of response personnel responding to an emergency situation; and
3. A list of names, addresses and phone numbers (office and home) of all persons qualified to act as an emergency coordinator for the facility. Where more than one person is listed, one shall be named as primary emergency coordinator and the other shall be listed in the order in which they will assume responsibility as alternates.

**F.** Closure Plan. The applicant shall prepare and submit a detailed plan for closing any SWMF. Such a plan shall be prepared to reflect the actions required at any point in the life of the facility and at the time of closing the facility. The plan should reflect all steps necessary to isolate the facility from the environment or to remove and dispose of all solid waste and residue in the facility. The closure plan should reflect all actions necessary for facility abandonment or uses other than for solid waste management.

**G.** When required by the director, the applicant shall survey, record and submit background sound level data in the vicinity of the proposed facility at the time of application for a permit.

**9 VAC 20-80-540. Part B permit application requirements for other solid waste management facilities.**

Owners or operators of solid waste management facilities regulated under Part VI of these regulations other than the energy recovery, thermal treatment, and incineration facilities who do not dispose of solid wastes on-site and who will remove all solid wastes or solid waste residues at closing, will use the application procedures of this section. The following information is required in a Part B permit application:

**A.** Design plans. Design plans shall be prepared by a person or firm registered to practice professional engineering in the Commonwealth. The plans shall demonstrate compliance with the appropriate portions of Part VI of these regulations and include at least the following:

1. Existing site conditions plans sheet indicating site conditions prior to development.
2. Engineering modification plan sheet indicating the appearance of the site after installation of engineering modifications. More than one plan sheet may be required for complicated sites. This plan is required only for those sites with engineering modifications.
3. Phasing plan sheets showing the progression of site development through time. At a minimum, a separate plan shall be provided for initial site preparations and for each subsequent major phase or new area where substantial site preparation must be performed. Each such plan shall include a list of construction items and quantities necessary to prepare the phase indicated.
4. Design drawings of the specific solid waste management processes, when applicable.
5. When applicable, the following information shall be presented on plan sheets:
  - a. All information on existing site conditions map unless including this information leads to confusion with the data intended for display.
  - b. A survey grid with base lines and monuments to be used for field control.
  - c. All drainage patterns and surface water drainage control structures both within the area and at the site perimeter to include berms, ditches, sedimentation basins, pumps, sumps, culverts, pipes, inlets, velocity breaks, sodding, erosion matting, or other methods of erosion control.
  - d. Access roads and traffic flow patterns to and within the active fill area.
  - e. All temporary and permanent fencing.
  - f. The methods of screening such as berms, vegetation or special fencing.
  - g. Leachate collection, control and treatment systems which may include pipes, manholes, trenches, berms, collection sumps or basins, pumps, risers, liners, and liner splices.
  - h. Special waste handling areas.
  - i. Construction notes and references to details.
  - j. Other appropriate site features.
6. Detailed drawings and typical sections for, as appropriate, drainage control structures, access roads, fencing, buildings, signs, and other construction details.

**B.** Design Report. A design report for the facility is required and will provide the technical details and specifications necessary to support the design plans consisting of, at least, the following information:

1. The design report shall identify the project title; engineering consultant(s); site owner, licensee and operator; site life and capacity; municipalities, industries and collection and

transportation agencies served; and waste types and quantities to be disposed. It shall also identify any exemptions desired by the applicant. The specifications shall include, at a minimum, the following information:

- a. Design and construction specifications for the site shall be presented, including detailed instructions to the site operator for all aspects of site construction and operation. References to specifications on the plan sheet shall be pointed out as well as additional instructions included, where appropriate.
  - b. The design report specifications shall include access roads and entrance, screening, fencing, and other special design features.
  - c. A detailed analysis shall be made of the financial responsibility for the time of site closing.
2. An appendix shall be submitted which shall include any additional data not previously presented, calculations, material specifications, operating agreements, leachate treatment agreements, documents related to long-term care funding and other appropriate information.
  3. The design and operation plans for facilities shall contain all the applicable information of 9 VAC 20-80-540B1 and 9 VAC 20-80-540B2. In addition, they shall contain complete and detailed engineering plans and specification for all equipment and operations to be used. If the process results in the production of a residual waste, the disposal of the residual waste shall be fully presented.

C. Operations Manual. The operations manual shall provide the detailed procedures by which the operator will implement the design plans and specifications. As a minimum, the operations manual shall include:

1. Daily operations including a discussion of the timetable for development, waste types accepted or excluded, typical waste handling techniques, hours of operation, traffic routing, drainage and erosion control, windy, wet and cold weather operations, fire protection equipment, manpower, methods for handling of any unusual waste types, methods for vector, dust and odor control, daily cleanup, direction of filling, salvaging, record keeping, parking for visitors and employees, monitoring, abandonment of filled areas, backup equipment with names and telephone numbers where equipment may be obtained, and other special design features. This may be developed as a removable section to improve accessibility for the site operator.
2. Development of subsequent phases.
3. Site closing information consisting of a discussion of the anticipated sequence of events for site closing and discussion of those actions necessary to prepare the site for long-term care and final use.
4. Long-term care information including a discussion of the procedures to be utilized for the inspection and maintenance of run-off control structures, erosion damage, leachate control other long-term care needs as required by the specific facility design.[

~~5. The results of a waste supply analysis program characterizing the quantity and composition of the solid waste in the service area shall be submitted. The waste characterization shall be performed by utilizing a statistically relevant plan which justifies the population sample. The sampling program shall provide for seasonal fluctuations in the quantity and composition of the waste types to be handled at the facility. Anticipated changes in solid waste quantity and composition for each of the waste types to be serviced by the proposed facility shall be projected for that term reflecting anticipated facility life. Within this framework, the effect of existing or future source separation programs on the supply of solid waste within the service area shall be described and quantified. Quantity and compositions analyses shall be carried out simultaneously where possible and shall provide information relating to anticipated maximum, minimum and average daily loading. In the case of material recovery facilities engaged in reclamation of materials contaminated with petroleum or petroleum containing products, the waste supply analysis may be limited to the projected throughput rates and expected chemical composition and the concentration range of the contaminants. The submissions for these facilities shall also contain information on expected composition of the reclaimed materials that might have a bearing on their subsequent management.]~~

**D.** An emergency contingency plan which delineates procedures for responding to fire, explosions or any unplanned sudden or non-sudden releases of harmful constituents to the air, soil, or surface or ground water shall be submitted to the department as part of the Part B application. Before submission to the department it will be coordinated with the local police and fire departments, and the appropriate health care facility. The contingency plan shall contain:

1. A description of the actions facility personnel shall take in the event of various emergency situations;
2. A description of arrangements made with the local police and fire department which allow for immediate entry into the facility by their authorized representatives should the need arise, such as in the case of response personnel responding to an emergency situation; and
3. A list of names, addresses and phone numbers (office and home) of all persons qualified to act as an emergency coordinator for the facility. Where more than one person is listed, one shall be named as primary emergency coordinator and the other shall be listed in the order in which they will assume responsibility as alternates.

**E.** Closure Plan. The applicant shall prepare and submit a detailed plan for closing any SWMF. Such a plan shall be prepared to reflect the actions required at any point in the life of the facility and at the time of closing the facility. The plan should reflect all steps necessary to isolate the facility from the environment or to remove and dispose of all solid waste and residue in the facility. The closure plan should reflect all actions necessary for facility abandonment or uses other than for solid waste management.

**F.** When required by the director, the applicant shall survey, record and submit background sound level data in the vicinity of the proposed facility at the time of application for a permit.

**9 VAC 20-80-550. Effect of the permit.**

**A.** A completed permit for a solid waste management facility shall be prepared at the conclusion of the procedures outlined in 9 VAC 20-80-500. The permit shall be prepared in detail to establish the construction requirements, monitoring requirements, operating limitations or guides, waste limitations if any, and any other details essential to the operation and maintenance of the facility and its closure. Before receipt of waste by the facility, the applicant must:

1. Notify the department, in writing, that construction has been completed; and submit to the department a letter from a professional engineer licensed to practice in the Commonwealth certifying that the facilities have been completed in accordance with the approved plans and specifications and is ready to begin operation.
2. Arrange for a department representative to inspect the site and confirm that the site is ready for operation.

**B.** Inspections. Each facility permitted to accept solid waste requires periodic inspection and review of records and reports. Such requirements shall be set forth in the final permit issued by the department. The permit applicant by accepting the permit, agrees to the specified periodic inspections.

**C.** Compliance with a valid permit during its term constitutes compliance for purposes of enforcement, with the Virginia Waste Management Act. However, a permit may be amended, revoked and reissued, or revoked for cause as set forth in 9 VAC 20-80-600 and 9 VAC 20-80-620.

**D.** The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

**E.** The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of federal, Commonwealth or local law or regulations.

**F.** A permit may be transferred by the permittee to a new owner or operator only if the permit has been revoked and reissued, or a minor amendment made to identify the new permittee and incorporate such other requirements as may be necessary.

**G.** Schedule of Compliance.

1. The permit may, when appropriate, specify a schedule of compliance leading to compliance with these regulations.
  - a. Any schedules of compliance under 9 VAC 20-80-550G shall require compliance as soon as possible.
  - b. Except as otherwise provided, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.
    - (1) The time between interim dates shall not exceed one year;
    - (2) If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages of completion, the permit shall

specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

- c. The permit shall be written to require that no later than fourteen days following each interim date and the final date of compliance, a permittee shall notify the director, in writing, of his compliance or noncompliance with the interim or final requirements.
2. Alternate schedules of compliance. A permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of solid waste, and, in case of treatment or storage facilities, closing pursuant to applicable requirements, or, in case of disposal facilities, closing and conducting post-closure care pursuant to applicable requirements) rather than continue to operate and meet permit requirements as follows:
    - a. If the permittee decides to cease conducting regulated activities at a specified time for a permit which has already been issued:
      - (1) The permit may be amended to contain a new or additional schedule leading to timely cessation of activities; or
      - (2) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.
    - b. If the decision to cease conducting regulated activities is made before the issuance of a permit whose terms will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements.
    - c. If the permittee is undecided whether to cease conducting regulated activities, the director may issue or amend a permit to continue two schedules as follows:
      - (1) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;
      - (2) One schedule shall lead to timely compliance with applicable requirements;
      - (3) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements.
      - (4) Each permit containing two schedules shall include a requirement that, after the permittee has made a final decision, he shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.
    - d. The applicant's decisions to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the director, such as a resolution of the board of directors of a corporation.

**§ 7.8 9 VAC 20-80-560. Closure care.**

A. An owner, operator or permittee intending to close a solid waste management facility shall notify the department of the intention to do so as least 180 days prior to the anticipated date of closing.

B. Closure shall occur in accordance with an approved the closure plan, which shall be submitted with the permit application documents and approved with the permit issuance, or in accordance with a closure plan that has been amended during the life of the facility. ~~The holder of the permit shall submit a proposed modified closure plan to the department for review and approval as such modifications become necessary during the life of the facility.~~ Additional closure and closure plan requirements are contained in Parts V and VI.

~~C. Inspection. The department shall inspect all solid waste management facilities that have been closed to determine if the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with these regulations. Notification by the department that the closure is satisfactory does not relieve the operator of responsibility for corrective action to prevent or abate problems caused by the facility.~~

**9 VAC 20-80-570. Recording and reporting required of a permittee.**

A. A permit may specify:

1. Required monitoring, including type, intervals and frequency, sufficient to yield data which are representative of the monitored activity;
2. Requirements concerning the proper use, maintenance, and installation of monitoring equipment or methods, including biological monitoring methods when appropriate; and
3. Applicable reporting requirements based upon the impact of the regulated activity and as specified in these regulations.

B. A permittee shall be subject to the following whenever monitoring is required by the permit:

1. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation for at least three years from the sample or measurement date. The director may request that this period be extended.
2. Records of monitoring information shall include:
  - a. The date, exact place and time of sampling or measurements;
  - b. The individual(s) who performed the sampling or measurements;
  - c. The date(s) analyses were performed;
  - d. The individual(s) who performed the analyses;
  - e. The analytical techniques or methods used; and

- f. The results of such analyses.
- 3. Monitoring results shall be maintained on file for inspection by the department.

**C.** A permittee shall be subject to the following reporting requirements:

- 1. Written notice of any planned physical alterations to the permitted facility, unless such items were included in the plans and specifications or operating plan approved by the department, shall be given to the director and approved before such alterations are to occur.
- 2. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit, shall be submitted no later than 14 days following each schedule date.
- 3. The permittee shall report to the department any noncompliance or unusual condition which may endanger health or environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue. It shall also contain steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- 4. The permittee shall submit groundwater monitoring reports if required by Part V of these regulations.

**D.** Copies of all reports required by the permit, and records of all data used to complete the permit application must be retained by the permittee for at least three years from the date of the report or application. The director may request that this period be extended.

**E.** When the permittee becomes aware that he failed to submit any relevant facts or submitted incorrect information in a permit application or in any report to the director, he shall promptly submit such omitted facts or the correct information with an explanation.

**9 VAC 20-80-580. Permit denial.**

**A.** A permit shall be denied if:

- 1. The applicant fails to provide complete information required for an application;
- 2. The facility does not conform with the siting standards set forth for the facility in Part V or Part VI of these regulations unless an exemption or variance from the specific siting criteria has been granted;
- 3. The facility design and construction plans and/or operating plans fail to comply with requirements specified for the proposed type of facility unless an exemption or variance from the specific requirement has been granted;
- 4. The department finds that there is an adverse impact on the public health or the environment by the design, construction or operation will result; or

5. The applicant is not able to fulfill the financial responsibility requirements specified in the Virginia Waste Management Board financial assurance regulations.

