

VIRGINIA WASTE
MANAGEMENT
BOARD

SEPTEMBER 6, 2023
REGULAR BOARD
MEETING

BOARD BOOK

TENTATIVE AGENDA

WASTE MANAGEMENT BOARD MEETING WEDNESDAY, SEPTEMBER 6, 2023

BANK OF AMERICA BUILDING
3RD FLOOR CONFERENCE ROOM
1111 E. MAIN STREET
RICHMOND, VIRGINIA

CONVENE – 10:30 A.M.

Agenda Item	Presenter	Tab
1. Call to Order		
2. Review and Approve Minutes (October 28, 2022)		A
3. Final Exempt Regulations – Annual Update 2023, Virginia Hazardous Waste Management Regulations (9VAC20-60)	Ellis	B
4. Final Exempt Regulations – Regulated Medical Waste Management Regulations Citation Update	Rohrer	C
a. Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities (9VAC20-70)		
b. Solid Waste Management Permit Action Fees and Annual Fees (9VAC20-90)		
c. Solid Waste Planning and Recycling Regulations (9VAC20-130)		
d. Transportation of Solid and Medical Wastes on State Waters (9VAC20-170)		
5. Final Exempt Regulations – Implementation of Chapter 503 of the 2023 Acts of Assembly (SB1050) and Regulated Medical Waste Management Regulations Citation Update, Solid Waste Management Regulations (9VAC20-81)	Perszyk	D
6. Division Director Report	Perszyk	
7. Public Forum		
8. Future Meetings		
9. Adjourn		

NOTES: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions, or deletions. Questions on the latest status of the agenda should be directed to Jill R. Hrynciw at (804) 929-6559 or Jill.Hrynciw@deq.virginia.gov.

PUBLIC COMMENTS AT WASTE MANAGEMENT BOARD MEETINGS

The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration.

For REGULATORY ACTIONS (adoption, amendment or repeal of regulations), public participation is governed by the

Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (issuance and amendment of permits and enforcement orders), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is an additional comment period, usually 45 days, during which the public hearing is held.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Also, public comment will be accepted for certain final exempt actions where there has been no public comment period. Persons are allowed up to 3 minutes to address the Board on the emergency regulation and final exempt actions under consideration.

POOLING MINUTES: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those persons wishing to address the Board during this time should indicate their desire when registering and limit their presentations to 3 minutes or less. Note, there is no pooling of minutes during the public forum.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Jill R. Hrynciw, Policy Analyst, Division of Policy, Department of Environmental Quality, 1111 E. Main Street, Suite 1400, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 929-6559; email Jill.Hrynciw@deq.virginia.gov

Additional Meeting Information

- Attendees are not entitled to be disorderly or disrupt the meeting from proceeding in an orderly, efficient, and effective fashion. Disruptive behavior may result in a recess of or removal from the meeting.

- Possession or use of any device that may disrupt the conduct of business is prohibited, including but not limited to: voice-amplification equipment; bullhorns; blow horns; sirens, or other noise-producing devices; as well as signs on sticks, poles or stakes; or helium-filled balloons.
 - Attendees shall not block or gather in exits, doors, or aisles.
 - Attendees shall not access non-public spaces/floors of the Building.
 - All attendees are asked to be respectful of all speakers.
 - Signs, banners, posters and other materials advocating the election or defeat of any candidate for public office may NOT be displayed at any time in any public space in the Building.
 - Signs, banners, posters and other materials larger than standard paper size or with profane messages are not permitted.
 - Rules will be enforced fairly and impartially enforced, not only to ensure the participation and enjoyment of all meeting attendees, but for those persons working in the building so that they are able to perform their responsibilities.
 - All violators are subject to removal.
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Tab A



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

TO: Members of the Virginia Waste Management Board

FROM: Jill R. Hrynciw

DATE: July 17, 2023

SUBJECT: Minutes

Attached are the minutes from your meeting on October 28, 2022. Staff will seek your approval of these minutes at your next regular meeting on September 6, 2023.

If you have any questions, please contact me at (804) 929-6559 or Jill.Hrynciw@deq.virginia.gov.

Attachment

MINUTES
VIRGINIA WASTE MANAGEMENT BOARD MEETING

FRIDAY, OCTOBER 28, 2022

Board Members Present:

EJ Scott, Chair	Amarjit Singh Riat	Eric A. DeGroff
Michael P. Benedetto	Jennifer P. Johnson	
Daniel R. Ciesla	Steven J. Yob	

Department of Environmental Quality (Department):

Michael S. Rolband, Director	Rachael Harrell	Priscilla Rohrer
Jenny Poland	Kathryn Perszyk	Jeffery Steers
Geoff Christe	Lisa Ellis	Jill Hrynciw
Melissa Porterfield	William Norris	

Attorney General's Office:

Katherine Kulbok, Assistant Attorney General

These minutes summarize activities that took place at this Board meeting. The meeting was convened by the chairperson, Ms. EJ Scott, at 10:02 a.m. and was adjourned at 12:57 p.m.

Minute No. 1 - Introductions.

Ms. EJ Scott led the Board, Agency Director and Assistant Attorney General in introductions.

Minute No. 2 - Minutes.

On a motion by Mr. DeGroff, and seconded by Mr. Riat, the Board unanimously approved the minutes from the Board's meeting on October 8, 2021.

Minute No. 3 – Final Exempt Regulations – Virginia Hazardous Waste Management Regulations (9VAC20-60), Annual Update 2022

Ms. Lisa Ellis of the Office of Financial Responsibility and Waste Programs presented a regulatory amendment to 9VAC20-60 for the Board's consideration for adoption. Ms. Ellis informed the Board that their Virginia Hazardous Waste Management Regulations under 9VAC20-60 are regularly amended to keep Virginia's regulation current with the federal regulations and that this annual update will cover the federal rules amended from July 1, 2021 to June 30, 2022. Ms. Ellis then provided an explanation of the changes to the regulations that were being included and explained that the Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes, (86 FR 54381 10/1/2021) would be adopted during a future regulatory update. It was explained that the process used for this amendment is the final exempt process as stipulated in the Administrative Process Act (APA). Ms. Ellis responded to questions from Board members regarding aerosol cans and outreach.

Based on the Board book material, staff presentation and Board discussions, the Board, on a motion by Mr. Benedetto and seconded by Mr. Riat, unanimously voted to adopt this amendment to 9VAC20-60 as a final regulation, authorized its publication, and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Minute No. 4 – Final Exempt Regulations – Regulations Governing the Transportation of Hazardous Materials (9VAC20-110), Annual Update 2022

Mr. William Norris of the Division of Water Planning presented a regulatory amendment to 9VAC20-110 for the Board’s consideration for adoption. Mr. Norris informed the Board that the Regulations Governing the Transportation of Hazardous Materials, 9VAC20-110, are amended to keep Virginia’s regulation current with the federal regulations in order for the Virginia State Police (VSP) to inspect and enforce the federal requirements for hazardous materials transport. Mr. Norris noted that this update will cover the federal rules amended by the U.S. Department of Transportation regarding the transportation of hazardous materials from October 1, 2020 to September 30, 2022. Mr. Norris then provided an explanation of the changes to the regulation and noted that the VSP had no comments on the proposed changes. It was explained that the process used for this amendment is the final exempt process as stipulated in the Administrative Process Act (APA).

Based on the Board book material, staff presentation and Board discussions, the Board, on a motion by Mr. Yob and seconded by Mr. Ciesla, unanimously voted to adopt this amendment to 9VAC20-110 as a final regulation, authorized its publication, and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Minute No. 5 – Final Regulations – Regulated Medical Waste Regulations (9VAC20-120)

Ms. Priscilla Rohrer of the Office of Financial Responsibility and Waste Programs presented a final regulation to 9VAC20-120. Ms. Rohrer explained the background history of these regulations and why the final regulation is necessary. Ms. Rohrer also explained that this final regulation, due to its reorganization and modernization of standards, will repeal Chapter 120 and will establish a new Chapter 121. The Board was then provided an outline of the proposed final regulation and Ms. Rohrer explained each part of the revised regulations. Part I will be the definitions which were revised to remove outdated terms. Part II will include general information including prohibitions and exemptions. Part III will include the standards for the management RMW. Part IV will include the standards for permitted RMW transfer stations and treatment facilities and this part was reorganized to make the sections more intuitive and consistent in format with the Solid Waste Management Regulations. Ms. Rohrer discussed the requirements including the new requirements for recordkeeping, waste control, training and for modernizing the treatment requirements and standards in accordance with the industry’s best management practices. Ms. Rohrer explained that permits are still not required for RMW generators or transporters. A grace period for existing facilities to come into compliance with any new requirements is also proposed. Ms. Rohrer went over the benefits of this final regulation amendment such as greater clarity and ease of use due to the simplification of the structure and organization, simplifying generator requirements, modernizing treatment standards for RMW, and to also better prepare Virginia to deal with emerging disease RMW and Category A waste. The Board asked clarifying questions. Ms. Rohrer responded to the questions from Board members regarding inspections, enforcement, out of state medical waste, regulated medical waste in landfills, sharps, autoclaving and the regulatory process.

Based on the Board book material, staff presentation, and Board discussions, the Board, on a motion by Mr. Riat and seconded by Mr. DeGroff, unanimously voted to approve the final regulation.

Minute No. 6 – Final Regulations – Solid Waste Management Regulations (9VAC20-81)

Ms. Jenny Poland of the Office of Financial Responsibility and Waste Programs presented a final regulation to 9VAC20-81. Ms. Poland advised the Board that the Virginia Solid Waste Management Regulations, establish standards and procedures for the siting, design, construction, operation, maintenance, closure, and post-closure care of solid waste facilities in the Commonwealth. It also

establishes standards and procedures pertaining to the management of solid wastes. The requirements found in these regulations are protective of human health and the environment. Ms. Poland then provided details of the process used to develop the proposed final regulation. Ms. Poland then presented and explained the proposed final regulation in the areas of Landfill Siting, Landfill Operations, Landfill Groundwater Monitoring, Open Burning Exemptions and other changes that promote composting activities, require closure cost estimates in response to Executive Order 6, to offer clarification and assist the regulated community with understanding of the requirements, and technical amendments. The Board asked clarifying questions. Ms. Poland, Ms. Rohrer and Mr. Christe responded to the questions from Board members regarding the VDH's establishment of MCLs, EPA's response to PFAS and open burn notification and enforcement. Two citizens addressed the Board, Chris Bergin on behalf of the Virginia Manufacturer's Association, and Christopher Leyen on behalf of the Virginia League of Conservation Voters. Mr. Bergin spoke on concerns about the requirement that industrial landfills cover weekly verses as frequently as needed. Mr. Leyen spoke on concerns about monitoring and testing of groundwater for PFAS and 1,4-dioxane prior to adoption of MCLs. Ms. Scott asked DEQ staff questions in response to Mr. Bergin and Mr. Leyen's comments. Ms. Poland, Ms. Rohrer and Mr. Christe addressed those questions.

Based on the Board book material, staff presentation, and Board discussions, the Board, on a motion by Mr. Riat and seconded by Mr. Yob, voted 6-0, with Mr. Benedetto abstaining from the vote, to approve the final regulation.

Minute No. 7 - Public Forum.

No members of the public spoke.

Minute No. 8 – Virginia's Response to Per- and Polyfluoroalkyl Substances (PFAS)

The Board received a presentation from Jeffery Steers, Director of Regional Operations, regarding the status of Virginia's response plan to PFAS.

Minute No. 9 – Division Director's Report.

The Board received a report from Kathryn Perszyk, Land Protection and Revitalization Director. Ms. Perszyk provided an overview of the land division's programs and accomplishments.

Minute No. 10 - Future Meetings.

No future meetings were set for the Board at this meeting.

Jill R. Hrynciw
Policy Analyst
Division of Policy

Tab B



Commonwealth of Virginia

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P.O. Box 1105, Richmond, Virginia 23218

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Travis A. Voyles
Secretary of Natural and Historic Resources


Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

Memorandum

To: Members of the Virginia Waste Management Board

Through: Kathryn Perszyk, Director, Division of Land Protection and Revitalization

Through: Leslie A. Romanchik, Hazardous Waste Program Manager

From: Lisa A. Ellis, Hazardous Waste Compliance Coordinator 

Date: July 20, 2023

Subject: Virginia Hazardous Waste Management Regulations, 9VAC 20-60
Annual Update 2023

Digitally signed by: Romanchik Leslie
wck67077
DN: CN = Romanchik, Leslie wck67077 OU
= COV-Users, End-Usees, DEQ
Date: 2023.07.20 15:29:25 -0400

The attached regulatory amendment is presented to the Board for your consideration for adoption. The final exempt action amends the Virginia Hazardous Waste Management Regulations under 9VAC 20-60. The Virginia Hazardous Waste Management Regulations include citations and requirements in the form of incorporated federal regulatory text at Title 40 of the Code of Federal Regulations (CFR). This regulatory amendment will bring these citations up to date and incorporate the latest Title 40 of the CFR to the one as published in the July 1, 2023 update which includes EPA's rules published between October 1, 2021, through June 30, 2023.

With this regulatory action, the Board is adopting the following EPA rules:

“Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes,” which was published in the Federal Register on October 1, 2021, and which will be administered by EPA. Adopting this EPA rule was put on hold during the 2022 annual update.

“Hazardous Waste Management System; Final Exclusion for Identifying and Listing Hazardous Waste” which was published in the Federal Register on July 13, 2022.

“EPA Method 23—Determination of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans From Stationary Sources” which was published in the Federal Register on March 20, 2023.

Section 2.2-4006 A 3 and A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-60 as a final exempt regulatory action as the changes are necessary to correct technical errors and to conform to changes in the federal regulations. This regulatory amendment will be effective 30 days after publication in the *Virginia Register*. A draft Virginia Regulatory Town Hall document and a table of the CFR changes are attached for your information.

At your Board meeting on September 6, 2023, the DEQ will request that the Board adopt Annual Update 2023 to 9VAC20-60, authorize its publication, and affirm that the Board will receive, consider, and respond to requests by any interested person at any time with respect to reconsideration or revision.

cc: Jill Hrynciw, DEQ - Policy Division

ATTACHMENTS:

- Attachment A – Draft Virginia Regulatory Town Hall Document (TH-09)
- Attachment B – Summary of Changes to Federal Hazardous Waste Management Regulations for Annual Update 2023
- Attachment C – Office of Regulatory Management Economic Impact Form
- Attachment D- Virginia Hazardous Waste Management Regulations, Annual Update 2023 - Regulatory Text



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC 20-60
VAC Chapter title(s)	Virginia Hazardous Waste Management Regulations
Action title	Annual Update 2023 – Exempt Final Action
Final agency action date	September 6, 2023
Date this document prepared	July 13, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The *Virginia Hazardous Waste Management Regulations, 9VAC20-60*, include citations and requirements in the form of federal regulatory text at Title 40 of the Code of Federal Regulations (CFR) which is incorporated by reference. This regulatory amendment, Annual Update 2023, will bring the citations up to date and incorporate the 2023 Annual edition of Title 40 of the CFR published on July 1, 2023.

With this regulatory action, the Board is adopting the following EPA rules:

“Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes,” which was published in the Federal Register on October 1, 2021, and which will be administered by

EPA. Adopting this EPA rule was put on hold during the 2022 annual update.

“Hazardous Waste Management System; Final Exclusion for Identifying and Listing Hazardous Waste” which was published in the Federal Register on July 13, 2022.

“EPA Method 23—Determination of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans from Stationary Sources” which was published in the Federal Register on March 20, 2023.

Sections 2.2-4006 A 3 and A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-60 as a final exempt action as the changes are necessary to conform to changes in the federal regulations.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

EPA-authorized states are required to modify their programs only when EPA promulgates federal regulations that are more stringent or broader in scope than the authorized state regulations.

The revisions to the Canada specific import-export movement codes are considered to be neither more nor less stringent than the existing codes. Thus, authorized states may, but are not required to, adopt these changes.

The revisions to Test Methods for Standards to Control Organic Emissions are considered to be neither more nor less stringent than the existing methods. Thus, authorized states may, but are not required to, adopt these changes.

The revisions to Final Exclusion for Identifying and Listing Hazardous Waste are considered to be neither more nor less stringent than the existing methods. Thus, authorized states may, but are not required to, adopt these changes.

Adoption of the changes allows DEQ to be consistent with the federal regulations. This amendment incorporates recent changes made by EPA to federal hazardous waste regulations into Virginia's regulations. Conforming state regulations to those of the EPA is necessary to maintain federally granted authority to implement the national programs.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

Board – Virginia Waste Management Board
CFR – Code of Federal Regulations
FR – Federal Register
EPA – United States Environmental Protection Agency
VAC – Virginia Administrative Code
RCRA – Resource Conservation and Recovery Act

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Virginia Waste Management Board approved this amendment, Annual Update 2023, to 9VAC20-60 on September 6, 2023, as a final regulation and affirmed that the Board will receive, consider, and respond to requests by any interested person at any time with respect to reconsideration or revision.

Legal Basis

Identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

Section 10.1-1402 of the Code of Virginia authorizes the Virginia Waste Management Board to issue regulations as may be necessary to carry out its powers and duties required by the Virginia Waste Management Act (Act). Additionally, Sections 2.2-4006 A 3 and A 4 (c) of the Code of Virginia allow the Board to adopt this regulatory amendment to 9VAC20-60 as a final exempt action as the changes are necessary to conform to changes in the federal regulations.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

Conforming the regulations to federal regulations, when required to do so, maintains Virginia's federally granted authority to implement the national hazardous waste management programs and is essential for the protection of the health, safety and welfare of citizens. Additionally, an advantage for businesses and facilities in Virginia is that, by keeping our rules as current as possible, they benefit from state implementation of the programs as they have easier access to decision makers who have a clearer understanding of state-specific issues and needs.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

The regulatory action, Annual Update 2023, will update the 40 CFR citation to the most recent annual update of July 1, 2023, thereby incorporating the following rules promulgated by EPA:

“Hazardous Waste Management System; Final Exclusion for Identifying and Listing Hazardous Waste” which was published in the Federal Register on July 13, 2022. (87 FR41604, 7/13/22)

“EPA Method 23—Determination of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans from Stationary Sources” which was published in the Federal Register on March 20, 2023. (88FR 16732, 3/20/23)

This regulatory action will also incorporate the following rule promulgated by EPA in 2021 by removing the existing exception language:

“Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes.” (86 FR 54381, 10/1/2021)

A summary of these rules is provided in Attachment B to this Town Hall document.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage of this amendment is that it conforms 9VAC20-60, Virginia Hazardous Waste Management Regulations, to the federal hazardous waste regulations by incorporating new rules promulgated by the EPA (see Attachment B). This causes less confusion for the regulated community. Conforming our regulations to EPA’s recent rulemakings, when required to do so, maintains Virginia’s federally granted authority to implement the national hazardous waste management programs. Additionally, an advantage for businesses and facilities in Virginia is that, by keeping our rules as current as possible, they benefit from state implementation of the programs as they have easier access to decision makers who have a clearer understanding of state-specific issues and needs.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements of the regulatory update which are more restrictive than applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected:

There are no other state agencies particularly affected by this regulatory amendment.

Localities Particularly Affected:

There are no localities particularly affected by this regulatory amendment.

Other Entities Particularly Affected:

There are no entities particularly affected by this regulatory amendment.

Details of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC20-60-18	N/A	Applicability of incorporated references based on the dates on which they became effective.	Updated the 40 CFR citation to the most recent annual update of July 1, 2023. Removed the incorporation exception for EPA's <i>Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes</i> , (86 FR 54381 10/1/2021).

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

The Virginia Hazardous Waste Management Regulations apply to all facilities including small businesses. Any (1) establishment of less stringent compliance or reporting standards; (2) establishment of less stringent schedules or deadlines for compliance and reporting requirements; (3) consolidation or simplification of compliance or reporting requirements; (4) establishment of performance standards for small businesses to replace design or operational standards required in the regulation; or (5) exemption of small businesses from all or any part of the requirements contained in this regulation for all small businesses would directly, significantly and adversely affect the benefits achieved through the implementation of the regulations for the safe management of hazardous waste.

Conforming state regulations to those of the EPA, when required to do so, is necessary to maintain federally granted authority to implement the national program. Facilities benefit from state implementation of the program as they have easier access to decision makers with a clearer understanding of state-specific issues and needs. This causes less confusion for the regulated community.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no impact on the institution of the family or family stability.

Attachment B

**EPA Rule Included with Annual Update 2023
Title 40 of the CFR —July 1, 2022, through June 30, 2023, and October 1, 2021**

Title	Federal Register	Summary
<i>Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes</i>	86 FR 54381, 10/1/2021 Effective: 10/31/2021	EPA amended existing regulations to conform to changes made in the regulations relating to twelve hazardous waste import-export recovery and disposal operations used in hazardous waste export and import notices submitted to EPA by U.S. exporters and importers, and in movement documents that accompany export and import shipments. The changes to regulations related to these twelve recovery and disposal operations are needed to reflect changes to regulations related to Canadian import-export recovery and disposal operations that Canada promulgated in the Canada Gazette Part II on March 17, 2021 (“Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations,” Canada Gazette Part II, volume 155, number 6, pp. 324-543), and that become effective in Canada on October 31, 2021. The changes in the regulations are being made solely to conform to Canada’s regulatory changes to Canada-specific operation codes and descriptions.
<i>Hazardous Waste Management System; Final Exclusion for Identifying and Listing Hazardous Waste</i>	87 FR 41604, 7/13/2022 Effective: 7/13/2022	EPA is granting a petition submitted by Emerald Kalama Chemical, LLC, in Kalama, Washington to exclude (or “delist”) up to 3,500 cubic yards of U019 (benzene) and U220 (toluene) industrial wastewater biological solids (IWBS) per year from the list of Federal hazardous wastes under the Resource Conservation and Recovery Act.
<i>EPA Method 23—Determination of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans From</i>	88 FR 16732, 3/20/2023 Effective: 3/20/2023	This action finalizes editorial and technical revisions to EPA’s Method 23 (Determination of Polychlorinated Dibenzo-p-Dioxins, Polychlorinated Dibenzofurans, and Polycyclic Aromatic Hydrocarbons from Stationary Sources). Final revisions include incorporating true, comprehensive, and stable isotope dilution for quantifying target compounds using corresponding carbon-13 labeled compounds for each target compound including most of the polycyclic aromatic hydrocarbons (PAH) and changing the method quality control from the current prescriptive format to a more flexible performance-based approach with specified performance criteria. It also expands the list of target compounds of Method 23 to include PAH and polychlorinated biphenyls (PCB). The final revisions allow facilities and their test teams flexibility when sampling and measuring polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans (PCDD/PCDF), PAH, and PCB from stationary sources.

Office of Regulatory Management

Economic Review Form

Agency name	Virginia Department of Environmental Quality
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-60
VAC Chapter title(s)	Virginia Hazardous Waste Management Regulations
Action title	Virginia Hazardous Waste Management Regulations Annual Update 2023
Date this document prepared	7/6/2023
Regulatory Stage (including Issuance of Guidance Documents)	Exempt Final Action

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Agency Note: This is a final exempt regulatory action necessary only to conform to changes in federal regulations. Therefore, Table 1c is not required and has been removed.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Direct Costs: There are no direct costs associated with the adoption of this regulatory change.</p> <p>Indirect Costs: There are no indirect costs associated with the adoption of this regulatory change.</p> <p>Direct Benefits: This proposed change allows the Virginia Hazardous Waste Management Regulations (VHWMR) to maintain consistency with the federal waste management regulations at 40 CFR Parts 260 through 279.</p> <p>The changes in the federal regulations were made solely to conform to Canada’s regulatory changes to Canada-specific operation codes and descriptions related to hazardous waste imports to and exports from Canada. This will keep any importers or exporters in Virginia aware of new requirements.</p> <p>The changes in the federal regulations regarding delisting of waste for a company in Washington are made solely for the company in Washington and anyone receiving waste from that facility in Washington. Changing our regs to coincide will keep them up to date.</p> <p>The changes in test methods refer to changes in testing for companies with boilers and industrial furnaces. We currently do not have any of these facilities in Virginia, but incorporating the regulation change will allow us to keep pace with the changing federal regulations.</p> <p>Environmental regulations are necessary to ensure that the Commonwealth is a safe and healthy place for people to live and work. Having state-adopted regulations and having these regulations enforced at the state level gives the Commonwealth more control over what is taking place in Virginia.</p> <p>Indirect Benefits: The Virginia Hazardous Waste Management Regulations adopt the federal Resource Conservation and Recovery Act requirements by reference. By maintaining environmental regulations at the state level, Virginia has been able to hire staff to ensure compliance and enforcement with these regulations, which has provided jobs.</p>	
<p>(0)Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) 0</p>	<p>(b) 0</p>

(2) Net Monetized Benefit	0
(3) Other Costs & Benefits (Non-Monetized)	0
(4) Information Sources	<p>Final Rules:</p> <p>https://www.federalregister.gov/documents/2021/10/01/2021-21417/conforming-changes-to-canada-specific-hazardous-waste-import-export-recovery-and-disposal-operation</p> <p>https://www.federalregister.gov/documents/2022/07/13/2022-15009/hazardous-waste-management-system-final-exclusion-for-identifying-and-listing-hazardous-waste</p> <p>https://www.federalregister.gov/documents/2023/03/20/2023-04958/epa-method-23-determination-of-polychlorinated-dibenzo-p-dioxins-and-polychlorinated-dibenzofurans</p>

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Direct Costs: There are no direct costs associated with maintaining the regulations as currently written. However, the VHWMR would then be inconsistent with the federal regulations.</p> <p>Indirect Costs: There are no indirect costs associated with maintaining the regulations as currently written.</p> <p>Direct Benefits: Environmental regulations are necessary to ensure that the Commonwealth is a safe and healthy place for people to live and work. Having state-adopted regulations and having these regulations enforced at the state level gives the Commonwealth more control over what is taking place in Virginia. This also benefits the regulated community by causing less confusion.</p> <p>Indirect Benefits: The Virginia Hazardous Waste Management Regulations adopt the federal Resource Conservation and Recovery Act requirements by reference. By maintaining environmental regulations at the state level, Virginia has been able to hire staff to ensure compliance and enforcement with these regulations, which has provided jobs. Having state-adopted regulations and having these regulations enforced at the state level gives the Commonwealth more control over what is taking place in Virginia. This also benefits the regulated community by causing less confusion.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) 0</p>	<p>(b) 0</p>
<p>(3) Net Monetized Benefit</p>	<p>0</p>	
<p>(4) Other Costs & Benefits (Non-Monetized)</p>	<p>0</p>	

(5) Information Sources	<p>Final Rules:</p> <p>https://www.federalregister.gov/documents/2021/10/01/2021-21417/conforming-changes-to-canada-specific-hazardous-waste-import-export-recovery-and-disposal-operation</p> <p>https://www.federalregister.gov/documents/2022/07/13/2022-15009/hazardous-waste-management-system-final-exclusion-for-identifying-and-listing-hazardous-waste</p> <p>https://www.federalregister.gov/documents/2023/03/20/2023-04958/epa-method-23-determination-of-polychlorinated-dibenzo-p-dioxins-and-polychlorinated-dibenzofurans</p>
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Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no direct costs to local partners from the adoption of this regulatory change. Changes in the description for twelve recovery and disposal operations for imports and exports to and from Canada are needed to reflect changes to regulations related to Canadian import-export recovery and disposal operations that Canada promulgated in the Canada Gazette Part II on March 17, 2021, and that become effective in Canada on October 31, 2021. The resulting changes in EPA’s rule were made solely to conform to Canada’s regulatory changes to Canadas-specific operation codes and descriptions. The regulatory changes to the test method for boilers and industrial furnaces and delisting a waste stream in Washington state have no impacts on wastes or local partners in Virginia.</p> <p>Indirect Costs: No conclusive statements can be made about specific, indirect costs (monetized) of this regulatory change. However, failure to comply with the regulations on either a state or federal level can result in possible penalties for non-compliance being imposed.</p> <p>Direct Benefits: Environmental regulations are necessary to ensure that the Commonwealth is a safe and healthy place for people to live and work. Having state-adopted regulations and having these regulations enforced at the state level gives the Commonwealth more control over what is taking place in Virginia and is less confusing to the regulated community.</p> <p>Indirect Benefits: The Virginia Hazardous Waste Management Regulations adopt the federal Resource Conservation and Recovery Act</p>
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	requirements by reference. By maintaining environmental regulations at the state level, Virginia has been able to hire staff to ensure compliance and enforcement with these regulations, which has provided jobs. Having state-adopted regulations and having these regulations enforced at the state level gives the Commonwealth more control over what is taking place in Virginia. This also benefits the regulated community by causing less confusion.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (non-monetized) of this regulatory adoption.	
(4) Assistance	N/A	
(5) Information Sources	<p>Final Rules:</p> <p>https://www.federalregister.gov/documents/2021/10/01/2021-21417/conforming-changes-to-canada-specific-hazardous-waste-import-export-recovery-and-disposal-operation</p> <p>https://www.federalregister.gov/documents/2022/07/13/2022-15009/hazardous-waste-management-system-final-exclusion-for-identifying-and-listing-hazardous-waste</p> <p>https://www.federalregister.gov/documents/2023/03/20/2023-04958/epa-method-23-determination-of-polychlorinated-dibenzo-p-dioxins-and-polychlorinated-dibenzofurans</p>	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Families are not particularly impacted by this regulatory change and the change does not impose specific, direct, or indirect monetized costs to families or provide specific, direct, or indirect monetized benefits to families.</p> <p>Direct Costs: There are no direct costs as household hazardous waste is not regulated under the hazardous waste regulations.</p>
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	<p>Indirect Costs: There are no indirect costs as household hazardous waste is not regulated under the hazardous waste regulations.</p> <p>Direct Benefits: The direct benefits of maintaining environmental regulations in Virginia are a clean, healthy, beautiful state where people want to live, raise their children and visit as tourist.</p> <p>Indirect Benefits: There are no indirect benefits to families from incorporating these changes into the VHWMR. However, the regulations help to ensure the Commonwealth’s environment is healthy and safe, and that people want to live here.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	<p>No conclusive statement can be made about specific, indirect costs or benefits (non-monetized) of this regulatory change. However, families generally benefit from the protection of the Commonwealth’s environment and natural resources from pollution, impairment, or destruction. The safe and secure generation and management of hazardous materials helps to maintain a certain quality of life and well-being for families. Incorporating these changes into the hazardous waste regulations ensures that hazardous waste requirements continue to be implemented and enforced leading to continued protection of the Commonwealth’s environment and natural resources.</p>	
(4) Information Sources	N/A	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no direct costs for small businesses associated with incorporating these changes into the VHWMR. This change in regulation does not impose any additional direct or indirect monetized costs for small businesses and is consistent with Federal requirements.</p>
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	<p>Indirect Costs: There are no indirect costs for small business associated with incorporating these changes into the VHWMR.</p> <p>Direct Benefits: Direct benefits for small businesses include that regulating hazardous waste at a state level makes regulators more accessible to local companies should the business have questions or the need to better understand the regulations and requirements and is less confusing to the regulated community.</p> <p>Indirect Benefits: Indirect benefits for small businesses include operating a business in a state that attracts new residents because the state is beautiful, clean and a healthy place to raise children. These residents would likely become patrons of Virginia’s small businesses.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (non-monetized) of this regulatory adoption.	
(4) Alternatives	N/A	
(5) Information Sources	<p>Final Rules:</p> <p>https://www.federalregister.gov/documents/2021/10/01/2021-21417/conforming-changes-to-canada-specific-hazardous-waste-import-export-recovery-and-disposal-operation</p> <p>https://www.federalregister.gov/documents/2022/07/13/2022-15009/hazardous-waste-management-system-final-exclusion-for-identifying-and-listing-hazardous-waste</p> <p>https://www.federalregister.gov/documents/2023/03/20/2023-04958/epa-method-23-determination-of-polychlorinated-dibenzo-p-dioxins-and-polychlorinated-dibenzofurans</p>	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved	Initial Count	Additions	Subtractions	Net Change
No changes in regulatory requirements, only changes in citations and descriptions in the form of incorporated federal regulatory text.				

