

**TENTATIVE AGENDA  
VIRGINIA WASTE MANAGEMENT BOARD MEETING  
WEDNESDAY, DECEMBER 12, 2007**

**HOUSE ROOM C  
GENERAL ASSEMBLY BUILDING  
9<sup>TH</sup> & BROAD STREETS  
RICHMOND, VIRGINIA**

Convene - 10:00 A.M.

**Tab**

**I. Regulations – Final**

9 VAC 20-80 – Solid Waste Management Regulations – Amendment 5	Brockman	A
9 VAC 20-60 – Hazardous Waste Management Regulations – IFR 2007	Wickliffe	B

**II. Public Forum**

**III. Other Business**

Report on Significant Non-Compliers	Ciccarelli	C
Recycling Markets Development Council – Update	Murphy	
Minutes – June 11, 2007		D
Division Director’s Report	Sismour	
Virginia Annual Recycling Rate Report		E
Future Meetings		

**ADJOURN**

**NOTE:** 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 arising as to the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

**PUBLIC COMMENTS AT VIRGINIA 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 their 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 one public meeting) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period and one public hearing). Notice of these comment periods is announced in the Virginia Register 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 consent special 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 a 45-day comment period and one public hearing.

In light of these established procedures, the Board accepts public comment on regulatory actions, 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 participated in the prior proceeding on the proposal (i.e., those who attended the public hearing or commented during the public comment period) are allowed up to 3 minutes to respond to the summary of the prior proceeding presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration. **NEW INFORMATION** will not be accepted at the meeting. The Board expects comments and information on a regulatory action 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 participated during the prior public comment period **shall** submit the new information to the Department of Environmental Quality (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. 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, an additional public comment period may be announced by the Department 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 pending regulatory actions or pending case decisions. Anyone wishing to speak to the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentation to not exceed 3 minutes.

**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: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Broad Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: [cumberndt@deq.virginia.gov](mailto:cumberndt@deq.virginia.gov).

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**Hazardous Waste Management Regulations, 9 VAC 20-60 - Immediate Final Rule 2007 (IFR2007):** Each year the U. S. Environmental Protection Agency (USEPA) makes several changes to the federal rules regarding the management of hazardous waste in Title 40 of the Code of Federal Regulations. Since Virginia regulations incorporate the federal regulations, with certain exceptions, it is only necessary to change one item to bring Virginia's regulations up-to-date with the federal changes. The item that must be amended is 9 VAC 20-60-18, which specifies the date of the federal regulations that are incorporated into Virginia regulations. This date is most often July 1; however, each year the text is amended to change the year of the date to the current year, thus incorporating federal changes from July 1 of the previous year through June 30 of the current year.

§ 2.2-4006.A.4. (c) of the Code of Virginia allows the Board to adopt the rule as a final regulations without previous consideration, announcement or public participation. The regulations would be final 30 days after publication in the *Virginia Register*.

USEPA Checklist Number	Date(s) Final Federal Regulations Published	40 CFR Sections Affected by Federal Amendment(s)	Federal Rule Reference(s)	Summary of Changes
Delisting Outside Virginia	June 20, 2006	261	71 <u>FR</u> 35395	The Environmental Protection Agency (EPA) removed its final rule granting a petition by Tokusen U.S.A, Inc. to exclude (or delist) a certain F006 filter cake generated by its Conway, Arkansas Plant from the lists of hazardous wastes.
XL Program Outside Virginia	June 21, 2006	262	71 <u>FR</u> 35547	The EPA took direct final action to extend the expiration date of the New England University Laboratories XL Project (Labs XL Project) rule that EPA previously promulgated under the eXcellence and Leadership program (Project XL), allowing laboratories at certain universities in Massachusetts and Vermont to follow alternative RCRA generator requirements until April 15, 2009.
Corrections	July 14, 2006	260, 261, 262,264, 265, 266, 267 268, 270, 271, 273, 279	71 <u>FR</u> 40153	EPA corrected errors in the hazardous waste and used oil regulations, which occurred as a result of printing omissions, typographical errors, misspellings, citations to paragraphs and other references that had been deleted or moved to new locations without correcting the citations, and similar mistakes appearing in numerous final rules published in the Federal Register. This final rule does not create new regulatory requirements.
Unknown	July 28, 2006	260, 261, 271	71 <u>FR</u> 42917	A cathode ray tube (CRT) is the glass video display component of an electronic device (usually a computer or television monitor). In this rule, the EPA amended its regulations under the Resource Conservation and Recovery Act (RCRA) to streamline management requirements for recycling of used CRTs and glass removed from CRTs. The amendments exclude these materials from the RCRA definition of solid waste if certain conditions are met. This rule is intended to encourage recycling and reuse of used CRTs and CRT glass.
Delisting Outside Virginia	July 31, 2006	261	71 <u>FR</u> 43067	EPA took direct final action to codify a longstanding generator-specific delisting determination for brine purification muds (K071) generated by Olin Corporation at its facility in Charleston, Tennessee.