**B.** Reasons for the denial of any permit shall be provided to the applicant in writing by the director within 30 days of the decision to deny the permit.

**9 VAC 20-80-590. Appeal of permit denial.**

**A.** If the department denies a permit to an applicant, the applicant shall be informed in writing of the decision and the reasons supporting the denial decision. The department shall mail the decision to the applicant by certified mail. Within 30 days of the notification date of denial of the permit, the applicant may make a written request of the director for a hearing to contest the director's decision. The hearing shall be conducted in accordance with § 9-6.14.1. *et seq.* of the Code .

**B.** The director shall render a decision affirming or modifying the previous denial, and shall notify the applicant of his decision in writing. If the director's decision is adverse to the applicant, the applicant may appeal in accordance with § 9-6.14:1. *et. seq.* of the Code .

**9 VAC 20-80-600. Revocation or suspension of permits**

**A.** Any permit issued by the director may be revoked when any of the following conditions exist:

1. The permit holder violates any regulation of the Board or any condition of a permit where such violation poses a threat of release of harmful substances into the environment or presents a hazard to human health.
2. The solid waste management facility is maintained or operated in such a manner as to constitute an open dump or pose a substantial present or potential hazard to human health or the environment.
3. The solid waste management facility because of its location, construction or lack of protective construction or measures to prevent pollution, to constitute an open dump or poses a substantial present or potential hazard to human health or the environment.
4. Leachate or residues from the solid waste management facility used for disposal, storage or treatment of solid waste pose a threat of contamination or pollution of the air, surface waters or groundwater in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health or the environment.

5. The person to whom the permit was issued abandons, sells, leases or ceases to operate the facility permitted.
6. The owner or operator fails to maintain financial assurance mechanism if required to do so by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70-10 *et seq.*).
7. As a result of changes in key personnel, the director finds that the requirements necessary for issuance of a permit are no longer satisfied.
8. The applicant has knowingly or willfully misrepresented or failed to disclose a material fact in applying for a permit or in his disclosure statement, or any other report or certification required under this law or under the regulations of the Board, or has knowingly or willfully failed to notify the director of any material change to the information in the disclosure statement; or
9. Any key personnel has been convicted of any following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 of Title 54.1 of the Code ; racketeering; or violation of antitrust laws; or has 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 and the director determines that such conviction or adjudication is sufficiently probative of the applicant's inability or unwillingness to operate the facility in a lawful manner, as to warrant denial, revocation, amendment or suspension of the permit. In making such determination, the director shall consider:
  - a. The nature and details of the acts attributed to key personnel;
  - b. The degree of culpability of the applicant, if any;
  - c. The applicant's policy or history of discipline of key personnel for such activities;
  - d. Whether the applicant has substantially complied with all rules, regulations, permits, orders and statutes applicable to the applicant's activities in Virginia;
  - e. Whether the applicant has implemented formal management controls to minimize and prevent the occurrence of such violations; and

- f. Mitigation based upon demonstration of good behavior by the applicant including, without limitation, prompt payment of damages, cooperation with investigations, termination of employment or other relationship with key personnel or other persons responsible for violations or other demonstrations of good behavior by the applicant that the director finds relevant to its decision.

**B. Revocation and reissuance.**

1. If the director finds that solid wastes are no longer being stored, treated or disposed at a facility in accordance with department regulations, the director may revoke the permit issued for such facility and reissue it with a condition requiring the person to whom the permit was issued to provide closure and post-closure care of the facility.
2. If the director is notified by the permittee that the ownership of the facility will be transferred to a new owner or that the operation will be conducted by a new operator, the director will upon receipt of financial assurance documents required by Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70-10 *et seq.*), revoke the original permit and reissue it to the new owner or operator.

**C.** Except in an emergency, a facility posing a substantial threat to public health or the environment, the director may revoke a permit only after a hearing, or a waiver of a hearing, in accordance with § 9-6.14:1 *et seq.* of the Code .

**D.** If the director summarily suspends a permit pursuant to an emergency based on subdivision 18 of § 10.1-1402 of the Virginia Waste Management Act, the director shall hold a conference pursuant to § 9-6.14:11 of the Virginia Administrative Process Act, within forty-eight hours to consider whether to continue the suspension pending a hearing to amend or revoke the permit, or to issue any other appropriate order. Notice of the hearing shall be delivered at the conference or sent at the time the permit is suspended. Any person whose permit is suspended by the director shall cease activity for which permit was issued until the permit is reinstated by the director or by a court.

**§ 7.13 9 VAC 20-80-610. Appeal of a revocation of a permit.** If the director suspends, revokes or revokes and reissues a permit, the permittee may appeal in accordance with § 9-6.14:1 *et seq.* of the Code.

**§ 7.14 9 VAC 20-80-620. Amendment of Permits**

**A.** Permits may be amended at the request of any interested person or upon the director's initiative. However, permits may only be amended for the reasons specified in 9 VAC 20-80-620E and 9 VAC 20-80-620F. All requests shall be in writing and shall contain facts or reasons supporting the request.

**B.** If the director decides the request is not justified, he shall send the requester a brief response giving a reason for the decision.

**C.** If the director tentatively decides to amend he shall prepare a draft permit incorporating the proposed changes. The director may request additional information and may require the submission of an updated permit application. In a permit amendment under 9 VAC 20-80-620E, only those conditions to be amended shall be reopened when a new draft permit is prepared. All other

aspects of the existing permit shall remain in effect. During any amendment proceeding the permittee shall comply with all conditions of the existing permit until the amended permit is issued.

**D.** When the director receives any information, he may determine whether or not one or more of the causes listed for amendment exist. If cause exists, the director may amend the permit on his own initiative subject to the limitations of 9 VAC 20-80-620E. and may request an updated application if necessary. If a permit amendment satisfies the criteria in 9 VAC 20-80-620F for minor amendments, the permit may be amended without a draft permit or public review. Otherwise, a draft permit shall be prepared and other appropriate procedures followed.

**E.** Causes for amendment. The director may amend a permit upon his own initiative or at the request of a third party:

1. When there are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;
2. When there is found to be a possibility of pollution causing significant adverse effects on the air, land, surface water or groundwater;
3. When an investigation has shown the need for additional equipment, construction, procedures and testing to ensure the protection of the public health and the environment from adverse effects;
4. If the director has received information pertaining to circumstances or conditions existing at the time the permit was issued that was not included in the administrative record and would have justified the application of different permit conditions, the permit may be amended accordingly if in the judgment of the director such amendment is necessary to prevent significant adverse effects on public health or the environment;
5. When the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued;
6. When the director determines good cause exists for amendment of a compliance schedule, such as an act of God, strike, flood, or material shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy;
7. When an amendment of a closure plan is required under Part V or Part VI of these regulations and the permittee has failed to submit a permit amendment request within the specified period;
- ~~8. When the permittee has filed a request under 9 VAC 20-70-130G of the Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70-10 *et seq.*) for a variance to the level of financial responsibility or when the director demonstrates under 9 VAC 20-70-130E of that chapter that an upward adjustment of the level of financial responsibility is required;~~
- ~~9. When the amendment is required to establish the initial groundwater protection levels for the facility or to modify the existing groundwater protection levels contained in the permit and~~

~~the permittee has failed to submit a permit amendment under 9 VAC 20-80-620F within the specified period;]~~

8. ~~[10.]~~When the corrective action program specified in the permit under 9 VAC 20-80-310 has not brought the facility into compliance with the groundwater protection level within a reasonable period of time; or

9. ~~[11.]~~When cause exists for revocation under 9 VAC 20-80-600 and the director determines that an amendment is more appropriate.

**F. Permit modification or amendment at the request of the permittee.**

**1. Minor modifications and permit amendments.**

a. Except as provided in 9 VAC 20-80-620F1b and 9 VAC 20-80-620F1c., the permittee may put into effect minor modifications listed in APPENDIX 7.4 under the following conditions:

(1) The permittee shall notify the director concerning the modification by certified mail or other means that establish proof of delivery at least 14 calendar days before the change is put into effect. This notice shall specify the changes being made to permit conditions or supporting documents referenced by the permit and shall explain why they are necessary. Along with the notice, the permittee shall provide the applicable information required by 9 VAC 20-80-510 and 9 VAC 20-80-520, 9 VAC 20-80-530, or 9 VAC 20-80-540.

(2) The permittee shall send a notice of the modification to the governing body of the county, city or town in which the facility is located. This notification shall be made within 90 calendar days after the change is put into effect. For the minor modifications that require prior director approval, the notification shall be made within 90 calendar days after the director approves the request.

b. Minor permit modifications identified in APPENDIX 7.4 by an asterisk may be made only with the prior written approval of the director.

c. ~~In addition to permit modifications listed in APPENDIX 7.4,~~ The permittee may request the director to approve a modification that will result in a facility that is more protective of the health and environment than these regulations require. The request for such a minor permit modification will be accompanied by a description of the desired change and an explanation of the manner in which the health and environment will be protected in a greater degree than the regulations provide for.

~~d. For a minor permit modification, the permittee may elect to follow the procedures in 9 VAC 20 80 620F2 for substantive amendments instead of the minor permit modification procedures. The permittee shall inform the director of this decision in the notice required in 9 VAC 20 80 620F2.~~

2. Substantive amendments. {Reserved}

~~a. For substantive modifications, listed in APPENDIX 7.4, the permittee shall submit a amendment request to the director that:~~

~~(1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;~~

~~(2) Identifies that the modification is a substantive amendment;~~

~~(3) Explains why the amendment is needed;~~

~~(4) Provides the applicable information required by 9 VAC 20 80 510 and 9 VAC 20 80 520, 9 VAC 20 80 530, or 9 VAC 20 80 540; and~~

~~(5) Provides the proposed facility mailing list containing the names and addresses of persons, organizations, and agencies of local government that might be affected by the proposed amendment. The director may inform the permittee of additional entries he may require.~~

~~b. The permittee shall send a notice of the amendment request to all persons on the facility mailing list and shall publish this notice in a major local newspaper of general circulation. This notice shall be mailed and published within 14 days after the date of submission of the amendment request, and the permittee shall provide to the director evidence of the mailing and publication. The notice shall include:~~

~~(1) Announcement of a 60 day comment period, in accordance with 9 VAC 20 80 620 F.2e, and the name and address of this department where comments shall be sent;~~

~~(2) Announcement of the date, time, and place for a public meeting held in accordance with 9 VAC 20 80 620F2d;~~

~~(3) Name and telephone number of the permittee's contact person;~~

~~(4) Name and telephone number of a contact person at the department ;~~

~~(5) Location where copies of the amendment request and any supporting documents can be viewed and copied; and~~

~~(6) The following statement:~~

~~*"The permittee's compliance history during the life of the permit being modified is available from the Department of Waste Management."*~~

- ~~c. The permittee shall place a copy of the permit amendment request and support documents in a location accessible to the public in the vicinity of the permitted facility.~~
- ~~d. The permittee shall hold a public meeting not earlier than 30 days after the publication of the notice required in 9 VAC 20-80-620 F2b and no later than 15 days before the close of the 60 day comment period. The meeting shall be held to the extent practicable in the vicinity of the permitted facility.~~
- ~~e. The public shall be provided 60 days to comment on the amendment request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department.~~
- ~~f. Administrative procedure.
  - ~~(1) No later than 90 days after receipt of the notification request, the director will determine whether the information submitted under 9 VAC 20-80-620F2 a(4) is adequate to formulate a decision. If found to be inadequate, the permittee will be requested to furnish additional information within 30 days of the request by the director to complete the amendment request record. The 30 day period may be extended at the request of the applicant.~~
  - ~~(2) After the completion of the record, the director will:
    - ~~(a) Approve the amendment request, with or without changes, and modify the permit accordingly;~~
    - ~~(b) Deny the request;~~
    - ~~(c) Determine that the amendment request shall follow the procedures in 9 VAC 20-80-620F3 for major amendments for the following reasons:
      - ~~i. The complex nature of the change requires the more extensive procedures for major amendments; or~~
      - ~~ii. The department receives notice by the local governing body that the proposed modification requires a determination by that body of consistency with its ordinances; or~~~~
    - ~~(d) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days in accordance with 9 VAC 20-80-620F5.~~~~
  - ~~(3) In making a decision to approve or deny a amendment request, including a decision to issue a temporary authorization or to reclassify a amendment as a major, the director will consider all written comments submitted to the department during the public comment period and will respond in writing to all significant comments in his decision.~~~~
- ~~g. The director may deny or change the terms of a substantive permit amendment request under 9 VAC 20-80-620F2.f(2) for the following reasons:
  - ~~(1) The amendment request is incomplete;~~~~

~~(2) The requested amendment does not comply with the appropriate requirements of Part V, Part VI, or other applicable requirements; or~~

~~(3) The conditions of the amendment fail to protect human health and the environment.~~

3. Major amendments.

a. For major modifications listed in APPENDIX 7.4, the permittee shall submit a amendment request to the director that:

(1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(2) Identifies that the modification is a major amendment;

(3) Explains why the amendment is needed;

(4) Provides the applicable information required by 9 VAC 20-80-510 and 9 VAC 20-80-520, 9 VAC 20-80-530, or 9 VAC 20-80-540; and

~~(5) Provides the proposed facility mailing list containing the names and addresses of persons, organizations, and agencies of local government. The director may inform the permittee of additional entries he may require.~~