Agency Note: This is a final exempt regulatory action necessary only to conform to changes in federal regulations.

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Length	New Length	Net Change in Length
N/A			

1 **Project 7626 - Exempt Final**

2 **Virginia Waste Management Board**

3 **Haz Waste Annual Update 2023**

4 **9VAC20-60-18. Applicability of incorporated references based on the dates on which they**
5 **became effective.**

6 Except as noted, when a regulation of the U.S. Environmental Protection Agency (EPA) set
7 forth in Title 40 of the Code of Federal Regulations is referenced and incorporated into this
8 chapter, that regulation shall be as it exists and has been published in the ~~July 1, 2022~~ July 1,
9 2023, annual edition; however, the incorporation by reference of Title 40 of the Code of Federal
10 Regulations shall not include the requirements of EPA's Response to Vacatur of Certain
11 Provisions of the Definition of Solid Waste Rule (83 FR 24664, May 30, 2018) ~~or Conforming~~
12 ~~Changes to Canada-specific Hazardous Waste Import-Export Recovery and Disposal Operation~~
13 ~~Codes (86 FR 54381, October 1, 2021).~~

Tab C



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

Memorandum

To: Members of the Virginia Waste Management Board

Through: Kathryn Perszyk, Director, Division of Land Protection and Revitalization *KJP*

Through: Brent Williams, Office of Financial Responsibility & Waste Programs Manager

From: Priscilla Rohrer, Solid Waste Compliance Coordinator

Date: June 8, 2023

Subject: Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9VAC20-70 (primary)
Solid Waste Management Permit Action Fees and Annual Fees, 9VAC20-90 (secondary)
Solid Waste Planning and Recycling Regulations, 9VAC20-130 (secondary)
Transportation of Solid and Medical Wastes on State Waters, 9VAC20-170 (secondary)
Regulated Medical Waste Citation Correction

The attached regulatory amendment is presented to the Board for your consideration for adoption. This final exempt regulatory action is necessary to correct citations and technical errors in applicable waste management regulations as a result of the recodification of the Regulated Medical Waste Management Regulations, 9VAC20-121.

Amendment 3 to the Regulated Medical Waste Management Regulations, effective March 15, 2023, recodified those regulations from Chapter 120 to Chapter 121. This regulatory action makes appropriate citation changes and corrections of technical errors in applicable waste management regulations including:

- Sections 10, 50, 70, 75, 90, and 290 of the Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9VAC20-70
- Sections 10, 50, 70, 90, 110, and 120 of the Solid Waste Management Permit Action Fees and Annual Fees, 9VAC20-90

- Section 10 of the Solid Waste Planning and Recycling Regulations, 9VAC20-130
- Sections 10 and 40 of the Transportation of Solid and Medical Wastes on State Waters, 9VAC20-170

Section 2.2-4006 A 3 of the Code of Virginia allows the Board to adopt these regulatory amendments to 9VAC20-70, 9VAC20-90, 9VAC20-130, and 9VAC20-170 as a final exempt regulatory action as the changes include only changes in style or form or corrections of technical errors. This regulatory amendment will be effective 30 days after publication in the *Virginia Register*. A draft Virginia Regulatory Town Hall document is attached for your information.

At your Board meeting on September 6, 2023, the DEQ will request that the Board adopt the Amendment in response to Regulated Medical Waste Citation Corrections to 9VAC20-70, 9VAC20-90, 9VAC20-130, and 9VAC20-170, authorize its publication, and affirm that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.

cc: Jill Hrynciw, DEQ – Policy Division

ATTACHMENTS:

- Attachment A – Draft Virginia Regulatory Town Hall Document (TH-09)
- Attachment B – Economic Review Form
- Attachment C – RMW Citation Correction - Regulatory Text



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-70 (primary) 9VAC20-90 (secondary) 9VAC20-130 (secondary) 9VAC20-170 (secondary)
VAC Chapter title(s)	Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities (primary) Solid Waste Management Permit Action Fees and Annual Fees (secondary) Solid Waste Planning and Recycling Regulations (secondary) Transportation of Solid and Medical Wastes on State Waters (secondary)
Action title	Regulated Medical Waste Citation Correction
Final agency action date	September 6, 2023
Date this document prepared	June 8, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Amendment 3 to the Regulated Medical Waste Management Regulations, effective March 15, 2023, recodified those regulations from Chapter 120 to Chapter 121. This final exempt regulatory action makes

appropriate citation changes and corrections of technical errors in applicable waste management regulations.

These regulatory amendments are exempt from the state administrative procedures for adoption of regulations because they include only changes in style or form or corrections of technical errors (§ 2.2-4006(A)(3) of the Code of Virginia).

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Amendment 3 to the Regulated Medical Waste Management Regulations, effective March 15, 2023, recodified those regulations from Chapter 120 to Chapter 121. This final exempt regulatory action makes appropriate citation changes and corrections of technical errors in applicable waste management regulations.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

RMW – Regulated Medical Waste
RMWMR – Regulated Medical Waste Management Regulations
VAC – Virginia Administrative Code

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Virginia Waste Management Board adopted the amendments at its meeting on September 6, 2023.

The regulation amendments are exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006(A)(3) of the Administrative Process Act as they are changes in form, style, and technical corrections.

Legal Basis

Identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the

promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity’s overall regulatory authority.

The statutory authority for these regulations is under § 10.1-1402 of the Code of Virginia. Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act (2.2-4006(A)(3)).

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it’s intended to solve.

This final exempt regulatory action includes corrections to chapters of regulations governed by the Virginia Waste Management Board. These corrections are to technical errors and citations referencing the RMW Management Regulations which were recodified from Chapter 120 to Chapter 121 effective March 15, 2023.

Details of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC20-70-10	N/A	Definitions	Updates references to the RMWMR from 9VAC20-120 to 9VAC20-121.
9VAC20-70-50	N/A	Applicability of chapter	Updates references to the RMWMR from 9VAC20-120 to 9VAC20-121. Updates references to sections of RMWMR specifying conditional exemptions and exclusions (9VAC20-121-90 C, 90 D, and 300 E).
9VAC20-70-70	N/A	Suspensions and revocations	Updates references to sections of RMWMR specifying authority to modify or terminate a permit for cause (9VAC20-121-310 and 320).
9VAC20-70-75	N/A	Forfeitures	Updates reference to the RMWMR from 9VAC20-120 to 9VAC20-121.
9VAC20-70-90	N/A	Closure, post-closure care and corrective action requirements	Updates reference to section of RMWMR specifying closure requirements (9VAC20-121-290).
9VAC20-70-290	N/A	Wording of financial mechanisms	Updates reference to the RMWMR from 9VAC20-120 to 9VAC20-121.
9VAC20-90-10	N/A	Definitions	Updates reference to the RMWMR from 9VAC20-120 to 9VAC20-121.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC20-90-50	N/A	Applicability of regulations	Updates reference to the RMWMR from 9VAC20-120 to 9VAC20-121. Updates reference to sections of RMWMR specifying permitting of RMW facilities (Part V (9VAC20-121-300 through 9VAC20-121-340)).
9VAC20-90-70	N/A	General requirements	Updates reference to section of RMWMR specifying routine inspection authority (9VAC20-121-320). Updates reference to the RMWMR from 9VAC20-120 to 9VAC20-121.
9VAC20-90-90	N/A	Applications for permit actions, amendment or modification	Updates language for consistency with new terminology under RMWMR, 9VAC20-121.
9VAC20-90-110	N/A	Review of variance requests	Updates reference to the RMWMR from 9VAC20-120 to 9VAC20-121.
9VAC20-90-120	N/A	Permit application fee schedules	Updates language for consistency with new terminology under RMWMR, 9VAC20-121.
9VAC20-130-10	N/A	Definitions	Updates reference to the RMWMR from 9VAC20-120 to 9VAC20-121.
9VAC20-170-10	N/A	Definitions	Updates reference from Part III to Part II of the RMWMR. Updates references to the RMWMR from 9VAC20-120 to 9VAC20-121.
9VAC20-170-40	N/A	Relationship to other regulations	Updates reference to the RMWMR from 9VAC20-120 to 9VAC20-121.

Office of Regulatory Management
Economic Review Form

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC 20-70 (primary) 9 VAC 20-90 (secondary) 9 VAC 20-130 (secondary) 9 VAC 20-170 (secondary)
VAC Chapter title(s)	Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities (primary) Solid Waste Management Permit Action Fees and Annual Fees (secondary) Solid Waste Planning and Recycling Regulations (secondary) Transportation of Solid and Medical Wastes on State Waters (secondary)
Action title	Regulated Medical Waste Citation Correction
Date this document prepared	June 30, 2023
Regulatory Stage (including Issuance of Guidance Documents)	Final Exempt

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>This is a final exempt regulatory action. No changes are proposed other than corrections of technical errors (updating citation references and terminology) in applicable waste management regulations as a result of the recodification of the Regulated Medical Waste Management Regulations, 9VAC20-121, effective March 15, 2023.</p> <p>Direct Costs: N/A. There are no new direct costs associated with these corrections of technical errors.</p> <p>Indirect Costs: N/A. There are no new indirect costs associated with these corrections of technical errors.</p> <p>Direct Benefits: N/A. There are no new direct benefits associated with these corrections of technical errors.</p> <p>Indirect Benefits: N/A. There are no new indirect benefits associated with these corrections of technical errors.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	N/A. There are no other costs and benefits associated with these corrections of technical errors.	
(5) Information Sources	Regulated Medical Waste Management Regulations, 9VAC20-121	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9VAC20-70</p> <p>Direct Costs: Federal Regulations (40 CFR Part 258) require owners and operators of Municipal Solid Waste Landfill units to provide financial assurance.</p> <p>Section 10.1-1402 of the Code of Virginia authorizes the Virginia Waste Management Board to promulgate and enforce regulations necessary to carry out its powers and duties and the intent of the chapter and federal law. Specifically, Section 10.1-1410 authorizes</p>	
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the Board to promulgate regulations which ensure that, if a solid waste treatment, transfer or disposal facility is abandoned, the costs associated with protecting the public health and safety from the consequences of such abandonment may be recovered from the person abandoning the facility.

The amount of financial assurance required to be provided is based on factors such as the facility size and the amount of solid waste managed at the facility. The amount of financial assurance required is based on the estimated costs related to properly close the facility. During the active life of the solid waste management facility and if applicable during the post-closure care period, the facility is required to adjust the cost estimates annually for inflation within 60 days prior to the anniversary date of the financial mechanism used to comply with the regulation.

The regulations contain many ways to demonstrate financial assurance; the multiple financial assurance mechanisms included in the regulations provide additional flexibility to the regulated community, including small businesses.

Examples of direct costs: a company with a permitted industrial landfill and a transfer station in Virginia that uses an irrevocable standby letter of credit for its financial assurance obligation was charged a fee of \$8,520.51 by the issuing bank in order to maintain a \$6.7 million dollar letter of credit for a one-year period. Additionally, if a facility uses a third-party mechanism for financial assurance (a letter of credit, surety bond, or an assignment of certificate of deposit account), the facility is also required to maintain a standby trust account with a bank; the annual cost for maintaining a standby trust account at one bank in Virginia is \$1,500.00.

Indirect Costs: No conclusive statements can be made about specific, indirect costs of this regulation.

Direct Benefits: If a facility for the disposal, transfer, or treatment of solid waste is abandoned, the facility will need to be closed in a manner to minimize impacts to human health and the environment. This regulation requires owners and operators to provide funding to properly close the facility prior to operation of the facility.

Indirect Benefits: This regulation is necessary for the protection of public health, safety and welfare and is clearly written and easily understandable. These requirements protect citizens of the Commonwealth from having to pay for the closure of these facilities if they are abandoned.

**Solid Waste Management Permit Action Fees and Annual Fees,
9VAC20-90**

Direct Costs: These are the costs incurred by the solid waste facilities applying for a permit or operating a solid waste facility.

Permit Fee: (Code of Virginia §10.1-1402.1)

Permit application fees vary by the type of facility that is being permitted and type of permit required.

All landfills \$4,180 (Part A Fee) & \$18,680 (Part B Fee)

Annual Fee: (Fee amount specified in Code of Virginia §10.1 – 1402.1:1) with annual CPI adjustment

Waste recycled is not subject to the solid waste annual fee.

Indirect Costs: No conclusive statements can be made about specific, indirect costs of this regulation.

Direct Benefits: Required by law to maintain these regulations to provide funding for the implementation of solid waste program. Permit Fees are collected in order to recover a portion of the agency's costs associated with the processing of an application to issue, reissue, amend or modify permits.

Annual fee funds are used to support VADEQ's solid waste program, which includes staff salaries and other expenses for all solid waste activities such as permitting, compliance, inspection, monitoring, training, and enforcement. These activities are critical for protection of human health and the environment consistent with the waste management act.

Also, the current regulations allow a schedule of reduced annual fees (discount mentioned below) for facilities that have established a record of compliance with the terms and requirements of their permits. The regulation provides for reductions in the annual fee amount assessed for facilities based upon acceptance into the Department's programs to recognize excellent environmental performance.

Indirect Benefits: The regulation's primary, indirect benefit is the protection of public health, safety and welfare of the citizens of the Commonwealth and to protect the Commonwealth's environment and natural resources from pollution, impairment or destruction.

Solid Waste Planning and Recycling Regulations, 9VAC20-130

Direct Costs: Section 10.1-1411 of the Code of Virginia authorizes the Virginia Waste Management Board to promulgate regulations necessary to specifying requirements for local and regional solid waste management plans. The direct cost would be the for preparation of such plans by the localities.

Section 10.1-1411.B., requires the regulations to include all aspects of solid waste management including waste reduction, recycling and reuse, storage, treatment, and disposal and shall require that consideration be given to the handling of all types of nonhazardous solid waste generated in the region or locality. In promulgating such regulations, the Board has to consider urban concentrations, geographic conditions, markets, transportation conditions, and other appropriate factors with reasonable variances and exemptions from the minimum recycling rates.

Indirect Costs: No conclusive statements can be made about specific, indirect costs of this regulation.

Direct Benefits: These regulations require the localities to maintain minimum recycling rates per statute. Recycling results in energy saving, increase in employment, and revenue.

Indirect Benefits: These regulations require localities to develop and implement solid waste management plans considering litter cleanup and recycling. The regulation's primary, indirect benefit is the protection of public health, safety and welfare of the citizens of the Commonwealth and to protect the Commonwealth's environment and natural resources from pollution, impairment or destruction.

Transportation of Solid and Medical Wastes on State Waters, 9VAC20-170

- **Permit & Inspection Fees. The current regulations (9VAC20-170-190) require a permit certification fee, permit modification fees, and inspection fees for solid waste receiving facilities. Each certification for a permit by rule or each certification for a modification to a permit by rule is a separate action and shall be assessed a separate fee. The inspection fee is collected annually and its amount is based on the costs associated with the inspections program conducted by the department on at least a quarterly basis.**

Direct Costs: The initial permit by rule certification fee for a solid waste receiving facility is \$6,200. The fee for a facility permit modification with a closure plan amendment is \$2,500, while the permit fee for a modification without a closure plan amendment is \$1,250. The annual inspection fee is \$10,000. There is only one waste receiving facility operating under this regulation at this time; however a variance from payment of permit and inspection fees was granted to the facility in 2006, and remains in effect to date, due to the limited scope of the facility's operation, and since the facility only operates a few days per year.

Indirect Costs: No conclusive statements can be made about specific, indirect costs of this regulation.

Direct Benefits: The current regulatory requirement prevents off-loading of solid waste or regulated medical waste to an unpermitted receiving facility. A facility utilized to receive nonhazardous solid waste (except scrap metal, dredged material, recyclable construction demolition debris being transported directly to a processing facility for recycling or reuse, and source-separated recyclables), municipal and industrial sludge, or regulated medical waste from a ship, barge or other vessel arriving at the facility upon the navigable waters of the Commonwealth, is a solid waste management facility and no facilities shall receive wastes from a ship, barge or other vessel without a permit.

Indirect Benefits: The regulation's primary, indirect benefit is the protection of public health, safety and welfare of the citizens of the Commonwealth and to protect the Commonwealth's environment and natural resources from pollution, impairment or destruction.

- **Public Notice Costs. The current regulatory requirement for a permit by rule requires the owner or operator of the solid waste receiving facility to pay publishing charges for a public notice. (9VAC20- 170-180).**

Direct Costs: Before initiation of any construction of a new receiving facility or operation of an existing facility, the owner or operator shall publish a notice as a display ad in a major local newspaper of general circulation informing the public that he intends to construct and/or operate a facility eligible for a permit by rule. The average cost of publication of a public notice is \$450.

Indirect Costs: No conclusive statements can be made about specific, indirect costs of this regulation.

Direct Benefits: The current regulatory requirement of public notice promotes public participation in the permit certification procedures for a new or existing receiving facility.

Indirect Benefits: The regulation's primary, indirect benefit is the protection of public health, safety and welfare of the citizens of the Commonwealth and to protect the Commonwealth's environment and natural resources from pollution, impairment or destruction.

- **Monthly Fees. The current regulatory requirement is for waste monthly fees to be collected by the receiving facility from any owner or operator of any ship, barge or other vessel off-loading waste and for fees to be transmitted to DEQ (9VAC20- 170-195).**

Direct Costs: The waste collection fee shall be based on the accurate weight of waste received at the receiving facility. If scales are unavailable, the maximum volumetric capacity of the container multiplied by 0.50 tons per cubic yard may be used as an alternative to accurate weighing of the waste. If the volumetric alternative is used, accurate and complete records of the volume of each container of such waste must be maintained in addition to the calculated weight records described in this part. The fee for each ton or partial ton of waste (the weight of the waste subject to the fee does not include the weight of the empty container itself) off-loaded at the facility is \$1.00.

If the ship, barge or other vessel that off-loads no more than 50 tons of waste per month in total at all facilities, then the owner or operator of the ship, barge or other vessel is exempt from the assessment and payment of operating fees and related requirements set out in this section, except for the maintenance of records.

Indirect Costs: No conclusive statements can be made about specific, indirect costs of this regulation.

Direct Benefits: The current regulatory requirement of collecting waste monthly fees from the owner or operator of any ship, barge or other vessel carrying, loading or off-loading waste to the receiving facility is beneficial because it funds the administrative and enforcement costs associated with the receiving facility operations, including inspection and monitoring of ships, barges and other vessels, and for funding activities to abate pollution caused by barging of waste, to improve water quality, or for other waste-related purposes. Additionally, the fees collected for this regulation are deposited into a separate account within the Virginia Waste Management Board Permit Program Fund and may only be used for

funding purposes to abate pollution caused by barging of waste, to improve water quality, or for other-waste related purposes.

Indirect Benefits: The regulation's primary, indirect benefit is the protection of public health, safety and welfare of the citizens of the Commonwealth and to protect the Commonwealth's environment and natural resources from pollution, impairment or destruction.

- **Financial Responsibility. The current regulatory requirement is for owners and operators of ships, barges and other vessels transporting solid wastes or regulated medical wastes upon the navigable waters of the Commonwealth, to establish and demonstrate financial responsibility to cover liability of the owner or operator arising from the deposit of solid wastes or regulated medical wastes into state waters, as a condition of operation (9VAC20-170-270).**

Direct Costs: The owner and operator of a vessel transporting solid wastes or regulated medical waste upon the navigable waters of the Commonwealth shall obtain one or a combination of financial mechanisms in order to ensure that the costs associated with protecting public health, welfare and property from the consequences of a deposit of solid wastes or medical wastes is recovered from the owner and operator of a vessel transporting the waste. Each owner or operator of a vessel transporting solid wastes shall demonstrate financial responsibility in the amount of \$1 million or \$300 per gross ton of such vessel, whichever is larger. If the owner or operator owns or operates more than one vessel transporting waste, the amount of financial responsibility shall equal \$1 million or \$300 per gross ton of the owned or operated vessel with the largest transporting capacity, whichever is larger.

As of the date this document was prepared, only one barge vessel owner/operator has been required to demonstrate financial responsibility under this regulation. The barge owner elected to demonstrate financial assurance using a surety bond and standby trust agreement. The annual cost for the surety bond was \$25,434 and the standby trust agreement with the bank was \$1,500 to set up and \$2,500 for the trust's annual administration fee. The Department released the barge owner/operator from the financial assurance obligation in January 2021 because it no longer needed to transport waste on state waters. There is only one waste receiving facility operating under this regulation at this time; however, a variance from the requirement to demonstrate financial responsibility was granted to the facility in 2006, and remains in effect to date, due to the limited

scope of the facility's operation, and since the facility only operates a few days per year.

Each owner and operator of a vessel transporting regulated medical waste or a combination of regulated medical waste and solid waste shall demonstrate financial responsibility in the amount of \$5 million or \$300 per gross ton of such vessel. If the owner or operator owns or operates more than one vessel transporting waste, the amount of financial responsibility shall equal \$5 million or \$300 per gross ton of the owned or operated vessel with the largest transporting capacity, whichever is larger.

Indirect Costs: No conclusive statements can be made about specific, indirect costs of this regulation.

Direct Benefits: The regulations requiring owners and operators of ships, barges and other vessels transporting wastes to demonstrate financial responsibility are beneficial because they: 1) take into consideration the risk of potential damage or injury to state waters and the impairment of beneficial uses that may result from spillage or leakage from the ship, barge or vessel; 2) estimate the potential costs of containment and cleanup; and 3) help identify the nature and degree of injury or interference with general health, welfare and property that may result from the deposit of solid waste and/or regulated medical waste into state waters.

Indirect Benefits: The regulation's primary, indirect benefit is the protection of public health, safety and welfare of the citizens of the Commonwealth and to protect the Commonwealth's environment and natural resources from pollution, impairment or destruction.

- **Liability Coverage. The current regulatory requirement is for owners and operators of ships, barges and other vessels transporting solid wastes or regulated medical wastes upon the navigable waters of the Commonwealth, to establish and demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden and/or nonsudden accidental occurrences arising from a deposit of solid wastes and/or regulated medical waste into the navigable waters of the Commonwealth (9VAC20-170-330).**

Direct Costs: The owner and operator of a vessel shall establish and maintain liability coverage of \$1 million per occurrence with an annual aggregate of \$2 million annual aggregate (exclusive of legal defense costs) for sudden and/or nonsudden accidental occurrences

arising from the deposit of solid wastes from a vessel into the navigable waters of the Commonwealth.

The owner or operator of a vessel shall establish and maintain liability coverage of at least \$3 million per occurrence with an annual aggregate of \$6 million (excluding legal defense costs) arising from sudden and/or nonsudden accidental occurrences from the deposit of regulated medical wastes, or a combination of solid wastes and regulated medical wastes, from a vessel into the navigable waters of the Commonwealth.

Liability coverage shall include coverage for waste deposits that occur from loading and unloading the vessels.

As of the date this document was prepared, only one barge vessel owner/operator has been required to demonstrate liability coverage for sudden and/or nonsudden accidental occurrences arising from the deposit of solid wastes from a vessel into the navigable waters of the Commonwealth under this regulation. The barge owner's liability coverage for this regulation was included with the company's Marine General Liability Policy and had an annual premium of \$495,622. The Department released the barge owner/operator from the financial assurance obligation in January 2021 because it no longer needed to transport waste on state waters. There is only one waste receiving facility operating under this regulation at this time; however, a variance from the requirement to demonstrate financial responsibility was granted to the facility in 2006, and remains in effect to date, due to the limited scope of the facility's operation, and since the facility only operates a few days per year.

Indirect Costs: No conclusive statements can be made about specific, indirect costs of this regulation.

Direct Benefits: The regulations are beneficial because they require owners and operators of ships, barges and other vessels transporting wastes to demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden and/or nonsudden accidental occurrences arising from the deposit of solid waste and/or regulated medical waste into state waters.

Indirect Benefits: The regulation's primary, indirect benefit is the protection of public health, safety and welfare of the citizens of the Commonwealth and to protect the Commonwealth's environment and natural resources from pollution, impairment or destruction.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	<p>(a)</p> <p>Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9VAC20-70</p> <p>Example Direct Costs: A company with an industrial landfill and a transfer station had a fee of \$8,520.51 by the issuing bank in order to maintain a \$6.7 million dollar letter of credit for a one-year period.</p> <p>If a facility uses a third-party mechanism for financial assurance (a letter of credit, surety bond, or an assignment of certificate of deposit account), the facility is also required by the regulations to maintain a standby trust account with a bank; the annual cost for maintaining a standby trust account at one bank in Virginia is \$1,500.00.</p> <p>Solid Waste Management Permit Action Fees and Annual Fees, 9VAC20-90 Permit Fee: (Code of Virginia §10.1-1402.1) \$4,180 (Part A Fee) & \$18,680 (Part B Fee)</p> <p>Permit Fee SFY22: \$67,090 from 20 applications</p>	<p>(b)</p> <p>Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9VAC20-70 \$0</p> <p>Solid Waste Management Permit Action Fees and Annual Fees, 9VAC20-90 \$0</p> <p>Solid Waste Planning and Recycling Regulations, 9VAC20-130 Increase in employment \$171M in wages</p> <p>Transportation of Solid and Medical Wastes on State Waters, 9VAC20-170 \$0</p>

	<p>Annual Fee: (Code of Virginia §10.1-1402.1:1) with annual CPI adjustment</p> <p>CY2021 Annual (SFY2022) Fee: \$2,954,317.89 Discount: (\$89,434.04) Total: \$2,864,883.85 Permits: 330</p> <p>Permit fee for SFY2022 & Annual fee for CY2021: Total: \$2,931,973.85</p> <p>Solid Waste Planning and Recycling Regulations, 9VAC20-130 All 71 solid waste planning units in the Commonwealth are required to prepare and maintain a current solid waste management plan. The cost of preparation of a solid waste plans varies from approximately \$5,000 to \$10,000+ depending on the size of the planning unit.</p> <p>Transportation of Solid and Medical Wastes on State Waters, 9VAC20-170 Facility permit fee: \$6,200 Annual Inspection fee: \$10,000 Public Notice: \$450 Bond Premium: \$25,434 Trust Set up and Annual Fee: \$4,000 Marine Liability: \$495,622 Total: \$541,706</p>	
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	<p>Present Value \$0; There is only one waste receiving facility operating under this regulation at this time; however, a variance from payment of permit and inspection fees, and from the requirement to demonstrate financial responsibility, was granted to the facility in 2006, and remains in effect to date, due to the limited scope of the facility's operation, and since the facility only operates a few days per year.</p>	
<p>(3) Net Monetized Benefit</p>	<p>Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9VAC20-70 \$0</p> <p>Solid Waste Management Permit Action Fees and Annual Fees, 9VAC20-90 \$0</p> <p>Solid Waste Planning and Recycling Regulations, 9VAC20-130 \$0</p> <p>Transportation of Solid and Medical Wastes on State Waters, 9VAC20-170 \$0</p>	
<p>(4) Other Costs & Benefits (Non-Monetized)</p>	<p>Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9VAC20-70 Section 10.1-1402 of the Code of Virginia authorizes the Virginia Waste Management Board to promulgate and enforce regulations necessary to carry out its powers and duties and the intent of the chapter and federal law. Specifically, Section 10.1-1410 authorizes the Board to promulgate regulations which ensure that, if a solid waste treatment, transfer or disposal facility is abandoned, the costs associated with protecting the public health and safety from the consequences of such abandonment may be recovered from the person abandoning the facility.</p> <p>The current financial assurance regulations are needed; if a facility for the disposal, transfer or treatment of solid waste is abandoned, the facility will need to be closed in a manner to minimize impacts to human</p>	

health and the environment. The regulation requires owners and operators to provide funding to properly close the facility prior to operation of the facility. These requirements protect citizens of the Commonwealth from having to pay for the closure of these facilities if they are abandoned.

The regulations provide for instruction for financial incapacity of owners, operators or financial institutions and allows the agency director to reject the proposed evidence of financial responsibility if the mechanism or mechanisms submitted do not adequately assure that funds will be available for closure, post-closure care or corrective action. Failure to provide or maintain adequate financial assurance in accordance with these regulations shall be a basis for revocation of a facility permit.

The amount of financial assurance required to be provided is based on factors such as the facility size and the amount of solid waste managed at a facility. The amount of financial assurance required is based on the estimated costs related to properly close the facility. Privately-owned facilities are required to meet the same requirements as local government-owned facilities in the Commonwealth.

The regulations contain many different ways to demonstrate financial assurance and these options may make the regulations appear to be complex to some readers, but the multiple financial assurance mechanisms included in the regulation provide additional flexibility to the regulated community, including small businesses.

Federal regulations (40 CFR Part 258) require owners and operators of Municipal Solid Waste Landfill units to provide financial assurance. Virginia law requires solid waste treatment, transfer or disposal facilities to demonstrate financial assurance. Virginia's regulations do not conflict with federal law or regulations or with state law.

Solid Waste Management Permit Action Fees and Annual Fees, 9VAC20-90

The current regulations are needed to cover a portion of the cost of the solid waste program to protect public safety, health, and welfare. Annual fee amounts are specified by the statute. The current fee regulations do not provide adequate funding to cover the full cost of the solid waste program as identified by the Nonhazardous Solid Waste Fee Study Working Group established pursuant to § 1 of Chapter 275 of the 2021 Special Session 1 Acts of Assembly (SB 1210). The Department currently uses funds from other programs to cover the gap for operating the solid waste program.

	<p>Solid Waste Planning and Recycling Regulations, 9VAC20-130 The current regulation is required for planning all aspects of solid waste management including waste reduction, recycling and reuse, storage, treatment, and disposal. These regulations also consider various factors such as urban concentrations, geographic conditions, markets, transportation conditions, and other appropriate factors. Localities may choose to develop their own plans or may join with other localities to form solid waste planning units for efficient management of resources and cost of preparing the plans.</p> <p>Transportation of Solid and Medical Wastes on State Waters, 9VAC20-170 No conclusive statements can be made about other non-monetized costs and benefits of this regulation. The regulation is protective of the public health, safety and welfare of the citizens of the Commonwealth and is protective the Commonwealth’s environment and natural resources from pollution, impairment or destruction.</p>
(5) Information Sources	<p>Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9VAC20-70 Section 10.1-1402 of the Code of Virginia; Federal regulations (40 CFR Part 258)</p> <p>Solid Waste Management Permit Action Fees and Annual Fees, 9VAC20-90 Annual fee – DEQ database</p> <p>Solid Waste Planning and Recycling Regulations, 9VAC20-130 DEQ’s Economic and Environmental Impact Assessment of Recycling in Virginia (In draft form. Due to the Governor and Chairs of the House Agriculture, Chesapeake and Natural Resources Committee and Senate Agriculture, Conservation and Natural Resources Committee by October 1, 2023)</p> <p>Transportation of Solid and Medical Wastes on State Waters, 9VAC20-170 § 10.1-1454.1 of the Code of Virginia</p> <p>Publishing fees charged by newspapers with general circulation within the Commonwealth of Virginia</p>

Agency Note: This is a final exempt regulatory action necessary only to correct technical errors (updating citation references and terminology) in applicable waste management regulations as a result of the recodification of the Regulated Medical Waste Management Regulations, 9 VAC20-121, effective March 15, 2023. Therefore, Table 1c is not required and has been removed.