Delisting Outside Virginia	January 3, 2007	261	72 <u>FR</u> 43	EPA granted a petition by General Motors Corporation-Arlington Truck Assembly Plant to exclude (or delist) a wastewater treatment plant sludge generated in Arlington, TX from the lists of hazardous wastes.
Delisting Outside Virginia	February 1, 2007	261	72 <u>FR</u> 4645	EPA granted a petition by General Electric (GE), King of Prussia, Pennsylvania, to exclude (or delist) certain solid wastes that have been deposited and/or accumulated in two on-site drying beds and two on-site basins at GE's RCA del Caribe facility in Barceloneta, Puerto Rico from the lists of hazardous wastes contained in the regulations.
Delisting Outside Virginia	June 6, 2007	261	72 <u>FR</u> 31185	EPA granted a petition by the Ford Motor Company Kansas City Assembly Plant to exclude (or delist) a wastewater treatment plant sludge generated by Ford in Claycomo, Missouri, from the lists of hazardous wastes.
Corrections	June 29, 2007	273	72 <u>FR</u> 35666	In 40CFR Parts 266 to 299, USEPA revised (as of July 1, 2006) Sec. 273.9 to reinstate the definition of "On-site" to read as follows:  " * * * On-site means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property. * * * "

Virginia Solid Waste Management Regulations, Amendment 5, 9 VAC 20 – 80 – 10 *et seq.* - Final Regulations 2007: The Virginia Solid Waste Management Regulations, 9 VAC 20-80, 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. Proposed amendments to the existing regulation include: 1). clarification of the closure definition and procedure with particular reference to Code Section §10.1-1413.2 landfills; 2). address plans and actions related to the management of landfill gas and odors; 3). provide an option for facilities to apply for research, design, and development; 4). streamline public participation requirements by deleting automatic public hearings for certain permit or amendment issuance process; 5). broaden the definition of "airport" to include military airfields and to ensure consistent wording in sections concerning safety plans and permitting timeframes; and finally, 6). incorporation of citations referencing two new statutory provisions for: 1) landfill location that is protective with respect to water supplies and wetlands and 2) certification of permit application consistency with local government waste management plans.

Minor changes have been made since the publication of the proposed regulation. Please see the section below "Changes since the Proposed Stage" for all of the changes, which include changes in wording identified by commenters and other minor text changes.

#### Changes Made Since the Proposed Stage

Section number	Requirement at proposed stage	What has changed	Rationale for change
10	Definition of “closure” includes “waste unit” and “the closure activities are accepted by the Department of Environmental Quality (DEQ).”	Reworded to “unit” and “closure notification is performed by the department in accordance with 9 VAC 20-80-250.E.6, 260.E.5, or 270.E.5.”	Text has been revised to address the commenters’ concern of unclear language. The term “unit” is included in the original definitions section. The existing notification process was cited.
10	Definition of “open burning” with subsections A, B, and C.	“A, B, and C” has been converted to numbers “1, 2, and 3.”	Revision initiated by Virginia Register.
10	Definition of “remediation waste” was missing the word “Part” from the designation of Part “V”.	The word “Part” was added.	Revision initiated by Virginia Register.
60.B	All facilities... may continue to receive waste...until the closure date established pursuant to § 10.1-1413.2 of the Code of Virginia, in Tables 2.1 and 2.2.	Removed reference to Table 2.2.	The information in Table 2.1 has been deleted and replaced with the information from Table 2.2.
60.B.3	Enlargement or Closure	Reworded title as a condition: “Enlargement or closure of these facilities shall conform with the following subconditions:”	Rewording addresses concern raised by commenter for consistent structuring as required conditions on enlargement or closure of facilities.
60.B.3.b and c	b. The facility shall not dispose of solid waste in any portion of a disposal area that has received final cover or has not received waste for a period of one year, in accordance with 9 VAC 20-80-250.E. The facility shall notify the department, in writing, within 30 days, when an area has received	Combined the two subsections, b and c into a new section “b.” As such, “c” is recognized as an exception to the former “b” by adding the word “However” between the two former sections.	This rewording addresses concern raised by a commenter that two closure subconditions appeared contradictory for piggyback areas.

<b>Section number</b>	<b>Requirement at proposed stage</b>	<b>What has changed</b>	<b>Rationale for change</b>
	<p>final cover or has not received waste for a one-year period, in accordance with 9 VAC 20-80-250.E.</p> <p>c. A facility may apply for a permit, and if approved, can construct and operate a new cell that overlays (“piggybacks”) over a closed area in accordance with the permit requirements of 9 VAC 20-80-250.</p>		
60.B.3	Subsections c, d, and e.	Reordered into new subsections c and d to make way for the combination of former subsections b and c	Restructured outline to accommodate change in the number of subconditions.
60.B.3.e (new 60.B.3.d)	This map or plat shall be placed in the operating record and a copy shall be submitted to the department for its records.	This map or plat shall be placed in the operating record and a copy shall be submitted upon request to the department in order to track the progress of closure of these facilities. If the facility has already provided this information under 20-80-250, then the facility may refer to that information.	Text has been revised to address the commenter's concern on duplicative requirements for map submittals. The reason for the information is also given.
60.B.3 Tables 2.1 and 2.2	Originally introduced as two separate tables	Now consolidated into 1 table and all references to Table 2.2 throughout 60.B.3 have been removed.	Tables 2.1 and 2.2 were combined to eliminate unnecessary information.
60.B.3 Tables 2.1 and 2.2	Big Bethel Landfill	Bethel Landfill	Rewording addresses name change identified by commenter.
60.B.3 Tables 2.1 and 2.2	Permits 417 and 580 without footnotes	Footnote added to permits 417 and 580	Footnotes address the facility status information clarified by commenters.
280.C.1.b	...indicate what has been done or is planned to be done to resolve the problem.	Changed “writing” to “a written statement” for clarification.	Text has been revised to address the commenter's concern on duplicative tasks.