~~b. The permittee shall send a notice of the amendment request to all persons on the facility mailing list and shall publish this notice in a major local newspaper of general circulation. This notice shall be mailed and published within 14 days after the date of submission of the amendment request, and the permittee shall provide to the director evidence of the mailing and publication. The notice shall include:~~

~~(1) Announcement of a 60 day comment period, in accordance with 9 VAC 20-80-620F2e and the name and address of this department where comments shall be sent;~~

~~(2) Announcement of the date, time, and place for a public meeting held in accordance with 9 VAC 20-80-620F2d.~~

~~(3) Name and telephone number of the permittee's contact person;~~

~~(4) Name and telephone number of a contact person at the department;~~

~~(5) Location where copies of the amendment request and any supporting documents can be viewed and copied; and~~

~~(6) The following statement:~~

~~*"The permittee's compliance history during the life of the permit being modified is available from the department of Waste Management."*~~

~~c. The permittee shall place a copy of the permit amendment request and support documents in a location accessible to the public in the vicinity of the permitted facility.~~

- ~~d. The permittee shall hold a public meeting not earlier than 30 days after the publication of the notice required in 9 VAC 20-80-620F2b and no later than 15 days before the close of the 60 day comment period. The meeting shall be held to the extent practicable in the vicinity of the permitted facility.~~
- ~~e. The public shall be provided 60 days to comment on the amendment request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department.~~
- ~~f. The director shall grant or deny the permit amendment request according to the permit amendment procedures 9 VAC 20-80-620, and other pertinent sections of Part VII.~~

b. No later than 90 days after receipt of the notification request, the director will determine whether the information submitted under 9 VAC 20-80-620F3a(4) is adequate to formulate a decision. If found to be inadequate, the permittee will be requested to furnish additional information within 30 days of the request by the director to complete the amendment request record. The 30-day period may be extended at the request of the applicant. After the completion of the record, the director will:

- (1) Approve the amendment request, with or without changes, and draft a permit amendment accordingly;
- (2) Deny the request;
- (3) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days in accordance with 9 VAC 20-80-620F5.

c. If the director proposes to approve the permit amendment, he will proceed with the permit issuance in accordance with 9 VAC 20-80-500E.

d. The director may deny or change the terms of a major permit amendment request under 9 VAC 20-80-620F3b for the following reasons:

- (1) The amendment request is incomplete;
- (2) The requested amendment does not comply with the appropriate requirements of Part V, Part VI, or other applicable requirements; or
- (3) The conditions of the amendment fail to protect human health and the environment.

#### 4. Other amendments.

a. In the case of modifications not explicitly listed in APPENDIX 7.4, the permittee may submit a major amendment request, or he may request a determination by the director that the modification should be reviewed and approved as a minor ~~or substantive~~ amendment. If the permittee requests that the modification be classified as a minor ~~or a substantive~~ amendment, he shall provide the department with the necessary information to support the requested classification.

b. The director will make the determination described in ~~9 VAC 20-80-620F2a~~ 9 VAC 20-80-620F4a as promptly as practicable. In determining the appropriate classification for a specific modification, the director will consider the similarity of the modification to other modifications in APPENDIX 7.4 and the following criteria:

(1) Minor modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of minor modifications, the director may require prior approval.

(2) ~~Substantive amendments apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:~~

~~(a) Common variations in the types and quantities of the wastes managed under the facility permit,~~

~~(b) Technological advancements, and~~

~~(c) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit. {Reserved}~~

(3) Major amendments substantially alter the facility or its operation.

#### 5. Temporary authorizations.

a. Upon request of the permittee, the director may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with the requirements of 9 VAC 20-80-620F5. Temporary authorizations shall have a term of not more than 180 days.

b.

(1) The permittee may request a temporary authorization for:

~~(a) Any substantive amendment meeting the criteria in 9 VAC 20-80-620F5c(2)(a); and~~

~~(b) any major amendment that meets the criteria in 9 VAC 20-80-620F5c(2)(a) or 9 VAC 20-80-620F5c(2)(b); or that meets the criteria in 9 VAC 20-80-620F5c(2)(c) and 9 VAC 20-80-620F5c(2)(d) and provides improved management or treatment of a solid waste already listed in the facility permit.~~

(2) The temporary authorization request shall include:

(a) A description of the activities to be conducted under the temporary authorization;

(b) An explanation of why the temporary authorization is necessary; and

- (c) Sufficient information to ensure compliance with Part V or Part VI standards.
- (3) The permittee shall send a notice about the temporary authorization request to all persons on the facility mailing list. This notification shall be made within seven days of submission of the authorization request.
- c. The director shall approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the director shall find:
  - (1) The authorized activities are in compliance with the standards of Part V or Part VI.
  - (2) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a amendment request:
    - (a) To facilitate timely implementation of closure or corrective action activities;
    - (b) To prevent disruption of ongoing waste management activities;
    - (c) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or
    - (d) To facilitate other changes to protect human health and the environment.
- d. A temporary authorization may be reissued for one additional term of up to 180 days provided that the permittee has requested a ~~substantive~~ or a major permit amendment for the activity covered in the temporary authorization, and:
  - ~~(1) The reissued temporary authorization constitutes the director's decision on a substantive permit amendment in accordance with 9 VAC 20-80-620F2f(2)(d) or 9 VAC 20-80-620F2f(3); or~~
  - ~~(2) The director determines that the reissued temporary authorization involving a major permit amendment request is warranted to allow the authorized activities to continue while the amendment procedures of 9 VAC 20-80-620F3 are conducted.~~
- 6. Appeals of permit amendment decisions. The director's decision to grant or deny a permit amendment request under ~~9 VAC 20-80-620F5~~ 9 VAC 20-80-620F may be appealed under the case decision provisions of the Virginia Administrative Process Act.
- 7. Newly defined or identified wastes. The permittee is authorized to continue to manage wastes defined or identified as solid waste under Part III if he:
  - a. Was in existence as a solid waste management facility with respect to the newly defined or identified solid waste on the effective date of the final rule defining or identifying the waste; and
  - b. If he is in compliance with the standards of Part V or VI, as applicable, with respect to the new waste, submits a minor modification request on or before the date on which the waste becomes subject to the new requirements; or

- c. If he is not in compliance with the standards of Part V or VI, as applicable, with respect to the new waste, also submits a complete permit amendment request within 180 days after the effective date of the definition or identifying the waste.

**G.** Facility siting. The suitability of the facility location will not be considered at the time of permit amendment unless new information or standards indicate that an endangerment to human health or the environment exists which was unknown at the time of permit issuance.

APPENDIX 7.1  
DISCLOSURE FORM

Notice

Under § 7(b) of the Privacy Act of 1974, 5 U.S.C. §552a (note), any government agency which requests an individual to disclose his Social Security Account Number (SSAN) must inform that individual whether the disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

The department is directed to request SSANs by § 10.1-1400, Chapter 14, Title 10.1, Code of Virginia (1950), as amended, as specified in the paragraph defining the disclosure statement. The SSAN is used as a secondary identifier by the director when he determines that a criminal records check of the key personnel will be obtained pursuant § 10.1-1405.D. of the Code. The SSAN will then be used to ensure correct identification when information is solicited from outside sources to determine whether the individual named in the records and the individual under consideration are the same or different persons.

The listing of SSANs on the disclosure forms is voluntary. Under Section 7(a) of the Privacy Act, the department cannot deny or revoke a permit or impose any penalty because of an individual's refusal to disclose SSAN. However, the absence of such number as a secondary identifier may delay processing of permit applications because of the additional investigative time that may be necessary to confirm identifications. In addition, there is the possibility that the absence of a SSAN may result in the initial identification of an individual as having a criminal record which actually is that of another person. That, again, may result in delay in the processing of the permit application.

SOLID WASTE MANAGEMENT FACILITY PERMIT APPLICANT'S

**DISCLOSURE STATEMENT**

**COVER SHEET**

Applicant's Name:		
Company Name:		
Address:		
City:	State:	Zip:
Telephone: (   )		

Applicant's Interest:  
(Check all applicable boxes)

Owner

Operator

Other (explain):

Enter below the names of all key personnel and the starting page number showing more detail  
A separate DEQ Form DISC-02 must be completed on each individual listed

Key Personnel	Page
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	

Key Personnel	Page
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	
21.	
22.	
23.	
24.	

## COVER SHEET

List all agencies **outside the Commonwealth** which have regulatory responsibility over the applicant or have issued any environmental permit or license to the applicant within the past ten years, in connection with the applicant's collection.

Agency Name and Permit or License Type	Expiration Date	State

**COVER SHEET**

List full name and business address of any member of the local governing body or planning commission in which the solid waste management facility is located or proposed to be located, who holds an equity interest in the facility

Full Name	Business Address

Remarks or continuation from previous pages:

**COVER SHEET**

Continuation from previous pages:

I certify under penalty of law that the information contained in this disclosure statement and all attachments are, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for.

Signature	Typed or printed full name	Title	Date
STATE OF			
COUNTY OF			
On this ___ day of _____, 20__, before me personally came _____			
_____, who being by me duly sworn, did depose and say that she/he is the			
person who executed the above disclosure statement and that she/he signed her/his name.			
_____		My commission expires	
_____			

SOLID WASTE MANAGEMENT FACILITY PERMIT  
**APPLICANT'S**  
DISCLOSURE STATEMENT

**KEY PERSONNEL**

Name:
Social Security Number:
Business Address:
City: <span style="float: right;">State:</span>

List full name and business address of any entity, other than natural person, that collects, transports, treats, stores, or disposes of solid or hazardous waste in which the above named person holds an equity interest of five percent or more.

Company Name	Business Address

## KEY PERSONNEL

Business Experience:

(use continuation sheet, if needed)

List all permits or licenses for collection, transportation, treatment, storage, or disposal issued to or held by the person named within past ten years.

Permit Type	Agency

KEY PERSONNEL

List and explain any notices of violation, prosecution, administrative orders, license or permit suspensions or revocations, or enforcement actions of any sort by any state, federal, or local authority, within the past ten years, which are pending or have concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation or requirement relating to the collection, transportation, treatment, storage or disposal of solid or hazardous waste by the person named. Furnish also an itemized list of all convictions within ten years of any of the crimes listed in Section 10.1-1400, Virginia Waste Management Act, punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction. Use continuation sheets, if necessary.

**KEY PERSONNEL**

Continuation Sheet

APPENDIX 7.2  
REQUEST FOR LOCAL GOVERNMENT  
CERTIFICATION

NOTE: The form shown in this Appendix was developed for the convenience of the permit applicant and the local governmental body. Its use is voluntary and the information required by the regulations may be presented by the permit applicant in any format of his choice.

# REQUEST FOR CERTIFICATION

APPLICANT:

APPLICANTS MAILING ADDRESS:

TYPE OF FACILITY:

The applicant is in the process of completing an application for a permit for a solid waste management facility to be issued by the Virginia Department of Environmental Quality. In accordance with ? 10.1-1408.1, Code of Virginia (1950), as amended, before such a permit application can be considered complete, the applicant has to obtain a certification from the governing body of the county, city or town in which the facility is to be located that the location and operation of the facility are consistent with all local ordinances. The undersigned requests that an authorized representative of the local governing body sign the certification below.

SIGNATURE OF APPLICANT:

TITLE:

NOTE: The applicant should enclose an appropriate map showing the location of the proposed facility.

## CERTIFICATION

The undersigned certifies that the proposed location and operation of the facility is consistent with all ordinances.

SIGNATURE OF THE AUTHORIZED REPRESENTATIVE:

TYPED OR PRINTED NAME:

TITLE:

DATE:

COUNTY, CITY OR TOWN:

DATE OF APPLICATION:

TELEPHONE:

CONTACT PERSON:

**DEQ Form SW-11-1**

### **APPENDIX 7.3**

#### **PART A PERMIT APPLICATION**

NOTE: The form shown in this Appendix was developed for the convenience of the permit applicant. Its use is voluntary and the information required by the regulations may be presented by the permit applicant in any format of his choice.

## PART A APPLICATION

NAME OF FACILITY:	
TYPE OF FACILITY:	
NAME OF APPLICANT:	
OWNER: (if different from applicant)	
CONTACT PERSON:	PHONE:

MAILING ADDRESS:

SITE LOCATION: (Describe location and attach map showing exact location):

	YES	NO
KEY MAP ATTACHED	<input type="checkbox"/>	<input type="checkbox"/>
NEAR-VICINITY MAP ATTACHED	<input type="checkbox"/>	<input type="checkbox"/>
COPY OF DEED or OWNERSHIP DOCUMENT ATTACHED	<input type="checkbox"/>	<input type="checkbox"/>

Written notice to adjacent owners or occupants that the undersigned applicant intends to develop a solid waste management facility has been sent. The names and addresses of persons given the notice are shown in the REMARKS section of the form.