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>This is a final exempt regulatory action. No changes are proposed other than corrections of technical errors (updating citation references and terminology) in applicable waste management regulations as a result of the recodification of the Regulated Medical Waste Management Regulations, 9VAC20-121, effective March 15, 2023.</p> <p>Direct Costs: N/A. There are no new direct costs associated with these corrections of technical errors.</p> <p>Indirect Costs: N/A. There are no new indirect costs associated with these corrections of technical errors.</p> <p>Direct Benefits: N/A. There are no new direct benefits associated with these corrections of technical errors.</p> <p>Indirect Benefits: N/A. There are no new indirect benefits associated with these corrections of technical errors.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	N/A. There are no other costs and benefits associated with these corrections of technical errors.	
(4) Assistance	N/A	
(5) Information Sources	N/A	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>This is a final exempt regulatory action. No changes are proposed other than corrections of technical errors (updating citation references and terminology) in applicable waste management regulations as a result of the recodification of the Regulated Medical Waste Management Regulations, 9VAC20-121, effective March 15, 2023.</p> <p>Direct Costs: N/A. There are no new direct costs associated with these corrections of technical errors.</p> <p>Indirect Costs: N/A. There are no new indirect costs associated with these corrections of technical errors.</p> <p>Direct Benefits: N/A. There are no new direct benefits associated with these corrections of technical errors.</p> <p>Indirect Benefits: N/A. There are no new indirect benefits associated with these corrections of technical errors.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	N/A. There are no other costs and benefits associated with these corrections of technical errors.	
(4) Information Sources	N/A	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>This is a final exempt regulatory action. No changes are proposed other than corrections of technical errors (updating citation references and terminology) in applicable waste management regulations as a result of the recodification of the Regulated Medical Waste Management Regulations, 9VAC20-121, effective March 15, 2023.</p>	
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	<p>Direct Costs: N/A. There are no new direct costs associated with these corrections of technical errors.</p> <p>Indirect Costs: N/A. There are no new indirect costs associated with these corrections of technical errors.</p> <p>Direct Benefits: N/A. There are no new direct benefits associated with these corrections of technical errors.</p> <p>Indirect Benefits: N/A. There are no new indirect benefits associated with these corrections of technical errors.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	N/A. There are no other costs and benefits associated with these corrections of technical errors.	
(4) Alternatives	N/A	
(5) Information Sources	N/A	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved	Initial Count	Additions	Subtractions	Net Change
N/A				

Agency Note: This is a final exempt regulatory action. No changes are proposed other than corrections of technical errors (updating citation references and terminology) in applicable waste management regulations as a result of the recodification of the Regulated Medical Waste Management Regulations, 9VAC20-121, effective March 15, 2023.

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Length	New Length	Net Change in Length
N/A			

1 Project 7628 - Exempt Final**2 Virginia Waste Management Board****3 Citation Updates****4 9VAC20-70-10. Definitions.**

5 The following words and terms when used in this chapter shall have the following meanings,
6 unless the context clearly indicates otherwise:

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

9 "Active life" means the period of operation beginning with the initial receipt of solid waste and
10 ending at the completion of closure activities required by the Solid Waste Management
11 Regulations (9VAC20-81). Active life does not include the post-closure care monitoring period.

12 "Anniversary date" means the date of issuance of a financial mechanism.

13 "Assets" means all existing and all probable future economic benefits obtained or controlled
14 by a particular entity.

15 "Authority" means an authority created under the provisions of the Virginia Water and Waste
16 Authorities Act, Chapter 51 (§ 15.2-5100 et seq.) of Title 15.2 of the Code of Virginia, or, if any
17 such authority shall be abolished, the board, body, or commission succeeding to the principal
18 functions thereof or to whom the powers given by the Virginia Water and Waste Authorities Act to
19 such authority shall be given by law.

20 "Board" means the Virginia Waste Management Board.

21 "Cash plus marketable securities" means all the cash plus marketable securities held on the
22 last day of a fiscal year, excluding cash and marketable securities designed to satisfy past
23 obligations such as pensions.

24 "Closed facility" means a solid waste management facility that has been properly secured in
25 accordance with the requirements of the Solid Waste Management Regulations (9VAC20-81), the
26 Regulated Medical Waste Management Regulations (~~9VAC20-120~~)(9VAC20-121), or the
27 Transportation of Solid and Medical Wastes on State Waters Regulations (9VAC20-170). A
28 closed facility may be undergoing post-closure care.

29 "Closure" means the act of securing a solid waste management facility pursuant to the
30 requirements of this chapter and any other applicable solid waste management standards.

31 "Commercial transporter" means any person who transports for the purpose of commercial
32 carriage of solid wastes or regulated medical wastes as cargo.

33 "Corrective action" means all actions necessary to mitigate the public health or environmental
34 threat from a release to the environment of solid waste or constituents of solid waste from an
35 operating, abandoned, or closed solid waste management facility and to restore the
36 environmental conditions as required.

37 "Current annual inflation factor" means the annual inflation factor derived from the most recent
38 Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce
39 in its Survey of Current Business.

40 "Current assets" means cash or other assets or resources commonly identified as those which
41 are reasonably expected to be realized in cash or sold or consumed during the normal operating
42 cycle of the business.

43 "Current closure cost estimate" means the most recent of the estimates prepared in
44 accordance with the requirements of 9VAC20-70-111.

45 "Current dollars" means the figure represented by the total of the cost estimate multiplied by
46 the current annual inflation factor.

47 "Current liabilities" means obligations whose liquidation is reasonably expected to require the
48 use of existing resources properly classifiable as current assets or the creation of other current
49 liabilities.

50 "Current post-closure cost estimate" means the most recent of the estimates prepared in
51 accordance with the requirements of 9VAC20-70-112.

52 "Current year expenses for closure" means expenditures documented by the facility during
53 the previous fiscal year for construction-related activities associated with closing the facility.
54 Expenses for closure must be detailed and identified in an approved closure plan.

55 "Debt service" means the amount of principal and interest due on a loan in a given time period,
56 typically the current year.

57 "Deficit" means total annual revenues less total annual expenditures.

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

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

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

63 "Facility" means any solid waste management facility unless the context clearly indicates
64 otherwise. The term "facility" includes transfer stations.

65 "Federal agency" means any department, agency, or other instrumentality of the federal
66 government, any independent agency, or establishment of the federal government including any
67 government corporation and the Government Printing Office.

68 "Governmental unit" means any department, institution or commission of the Commonwealth
69 and any public corporate instrumentality thereof, and any district, and shall include local
70 governments.

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

76 "Hazardous waste" means a "hazardous waste" as defined by the Virginia Hazardous Waste
77 Management Regulations (9VAC20-60).

78 "Landfill" means a sanitary landfill, an industrial waste landfill, or a
79 construction/demolition/debris landfill as defined by the Solid Waste Management Regulations
80 (9VAC20-81).

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

86 "Liabilities" means probable future sacrifices of economic benefits arising from present
87 obligations to transfer assets or provide services to other entities in the future as a result of past
88 transactions or events.

89 "Local government" means a county, city or town or any authority, commission, or district
90 created by one or more counties, cities or towns.

91 "Net working capital" means current assets minus current liabilities.

92 "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

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

95 "Owner" means a person who owns a solid waste management facility or part of a solid waste
96 management facility. For the purposes of this chapter, all individuals, corporations, companies,
97 partnerships, societies or associations, and any federal agency or governmental unit of the
98 Commonwealth having any title or interest in any solid waste management facility or the services
99 or facilities to be rendered thereby shall be considered an owner.

100 "Parent corporation" means a corporation that directly owns at least 50% of the voting stock
101 of the corporation that is the facility owner or operator; the latter corporation is deemed a
102 "subsidiary" of the parent corporation.

103 "Permit" means the written permission of the director to own, operate, modify, or construct a
104 solid waste management facility.

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

107 "Post-closure care" means the requirements placed upon an owner or operator of a solid
108 waste disposal facility after closure to ensure environmental and public health and safety are
109 protected for a specified number of years after closure.

110 "Receiving facility" means a facility, vessel or operation that receives solid wastes or regulated
111 medical wastes transported, loaded or unloaded upon the navigable waters of the
112 Commonwealth, to the extent allowable under state law, by a commercial transporter. A receiving
113 facility is considered as a solid waste management facility. A facility that receives solid waste from
114 a ship, barge or other vessel and is regulated under § 10.1-1454.1 of the Code of Virginia shall
115 be considered a transfer facility for purposes of this chapter.

116 "Regulated medical waste" means solid waste so defined by the Regulated Medical Waste
117 Management Regulations (~~9VAC20-120~~)(9VAC20-121) as promulgated by the Virginia Waste
118 Management Board.

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

122 "Signature" means the name of a person written with his own hand.

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

127 "Solid waste" means any of those materials defined as "solid waste" in the Virginia Waste
128 Management Act and the Solid Waste Management Regulations (9VAC20-81).

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

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

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

135 "Substantial business relationship" means the extent of a business relationship necessary
136 under applicable Virginia law to make a guarantee contract incident to that relationship valid and
137 enforceable. A "substantial business relationship" shall arise from a pattern of recent and on-

138 going business transactions, in addition to the guarantee itself, such that a currently existing
 139 business relationship between the guarantor and the owner or operator is demonstrated to the
 140 satisfaction of the director.

141 "Tangible net worth" means the tangible assets that remain after deducting liabilities; such
 142 assets would not include intangibles such as goodwill and rights to patents or royalties.

143 "Total expenditures" means all expenditures excluding capital outlays and debt repayment.

144 "Total revenue" means revenue from all taxes and fees but does not include the proceeds
 145 from borrowing or asset sales, excluding revenue from funds managed on behalf of a specific
 146 third party.

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

150 "Treatment" means any method, technique, or process, including incineration or
 151 neutralization, designed to change the physical, chemical, or biological character or composition
 152 of any waste to neutralize it or render it less hazardous or nonhazardous, safer for transport, or
 153 more amenable to use, reuse, reclamation or recovery.

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

155 **9VAC20-70-50. Applicability of chapter.**

156 A. This chapter applies to all persons who own, operate, or allow the following permitted or
 157 unpermitted facilities to be operated on their property:

- 158 1. Solid waste treatment, transfer and disposal facilities regulated under the Virginia Solid
 159 Waste Management Regulations (9VAC20-81);
- 160 2. Vegetative waste management facilities regulated under the Solid Waste Management
 161 Regulations (9VAC20-81);
- 162 3. Medical waste treatment, transfer or disposal facilities regulated under the Regulated
 163 Medical Waste Management Regulations (~~9VAC20-120~~)(9VAC20-121); or
- 164 4. Receiving facilities as defined herein.

165 B. Exemptions.

- 166 1. Owners or operators of facilities who are federal or state government entities whose
 167 debts and liabilities are the debts or liabilities of the United States or the Commonwealth,
 168 are exempt from this chapter;
- 169 2. Owners and operators of facilities conditionally exempt under 9VAC20-81-95 of the
 170 Solid Waste Management Regulations are exempt from this chapter so long as they meet
 171 the conditions of the exemption;
- 172 3. Owners and operators of facilities that manage solely wastes excluded or conditionally
 173 exempt under 9VAC20-81-95 of the Solid Waste Management Regulations are exempt
 174 from this chapter;
- 175 4. Owners or operators of facilities conditionally exempt under ~~9VAC20-120-120~~9VAC20-
 176 121-90 D or 9VAC20-121-300 E or excluded under ~~9VAC20-120-130~~9VAC20-121-90 C
 177 of the Regulated Medical Waste Management Regulations (~~9VAC20-120~~)(9VAC20-121)
 178 are exempt from this chapter;
- 179 5. Owners and operators of yard waste composting facilities exempt under 9VAC20-81-
 180 95 of the Solid Waste Management Regulations are exempt from this chapter; and
- 181 6. Owners and operators of hazardous waste management units regulated under the
 182 Virginia Hazardous Waste Management Regulations (9VAC20-60) are exempt from this
 183 chapter as far as such units are concerned.

184 C. Owners and operators of facilities or units that treat or dispose of wastes which are
 185 exempted from the Virginia Hazardous Waste Management Regulations (9VAC20-60) are subject
 186 to these regulations unless also exempted herein.

187 D. Facilities with separate ownership and operation. If separate, nonexempt persons own and
 188 operate a facility subject to this chapter, the owner and operator shall be jointly and severally
 189 liable for meeting the requirements of this chapter. If either the owner or operator is exempt, as
 190 provided in 9VAC20-70-50 B, then the other person shall be liable for meeting the requirements
 191 of this chapter. If both the owner and the operator are exempt, as provided in 9VAC20-70-50 B,
 192 then the requirements of this chapter are not applicable to that facility.

193 E. Exemptions for facilities owned and operated by local governments.

194 1. Closed facilities. Owners and operators of facilities who are local governmental entities
 195 or regional authorities that have completed closure by October 9, 1994, are exempt from
 196 all the requirements of this chapter, provided they:

197 a. Have (i) disposed of less than 100 tons per day of solid waste during a
 198 representative period prior to October 9, 1993; (ii) disposed of less than 100 tons per
 199 day of solid waste each month between October 9, 1993, and April 9, 1994; (iii) ceased
 200 to accept solid waste prior to April 9, 1994; and (iv) whose units are not on the National
 201 Priority List as found in Appendix B to 40 CFR Part 300; or

202 b. Have (i) disposed of more than 100 tons per day of solid waste prior to October 9,
 203 1993, and (ii) ceased to accept solid waste prior to that date.

204 2. All other facilities. Owners and operators of facilities who are local governmental entities
 205 or regional authorities that are not exempt under subdivision 1 of this subsection are
 206 subject to the requirements of this chapter.

207 **9VAC20-70-70. Suspensions and revocations.**

208 The director may revoke, suspend, or amend any permit for cause as set in § 10.1-1409 of
 209 the Code of Virginia and as provided for in 9VAC20-81-570 and 9VAC20-81-600 of the Solid
 210 Waste Management Regulations, ~~9VAC20-120-790~~9VAC20-121-310 and ~~9VAC20-120-~~
 211 ~~840~~9VAC20-121-320 of the Regulated Medical Waste Management Regulations, and any other
 212 applicable regulations. Failure to provide or maintain adequate financial assurance in accordance
 213 with these regulations shall be a basis for revocation of such facility permit. Failure to provide or
 214 maintain adequate financial assurance in accordance with this chapter, taken with other relevant
 215 facts and circumstances, may be a basis for summary suspension of such facility permit pending
 216 a hearing to amend or revoke the permit, or to issue any other appropriate order.

217 **9VAC20-70-75. Forfeitures.**

218 Forfeiture of any financial obligation imposed pursuant to this chapter shall not relieve any
 219 owner or operator of a solid waste management facility from any obligations to comply with
 220 provisions of the Solid Waste Management Regulations (9VAC20-81) or the Regulated Medical
 221 Waste Management Regulations (~~9VAC20-120~~9VAC20-121), and any other applicable
 222 regulations or any other legal obligations for the consequences of abandonment of any facility.

223 **9VAC20-70-90. Closure, post-closure care and corrective action requirements.**

224 Article 2

225 Closure, Post-Closure Care and Corrective Action Requirements

226 A. The owner or operator shall close his facility in a manner that minimizes the need for further
 227 maintenance; and controls, minimizes or eliminates, to the extent necessary to protect human
 228 health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or
 229 waste decomposition products to the groundwater, surface water, or to the atmosphere. The
 230 owner or operator shall close his facility in accordance with all applicable regulations.

231 The closure standards applicable to the solid waste management facilities are described in
 232 9VAC20-81-160, 9VAC20-81-360, and 9VAC20-81-370 of the Solid Waste Management
 233 Regulations. The closure requirements applicable to the regulated medical waste facilities are
 234 specified in ~~9VAC20-120-290~~9VAC20-121-290 of the Regulated Medical Waste Management
 235 Regulations.

236 B. Following closure of each solid waste disposal unit, the owner or operator shall conduct
 237 post-closure care in accordance with the requirements of 9VAC20-81-170 of the Solid Waste
 238 Management Regulations, as applicable.

239 C. The owner or operator shall institute a corrective action program when required to do so
 240 by 9VAC20-81-45 or 9VAC20-81-260 of the Solid Waste Management Regulations, as applicable.

241 D. During any re-examination of a determination of the amount of financial assurance
 242 required, the owner or operator of a landfill facility not closed in accordance with 9VAC20-81 shall
 243 demonstrate financial assurance by using one or more of the approved mechanisms listed in
 244 Article 4 (9VAC20-70-140 et seq.) of this part for the lesser of the following:

- 245 1. The amount requested by the director; or
- 246 2. The following default amounts:
 - 247 a. \$200,000 per acre of fill for sanitary landfills; or
 - 248 b. \$150,000 per acre of fill for construction demolition debris landfills and industrial
 249 landfills.

250 **9VAC20-70-290. Wording of financial mechanisms.**

251 A. Wording of trust agreements.

252 (NOTE: Instructions in parentheses are to be replaced with the relevant information and the
 253 parentheses deleted.)

254 TRUST AGREEMENT

255 Trust agreement, the "Agreement," entered into as of (date) by and between (name of the
 256 owner or operator), a (State) (corporation, partnership, association, proprietorship), the "Grantor,"
 257 and (name of corporate trustee), a (State corporation) (national bank), the "Trustee."

258 Whereas, the Virginia Waste Management Board has established certain regulations
 259 applicable to the Grantor, requiring that the owner or operator of a (solid) (regulated medical)
 260 (yard) waste (transfer station) (receiving) (management) facility must provide assurance that
 261 funds will be available when needed for (closure, post-closure care, or corrective action) of the
 262 facility,

263 Whereas, the Grantor has elected to establish a trust to provide (all or part of) such financial
 264 assurance for the facility identified herein,

265 Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to
 266 be the trustee under this agreement, and the Trustee is willing to act as trustee,

267 Now, therefore, the Grantor and the Trustee agree as follows:

268 Section 1. Definitions. As used in this Agreement:

- 269 A. The term "fiduciary" means any person who exercises any power of control,
 270 management, or disposition or renders investment advice for a fee or other compensation,
 271 direct or indirect, with respect to any moneys or other property of this trust fund, or has
 272 any authority or responsibility to do so, or who has any authority or responsibility in the
 273 administration of this trust fund.

274 B. The term "Grantor" means the owner or operator who enters into this Agreement and
275 any successors or assigns of the Grantor.

276 C. The term "Trustee" means the Trustee who enters into this Agreement and any
277 successor Trustee.

278 Section 2. Identification of Facility and Cost Estimates. This Agreement pertains to facility(ies)
279 and cost estimates identified on attached Schedule A.

280 (NOTE: On Schedule A, for each facility list, as applicable, the permit number, name, address,
281 and the current closure, post-closure, corrective action cost estimates, or portions thereof, for
282 which financial assurance is demonstrated by this Agreement.)

283 Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund,
284 the "Fund," for the benefit of the Department of Environmental Quality, Commonwealth of Virginia.
285 The Grantor and the Trustee intend that no third party have access to the Fund except as herein
286 provided. The Fund is established initially as property consisting of cash or securities, which are
287 acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other
288 property subsequently transferred to the Trustee is referred to as the fund, together with all
289 earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to
290 this Agreement. The Fund will be held by the Trustee, IN TRUST, as hereinafter provided. The
291 Trustee undertakes no responsibility for the amount or adequacy of, nor any duty to collect from
292 the Grantor, any payments to discharge any liabilities of the Grantor established by the
293 Commonwealth of Virginia's Department of Environmental Quality.

294 Section 4. Payment for (Closure, Post-Closure Care, or Corrective Action). The Trustee will
295 make such payments from the Fund as the Department of Environmental Quality, Commonwealth
296 of Virginia will direct, in writing, to provide for the payment of the costs of (closure, post-closure
297 care, corrective action) of the facility covered by this Agreement. The Trustee will reimburse the
298 Grantor or other persons as specified by the Department of Environmental Quality,
299 Commonwealth of Virginia, from the Fund for (closure, post-closure care, corrective action)
300 expenditures in such amounts as the Department of Environmental Quality will direct, in writing.
301 In addition, the Trustee will refund to the Grantor such amounts as the Department of
302 Environmental Quality specifies in writing. Upon refund, such funds will no longer constitute part
303 of the Fund as defined herein.

304 Section 5. Payments Comprising the Fund. Payments made to the Trustee for the fund will
305 consist of cash or securities acceptable to the Trustee.

306 Section 6. Trustee Management. The Trustee will invest and reinvest the principal and income
307 of the Fund and keep the Fund invested as a single fund, without distinction between principal
308 and income, in accordance with investment guidelines and objectives communicated in writing to
309 the Trustee from time to time by the Grantor, subject, however, to the provisions of this Section.
310 In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee or any other
311 fiduciary will discharge his duties with respect to the trust fund solely in the interest of the
312 beneficiary and with the care, skill, prudence, and diligence under the circumstances then
313 prevailing which persons of prudence, acting in a like capacity and familiar with such matters,
314 would use in the conduct of any enterprise of a like character and with like aims; except that:

315 A. Securities or other obligations of the Grantor, or any other owner or operator of the
316 facility, or any of their affiliates as defined in the Investment Company Act of 1940, as
317 amended, 15 USC § 80a-2(a), will not be acquired or held, unless they are securities or
318 other obligations of the federal or a state government;

319 B. The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee,
320 to the extent insured by an agency of the federal or state government; and

321 C. The Trustee is authorized to hold cash awaiting investment or distribution uninvested
322 for a reasonable time and without liability for the payment of interest thereon.

323 Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

324 A. To transfer from time to time any or all of the assets of the Fund to any common,
325 commingled or collective trust fund created by the Trustee in which the Fund is eligible to
326 participate subject to all of the provisions thereof, to be commingled with the assets of
327 other trusts participating herein. To the extent of the equitable share of the Fund in any
328 such commingled trust, such commingled trust will be part of the Fund; and

329 B. To purchase shares in any investment company registered under the Investment
330 Company Act of 1940, 15 USC § 80a-1 et seq., of one which may be created, managed,
331 underwritten, or to which investment advice is rendered or the shares of which are sold by
332 the Trustee. The Trustees may vote such shares in its discretion.

333 Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions
334 conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is
335 expressly authorized and empowered:

336 A. To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by
337 private contract or at public auction. No person dealing with the Trustee will be bound to
338 see to the application of the purchase money or to inquire into the validity or expediency
339 of any such sale or other dispositions;

340 B. To make, execute, acknowledge and deliver any and all documents of transfer and
341 conveyance and any and all other instruments that may be necessary or appropriate to
342 carry out the powers herein granted;

343 C. To register any securities held in the fund in its own name or in the name of a nominee
344 and to hold any security in bearer form or in book entry, or to combine certificates
345 representing such securities with certificates of the same issue held by the Trustee in other
346 fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified
347 central depository even though, when so deposited, such securities may be merged and
348 held in bulk in the name of the nominee of such depository with other securities deposited
349 therein by another person, or to deposit or arrange for the deposit of any securities issued
350 by the United State government, or any agency or instrumentality thereof with a Federal
351 Reserve Bank, but the books and records of the Trustee will at all times show that all such
352 securities are part of the Fund;

353 D. To deposit any cash in the fund in interest-bearing accounts maintained or savings
354 certificates issued by the Trustee, in its separate corporate capacity, or in any other
355 banking institution affiliated with the Trustee, to the extent insured by an agency of the
356 Federal or State government; and

357 E. To compromise or otherwise adjust all claims in favor of or against the Fund.

358 Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against
359 or in respect of the Fund and all brokerage commissions incurred by the Fund will be paid from
360 the Fund. All other expenses incurred by the Trustee in connection with the administration of this
361 Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee
362 to the extent not paid directly by the Grantor, and all other proper charges and disbursements of
363 the Trustee will be paid from the Fund.

364 Section 10. Annual Valuation. The Trustee will annually, at the end of the month coincident
365 with or preceding the anniversary date of establishment of the Fund, furnish the Grantor and to
366 the director of the Department of Environmental Quality, Commonwealth of Virginia, a statement
367 confirming the value of the Trust. Any securities in the Fund will be valued at market value as of
368 no more than 30 days prior to the date of the statement. The failure of the Grantor to object in

369 writing to the Trustee within 90 days after the statement has been furnished to the Grantor and
370 the director of the Department of Environmental Quality, Commonwealth of Virginia will constitute
371 a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or
372 liability against the Trustee with respect to matters disclosed in the statement.

373 Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who
374 may be counsel to the Grantor, with respect to any question arising as to the construction of this
375 Agreement or any action to be taken hereunder. The Trustee will be fully protected, to the extent
376 permitted by law, in acting upon the advice of counsel.

377 Section 12. Trustee Compensation. The Trustee will be entitled to reasonable compensation
378 for its services as agreed upon in writing from time to time with the Grantor.

379 Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the
380 Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed
381 a successor trustee and this successor accepts the appointment. The successor trustee shall
382 have the same powers and duties as those conferred upon the Trustee hereunder. Upon
383 acceptance of the appointment by the successor trustee, the Trustee will assign, transfer and pay
384 over to the successor trustee the funds and properties then constituting the Fund. If for any reason
385 the grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may
386 apply to a court of competent jurisdiction for the appointment of a successor trustee or for
387 instructions. The successor trustee and the date on which he assumes administration of the trust
388 will be specified in writing and sent to the Grantor, the director of the Department of Environmental
389 Quality, Commonwealth of Virginia, and the present trustees by certified mail 10 days before such
390 change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts
391 contemplated by this section will be paid as provided in Part IX.

392 Section 14. Instructions to the Trustee. All orders, requests and instructions by the Grantor to
393 the Trustee will be in writing, signed by such persons as are designated in the attached Exhibit A
394 or such other designees as the grantor may designate by amendment to Exhibit A. The Trustee
395 will be fully protected in acting without inquiry in accordance with the Grantor's orders, requests
396 and instructions. All orders, requests, and instructions by the Director of the Department of
397 Environmental Quality, Commonwealth of Virginia, to the Trustee will be in writing, signed by the
398 Director and the Trustee will act and will be fully protected in acting in accordance with such
399 orders, requests and instructions. The Trustee will have the right to assume, in the absence of
400 written notice to the contrary, that no event constituting a change or a termination of the authority
401 of any person to act on behalf of the Grantor or the Commonwealth of Virginia's Department of
402 Environmental Quality hereunder has occurred. The Trustee will have no duty to act in the
403 absence of such orders, requests and instructions from the Grantor and/or the Commonwealth of
404 Virginia's Department of Environmental Quality, except as provided for herein.

405 Section 15. Notice of Nonpayment. The Trustee will notify the Grantor and the Director of the
406 Department of Environmental Quality, Commonwealth of Virginia, by certified mail within 10 days
407 following the expiration of the 30-day period after the anniversary of the establishment of the
408 Trust, if no payment is received from the Grantor during that period. After the pay-in period is
409 completed, the Trustee is not required to send a notice of nonpayment.

410 Section 16. Amendment of Agreement. This Agreement may be amended by an instrument
411 in writing executed by the Grantor, the Trustee, and the Director of the Department of
412 Environmental Quality, Commonwealth of Virginia, or by the Trustee and the Director of the
413 Department of Environmental Quality, Commonwealth of Virginia, if the Grantor ceases to exist.

414 Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this
415 Agreement as provided in Section 16, this Trust will be irrevocable and will continue until
416 terminated at the written agreement of the Grantor, the Trustee, and the Director of the
417 Department of Environmental Quality, Commonwealth of Virginia, or by the Trustee and the

418 Director if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property,
 419 less final trust administration expenses, will be delivered to the Grantor.

420 Section 18. Immunity and Indemnification. The Trustee will not incur personal liability of any
 421 nature in connection with any act or omission, made in good faith, in the administration of this
 422 Trust, or in carrying out any directions by the Grantor or the Director of the Department of
 423 Environmental Quality, Commonwealth of Virginia, issued in accordance with this Agreement.
 424 The Trustee will be indemnified and saved harmless by the Grantor or from the Trust Fund, or
 425 both, from and against any personal liability to which the Trustee may be subjected by reason of
 426 any act or conduct in its official capacity, including all expenses reasonably incurred in its defense
 427 in the event the Grantor fails to provide such defense.

428 Section 19. Choice of Law. This Agreement will be administered, construed and enforced
 429 according to the laws of the Commonwealth of Virginia.

430 Section 20. Interpretation. As used in the Agreement, words in the singular include the plural
 431 and words in the plural include the singular. The descriptive headings for each section of this
 432 Agreement will not affect the interpretation of the legal efficacy of this Agreement.

433 In witness whereof the parties have caused this Agreement to be executed by their respective
 434 officers duly authorized and their corporate seals to be hereunto affixed and attested as of the
 435 date first above written. The parties below certify that the wording of this Agreement is identical
 436 to the wording specified in 9VAC20-70-290 A of the Financial Assurance Regulations for Solid
 437 Waste Disposal, Transfer and Treatment Facilities, as such regulations were constituted on the
 438 date shown immediately below.

(Signature of Grantor)	
By: (Title)	(Date)
Attest:	
(Title)	(Date)
(Seal)	
(Signature of Trustee)	
By	
Attest:	
(Title)	
(Seal)	(Date)

439 Certification of Acknowledgment:
 440 COMMONWEALTH OF VIRGINIA
 441 STATE OF _____
 442 CITY/COUNTY OF _____

443 On this date, before me personally came (owner or operator) to me known, who being by me
 444 duly sworn, did depose and say that she/he resides at (address), that she/he is (title) of
 445 (corporation), the corporation described in and which executed the above instrument; that she/he
 446 knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal;
 447 that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed
 448 her/his name thereto by like order.

449 (Signature of Notary Public)

450 B. Wording of surety bond guaranteeing performance or payment.

451 (NOTE: instructions in parentheses are to be replaced with the relevant information and the
452 parentheses deleted.)

453 PERFORMANCE OR PAYMENT BOND

454 Date bond executed: _____

455 Effective date: _____

456 Principal: (legal name and business address) _____

457 Type of organization: (insert "individual," "joint venture," "partnership," or "corporation")
458 _____

459 State of incorporation: _____

460 Surety: (name and business address) _____

461 Name, address, permit number, if any, and (closure, post-closure care, or corrective action)
462 cost estimate for the facility: _____

463 Penal sum of bond: \$ _____

464 Surety's bond number: _____

465 Know all men by these present, That we, the Principal and Surety hereto are firmly bound to
466 the Department of Environmental Quality, Commonwealth of Virginia, (hereinafter called the
467 Department) in the above penal sum for the payment of which we bind ourselves, our heirs,
468 executors, administrators, successors and assigns, jointly and severally; provided that, where the
469 Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum
470 "jointly and severally" only for the purpose of allowing a joint action or actions against any or all
471 of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal,
472 for the payment of each sum only as is set forth opposite the name of such Surety, but if no limit
473 of liability is indicated, the limit of liability shall be the full amount of the penal sum.

474 Whereas, said Principal is required to have a permit from the Department of Environmental
475 Quality, Commonwealth of Virginia, in order to own or operate the (solid, regulated medical, yard)
476 waste management facility identified above, and

477 Whereas, said Principal is required to provide financial assurance for (closure, post-closure
478 care, corrective action) of the facility as a condition of the permit or an order issued by the
479 department,

480 Now, therefore the conditions of this obligation are such that if the Principal shall faithfully
481 perform (closure, post-closure care, corrective action), whenever required to do so, of the facility
482 identified above in accordance with the order or the (closure, post-closure care, corrective action)
483 plan submitted to receive said permit and other requirements of said permit as such plan and
484 permit may be amended or renewed pursuant to all applicable laws, statutes, rules, and
485 regulations, as such laws, statutes, rules, and regulations may be amended,

486 Or, if the Principal shall faithfully perform (closure, post-closure care, corrective action)
487 following an order to begin (closure, post-closure care, corrective action) issued by the
488 Commonwealth of Virginia's Department of Environmental Quality or by a court, or following a
489 notice of termination of the permit,

490 Or, if the Principal shall provide alternate financial assurance as specified in the Department's
491 regulations and obtain the director's written approval of such assurance, within 90 days of the
492 date notice of cancellation is received by the Director of the Department of Environmental Quality
493 from the Surety, then this obligation will be null and void, otherwise it is to remain in full force and
494 effect for the life of the management facility identified above.