Section number	Requirement at proposed stage	What has changed	Rationale for change
			Clarifies that a written statement is required, not a gas remediation plan.
280.C.4	Virginia Operating Permit Program 9VAC5-80-40	Changed name and citation to: Virginia Permits for Stationary Sources Program 9VAC5-80.	Citation to revoked section of the air regulations updated to the correct section, on air permits for gas control systems.
280.D.1	... to address odors that may impact citizens beyond the internal property boundaries.	Changed “internal property” to “facility”. ... to address odors that may impact citizens beyond the facility boundaries.	Rewording addresses concern for consistent terminology raised by commenter on facility boundary for gas concerns.
485.A.7	... the director will acknowledge their receipt within 30 calendar days.	... the department shall respond within 30 calendar days.	Text has been revised to address the commenter's concern on the department’s letter to a permit-by-rule facility. The existing language on acknowledgement receipt is confusing and is replaced with a response.
485.D.1.b	Operating permitted sanitary landfills that have an exceedance in gas migration in accordance with 9 VAC 20-80-280 shall have a gas control system in place per 9 VAC 20-80-280 E prior to the RDD plan submittal.	Reworded sentence to cite to section 280 B rather than the incorrect citation to section 280 E.	Rewording addresses typographical error.
485.D.2.e.(3)	(3) Landfill gas collection and control in accordance with applicable Clean Air Act requirements (i.e., Title V, NSPS or EG rule, etc.).  For RDD plans that include the addition of off-site non-hazardous	Revised the last part of former section 485.D.2.e.(3) as “e.(4)”  (4) For RDD plans that include the addition of off-site non-hazardous waste liquids to the landfill, the following information shall be submitted with the RDD plan:	To correct publication error.

Section number	Requirement at proposed stage	What has changed	Rationale for change
	waste liquids to the landfill, the following information shall be submitted with the RDD plan:		
485.D.3	Final reports shall be submitted 60 days prior to the end of the testing period in order for evaluation by the department.	“60 days” was changed to “90 days”. Text was streamlined. DEQ review time of 90 days was added. Final reports shall be submitted 90 days prior to the end of the testing period for evaluation by the department. The department shall review this report within 90 days.	Text has been revised to address commenters’ concern by adding a DEQ review time. Staff recommends 90 days to allow adequate review of these research projects. To coincide with this review timeframe, the 60 day submittal timeframe was changed to 90 days.
485. D. 3	<u>Final reports shall be submitted [at least <del>60</del> 90 ] days prior to the end of the testing period in order for evaluation by the department</u>	Deleted the words “in order”	Deleted the words “in order” because they are unnecessary in the context of the sentence.
500.B.3	Permit and Permit-by-rule applicants shall comply with the statutory requirements for consistency with solid waste management plans as recorded in §§ 10.1-1408.1 B 9, D 1, and R of the Code of Virginia.	The reference to subsections of 1408.1 have been deleted.	Text has been revised to address the commenter's concern. Statutory code section Q was deleted and R became Q over the course of this amendment process. To avoid the necessity for future updates, the references to subsections of 1408.1 have been deleted.
500.E.7	A final decision to permit, to deny a permit or to amend the draft permit shall be rendered by the director ...	Removed the word “final”. A decision to permit, to deny a permit or to amend the draft permit shall be rendered by the director ...	To correct publication error.

Public Comment Summary

Commenter	Comment	Agency response
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Commenter	Comment	Agency response
Richard M. Cheliras, Director of Waste-to-Energy, Southeastern Public Service Authority (SPSA)	SPSA’s Regional Landfill (permit 417) in Table 2.2 needs to bear footnote 3 (a portion of this facility operated under HB 1205 and another portion is compliant with Subtitle D requirements).	The commenter’s requested change has been incorporated into 60 B.3, Table 2.1.
Jennifer P. Johnson, Jeffrey M. Fantell, and Lawrence B. Bertolet  Joyce Engineering, Inc.	<ol style="list-style-type: none"> <li data-bbox="371 527 792 1178">1. The definition for “closure” is vague. It is unclear what is meant by “accepted by the DEQ.” If the intent of “acceptance” is that DEQ will write a notification letter acknowledging that closure activities are complete, such letters do not exist for many landfills closed prior to September 2007. We recommend that “accepted by the DEQ” be precisely defined and that formal acceptance be limited to landfills closed after the effective date of Amendment 5.</li> <li data-bbox="371 1220 792 1692">2. Section 60.B.3 and subsequent subsections are confusing and display formats inconsistent with the conditions presented in 60.B.1 and B.2. 60. B.3 is not formatted as a condition. Section B.3 and its subsections should be recast so they appear as requirements that are to be met for certain facilities to continue operations.</li> <li data-bbox="371 1734 792 1974">3. Sections 60.B.3.b and B.3.c appear contradictory. To clarify this discrepancy we suggest that “unless the provisions of Section B.3.c are satisfied” be added to B.3.b.</li> </ol>	<ol style="list-style-type: none"> <li data-bbox="826 527 1373 705">1. Text has been revised to address the commenter's concern on closure definition. The notification is not a new requirement in Amendment 5, so the existing requirement is cited.</li> <li data-bbox="826 1188 1373 1325">2. Text has been revised as a condition in 60.B.3. to address the commenter's concern on enlargement or closure of facilities.</li> <li data-bbox="826 1692 1373 1871">3. Text has been reformatted in 60.B.3.b to address the commenter's concern that two closure subconditions appeared contradictory for piggyback areas.</li> </ol>