TYPED NAME OF APPLICANT:
SIGNATURE OF APPLICANT:

SECTION II  
SITING CRITERIA

SUBJECT TO BASE FLOOD		YES		NO
GEOLOGICALLY UNSTABLE AREAS		YES		NO
DISTANCE TO AIRPORT RUNWAY (if applicable)				
DISTANCE TO REGULARLY FLOWING SURFACE WATER BODY OR RIVER				
DISTANCE TO WELL, SPRING OR OTHER GROUNDWATER				
DISTANCE TO PUBLIC ROAD RIGHT-OF-WAY				
DISTANCE TO RESIDENCE, SCHOOL, OR RECREATIONAL AREA				
VERTICAL SEPARATION FROM SEASONAL HIGH WATER TABLE				
GROUNDWATER CAN BE MONITORED		YES		NO
EXCESSIVE SLOPES		YES		NO
COVER MATERIALS READILY AVAILABLE		YES		NO
SPRINGS, SEEPS, OR OTHER INTRUSIONS INTO THE SITE	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
PRESSENCE OF GAS, WATER SWEAGE, OR ELECTRICAL OR OTHER TRANSMISSION LINES UNDER THE SITE	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
EXISTENCE ON THE SITE OF AN OPEN DUMP, UNPERMITTED LANDFILL, LAGOON, OR SIMILAR FACILITY	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
OTHER CRITERIA APPLICABLE TO THE SITE (use REMARKS section, if necessary)				

## APPENDIX 7.4 CLASSIFICATION OF PERMIT AMENDMENTS

### A. General Permit Provision

1. Administrative and informational changes	Minor
2. Correction of typographical errors	Minor
3. Equipment replacement or upgrading with functionally equivalent components	Minor
4. Changes in the frequency of or procedures for monitoring, reporting, or sampling by the permittee, <u>with prior approval by the director</u>	<u>*Minor</u>
<del>a. To provide for more frequent monitoring, reporting, or sampling,</del>	<del>Minor</del>
<del>b. Other changes</del>	<del>Substantive</del>
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the Director	* Minor
b. Extension of the final compliance date	<del>[Major*Minor]</del>
6. Changes in ownership or operational control of a facility, <u>with prior approval by the director</u>	* Minor

### B. General Facility Standards

1. Changes in procedures in the operating plan	
a. That do not affect environmental protection afforded	Minor
b. Other changes	Major
2. Changes in frequency or content of inspection schedules, <u>with prior approval by the director</u>	<del>Substantive</del> <u>*Minor</u>
3. Changes in the training plan, <u>with prior approval by the director</u>	<u>*Minor</u>

<del>_____ a. That do not affect the type or decrease the amount of training given to employees</del>	<del>_____ Minor</del>
<del>_____ b. Other changes</del>	<del>_____ Substantive</del>
4. <del>3.</del> Contingency plan:	
a. Changes in emergency procedures (i.e., spill or release response procedures), <u>with prior approval by the director</u>	<del>_____ Substantive</del> <u>*Minor</u>
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed	Minor
c. Removal of equipment from emergency equipment list, <u>with prior approval by the director</u>	<del>_____ Substantive</del> <u>*Minor</u>
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan	Minor
C. Groundwater Protection	
1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted groundwater monitoring system	<del>[Major]</del> <u>*Minor</u>
b. Replacement of an existing well that has been damaged or rendered nonoperable, without change to location, design, or depth of the well	Minor
2. Changes in groundwater sampling or analysis procedures or monitoring schedule, with prior approval of the Director	* Minor
<del>_____ 3. Changes in statistical procedure determining whether a statistically significant change in ground water quality between upgradient and downgradient wells has occurred</del>	<del>_____ Substantive</del>
3. <del>4.</del> Changes in <del>waste management boundary</del> <u>the point of compliance</u>	Major
4. <del>5.</del> Changes in indicator parameters, constituents, or concentration limits (ii)	
<del>_____ a. [As specified in the groundwater protection standard (alternative concentration limits)]</del>	<del>_____ Major</del>
a. <del>[b.]</del> As specified in the detection monitoring program	<del>_____ Substantive</del> <u>*Minor</u>

	<u>b. <del>[e.]</del> Changes in established alternate concentration limits</u>	<u>*Minor</u>
	<u>5. <del>6.</del> Changes to detection or assessment monitoring programs, unless otherwise specified in this appendix</u>	<del>Substantive</del> <u>*Minor</u>
	<del>[7. Change from detection to assessment monitoring program</del>	<del>*Minor]</del>
	<del>8. Initiation of an assessment of corrective action</del>	<del>Major</del>
	<u>6. <del>[7.]</del> Corrective action program</u>	
<u>310</u>	<u>a. Implementation of a corrective action program as required by 9 VAC 20-80-</u>	<u>Major</u>
	<u>b. Changes to a corrective action program</u>	<u>Major</u>
	<u>D. Closure</u>	
	<u>1. Changes to the <del>closure plan:</del> <u>the design of cover</u></u>	<u>Major</u>
	<del>a. Changes in estimate of maximum extent of operations or maximum inventory of waste on site at any time during the active life of the facility, with prior approval of the Director</del>	<del>* Minor</del>
	<del>b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Director</del>	<del>* Minor</del>
	<del>c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Director</del>	<del>* Minor</del>
	<del>d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Director</del>	<del>* Minor</del>
	<del>e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix</del>	<del>Substantive</del>
	<u>2. Creation of a new landfill unit as part of closure</u>	<u>Major</u>
	<u>3. Addition of the new storage or treatment units to be used temporarily for closure activities</u>	<u>Major</u>
	<u>E. <u>Changes during the post-closure period</u></u>	

1. Changes in name, address, or phone number of contact in post-closure plan	Minor
2. Extension of post-closure care period	<del>Substantive</del> <u>*Minor</u>
3. Reduction in the post-closure care period	Major
4. Changes to the expected year of final closure, where other permit conditions are not changed	Minor
<del>5. Changes in post closure plan necessitated by events occurring during the active life of the facility, including partial and final closure</del>	<del>Substantive</del>
<u>5. Changes in post-closure use of the property:</u>	
<u>a. Without disturbance of the cover</u>	<u>*Minor</u>
<u>b. With disturbance of the cover</u>	<u>Major</u>
F. Leachate Collection Systems	
1. Addition of new tank units	<del>Major</del> <u>*Minor</u>
2. Modification of an existing tank unit	<del>Substantive</del> <u>*Minor</u>
3. Replacement of an existing tank with a tank that meets the same design standards and has a capacity within " 10% of the replaced tank	Minor
4. Modification of a tank management practice	<del>Substantive</del> <u>Minor</u>
5. Addition of surface impoundment units	Major
6. Replacement of a surface impoundment unit	Major
7. Modification of a surface impoundment unit without modifying the unit's liner, leak detection system, or leachate collection system	<del>Substantive</del> <u>Major</u>
8. Modification of a tank that does not affect the structural or containment characteristics	* Minor
9. All other modifications of a tank or a surface impoundment	Major

G. Gas Collection and Control Systems [\*Minor

- ~~1. Modification of the gas monitoring or control system~~ ~~Substantive~~  
~~Major~~
- ~~2. Reduction in the gas monitoring or control system requirements~~ ~~\*Minor~~  
~~Major~~
- ~~3. Initiation of gas control procedures~~ ~~Major~~
- ~~4. Change in monitoring frequency~~ ~~\*Minor]~~

H. Waste Disposal Facilities (Landfills)

- 1. Addition of new landfill units Major
- 2. Lateral expansion of existing units Major
- 3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system Major
- 4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system ~~Substantive~~  
\*Minor
- 5. Modification of a landfill management practice ~~Substantive~~  
\*Minor
- 6. Landfill additional or different wastes specified in Part VIII:
  - a. That require additional or different waste handling practices, different design of the liner, leachate collection system, or leachate detection system Major
  - b. That do not require additional or different waste handling practices, different design of the liner, leachate collection system, or leachate detection system ~~Substantive~~  
\*Minor
- ~~7. Landfill additional or different wastes not specified in Part VIII:~~
  - ~~a. That require additional or different waste handling practices, different design of the liner, leachate collection system, or leachate detection system~~ ~~Major~~
  - ~~b. That do not require additional or different waste handling practices, different design of the liner, leachate collection system, or leachate detection system~~ ~~\*Minor~~
- ~~8. Corrective action program:~~

- ~~\_\_\_\_\_ a. Addition of a corrective action program as required by ' 5.7~~ \_\_\_\_\_ Major
- ~~\_\_\_\_\_ b. Changes to a corrective action program~~ \_\_\_\_\_ Substantive

Note: See 9 VAC 20-80-620F.7. for amendment procedures to be used for the management of newly defined or identified wastes.

I. ~~Incinerators and Energy Recovery~~ All Other Facilities

- ~~\_\_\_\_\_ 1. Changes to increase by more than 25% of the waste feed rate limit handling capacity authorized in the permit~~ \_\_\_\_\_ Major  
\*Minor

- ~~\_\_\_\_\_ 2. Changes to increase by up to 25% any of the waste feed rate limit authorized in the permit~~ \_\_\_\_\_ Substantive

- ~~\_\_\_\_\_ 2.~~ 3. Modification of the facility in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit \_\_\_\_\_ Substantive  
\*Minor

- ~~\_\_\_\_\_ 3.~~ 4. Modification of any inspection or recordkeeping requirement specified in the permit \_\_\_\_\_ Substantive  
\*Minor

4. ~~5. Incineration~~ Management of different wastes:

- a. If the waste contains special wastes regulated subject to requirements of ~~under Part VIII not authorized by the permit or and if incineration~~ the management of the waste requires compliance with different regulatory performance standards than specified in the permit. \_\_\_\_\_ Major

- b. If the waste does not contain special wastes regulated under subject to requirements of Part VIII ~~and or if incineration~~ the management of the waste does not require compliance with different regulatory performance standards than specified in the permit \_\_\_\_\_ \*Minor

Note: See 9 VAC 20-80-620F.7. for amendment procedures to be used for the management of newly identified wastes.

J. All Other Facilities

- ~~\_\_\_\_\_ 1. Changes to increase by more than 25% of the waste handling capacity authorized in the permit~~ \_\_\_\_\_ Major

- ~~\_\_\_\_\_ 2. Changes to increase by up to 25% of the waste handling capacity authorized in the permit~~ \_\_\_\_\_ Substantive

~~— 3. Modification of the facility in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions, or monitoring requirements specified in the permit~~ ~~— Substantive~~

~~— 4. Modification of any inspection or recordkeeping requirement specified in the permit~~ ~~— \*Minor~~

~~— 5. Management of different wastes:~~

~~— a. If the waste contains wastes regulated under Part VIII not authorized by the permit or if handling of the waste requires compliance with different regulatory performance standards than specified in the permit.~~ ~~— Major~~

~~— b. If the waste does not contain wastes regulated under Part VIII and if handling of the waste does not require compliance with different regulatory performance standards than specified in the permit~~ ~~— \*Minor~~

~~Note: See 9 VAC 20-80-620F.7. for amendment procedures to be used for the management of newly identified wastes.~~

**PART VIII.  
SPECIAL WASTES**

**9 VAC 20-80-630. General.**

**A.** The requirements and standards contained in this part apply to solid waste that requires special handling and precautions and are in addition to the general requirements contained in Parts V and VI of this regulation, as applicable.

1. Facilities may receive solid waste that requires special handling for processing or disposal only with specific approval of the director or by specific provisions within the facility permit. The operator should contact the department for advice about new or unusual wastes and proper handling techniques. If it is not clear that a particular waste is within the authorized wastes that a permitted facility may receive, it is required that the operator receive a letter of clarification from the department before receiving the waste.

2. Nothing in this part shall limit or affect the power of the director, by his order, to prohibit storage, treatment or disposal of any waste or require special handling requirements he determines are necessary to protect the public health or the environment.

3. The specific special wastes identified in this part are not all inclusive but intended to provide instructions for the wastes most frequently managed through solid waste management facilities. Other special wastes such as discarded chemicals and pesticides not regulated as hazardous wastes, oil spill cleanup, hazardous materials incident site cleanup, underground and aboveground storage site residues from cleanup, pesticide containers, hazardous wastes generated by conditionally exempt small quantity generators as defined by the hazardous waste regulations, [~~low specific activity radioactivity wastes~~], compressed gas cylinders, and contaminated food products and fabrics requiring supervised disposal are examples of the type of special wastes for which approval by the director would be required before permitted solid waste management facilities could receive and dispose of ~~the products~~ these materials[, unless the material is specifically included in the facility permit. Facilities with an approved special waste acceptance plan incorporated into the operations manual of the facility permit are not required to obtain specific approval when the waste acceptance plan is followed.].

**B.** The requirements and standards contained in this Part also apply to specific materials that are used in a manner that constitutes disposal.

**9 VAC 20-80-640. Asbestos-Containing Waste Materials.**

**A.** Definitions. All terms that are used in this section and are not defined below shall have the same meaning as in Part I of this chapter.

**"Approved"** means that written approval has been obtained from the department.

**"Asbestos"** means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and **actinolite-tremolite**.

**"Asbestos-containing waste materials (ACM)"** means mill tailings or any waste that contains commercial asbestos[, and is generated by a source subject to Part 61, Title 40, Code of Federal Regulations, Subpart M, National Emission Standard for Asbestos]. This term includes filters from control devices, friable asbestos waste material, [~~non friable asbestos containing waste material~~], and bags or other similar packaging contaminated with asbestos. As applied to demolition and renovation

operations, this term also includes regulated asbestos-containing waste material [RACM] and materials contaminated with asbestos including disposable equipment and clothing.

"**Asbestos waste generator**" means any owner or operator of a source covered by ~~Virginia Department of Air Pollution Control Regulations VR 102-06-0102 (Part 6, National Emission Standards for Hazardous Pollutants (NESHAP), Subpart M, National Emission Standard for Asbestos) §§ 61.140 through 61.157, Title 40, Code of Federal Regulations,~~ whose act or process produces asbestos-containing waste material.

"**Category I nonfriable asbestos-containing waste material**" means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the polarized light microscopy method specified in the Code of Federal Regulations, Title 40, Part 763, Subpart F, Appendix A, Section 1 that are wastes.

"**Category II nonfriable asbestos-containing waste material**" means any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the polarized light microscopy methods specified in the Code of Federal Regulations, Title 40, Part 763, Subpart F, Appendix A, Section 1, that, when dry cannot be crumbled, pulverized, or reduced to powder by hand pressure and that are wastes.

