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## COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY  
VALLEY REGIONAL OFFICE

Douglas W. Domenech  
Secretary of Natural Resources

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### EXECUTIVE COMPLIANCE AGREEMENT

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY  
FOR  
ALSON H. SMITH, JR. AGRICULTURAL RESEARCH AND EXTENSION CENTER  
EPA IDENTIFICATION NO.: VAD988224903

This is an Executive Compliance Agreement (Agreement) between the Virginia Polytechnic Institute and State University (VirginiaTech) and the Virginia Department of Environmental Quality (DEQ) pursuant to the Director's authority, as set forth in §§ 10.1-1185, -1192 and -1455 of the Code of Virginia (Va. Code), to administer and enforce the Virginia Waste Management Act and Virginia Hazardous Waste Management Regulations (VHWMR).

"VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Agreement, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.

VirginiaTech, a public body constituted as a governmental instrumentality for the dissemination of education as set forth in Va. Code § 23-14, owns and operates the Alson H. Smith, Jr. Agricultural Research and Extension Center (Facility), a horticultural research facility located at 595 Laurel Grove Road in Winchester, VA. The Facility is classified as a Conditionally Exempt Small Quantity Generator of hazardous waste in EPA's database.

On July 19, 2012, DEQ Valley Regional Office staff conducted a compliance evaluation inspection of the Facility and observed the following. The Facility generated 6 pounds (2.72 kg)

of Endosulfan (P050), an acute hazardous waste listed in 40 CFR 261.33(e), during the month of March 2010. The Facility did not notify DEQ of its change in generator status and did not submit the associated annual fee.

40 CFR 261.5(e) requires: "If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under parts 262 through 268, and parts 270 and 124 of this chapter, and the notification requirements of section 3010 of RCRA:

(1) A total of one kilogram of acute hazardous wastes listed in §§261.31 or 261.33(e)."

9 VAC 20-60-315(D) of the VHWMR requires that anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record.

9 VAC 20-60-1283(B) of the VHWMR requires that each Large Quantity Generator (LQG) of hazardous waste shall be assessed an annual fee as shown in 9 VAC 20-60-1285(G) to be paid in accordance with 9 VAC 20-60-1284.

Based on the results of the July 19, 2012 inspection, DEQ issued Notice of Violation (NOV) No. WS-12-07-VRO-002 on October 1, 2012, to VirginiaTech for the alleged violations listed above.

In subsequent settlement negotiations between VirginiaTech and DEQ, it was determined that DEQ had received payment of the LQG fee on September 24, 2012.

On November 7, 2012, VirginiaTech submitted proposed improvements to their hazardous waste management program to ensure that hazardous waste at their numerous locations is properly identified and monitored, and that compliance is maintained.

VirginiaTech asserts that the alleged violations above were the result of the Facility ordering more pesticide than they could use and disposing of unused product. Part of VirginiaTech's improvement plan includes minimizing quantities ordered to prevent having to dispose of unused materials. The Facility has returned to CESQG status.

To remedy these matters, VirginiaTech and DEQ agree to the schedule of action in Appendix A.

This Agreement shall become effective upon the date of its execution by the Director of the Department of Environmental Quality or his designee. VirginiaTech agrees to be bound by any compliance dates in this Agreement that may predate its effective date.



**Virginia Polytechnic Institute and State University**

APPENDIX A

VirginiaTech agrees to:

1. By June 30, 2013, provide yearly training to include waste identification and spill response.
2. By August 31, 2013, develop and implement a universal, routine chemical survey for all university properties. The survey will help to identify potential waste and storage issues at off-site facilities.
3. By August 31, 2013, develop a plan to encourage research facilities to limit chemical orders to those materials that will be used completely, and to continuously seek pesticide alternatives that are lower in hazardous material content.
4. Within 14 days of the completion date of each item above, submit confirmation of completion with attached documentation to include copies of each plan, survey or training record as appropriate.

**DEQ Contact**

Unless otherwise specified in this Agreement, VirginiaTech shall submit all requirements of Appendix A of this Agreement to:

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