Commenter	Comment	Agency response
	<p>4. Sections 280.C.1.b and C.2 contain similar language and seem to require that the same task be performed at two different times. Additionally, five business days is not adequate time to develop an appropriate course of action as required in C.1.b. We recommend that C.1.b be changed to remove the time limit (i.e. replace time limit with words: “indicate what has been done or is being considered to resolve the problem.”)</p> <p>5. Section 485.A.7 increases DEQ’s time to acknowledge receipt of a permit-by-rule application. It appears that the time has been extended so that DEQ has sufficient time to perform a completeness review. We recommend that the section be reworded to state that an acknowledgment or receipt and a completeness review are included in the new 30-day time frame.</p> <p>6. Section 500.B.3 includes an incorrect citation of the Code of Virginia. The “R” should be replaced with “Q.”</p>	<p>4. Text has been revised to address commenter’s concern on duplicative requirements for gas action plans. The first task is a written statement. The second task is a gas remediation plan.</p> <p>5. Text has been revised to address the commenter's concern on the department’s letter to a permit-by-rule facility. The existing language on acknowledgement receipt is confusing and is replaced with a response.</p> <p>6. Text has been revised to address the commenter's concern on section number. Statutory code section Q was deleted and R became Q over the course of this amendment process. To avoid the necessity for future updates, the references to subsections of 1408.1 have been deleted.</p>
<p>Jason Williams Sr. Environmental Protection Manager Waste</p>	<p>1. The closure definition includes use of the term “waste unit,” which is not defined in the Amendment. We are concerned that this will lead to confusion. In addition, we are concerned with the impact this closure</p>	<p>1. The commenter is correct, and “waste” has been removed from the context as identified in the comment. “Unit,” as used in the context of this closure definition, is included in the original definitions section.</p> <p>Text has been revised to address the</p>

Commenter	Comment	Agency response
<p>Management, Inc.</p>	<p>definition may have on facilities that have been closed and may be in post-closure care since the mid 1990's. The definition requires that the closure be "accepted" by DEQ. Typically this is accomplished by a letter issued by the agency notifying the facility that closure has been successfully completed. However, a large number of sites completed closure construction during the mid 1990's before DEQ routinely issued such notification letters. Instead, closure was based on the date a Professional Engineer certified the facility as closed. Thus we are concerned that the majority of these sites closed in the mid 1990's would no longer be considered closed under the proposed definition.</p> <p>2. Section 60.3.e requires submission of a map, plat, diagram, or other engineered drawing to designate areas in which waste will be disposed until the latest cessation of waste acceptance date. This information is currently required by the existing regulations (permitted and approved filling sequence and closure plan documentation). Thus, this proposed requirement appears duplicative and would result in the additional review of documents previously presented to DEQ.</p>	<p>commenter's concern on DEQ acceptance. The notification is not a new requirement in Amendment 5, so the existing requirement is cited.</p> <p>2. Text has been revised to address the commenter's concern on duplicative submittal of map information in 60.3.e. If information has already been submitted, then the facility can use that information. Most of these facilities have not submitted this information. Also, the reason for the information is given, to allow the department to track the progress of these facilities.</p> <p>3. The commenter's requested name change and status have been incorporated into 60.B.3, Table 2.1 for Bethel Landfill.</p>

Commenter	Comment	Agency response
	<p>3. In Table 2.1, please change the name of permit 580 from “Big Bethel” to “Bethel” Landfill. In addition, the permit needs to bear footnote 3 (a portion of this facility operated under HB 1205 and another portion is compliant with Subtitle D requirements).</p> <p>4. “Internal property boundaries” in section 280.D.1 should be replaced with “facility boundary” to be consistent with previously defined terms.</p> <p>5. Section 485.D.2.d states that “renewals shall require department review and approval of reports of performance and progress on achievement of goals specified in the RDD plan.” We request incorporation of a review time limit of “60 days” to be consistent with 485.D.3. Restriction of the review time under these circumstances will prevent extended periods of time wherein the research will cease pending approval of the renewal request. If DEQ cannot accommodate such a review period, the facility should be allowed to continue with the current RDD plan past the expiration date (pending review and approval) if there is no indication of “warning symptom” or “failure threshold” conditions.</p>	<p>4. The commenter’s requested change to facility boundary has been incorporated into 280.D.1.</p> <p>5. Text has been revised to address commenters’ concern by adding a DEQ review time to 485. D.3. Staff recommend 90 days to allow adequate review of these research projects. To coincide with this review timeframe, the 60 day submittal timeframe was changed to 90 days.</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		Definition of "Airport"	Modified to include military airfield along with public-use airports. (Approved by Technical Advisory Committee, 9/25/06 notes, p. 1, posted in meeting minutes elsewhere on the Virginia Town Hall.)
10		Definition of "Closure"	Clarified to define, more precisely, the endpoint of closure. (Modeled on Technical Advisory Committee consensus, 9/25/06 notes, p. 2.) Revised further based on public comments.
10		Definition of "Open burning" contains sections A,B, and C.	"A, B, and C" has been converted to numbers "1, 2, and 3." The revision was initiated by the Virginia Register
10		Definition of "remediation waste" was missing the word "Part" from the designation of Part "V".	The word "Part" was added. The revision was initiated by the Virginia Register
60.B		Note: ... [referring to] § 10.1-1413.2 of the Code of Virginia	Removed this note to avoid redundancy with new Table 2.1.
60.B.3	60.B.3.a thru d and Table 2.1	untitled section with general specification that the landfills subject to Code section §10.1-1413.2 cannot be enlarged prematurely to avoid compliance	Title added, section subdivided into subconditions a through d, and a table (2.1) of affected facilities and closure-related scheduling information is added to clarify the limitations to enlargement or closure of those municipal solid waste landfills (sanitary landfills) that are subject to prioritization and a schedule for closure pursuant to §10.1-1413.2 of the Code of Virginia.  (Concept approved by Technical Advisory Committee, 9/25/06 notes, pp. 3 through 5.)
250.C.2.c		daily cover of 6 inches shall be placed upon all exposed solid waste before day's end.	Modified to "placed and maintained" to ensure that the protective cover is not to be diminished after the day's end.  (Approved by Technical Advisory Committee, 9/25/06 notes, p. 6.)
250.C.2.d		intermediate cover of at	Modified to "applied and maintained" to