"**Certified operator**" means a waste management facility operator that has a valid certification obtained from the Board of Waste Management Facility Operators.

"**Commercial asbestos**" means any material containing asbestos that is extracted from ore and has value because of its asbestos content.

"**Disposal area**" means the area of land upon which ACM has been deposited or buried.

"**Friable asbestos waste material**" means any waste material containing more than one percent asbestos as determined using the polarized light microscopy methods specified in the Code of Federal Regulations, Title 40, Part 763, Subpart F, Appendix A, Section 1, that, when dry, is capable of being crumbled, pulverized or reduced to powder by hand pressure.

"**Leak-tight**" means that solids or liquids cannot escape or spill out. It also means dust-tight.

"**Natural barrier**" means a natural object that effectively precludes or deters access. Natural barriers include physical obstacles such as cliffs, lakes or other large bodies of water, deep and wide ravines, and mountains. Remoteness by itself is not a natural barrier.

"**Off-site**" means off the property on which the ACM is generated.

"**Regulated asbestos-containing waste material (RACM)**" means:

- (a) Friable asbestos waste material;
- (b) Category I nonfriable ACM that has become friable;
- (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading; and,
- (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.

For the purposes of this definition "**renovation**" means altering an installation, structure or building or any part of such installation, structure or building in any way, including the stripping or removal of RACM. Operations in which load-supporting structural members are wrecked or taken out are "**demolitions.**"

"**Resilient floor covering**" means asbestos-containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than 1 percent asbestos as determined using polarized light microscopy according to the method specified in the Code of Federal Regulations, Title 40, Part 763, Subpart F, Appendix A, Section 1.

"**State NESHP Office**" means the Department of Labor and Industry-Occupational Health Division, 13 South 13<sup>th</sup> Street, Richmond, Virginia 23219.

"**Visible emissions**" means any emissions, which are visually detectable without the aid of instruments, coming from RACM or ACM. This does not include condensed, uncombined water vapor.

"**Waste shipment record**" means the shipping document, required to be originated and signed by the asbestos waste generator, used to track and substantiate the transportation and disposition of asbestos-containing waste material. This document will contain, upon completion, the legal signatures of the asbestos waste generator, transporter(s), and the certified operator of the disposal facility or the legal agent of any of those persons.

**B. Applicability.** The standards contained in this section apply to the disposal of all asbestos-containing waste materials (ACM) generated by asbestos mills, by manufacturing, fabricating, and spraying operations, and ~~regulated RACM~~ generated in the course of demolition and renovation of installations, structures or buildings, or other waste generating activities.

**C. Waste preparation for disposal.** In order for ACM to be accepted at the disposal site, [ACM received at the disposal site shall] ~~the asbestos waste generator shall:~~

1. Conform to all packaging requirements contained in §§ 61.149 and 61.150 ~~of the Virginia Department of Air Pollution Control Regulations VR 120-06-0102, Part 61, Title 40, Code of Federal Regulations, Subpart M, National Emission Standards for Hazardous Pollutants, Subpart M Asbestos.~~

a. All ACM generated in a manufacturing, fabrication, or spraying operation and all [RACM] generated in a demolition or renovation operation shall be placed in leak-tight containers while wet. Materials that will not fit into containers without additional breaking shall be put into leak-tight wrapping. ~~The containers shall meet federal DOT standards (§ 173.1090(d), Title 49, Code of Federal Regulations) as required by the Virginia Regulations Governing Transportation of Hazardous Materials. Materials placed in double, 6 mil thick plastic bags and sealed will conform to the above requirements when transported in motor vehicles that are loaded by and for the exclusive use of the consignor and unloaded by the consignee. To ensure that the personnel at the disposal facility can verify that the material has been placed in double bags, the outer bag should be transparent. Waste ACM generated at a demolition site exempt from the ACM removal requirements under [9 VAC 5-60-70, Subpart M (which adopted by reference) § 61.145(c)(1), Part 61, Title 40, Code of Federal~~

Regulations, [I] does not have to [be] sealed in leak-tight containers or wrapping but may be transported and disposed of in bulk.

b. The containers or wrapped materials specified in 9 VAC 20-80-640C1a. shall be labeled using warning labels specified by Occupational Safety and Health Administration (OSHA) under § 1910.1001(j)(2) or 1926.58(k)(2)(iii), Title 29, Code of Federal Regulations. The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible and shall contain the following information:

DANGER  
CONTAINS ASBESTOS FIBERS  
AVOID CREATING DUST  
CANCER AND LUNG DISEASE HAZARD

c. For materials transported off-site, ~~labeled label~~ containers or wrapped materials with a name of the waste generator and the location at which the waste was generated. [For small items, the label may serve as wrapping.]

d. Category I nonfriable ACM and Category II nonfriable ACM generated in a demolition or renovation operation that do not meet the definition of ~~regulated RACM~~ need not meet the requirements of 9 VAC 20-80-640C1a, 9 VAC 20-80-640C1b and 9 VAC 20-80-640C1c.

2. Conform to all marking requirements contained in § 61.149(d)(1) ~~and 61.150, VR 120-06-0102-9 VAC 5-60-70~~ Part 61, Title 40, Code of Federal Regulations, for vehicles used to transport ACM during loading and unloading of wastes. [

a. Upon arrival at the solid waste disposal facility, the vehicles used to transport ACM shall be marked during the unloading process so that the signs are visible. The markings shall:

- (1) Be displayed in such a manner and location that a person can easily read the legend;
- (2) Conforms to the requirements for 20 inches by 14 inches upright format caution signs specified in § 1910.145(d)(4), Title 29, Code of Federal Regulations.
- (3) Display the following legend with letter sizes and styles of a visibility at least equal to those specified in Table 8.1-1. Spacing between any two lines shall be at least equal to the height of the upper two lines.

Table 8.1-1

<u>Legend</u>	<u>Notation</u>
<u>DANGER</u>	<u>1-inch Sans Serif, Gothic or Block</u>
<u>ASBESTOS DUST HAZARD</u>	<u>1-inch Sans Serif, Gothic or Block</u>
<u>CANCER AND LUNG DISEASE HAZARD</u>	<u>3/4-inch Sans Serif, Gothic or Block</u>

<u>Authorized Personnel Only</u>	<u>14-point Gothic</u>
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]

b. [Properly packaged asbestos-containing materials shall be transported in accordance with the requirements of the Virginia Regulations Governing Transportation of Hazardous Materials (9 VAC 20-110-10 et seq.). Asbestos-containing waste materials shall be accompanied by the waste shipment record.]

3. ~~[For all ACM transported off-site:]~~

~~a. Prepare and maintain waste shipment records using a form similar to that specified in Subpart M, VR 120-06-0102-9 VAC 5-60-70. The required information includes:~~

- ~~(1) The name, address, and telephone number of waste generator;~~
- ~~(2) The name and address of the state NESHAP office: Department of Air Pollution Control, Room 801, Ninth Street Office Building, Post Office Box 10089, Richmond, Virginia 23240;~~
- ~~(3) The approximate quantity in cubic meters (cubic yards);~~
- ~~(4) The name and telephone number of the disposal site operator;~~
- ~~(5) The date transported;~~
- ~~(6) The name, address, and the telephone number of the transporters; and~~
- ~~(7) A certification that the contents of the consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labelled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations.~~

~~b. [Be accompanied by Provide] a copy of the waste shipment record, described above on a form similar to that specified in Figure 4, § 61.149, Part 61, Title 40, Code of Federal Regulations[ ~~to the disposal facility owner or operator at the same time as ACM is delivered to the disposal site~~]. The required information on the shipment record includes:~~

- ~~a. The name, address, and telephone number of waste generator;~~
- ~~b. The name and address of the state NESHAP office: Department of Labor and Industry, Occupational Health Division, 13 South 13th Street, Richmond, Virginia 23219;~~
- ~~c. The approximate quantity in cubic meters (cubic yards);~~
- ~~d. The name and telephone number of the disposal site operator;~~
- ~~e. The date transported;~~
- ~~f. The name, address, and the telephone number of the transporter(s); and~~
- ~~g. A certification that the contents of the consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labelled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations.~~

- ~~c. Track and report all missing shipments as required by §§ 61.149 and 61.150, VR 120-06-0102.~~
- ~~D. Transportation of asbestos-containing materials for disposal.~~
  - ~~1. Properly packaged asbestos-containing materials shall be transported in accordance with the requirements of the Virginia Regulations Governing Transportation of Hazardous Materials (9 VAC 20-110-10 *et seq.*). Asbestos-containing waste materials shall be accompanied by the waste shipment record.~~
  - ~~2. Upon arrival at the solid waste disposal facility, the vehicles used to transport ACM shall be marked during the unloading process so that the signs are visible. The markings shall:~~
    - ~~a. Be displayed in such a manner and location that a person can easily read the legend;~~
    - ~~b. Conforms to the requirements for 20 inches by 14 inches upright format caution signs specified in § 1910.145(d)(4), Title 29, Code of Federal Regulations.~~
    - ~~c. Display the following legend with letter sizes and styles of a visibility at least equal to those specified in Table 8.1-1. Spacing between any two lines shall be at least equal to the height of the upper two lines.~~

Table 8.1-1

<u>Legend</u>	<u>Notation</u>
<u>DANGER</u>	<u>1 inch Sans Serif, Gothic or Block</u>
<u>ASBESTOS DUST HAZARD</u>	<u>1 inch Sans Serif, Gothic or Block</u>
<u>CANCER AND LUNG DISEASE HAZARD</u>	<u>3/4 inch Sans Serif, Gothic or Block</u>
<u>Authorized Personnel Only</u>	<u>14 point Gothic</u>

**E.** Disposal of asbestos-containing materials. Each owner or operator of a solid waste disposal facility that receives ACM shall meet the requirements of this section.

- 1. All asbestos-containing materials generated in a manufacturing, fabrication, or spraying operation and all [regulated RACM] generated in a demolition or renovation operation shall be disposed in a special purpose landfill or in a designated area of a sanitary landfill. Category I and Category II nonfriable ACM may be disposed in a landfill providing daily soil cover, providing that the operator is notified and other pertinent requirements of this part are met.
- ~~2. Unloading of ACM. Upon arrival at the solid waste disposal facility, the vehicles used to transport ACM shall be marked during the unloading process so that the signs are visible. The markings shall:~~
  - ~~a. Be displayed in such a manner and location that a person can easily read the legend;~~

- ~~b. Conforms to the requirements for 20 inches by 14 inches upright format caution signs specified in § 1910.145(d)(4), Title 29, Code of Federal Regulations.~~
- ~~c. Display the following legend with letter sizes and styles of a visibility at least equal to those specified in Table 8.1-1. Spacing between any two lines shall be at least equal to the height of the upper two lines.~~

~~Table 8.1-1~~

Legend	Notation
DANGER	1 inch Sans Serif, Gothic or Block
ASBESTOS DUST HAZARD	1 inch Sans Serif, Gothic or Block
CANCER AND LUNG DISEASE HAZARD	3/4 inch Sans Serif, Gothic or Block
Authorized Personnel Only	14 point Gothic

- ~~3. Placement of asbestos containing waste materials.~~
  - ~~a. Asbestos containing waste materials shall be segregated in designated areas and separated cells and not disposed of on the active work face with other solid wastes. The bottom of cells or trenches shall not be within five feet of the seasonal high groundwater level.~~
  - ~~b. The waste is either hand placed in the trench or cell or by other approved means which insure integrity of bags, wrappings or containers.~~
  - ~~c. The waste shall not be compacted until a sealing layer of soil has been placed over the waste and great care is taken to prevent the breaking of bags or wrapping. All accidentally broken materials shall be covered with 12 inches or more of soil immediately. A cell which has been completely covered with soil, at least one foot thick, may be compacted.~~
  - ~~d. All waste shall be covered with at least one foot of soil at the end of each day of operation. A final cover of 3 feet of soil shall be placed over all areas that have not been in use or will not be used for more than 30 days. Areas that will not or have not been used for one year, in addition to final soil cover, shall be graded for erosion prevention and revegetated.~~
  - ~~e. Asbestos containing waste material may not be buried above the natural ground surface of the site except in area fill type sanitary landfills where other solid wastes are also received and will cover the asbestos material. The final three foot cap may extend above the natural ground surface but the waste shall be protected from wind and water erosion effects.~~

[NOTE: ACM may be disposed in asbestos disposal cells or units located at existing disposal facilities above the natural ground level, provided they comply with all other appropriate regulatory requirements contained in Part V of this chapter.]

4. Access control.
- a. Any active portion of the asbestos disposal area, or area which has not received final cover and revegetation, plus a fifty foot wide buffer zone on all sides of the area, shall be fenced. The fence shall be of the six feet high chain link or woven wire type with three strands of barbed wire on top. The fence shall completely encircle the disposal area and internal buffer zone and maintain access control through locked gates. An alternative to the fence requirement in an active sanitary landfill would be where the site has access control and site security. In such cases, the internal fence is not required. In absence of the internal fence, the entrance and boundary line shall be clearly marked as indicated in §8.1.E.4.b. that asbestos materials are being disposed.
- b. The fence shall bear permanent warning signs at all entrances and at intervals of 330 feet or closer. The warning signs shall:
- (1) Be posted in such manner and location that a person can easily read the legend;
  - (2) Conform to the requirements for 20 inches by 14 inches upright format caution signs specified in § 1910.145(d)(4), Title 29, Code of Federal Regulations.
  - (3) Display the following legend with letter sizes and styles of a visibility at least equal to those specified in Table 8.1-2. Spacing between any two lines shall be at least equal to the height of the upper two lines.