495 The Surety shall become liable on this bond obligation only when the Principal has failed to
496 fulfill the conditions described above. Upon notification by the Director of the Department of
497 Environmental Quality, Commonwealth of Virginia, that the Principal has been found in violation
498 of the requirements of the Department's regulations, the Surety must either perform (closure,
499 post-closure care, corrective action) in accordance with the approved plan and other permit
500 requirements or forfeit the (closure, post-closure care, corrective action) amount guaranteed for
501 the facility to the Commonwealth of Virginia.

502 Upon notification by the Director of the Department of Environmental Quality, Commonwealth
503 of Virginia, that the Principal has been found in violation of an order to begin (closure, post-closure
504 care, corrective action), the Surety must either perform (closure, post-closure care, corrective
505 action) in accordance with the order or forfeit the amount of the (closure, post-closure care,
506 corrective action) guaranteed for the facility to the Commonwealth of Virginia.

507 The Surety hereby waives notification of amendments to the (closure, post-closure care,
508 corrective action) plans, orders, permit, applicable laws, statutes, rules, and regulations and
509 agrees that such amendments shall in no way alleviate its obligation on this bond.

510 For purposes of this bond, (closure, post-closure care, corrective action) shall be deemed to
511 have been completed when the Director of the Department of Environmental Quality,
512 Commonwealth of Virginia, determines that the conditions of the approved plan have been met.

513 The liability of the Surety shall not be discharged by any payment or succession of payments
514 hereunder, unless and until such payment or payments shall amount in the aggregate to the penal
515 sum of the bond, but the obligation of the Surety hereunder shall not exceed the amount of said
516 penal sum unless the Director of the Department of Environmental Quality, Commonwealth of
517 Virginia, should prevail in an action to enforce the terms of this bond. In this event, the Surety
518 shall pay, in addition to the penal sum due under the terms of the bond, all interest accrued from
519 the date the Director of the Department of Environmental Quality, Commonwealth of Virginia, first
520 ordered the Surety to perform. The accrued interest shall be calculated at the judgment rate of
521 interest pursuant to § 6.2-302 of the Code of Virginia.

522 The Surety may cancel the bond by sending written notice of cancellation to the owner or
523 operator and to the Director of the Department of Environmental Quality, Commonwealth of
524 Virginia, provided, however, that cancellation cannot occur (1) during the 120 days beginning on
525 the date of receipt of the notice of cancellation by the director as shown on the signed return
526 receipt; or (2) while an enforcement action is pending.

527 The Principal may terminate this bond by sending written notice to the Surety, provided,
528 however, that no such notice shall become effective until the Surety receives written authorization
529 for termination of the bond by the Director of the Department of Environmental Quality,
530 Commonwealth of Virginia.

531 In witness whereof, the Principal and Surety have executed this Performance Bond and have
532 affixed their seals on the date set forth above.

533 The persons whose signatures appear below hereby certify that they are authorized to
534 execute this surety bond on behalf of the Principal and Surety and I hereby certify that the wording
535 of this surety bond is identical to the wording specified in 9VAC20-70-290 B of the Financial
536 Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities as such
537 regulations were constituted on the date shown immediately below.

538 Principal

539 Signature(s): _____

540 Name(s) and Title(s): (typed)_____

541 Corporate Surety

542 Name and Address: _____

543 State of Incorporation: _____

544 Liability Limit: \$____

545 Signature(s): _____

546 Name(s) and Title(s): (typed)_____

547 Corporate Seal:

548 C. Wording of irrevocable standby letter of credit.

549 (NOTE: Instructions in parentheses are to be replaced with the relevant information and the
550 parentheses deleted.)

551 IRREVOCABLE STANDBY LETTER OF CREDIT

552 Director

553 Department of Environmental Quality

554 P.O. Box 1105

555 Richmond, Virginia 23218

556 Dear (Sir or Madam):

557 We hereby establish our Irrevocable Letter of Credit No..... in your favor at the request and
558 for the account of (owner's or operator's name and address) up to the aggregate amount of (in
559 words) U.S. dollars \$____, available upon presentation of

- 560 1. Your sight draft, bearing reference to this letter of credit No ____ together with
- 561 2. Your signed statement declaring that the amount of the draft is payable pursuant to
- 562 regulations issued under the authority of the Department of Environmental Quality,
- 563 Commonwealth of Virginia.

564 The following amounts are included in the amount of this letter of credit: (Insert the facility
565 permit number, if any, name and address, and the closure, post-closure care, corrective action
566 cost estimate, or portions thereof, for which financial assurance is demonstrated by this letter of
567 credit.)

568 This letter of credit is effective as of (date) and will expire on (date at least one year later), but
569 such expiration date will be automatically extended for a period of (at least one year) on (date)
570 and on each successive expiration date, unless, at least 120 days before the current expiration
571 date, we notify you and (owner or operator's name) by certified mail that we decide not to extend
572 the Letter of Credit beyond the current expiration date. In the event you are so notified, unused
573 portion of the credit will be available upon presentation of your sight draft for 120 days after the
574 date of receipt by you as shown on the signed return receipt or while a compliance procedure is
575 pending, whichever is later.

576 Whenever this letter of credit is drawn on under and in compliance with the terms of this credit,
577 we will duly honor such draft upon presentation to us, and we will pay to you the amount of the
578 draft promptly and directly.

579 I hereby certify that I am authorized to execute this letter of credit on behalf of (issuing
580 institution) and I hereby certify that the wording of this letter of credit is identical to the wording
581 specified in 9VAC20-70-290 C of the Financial Assurance Regulations for Solid Waste Disposal,
582 Transfer, and Treatment Facilities as such regulations were constituted on the date shown
583 immediately below.

584 Attest:

585 (Print name and title of official of issuing institution) (Date)

(Signature)	(Date)
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586 This credit is subject to (insert "the most recent edition of the Uniform Customs and Practice
 587 for Documentary Credits, published by the International Chamber of Commerce," of "the Uniform
 588 Commercial Code.")

589 D. Assignment of certificate of deposit account.

590 City _____, 20____

591 FOR VALUE RECEIVED, the undersigned assigns all right, title and interest to the Virginia
 592 Department of Environmental Quality, Commonwealth of Virginia, and its successors and assigns
 593 the Virginia Department of Environmental Quality the principal amount of the instrument, including
 594 all monies deposited now or in the future to that instrument, indicated below:

595 () If checked here, this assignment includes all interest now and hereafter accrued.

596 Certificate of Deposit Account No. _____

597 This assignment is given as security to the Virginia Department of Environmental Quality in
 598 the amount of _____ Dollars (\$_____).

599 Continuing Assignment. This assignment shall continue to remain in effect for all subsequent
 600 terms of the automatically renewable certificate of deposit.

601 Assignment of Document. The undersigned also assigns any certificate or other document
 602 evidencing ownership to the Virginia Department of Environmental Quality.

603 Additional Security. This assignment shall secure the payment of any financial obligation of
 604 the (name of owner/operator) to the Virginia Department of Environmental Quality for ("closure"
 605 "post closure care" "corrective action") at the (facility name and permit number) located (physical
 606 address)

607 Application of Funds. The undersigned agrees that all or any part of the funds of the indicated
 608 account or instrument may be applied to the payment of any and all financial assurance
 609 obligations of (name of owner/operator) to the Virginia Department of Environmental Quality for
 610 ("closure" "post closure care" "corrective action") at the (facility name and address). The
 611 undersigned authorizes the Virginia Department of Environmental Quality to withdraw any
 612 principal amount on deposit in the indicated account or instrument including any interest, if
 613 indicated, and to apply it in the Virginia Department of Environmental Quality's discretion to fund
 614 ("closure" "post closure care" "corrective action") at the (facility name) or in the event of (owner
 615 or operator's) failure to comply with the Virginia Financial Assurance Regulations for Solid Waste
 616 Disposal, Transfer, and Treatment Facilities, 9VAC20-70. The undersigned agrees that the
 617 Virginia Department of Environmental Quality may withdraw any principal and/or interest from the
 618 indicated account or instrument without demand or notice. (The undersigned) agrees to assume
 619 any and all loss of penalty due to federal regulations concerning the early withdrawal of funds.
 620 Any partial withdrawal of principal or interest shall not release this assignment.

621 The party or parties to this Assignment set their hand or seals, or if corporate, has caused this
 622 assignment to be signed in its corporate name by its duly authorized officers and its seal to be
 623 affixed by authority of its Board of Directors the day and year above written.

	SEAL
(Owner)	
(print owner's name)	
	SEAL
(Owner)	
(print owner's name)	

624 THE FOLLOWING SECTION IS TO BE COMPLETED BY THE BRANCH OR LENDING
 625 OFFICE:

626 The signature(s) as shown above compare correctly with the name(s) as shown on record as
 627 owner(s) of the Certificate of Deposit indicated above. The above assignment has been properly
 628 recorded by placing a hold in the amount of \$ _____ for the benefit of the
 629 Department of Environmental Quality.

630 () If checked here, the accrued interest on the Certificate of Deposit indicated above has been
 631 maintained to capitalize versus being mailed by check or transferred to a deposit account.

(Signature)	(Date)
(print name)	
(Title)	

632 E. Wording of certificate of insurance.

633 (NOTE: Instructions in parentheses are to be replaced with the relevant information and the
 634 parentheses deleted.)

635 CERTIFICATE OF INSURANCE

636 Name and Address of Insurer (herein called the "Insurer"): _____

637 _____

638 Name and Address of Insured (herein called the "Insured"): _____

639 _____

640 _____

641 Facilities Covered: (List for each facility: Permit number (if applicable), name, address and the
 642 amount of insurance for closure, post-closure care, or corrective action. (These amounts for all
 643 facilities covered shall total the face amount shown below.))

644 Face Amount: \$ ____

645 Policy Number: _____

646 Effective Date: _____

647 The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified
 648 above to provide financial assurance for (insert "closure," "post-closure care," "corrective action")
 649 for the facilities identified above. The Insurer further warrants that such policy conforms in all
 650 respects with the requirements of 9VAC20-70-190 of the Financial Assurance Regulations for
 651 Solid Waste Disposal, Transfer, and Treatment Facilities ("Regulations") (9VAC20-70), as such
 652 regulations were constituted on the date shown immediately below. It is agreed that any provision
 653 of the policy inconsistent with such regulations is hereby amended to eliminate such
 654 inconsistency.

655 Whenever requested by the Director, the Insurer agrees to furnish to the Director a duplicate
 656 original of the policy listed above, including all endorsements thereon.

657 I hereby certify that the wording of this certificate is identical to the wording specified in
 658 9VAC20-70-290 E of the Financial Assurance Regulations for Solid Waste Disposal, Transfer,
 659 and Treatment Facilities as such regulations were constituted on the date shown immediately
 660 below.

661 (Authorized signature for Insurer)

662 (Name of person signing)

663 (Title of person signing)

664 Signature of witness or notary:

665 (Date)

666 F. Wording of letter from chief financial officer.

667 (NOTE: Instructions in parentheses are to be replaced with the relevant information and the
668 parentheses removed.)

669 Director

670 Department of Environmental Quality

671 P.O. Box 1105

672 Richmond, Virginia 23218

673 Dear (Sir, Madam):

674 I am the chief financial officer of (name and address of firm). This letter is in support of this
675 firm's use of the financial test to demonstrate financial assurance, as specified in 9VAC20-70-200
676 of the Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment
677 Facilities (9VAC20-70) ("Regulations").

678 (Fill out the following four paragraphs regarding solid waste, regulated medical waste, yard
679 waste composting, hazardous waste, underground injection (regulated under the federal program
680 in 40 CFR Part 144, or its equivalent in other states), petroleum underground storage (9VAC25-
681 590), above ground storage facilities (9VAC25-640) and PCB storage (regulated under 40 CFR
682 Part 761) facilities and associated cost estimates. If your firm has no facilities that belong in a
683 particular paragraph, write "None" in the space indicated. For each facility, include its name,
684 address, permit number, if any, and current closure, post-closure care, corrective action or any
685 other environmental obligation cost estimates. Identify each cost estimate as to whether it is for
686 closure, post-closure care, corrective action or other environmental obligation.)

687 1. This firm is the owner or operator of the following facilities for which financial assurance
688 is demonstrated through the corporate test specified in 9VAC20-70-200 or its equivalent
689 in other applicable regulations. The current cost estimates covered by the test are shown
690 for each facility:

691 2. This firm guarantees, through the corporate guarantee specified in 9VAC20-70-220, the
692 financial assurance for the following facilities owned or operated by subsidiaries of this
693 firm. The current cost estimates so guaranteed are shown for each facility:

694 3. This firm, as owner or operator or guarantor, is demonstrating financial assurance for
695 the following facilities through the use of a financial test. The current cost estimates
696 covered by such a test are shown for each facility:

697 4. This firm is the owner or operator of the following waste management facilities for which
698 financial assurance is not demonstrated through the financial test or any other financial
699 assurance mechanism. The current cost estimates for the facilities which are not covered
700 by such financial assurance are shown for each facility:

701 This firm (insert "is required" or "is not required") to file a Form 10K with the Securities and
702 Exchange Commission (SEC) for the latest fiscal year.

703 The fiscal year of this firm ends on (month, day). The figures for the following items marked
704 with an asterisk are derived from this firm's independently audited, year-end financial statements
705 for the latest completed fiscal year, ended (date).

1) Sum of current closure, post-closure care, corrective action or other environmental obligations cost estimates (total of all cost estimates shown in the four paragraphs above.)		\$ _____
---	--	----------

2) Tangible net worth*			\$ _____
3) Total assets located in the United States*			\$ _____
	YES	NO	
Line 2 exceeds line 1 by at least \$10 million?	_____	_____	
Line 3 exceeds line 1 by at least \$10 million?	_____	_____	

706 (Fill in Alternative I if the criteria of 9VAC20-70-200 1 a (1) are used. Fill in Alternative II if the
 707 criteria of 9VAC20-70-200 1 a (2) are used. Fill in Alternative III if the criteria of 9VAC20-70-200
 708 1 a (3) are used.)

709 ALTERNATIVE I

710 Current bond rating of this firm's senior unsubordinated debt and name of rating service
 711 Date of issuance of bond
 712 Date of maturity of bond

ALTERNATIVE II

4) Total liabilities* (if any portion of the closure, post-closure care, corrective action or other environmental obligations cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to line 5.)			\$ _____
5) Net worth*			\$ _____
Is line 4 divided by line 5 less than 1.5?	YES	NO	

ALTERNATIVE III

6) Total liabilities*			\$ _____
7) The sum of net income plus depreciation, depletion, and amortization minus \$10 million*			\$ _____
Is line 7 divided by line 6 less than 0.1?	YES	NO	

714 I hereby certify that the wording of this letter is identical to the wording in 9VAC20-70-290 F
 715 of the Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment
 716 Facilities as such regulations were constituted on the date shown immediately below.

717 (Signature)
 718 (Name)
 719 (Title)
 720 (Date)

721 G. Wording of the local government letter from chief financial officer.

722 (NOTE: Instructions in parentheses are to be replaced with the relevant information and the
 723 parentheses deleted.)

724 LETTER FROM CHIEF FINANCIAL OFFICER

725 I am the chief financial officer of (insert: name and address of local government owner or
 726 operator, or guarantor). This letter is in support of the use of the financial test to demonstrate

727 financial responsibility for ("closure care" "post-closure care" "corrective action costs") arising
 728 from operating a solid waste management facility.

729 The following facilities are assured by this financial test: (List for each facility: the name and
 730 address of the facility, the permit number, the closure, post-closure and/or corrective action costs,
 731 whichever applicable, for each facility covered by this instrument).

732 This owner's or operator's financial statements were prepared in conformity with Generally
 733 Accepted Accounting Principles for governments and have been audited by ("an independent
 734 certified public accountant" "Auditor of Public Accounts"). The owner or operator has not received
 735 an adverse opinion or a disclaimer of opinion from ("an independent certified public accountant"
 736 "Auditor of Public Accounts") on its financial statements for the latest completed fiscal year.

737 This owner or operator is not currently in default on any outstanding general obligation bond.
 738 Any outstanding issues of general obligation, if rated, have a Moody's rating of Aaa, Aa, A, or Baa
 739 or a Standard and Poor's rating of AAA, AA, A or BBB; if rated by both firms, the bonds have a
 740 Moody's rating of Aaa, Aa, A or Baa and a Standard and Poor's rating of AAA, AA, A, or BBB.

741 The fiscal year of this owner or operator ends on (month, day). The figures for the following
 742 items marked with the asterisk are derived from this owner's or operator's independently audited,
 743 year-end financial statements for the latest completed fiscal year ended (date).

744 (Please complete Alternative I or Alternative II.)

745 (Fill in Alternative I if the criteria in 9VAC20-70-210 1 a (1) are used. Fill in Alternative II if the
 746 criteria of 9VAC20-70-210 1 a (2) are used.)

747 ALTERNATIVE I - BOND RATING TEST

748 The details of the issue date, maturity, outstanding amount, bond rating, and bond rating
 749 agency of all outstanding general obligation bond issues that are being used by (name of local
 750 government owner or operator, or guarantor) to demonstrate financial responsibility are as
 751 follows: (complete table):

Issue Date	Maturity Date	Outstanding Amount	Bond Rating	Rating Agency
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

752 Any outstanding issues of general obligation bonds, if rated, have a Moody's rating of Aaa,
 753 Aa, A, or Baa or a Standard and Poor's rating of AAA, AA, A or BBB; if rated by both firms, the
 754 bonds have a Moody's rating of Aaa, Aa, A or Baa and a Standard and Poor's rating of AAA, AA,
 755 A or BBB.

1) Sum of current closure, post-closure and corrective action cost estimates (total of all cost estimates listed above)	\$ _____
*2) Operating Deficit	
(a) latest completed fiscal year (insert year)	\$ _____
(b) previous fiscal year (insert year)	\$ _____

*3) Total Revenue			
(a) latest completed fiscal year (insert year)		\$	_____
(b) previous fiscal year (insert year)		\$	_____
4) Other self-insured environmental costs			
(a) Amount of aggregate underground injection control systems financial assurance insured by a financial test under 40 CFR 144.62		\$	_____
(b) Amount of annual underground storage tank aggregate coverage insured by a financial test under 40 CFR Part 280 and 9VAC25-590		\$	_____
(c) Amount of aggregate costs associated with PCB storage facilities insured by a financial test under 40 CFR Part 761		\$	_____
(d) Amount of annual aggregate hazardous waste financial assurance insured by a financial test under 40 CFR Parts 264 and 265 and 9VAC20-60		\$	_____
(e) Total of lines 4(a) through 4(d)		\$	_____
	YES	NO	
5) Is (line 2a / line 3a) < 0.05?	_____	_____	
6) Is (line 2b / line 3b) < 0.05?	_____	_____	
7) Is (line 1 + line 4e) <= (line 3a x 0.43)?	_____	_____	

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ALTERNATIVE II - FINANCIAL RATIO TEST

1) Sum of current closure, post-closure and corrective action cost estimates			
		\$	_____
*2) Operating Deficit			
(a) latest completed fiscal year (insert year)		\$	_____
(b) previous fiscal year (insert year)		\$	_____
*3) Total Revenue			
(a) latest completed fiscal year (insert year)		\$	_____
(b) previous fiscal year (insert year)		\$	_____
4) Other self-insured environmental costs			
(a) Amount of aggregate underground injection control systems financial assurance insured by a financial test under 40 CFR 144.62		\$	_____

(b) Amount of annual underground storage tank aggregate coverage insured by a financial test under 40 CFR Part 280 and 9VAC25-590			\$ _____
(c) Amount of aggregate costs associated with PCB storage facilities insured by a financial test under 40 CFR Part 761			\$ _____
(d) Amount of annual aggregate hazardous waste financial assurance insured by a financial test under 40 CFR Parts 264 and 265 and 9VAC20-60			\$ _____
(e) Total of lines 4(a) through 4(d)			\$ _____
*5) Cash plus marketable securities			\$ _____
*6) Total Expenditures			\$ _____
*7) Annual Debt Service			\$ _____
	YES	NO	
8) Is (line 2a / line 3a) < 0.05?	_____	_____	
9) Is (line 2b / line 3b) < 0.05?	_____	_____	
10) Is (line 1 + line 4e) <= (line 3a x 0.43)?	_____	_____	
11) Is (line 5 / line 6) >= 0.05?	_____	_____	

757 I hereby certify that the wording of this letter is identical to the wording in 9VAC20-70-290 G
 758 of the Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment
 759 Facilities as such regulations were constituted on the date shown immediately below.

760 (Signature)
 761 (Name of person signing)
 762 (Title of person signing)
 763 (Date)

764 H. Certification of funding.

CERTIFICATION OF FUNDING

765 I certify the following information details the current plan for funding closure and post closure
 766 at the solid waste management facilities listed below.
 767

Facility Permit #	Source for funding closure and post closure	
Name of Locality or Corporation: _____		
Signature	Printed Name	Date
Title		

768 I. Wording of corporate guarantee.

769 (NOTE: Instructions in parentheses are to be replaced with the relevant information and the
 770 parentheses removed.)

CORPORATE GUARANTEE

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Guarantee made this (date) by (name of guaranteeing entity), a business corporation organized under the laws of the state of (insert name of state), herein referred to as guarantor. This guarantee is made on behalf of the (owner or operator) of (business address), which is (one of the following: "our subsidiary"; "a subsidiary of (name and address of common parent corporation) of which guarantor is a subsidiary"; or "an entity with which the guarantor has a substantial business relationship, as defined in Part I of the Virginia Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities (9VAC20-70)") to the Virginia Department of Environmental Quality ("Department"), obligee, on behalf of our subsidiary (owner or operator) of (business address).

Recitals

1. Guarantor meets or exceeds the financial test criteria in 9VAC20-70-200 and agrees to comply with the reporting requirements for guarantors as specified in 9VAC20-70-220 of the Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities ("Regulations").
2. (Owner or operator) owns or operates the following (solid, regulated medical, yard) waste management facility(ies) covered by this guarantee: (List for each facility: name, address, and permit number, if any. Indicate for each whether guarantee is for closure, post-closure care, corrective action or other environmental obligations.)
3. "Closure plans", "post-closure care plans" and "corrective action plans" as used below refer to the plans maintained as required by the Solid Waste Management Regulations (9VAC20-81), or the Regulated Medical Waste Management Regulations (~~9VAC20-120~~)9VAC20-121.
4. For value received from (owner or operator), guarantor guarantees to the Department that in the event that (owner or operator) fails to perform (insert "closure," "post-closure care," or "corrective action") of the above facility(ies) in accordance with the closure or post-closure care plans and other (requirements of the) permit or (the order) whenever required to do so, the guarantor shall do so or establish a trust fund as specified in 9VAC20-70-140 in the name of (owner or operator) in the amount of the current cost estimates.
5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the director and to (owner or operator) that he intends to provide alternate financial assurance as specified in Article 4 of Part III of the Regulations, in the name of (owner or operator). Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless (owner or operator) has done so.
6. The guarantor agrees to notify the director by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.
7. Guarantor agrees that within 30 days after being notified by the director of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure, post-closure care, or corrective action, he shall establish alternate financial assurance as specified in Article 4 of Part III of the Regulations, in the name of (owner or operator) unless (owner or operator) has done so.
8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure, post-closure or corrective action

819 plan, amendment or modification of the permit, amendment or modification of the order,
 820 the extension or reduction of the time of performance of closure, post-closure, or corrective
 821 action or any other modification or alteration of an obligation of the owner or operator
 822 pursuant to the (Solid Waste Management Regulations or Regulated Medical Waste
 823 Management Regulations or § 10.1-1454.1 of the Code of Virginia).

824 9. Guarantor agrees to remain bound under this guarantee for so long as (owner or
 825 operator) shall comply with the applicable financial assurance requirements of Article 4 of
 826 Part III of the Regulations for the above-listed facilities, except as provided in paragraph
 827 10 of this agreement.

828 10. (Insert the following language if the guarantor is (a) a direct or higher-tier corporate
 829 parent, or (b) a firm whose parent corporation is also the parent corporation of the owner
 830 or operator:) Guarantor may terminate this guarantee by sending notice by certified mail
 831 to the Director of the Department of Environmental Quality and to the (owner or operator),
 832 provided that this guarantee may not be terminated unless and until (the owner or
 833 operator) obtains and the director approves, alternate (closure, post-closure, corrective
 834 action) coverage complying with the requirements of 9VAC20-70. (Insert the following
 835 language if the guarantor is a firm qualifying as a guarantor due to its "substantial business
 836 relationship" with the owner or operator:) Guarantor may terminate this guarantee 120
 837 days following the receipt of notification, through certified mail, by the director and by (the
 838 owner or operator).

839 11. Guarantor agrees that if (owner or operator) fails to provide alternate financial
 840 assurance as specified in Article 4 of Part III of the Regulations, and obtain written
 841 approval of such assurance from the director within 90 days after a notice of cancellation
 842 by the guarantor is received by the director from guarantor, guarantor shall provide such
 843 alternate financial assurance in the name of (owner or operator).

844 12. Guarantor expressly waives notice of acceptance of this guarantee by the Department
 845 or by (owner or operator). Guarantor also expressly waives notice of amendments or
 846 modifications of the closure and/or post-closure plan and of amendments or modifications
 847 of the facility permit(s).

848 I hereby certify that the wording of this guarantee is identical to the wording in 9VAC20-70-
 849 290 I of the Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment
 850 Facilities as such regulations were constituted on the date shown immediately below.

851 (Name of guarantor)

852 Effective date: _____

853 (Authorized signature for guarantor) _____

854 (Name of person signing) _____

855 (Title of person signing) _____

856 Signature of witness or notary: _____

857 J. Wording of local government guarantee.

858 (NOTE: Instructions in parentheses are to be replaced with the relevant information and the
 859 parentheses removed.)

860 LOCAL GOVERNMENT GUARANTEE

861 Guarantee made this (date) by (name of guaranteeing entity), a local government created
 862 under the laws of the state of Virginia, herein referred to as guarantor. This guarantee is made on
 863 behalf of the (owner or operator) of (address), to the Virginia Department of Environmental Quality
 864 ("Department"), obligee.

865 Recitals

- 866 1. Guarantor meets or exceeds the financial test criteria in 9VAC20-70-210 and agrees to
867 comply with the reporting requirements for guarantors as specified in 9VAC20-70-230 of
868 the Financial Assurance Regulations for Solid Waste Disposal, Treatment and Transfer
869 Facilities ("Regulations").
- 870 2. (Owner or operator) owns or operates the following (solid, regulated medical, yard)
871 waste management facility(ies) covered by this guarantee: (List for each facility: name,
872 address, and permit number, if any. Indicate for each whether guarantee is for closure,
873 post-closure care, corrective action or other environmental obligations.)
- 874 3. "Closure plans" and "post-closure care plans" as used below refer to the plans
875 maintained as required by the Solid Waste Management Regulations (9VAC20-81).
- 876 4. For value received from (owner or operator), guarantor guarantees to the Department
877 that in the event that (owner or operator) fails to perform (insert "closure," "post-closure
878 care," or "corrective action") of the above facility(ies) in accordance with the closure or
879 post-closure care plans and other (requirements of the) permit or (the order) whenever
880 required to do so, the guarantor shall do so or establish a trust fund as specified in
881 9VAC20-70-150 in the name of (owner or operator) in the amount of the current cost
882 estimates.
- 883 5. Guarantor agrees that if, at the end of any fiscal year before termination of this
884 guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within
885 90 days, by certified mail, notice to the director and to (owner or operator) that he intends
886 to provide alternate financial assurance as specified in Article 4 of Part III of the
887 Regulations, in the name of (owner or operator). Within 120 days after the end of such
888 fiscal year, the guarantor shall establish such financial assurance unless (owner or
889 operator) has done so.
- 890 6. The guarantor agrees to notify the director by certified mail, of a voluntary or involuntary
891 proceeding under Title 11 (bankruptcy), U.S. Code, naming guarantor as debtor, within 10
892 days after commencement of the proceeding.
- 893 7. Guarantor agrees that within 30 days after being notified by the director of a
894 determination that guarantor no longer meets the financial test criteria or that he is
895 disallowed from continuing as a guarantor of closure, post-closure care, or corrective
896 action, he shall establish alternate financial assurance as specified in Article 4 of Part III
897 of the Regulations in the name of (owner or operator) unless (owner or operator) has done
898 so.
- 899 8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of
900 the following: amendment or modification of the closure or post-closure plan, amendment
901 or modification of the closure or post-closure plan, amendment or modification of the
902 permit, amendment or modification of the order, the extension or reduction of the time of
903 performance of the closure or post-closure, or any other modification or alteration of an
904 obligation of the owner or operator pursuant to the Virginia (Solid Waste Management or
905 Regulated Medical Waste Management) Regulations.
- 906 9. Guarantor agrees to remain bound under this guarantee for so long as (owner or
907 operator) shall comply with the applicable financial assurance requirements of Article 4 of
908 Part III of the Regulations for the above-listed facilities, except as provided in paragraph
909 10 of this agreement.
- 910 10. Guarantor may terminate this guarantee by sending notice by certified mail to the
911 Director of the Department of Environmental Quality and to the (owner or operator),
912 provided that this guarantee may not be terminated unless and until (the owner or

913 operator) obtains and the director approves, alternate (closure, post-closure, corrective
914 action,) coverage complying with the requirements of 9VAC20-70.

915 11. Guarantor agrees that if (owner or operator) fails to provide alternate financial
916 assurance as specified in Article 4 of Part III of the Regulations, and obtain written
917 approval of such assurance from the director with 90 days after a notice of cancellation by
918 the guarantor is received by the director from guarantor, guarantor shall provide such
919 alternate financial assurance in the name of (owner or operator).

920 12. Guarantor expressly waives notice of acceptance of this guarantee by the Department
921 or by (owner or operator). Guarantor also expressly waives notice of amendments or
922 modifications of the closure and/or post-closure plan and of amendments or modifications
923 of the facility permit(s).

924 I hereby certify that the wording of this guarantee is identical to the wording specified in
925 9VAC20-70-290 J of the Financial Assurance Regulations for Solid Waste Disposal, Transfer and
926 Treatment Facilities as such regulations were constituted on the date shown immediately below.

927 (Name of guarantor) _____

928 Effective date: _____

929 (Authorized signature for guarantor) _____

930 (Name of person signing) _____

931 (Title of person signing) _____

932 Signature of witness or notary: _____

933 **9VAC20-90-10. Definitions.**

934 Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia defines words and terms
935 that supplement those in this chapter. The Solid Waste Management Regulations, 9VAC20-81,
936 and the Regulated Medical Waste Management Regulations, ~~9VAC20-120~~9VAC20-121, define
937 additional words and terms that supplement those in the statute and this chapter. When the
938 statute, as cited, and the solid waste management regulations, as cited, define a word or term
939 differently, the definition of the statute is controlling. The following words and terms when used in
940 this chapter shall have the following meanings unless the context clearly indicates otherwise:

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

942 "Director" means the director of the Department of Environmental Quality.