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		least 6 inches of additional soil shall be applied whenever an additional lift of refuse is not to be applied within 30 days.	ensure that the additional protective cover is not to be diminished beyond the end of the 30 day period.  (Approved by Technical Advisory Committee, 9/25/06 notes, p. 6.)
250.C.2.e		Final cover construction will be initiated in accordance with E.1.b requirements.	Modified to “initiated and maintained” to ensure permanence of the protective cover.  (Approved by Technical Advisory Committee, 9/25/06 notes, p. 6.)
260.C.4		Safety hazards to operating personnel shall be prevented through an active safety program.	For consistency with 250.C.5 modified to: “Safety hazards to operating personnel shall be <del>prevented</del> <u>controlled</u> through an active safety program <u>consistent with the requirements of 29 CFR Part 1910 .”</u>
270.C.3		Safety hazards to operating personnel shall be prevented through an active safety program	For consistency with 250.C.5 modified to: “Safety hazards to operating personnel shall be <del>prevented</del> <u>controlled</u> through an active safety program <u>consistent with the requirements of 29 CFR Part 1910 .”</u>
280 heading material		Venting and control of decomposition gases shall be implemented where required.	Modified to: Venting and control of decomposition gases shall be implemented for all sanitary landfills under 9 VAC 20-80-250B and other landfills where required.  Such venting is only routinely required at sanitary landfills, but it needed clarification that venting could be required for other landfill types on a case-by-case basis (for Technical Advisory Committee’s approval of gas section in general, see 9/25/06 notes, p. 10)
280 heading material		required under 9 VAC 20-80-250.B.8.	Struck out 9 VAC 20-80-250 B 8, which was an incorrect citation.
280.A.2		written authorization to discontinue by the department	Modified to: “written authorization by the department to discontinue”.  (To improve grammar and clarity; for Technical Advisory Committee’s approval of gas section in general, see 9/25/06 notes, p. 10)
280.A.4		based upon the results of	Modified to: “based upon the results of

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		monitoring data collected.	collected monitoring data.”  (To improve grammar and clarity; for Technical Advisory Committee’s approval of gas section in general, see 9/25/06 notes, p. 10)
280.B		Monitoring. To ensure that the conditions of this section are met,	Modified to: “Gas Monitoring. Subject to the preconditions in 9 VAC 20-80-250B, 9 VAC 20-80-260 B.9, and 9 VAC 20-80-270 B.18,”  (To distinguish gas from groundwater monitoring, and to clarify the applicable conditions by direct citations; for Technical Advisory Committee’s approval of gas section in general, see 9/25/06 notes, p. 10)
280.C.1 & 2	280.B.4	C. Monitoring frequency. 1. As a minimum, quarterly monitoring is required. 2. More frequent monitoring may be required by the department at those locations where results of monitoring indicate that decomposition gas migration is occurring or is accumulating in structures to detect migrating gas and ensure compliance with subsection A of this section.	Replaced by: “B.4. At a minimum, the gas monitoring frequency shall be quarterly. The department may require more frequent monitoring at locations where monitoring results indicate gas migration or gas accumulation in devices or structures designed to detect migrating gas.”  (To consolidate and clarify the conditions under which the department would require monitoring actions above the minimum standards, as approved by the Technical Advisory Committee, (for Committee’s approval of gas section in general, see 9/25/06 notes, p. 10).)
280.C.4		Virginia Operating Permit Program 9VAC5-80-40	Changed to: Virginia Permits for Stationary Sources Program 9VAC5-80. Citation to revoked section of the air regulations updated to the correct section, on air permits for gas control systems.
	280.D.1 thru 3	No section on odor exists in the current regulation	Added the following section to the regulation: D. Odor Management 1. When an odor nuisance or hazard is created under normal operating conditions and upon notification from the