Table 8.1-2

Legend	Notation
ASBESTOS WASTE DISPOSAL AREA	1 inch Sans Serif, Gothic or Block
DO NOT CREATE DUST	3/4 inch Sans Serif, Gothic or Block
Breathing Asbestos is Hazardous to Your Health	14 point Gothic

- c. The fenced area of the asbestos disposal facility or the asbestos area within a secure sanitary landfill may not be located closer than 50 feet to the property boundary or occupied building or structure.
2. There shall be no visible emissions to the outside air during unloading, placement, compacting, or other operation at any active disposal site where waste ACM is being managed, unless requirements of 9 VAC 20-80-640E4 or 9 VAC 20-80-640E5 are met.
  3. Unless a natural barrier adequately deters access by the general public, either
    - a. Warning signs and fencing shall be installed and maintained as follows:

(1) Warning sign shall be displayed at all entrances and at intervals of 100 meters (330 feet) or less along the property line of the site or along the perimeter of the sections of the site where waste ACM is deposited. The warning signs shall:

(a) Be posted in such a manner and location that a person can readily read the legend; and

(b) Conform to the requirements of signs specified in § 1910.145(d)(4), Title 29, Code of Federal Regulations and § 61.154(b)(1)(ii), Title 40, Code of Federal Regulations; and

(c) Display the following legend in the lower panel with letter sizes and styles of visibility at least equal to those specified in Table 8.1-2. Spacing between any two lines shall be at least equal to the height of the upper of the two lines; and

Table 8.1-2

Legend	Notation
ASBESTOS WASTE DISPOSAL AREA	1-inch Sans Serif, Gothic or Block
DO NOT CREATE DUST	3/4-inch Sans Serif, Gothic or Block
Breathing Asbestos is Hazardous to Your Health	14-point Gothic

(2) The perimeter of the disposal sited shall be fenced in a manner adequate to deter access by the general public; or [

b. ]the requirements of 9 VAC 20-80-640E4a shall be met.

4. Rather than meet the no visible emission requirement of 9 VAC 20-80-640.E.2640E2, the owner or operator may at the end of each operating day, or at least once every 24-hour period while the site is in continuous operation:

a. Cover the waste ACM with at least 15 centimeters (6 inches) of compacted non-ACM, or

b. Cover with a resinous or petroleum-based dust suppression agent that effectively binds dust and controls wind erosion. Such an agent shall be used in the manner and frequency recommended for the particular dust by the suppressant manufacturer to achieve and maintain dust control. Other equally effective dust suppression agents may be used upon prior approval by the director. For purposes of this paragraph, any used, spent, or other waste oil is not considered a dust suppression agent.

5. Rather than meet the no visible emission requirement of 9 VAC 20-80-640E2, the owner or operator may use an alternate emission control method that has received prior written approval by the EPA Administrator.

6. ~~5.~~ Recordkeeping and reporting.

a. Waste shipment records. For all ACM received, the owner or operator of the solid waste disposal facility shall:

~~(1) Complete each waste shipment record submitted by the asbestos waste generators for each shipment received by the disposal facility by noting shipment discrepancies and dating and signing the waste shipment record. The discrepancies will include:~~

~~(a) The presence of improperly enclosed or uncovered waste, or any ACM not sealed in leak-tight containers or wrappings; and~~

~~(b) A discrepancy between the quantity of waste designated on the waste shipment record and the quantity actually received.~~

(1) Maintain waste shipment records using a form similar to that shown in Figure 4, § 61.149, Part 61, Title 40, Code of Federal Regulations, and include the following information:

(a) The name, address, and telephone number of the waste generator.

(b) The name, address, and telephone number of the transporter(s).

(c) The quantity of the waste ACM in cubic meters or cubic yards.

(d) The presence of improperly enclosed or uncovered waste, or any waste ACM not sealed in leak-tight containers. Report in writing to the local, state, or EPA Regional office responsible for administration of asbestos NESHAP program for the waste generator (identified in the waste shipment record), and, if different, to the Occupational Health Division, Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, by the following working day, the presence of a significant amount of improperly enclosed or uncovered waste. Submit a copy of the waste shipment record along with the report.

(e) The date of the receipt.

(2) As soon as possible and no longer than 30 days after receipt of the waste, send a copy of the signed waste shipment record to the waste generator.

~~(3) Report in writing to the Department of Air Pollution Control, Room 801, Ninth Street Office Building, Post Office Box 10089, Richmond, Virginia 23240, by the following working day the presence of improperly enclosed or uncovered waste. Submit a copy of the waste shipment record along with the report.~~

(3) (4) Upon discovering the discrepancy in the shipment quantity between the quantity of waste designated on the waste shipment records and the quantity actually received, attempt to reconcile such discrepancy with the waste generator. If the discrepancy is not resolved within 15 days after receiving the waste, immediately report it in writing to the local, state or EPA Regional office responsible for administering the asbestos NESHAP program for the waste generator (identified in the waste shipment record), and, if different, the Department of Air Pollution Control Labor and Industry at the above address 13 South 13th Street, Richmond, Virginia 23219. Describe the discrepancy and the attempts to reconcile it, and submit a copy of the waste shipment record along with the report.

~~(4)~~ ~~(5)~~ Retain a copy of all records and reports required by 9 VAC 20-80-640E6a. for at least two years.

b. Disposal records. The owner or operator of a solid waste management facility receiving ACM shall:

(1) Initiate and maintain, until closure, records of the location, depth and area, and quantity in cubic meters (cubic yards) of ACM within the disposal site on a map or diagram of the disposal area.

(2) Submit to the director, upon closure of the facility, a copy of records of asbestos waste disposal locations and quantities.

c. Furnish upon request by the director ~~of the Department of Waste Management or the Executive Director of the Department of Air Pollution Control~~, and make available during normal business hours for inspection, all records required by 9 VAC 20-80-540E6b.

~~6. The owner or operator of the solid waste management facility receiving ACM shall institute an occupational safety and health program required under '1910.1001 or 1910.1101, Title 29, Code of Federal Regulations, as applicable.~~

7. Closure and post-closure care. In addition to the requirements contained in ~~9 VAC 20-80-320 Part V~~, the owner or operator of a solid waste disposal facility receiving the ACM shall, ~~a.~~ within 60 days of the closure of the site, record with the county clerk's office a notation on the deed to the facility property or any other document that would normally be examined during a title search that will in perpetuity notify any purchaser of the property that:

~~a.~~ ~~(1)~~ The property has been used for the disposal of ACM;

~~b.~~ ~~(2)~~ The copy of the survey plot and the record of location and quantity of ACM disposed are attached to the notation; and

~~c.~~ ~~(3)~~ The site is subject to regulation ~~by the Department of Air Pollution Control under Subpart M of VR 120-06-0102.~~ under 9 VAC 5-60-70.

~~b. Maintain the access control required under 9 VAC 20-80-640E4 to include fencing and signs during the post-closure period.~~

8. Disturbance of disposed waste.

a. The owner or operator of an active or a closed asbestos waste disposal facility shall request the director in writing to approve disturbance of disposed waste at least 45 days prior to excavating or otherwise disturbing any ACM that has been deposited at the facility.

b. The request shall contain the following information:

(1) Scheduled starting and completion dates;

(2) Reasons for disturbing the waste;

(3) Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated ACM; and

(4) Location of any temporary storage site and the ultimate disposal site.

c. ~~Upon consultation with the Department of Air Pollution Control,~~ The director shall:

- (1) Approve the request;
- (2) Require additional information and resubmission of the request; or
- (3) Deny the request, giving the reasons for denial. [

**9 VAC 20-80-650. ~~9 VAC 20-80-850~~ Wastes containing polychlorinated biphenyls (PCB's).**

~~[A. Solid wastes containing PCB with concentrations of 50.0 ppm or more are regulated by the U.S. Environmental Protection Agency (EPA) and may not be disposed of or stored in the State without specific approval of the EPA. This prohibition includes all spill cleanup residues.~~

—~~B. ]Solid wastes containing PCB concentrations [between above] 1.0 ppm [and 50.0 ppm] are restricted to disposal in sanitary landfills or industrial waste landfills with leachate collection, liners, and appropriate groundwater monitoring as required in Part V of this chapter. Disposal of solid wastes containing PCB with concentrations above 50 ppm may be approved by the director on a case-by-case basis depending on their exemption status under the federal regulations under Part 761, Title 40, Code of Federal Regulations.~~

**9 VAC 20-80-660. Liquids.**

Free liquids cannot be disposed of in a landfill. Free liquids and poorly contained liquids shall be absorbed on solid material before being placed in a sanitary landfill.

**9 VAC 20-80-670. Tires.**

A. Unless exempt under 9 VAC 20-80-60D1[10 or 9 VAC 20-80-160A6], owners or operators of a waste tire storage unit or facility, to include sites engaged in speculative accumulation, shall obtain a permit in accordance with standards contained in 9 VAC 20-80-340 or 9 VAC 20-80-[400 350,] as appropriate.

B. Owners or operators of units or facilities that store waste tires in containers such as trailers shall, in addition to requirements contained in 9 VAC 20-80-340:

1. Establish and maintain a contractual agreement for prompt removal of the waste tires from the facility;
2. Obtain approval for the storage area from the local fire marshall;
3. Include in the contingency plan required under 9 VAC 20-80-340 D 3 a section that describes actions that will be taken in response to a fire or release of product of combustion which would threaten human health or the environment. The plan shall also provide for the worst case contingency such as a fire at the facility when its inventory is at its maximum capacity. Consideration must be provided regarding on-site water supply, access routes to the site, security, alarms, training, drills and on-site protection equipment; and
4. Not store waste tires in excess of the quantity specified in the permit.

C. Owners or operators of facilities that store or treat waste tires in piles shall, in addition to the requirements contained in 9 VAC 20-80-[400 350]:

1. Place the waste tires in piles that:
  - a. Do not exceed five feet in height;
  - b. Do not exceed 5,000 square feet in base surface area; and

- c. Do not exceed 50 feet in width.
- 2. Provide a minimum separation distance of 50 feet between waste tire piles and between waste pile and any structure. These separation areas shall be maintained free of obstructions and maintained in such a manner that emergency vehicles will have adequate access to all waste tire management areas.
- 3. Unless the waste tire pile is located at a disposal facility regulated under 9 VAC 20-80-250 or 9 VAC 20-80-260:
  - a. Provide a berm of soil between all waste tire piles in the storage area. The berm shall extend as high as the height of the waste tire pile;
  - b. In addition to any material in the berm, for each waste tire pile, provide and maintain a stockpile of 20 cubic yards of soil within 200 feet of each pile; and
  - c. Provide a fence around the entire storage and treatment area to control access to the storage facility.
- 4. Include in the contingency plan required under 9 VAC 20-80-[400 350 ]D 3 a section which describes actions that will be taken in response to a fire or release of product of combustion which would threaten human health or the environment. The plan shall also provide for the worst case contingency such as a fire at the facility when its inventory is at its maximum capacity. Consideration must be provided regarding on-site water supply, access routes to the site, security, alarms, training, drills and on-site protection equipment.
- 5. Not store waste tires in excess of the quantity specified in the permit.

**D.** More than 1,000 discarded tires shall not be stored at a solid waste ~~management~~ disposal facility unless the permit for the facility expressly allows such storage. Tires disposed of in a sanitary or ~~construction/demolition/~~debris landfill shall be split, cut, or shredded before disposal and should be dispersed in the workface with other solid wastes. Alternate burial not incorporating cutting or splitting at a specific facility may be approved if the method will assure that tires will not emerge from the burial facility.

**9 VAC 20-80-680. Drums.**

Drums and other bulk containers shall not be disposed until emptied, properly cleaned and opened at both ends. and crushed. Pesticide containers shall be triple rinsed before disposal.

**9 VAC 20-80-690. White goods.**

Appliances and other white goods may be accumulated at a facility for not more than 60 days prior to salvage or disposal. An alternate schedule may be approved.

**9 VAC 20-80-700. Soil contaminated with petroleum products.**

**A.** Applicability.

- 1. The specific requirements contained in this section apply to requests by the owner or operator of a solid waste disposal facility for approval of disposal of soil contaminated solely with petroleum and petroleum products, including but not limited to diesel fuels, kerosene, gasoline, hydraulic fluids, JP-4, and motor oil.

2. Any contaminated soil from a state other than Virginia that is classified as a hazardous waste in the state of origin shall be managed as a hazardous waste. Such wastes are not acceptable for disposal in a solid waste management facility in the Commonwealth.

**B. Required Information.**

1. A statement from the generator certifying that the soil is non-hazardous waste as defined by the Virginia Hazardous Waste Management Regulations or federal regulations under Subtitle C, Resource Conservation and Recovery Act.
2. The amount of petroleum contaminated soil to be disposed.
3. A description of the sampling protocol and a copy of all laboratory analyses.
4. If generated in a state other than Virginia, certification from the generator that the waste is not considered a hazardous waste in its state of generation.

**C. Testing Requirements.**

1. Analytical methods. Following methods shall be used in the analysis of the contaminated soil:

a. The presence of any free liquid shall be determined by EPA SW-846 method 9095, Paint Filter Liquids Test.

~~b. The total petroleum hydrocarbon (TPH) concentrations shall be determined by using EPA method 418.1 for chemical analysis of water and wastewater, which has been modified for use with soil.~~

b. The total petroleum hydrocarbon (TPH) concentration shall be determined by using EPA SW-846 method 5035/8015B.