943 "Operating" means actively managing solid waste, or conducting closure or post closure
944 activities. A facility will begin operating on the date of the approval of the certificate to operate
945 (CTO) or the approval of the permit-by-rule (PBR) as applicable. The facility will no longer be
946 considered operating upon certification of completion of closure activities or in the case of a
947 disposal facility upon release from post closure responsibility.

948 "Permit-by-rule" means provisions of the chapter stating that a facility or activity is deemed to
949 have a permit if it meets the requirements of the provision.

950 "Permitted facility" means a facility holding the written permission of the director to conduct
951 solid waste management activities; this includes facilities operating under permit-by-rule.

952 **9VAC20-90-50. Applicability of regulations.**

953 A. These regulations apply to all persons operating or proposing to operate a permitted facility
954 for the management of solid waste under the provisions of:

955 1. Part V (9VAC20-81-400 through 9VAC20-81-600) of the Solid Waste Management
956 Regulations;

957 2. Part ~~X~~ (~~9VAC20-120-680 through 9VAC20-120-830~~)V (9VAC20-121-300 through
958 9VAC20-121-340) of the Regulated Medical Waste Management Regulations; or

959 3. Part V (9VAC20-85-170 through 9VAC20-85-180) of the Coal Combustion Byproduct
960 Regulations.

961 The fees shall be assessed in accordance with Part III (9VAC20-90-70 through 9VAC20-90-
962 120) of this chapter.

963 B. When the director finds it necessary to amend or modify any permit in accordance with §
964 10.1-1408.1 E or § 10.1-1409 of the Code of Virginia, 9VAC20-81-600 of the Solid Waste
965 Management Regulations or Part ~~X (9VAC20-120-680 through 9VAC20-120-830)~~V (9VAC20-
966 121-300 through 9VAC20-121-340) of the Regulated Medical Waste Management Regulations,
967 as applicable, the holder of that permit shall be assessed a fee in accordance with 9VAC20-90-
968 90 even if the director has initiated the amendment or modification action.

969 C. When the director finds it necessary to revoke and reissue any permit in accordance with
970 § 10.1-1408.1 E or § 10.1-1409 of the Code of Virginia, 9VAC20-81-570 B 1 of the Solid Waste
971 Management Regulations, or Part ~~X (9VAC20-120-680 through 9VAC20-120-830)~~V (9VAC20-
972 121-300 through 9VAC20-121-340) of the Regulated Medical Waste Management Regulations,
973 as applicable, the holder of that permit shall be assessed a fee in accordance with 9VAC20-90-
974 80.

975 D. If the director finds it necessary either to revoke and reissue a permit in accordance with §
976 10.1-1408.1 E or § 10.1-1409 of the Code of Virginia, or 9VAC20-81-570 B 2 of the Solid Waste
977 Management Regulations, the holder of that permit shall be assessed a fee in accordance with
978 9VAC20-90-100.

979 **9VAC20-90-70. General.**

980 A. Each application for a new permit, each application for a modification or amendment to a
981 permit, and each revocation and issuance of a permit is a separate action and shall be assessed
982 a separate fee. The amount of such fees is determined on the basis of this Part III (9VAC20-90-
983 70 through 9VAC20-90-120).

984 B. Right of entry, inspection and audit. Upon presentation of appropriate credentials and upon
985 consent of the owner or operator of the facility, the director of the Virginia Department of
986 Environmental Quality or his designee, in addition to the routine inspection of the facility provided
987 in 9VAC20-81-50 or ~~9VAC20-120-740~~9VAC20-121-320 shall have the right to enter, inspect, and
988 audit the records of the facility consistent with § 10.1-1456 of the Code of Virginia. The director
989 may designate rights of entry, inspection, and audit to any department personnel or contractors
990 to the department. The owner of operator of the facility shall provide complete and timely access
991 during business hours to all equipment and facility records. The director shall have the right to
992 require an audit of the facility's records related to the payment of annual fees.

993 C. In addition to permit action fees listed in Tables 3.1-1, 3.1-2, and 3.1-3 of 9VAC20-90-120,
994 the applicant for a permit action shall arrange for the newspaper publication and radio broadcast
995 and bear the cost of the publication and broadcast if required. The department shall send
996 notification to the applicant that the publication and broadcast are required, and the notification
997 shall include the text of the notice, dates of publication and broadcast, and the acceptable
998 newspapers and radio stations wherein the notice may be published. The department shall also
999 require the petitioner for a variance from any regulation to arrange for any newspaper publication
1000 and radio broadcast required under the Solid Waste Management Regulations (9VAC20-81) or
1001 the Regulated Medical Waste Management Regulations (~~9VAC20-120~~)9VAC20-121) and to bear
1002 the cost of such publication and broadcast. The department may arrange for the newspaper
1003 publication and radio broadcast listed in this subsection and require the applicant to remit the cost
1004 of such publication and broadcast.

1005 9VAC20-90-90. Applications for permit actions, amendment or modification.

1006 A. General. Facility permits issued by the director are typically based on the modular concept
1007 to assure completeness and consistency of the documents. Each facility permit may consist of
1008 several modules dealing with the requirements addressing separate topics pertinent to the
1009 specific facility. The modules used in the solid and regulated medical waste program are:

1010 1. The general permit conditions module (Module I) that contains the general conditions
1011 required for all solid or regulated medical waste facility permits and includes documents
1012 to be submitted prior to operation, documents that must be maintained at the facility, and
1013 a compliance schedule, if any.

1014 2. The general facility requirements module (Module II) that contains the listing of wastes
1015 that the facility may accept or a list of wastes prohibited from acceptance, an analysis
1016 plan, security and site access information, inspection requirements, personnel training
1017 requirements, special standards based on particular location, a preparedness and
1018 prevention plan, a contingency plan, closure and post-closure cost estimates, and facility-
1019 specific financial assurance requirements.

1020 3. The separate facility modules, one for each of the different type of facility provided for
1021 in Parts III and IV of the Solid Waste Management Regulations, containing design
1022 requirements (e.g., liners, leachate management systems, aeration systems, wastewater
1023 collection systems), specific operating requirements (e.g., compaction and cover
1024 requirements, equipment, monitoring), and recordkeeping requirements. The following
1025 modules have been developed:

- 1026** a. Module III—Sanitary landfills;
- 1027** b. Module IV—Construction/demolition/debris landfill;
- 1028** c. Module V—Industrial landfill;
- 1029** d. Module VI—Compost facility;
- 1030** e. Module VII—Transfer station;
- 1031** f. Module VIII—Materials recovery facility; and
- 1032** g. Module IX—Energy recovery and incineration facility.

1033 4. All gas management plans submitted for review (Module III, IV, or V) will be assessed
1034 a fee as listed in Table 3.1-2 of 9VAC20-90-120.

1035 5. The groundwater monitoring modules contain requirements for well location,
1036 installation, and construction, listing of monitoring parameters and constituents, sampling
1037 and analysis procedures, statistical procedures, data evaluation, recordkeeping and
1038 reporting, and special requirements when significant increases occur in monitoring
1039 parameters. Module X is designed specifically for Phase I or detection monitoring and
1040 Module XI for Phase II or assessment monitoring. If groundwater protection standards are
1041 being established for facilities without Modules X and XI, then both Modules X and XI will
1042 be issued for the major modification fee. However, for facilities with Module X already
1043 included in their permit, the major modification fee will be assessed to add Module XI.

1044 6. The closure module (Module XII), included in all permits, contains requirements for
1045 actions during the active life of the facility (updating plan), during the closure process, and
1046 after the closure has been performed. Facilities required to submit a closure plan in
1047 accordance with §§ 10.1-1410.1 and 10.1-1410.2 A 1 of the Code of Virginia will be
1048 assessed a fee for Module XII as listed in Table 3.1-2 of 9VAC20-90-120.

1049 7. The post-closure module (Module XIII), included in solid waste disposal facility permits,
1050 contains requirements during the post-closure period and for periodic updating of the post-
1051 closure plan. Facilities required to submit a post-closure plan in accordance with § 10.1-

1052 1410.2 of the Code of Virginia will be assessed a fee for Module XIII as listed in Table 3.1-
1053 2 of 9VAC20-90-120.

1054 8. The schedule for compliance for corrective action (Module XIV) is used when facility
1055 groundwater monitoring results indicate groundwater protection standards have been
1056 statistically exceeded.

1057 9. The leachate handling module (Module XV), included in solid waste disposal facility
1058 permits, contains requirements for storage, treatment and disposal of leachate generated
1059 by the facility.

1060 10. The regulated medical waste storage or transfer module (Module XVI) and regulated
1061 medical waste treatment module (Module XVII) have been developed for facilities storing,
1062 transferring and/or treating regulated medical waste.

1063 B. Applicants for a modification or amendment of an existing permit will be assessed a fee
1064 associated with only those modules that will require changes. In situations where the modular
1065 concept is not employed (for example, changes incorporated directly into a nonmodular permit),
1066 fees will be assessed as appropriate for the requirements stipulated for modules in subsection A
1067 of this section had they been used.

1068 C. Applicants for a modification or amendment or subject to revocation and reissuance of an
1069 existing permit will be assessed a separate public participation fee whenever the modification or
1070 amendment requires a public hearing.

1071 D. The fee schedules for major permit actions, amendments, or modifications are shown in
1072 Table 3.1-2 of 9VAC20-90-120.

1073 E. In no case will the fee for a modification, amendment or revocation and reissuance of a
1074 permit be higher than that for a new facility of the same type.

1075 **9VAC20-90-110. Review of variance requests.**

1076 Applicants requesting variances from the Solid Waste Management Regulations (9VAC20-
1077 81), the Regulated Medical Waste Management Regulations (~~9VAC20-120~~)(9VAC20-121), or the
1078 Coal Combustion Byproduct Regulations (9VAC20-85) will be assessed a fee as shown in Table
1079 3.1-3 of 9VAC20-90-120. All variance requests are subject to base fees. Additional fees are listed
1080 for reviews of specific types of variance requests and are to be submitted in addition to base fees.
1081 Variance requests are not subject to public participation fees listed in Table 3.1-2 of 9VAC20-90-
1082 120.

1083 **9VAC20-90-120. Permit application fee schedules.**

TABLE 3.1-1. NEW OR INITIAL ISSUANCE OR ACTION.	
TYPE OF FACILITY	FEE
All landfills:	
Part A application	\$4,180
Part B application	\$18,680
Incineration/Energy Recovery Facility	\$5,880
Transfer Station, Materials Recovery Facility, Regulated Medical Waste Storage <u>or Transfer</u> Facility, or Regulated Medical Waste Treatment Facility	\$4,310
Compost Facility	
Facilities Processing Category I Waste	\$6,850

Facilities Processing Waste Categories I, II, or III, or Categories III and Lower	\$10,550
Facilities Processing Waste Categories I, II, III, or IV, or Categories IV and Lower	\$12,670
Experimental Solid Waste Facility	\$2,090
Permit-by-rule Initial Review and Confirmation	\$390
Emergency Permit	\$2,310

TABLE 3.1-2. MAJOR PERMIT ACTIONS, AMENDMENTS, OR MODIFICATIONS.

TYPE OF PERMIT MODULE	FEE
Landfill Part A	\$4,180
General - Module I	\$390
Facility - Module II	\$1,310
Landfill - Module III, IV, or V	\$7,050
Design plan review	\$910
Liner design review	\$1,960
Leachate system review	\$1,310
Gas management plan review	\$1,700
Drainage plan review	\$910
Cover design review	\$1,830
Equipment	\$390
Compost facility - Module VI	\$3,660
Design plan review	\$650
Liner design review	\$1,310
Leachate system review	\$910
Drainage plan review	\$650
Equipment	\$390
Transfer station - Module VII	\$1,180
Material recovery facility - Module VIII	\$1,570
Waste supply analysis	\$650
Waste management areas	\$520
Wastewater management areas	\$390
Incinerator/Energy recovery facility - Module IX	\$3,000

Waste and residue storage	\$910
Operational requirements	\$1,570
Waste control procedures	\$520
Groundwater monitoring - Module X or XI	\$3,260
Well placement	\$1,310
Materials and specifications	\$390
Sampling plan	\$1,570
Closure - Module XII	\$390
Post-closure - Module XIII	\$390
Corrective action - Module XIV	\$3,000
Leachate handling Module XV	\$1,310
Regulated medical waste storage <u>or transfer</u> facility - Module XVI	\$390
Regulated medical waste treatment facility - Module XVII	\$390
Permit-by-rule Modification Review and Confirmation	\$390
Public participation (does not include costs of newspaper advertisements or radio broadcasts)	\$1,040
TABLE 3.1-3. VARIANCE REQUESTS.	
TYPE OF VARIANCE	FEE
Base fee for all variances	\$390
Supplemental fees based on variance type	
Exemption from classification as a solid waste	\$520
Variance to permitting requirements	
Siting requirements	\$520
Facility design (other than alternate liner design)	\$520
Operational requirements	--
Groundwater monitoring (other than groundwater protection standards and location of monitoring system)	\$920
Closure requirements	--
Post-closure requirements	--
Groundwater Protection Standards	--
Alternate liner system design	\$1,570
Location of groundwater monitoring system	\$920

1086 9VAC20-130-10. Definitions.

1087 The following words and terms when used in this chapter shall have the following meanings
1088 unless the context clearly indicates otherwise:

1089 "Board" means the Virginia Waste Management Board.

1090 "Commercial waste" means all solid waste generated by establishments engaged in business
1091 operations other than manufacturing or construction. This category includes solid waste resulting
1092 from the operation of stores, markets, office buildings, restaurants, and shopping centers.

1093 "Compost" means a stabilized organic product produced by a controlled aerobic
1094 decomposition process in such a manner that the product can be handled, stored, or applied to
1095 the land without adversely affecting public health or the environment.

1096 "Composting" means the manipulation of the natural process of decomposition of organic
1097 materials to increase the rate of decomposition.

1098 "Construction waste" means solid waste that is produced or generated during construction,
1099 remodeling, or repair of pavements, houses, commercial buildings, and other structures.
1100 Construction wastes include lumber, wire, sheetrock, broken brick, shingles, glass, pipes,
1101 concrete, paving materials, and metal and plastics if the metal or plastics are a part of the
1102 materials of construction or empty containers for such materials. Paints, coatings, solvents,
1103 asbestos-containing material, any liquid, compressed gases, or semi-liquids and garbage are not
1104 construction wastes.

1105 "Debris waste" means solid waste resulting from land clearing operations. Debris wastes
1106 include stumps, wood, brush, leaves, soil, and road spoils.

1107 "Demolition waste" means solid waste produced by the destruction of structures and their
1108 foundations and includes the same materials as construction wastes.

1109 "Department" means the Department of Environmental Quality.

1110 "Director" means the Director of the Department of Environmental Quality or his designee. For
1111 purposes of submissions to the director as specified in the Waste Management Act, submissions
1112 may be made to the department.

1113 "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any
1114 solid waste into or on any land or water so that such solid waste or any constituent of it may enter
1115 the environment or be emitted into the air or discharged into any waters.

1116 "Facility" means solid waste management facility unless the context clearly indicates
1117 otherwise.

1118 "Hazardous waste" means a "hazardous waste" as defined by the Virginia Hazardous Waste
1119 Management Regulations, 9VAC20-60.

1120 "Incineration" means the controlled combustion of solid waste for disposal.

1121 "Industrial waste" means any solid waste generated by manufacturing or industrial process
1122 that is not a regulated hazardous waste. Such waste may include waste resulting from the
1123 following manufacturing processes: electric power generation; fertilizer/agricultural chemicals;
1124 food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather
1125 and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and
1126 resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone,
1127 glass, clay, and concrete products; textile manufacturing; transportation equipment; and water
1128 treatment. This term does not include mining waste or oil and gas waste.

1129 "Institutional waste" means all solid waste emanating from institutions such as, but not limited
1130 to, hospitals, nursing homes, orphanages, and public or private schools. It can include regulated
1131 medical waste from health care facilities and research facilities that must be managed as a
1132 regulated medical waste.

1133 "Integrated waste management plan" means a governmental plan that considers all elements
1134 of waste management during generation, collection, transportation, treatment, storage, disposal,
1135 and litter control and selects the appropriate methods of providing necessary control and services
1136 for effective and efficient management of all wastes. An "integrated waste management plan"
1137 must provide for source reduction, reuse and recycling within the jurisdiction and the proper
1138 funding and management of waste management programs.

1139 "Jurisdiction" means a local governing body; city, county or town; or any independent entity,
1140 such as a federal or state agency, which join with local governing bodies to develop a waste
1141 management plan.

1142 "Landfill" means a sanitary landfill, an industrial waste landfill, or a
1143 construction/demolition/debris landfill (as these terms are defined in the Solid Waste Management
1144 Regulations (9VAC20-81)).

1145 "Litter" means all waste material disposable packages or containers, but not including the
1146 wastes of the primary processes of mining, logging, farming, or manufacturing.

1147 "Market" means interim or end destinations for the recyclable materials, including a materials
1148 recovery facility.

1149 "Market conditions" means business and system related issues used to determine if materials
1150 can be targeted, collected, and delivered to an interim or end market in an efficient manner. Issues
1151 may include the cost of collection, storage and preparation or both; the cost of transportation;
1152 accessible volumes of materials targeted for recycling; market value of materials targeted for
1153 collection/recycling; and distance to viable markets.

1154 "Materials recovery facility" means, for the purpose of this regulation, a facility for the
1155 collection, processing, and marketing of recyclable materials including metal, paper, plastics, and
1156 glass.

1157 "Mulch" means woody waste consisting of stumps, trees, limbs, branches, bark, leaves, and
1158 other clean wood waste that has undergone size reduction by grinding, shredding, or chipping,
1159 and is distributed to the general public for landscaping purposes or other horticultural uses, except
1160 composting as defined and regulated under the Solid Waste Management Regulations (9VAC20-
1161 81).

1162 "Municipal solid waste" or "MSW" means waste that is normally composed of residential,
1163 commercial, and institutional solid waste and residues derived from the combustion of these
1164 wastes.

1165 "Nonmunicipal solid waste material" means waste that is not normally composed of
1166 residential, commercial, and institutional solid waste and residues derived from the combustion
1167 of these wastes.

1168 "Permit" means the written permission of the director to own, operate, or construct a solid
1169 waste management facility.

1170 "Person" means an individual, corporation, partnership, association, a governmental body, a
1171 municipal corporation, or any other legal entity.

1172 "Principal recyclable materials" or "PRMs" means paper, metal, plastic, glass, commingled,
1173 yard waste, wood, textiles, tires, used oil, used oil filters, used antifreeze, batteries, electronics,
1174 or material as may be approved by the director. Commingled materials refers to single stream
1175 collections of recyclables where sorting is done at a materials recovery facility.

1176 "Recycling" means the process of separating a given waste material from the waste stream
1177 and processing it so that it may be used again as a raw material for a product, which may or may
1178 not be similar to the original product. For the purpose of this chapter, recycling shall not include
1179 processes that only involve size reduction.

1180 "Recycling residue" means the (i) nonmetallic substances, including plastic, rubber, and
1181 insulation, which remain after a shredder has separated for purposes of recycling the ferrous and
1182 nonferrous metal from a motor vehicle, appliance, or other discarded metallic item and (ii) organic
1183 waste remaining after removal of metals, glass, plastics, and paper that are to be recycled as part
1184 of a resource recovery process for municipal solid waste resulting in the production of a refuse
1185 derived fuel.

1186 "Regional boundary" means the boundary defining an area of land that will be a unit for the
1187 purpose of developing a waste management plan and is established in accordance with 9VAC20-
1188 130-92 through 9VAC20-130-100.

1189 "Regulated medical waste" means solid wastes so defined by the Regulated Medical Waste
1190 Management Regulations (~~9VAC20-120~~)9VAC20-121) as promulgated by the Virginia Waste
1191 Management Board.

1192 "Residential waste" means any waste material, including garbage, trash, and refuse, derived
1193 from households. Households include single and multiple residences, hotels and motels,
1194 bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use
1195 recreation areas. Residential wastes do not include sanitary waste in septic tanks (septage) that
1196 is regulated by other state agencies.

1197 "Resource recovery system" means a solid waste management system that provides for
1198 collection, separation, recycling, and recovery of energy or solid wastes, including disposal of
1199 nonrecoverable waste residues.

1200 "Reuse" means the process of separating a given solid waste material from the waste stream
1201 and using it, without processing or changing its form, other than size reduction, for the same or
1202 another end use.

1203 "Sanitary landfill" means an engineered land burial facility for the disposal of household waste,
1204 which is so located, designed, constructed, and operated to contain and isolate the waste so that
1205 it does not pose a substantial present or potential hazard to human health or the environment. A
1206 sanitary landfill also may receive other types of solid wastes, such as commercial solid waste,
1207 nonhazardous sludge, hazardous waste from very small quantity generators, construction
1208 demolition debris, and nonhazardous industrial solid waste.

1209 "Site" means all land and structures, other appurtenances, and improvements on them used
1210 for treating, storing, and disposing of solid waste. This term includes adjacent land within the
1211 facility boundary used for the utility systems such as repair, storage, shipping or processing areas,
1212 or other areas incident to the management of solid waste. (Note: This term includes all sites
1213 whether they are planned and managed facilities or open dumps.)

1214 "Sludge" means any solid, semisolid, or liquid waste generated from a public, municipal,
1215 commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution
1216 control facility.

1217 "Solid waste" means any of those materials defined as "solid waste" in the Solid Waste
1218 Management Regulations (9VAC20-81).

1219 "Solid waste management plan" means a plan submitted by a solid waste planning unit in
1220 accordance with the requirements of this chapter.

1221 "Solid waste planning unit" means each region or locality that submits a solid waste
1222 management plan.

1223 "Solid waste management facility" means a site used for planned treating, storing, or disposing
1224 of solid waste. A facility may consist of several treatment, storage, or disposal units.

1225 "Source reduction" means any action that reduces or eliminates the generation of waste at
1226 the source, usually within a process. Source reduction measures include process modifications,
1227 feedstock substitutions, improvements in feedstock purity, improvements in housekeeping and

1228 management practices, increases in the efficiency of machinery, and recycling within a process.
 1229 Source reduction minimizes the material that must be managed by waste disposal or nondisposal
 1230 options by creating less waste. "Source reduction" is also called "waste prevention," "waste
 1231 minimization," or "waste reduction."

1232 "Source separation" means separation of recyclable materials by the waste generator of
 1233 materials that are collected for use, reuse, reclamation, or recycling.

1234 "Tons" means 2,000 pounds.

1235 "Transfer station" means any solid waste storage or collection facility at which solid waste is
 1236 transferred from collection vehicles to haulage vehicles for transportation to a central solid waste
 1237 management facility for disposal, incineration, or resource recovery.

1238 "Vegetative waste" means decomposable materials generated by yard and lawn care or land-
 1239 clearing activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes
 1240 such as shrub and tree prunings, bark, limbs, roots, and stumps. For more detail see the Solid
 1241 Waste Management Regulations (9VAC20-81).

1242 "Waste exchange" means any system to identify sources of wastes with potential for use,
 1243 reuse, recycling, or reclamation and to facilitate its acquisition by persons who reuse, recycle, or
 1244 reclaim it, with a provision for maintaining confidentiality of trade secrets.

1245 "Yard waste" means decomposable waste materials generated by yard and lawn care and
 1246 includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste
 1247 shall not include roots or stumps that exceed six inches in diameter.

1248 **9VAC20-170-10. Definitions.**

1249 The following words and terms when used in this chapter shall have the following meanings
 1250 unless the context clearly indicates otherwise:

1251 "Affiliated company" means (i) any company that directly or indirectly owns, controls, or holds,
 1252 with power to vote, 10% or more of the outstanding voting securities of a pure captive insurer or
 1253 (ii) any company of which 10% or more of the voting securities are directly or indirectly owned,
 1254 controlled, or held, with power to vote, by a parent, subsidiary, or associated company.

1255 "Anniversary date" means the date of issuance of a financial mechanism.

1256 "Applicant" means any and all persons seeking or holding a permit required under this chapter.

1257 "Associated company" means any company in the same corporate system with a pure captive
 1258 insurer.

1259 "Association captive insurer" means any insurer transacting the business of insurance and
 1260 reinsurance only on risks, hazards, and liabilities of the members of an insurance association.

1261 "Beneficial use" means both instream and offstream uses of state waters. Instream beneficial
 1262 uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste
 1263 assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses
 1264 include, but are not limited to, domestic (including public water supply), agricultural, electric power
 1265 generation, commercial and industrial uses. Public water supply uses for human consumption
 1266 shall be considered the highest priority.

1267 "Board" means the Virginia Waste Management Board.

1268 "Bodily injury" means the death or injury of any person incident to a waste deposit from a
 1269 vessel, but not including any death, disablement, or injuries covered by workers' compensation,
 1270 disability benefits or unemployment compensation law or other similar law. Bodily injury may
 1271 include payment of medical, hospital, surgical, and funeral expenses arising out of the death or
 1272 injury of any person. This term shall not include those liabilities that, consistent with standard
 1273 insurance industry practices, are excluded from coverage in liability insurance policies for bodily
 1274 injury.

- 1275 "Captive insurer" means any pure captive insurer or any association captive insurer.
- 1276 "Certificant" means an owner or operator who has been issued a Certificate of Financial
1277 Responsibility under this chapter.
- 1278 "Certificate applicant" means an owner or operator who has applied for a Certificate of
1279 Financial Responsibility or for the renewal of a Certificate of Financial Responsibility under this
1280 chapter.
- 1281 "Certificate of Financial Responsibility" or "certificate" means a Certificate of Financial
1282 Responsibility issued under Part VI (9VAC20-170-270 et seq.) of this chapter, unless otherwise
1283 indicated.
- 1284 "Certified copy" means a legible copy certified as accurate by a notary public or other person
1285 authorized to take oaths in the United States.
- 1286 "CFR" means Code of Federal Regulations.
- 1287 "Charter by demise" means to hire for exclusive use through a lease.
- 1288 "Closure" means the act of securing a solid waste management facility pursuant to the
1289 requirements of this chapter.
- 1290 "Commercial transport" means transportation for the purposes of commercial carriage of solid
1291 wastes or regulated medical wastes as cargo.
- 1292 "Commercial transporter" means any person who transports for the purposes of commercial
1293 carriage of solid wastes or regulated medical wastes as cargo.
- 1294 "Construction demolition debris waste" or "CDD waste" means solid waste that is produced
1295 or generated during construction or destruction, remodeling, or repair of pavements, houses,
1296 commercial buildings, their foundations and other structures. Construction demolition debris
1297 wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes,
1298 concrete, paving materials, and metal and plastics if the metal or plastics are a part of the
1299 materials of construction or empty containers for such materials. Paints, coatings, solvents,
1300 asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction
1301 demolition debris wastes.
- 1302 "Container" means any watertight structure that meets the provisions of this chapter.
- 1303 "Containment and cleanup" means abatement, containment, removal and disposal of solid
1304 wastes or regulated medical wastes that have been deposited to state waters or adjoining
1305 shorelines, and the restoration of the environment to its existing state prior to a deposit of the
1306 wastes.
- 1307 "Demise charterer" means a person with whom the owner of the vessel enters into a demise
1308 charter. The charterer takes over all possession and control of the vessel from the owner of the
1309 vessel and becomes subject to the duties and responsibilities of ownership. The charterer is also
1310 responsible for directing the operations of the vessel and providing the master and crew.
- 1311 "Department" means the Virginia Department of Environmental Quality.
- 1312 "Destination facility" means a facility that treats, disposes of, or recycles solid wastes or
1313 regulated medical wastes in accordance with applicable federal and state regulations.
- 1314 "Director" means the Director of the Virginia Department of Environmental Quality or an
1315 authorized representative.
- 1316 "Disclosure statement" means a sworn statement or affirmation, in such form as may be
1317 required by the director, which includes:
- 1318 1. The full name and business address of all key personnel;

- 1319 2. The full name and business address of any entity, other than a natural person, that
1320 collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which
1321 any key personnel holds an equity interest of 5.0% or more;
- 1322 3. A description of the business experience of all key personnel listed in the disclosure
1323 statement;
- 1324 4. A listing of all permits or licenses required for the collection, transportation, treatment,
1325 storage or disposal of solid waste or hazardous waste issued to or held by any key
1326 personnel within the past 10 years;
- 1327 5. A listing and explanation of any notices of violation, prosecutions, administrative orders
1328 (whether by consent or otherwise), license or permit suspensions or revocations, or
1329 enforcement actions of any sort by any state, federal or local authority, within the past 10
1330 years, that are pending or have concluded with a finding of violation or entry of a consent
1331 agreement, regarding an allegation of civil or criminal violation of any law, regulation or
1332 requirement relating to the collection, transportation, treatment, storage or disposal of solid
1333 waste or hazardous waste by any key personnel, and an itemized list of all convictions
1334 within 10 years of key personnel of any of the following crimes punishable as felonies
1335 under the laws of the Commonwealth or the equivalent thereof under the laws of any other
1336 jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury;
1337 arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the
1338 offering, sale, or purchase of securities; alteration of motor vehicle identification numbers;
1339 unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use
1340 of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 (§ 54.1-
1341 3400 et seq.) of Title 54.1 of the Code of Virginia; racketeering; or violation of antitrust
1342 laws;
- 1343 6. A listing of all agencies outside the Commonwealth that have regulatory responsibility
1344 over the applicant or have issued any environmental permit or license to the applicant
1345 within the past 10 years in connection with the applicant's collection, transportation,
1346 treatment, storage, or disposal of solid waste or hazardous waste;
- 1347 7. Any other information about the applicant and the key personnel that the director may
1348 require that reasonably relates to the qualifications and abilities of the key personnel or
1349 the applicant to lawfully and competently operate a solid waste management facility in
1350 Virginia; and
- 1351 8. The full name and business address of any member of the local governing body or
1352 planning commission in which the solid waste management facility is located or proposed
1353 to be located, who holds an equity interest in the facility.
- 1354 "Existing facility" means any receiving facility that is constructed prior to July 2, 2003.
- 1355 "Generator" means any person, by site, whose act or process produces solid wastes or
1356 regulated medical wastes, or whose act first causes solid wastes or regulated medical wastes to
1357 become subject to this chapter.
- 1358 "Insurance association" means any group of individuals, corporations, partnerships,
1359 associations, or governmental units or agencies whose members collectively own, control, or hold
1360 with power to vote all of the outstanding voting securities of an association captive insurer.
- 1361 "Key personnel" means the applicant itself and any person employed by the applicant in a
1362 managerial capacity, or empowered to make discretionary decisions, with respect to the solid
1363 waste or hazardous waste operations of the applicant in Virginia, but shall not include employees
1364 exclusively engaged in the physical or mechanical collection, transportation, treatment, storage,
1365 or disposal of solid or hazardous waste and such other employees as the director may designate
1366 by regulation. If the applicant has not previously conducted solid waste or hazardous waste

1367 operations in Virginia, the term also includes any officer, director, partner of the applicant, or any
 1368 holder of 5.0% or more of the equity or debt of the applicant. If any holder of 5.0% or more of the
 1369 equity or debt of the applicant or of any key personnel is not a natural person, the term includes
 1370 all key personnel of that entity, provided that where such entity is a chartered lending institution
 1371 or a reporting company under the Federal Security and Exchange Act of 1934, the term does not
 1372 include key personnel of such entity. Provided further that the term means the chief executive
 1373 officer of any agency of the United States or of any agency or political subdivision of the
 1374 Commonwealth, and all key personnel of any person, other than a natural person, that operates
 1375 a landfill or other facility for the disposal, treatment or storage of nonhazardous solid waste under
 1376 contract with or for one of those governmental entities.