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
			<p>department, the permittee shall, within 90 days, develop and implement an odor management plan to address odors that may impact citizens beyond the internal property boundaries. The permittee shall place the plan in the operating record and a copy shall be submitted to the department for its records. <u>Odor management plans developed in accordance with the Virginia Operating Permit Program 9VAC5-80-40 or other state air pollution control regulations will suffice for the provisions of this section (D).</u></p> <p>2. The plan shall identify a contact at the facility that citizens can notify about odor concerns.</p> <p>3. Facilities shall perform and document an annual review and update the odor management plan, as necessary, to address ongoing odor management issues.</p> <p>(This odor section was added, with the approval of the Technical Advisory Committee, 9/25/06 notes, p. 10, to address concerns that had been raised by citizens across the State who live in the vicinity of landfills).</p>
280.D heading material	280.D heading material	D. Recordkeeping. The owner or operator shall keep the records of the results of gas monitoring throughout the active life.	<p>Modified to: “E. Recordkeeping. The owner or operator shall keep the records of the results of gas monitoring and any gas remediation issues, throughout the active life.”</p> <p>(To reflect the need to collect gas remediation issue records as well as gas monitoring records; see Technical Advisory Committee’s approval of section in general, 9/25/06 notes, p. 10.)</p>
280.D heading material	280.D heading material	The monitoring records shall include:	Removed the word “monitoring,” because not all the records listed consist solely of monitoring data (see Technical Advisory Committee’s approval of section in general, 9/25/06 notes, p. 10).
280.D	280.E.5		New section added: “E.5. Monitoring and design records for



Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
			<p>any gas remediation or control system.”</p> <p>This section was added with the approval of the Technical Advisory Committee, to specifically address the collection of remediation records (see Technical Advisory Committee’s approval of section in general, 9/25/06 notes, p. 10).</p>
280.E	280.C.1.a & b	No prior section on action levels in 280.E; only compliance levels were addressed in old 280.E	<p>New section on action levels was added with the approval of the Technical Advisory Committee (see approval of section in general, 9/25/06 notes, p. 10) to ensure rapid response to conditions in advance of the attainment of compliance levels and notification to the department. The action levels, if not addressed, could eventually impact human health and the environment:</p> <p>“C. Gas Remediation.</p> <p>1. When the gas monitoring results indicate concentrations of methane in excess of the action levels, 25% of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components) or 80% of the lower explosive limit for methane at the facility boundary, the operator shall:</p> <p>a. Take all immediate steps necessary to protect public health and safety including those required by the contingency plan.</p> <p>b. Notify the department in a written statement, within five working days of learning that action levels have been exceeded, and briefly indicate what has been done or is planned to be done to resolve the problem.”</p>
280.E.1.a thru c	280.C.2	E. Control. 1. When the results of gas monitoring indicate concentrations of methane in excess of the compliance levels required by subdivision A 1 of this subsection, the operator shall:	Modified to: “C. Gas Remediation When the gas monitoring results indicate concentrations of methane in excess of the compliance levels, 25% of the LEL for methane in facility structures (excluding gas control or recovery system components) or the lower explosive limit for methane at the facility boundary, the operator shall, within 60