~~c. b.] e.~~ The sum concentration of benzene, toluene, ethyl benzene, and xylene (BTEX) [ , toluene, ethyl benzene, and xylene (BTEX)] concentrations shall be determined by using EPA SW-846 method [5030/8020 8021B.

~~d. e] d.~~ The soil shall be tested for total organic halogens (TOX) in accordance with test methods contained in EPA SW-846.

~~e. The soil contaminated by leakage from an underground tank shall be tested for EP toxicity using EPA SW 846 method 1310. If the tank contained motor oil the testing may be limited to heavy metals; tanks that contained all other petroleum products shall be tested for lead and any other compound covered by that test known to be present.~~

e. f. The soil [contaminated as a result of anything other than leakage from an underground storage tank] shall be tested by the Toxicity Characteristic Leaching Procedure (TCLP). If the [the soil was contaminated by a material from a] tank [that] contained [virgin] motor oil [ ,] the testing may be limited to heavy metals; tanks that contained all other [petroleum products materials] shall be tested for lead and any other compound covered by that test known to be present. If other TCLP constituents are not tested for, the generator shall be able to certify that the soil is not a hazardous waste, and certify that it did not contain those constituents not tested.

2. Sampling. A minimum of one composite sample shall be analyzed for each required test for every 100 cubic yards of soil to be disposed. In the case of soil reclaimed by thermal treatment, a minimum of one sample shall be analyzed for every production day composited hourly. [For very large amounts of soil the sampling rates may be adjusted with the approval of the director.]

3. ~~Waivers.~~

~~a. In the case of soil contaminated with gasoline, the testing requirements for EP toxicity or TCLP for lead, TOX, or the paint filter liquids test may be waived, if the request for disposal contains a statement from the State Water Control Board that the material was contaminated with unleaded gasoline, does not contain any halogenated hydrocarbons, or free liquids. The statement from the SWCB may certify any or all of the above. The waiver shall be granted by the Department. [~~

a. In the case of soil contaminated with gasoline, the testing requirements for TCLP for lead, TOX, or the paint filter liquids test may be waived, if the department staff determines that the material was contaminated with unleaded gasoline, does not contain any halogenated hydrocarbons, or free liquids..

~~b. a] b. Waiver for BTEX [BTEX benzene] testing requirements may be granted, if the generator can provide sufficient documentation that the material does not contain any benzene, toluene, ethyl benzene, or xylenes, [toluene, ethyl benzene, or xylenes,] and the amount of material to be disposed is less 20 cubic yards.~~

**D. Disposal Criteria.**

1. Soils failing the ~~EP toxicity or the~~ TCLP test shall be managed in accordance with the Virginia Hazardous Waste Management Regulations.

2. Soils exhibiting greater than 100 milligram per kilogram (mg/kg) of TOX may not be disposed of until separate approval from the department is granted. This request shall document the cause for the high TOX level.

~~3. If the concentration of total BTEX is greater than 10 mg/kg or TPH is greater than 500 mg/kg, the soil cannot be disposed of in any sanitary or industrial landfill unless the facility permit expressly allows such disposal. [~~

3. If the concentration of total BTEX is greater than 10 mg/kg or TPH is greater than 500 mg/kg, the soil cannot be disposed of in any sanitary or industrial landfill unless the facility permit expressly allows such disposal.]

~~4. If the concentration of TPH is less than 500 mg/kg and total BTEX is less than 10 mg/kg, the disposal of the contaminated soil may be approved for permitted sanitary or industrial landfills equipped with liners and leachate collection systems. [~~

4. If the concentration of TPH is less than 500 mg/kg and total BTEX is less than 10 mg/kg, the disposal of the contaminated soil may be approved for permitted sanitary or industrial landfills equipped with liners and leachate collection systems.

~~3. 5. If the concentration of ]TPH is less than 100 mg/kg and total BTEX [benzene is less than] 10 [40 mg/kg, the disposal of the contaminated soil may be approved for any a permitted sanitary or industrial landfill.~~

5. ~~4-6.] Soil containing [toxic constituents at a level below~~ less than 50 mg/kg TPH and total BTEX less than 10 mg/kg] ~~less than 50 mg/kg TPH and total BTEX less than 10 mg/kg [the health based risk level in the range of  $10^{-6}$  to  $10^{-4}$ ]~~ may be used as clean fill. This soil, however, may not be disposed of closer than 100 feet of any regularly flowing surface water body or river, 500 feet of any well, spring or other groundwater source of drinking water, and 200 feet from any residence, school, hospital, nursing home or recreational park area. In addition, if the soil is not to be disposed of on the generator's property, the generator shall notify the property owner that the soil is contaminated and with what it is contaminated.

**E. Exemptions.**

1. Contaminated soil resulting from ~~[an underground a]~~ storage tank release or from a spill may be considered for an exemption from the limits~~[and/or testing]~~ specified in 9 VAC 20-80-700D where the total volume of contaminated soil from a cleanup site is less than 20 cubic yards, and the contaminated soil is not a hazardous waste. ~~This exemption may only be granted by the Department.~~
2. ~~The State Water Control Board~~ director may approve the disposal of contaminated soil resulting from an emergency cleanup of a spill of petroleum products, provided that the waste is non-hazardous as defined by the Virginia Hazardous Waste Management Regulations or by federal regulations under Subtitle C, RCRA, ~~and the State Water Control Board notifies the Department regarding the spill.~~
3. Soil contaminated with petroleum products resulting from ordinary household functions may be disposed with the general household waste.

**9 VAC 20-80-710. Lead Acid Batteries**

**A.** Discarding, placing with municipal mixed solid waste, or otherwise disposing of used lead acid (wet-cell) batteries is prohibited (see 9 VAC 20-80-70). All such batteries shall be delivered to a battery retailer, an agent of the battery wholesaler, a battery manufacturer, a secondary lead smelter, or a collection or reclamation facility permitted or otherwise authorized by the department, or other state or federal regulations.

**B.** Any person selling lead acid batteries at retail or offering lead acid batteries for retail sale in the Commonwealth shall:

1. Accept from customers, at the point of transfer, used lead acid batteries of the type and in a quantity at least equal to the number of new batteries purchased, if offered by customers; and
2. Post written notice which shall be at least 82 inches by 11 inches in size and which shall include the universal recycling symbol and the following language:
  - a. "It is illegal to discard a motor vehicle battery or other lead acid battery,"
  - b. "Recycle your used batteries," and
  - c. "State law requires us to accept used motor vehicle batteries or other lead acid batteries for recycling, in exchange for new batteries purchased."

NOTE: Printed notices are available from the department upon request.

**C.** A person accepting batteries in transfer from a battery retailer shall be allowed a period not to exceed ninety days to remove batteries from the retail point of collection.

**D.** A person who does not sell new batteries but who collects, stores, and reclaims used lead acid batteries shall be considered to operate a materials recovery facility regulated under Parts VIRGINIA and VII of this chapter or Part XIII of Virginia Hazardous Waste Management Regulations, as applicable

**PART IX.**  
**RULEMAKING PETITIONS AND PROCEDURES.**

**9 VAC 20-80-730. General.**

A. Any person affected by these regulations may petition the director to grant a variance or an exemption from any requirement of these regulations, subject to the provisions of this part. Any petition submitted to the director is also subject to the provisions of the Virginia Administrative Process Act (§§ 9-6.14:1 to 14:25).

B. The director will not accept any petition relating to:

1. Equivalent testing or analytical methods contained in EPA Publication SW-846;
2. Definition of solid waste contained in ~~9 VAC 20-80-640-E.5~~ 9 VAC 20-80-140;
3. Criteria used for classification of solid waste disposal facilities contained in Parts 257 and 258, Title 40, Code of Federal Regulations; and
4. A change in the regulatory requirements which the petitioner is currently violating until such time as the violation has been resolved through the enforcement process.

**9 VAC 20-80-740. Exemptions to classification as a solid waste.**

A. Applicability.

1. A person who uses, reuses, or reclaims waste that is managed entirely within the Commonwealth may petition the director to exclude the waste at a particular site from the classification as the solid waste (see Parts I and III). The conditions under which a petition for a variance will be accepted are shown in 9 VAC 20-80-740B. The wastes excluded under such petitions may still, however, remain classified as a solid waste for the purposes of other regulations issued by the Virginia Waste Management Board or other agencies of the Commonwealth.
2. A person who generated wastes at a generating site in Virginia and whose waste is transported across state boundaries, shall first obtain favorable decision from the appropriate agencies of other states before his waste may be considered for an exemption by the director.
3. A person who uses, reuses, or reclaims materials from a generating site outside the Commonwealth and who causes them to be brought into the Commonwealth for use, reuse, or reclamation shall first obtain favorable decision from the appropriate authorities in that state before the waste may be considered for an exemption by the director.

B. Conditions for an exemption. As the result of a petition and in accordance with the standards and criteria in 9 VAC 20-80-740C and the procedures in 9 VAC 20-80-790, the director may determine on a case-by-case basis that the following used, reused or reclaimed materials are exempt for the purposes of these regulations:

1. Materials that are accumulated speculatively without sufficient amounts being used, reused or reclaimed (as defined in Part I);
2. Materials that are reclaimed and then reused within the original primary production process in which they were generated;

3. Materials that have been reclaimed but shall be reclaimed further before the materials are completely recovered; and
4. Materials that are reclaimed and then reused in applications involving their placement into land.

C. Standards and criteria for exemptions.

1. The director may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being used, reused or reclaimed if the applicant demonstrates that sufficient amounts of the material will be used, reused or reclaimed or transferred for use, reuse or reclamation in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The director's decision will be based on the following standards and criteria:

- a. The manner in which the material is expected to be used, reused or reclaimed, and when the material is expected to be used, reused or reclaimed, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangement for use, reuse or reclamation);
- b. The reason that the applicant has accumulated the material for one or more years without use, reuse or reclamation 75% of the volume accumulated at the beginning of the year;
- c. The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is used, reused or reclaimed;
- d. The extent to which the material is handled to minimize loss;
- e. Other relevant factors.

2. The director may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

- a. How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;
- b. The prevalence of the practice on an industry-wide basis;
- c. The extent to which the material is handled before reclamation to minimize loss;
- d. The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;
- e. The location of the reclamation operation in relation to the production process;
- f. Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;
- g. Whether the person who generates the material also reclaims it; and
- h. Other relevant factors.

3. The director may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but shall be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

- a. The degree of processing the material has undergone and the degree of further processing that is required;
- b. The value of the material after it has been reclaimed;
- c. The degree to which the reclaimed material is like an analogous raw material;
- d. The extent to which an end market for the reclaimed material is guaranteed;
- e. The extent to which the reclaimed material is handled to minimize loss; and
- f. Other relevant factors.

4. The director may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused in applications involving placement into land. This determination will be based on the following factors:

- a. How economically advantageous is the utilization process using reclaimed materials compared to the virgin materials;
- b. The prevalence of the practice on an industry-wide basis;
- c. The extent to which the material is handled before reclamation to minimize loss;
- d. The location of the generating and reclamation operations in relation to the utilization process;
- e. The chemical and physical characteristics of the material prior and after the reclamation process;
- f. An estimate of the rate of annual usage of the reclaimed material;
- g. Whether the person who generates the material also reclaims it;
- h. Proximity of emplaced materials to ground and surface waters; and
- i. Other factors relevant to public health and the environment.

**9 VAC 20-80-750. Variances to permitting requirements.**

A. Application and conditions.

1. The director may grant a variance from any regulation contained in Parts V ~~through VI, and~~ VIII to an applicant if the applicant demonstrates to the satisfaction of the director that:

- a. Strict application of the regulation to the facility will result in undue hardship that is caused by the applicant's particular situation; or
  - (1) The alternate design or operation will result in a facility that is equally protective of the human health and the environment as that provided for in the regulations; or

(2) Technical conditions exist that make a strict application of the regulation difficult to achieve; and

b. Granting the variance will not result in an unreasonable risk to the public health or the environment.[

~~2. Extension of the statutory deadlines. The director may grant a variance from the statutory deadlines contained in 9 VAC 20-80-60B provided that:~~

~~a. In the case of a sanitary landfill, the applicant petitions for vertical extension of an existing disposal unit to be operated after October 9, 1993, and demonstrates that unit encompasses only the area that has received or will receive waste prior to October 9, 1993, and furnishes documentation required in 9 VAC 20-80-750A2c. Any enlargement of the footprint of the area would be considered a lateral expansion and will not be considered for a variance. Variances will not be granted to those facilities that prematurely enlarge their units prior to October 9, 1993, to avoid compliance with these regulations, when such enlargement is not consistent with past operating practices, the permit, or modified operating practices to ensure good management.~~

~~b. In the case of all other solid waste management facilities, the applicant petitions to continue to operate the facility in accordance with its permit after October 9, 1993, and demonstrates that he has made good faith effort to comply with the statutory deadline and furnishes documentation required in 9 VAC 20-80-750A2c.~~

~~c. In support of his petition the applicant shall provide the following documentation:~~

~~(1) Certification by the applicant that the solid waste management facility is in compliance with the current permit;~~

~~(2) Certification by the registered professional engineer that the solid waste management facility, because of its location, construction, and protective measures to prevent pollution, is not an open dump and does not pose a substantial present or potential hazard to human health and the environment;~~

~~(3) Certification by the applicant that the solid waste management facility is maintained and operated in such a manner so as not to constitute an open dump or pose a substantial present or potential hazard to human health and the environment;~~

~~(4) Certification by the registered professional engineer that the leachate or residues from the solid waste management facility do not pose a threat of contamination or pollution of the air, surface waters or groundwater in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health and the environment;~~

~~(5) Certification by the applicant that the solid waste management facility is in compliance with the Financial Assurance Regulation for Solid Waste Facilities (9 VAC 20-70-10 et seq.), if applicable; and~~

~~(6) In case of sanitary landfills, documentation which demonstrates that waste placement is and has been consistent with past operating practices, the permit, or modified practices to ensure good management.]~~

**B. Effects of the Decisions.**

1. When the director renders a decision under 9 VAC 20-80-750 in accordance with the procedures contained in 9 VAC 20-80-790, he may:
  - a. Deny the petition;
  - b. Grant the variance as requested; or
  - c. Grant a modified or partial variance.
2. When a modified variance is granted, the director may:
  - a. Specify the termination date of the variance;
  - b. Include a schedule for:
    - (1) Compliance, including increments of progress, by the facility with each requirement of the variance; and
    - (2) Implementation by the facility of such control measures as the director finds necessary in order that the variance may be granted.