1377 "Leachate" means a liquid that has passed through or emerged from solid waste or regulated
 1378 medical waste and contains soluble, suspended, or miscible materials from such waste. Leachate
 1379 and any material with which it is mixed is solid waste; except that leachate that is pumped from a
 1380 collection tank for transportation to disposal in an off-site facility is regulated as septage, and
 1381 leachate discharged into a wastewater collection system is regulated as industrial wastewater.

1382 "Load Line Certificate" means a certificate issued by the American Bureau of Shipping (ABS)
 1383 or other similarly qualified organizations authorized by the Secretary of Transportation (U.S.
 1384 Department of Transportation) to the owner of the vessel, in accordance with 46 USC Chapter
 1385 51.

1386 "Manifest" means the shipping document originated and signed by the generator in
 1387 accordance with the provisions of this chapter. For transportation of regulated medical wastes,
 1388 the hazardous materials shipping paper requirements under 49 CFR Part 172 Subpart C may be
 1389 reflected in the manifest.

1390 "Medical waste" or "regulated medical waste" means solid wastes defined to be regulated
 1391 medical wastes by ~~Part III~~ Part II of the Regulated Medical Waste Management Regulations
 1392 ~~(9VAC20-120)~~ (9VAC20-121). Solid waste packaged as regulated medical waste is regulated
 1393 medical waste. Medical wastes that have been sterilized, treated or incinerated in accordance
 1394 with the Regulated Medical Waste Management Regulations ~~(9VAC20-120)~~ (9VAC20-121) are no
 1395 longer considered as regulated medical waste.

1396 "Navigable waters of the Commonwealth" means state water being used or susceptible of
 1397 being used, in its natural and ordinary condition, as a highway for commerce, on which trade and
 1398 travel are or may be conducted in the customary modes of trade and travel on water.

1399 "New facility" means any receiving facility that is constructed on or after July 2, 2003.

1400 "Odors" means any emissions that cause an odor objectionable to individuals of ordinary
 1401 sensibility.

1402 "Operator" means, in the case of a receiving facility, any person responsible for the overall
 1403 operation of a receiving facility that handles solid wastes or regulated medical wastes. In the case
 1404 of a vessel, it means any person who operates, charters by demise, rents or otherwise exercises
 1405 control over or responsibility for a vessel.

1406 "Owner" means, in the case of a receiving facility, any person who owns a receiving facility or
 1407 part of a receiving facility that handles solid wastes or regulated medical wastes as cargo for hire.
 1408 In the case of a vessel, it means any person who owns a vessel or a part of a vessel that transports
 1409 solid wastes or regulated medical wastes as cargo for hire.

1410 "Parent" means a corporation, partnership, governmental unit or agency, or individual who
 1411 directly or indirectly owns, controls or holds, with power to vote, more than 50% of the outstanding
 1412 voting securities of a pure captive insurer.

1413 "Permit by rule" means provisions including public participation of this chapter stating that a
 1414 facility or activity is deemed to have a permit if it meets the requirements of the provision.

1415 "Person" means an individual, trust, firm, joint stock company, corporation including a
1416 government corporation, partnership, association, any state or agency thereof, municipality,
1417 county, town, commission, political subdivision of a state, any interstate body, consortium, joint
1418 venture, commercial entity, the government of the United States or any unit or agency thereof.

1419 "Property damage" means the loss or destruction of, or damage to, the property of any third
1420 party including any loss, damage or expense incident to a waste deposit from a vessel. This term
1421 shall not include those liabilities that, consistent with standard insurance industry practices, are
1422 excluded from coverage in liability insurance policies for property damage.

1423 "Provider of financial responsibility" means an entity that provides financial responsibility to an
1424 owner and operator of a vessel transporting solid wastes or regulated medical wastes through
1425 one of the mechanisms listed in 9VAC20-170-310, including a financial institution, surety, or
1426 issuer of a letter of credit.

1427 "Public vessel" means a vessel that is owned or demise chartered and operated by the United
1428 States government or a government of a foreign country and that is not engaged in commercial
1429 service.

1430 "Pure captive insurer" means any insurer transacting the business of insurance and
1431 reinsurance only on risks, hazards, and liabilities of its parent, subsidiary companies of its parent,
1432 and associated and affiliated companies.

1433 "Receiving facility" means a facility, vessel or operation that loads or off-loads solid wastes or
1434 regulated medical wastes transported upon the navigable waters of the Commonwealth by a
1435 commercial transporter.

1436 "Solid waste" means any garbage, refuse, sludge and other discarded material, including
1437 solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial,
1438 mining and agricultural operations, or community activities but does not include (i) materials
1439 regulated as hazardous wastes under the Virginia Hazardous Waste Management Regulations
1440 (9VAC20-60); (ii) scrap metal, dredged material, recyclable construction demolition debris being
1441 transported directly to a processing facility for recycling or reuse and source-separated
1442 recyclables; (iii) solid or dissolved material in domestic sewage; (iv) solid or dissolved material in
1443 irrigation return flows or in industrial discharges that are sources subject to a permit from the State
1444 Water Control Board; or (v) source, special nuclear, or byproduct material as defined by the
1445 Federal Atomic Energy Act of 1954, as amended.

1446 "State waters" means all water, on the surface and under the ground, wholly or partially within
1447 or bordering the Commonwealth or within its jurisdiction.

1448 "Subsidiary company" means any corporation of which 50% or more of the outstanding voting
1449 securities are directly or indirectly owned, controlled, or held, with power to vote, by a parent or
1450 by a company that is a subsidiary of the parent.

1451 "Surface water" means any water in the Commonwealth, except ground water as defined in §
1452 62.1-255 of the Code of Virginia.

1453 "Transport" or "transportation" means any movement of solid wastes or regulated medical
1454 wastes, and any packing, loading, unloading or storage incidental thereto.

1455 "USC" means the U.S. Code.

1456 "Vehicle" means any motor vehicle, rolling stock or other artificial contrivance for transport
1457 whether self-propelled or otherwise, except vessels.

1458 "Vessel" includes every description of watercraft or other contrivance used as a means of
1459 transporting on water, whether self-propelled or otherwise, and shall include barges and tugs.

1460 "Waste deposit" or "deposit of waste" means any solid waste or regulated medical waste from
1461 a vessel or a receiving facility that is placed, discharged, spilled, dropped, or leaked into state
1462 waters or adjoining shorelines.

1463 **9VAC20-170-40. Relationship to other regulations.**

1464 A. The Solid Waste Management Regulations (9VAC20-81) prescribe requirements for the
1465 solid waste management facilities in general. While a facility utilized to receive solid wastes or
1466 regulated medical wastes transported, loaded, or unloaded upon the navigable waters of the
1467 Commonwealth, to the extent allowable under state law, by a commercial transporter is a solid
1468 waste management facility, this chapter herein prescribes specific requirements, including siting,
1469 design/construction, operation, and permitting, for this type of facilities. If there is any overlapping
1470 requirement between these two regulations, whichever is more stringent shall apply.

1471 B. The Regulated Medical Waste Management Regulations (~~9VAC20-120~~9VAC20-121)
1472 address special needs for regulated medical waste management. A facility utilized to receive
1473 regulated medical waste transported, loaded, or unloaded upon the navigable waters of the
1474 Commonwealth, to the extent allowable under state law, by a commercial transporter is a
1475 regulated medical waste facility and it must conform to any applicable sections of the Regulated
1476 Medical Waste Management Regulations adopted by the board. If there is any overlapping
1477 requirement between these two regulations, whichever is more stringent shall apply.

1478 C. This chapter does not exempt any receiving facility from obtaining a Virginia Water
1479 Protection Permit as required by the Virginia Water Protection Permit Program Regulation
1480 (9VAC25-210), whenever it is applicable.

Tab D



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

Memorandum

To: Members of the Virginia Waste Management Board

From: Kathryn Perszyk, Director, Division of Land Protection and Revitalization *KJP*

Date: June 24, 2023

Subject: Virginia Solid Waste Management Regulations, 9VAC 20-81
Amendment in response to Chapter 503 of the 2023 Virginia Acts of Assembly
and Citation Update

The attached regulatory amendment is presented to the Board for your consideration for adoption. This final exempt regulatory action is necessary to implement Chapter 503 of the 2023 Acts of Assembly. Chapter 503 of the 2023 Acts of Assembly requires the owner or operator of a proposed coal ash landfill in Planning District 8, if the facility boundary is located within one mile of an existing residential area that is not served by municipal water supply, to offer to provide, at its expense, municipal water supply service for such residential areas and any requested service connections for residential properties in existence at the time of permit application. Chapter 503 of the 2023 Acts of Assembly also dictates that DEQ cannot approve the landfill permit application if the owner or operator does not provide written offers and coordinate with the municipal water authority. This action will add a definition for Planning District 8 and amend Section 460 of the Solid Waste Management Regulations (9VAC20-81 et seq.) to include these new statutory requirements as part of the permit application process for such proposed landfills.

Additionally, Amendment 3 to the Regulated Medical Waste Management Regulations, effective March 15, 2023, recodified those regulations from Chapter 120 to Chapter 121. This regulatory action also makes appropriate citation changes within the Solid Waste Management Regulations.

Section 2.2-4006 (A)(4)(a) and Section 2.2-4006 (A)(3) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-81 as a final exempt regulatory action as the changes are necessary to conform to changes in state law and consist only of changes in style or form or corrections of technical errors. This regulatory amendment will be effective 30 days after

publication in the *Virginia Register*. A draft Virginia Regulatory Town Hall document and regulatory text are attached for your information.

At your Board meeting on September 6, 2023, the DEQ will request that the Board adopt Amendment in response to Chapter 503 of the 2023 Virginia Acts of Assembly and Citation Update to 9VAC20-81 authorize its publication, and affirm that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.

cc: Jill Hrynciw, DEQ – Policy Division

ATTACHMENTS:

- Attachment A – Draft Virginia Regulatory Town Hall Document (TH-09)
- Attachment B – Economic Review Form
- Attachment C – Chapter 503 of the 2023 Virginia Acts of Assembly
- Attachment D - Amendment in response to Chapter 503 of the 2023 Virginia Acts of Assembly and Citation Update - Regulatory Text



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-81
VAC Chapter title(s)	Solid Waste Management Regulations (primary)
Action title	Amendment in response to Chapter 503 of the 2023 Virginia Acts of Assembly and Citation Update
Final agency action date	September 6, 2023
Date this document prepared	July 26, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This final exempt regulatory action is necessary to implement Chapter 503 of the 2023 Acts of Assembly (SB 1050). Chapter 503 of the 2023 Acts of Assembly requires the owner or operator of a proposed coal ash landfill in Planning District 8, if the facility boundary is located within one mile of an existing residential area that is not served by municipal water supply, to offer to provide, at its expense, municipal water supply service for such residential areas and any requested service connections for residential properties in existence at the time of permit application. Chapter 503 of the 2023 Acts of Assembly also dictates that DEQ cannot approve the landfill permit application if the owner or operator does not provide written offers and coordinate with the municipal water authority. This action will add a definition for Planning District 8 and amend Section 460 of the Solid Waste Management Regulations (9VAC20-81 et seq.) to

include these new statutory requirements as part of the permit application process for such proposed landfills.

Additionally, Amendment 3 to the Regulated Medical Waste (RMW) Management Regulations, effective March 15, 2023, recodified those regulations from Chapter 120 to Chapter 121. This regulatory action also makes appropriate citation changes within the Solid Waste Management Regulations.

These regulatory amendments are exempt from the state administrative procedures for adoption of regulations because they are necessary to conform to Virginia statutory law (§ 2.2-4006(A)(4)(a) of the Code of Virginia) and include corrections of technical errors (§ 2.2-4006(A)(3) of the Code of Virginia).

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

SB 1050 was passed during the 2023 Session of the General Assembly. The bill prohibits DEQ from approving a solid waste permit application for a new coal ash landfill in Planning District 8 if the facility boundary is located within one mile of an existing residential area that is not served by municipal water supply, unless the owner or operator has offered to provide, at its expense, municipal water supply and residential connections. The Governor signed the bill into law on March 24, 2023 (SB1050 – Chapter 503 of the 2023 Acts of Assembly) and these changes became effective July 1, 2023. This regulatory action is required to conform the existing regulation to changes in the Code.

Additionally, Amendment 3 to the Regulated Medical Waste Management Regulations, effective March 15, 2023, recodified those regulations from Chapter 120 to Chapter 121. This regulatory action also makes appropriate citation changes within the Solid Waste Management Regulations.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

- Board – Virginia Waste Management Board
- CCR – Coal Combustion Residuals
- CFR – Code of Federal Regulations
- FR – Federal Register
- RMW – Regulated Medical Waste
- VAC – Virginia Administrative Code
- VSWMR – Virginia Solid Waste Management Regulations

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Virginia Waste Management Board adopted the amendments at its meeting on September 6, 2023.

The regulation amendments are exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006(A)(3) as they are changes in form, style, and technical corrections and are necessary to conform to Virginia statutory law (§ 2.2-4006(A)(4)(a) to conform to Virginia statutory law.

Legal Basis

Identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity’s overall regulatory authority.

The statutory authority for these regulations is under § 10.1-1402 of the Code of Virginia and the new criteria applicable to siting a coal combustion residual landfill in Planning District 8 is mandated by § 10.1-1402.05 of the Code of Virginia.

Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act [2.2-4006(A)(3) and 2.2-4006(A)(4)(a)].

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it’s intended to solve.

The purpose of this regulatory action is to amend the VSWMR to incorporate changes mandated by the 2023 General Assembly under Chapter 503 of the 2023 Acts of Assembly.

Additionally, this regulatory action includes corrections to the VSWMR to correct citations referencing the RMW Regulations which were recodified from Chapter 120 to Chapter 121 effective March 15, 2023.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

This regulatory action will add a definition and amend Section 460 of the Virginia Solid Waste Management Regulations to comport with Chapter 503 of the 2023 Acts of Assembly by adding requirements under § 10.1-1402.05 of the Code of Virginia to the solid waste permit application process. The action requires the owner or operator of a proposed coal ash landfill in Planning District 8, if the facility boundary is located within one mile of an existing residential area that is not served by municipal water supply, to offer to provide, at its expense, municipal water supply service for such residential areas and any requested service connections for residential properties in existence at the time of permit application. Chapter 503 of the 2023 Acts of Assembly also dictates that DEQ cannot approve the landfill permit application if the owner or operator does not provide written offers and coordinate with the municipal water authority.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

Implementation of Chapter 503 of the 2023 Acts of Assembly may provide advantages to residents within one mile of any proposed facility boundary of a new coal combustion residuals landfill within Planning District 8 that is not currently served by municipal water supply. The statute requires that the owner or operator of such a proposed facility must offer to provide, at its expense, municipal water service and connections for residential properties in existence at the time of permit application.

There are no disadvantages to the public or the Commonwealth associated with the proposed regulatory changes to correct regulatory citations associated with the recodification of the RMW regulations.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

In 2015 EPA promulgated a new rule titled, "Disposal of Coal Combustion Residuals From Electric Utilities" establishing, for the first time, national requirements for the location, design, operation, monitoring, and closure of coal combustion residuals (CCR) landfills and surface impoundments (80 FR 21302). The rule has been subsequently amended and currently includes location criteria for new CCR landfills, requiring that they "must be constructed with a base that is located no less than 1.52 meters (five feet) above the upper limit of the uppermost aquifer" (40 CFR 257.60(a)). Additionally, the rule requires routine groundwater monitoring of the uppermost aquifer and initiation of corrective action(s) if concentrations of constituents are found above established groundwater protection standards (set at drinking water maximum contaminant levels (MCLs), facility background concentration, or approved alternate risk-based standard) within the groundwater monitoring network (40 CFR 257.90 through 257.98).

The 2015 federal CCR rule and 2016 amendment were previously incorporated by reference into Virginia's Solid Waste Management Regulations to address solid waste permitting of CCR landfills and CCR surface impoundments as defined by the rule. This final exempt regulatory action is necessary to conform to changes in Virginia statutory law. Thus, in addition to the federal requirements outlined above, the owner or operator of a proposed CCR landfill in Planning District 8, if the facility boundary is located within one mile of an existing residential area that is not served by municipal water supply, is required to offer to provide, at its expense, municipal water supply service for such residential areas and any requested service connections for residential properties in existence at the time of permit application. The law states that DEQ cannot approve a landfill permit application for such a CCR landfill if the owner or operator does not provide written offers and coordinate with the municipal water authority regarding connections to the municipal water supply. These requirements are in addition to the above federal requirements and being incorporated into the solid waste permit process with this regulatory action.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected:

There are no other state agencies particularly affected by this regulatory amendment.

Localities Particularly Affected:

Chapter 503 of the 2023 Acts of Assembly only impacts Planning District 8 which consists of the Counties of Arlington, Fairfax, Loudoun, and Prince William; Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park; and Town of Dumfries, Herndon, Leesburg, and Vienna.

Other Entities Particularly Affected:

Chapter 503 of the 2023 Acts of Assembly only impacts the owner or operator of a proposed new coal combustion residuals landfill within Planning District 8.

Details of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC20-81-10	N/A	Definitions	Add a definition for Planning District 8 to correspond with new requirement incorporating Chapter 503 of the 2023 Acts of Assembly: <i>"Planning district 8" means the contiguous area within the boundaries of region 8 established by the Department of Housing and Community Development pursuant to the Regional Cooperation Act (Code of Virginia, Title 15.2, Chapter 42).</i> Update reference to the Regulated Medical Waste Management Regulations from 9VAC20-120 to 9VAC20-121
9VAC20-81-90	N/A	Relationship with other regulations promulgated by the Virginia Waste Management Board	Update reference to the Regulated Medical Waste Management Regulations from 9VAC20-120 to 9VAC20-121
9VAC20-81-140	N/A	Operation requirements	Update reference to the Regulated Medical Waste Management Regulations from 9VAC20-120 to 9VAC20-121

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC20-81-460	9VAC20-81-460.M.	N/A (NEW)	Add new requirement incorporating Chapter 503 of the 2023 Acts of Assembly: <i>M. For new CCR landfills to be located in Planning District 8, a map identifying existing residential area and properties located within one mile of the facility boundary that are not served by municipal water supply and copies of documentation to satisfy the conditions of § 10.1- 1402.05.</i>

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

This is an amendment to conform to new statutory requirements and correct regulatory citations only. There are no alternative regulatory methods for incorporating the mandated amendments adopted by the General Assembly.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no impact on the institution of the family or family stability.

Office of Regulatory Management
Economic Review Form

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC 20-81
VAC Chapter title(s)	Solid Waste Management Regulations
Action title	Amendment in response to Chapter 503 of the 2023 Virginia Acts of Assembly and Citation Update
Date this document prepared	July 3, 2023
Regulatory Stage (including Issuance of Guidance Documents)	Final Exempt Action

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>This is a final exempt regulatory action. No changes are proposed other than incorporation of requirements in response to Chapter 503 of the 2023 Virginia Acts of Assembly (SB1050) and corrections of technical errors (updating citation references) as a result of the recodification of the Regulated Medical Waste Management Regulations, 9VAC20-121, effective March 15, 2023.</p> <p>Direct Costs: Specifically, the law requires, as a condition of DEQ issuing a solid waste permit for a new coal ash landfill in Planning District 8 (Northern Virginia), that the applicant provide municipal water supply service and any requested service connections, at its expense, to any residence located within one mile of the proposed facility boundary. At present, the law only impacts one proposed coal ash landfill; however, any future coal ash landfill proposed within Planning District 8 may also be subject such requirements. Costs associated with such activities for the one affected facility include:</p> <ul style="list-style-type: none"> • Survey of residential areas within one mile that are not served by municipal water (The affected applicant previously completed a survey of water supply wells within 1.5 miles of a facility in Planning District 8 in compliance with Chapter 625 of the 2020 Acts of Assembly, identifying 57 residential wells; however, some additional work and unknown costs may be necessary). • Printing, envelopes, and stamps to mail correspondence to notify residents of an offer to connect to municipal water supply. • Engineering, survey, and construction work to extend municipal water lines to affected residential areas and residents. This is difficult to estimate without having information about the length of waterline extensions required and area conditions. Based on work in DEQ’s petroleum remediation tanks program, an approximate estimate for such work is around \$2 million per mile of water line extension. • Locality-based developer connection rates and fees for municipal water line extension and residential connections. An estimate based on fee schedules is included below, but actual costs are difficult to accurately estimate without specific project details. <p>There are no new direct costs associated with the corrections of the technical errors addressed in this action.</p> <p>Indirect Costs: Residents with a non-municipal water supply are not currently subject to public utility water rates. Use of municipal water supply following</p>
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	<p>connection will subject such residents to local water usage rates. Costs will be subject to each resident’s usage. The industry standard average daily usage per residential unit is 250 gallons per day (7,500 gallons per month).</p> <p>Direct Benefits: No direct benefits were identified as a result of the final exempt regulatory change required by the statute. As explained in Table 1b, existing federal and state requirements ensure protection of human health and the environment.</p> <p>Indirect Benefits: Residents with private wells constructed in a shallow aquifer or experiencing low flow may see improved water flow and/or quality following connection to the municipal water supply. No conclusive statements can be made about specific, indirect monetary benefits of this regulation.</p>				
(2) Present Monetized Values	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; text-align: left;">Direct & Indirect Costs</th> <th style="width: 50%; text-align: left;">Direct & Indirect Benefits</th> </tr> </thead> <tbody> <tr> <td data-bbox="464 905 1049 1860"> <p>(a) Residential Water Well Survey: \$0 (previously completed)</p> <p>Residential Notification: Printing: \$0.68/page, Envelopes: \$0.15 each Stamps: \$0.63 each ≈ \$83.22 for 57 previously identified residential properties</p> <p>Engineering, Survey, and Construction: associated with municipal water line extension, \$2M per mile at estimated 1.5 miles ≈ \$3M</p> <p>Service Authority Developer Rates & Fees: Assumed 1.5 miles of waterline extension (7,920 linear feet), includes plan review, inspection, as-built, and base charge fees ≈ \$63,000 per current PWCSA Developer Rates and Fees</p> <p>Residential Connections: 57 connections; Application fee, final inspection fee, water availability fee, meter and installation fee per connection ≈ \$292,000 per current PWCSA Developer Rates and Fees</p> </td> <td data-bbox="1049 905 1443 1860"> <p>(b) N/A</p> </td> </tr> </tbody> </table>	Direct & Indirect Costs	Direct & Indirect Benefits	<p>(a) Residential Water Well Survey: \$0 (previously completed)</p> <p>Residential Notification: Printing: \$0.68/page, Envelopes: \$0.15 each Stamps: \$0.63 each ≈ \$83.22 for 57 previously identified residential properties</p> <p>Engineering, Survey, and Construction: associated with municipal water line extension, \$2M per mile at estimated 1.5 miles ≈ \$3M</p> <p>Service Authority Developer Rates & Fees: Assumed 1.5 miles of waterline extension (7,920 linear feet), includes plan review, inspection, as-built, and base charge fees ≈ \$63,000 per current PWCSA Developer Rates and Fees</p> <p>Residential Connections: 57 connections; Application fee, final inspection fee, water availability fee, meter and installation fee per connection ≈ \$292,000 per current PWCSA Developer Rates and Fees</p>	<p>(b) N/A</p>
Direct & Indirect Costs	Direct & Indirect Benefits				
<p>(a) Residential Water Well Survey: \$0 (previously completed)</p> <p>Residential Notification: Printing: \$0.68/page, Envelopes: \$0.15 each Stamps: \$0.63 each ≈ \$83.22 for 57 previously identified residential properties</p> <p>Engineering, Survey, and Construction: associated with municipal water line extension, \$2M per mile at estimated 1.5 miles ≈ \$3M</p> <p>Service Authority Developer Rates & Fees: Assumed 1.5 miles of waterline extension (7,920 linear feet), includes plan review, inspection, as-built, and base charge fees ≈ \$63,000 per current PWCSA Developer Rates and Fees</p> <p>Residential Connections: 57 connections; Application fee, final inspection fee, water availability fee, meter and installation fee per connection ≈ \$292,000 per current PWCSA Developer Rates and Fees</p>	<p>(b) N/A</p>				

	<p>Residential User Costs: \$7.10 (Monthly Service Fee); \$3.60 per 1000 gallons (Volume Charge – Water, avg monthly 7,500/month) ≈ \$410 per year</p> <p>Total: \$3.5 million</p>
(3) Net Monetized Benefit	\$0
(4) Other Costs & Benefits (Non-Monetized)	N/A. There are no other costs and benefits associated as a result of the final exempt regulatory change.
(5) Information Sources	<ul style="list-style-type: none"> September 2020 HB1641 Well Survey Report by AECOM for Dominion Energy. Report identified 68 residential wells within one-half (1.5) miles of Possum Point; reduced to 57 upon further investigation. Printing (www.office.fedex.com); Envelopes (www.envelopes.com); Mailing (www.usps.com) Prince William County Service Authority Developer Rates & Fees: https://www.pwcsa.org/sites/default/files/Developer%20Rates%20%20Fees_April%202023.pdf Prince William County Service Authority Residential Water Rates: https://pwcsa.dcatalog.com/v/CustomerHandbook Regulated Medical Waste Management Regulations, 9VAC20-121

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: The final Coal Combustion Residuals (CCR) rule established national criteria to ensure the safe disposal of CCR in landfills by subjecting such units to location standards; composite liner requirements; fugitive dust control; stormwater run-on/run-off controls; groundwater monitoring and corrective action standards; closure and post-closure care requirements; and recordkeeping and reporting requirements. Based on the U.S. Environmental Protection Agency’s (EPA’s) Regulatory Impact Analysis (RIA), the present value cost for a single CCR landfill to comply with these requirements is estimated to be \$270.8 million.</p> <p>In addition to complying with the CCR rule, CCR landfills must have a solid waste permit. Current permit application fees include a Part A Application Fee of \$4,180, and Part B Application Fee of \$18,680. A public comment period is also required and the cost of publication in a newspaper of local circulation is also associated with permit costs in the existing regulation (estimated at \$200). In addition, an annual fee is also required for CCR landfills (a type of captive industrial landfill) which is a flat fee based on whether the landfill disposes of more or less than 100,000 tons per year. The small captive industrial landfill annual fee is</p>
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\$3,315 and the fee for a large captive industrial landfill is \$9,946 (CY2022 fee). The annual fee is adjusted annually by the Consumer Price Index. Most permit applications also require the cost of a topographic survey at the time of application (estimated between \$5,000 to \$16,000 depending on landfill size).

The CCR Rule also imposes requirements on state agencies, including a paperwork review of impoundment structural integrity inspections (performed by Virginia's Department of Conservation and Recreation's Dam Safety Program); groundwater corrective action; and reporting and recordkeeping. EPA's RIA indicates a present value of such state costs, which when scaled to Virginia's universe of CCR units, is about \$935,000.

Indirect Costs:

Pursuant to § 10.1-1402.03 of the Code of Virginia, all costs associated with required closure of CCR units at the four facilities in the Chesapeake Bay watershed (which includes Planning District 8) are recoverable through a rate adjustment clause authorized by the State Corporation Commission, capped at \$225 million in any 12-month period. Thus, these costs are passed onto the consumer, but are not included in the cells that follow as it would be double counting costs associated with complying with the CCR Rule and existing state statutes.

Residents with a non-municipal water supply well likely have minimal costs associated with periodic maintenance and water testing of their private well. These costs are subject to the type of water supply and preferences of the resident and are unable to be calculated.

Direct Benefits:

The regulation's primary direct benefit is ensuring that the location, design, operation, monitoring, and closure of these facilities meet federal and state requirements through a state permit program with direct DEQ oversight of facility compliance to ensure the protection of human health and the environment.

EPA's RIA for the CCR Rule monetized several human health, environmental, and economic benefit categories, including reduced future CCR impoundment releases and groundwater contamination; increased CCR beneficial use; reduced cancer and avoided IQ losses; along with air and water quality benefits. Present value environmental and human health benefits of the CCR final rule were estimated at \$11.2 billion (adjusted to 2023 dollars), resulting in approximately \$10.7 million in estimated monetized benefits per CCR unit.

Indirect Benefits:

	The regulation’s primary, indirect benefit is the protection of public health, safety and welfare of the citizens of the Commonwealth and to protect the Commonwealth’s environment and natural resources from pollution, impairment or destruction.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) CCR Landfill to comply with CCR Rule Requirements: \$270.8 million; Part A Permit: \$4,180; Part B Permit: \$18,680; Annual Fee: \$9,946 (CY2022 Annual fee for large captive industrial landfill, includes CCR landfill); Public Notice: \$200 (average publication cost); Topo Survey: \$16,000; State Cost: \$935,000 Total Direct: \$271.7 million	(b) \$10.7 million
(3) Net Monetized Benefit	(\$261.0 million)	
(4) Other Costs & Benefits (Non-Monetized)	EPA’s RIA for the CCR Rule identified non-monetized benefits including reduced investment risk, reduced fear of citizens residing near CCR impoundments, reduced community nuisance due to dust, reduced cancer and non-cancer health effects, reduced sediment contamination and water treatment costs, improvement in property values, among.	
(5) Information Sources	Economic Review Form for Amendment 9 of the Solid Waste Management Regulations (9VAC20-81), August 31, 2022 Regulatory Impact Analysis for EPA’s Final Coal Combustion Residuals Rule, December 2014: https://www.regulations.gov/document/EPA-HQ-RCRA-2009-0640-12034	

Agency Note: This is a final exempt regulatory action necessary only to conform to changes in Virginia statutory law and to correct technical errors (updating citation references) as a result of the recodification of the Regulated Medical Waste Management Regulations, 9 VAC20-121, effective March 15, 2023. Therefore, Table 1c is not required and has been removed.

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Agency Note: Chapter 503 of the 2023 Acts of Assembly only impacts Planning District 8 which consists of the Counties of Arlington, Fairfax, Loudoun, and Prince William; the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park; and the Towns of Dumfries, Herndon, Leesburg, and Vienna.