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		<p>a. Take all immediate steps necessary to protect public health and safety including those required by the contingency plan.</p> <p>b. Notify the department in writing within five working days of learning that compliance levels have been exceeded, and indicate what has been done or is planned to be done to resolve the problem.</p> <p>c. Within 60 days of detection, implement a remediation plan for the methane gas releases and submit it to the department for approval and amendment of the facility permit. The plan shall describe the nature and extent of the problem and the proposed remedy.</p>	<p>days of detection, implement a gas remediation plan for the methane gas releases and submit it to the department for amendment of the facility permit. The plan shall describe the nature and extent of the gas migration and the proposed remedy. The plan shall include an implementation schedule specifying timeframes for implementing corrective actions, evaluating the effectiveness of such corrective actions and milestones for proceeding in implementation of additional corrective actions, if necessary to reestablish compliance.”</p> <p>(This section was modified, with the approval of the Technical Advisory Committee, 9/25/06 notes, p. 8, to provide better specification of the details and the scheduling in a gas remediation plan to address exceeded gas compliance levels. The old wording was not sufficiently cognizant of the fact that remediation activities go beyond simple control of gas flow. Gas remediation involves the identification of causes and a remedy for high gas levels. The wording here is intended to clarify such differences, of what details the plan should consist, and when it should be scheduled and initiated )</p>
280.E.2.a thru c	280.C.3. a thru c	<p>2. A gas control system shall be designed to:</p> <p>a. Prevent methane accumulation in on-site structures.</p> <p>b. Reduce methane concentrations at monitored property boundaries to below compliance levels in the timeframes specified in the gas remediation plan.</p> <p>c. Provide for the collection and treatment and/or disposal of</p>	<p>Modified to: “3. A gas remediation system shall:</p> <p>a. Prevent methane accumulation in on-site structures.</p> <p>b. Reduce methane concentrations migrating beyond the monitored property boundaries to below compliance levels in the timeframes specified in the gas remediation plan.</p> <p>c. Provide for the collection and treatment and/or disposal of decomposition gas condensate produced at the surface. Condensate generated from gas control systems may be recirculated into the landfill provided the</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		<p>decomposition gas condensate produced at the surface. Condensate generated from gas control systems may be recirculated into the landfill provided the facility complies with the liner and leachate control systems requirements of this part. Condensate collected in condensate traps and drained by gravity into the waste mass will not be considered recirculation.</p>	<p>facility complies with the liner and leachate control systems requirements of this part. Condensate collected in condensate traps and drained by gravity into the waste mass will not be considered recirculation.”</p> <p>(This section was modified, with the approval of the Technical Advisory Committee (see Committee’s approval of section in general, 9/25/06 notes, p. 10), to provide better specification of the details and the scheduling in a gas remediation plan to address exceeded gas compliance levels. The old wording was not sufficiently cognizant of the fact that remediation activities go beyond simple control of gas flow. Gas remediation involves the identification of causes and a remedy for high gas levels. The wording here is intended to clarify such differences, of what details the plan should consist, and when it should be scheduled and initiated )</p>
280.E.3	280.C.4	<p>3. Extensive systems to control emissions of non-methane organic compounds may be required under the Clean Air Act (40 CFR 60.33c and 40 CFR 60.750) and 9 VAC 5-40-5800. Facilities that are required to construct and operate systems designed to comply with those regulations will be considered to be in compliance with the requirements of subdivisions 2 a and b of this subsection. Gas control systems also may be subject to the Virginia Operating Permit Program 9 VAC 5-80-40</p>	<p>The wording of this section was not changed (except as noted below). The location in the structure of the regulation was changed (from E.3 to C.4) and the internal citation to E.2 a and b was updated to C.3 a and b: “4. Extensive systems to remediate emissions of non-methane organic compounds may be required under the Clean Air Act (40 CFR 60.33c and 40 CFR 60.750) and 9 VAC 5-40-5800. Facilities that are required to construct and operate systems designed to comply with those regulations will be considered to be in compliance with the requirements of subdivisions 3 a and b of this subsection, <u>unless monitoring data continues to indicate an exceedance of compliance levels.</u> Gas control systems also may be subject to the Virginia Operating Permit Program 9 VAC 5-80-40 or other state air pollution control regulations.”</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		or other state air pollution control regulations.	(Structure of the gas section approved by Technical Advisory Committee, subject to the specific revisions indicated in 280 9/25/06 notes, p. 6.)
280.E	280.C.5	No prior section on this topic in 280.E.	<p>Wording added: “5. The facility shall notify the department of an initial exceedance of the compliance level or unusual condition which may endanger human health and the environment, in accordance with 9 VAC 20-80-570.C.3, such as when an active gas remediation system is no longer operating in such a manner as to maintain compliance with this section.”</p> <p>(This wording was added, with the approval of the Technical Advisory Committee, (9/25/06 notes, p. 9.) to maintain similar reporting requirements stated elsewhere in 9 VAC 20-80 for compliance exceedances and unusual conditions.)</p>
485.A.7		Upon receiving the certifications and other required documents, including the results of the public meeting and the applicant's response to the comments received, the director will acknowledge their receipt within 10 working days.	<p>Upon receiving the certifications and other required documents, including the results of the public meeting and the applicant's response to the comments received, the department shall respond within 30 calendar days.</p> <p>Review time changed to “30 days” to reflect the department’s processing time requirements for permit-by-rule facilities, but includes weekends and holidays in the time period. (Approved by Technical Advisory Committee, 9/25/06 notes, p. 10.)</p> <p>Also, deleted “acknowledge their receipt” to address commenter’s concern of confusing language in the existing regulation.</p>
485	485.D	No prior section on this topic in 485	A new section concerning an optional program for a Research, Development, and Demonstration Plan for a landfill,