**9 VAC 20-80-760. Variance to groundwater protection levels.**

**A. Application and Conditions.** The director may grant a variance to groundwater protection levels contained in Part V of these regulations to an owner or operator of a solid waste disposal facility by establishing an alternate concentration limit for a solid waste constituent if the owner or operator shows to the satisfaction of the director that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded.

**B. Basis for the Decision.** In establishing alternate concentration limits, the director will consider the following factors:

1. Potential adverse effects on groundwater quality, considering:
  - a. The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;
  - b. The hydrogeological characteristics of the facility and surrounding land;
  - c. The quantity of groundwater and the direction of groundwater flow;
  - d. The proximity and withdrawal rates of groundwater users;
  - e. The current and future uses of groundwater in the area;
  - f. The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;
  - g. The potential for health risks caused by human exposure to waste constituents using:
    - (1) Federal guidelines for assessing the health risks of environmental pollutants;
    - (2) Scientifically valid studies conducted in accordance with the Toxic Substances Control Act Good Laboratory Practice Standards (40 CFR Part 792) or equivalent;

- (3) For carcinogens, concentrations associated with an excess lifetime cancer risk level (due to continuous lifetime exposure) with the  $1 \times 10^{-4}$  to  $1 \times 10^{-6}$  range; and
  - (4) For systemic toxicants, concentrations to which the human population (including sensitive subgroups) could be exposed to on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime;
  - h. The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;
  - i. The persistence and permanence of the potential adverse effects; and
2. Potential adverse effects on hydraulically-connected surface water quality, considering:
- a. The volume and physical and chemical characteristics of the waste in the regulated unit;
  - b. The hydrogeological characteristics of the facility and surrounding land;
  - c. The quantity and quality of groundwater, and the direction of groundwater flow;
  - d. The patterns of rainfall in the region;
  - e. The proximity of the regulated unit to surface waters;
  - f. The current and future uses of surface waters in the area and any water quality standards established for those surface waters;
  - g. The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;
  - h. The potential for health risks caused by human exposure to waste constituents using factors shown in 9 VAC 20-80-760B1g;
  - i. The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and
  - j. The persistence and permanence of the potential adverse effects.
3. In making any determination under 9 VAC 20-80-760, the director will:
- ~~a. Consider any identification of underground sources of drinking water as identified by EPA under 40 CFR 144.8.~~
  - ~~b. Coordinate the petition with the State Water Control Board and obtain its advice and concurrence.~~
- C. Effects of the decisions.
1. When the director renders a decision under 9 VAC 20-80-760 in accordance with the procedures contained in 9 VAC 20-80- 790, he may:
    - a. Deny the petition;
    - b. Grant the alternate concentration limit as requested; or
    - c. Grant a modified alternate concentration limit.
  2. When a variance is granted, the director may:

- a. Specify additional or modified monitoring requirements; or
- b. Include a schedule for:
  - (1) Periodic review of the alternate concentration limit; or
  - (2) Implementation by the facility of such control measures as the director finds necessary in order that the variance may be granted.

**9 VAC 20-80-770. Variance to Location of the Groundwater Monitoring System.**

**A.** The applicant may petition the director to approve a location for the groundwater monitoring system other than at the waste management boundary as required by 9 VAC 20-80-250D3a, 9 VAC 20-80-260D3a, or 9 VAC 20-80-270D3a, if he can demonstrate that the response time is sufficiently long to identify and remediate or otherwise contain groundwater that may become impacted before it reaches the facility boundary. This alternate point of compliance with the groundwater monitoring requirements shall be located within the facility boundary and shall not be located farther downgradient than 500 feet from the waste management boundary.

**B.** To be considered, the petition shall provide information on:

- 1. The hydrogeologic characteristics of the facility and surrounding land. The information shall include an estimate of the width and depth of a plume that may migrate from the disposal unit.
- 2. The volume and physical and chemical characteristics of the leachate.
- 3. The quality, quantity, and direction of groundwater flow. This information shall include a determination whether contaminants from the unit will be detectable at the proposed point of compliance.
- 4. The proximity and withdrawal rate of the groundwater users. This information shall include the estimate of time of travel to private or public supply wells.
- 5. The availability of alternate drinking water supplies in the event of a groundwater contamination problem.
- 6. The existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater and whether groundwater is currently used or reasonably expected to be used for drinking water.
- 7. Practicable capability of the owner or operator. The information shall include an indication of financial capability of the owner or operator to maintain a longer and more costly corrective action program owing to the longer detection time frame associated with the proposed point of compliance.

**C.** Based on the information received the director will consider the potential overall effect on public health, welfare, and safety of the proposed point of compliance. Consideration will include:

- 1. Distance to the facility boundary and to the nearest groundwater user or potentially affected surface water;
- 2. The response time required to remediate or otherwise contain groundwater that may become impacted and potentially affect downgradient water supplies; and
- 3. Risk that detection may not be representative of worst case condition of the groundwater.

### **9 VAC 20-80-780. Variance to the Liner System Design.**

A. The director may grant a variance to the composite liner system design required by 9 VAC 20-80-250B9 if the owner or operator of the facility demonstrates to the satisfaction of the director that the proposed alternate liner system design will ensure that the concentration values listed in APPENDIX 9.1 will not be exceeded in the uppermost aquifer at the waste management boundary.

B. The demonstration shall be based on the consideration of the following factors:

1. The hydrogeologic characteristics of the facility and surrounding land;
2. The climatic factors of the area;
3. The volume and physical and chemical characteristics of the leachate;
4. The quantity, quality, and direction, of flow of groundwater;
5. The proximity and withdrawal rate of the groundwater users;
6. The availability of alternative drinking water supplies;
7. The existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater, and whether the groundwater is currently used or reasonably expected to be used for drinking water;
8. Public health, safety, and welfare effects; and
9. Practicable capability of the owner or operator.

C. The demonstration shall be supported by the results of a mathematical modeling study based on the EPA MULTIMED model.<sup>xiii</sup> Other models may be used if accompanied by justification describing the reasons for inapplicability of the MULTIMED model.<sup>2</sup>

### **§ 9.6 9 VAC 20-80-790. Administrative Procedures.**

A. Submission of Petition.

1. General Petitioning Requirements. All petitions submitted to the director shall include:

- a. The petitioner's name and address;
- b. A statement of petitioner's interest in the proposed action;
- c. A description of desired action and a citation to the regulation from which a variance is requested;
- d. A description of need and justification for the proposed action;
- e. The duration of the variance, if applicable;
- f. The potential impact of the variance on public health or the environment;
- g. Other information believed by the applicant to be pertinent; and
- h. The following statements signed by the petitioner or his authorized representative:

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<sup>2</sup> For a listing and review of models see Travers, C.L., and S. Sharp-Hansen, *Leachate Generation and Migration at Subtitle D Facilities: A Summary and Review of Processes and Mathematical Models*, United States Environmental Protection Agency, Environmental Research Laboratory, Athens, Georgia (1991).

*"I certify that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

2. Additional requirements for petitions under 9 VAC 20-80-740. In addition to the general information required of all petitioners under 9 VAC 20-80-790A1:

a. To be successful the petitioner shall address the applicable standards and criteria listed in 9 VAC 20-80-740C.

b. For petitions submitted under 9 VAC 20-80-740B4 following additional information is required:

(1) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the petition;

(2) A description of the methodologies and equipment used to obtain representative samples and analyses, to include:

(a) The name and address of the laboratory facility performing the sampling on tests of the waste, if different from that of the petitioner;

(b) The qualifications of the persons sampling and testing the wastes;

(c) The dates of sampling and testing;

(d) A description of sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of samples; and

(e) A description of the tests performed and the results obtained.

(3) The description of the reclamation processes.

3. Additional requirements for petitions under 9 VAC 20-80-750. In addition to the general information required of all petitioners under 9 VAC 20-80-790A1, the petitioner shall submit:

a. An explanation of the applicant's particular situation which prevents the facility from achieving compliance with the cited regulation;

b. Other information as may be required by the department.

#### **B. Petition Processing.**

1. After receiving a petition that includes the information required in 9 VAC 20-80-790A, the director will determine whether the information received is sufficient to render the decision. If the information is deemed to be insufficient, the director will specify additional information needed and request that it be furnished.

2. The petitioner may submit the additional information requested, or may attempt to show that no reasonable basis exists for the request for additional information. If the director agrees that no reasonable basis exists for the request for additional information, he will act in accordance with 9 VAC 20-80-790B3. If the director continues to believe that a reasonable basis exists to require

the submission of such information, he will proceed with the denial action in accordance with the Virginia Administrative Act (VAPA).

3. After the petition is deemed complete:

- a. The director will make a tentative decision to grant or deny the petition;
- b. In case that petition may be tentatively denied, the director will offer the petitioner the opportunity to withdraw the petition, submit additional information, or request the director to proceed with the evaluation;
- c. Unless the petition is withdrawn, the director will issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement in the locality where the applicant is located. The director will accept comment on the tentative decision for 30 days.
- d. Upon a written request of any interested person, the director may, at his discretion, hold an informal fact finding meeting described in Article 3, Virginia Administrative Process Act. A person requesting a hearing shall state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold such a meeting.
- e. After evaluating all public comments the director will, within 15 days after the expiration of the comment period:
  - (1) Notify the applicant of the final decision; and
  - (2) Notify all persons who commented on the tentative decision [~~or publish it in a newspaper having circulation in the locality.~~]

C. Petition Resolution.

1. In the case of a denial, the petitioner has a right to request a formal hearing to challenge the rejection.
2. If the director grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the director that the petitioner has failed to comply with any variance requirements.

APPENDIX 9.1  
~~MAXIMUM CONTAMINANT LEVELS~~  
CONCENTRATION LEVELS FOR ALTERNATE LINER  
DESIGN

— For the convenience of the regulated community the most recent values of the maximum contaminant levels adopted under the federal Safe Drinking Water Act (21 USC ' 349; 42 USC " 201, 300 f to 300 j 9) are shown the following table:

<u>Chemical</u>	<u>MCL</u>
<u>Concentration(mg/liter)</u>	
Arsenic	0.05
Barium	1.0
Benzene	0.005
Cadmium	0.01
Carbon tetrachloride	0.005
Chromium (hexavalent)	0.05
2,4-Dichlorophenoxy acetic acid	0.1
1,4-Dichlorobenzene	0.075
1,2-Dichloroethane	0.005
1,1-Dichloroethylene	0.007
Endrin	0.0002
Fluoride	4
Lindane	0.004
Lead	0.05
Mercury	0.002
Methoxychlor	0.1
Nitrate	10
Selenium	0.01
Silver	0.05
Toxaphene	0.005
1,1,1-Trichloromethane	0.2

Trichloroethylene	0.005
2,4,5-Trichlorophenoxy acetic acid	0.01
Vinyl Chloride	0.002

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ii. ~~The regulatory requirements pertain only to the list of substances; the right hand columns (Methods and PQL) are given for informational purposes only. See also notes 5 and 6.~~

iii. Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

iv. Chemical Abstracts Service Registry Number. Where "Total" is entered, all species in the groundwater that contain this element are included.

v. CAS index names are those used in the 9th Collective Index.

~~Analytical Methods refer to analytical procedure numbers used in EPA Report SW 846 latest "Methods for Evaluating Solid Waste", third edition, November 1986, as revised, December 1987.~~

~~Practical Quantitation Limits (PQLs) are the lowest concentrations of analytes in groundwaters that can be reliably determined within specified limits of precision and accuracy by the indicated methods under routine laboratory operating conditions. The PQLs listed are generally stated to one significant figure. PQLs are based on 5 mL samples for volatile organics and 1 liter samples for semivolatile organics.~~

. This substance is often called Bis(2-chloroisopropyl) ether, the name Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2,2'-oxybis{2-chloro- (CAS RN 39638-32-9).

. Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12739-03-6). ~~PQL shown is for technical chlordane. PQLs of specific isomers are about 20 µg/L by method 8270.~~

viii. Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5). ~~The PQL shown is an average value for PCB congeners.~~

. Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-2), i.e., chlorinated camphene.

. Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7). ~~PQLs for method~~

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8021 are 0.2 for o xylene and 0.1 for m- or p- xylene. The PQL for m- xylene is 2.0 µg/L by method 8020 or 8260.

~~Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.~~

~~Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.~~

~~CAS index names are those used in the 9th Cumulative Index.~~

. Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

. Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included.

<sup>iii</sup>. Sharp-Hansen, S., C. Travers, P. Hummel, and T. Allison, *A Subtitle D Landfill Application Manual for Multimedia Exposure Assessment Model (MULTIMED)*, United States Environmental Protection Agency, Environmental Research Laboratory, Athens, Georgia (1990).