Table 2: Impact on Local Partners

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>This is a final exempt regulatory action. No changes are proposed other than to conform to Virginia statutory law and to correct technical errors (updating citation references) as a result of the recodification of the Regulated Medical Waste Management Regulations, 9VAC20-121, effective March 15, 2023.</p> <p>Direct Costs: The municipal water authority for the one currently affected facility within Planning District 8 will have costs associated with working with the owner or operator of the proposed landfill to extend the municipal water line as required. As outlined in Table 1a, the water authority has a fee structure to cover and/or recoup a portion of their costs associated with working the owner/operator. Actual costs are unable to be determined.</p> <p>Indirect Costs: N/A. There are no new indirect costs associated with conformance to the statute and corrections of technical errors.</p> <p>Direct Benefits: N/A. There are no new direct benefits associated with conformance to the statute and corrections of technical errors.</p> <p>Indirect Benefits: N/A. There are no new indirect benefits associated with conformance to the statute and corrections of technical errors.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p> <p>(a) 0</p>	<p>Direct & Indirect Benefits</p> <p>(b) 0</p>
<p>(3) Other Costs & Benefits (Non-Monetized)</p>	<p>N/A. There are no other costs and benefits associated with conformance to the statute and corrections of technical errors.</p>	

(4) Assistance	N/A
(5) Information Sources	Prince William County Service Authority Developer Rates & Fees: https://www.pwcsa.org/sites/default/files/Developer%20Rates%20%20Fees_April%202023.pdf

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>This is a final exempt regulatory action. No changes are proposed other than to conform to Virginia statutory law and to correct technical errors (updating citation references) as a result of the recodification of the Regulated Medical Waste Management Regulations, 9VAC20-121, effective March 15, 2023.</p> <p>Direct Costs: N/A. There are no new direct costs associated with conformance to the statute and corrections of technical errors.</p> <p>Indirect Costs: As described in Table 1b, pursuant to § 10.1-1402.03 of the Code of Virginia, all costs associated with required closure of CCR units at the four facilities in the Chesapeake Bay watershed (includes Planning District 8) are recoverable through a rate adjustment clause authorized by the State Corporation Commission, capped at \$225 million in any 12-month period. Thus, these costs are passed onto the consumer, but are not included in the cells that follow as it would be double counting costs associated with complying with the CCR Rule and existing state statutes included in Table 1b.</p> <p>Direct Benefits: N/A. There are no new direct benefits associated with conformance to the statute and corrections of technical errors. As explained in Table 1b existing federal and state requirements ensure protection of human health and the environment.</p> <p>Indirect Benefits: N/A. There are no new indirect benefits associated with conformance to the statute and corrections of technical errors.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) N/A

(3) Other Costs & Benefits (Non-Monetized)	N/A. There are no other costs and benefits associated with conformance to the statute and corrections of technical errors.
(4) Information Sources	Subsection H of https://law.lis.virginia.gov/vacode/10.1-1402.03/

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>This is a final exempt regulatory action. No changes are proposed other than to conform to Virginia statutory law and to correct technical errors (updating citation references) as a result of the recodification of the Regulated Medical Waste Management Regulations, 9VAC20-121, effective March 15, 2023.</p> <p>Direct Costs: N/A. There are no new direct costs to small businesses associated with conformance to the statute and corrections of technical errors.</p> <p>Indirect Costs: N/A. There are no new indirect costs to small businesses associated with conformance to the statute and corrections of technical errors.</p> <p>Direct Benefits: N/A. There are no new direct benefits to small businesses associated with conformance to the statute and corrections of technical errors.</p> <p>Indirect Benefits: N/A. There are no new indirect benefits to small businesses associated with conformance to the statute and corrections of technical errors.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	N/A. There are no other costs and benefits to small businesses associated with conformance to the statute and corrections of technical errors.	

(4) Alternatives	N/A
(5) Information Sources	N/A

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved	Initial Count	Additions	Subtractions	Net Change
N/A				

Agency Note: This is a final exempt regulatory action necessary only to conform to changes in Virginia statutory law and to correct technical errors (updating citation references) as a result of the recodification of the Regulated Medical Waste Management Regulations, 9 VAC20-121, effective March 15, 2023.

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Length	New Length	Net Change in Length
N/A			

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 503

An Act to amend the Code of Virginia by adding a section numbered 10.1-1402.05, relating to permit for coal ash landfill storage; provision of public water supply.

[S 1050]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-1402.05 as follows:

§ 10.1-1402.05. Coal ash landfill storage; provision of public water supply.

A. No application for a new coal ash landfill permit for storing coal combustion residuals in Planning District 8 shall be approved by the Department if the facility boundary is located within one mile of an existing residential area that is not served by municipal water supply, unless the owner or operator of the coal ash landfill has offered to provide, at its expense, (i) municipal water supply service for such residential area and (ii) any requested service connections for residential properties in existence at the time such permit application is filed.

B. Any offer by the owner or operator of a coal ash landfill to provide municipal water supply service or requested service connections pursuant to subsection A shall be made (i) in writing to any resident located within one mile of the facility boundary and (ii) in coordination with the municipal water supply service authority in which the coal ash landfill will be located, notwithstanding the water supply service authority's final schedule for installation.

1 **Project 7627 - Exempt Final**

2 **Virginia Waste Management Board**

3 **Incorporation of Chapter 503 of the 2023 Acts of Assembly, Citation Update**

4 **9VAC20-81-10. Definitions.**

5 The following words and terms when used in this chapter shall have the following meanings
6 unless the context clearly indicates otherwise:

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

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

11 "Agricultural waste" means all solid waste produced from farming operations.

12 "Airport" means, for the purpose of this chapter, a military airfield or a public-use airport open
13 to the public without prior permission and without restrictions within the physical capacities of
14 available facilities.

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

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

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

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

22 "Benchmark" means a permanent monument constructed of concrete and set in the ground
23 surface below the frostline with identifying information clearly affixed to it. Identifying information
24 will include the designation of the benchmark as well as the elevation and coordinates on the local
25 or Virginia state grid system.

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

28 "Beneficial use of CCR" means the CCR meet all of the following conditions:

- 29 1. The CCR must provide a functional benefit;
- 30 2. The CCR must substitute for the use of a virgin material, conserving natural resources
31 that would otherwise need to be obtained through practices, such as extraction;
- 32 3. The use of the CCR must meet relevant product specifications, regulatory standards,
33 or design standards when available, and when such standards are not available, the CCR
34 is not used in excess quantities; and
- 35 4. When unencapsulated use of CCR involving placement on the land of 12,400 tons or
36 more in nonroadway applications, the user must demonstrate and keep records, and
37 provide such documentation upon request, that environmental releases to groundwater,
38 surface water, soil, and air are comparable to or lower than those from analogous products
39 made without CCR, or that environmental releases to groundwater, surface water, soil,
40 and air will be at or below relevant regulatory and health-based benchmarks for human
41 and ecological receptors during use.

42 "Bioremediation" means remediation of contaminated media by the manipulation of biological
43 organisms to enhance the degradation of contaminants.

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

46 "Board" means the Virginia Waste Management Board.

47 "Bottom ash" means ash or slag that has been discharged from the bottom of the combustion
48 unit after combustion.

49 "Capacity" means the maximum permitted volume of solid waste, inclusive of daily and
50 intermediate cover, that can be disposed in a landfill. This volume is measured in cubic yards.

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

53 "CCR landfill" means an area of land or an excavation that receives CCR and that is not a
54 surface impoundment, an underground injection well, a salt dome formation, a salt bed formation,
55 an underground or surface coal mine, or a cave. For purposes of this chapter, a CCR landfill also
56 includes sand and gravel pits and quarries that receive CCR, CCR piles, and any practice that
57 does not meet the definition of a beneficial use of CCR.

58 "CCR surface impoundment" means a natural topographic depression, man-made
59 excavation, or diked area that is designed to hold an accumulation of CCR and liquids, and the
60 unit treats, stores, or disposes of CCR.

61 "Clean wood" means solid waste consisting of untreated wood pieces and particles that do
62 not contain paint, laminate, bonding agents, or chemical preservatives or are otherwise
63 unadulterated.

64 "Closed facility" means a solid waste management facility that has been properly secured in
65 accordance with the requirements of this chapter.

66 "Closure" means that point in time when a permitted landfill has been capped, certified as
67 properly closed by a professional engineer, inspected by the department, and closure notification
68 is performed by the department in accordance with 9VAC20-81-160 D.

69 "Coal combustion byproducts" or "CCB" means residuals, including fly ash, bottom ash, boiler
70 slag, and flue gas emission control waste produced by burning coal. CCB includes both CCR and
71 other non-CCR wastes identified in this definition.

72 "Coal combustion residuals" or "CCR" means fly ash, bottom ash, boiler slag, and flue gas
73 desulfurization materials generated from burning coal for the purpose of generating electricity by
74 electric utilities and independent power producers. CCR is a specific type of CCB.

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

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

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

82 "Compost" means a stabilized organic product produced by a controlled aerobic
83 decomposition process in such a manner that the product can be handled, stored, or applied to
84 the land without adversely affecting public health or the environment.

85 "Composting" means the manipulation of the natural process of decomposition of organic
86 materials to increase the rate of decomposition.

87 "Construction" means the initiation of permanent physical change at a property with the intent
88 of establishing a solid waste management unit. This does not include land-clearing activities,
89 excavation for borrow purposes, activities intended for infrastructure purposes, or activities

90 necessary to obtain Part A siting approval (i.e., advancing of exploratory borings, digging of test
91 pits, groundwater monitoring well installation, etc.).

92 "Construction/demolition/debris landfill" or "CDD landfill" means a land burial facility
93 engineered, constructed and operated to contain and isolate construction waste, demolition
94 waste, debris waste, split tires, and white goods or combinations of the above solid wastes.

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

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

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

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

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

114 "Cover material" means compactable soil or other approved material that is used to blanket
115 solid waste in a landfill.

116 "Daily disposal limit" means the amount of solid waste that is permitted to be disposed at the
117 facility and shall be computed on the amount of waste disposed during any operating day.

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

120 "Decomposed vegetative waste" means a stabilized organic product produced from
121 vegetative waste by a controlled natural decay process in such a manner that the product can be
122 handled, stored, or applied to the land without adversely affecting public health or the
123 environment.

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

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

127 "Director" means the Director of the Department of Environmental Quality. For purposes of
128 submissions to the director as specified in the Waste Management Act, submissions may be
129 made to the department.

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

132 "Discarded material" means a material that is:

- 133 1. Abandoned by being:
 - 134 a. Disposed of;
 - 135 b. Burned or incinerated; or

136 c. Accumulated, stored, or treated (but not used, reused, or reclaimed) before or in
137 lieu of being abandoned by being disposed of, burned, or incinerated; or

138 2. Recycled used, reused, or reclaimed material as defined in this part.

139 "Disclosure statement" means a sworn statement or affirmation as required by § 10.1-1400 of
140 the Code of Virginia (see DEQ Form DISC-01 and 02 (Disclosure Statement)).

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

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

146 "Disposal unit boundary" or "DUB" means the vertical plane located at the edge of the waste
147 disposal unit. This vertical plane extends down into the uppermost aquifer. The DUB must be
148 positioned within or coincident to the waste management boundary.

149 "EPA" means the U.S. Environmental Protection Agency.

150 "Exempt management facility" means a site used for activities that are conditionally exempt
151 from management as a solid waste under this chapter. The facility remains exempt from solid
152 waste management requirements provided it complies with the applicable conditions set forth in
153 Parts II (9VAC20-81-20 et seq.) and IV (9VAC20-81-300 et seq.) of this chapter.

154 "Existing CCR landfill" means a CCR landfill that receives CCR both before and after October
155 19, 2015, or for which construction commenced prior to October 19, 2015, and receives CCR on
156 or after October 19, 2015. A CCR landfill has commenced construction if the owner or operator
157 has obtained the federal, state, and local approvals or permits necessary to begin physical
158 construction and a continuous onsite, physical construction program had begun prior to October
159 19, 2015.

160 "Existing CCR surface impoundment" means a CCR surface impoundment that receives CCR
161 both before and after October 19, 2015, or for which construction commenced prior to October
162 19, 2015, and receives CCR on or after October 19, 2015. A CCR surface impoundment has
163 commenced construction if the owner or operator has obtained the federal, state, and local
164 approvals or permits necessary to begin physical construction and a continuous onsite, physical
165 construction program had begun prior to October 19, 2015.

166 "Expansion" means a horizontal expansion of the waste management boundary as identified
167 in the Part A application. If a facility's permit was issued prior to the establishment of the Part A
168 process, an expansion is a horizontal expansion of the disposal unit boundary.

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

171 "Facility boundary" means the boundary of the solid waste management facility. For landfills,
172 this boundary encompasses the waste management boundary and all ancillary activities
173 including, but not limited to scales, groundwater monitoring wells, gas monitoring probes, and
174 maintenance facilities as identified in the facility's permit application. For facilities with a permit-
175 by-rule (PBR) the facility boundary is the boundary of the property where the permit-by-rule
176 activity occurs. For unpermitted solid waste management facilities, the facility boundary is the
177 boundary of the property line where the solid waste is located.

178 "Facility structure" means any building, shed, or utility or drainage line on the facility.

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

181 "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters,
182 including low-lying areas of offshore islands where flooding occurs.

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

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

187 "Fossil fuel combustion products" means coal combustion byproducts as defined in this
188 regulation, coal combustion byproducts generated at facilities with fluidized bed combustion
189 technology, petroleum coke combustion byproducts, byproducts from the combustion of oil,
190 byproducts from the combustion of natural gas, and byproducts from the combustion of mixtures
191 of coal and "other fuels" (i.e., co-burning of coal with "other fuels" where coal is at least 50% of
192 the total fuel). For purposes of this definition, "other fuels" means waste-derived fuel product, auto
193 shredder fluff, wood wastes, coal mill rejects, peat, tall oil, tire-derived fuel, deionizer resins, and
194 used oil.

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

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

200 "Gas condensate" means the liquid generated as a result of gas control or recovery processes
201 at the solid waste management facility.

202 "Governmental unit" means any department, institution, or commission of the Commonwealth
203 and any public corporate instrumentality thereof, and any district, and shall include local
204 governments.

205 "Ground rubber" means material processed from waste tires that is no larger than 1/4 inch in
206 any dimension. This includes crumb rubber that is measured in mesh sizes.

207 "Groundwater" means water below the land surface in a zone of saturation.

208 "Hazardous constituent" means a constituent of solid waste found listed in Appendix VIII of
209 9VAC20-60-261.

210 "Hazardous waste" means a "hazardous waste" as described by the Virginia Hazardous
211 Waste Management Regulations (9VAC20-60).

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

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

216 "Host agreement" means any lease, contract, agreement, or land use permit entered into or
217 issued by the locality in which the landfill is situated that includes terms or conditions governing
218 the operation of the landfill.

219 "Household hazardous waste" means any waste material derived from households (including
220 single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters,
221 campgrounds, picnic grounds, and day-use recreation areas) which, except for the fact that it is
222 derived from a household, would otherwise be classified as a hazardous waste in accordance
223 with 9VAC20-60.

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

229 "Hundred-year flood" means a flood that has a 1.0% or greater chance of recurring in any
230 given year or a flood of magnitude equaled or exceeded on the average only once in a hundred
231 years on the average over a significantly long period.

232 "Inactive CCR surface impoundment" means a CCR surface impoundment that no longer
233 receives CCR on or after October 19, 2015, and still contains both CCR and liquids on or after
234 October 19, 2015.

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

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

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

247 "Industrial waste landfill" means a solid waste landfill used primarily for the disposal of a
248 specific industrial waste or a waste that is a byproduct of a production process.

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

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

255 "Interim cover systems" means temporary cover systems applied to a landfill area when
256 landfilling operations will be temporarily suspended for an extended period (typically, longer than
257 one year). At the conclusion of the interim period, the interim cover system may be removed and
258 landfilling operations resume or final cover is installed.

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

263 "Key personnel" means the applicant itself and any person employed by the applicant in a
264 managerial capacity, or empowered to make discretionary decisions, with respect to the solid
265 waste or hazardous waste operations of the applicant in Virginia, but shall not include employees
266 exclusively engaged in the physical or mechanical collection, transportation, treatment, storage,
267 or disposal of solid or hazardous waste and such other employees as the director may designate
268 by regulation. If the applicant has not previously conducted solid waste or hazardous waste
269 operations in Virginia, the term also includes any officer, director, partner of the applicant, or any
270 holder of 5.0% or more of the equity or debt of the applicant. If any holder of 5.0% or more of the
271 equity or debt of the applicant or of any key personnel is not a natural person, the term includes
272 all key personnel of that entity, provided that where such entity is a chartered lending institution
273 or a reporting company under the Federal Security and Exchange Act of 1934, the term does not
274 include key personnel of such entity. Provided further that the term means the chief executive
275 officer of any agency of the United States or of any agency or political subdivision of the
276 Commonwealth, and all key personnel of any person, other than a natural person, that operates

277 a landfill or other facility for the disposal, treatment, or storage of nonhazardous solid waste under
278 contract with or for one of those governmental entities.

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

281 "Land-clearing activities" means the removal of flora from a parcel of land.

282 "Land-clearing debris" means vegetative waste resulting from land-clearing activities.

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

285 "Landfill gas" means gas generated as a byproduct of the decomposition of organic materials
286 in a landfill. Landfill gas consists primarily of methane and carbon dioxide.

287 "Landfill mining" means the process of excavating solid waste from an existing landfill.

288 "Leachate" means a liquid that has passed through or emerged from solid waste and contains
289 soluble, suspended, or miscible materials from such waste. Leachate and any material with which
290 it is mixed is solid waste; except that leachate that is pumped from a collection tank for
291 transportation to disposal in an offsite facility is regulated as septage, leachate discharged into a
292 waste water collection system is regulated as industrial waste water and leachate that has
293 contaminated groundwater is regulated as contaminated groundwater.

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

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

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

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

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

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

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

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

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

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

319 "Mulch" means woody waste consisting of stumps, trees, limbs, branches, bark, leaves and
320 other clean wood waste that has undergone size reduction by grinding, shredding, or chipping,
321 and is distributed to the general public for landscaping purposes or other horticultural uses except
322 composting as defined and regulated under this chapter.

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

325 "New CCR landfill" means a CCR landfill or lateral expansion of a CCR landfill that first
326 receives CCR or commences construction after October 19, 2015. A new CCR landfill has
327 commenced construction if the owner or operator has obtained the federal, state, and local
328 approvals or permits necessary to begin physical construction and a continuous onsite, physical
329 construction program had begun after October 19, 2015. Overfills are also considered new CCR
330 landfills.

331 "New CCR surface impoundment" means a CCR surface impoundment or lateral expansion
332 of an existing or new CCR surface impoundment that first receives CCR or commences
333 construction after October 19, 2015. A new CCR surface impoundment has commenced
334 construction if the owner or operator has obtained the federal, state, and local approvals or
335 permits necessary to begin physical construction and a continuous onsite, physical construction
336 program had begun after October 19, 2015.

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

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

342 "Offsite" means any site that does not meet the definition of onsite as defined in this part.

343 "Onsite" means the same or geographically contiguous property, which may be divided by
344 public or private right-of-way, provided the entrance and exit to the facility are controlled by the
345 owner or the operator of the facility. Noncontiguous properties owned by the same person, but
346 connected by a right-of-way that he controls and to which the public does not have access, are
347 also considered onsite property.

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

- 349 1. Control of combustion air to maintain adequate temperature for efficient combustion;
- 350 2. Containment of the combustion reaction in an enclosed device to provide sufficient
351 residence time and mixing for complete combustion; and
- 352 3. Control of the combustion products' emission.

353 "Open dump" means a site on which any solid waste is placed, discharged, deposited,
354 injected, dumped, or spilled so as to present a threat of a release of harmful substances into the
355 environment or present a hazard to human health. Such a site is subject to the Open Dump
356 Criteria in 9VAC20-81-45.

357 "Operating record" means records required to be maintained in accordance with the facility
358 permit or this part (see 9VAC20-81-530).

359 "Operation" means all waste management activities at a solid waste management facility
360 beginning with the initial receipt of solid waste for treatment, storage, disposal, or transfer and
361 ceasing with the initiation of final closure activities at the solid waste management facility
362 subsequent to the final receipt of waste.

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

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

367 "PCB" means any chemical substance that is limited to the biphenyl molecule that has been
368 chlorinated to varying degrees or any combination of substances that contain such substance
369 (see 40 CFR 761.3, as amended).

370 "Perennial stream" means a well-defined channel that contains water year round during a year
371 of normal rainfall. Generally, the water table is located above the streambed for most of the year
372 and groundwater is the primary source for stream flow. A perennial stream exhibits the typical
373 biological, hydrological, and physical characteristics commonly associated with the continuous
374 conveyance of water.

375 "Permit" means the written permission of the director to own, operate, or construct a solid
376 waste management facility.

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

379 "Planning district 8" means the contiguous area within the boundaries of region 8 established
380 by the Department of Housing and Community Development pursuant to the Regional
381 Cooperation Act (Code of Virginia, Title 15.2, Chapter 42).

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

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

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

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

393 "Process rate" means the maximum rate of waste acceptance that a solid waste management
394 facility can process for treatment and storage. This rate is limited by the capabilities of equipment,
395 personnel, and infrastructure.

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

398 "Professional engineer" means an engineer licensed to practice engineering in the
399 Commonwealth as defined by the rules and regulations set forth by the Board for Architects,
400 Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects
401 (18VAC10-20).

402 "Professional geologist" means a geologist licensed to practice geology in the Commonwealth
403 as defined by the rules and regulations set forth by the Board for Professional Soil Scientists,
404 Wetland Professionals, and Geologists (18VAC145-40).

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

408 "Putrescible waste" means solid waste that contains organic material capable of being
409 decomposed by micro-organisms and cause odors.

410 "Qualified groundwater scientist" means a scientist or engineer who has received a
411 baccalaureate or postgraduate degree in the natural sciences or engineering and has sufficient
412 training and experience in groundwater hydrology and related fields as may be demonstrated by
413 professional certifications or completion of accredited university programs that enable that
414 individual to make sound professional judgments regarding groundwater monitoring, contaminant
415 fate and transport, and corrective action.

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

419 "Reclaimed material" means a material that is processed or reprocessed to recover a usable
420 product or is regenerated to a usable form.

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

424 "Refuse-derived fuel (RDF)" means a type of municipal solid waste produced by processing
425 municipal solid waste through shredding and size classification. This includes all classes of
426 refuse-derived fuel including low-density fluff refuse-derived fuel through densified refuse-derived
427 fuel and pelletized refuse-derived fuel.

428 "Regulated hazardous waste" means a solid waste that is a hazardous waste, as defined in
429 the Virginia Hazardous Waste Management Regulations (9VAC20-60), that is not excluded from
430 those regulations as a hazardous waste.

431 "Regulated medical waste" means solid wastes so defined by the Regulated Medical Waste
432 Management Regulations (~~9VAC20-120~~)(9VAC20-121) as promulgated by the Virginia Waste
433 Management Board.

434 "Release" means, for the purpose of this chapter, any spilling, leaking, pumping, pouring,
435 emitting, emptying, discharging, injection, escaping, leaching, dumping, or disposing into the
436 environment solid wastes or hazardous constituents of solid wastes (including the abandonment
437 or discarding of barrels, containers, and other closed receptacles containing solid waste). This
438 definition does not include any release that results in exposure to persons solely within a
439 workplace; release of source, byproduct, or special nuclear material from a nuclear incident, as
440 those terms are defined in the Atomic Energy Act of 1954 (68 Stat. 923); and the normal
441 application of fertilizer. For the purpose of this chapter, release also means substantial threat of
442 release.

443 "Remediation waste" means all solid waste, including all media (groundwater, surface water,
444 soils, and sediments) and debris, that are managed for the purpose of remediating a site in
445 accordance with 9VAC20-81-45 or Part III (9VAC20-81-100 et seq.) of this chapter or under the
446 Voluntary Remediation Regulations (9VAC20-160) or other regulated remediation program under
447 DEQ oversight. For a given facility, remediation wastes may originate only from within the
448 boundary of that facility, and may include wastes managed as a result of remediation beyond the
449 boundary of the facility. Hazardous wastes as defined in 9VAC20-60, as well as "new" or "as
450 generated" wastes, are excluded from this definition.

451 "Remediation waste management unit" or "RWMU" means an area within a facility that is
452 designated by the director for the purpose of implementing remedial activities required under this
453 chapter or otherwise approved by the director. An RWMU shall only be used for the management
454 of remediation wastes pursuant to implementing such remedial activities at the facility.

455 "Responsible official" means one of the following:

- 456 1. For a business entity, such as a corporation, association, limited liability company, or
457 cooperative: a duly authorized representative of such business entity if the representative
458 is responsible for the overall operation of one or more operating facilities applying for or
459 subject to a permit. The authority to sign documents must be assigned or delegated to
460 such representative in accordance with procedures of the business entity;
- 461 2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
462 or

463 3. For a municipality, state, federal, or other public agency: a duly authorized
464 representative of the locality if the representative is responsible for the overall operation
465 of one or more operating facilities applying for or subject to a permit. The authority to sign
466 documents must be assigned or delegated to such representative in accordance with
467 procedures of the locality.

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

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

474 "Run-on" means any rainwater, wastewater, leachate, or other liquid that drains over land onto
475 any part of the solid waste management facility.

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

478 "Sanitary landfill" means an engineered land burial facility for the disposal of household waste
479 that is so located, designed, constructed, and operated to contain and isolate the waste so that it
480 does not pose a substantial present or potential hazard to human health or the environment. A
481 sanitary landfill also may receive other types of solid wastes, such as commercial solid waste,
482 nonhazardous sludge, hazardous waste from very small quantity generators, construction
483 demolition debris, and nonhazardous industrial solid waste.

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

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

487 "Scrap metal" means metal parts such as bars, rods, wire, empty containers, or metal pieces
488 that are discarded material and can be used, reused, or reclaimed.

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

491 "Seismic impact zone" means an area with a 10% or greater probability that the maximum
492 horizontal acceleration in lithified earth material, expressed as a percentage of the earth's
493 gravitational pull (g), will exceed 0.10g in 250 years.

494 "Semiannual" means an interval corresponding to approximately 180 days. For the purposes
495 of scheduling monitoring activities, sampling within 30 days of the 180-day interval will be
496 considered semiannual.

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

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

504 "Small landfill" means a landfill that disposed of 100 tons/day or less of solid waste during a
505 representative period prior to October 9, 1993, and did not dispose of more than an average of
506 100 tons/day of solid waste each month between October 9, 1993, and April 9, 1994.

507 "Solid waste" means any of those materials defined as "solid waste" in 9VAC20-81-95.

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

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

512 "Special wastes" means solid wastes that are difficult to handle, require special precautions
513 because of hazardous properties, or the nature of the waste creates waste management problems
514 in normal operations. (See Part VI (9VAC20-81-610 et seq.) of this chapter.)

515 "Speculatively accumulated material" means any material that is accumulated before being
516 used, reused, or reclaimed or in anticipation of potential use, reuse, or reclamation. Materials are
517 not being accumulated speculatively when they can be used, reused, or reclaimed, have a
518 feasible means of use, reuse, or reclamation available and 75% of the materials accumulated are
519 being removed from the facility annually.

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

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

524 "Structural fill" means an engineered fill with a projected beneficial end use, constructed using
525 soil or fossil fuel combustion products, when done in accordance with this chapter, spread and
526 compacted with proper equipment, and covered with a vegetated soil cap.

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

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

534 "Surface waters" means all state waters that are not groundwater as defined in § 62.1-255 of
535 the Code of Virginia.

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

539 "Tank" means a stationary device, designed to contain an accumulation of liquid or semi-liquid
540 components of solid waste that is constructed primarily of nonearthen materials that provide
541 structural support.

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

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

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

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

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

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

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

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

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

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

568 "Unit" means a discrete area of land used for the disposal of solid waste.

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

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

576 "Used or reused material" means a material that is either:

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

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

584 "Vegetative waste" means decomposable materials generated by yard and lawn care or land-
585 clearing activities and includes, but is not limited to, leaves, grass trimmings, woody wastes such
586 as shrub and tree prunings, bark, limbs, roots, and stumps.

587 "Vermicomposting" means the controlled and managed process by which live worms convert
588 organic residues into fertile excrement.

589 "Vertical design capacity" means the maximum design elevation specified in the facility's
590 permit or if none is specified in the permit, the maximum elevation based on a 3:1 slope from the
591 waste disposal unit boundary.

592 "Very small quantity generator" means a generator of hazardous waste as defined in 40 CFR
593 260.10 as incorporated by reference in 9VAC20-60-260 that generates less than or equal to the
594 following amounts in a calendar month: (i) 100 kilograms of nonacute hazardous waste; (ii) one
595 kilogram of acute hazardous waste; and (iii) 100 kilograms of any residue or contaminated soil,
596 water, or other debris resulting from the cleanup of a spill into or on any land or water of acute
597 hazardous waste.

598 "VPDES" (Virginia Pollutant Discharge Elimination System) means the Virginia system for the
599 issuance of permits pursuant to the Permit Regulation (9VAC25-31), the State Water Control Law
600 (§ 62.1-44.2 et seq. of the Code of Virginia), and § 402 of the Clean Water Act (33 USC § 1251
601 et seq.).

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

603 "Waste-derived fuel product" means a solid waste or combination of solid wastes that have
604 been treated (altered physically, chemically, or biologically) to produce a fuel product with a
605 minimum heating value of 5,000 BTU/lb. Solid wastes used to produce a waste-derived fuel
606 product must have a heating value, or act as binders, and may not be added to the fuel for the
607 purpose of disposal. Waste ingredients may not be listed or characteristic hazardous wastes. The
608 fuel product must be stable at ambient temperature, and not degraded by exposure to the
609 elements. This material may not be "refuse derived fuel (RDF)" as defined in 9VAC5-40-890.

610 "Waste management boundary" means the vertical plane located at the boundary line of the
611 area approved in the Part A application for the disposal of solid waste and storage of leachate.
612 This vertical plane extends down into the uppermost aquifer and is within the facility boundary.

613 "Waste pile" means any noncontainerized accumulation of nonflowing, solid waste that is used
614 for treatment or storage.

615 "Waste tire" means a tire that has been discarded because it is no longer suitable for its
616 original intended purpose because of wear, damage or defect. (See 9VAC20-150 for other
617 definitions dealing with the waste tire program.)

618 "Wastewaters" means, for the purpose of this chapter, wastes that contain less than 1.0% by
619 weight total organic carbon (TOC) and less than 1.0% by weight total suspended solids (TSS).

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

- 622 1. Harmful or detrimental or injurious to the public health, safety, or welfare, or to the health
623 of animals, fish, or aquatic life or plants;
- 624 2. Unsuitable, with reasonable treatment, for use as present or possible future sources of
625 public water supply; or
- 626 3. Unsuitable for recreational, commercial, industrial, agricultural, or other reasonable
627 uses, provided that:
 - 628 a. An alteration of the physical, chemical, or biological properties of state waters or a
629 discharge or deposit of sewage, industrial wastes, or other wastes to state waters by
630 any owner that by itself is not sufficient to cause pollution but which in combination
631 with such alteration or discharge or deposit to state waters by other persons is
632 sufficient to cause pollution;
 - 633 b. The discharge of untreated sewage by any person into state waters; and
 - 634 c. The contribution to the degradation of water quality standards duly established by
635 the State Water Control Board, are "pollution" for the terms and purposes of this
636 chapter.

637 "Water table" means the upper surface of the zone of saturation in groundwaters in which the
638 hydrostatic pressure is equal to the atmospheric pressure.

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

- 640 1. All waters that are currently used, were used in the past, or may be susceptible to use
641 in interstate or foreign commerce, including all waters that are subject to the ebb and flow
642 of the tide;
- 643 2. All interstate waters, including interstate "wetlands";
- 644 3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams),
645 mud flats, sand flats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or
646 natural ponds the use, degradation, or destruction of which would affect or could affect
647 interstate or foreign commerce including:

- 648 a. Any such waters that are or could be used by interstate or foreign travelers for
649 recreational or other purposes;
- 650 b. Any such waters from which fish or shellfish are or could be taken and sold in
651 interstate or foreign commerce;
- 652 c. Any such waters that are used or could be used for industrial purposes by industries
653 in interstate commerce;
- 654 d. All impoundments of waters otherwise defined as waters of the United States under
655 this definition;
- 656 e. Tributaries of waters identified in subdivisions 3 a through d of this definition;
- 657 f. The territorial sea; and
- 658 g. Wetlands adjacent to waters (other than waters that are themselves wetlands)
659 identified in subdivisions 3 a through f of this definition.

660 "Wetlands" means those areas that are defined by the federal regulations under 33 CFR Part
661 328, as amended.

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

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

665 "Yard waste" means a subset of vegetative waste and means decomposable waste materials
666 generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and
667 shrub and tree trimmings. Yard waste shall not include roots or stumps that exceed 12 inches in
668 diameter.

669 **9VAC20-81-90. Relationship with other regulations promulgated by the Virginia Waste**
670 **Management Board.**

671 A. Virginia Hazardous Waste Management Regulations (9VAC20-60).

672 1. Solid wastes that have been declared hazardous or a universal waste by the generator
673 in accordance with 40 CFR 262.11, as amended, or that are regulated as hazardous
674 wastes by the Commonwealth or another state, and will be treated, stored, or disposed of
675 in Virginia shall be managed in accordance with the requirements of 9VAC20-60 and not
676 9VAC20-81.