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			<p>which is now offered by USEPA, subject to standards set forth in accordance with 40 CFR 258.4.</p> <p>(A consensus of the Technical Advisory Committee voted its support for including a Research, Development, and Demonstration Plan section in the revised regulation, 9/25/06 notes, p. 15)</p>
500.B.3		<p>There was no prior citation to statutory provision for plan consistency.</p>	<p>To the end of this section is appended: “Permit and Permit-by-rule applicants shall comply with the statutory requirements for consistency with solid waste management plans as recorded in §§ 10.1-1408.1 of the Code of Virginia.” This citation is included in 500.B.3 as the most appropriate location to indicate the new statutory requirement passed in the 2006 legislative session. (Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>
500.C.2		<p>The Part A application will be reviewed for completeness. The applicant will be notified within fifteen days whether the application is administratively complete or incomplete. If complete information is not provided within thirty days after the applicant is notified, the application will be returned to the applicant without further review.</p>	<p>Changes to this section, as approved by the Technical Advisory Committee, are underlined (below). The changes are to more accurately reflect the Department’s processing time requirements along with the Committee’s concern that applicant’s not face a second assessment for timely application resubmittals (sent within 18 months).</p> <p>“The applicant will be notified within <u>30</u> days whether the application is administratively complete or incomplete. If complete information is not provided within <u>60</u> days after the applicant is notified, <u>or an alternate timeframe approved by the department</u>, the application will be returned to the applicant without further review. <u>Subsequent resubmittals of the application, submitted after eighteen months from the date of the department’s response letter, shall be considered as a new application.</u>”</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
			(Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)
500.E.2		A notice of the availability of the proposed draft permit shall be made in a newspaper with general circulation in the area where the facility is to be located. A copy of the notice of availability will be provided to the chief administrative officer of all cities and counties that are contiguous to the host community.	<p>The original language was modified (as below) to clarify the public notification process: <u>“Copies of the draft permit will be available for viewing at the applicant's place of business or at the regional office of the department, or both, upon request.</u></p> <p>A notice of the availability of the <del>proposed</del> draft permit shall be made in a newspaper with general circulation in the area <del>where of</del> the facility is <del>to be</del> located. A copy of the notice of availability will be provided to the chief administrative officer of all cities and counties that are contiguous to the host community.”</p> <p>(Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>
500.E.2	new 500.E.3 through E.6	A public hearing will be scheduled and the notice shall be published at least 30 days in advance of the public hearing on the draft permit. Copies of the proposed draft permit will be available for viewing at the applicant's place of business or at the regional office of the department, or both, upon request in advance of the public hearing.	<p>These words have been removed from this section and reworked into new sections 500.E.3 through 6 (elsewhere, below in this table) to indicate both the circumstances in which a public hearing is required and when a public hearing is optional.</p> <p>(Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>
500.E.3	new 500.E.6	3. The department shall hold the announced public hearing 30 days or more after the notice is published in the local newspaper. The public hearing shall be conducted by the department within the local government jurisdiction where the facility is to be located. A comment period shall	<p>This section has been modified to reflect that a public hearing is optional in some circumstances (as indicated in new 500.E.3 through 500.E.5) other language has been clarified to provide consistency with wording changes elsewhere in 500.E.:</p> <p><u>“6. If a public hearing is to be held, The the department shall hold convene it the announced public hearing</u> 30 days or more after the notice is published in the local newspaper. The public hearing shall</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		extend for a 15-day period after the conclusion of the public hearing.	be conducted <del>by the department</del> within the local government jurisdiction <del>where of the facility is to be located</del> . A comment period shall extend for a 15-day period after the conclusion of the public hearing.”  (Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)
500.E.4 through 7	new 500.E.7 through 10		No changes (other than for E.4--see the next line of this table) have been made to the wording of these sections. They have been renumbered as sections 7 through 10 in the reorganization of 500.E.  (Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)
500.E.4	500.E.7	A final decision to permit, to deny a permit or to amend the draft permit shall be rendered by the director within 30 days of the close of the hearing comment period.	The word “final” has been removed, as approved by the Technical Advisory Committee, 9/25/06 notes, p. 11, because this is not a final decision. It remains subject to the internal departmental appeals process.
500.E	new 500.E.3 through E.5		The three new sections, below, have been added to indicate both the circumstances in which a public hearing is required and when a public hearing is optional: “3. If the application is for a new landfill or an increase in landfill capacity, then the department shall hold a public hearing and the notice above will include such information. 4. For any application (other than 3 above), the notice will include the opportunity to request a public hearing. The department shall hold a public hearing on the draft permit whenever the department finds, on the basis of requests, that: a. there is a significant public interest in the issuance, denial, modification or revocation of the permit in question; b. there are substantial, disputed issues relevant to the issuance, denial, modification or revocation of the permit in question; and

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
			<p>c. the action requested is not, on its face, inconsistent with, or in violation of, these regulations, the Waste Management Act, or federal law or regulations.</p> <p>5. The department also may hold a public hearing when it is believed that such a hearing might clarify one or more issues involved in a permit decision.”</p> <p>(Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>
510.H.1		There was no prior citation to statutory provision for plan consistency.	<p>To the end of this section is appended:  “ This report shall comply with the statutory requirements for siting landfills in the vicinity of public water supplies or wetlands as recorded in §§ 10.1-1408.4 and 10.1-1408.5 of the Code of Virginia.”</p> <p>This citation is included in 510.H.1 as the most appropriate location to indicate the new statutory requirement. (Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>

**Report To The Virginia Waste Management Board Concerning Significant Non-Compliers (Snys) For The Third And Fourth Quarters, (Fy) 2007**

**Active Cases- Table A**

DEQ Region	Case Name	Brief Description of Alleged Violations	Status
PRO	Indmar Coatings Corp. (Sussex County)	Improper discharge of waste to a surface impoundment and failure to properly manage waste (LQG)	NOV issued 1/8/07; pending
WCRO	Southern Finishing Company, Inc. (Henry County)	Failure to obtain a TSD permit; improper management of hazardous waste	NOVs issued 5/19/04, 9/23/05, and 9/22/06; pending

**Resolved Cases- Table B**

DEQ Region	Case Name	Brief Description of Alleged Violations	Status
VRO	American Safety Razor, Co.	Failure to properly store and handle	NOV issued 8/3/06; Signed by ASR and includes a \$27,930



<b>DEQ Region</b>	<b>Case Name</b>	<b>Brief Description of Alleged Violations</b>	<b>Status</b>
	(Augusta County)	hazardous waste (LQG)	civil charge. Public comment period runs from October 29 <sup>th</sup> to November 29, 2007
VRO	Coyne & Delany Company (Albemarle County)	Failure to properly manage hazardous waste in accordance with LQG requirements	NOV issued 1/31/07; Consent order dated 7/24/07 imposed a \$14,840 civil charge
WCRO	Keltech of Virginia, Inc. (City of Roanoke)	Failure to make a hazardous waste determination and deliver waste to a permitted TSDF	NOV issued 5/30/07; Consent order dated 9/4/07 imposed a \$20,000 civil charge and includes a \$2,700 SEP