677 2. Any material from a state other than Virginia that is classified as a hazardous waste in
678 that state shall be managed in accordance with 9VAC20-60.

679 3. Wastes generated by generators who are conditionally exempt pursuant to 40 CFR
680 261.5 may be managed in solid waste management facilities provided that:

681 a. (i) A specific approval is obtained from the director for acceptance of the material at
682 a facility with an approved liner and leachate collection system; or (ii) it is included in
683 the facility permit; and

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

685 B. Regulated Medical Waste Management Regulations (~~9VAC20-120~~9VAC20-121). Solid
686 wastes that are defined as regulated medical wastes by the Regulated Medical Waste
687 Management Regulations shall be managed in accordance with those regulations. Regulated
688 medical wastes that are excluded or exempt by ~~9VAC20-120~~9VAC20-121 shall be regulated by
689 this chapter.

690 C. Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment
691 Facilities (9VAC20-70). 9VAC20-70 specifies the requirements for financial assurance and
692 allowable financial assurance mechanisms. Solid waste management facilities shall provide
693 financial assurance in accordance with 9VAC20-70.

694 D. Solid Waste Management Facility Permit Action Fees and Annual Fees (9VAC20-90). All
695 applicants for solid waste management facility permits are required to pay a fee in accordance
696 with the schedule shown in 9VAC20-90. All solid waste management facilities shall pay annual
697 fees in accordance with 9VAC20-90, as applicable.

698 E. Solid Waste Planning and Recycling Regulations (9VAC20-130). 9VAC20-130 establishes
699 a framework for local governments to plan for solid waste management needs and a mechanism
700 for tracking recycling rates and solid waste management plan contents.

701 F. Transportation of Solid and Medical Wastes on State Waters (9VAC20-170). 9VAC20-170
702 establishes the standards and procedures pertaining to the commercial transport, loading and
703 offloading of solid wastes or regulated medical wastes upon the navigable waters of the
704 Commonwealth.

705 G. Voluntary Remediation Regulations (9VAC20-160). 9VAC20-160 establishes standards
706 and procedures for the Virginia Voluntary Remediation Program.

707 H. Coal Combustion Byproduct Regulations (9VAC20-85). 9VAC20-85 establishes standards
708 for the use of fossil fuel combustion products, which are not subject to requirements of this
709 chapter, and establishes standards for siting, design, construction, operation, and administrative
710 procedures pertaining to their use, reuse, or reclamation other than in a manner addressed by
711 this chapter.

712 **9VAC20-81-140. Operation requirements.**

713 The operation of all sanitary, CDD, and industrial landfills shall be governed by the standards
714 set forth in this section. Landfill operations will be detailed in an operations manual that shall be
715 maintained in the operating record in accordance with 9VAC20-81-485. This operations manual
716 will include an operations plan, an inspection plan, a health and safety plan, an unauthorized
717 waste control plan, an emergency contingency plan, and a landscaping plan meeting the
718 requirements of this section and 9VAC20-81-485. This manual shall be made available to the
719 department when requested. If the applicable standards of this chapter and the landfill's
720 Operations Manual conflict, this chapter shall take precedence.

721 A. Landfill operational performance standards.

722 1. Safety hazards to operating personnel shall be controlled through an active safety
723 program consistent with the requirements of 29 CFR Part 1910, as amended.

724 2. A groundwater monitoring program meeting the requirements of 9VAC20-81-250 shall
725 be implemented, as applicable.

726 3. A corrective action program meeting the requirements of 9VAC20-81-260 is required
727 whenever the groundwater protection standard is exceeded at statistically significant
728 levels.

729 4. Open burning at active landfills.

730 a. Owners or operators shall ensure that the units do not violate any applicable
731 requirements developed by the State Air Pollution Control Board or promulgated by
732 the EPA administrator pursuant to § 110 of the Clean Air Act, as amended (42 USC
733 §§ 7401 to 7671q).

734 b. Open burning of solid waste, except for infrequent burning of agricultural wastes,
735 silvicultural wastes, land-clearing debris, diseased trees, or debris from emergency
736 cleanup operations is prohibited. There shall be no open burning permitted on areas
737 where solid waste has been disposed of or is being used for active disposal.

738 c. The owner or operator shall be responsible for extinguishing any fires that may occur
739 at the facility. A fire control plan will be developed that outlines the response of facility
740 personnel to fires. The fire control plan will be provided as an attachment to the

- 741 emergency contingency plan required under the provisions of 9VAC20-81-485. The
742 fire control plan will be available for review upon request by the public. There shall be
743 no open burning permitted on areas where solid waste has been disposed or is being
744 used for active disposal.
- 745 5. Except as provided in 9VAC20-81-130 K, owners or operators shall implement a gas
746 management plan in accordance with 9VAC20-81-200 to control landfill gas such that:
- 747 a. The concentration of methane gas generated by the landfill does not exceed 25%
748 of the lower explosive limit for methane in landfill structures (excluding gas control or
749 recovery system components); and
- 750 b. The concentration of methane gas does not exceed the lower explosive limit for
751 methane at the facility boundary.
- 752 6. Landfills shall not:
- 753 a. Allow leachate from the landfill to drain or discharge into surface waters except
754 when treated onsite and discharged into surface water as authorized under a VPDES
755 Permit (9VAC25-31).
- 756 b. Cause a discharge of pollutants into waters of the United States, including wetlands,
757 that violates any requirements of the Clean Water Act (33 USC § 1251 et seq.),
758 including, but not limited to, the VPDES requirements and Virginia Water Quality
759 Standards (9VAC25-260).
- 760 c. Cause the discharge of a nonpoint source of pollution to waters of the United States,
761 including wetlands, that violates any requirement of an areawide or statewide water
762 quality management plan that has been approved under § 208 or 319 of the Clean
763 Water Act (33 USC § 1251 et seq.), as amended or violates any requirement of the
764 Virginia Water Quality Standards (9VAC25-260).
- 765 d. Allow solid waste to be deposited in or to enter any surface waters or groundwaters.
- 766 7. Owners or operators shall maintain the run-on/runoff control systems designed and
767 constructed in accordance with 9VAC20-81-130 H.
- 768 8. Access to sanitary, CDD, or noncaptive industrial landfills shall be permitted only when
769 an attendant is on duty and only during daylight hours, unless otherwise specified in the
770 landfill permit.
- 771 9. Fencing or other suitable control means shall be used to control litter migration. All litter
772 blown from the landfill operations shall be collected on a weekly basis.
- 773 10. Odors and vectors shall be effectively controlled so they do not constitute nuisances
774 or hazards. Odor hazard or nuisances shall be controlled in accordance with 9VAC20-81-
775 200 D. Disease vectors shall be controlled using techniques for the protection of human
776 health and the environment.
- 777 11. If salvaging is allowed by a landfill, it shall not interfere with operation of the landfill
778 and shall not create hazards or nuisances.
- 779 12. Fugitive dust and mud deposits on main offsite roads and access roads shall be
780 minimized at all times to limit nuisances. Dust shall be controlled to meet the requirements
781 of Article 1 (9VAC5-40-60 et seq.) of Part II of 9VAC5-40.
- 782 13. Internal roads in the landfill shall be maintained to be passable in all weather by
783 ordinary vehicles. All operation areas and units shall be accessible.
- 784 14. All landfill appurtenances listed in 9VAC20-81-130 shall be properly maintained and
785 operated as designed and approved in the facility's permit.
- 786 15. Adequate numbers and types of properly maintained equipment shall be available to
787 a landfill for operation. Provision shall be made for substitute equipment to be available or

788 alternate means implemented to achieve compliance with subdivision B 1, C 1, or D 1 of
789 this section, as applicable, within 24 hours should the former become inoperable or
790 unavailable. Operators with training appropriate to the tasks they are expected to perform
791 and in sufficient numbers for the complexity of the site shall be on the site whenever it is
792 in operation.

793 16. Self-Inspection. Each landfill shall implement an inspection routine including a
794 schedule for inspecting all applicable major aspects of facility operations necessary to
795 ensure compliance with the requirements of this chapter. Records of these inspections
796 must be maintained in the operating record and available for review. At a minimum, the
797 following aspects of the facility shall be inspected on a monthly basis: erosion and
798 sediment controls, storm water conveyance system, leachate collection system, safety
799 and emergency equipment, internal roads, and operating equipment. The groundwater
800 monitoring system and gas management system shall be inspected at a rate consistent
801 with the system's monitoring frequency.

802 17. Records to include, at a minimum, date of receipt, quantity by weight or volume, and
803 origin shall be maintained on solid waste received and processed to fulfill the applicable
804 requirements of the Solid Waste Information and Assessment Program under 9VAC20-
805 81-80 and the Control Program for Unauthorized Waste under 9VAC20-81-100 E. Such
806 records shall be made available to the department for examination or use when requested.

807 B. In addition to the standards in subsection A of this section, sanitary landfills shall also
808 comply with the following:

809 1. Compaction and cover requirements.

810 a. Unless provided otherwise in the permit, solid waste shall be spread into two-foot
811 layers or less and compacted at the working face, which shall be confined to the
812 smallest area practicable.

813 b. Lift heights shall be sized in accordance with daily waste volumes. Lift height is not
814 recommended to exceed 10 feet.

815 c. Daily cover consisting of at least six inches of compacted soil or other approved
816 material shall be placed upon and maintained on all exposed solid waste prior to the
817 end of each operating day, or at more frequent intervals if necessary, to control
818 disease vectors, fires, odors, blowing litter, and scavenging. Alternate materials of an
819 alternate thickness may be approved by the department if it has been demonstrated
820 that the alternate material and thickness control disease vectors, fires, odors, blowing
821 litter, and scavenging without presenting a threat to human health and the
822 environment. At least three days of acceptable cover soil or approved material at the
823 average usage rate shall be maintained at the landfill or readily available at all times.

824 d. Intermediate cover of at least six inches of additional compacted soil shall be applied
825 and maintained whenever an additional lift of refuse is not to be applied within 30 days.
826 Further, all areas with intermediate cover exposed shall be inspected as needed, but
827 not less than weekly. Additional cover material shall be placed on all cracked, eroded,
828 and uneven areas as required to maintain the integrity of the intermediate cover
829 system.

830 e. Final cover construction will be initiated and maintained in accordance with the
831 requirements of 9VAC20-81-160 D 2 when the following pertain:

832 (1) An additional lift of solid waste is not to be applied within one year, or a longer
833 period as required by the facility's phased development.

834 (2) Any area of a landfill attains final elevation and within 90 days after such elevation
835 is reached or longer if specified in the landfill's approved closure plan.

836 (3) An entire landfill's permit is terminated for any reason, and within 90 days of such
837 denial or termination.

838 f. Vegetation shall be established and maintained on all exposed final cover material
839 within four months after placement, or as specified by the department when seasonal
840 conditions do not permit. Mowing will be conducted a minimum of once a year or at a
841 frequency suitable for the vegetation and climate.

842 g. Areas where waste has been disposed that have not received waste within 30 days
843 will not have slopes exceeding the final cover slopes specified in the permit or 33%
844 unless steeper slopes are approved in the permit.

845 2. The active working face of a sanitary landfill shall be kept as small as practicable,
846 determined by the tipping demand for unloading.

847 3. A sanitary landfill that is located within 10,000 feet of any airport runway used for turbojet
848 aircraft or 5,000 feet of any airport runway used by only piston type aircraft, shall operate
849 in such a manner that the landfill does not increase or pose additional bird hazards to
850 aircraft.

851 4. Sanitary landfills shall not dispose of the following wastes, except as specifically
852 authorized by the landfill permit or by the department:

853 a. Free liquids.

854 (1) Bulk or noncontainerized liquid waste, unless:

855 (a) The waste is household waste; or

856 (b) The waste is gas condensate derived from that landfill;

857 (c) The waste is leachate derived from that landfill and the landfill is designed with a
858 composite liner and leachate collection system as described in 9VAC20-81-130 J 1 a
859 and 9VAC20-81-130 L; or

860 (2) Containers holding liquid waste, unless:

861 (a) The container is a small container similar in size to that normally found in household
862 waste;

863 (b) The container is designed to hold liquids for use other than storage; or

864 (c) The waste is household waste.

865 b. Regulated hazardous wastes as defined by the Virginia Hazardous Waste
866 Management Regulations (9VAC20-60).

867 c. Solid wastes, residues, or soils containing more than 1.0 ppb (parts per billion) TEF
868 (dioxins).

869 d. Solid wastes, residues, or soils containing 50.0 ppm (parts per million) or more of
870 PCB's except as allowed under the provisions of 9VAC20-81-630.

871 e. Sludges that have not been dewatered.

872 f. Contaminated soil unless approved by the department in accordance with the
873 requirements of 9VAC20-81-610 or 9VAC20-81-660.

874 g. Regulated medical waste as specified in the Regulated Medical Waste Management
875 Regulations (~~9VAC20-120~~)(9VAC20-121).

876 5. Chloroflourocarbons, hydrochlorofluorocarbons, and PCBs must be removed from
877 white goods prior to placement on the working face.

878 C. In addition to the standards in subsection A of this section, Construction/demolition/debris
879 landfills shall also comply with the following:

880 1. Compaction and cover requirements.

881 a. Waste materials shall be compacted in shallow layers during the placement of
882 disposal lifts to minimize differential settlement.

883 b. Compacted soil cover shall be applied as needed for safety and aesthetic purposes.
884 A minimum one-foot thick progressive cover shall be maintained weekly such that the
885 top of the lift is fully covered at the end of the work week. If the landfill accepts Category
886 I or II nonfriable asbestos-containing material for disposal, daily soil cover shall be
887 placed upon all exposed Category I or II nonfriable asbestos-containing material prior
888 to the end of each operating day. The open working face of a landfill shall be kept as
889 small as practicable, determined by the tipping demand for unloading.

890 c. When waste deposits have reached final elevations, or disposal activities are
891 interrupted for 15 days or more, waste deposits shall receive a one-foot thick
892 intermediate cover unless soil has already been applied in accordance with
893 subdivision 1 b of this subsection and be graded to prevent ponding and to accelerate
894 surface run-off.

895 d. Final cover construction will be initiated and maintained in accordance with the
896 requirements of 9VAC20-81-160 D 2 when the following pertain:

897 (1) An additional lift of solid waste is not to be applied within one year, or a longer
898 period as required by the facility's phased development.

899 (2) Any area of a landfill attains final elevation and within 90 days after such elevation
900 is reached or longer if specified in the landfill's approved closure plan.

901 (3) An entire landfill's permit is terminated for any reason, and within 90 days of such
902 denial or termination.

903 e. Vegetation shall be established and maintained on all exposed final cover material
904 within four months after placement, or as specified by the department when seasonal
905 conditions do not permit. Mowing will be conducted a minimum of once a year or at a
906 frequency suitable for the vegetation and climate.

907 f. Areas where waste has been disposed that have not received waste within 30 days
908 will not have slopes exceeding the final cover slopes specified in the permit or 33%.

909 2. Chlorofluorocarbons, hydrochlorofluorocarbons, and PCBs must be removed from
910 white goods prior to placement on the working face.

911 D. In addition to the standards in subsection A of this section, Industrial Landfills shall also
912 comply with the following:

913 1. Compaction and cover requirements.

914 a. Unless provided otherwise in the permit, solid waste shall be spread and compacted
915 at the working face, which shall be confined to the smallest area practicable.

916 b. Lift heights shall be sized according to the volume of waste received daily and the
917 nature of the industrial waste. A lift height is not required for materials such as fly ash
918 that are not compactable.

919 c. Where it is necessary for the specific waste, such as Category I or II nonfriable
920 asbestos-containing material, daily soil cover, or other suitable material shall be placed
921 upon all exposed solid waste prior to the end of each operating day. For wastes such
922 as fly ash and bottom ash from burning of fossil fuels, periodic cover to minimize
923 exposure to precipitation and control dust or dust control measures such as surface
924 wetting or crusting agents shall be applied. At least three days of acceptable cover soil
925 or approved material at the average usage rate shall be maintained at the fill at all
926 times at facilities where daily cover is required unless an offsite supply is readily
927 available on a daily basis.

928 d. Intermediate cover of at least one foot of compacted soil shall be applied whenever
 929 an additional lift of refuse is not to be applied within 30 days unless the owner or
 930 operator demonstrates to the satisfaction of the director that an alternate cover
 931 material or an alternate schedule will be protective of public health and the
 932 environment. In the case of facilities where fossil fuel combustion products are
 933 removed for beneficial use, intermediate cover must be applied in any area where ash
 934 has not been placed or removed for 30 days or more. Further, all areas with
 935 intermediate cover exposed shall be inspected as needed but not less than weekly
 936 and additional cover material shall be placed on all cracked, eroded, and uneven areas
 937 as required to maintain the integrity of the intermediate cover system.

938 e. Final cover construction will be initiated in accordance with the requirements of
 939 9VAC20-81-160 D 2 when the following pertain:

940 (1) When an additional lift of solid waste is not to be applied within two years or a
 941 longer period as required by the facility's phased development.

942 (2) When any area of a landfill attains final elevation and within 90 days after such
 943 elevation is reached or longer if specified in the landfill's approved closure plan.

944 (3) When a landfill's permit is terminated within 90 days of such denial or termination.

945 f. Vegetation shall be established and maintained on all exposed final cover material
 946 within four months after placement, or as otherwise specified by the department when
 947 seasonal conditions do not otherwise permit. Mowing will be conducted a minimum of
 948 once a year or at a frequency suitable for the vegetation and climate.

949 2. Incinerator and air pollution control residues containing no free liquids shall be
 950 incorporated into the working face and covered at such intervals as necessary to minimize
 951 them from becoming airborne.

952 **9VAC20-81-460. Part A permit application.**

953 The following information shall be included in the Part A permit application for all solid waste
 954 management facilities unless otherwise specified in this section. All plans and drawings of the
 955 Part A application shall be certified by a professional engineer or professional geologist.

956 A. The Part A permit application consists of a letter stating the type of the facility for which the
 957 permit application is made and the certification required in subsection I of this section. The
 958 applicant shall submit the completed DEQ Form SW PTA (Part A Permit Application Form) and
 959 all required information and attachments as detailed in this section.

960 B. A key map of the Part A permit application, delineating the general location of the proposed
 961 facility, shall be prepared and attached as part of the application. The key map shall be plotted on
 962 a seven and one-half minute U.S. Geological Survey topographical quadrangle. The quadrangle
 963 shall be the most recent revision available, shall include the name of the quadrangle and shall
 964 delineate a minimum of one mile from the perimeter of the proposed facility boundaries. One or
 965 more maps may be utilized where necessary to insure clarity of the information submitted.

966 C. A vicinity map shall be prepared and attached as part of the application. This vicinity map
 967 shall have a minimum scale of one inch equals 200 feet (1" = 200') and shall delineate an area of
 968 500 feet from the perimeter of the property line of the proposed facility. A vicinity map may be
 969 prepared with a reduced scale if it does not fit in a sheet with the required minimum scale and
 970 multiple sheets may be used to meet the requirement of minimum scale. The vicinity maps may
 971 be an enlargement of a U.S. Geological Survey topographical quadrangle or a recent aerial
 972 photograph. Notes may be provided in the map if one or more of the following are not present
 973 within the delineated area. The vicinity map shall depict the following:

974 1. All homes, buildings, or structures including the layout of the buildings that will compose
 975 the proposed facility;

- 976 2. The surveyed boundaries for the property boundary, facility boundary, and waste
- 977 management boundary, and the acreages within these boundaries;
- 978 3. The limits of the actual disposal operations within the boundaries of the proposed
- 979 facility;
- 980 4. Lots and blocks taken from the tax map for the site of the proposed facility and all
- 981 contiguous properties;
- 982 5. The base floodplain, where it passes through the map area; or, otherwise, a note
- 983 indicating the expected flood occurrence period for the area;
- 984 6. Existing land uses and zoning classification;
- 985 7. All water supply wells, springs or intakes, both public and private;
- 986 8. All utility lines, pipelines or land-based facilities (including mines and wells); and
- 987 9. All parks, recreation areas, surface water bodies, dams, historic areas, wetlands areas,
- 988 monument areas, cemeteries, wildlife refuges, unique natural areas, or similar features.

989 D. Any applicant must demonstrate legal control over the site for the permit life.

990 E. For solid waste disposal facilities regulated under Part III (9VAC20-81-100 et seq.), site
 991 hydrogeologic and geotechnical reports by professional geologist or professional engineer.

992 1. The site investigation for a proposed landfill facility shall provide information regarding
 993 the geotechnical and hydrogeologic conditions at the site to allow a reasonable
 994 determination of the usefulness of the site for development as a landfill. The geotechnical
 995 exploration efforts shall be designed to provide information regarding the availability and
 996 suitability of onsite soils for use in the various construction phases of the landfill including
 997 liner, cover, drainage material, and cap. The hydrogeologic information shall be sufficient
 998 to determine the characteristics of the uppermost aquifer underlying the facility.
 999 Subsurface investigation programs conducted shall meet the minimum specifications
 1000 here.

1001 a. Borings shall be located to identify the uppermost aquifer within the proposed facility
 1002 boundary, determine the ability to perform groundwater monitoring at the site, and
 1003 provide data for the evaluation of the physical properties of soils and soil availability.
 1004 Borings completed for the proposed facility shall be sufficient in number and depth to
 1005 identify the thickness of the uppermost aquifer and the presence of any significant
 1006 underlying impermeable zone in the waste management boundary. Impermeable zone
 1007 shall not be fully penetrated within the anticipated fill areas, whenever possible. The
 1008 number of borings shall be at a minimum in accordance with Table 5.1 as follows:

Waste Management Boundary 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

1009 b. The department reserves the right to require additional borings in areas in which the
 1010 number of borings required by Table 5.1 is not sufficient to describe the geologic

- 1011 formations and groundwater flow patterns below the proposed solid waste disposal
1012 facility.
- 1013 c. In highly uniform geological formations, the number of borings may be reduced, as
1014 approved by the department.
- 1015 d. The borings shall employ a grid pattern, wherever possible, such that there is, at a
1016 minimum, one boring in each major geomorphic feature. The borings pattern shall
1017 enable the development of detailed cross sections through the proposed landfill site.
- 1018 e. Subsurface data obtained by borings shall be collected by standard soil sampling
1019 techniques. Diamond bit coring, air rotary drilling, or other appropriate methods, or a
1020 combination of methods shall be used as appropriate to characterize competent
1021 bedrock. The borings shall be logged from the surface to the lowest elevation (base
1022 grade) or to bedrock, whichever is shallower, according to standard practices and
1023 procedures. In addition, the borings required by Table 5.1 shall be performed on a
1024 continuous basis for the first 20 feet below the lowest elevation of the solid waste
1025 disposal facility or to the bed rock. Additional samples as determined by the
1026 professional geologist or professional engineer shall be collected at five-foot intervals
1027 thereafter.
- 1028 f. Excavations, test pits, and geophysical methods may be employed to supplement
1029 the soil boring investigation.
- 1030 g. At a minimum, four of the borings shall be converted to water level observations
1031 wells, well nests, piezometers, or piezometer nests to allow determination of the rate
1032 and direction of groundwater flow across the site. All groundwater monitoring points or
1033 water level measurement points shall be designed to allow proper abandonment by
1034 backfilling with an impermeable material. The total number of wells or well nests shall
1035 be based on the complexity of the geology of the site.
- 1036 h. Field analyses shall be performed in representative borings to determine the in situ
1037 hydraulic conductivity of the uppermost aquifer.
- 1038 i. All borings not to be utilized as permanent monitoring wells, and wells within the
1039 active solid waste disposal area, shall be sealed and excavations and test pits shall
1040 be backfilled and properly compacted to prevent possible paths of leachate migration.
1041 Boring sealing procedures shall be documented in the hydrogeologic report.
- 1042 2. The geotechnical and hydrogeologic reports shall at least include the following principal
1043 sections:
- 1044 a. Field procedures. Boring records and analyses from properly spaced borings in the
1045 facility portion of the site. Final boring logs shall be submitted for each boring,
1046 recording soils or rock conditions encountered. Each log shall include the type of
1047 drilling and sampling equipment, date the boring was started, date the boring was
1048 finished, a soil or rock description in accordance with the United Soil Classification
1049 System or the Rock Quality Designation, the method of sampling, the depth of sample
1050 collection, the water levels encountered, and the Standard Penetration Test blow
1051 counts, if applicable. Boring locations and elevations shall be surveyed with a precision
1052 of 0.01 foot. At least one surveyed point shall be indelibly marked by the surveyor on
1053 each well. All depths of soil and rock as described within the boring log shall be
1054 corrected to National Geodetic Vertical Datum, if available.
- 1055 b. Geotechnical interpretations and report including complete engineering description
1056 of the soil units underlying the site.

- 1057 (1) Soil unit descriptions shall include estimates of soil unit thickness, continuity across
1058 the site, and genesis. Laboratory determination of the soil unit's physical properties
1059 shall be discussed.
- 1060 (2) Soil units that are proposed for use as a drainage layer, impermeable cap, or
1061 impermeable liner material shall be supported by laboratory determinations of the
1062 remolded permeability. Remolded hydraulic conductivity tests require a Proctor
1063 compaction test (ASTM D698) soil classification liquid limit, plastic limit, particle size
1064 distribution, specific gravity, percent compaction of the test sample, remolded density
1065 and remolded moisture content, and the percent saturation of the test sample. Proctor
1066 compaction test data and hydraulic conductivity test sample data shall be plotted on
1067 standard moisture-density test graphs.
- 1068 (3) The geotechnical report shall provide an estimate of the available volume of
1069 materials suitable for use as liner, cap, and drainage layer. It shall also discuss the
1070 anticipated uses of the onsite materials, if known.
- 1071 c. Hydrogeologic report.
- 1072 (1) The report shall include water table elevations, direction, and calculated rate of
1073 groundwater flow and similar information on the hydrogeology of the site. All raw data
1074 shall be submitted with calculations.
- 1075 (2) The report shall contain a discussion of field test procedures and results, laboratory
1076 determinations made on undisturbed samples, recharge areas, discharge areas,
1077 adjacent or areal usage, and typical radii of influence of pumping wells.
- 1078 (3) The report shall also contain a discussion of the regional geologic setting, the site
1079 geology, and a cataloging and description of the uppermost aquifer from the site
1080 investigation and from referenced literature. The geologic description shall include a
1081 discussion of the prevalence and orientation of fractures, faults, and other structural
1082 discontinuities, and presence of any other significant geologic features. The aquifer
1083 description shall address homogeneity, horizontal and vertical extent, isotropy, the
1084 potential for groundwater remediation, if required, and the factors influencing the
1085 proper placement of a groundwater monitoring network.
- 1086 (4) The report shall include a geologic map of the site prepared from one of the
1087 following sources as available, in order of preference:
- 1088 (a) Site specific mapping prepared from data collected during the site investigation;
1089 (b) Published geologic mapping at a scale of 1:24,000 or larger;
1090 (c) Published regional geologic mapping at a scale of 1:250,000 or larger; or
1091 (d) Other published mapping.
- 1092 (5) At least two generally orthogonal, detailed site specific cross sections, which shall
1093 describe the geologic formations identified by the geologic maps prepared in
1094 accordance with subdivision 2 c (4) of this subsection at a scale that clearly illustrates
1095 the geologic formations, shall be included in the hydrogeologic report. Cross sections
1096 shall show the geologic units, approximate construction of existing landfill cells base
1097 grades, water table, surficial features, and bedrock along the line of the cross section.
1098 Cross section locations shall be shown on an overall facility map.
- 1099 (6) Potentiometric surface maps for the uppermost aquifer that define the groundwater
1100 conditions encountered below the proposed solid waste disposal facility area based
1101 upon stabilized groundwater elevations. Potentiometric surface maps shall be
1102 prepared for each set of groundwater elevation data available. The applicant shall
1103 include a discussion of the effects of site modifications, seasonal variations in

1104 precipitation, and existing and future land uses of the site on the potentiometric
1105 surface.

1106 (7) If a geological map or report from either the Department of Mines, Minerals, and
1107 Energy or the U.S. Geological Survey is published, it shall be included.

1108 F. For solid waste management facilities regulated under Part IV (9VAC20-81-300 et seq.) of
1109 this chapter:

1110 1. A cataloging and description of aquifers, geological features or any similar characteristic
1111 of the site that might affect the operation of the facility or be affected by that operation.

1112 2. If a geological map or report from either the Department of Mines, Minerals, and Energy
1113 or the U.S. Geological Survey is published, it shall be included.

1114 G. For a new sanitary landfill or for an increase in daily disposal limit, an adequacy report
1115 prepared by the Virginia Department of Transportation or other responsible agency. As required
1116 under § 10.1-1408.4 A 1 of the Code of Virginia, the report will address the adequacy of
1117 transportation facilities that will be available to serve the landfill, including daily travel routes and
1118 traffic volumes that correlate with the daily disposal limit, road congestion, and highway safety.
1119 The department may determine an adequacy report is not required for small increases in the daily
1120 disposal limit.

1121 H. For a new sanitary landfill or an expansion of an existing sanitary landfill or an increase in
1122 capacity by expanding an existing facility vertically upward, a Landfill Impact Statement (LIS).

1123 1. A report must be provided to the department that addresses the potential impact of the
1124 landfill on parks, recreational areas, wildlife management areas, critical habitat areas of
1125 endangered species as designated by applicable local, state, or federal agencies, public
1126 water supplies, marine resources, wetlands, historic sites, fish and wildlife, water quality,
1127 and tourism. This report shall comply with the statutory requirements for siting landfills in
1128 the vicinity of public water supplies or wetlands as set forth in §§ 10.1-1408.4 and 10.1-
1129 1408.5 of the Code of Virginia.

1130 2. The report will include a discussion of the landfill configuration and how the facility
1131 design addresses any impacts identified in the report required under subdivision 1 of this
1132 subsection.

1133 3. The report will identify all of the areas identified under subdivision 1 of this subsection
1134 that are within five miles of the facility.

1135 I. For a new facility or an expansion of an existing facility, or an increase in capacity by
1136 expanding an existing facility vertically upward, a signed statement by the applicant that he has
1137 sent written notice to all adjacent property owners or occupants that he intends to develop a
1138 SWMF or expand laterally or vertically upward of an existing facility on the site, a copy of the
1139 notice and the names and addresses of those to whom the notices were sent.

1140 J. The total capacity of the solid waste management facility.

1141 K. One or more of the following indicating that the public interest would be served by a new
1142 facility or a facility expansion, which includes:

1143 1. Cost effective waste management for the public within the service area comparing the
1144 costs of a new facility or facility expansion to waste transfer, or other disposal options;

1145 2. The facility provides protection of human health and safety and the environment;

1146 3. The facility provides alternatives to disposal including reuse or reclamation;

1147 4. The facility allows for the increased recycling opportunities for solid waste;

1148 5. The facility provides for energy recovery or the subsequent use of solid waste, or both,
1149 thereby reducing the quantity of solid waste disposed;

1150 6. The facility will support the waste management needs expressed by the host
1151 community; or

1152 7. Any additional factors that indicate that the public interest would be served by the facility.

1153 L. For CCR surface impoundments regulated under Part VIII (9VAC20-81-800 et seq.) of this
1154 chapter, site hydrogeologic and geotechnical reports by a professional geologist or professional
1155 engineer that meet the requirements of 9VAC20-81-800.

1156 M. For new CCR landfills to be located in Planning District 8, a map identifying existing
1157 residential area and properties located within one mile of the facility boundary that are not served
1158 by municipal water supply and copies of documentation to satisfy the conditions of § 10.1-
1159 1402.05.