



Final Regulation Agency Background Document

Approving authority name	Virginia Waste Management Board
Virginia Administrative Code (VAC) citation	9 VAC 20 -130
Regulation title	Regulations for the Development of Solid Waste Management Plans, Amendment 2
Action title	Amendment
Document preparation date	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The Virginia Solid Waste Management and Planning Regulations are open, in their entirety, to revisions needed to accommodate recent statutory changes: Virginia Code sections §10.1-1411 and §10.1-1408.1, to eliminate a regulatory provision on the waste information and assessment program that is redundant with a similar provision in the Virginia Solid Waste Management Regulations, to clarify standards for plan amendments and plan variances, and to consolidate and clarify the existing language in the regulations.

Statement of final agency action

Please 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.

On May 22, 2006, the Waste Management Board adopted posting of the draft proposed amendment of Regulations for the Development of Solid Waste Management Plans for public comment.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Code section 10.1-1411 of the Virginia Waste Management Act requires that cities, counties and towns of the Commonwealth develop solid waste management plans for their jurisdiction and include provisions to achieve the statutory recycling rate. Several other parts of the Act require the Department of Environmental Quality to consider the plans when issuing permits for solid waste management facilities and in making other specific decisions. The Waste Management Board is authorized to promulgate and maintain regulations to establish structure for the plans and is further authorized to review and approve the plans. In fulfillment of these responsibilities, the Board adopted Regulations for the Development of Solid Waste Management Plans, 9 VAC 20-130-10 *et seq.*, Amendment 1 (2001).

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The goal of these regulations is to protect public health and/or welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth.

These regulations establish a consistent program framework for local governmental planning for solid waste management needs, while allowing maximum flexibility for planning in accordance with community goals and local traditions. In addition, these regulations promote planning that provides for environmentally sound and compatible solid waste management with the most effective and efficient use of available resources.

Procedures and rules for designation of regional boundaries for solid waste management plans are established. Also, these regulations provide a mechanism for tracking local government efforts to achieve statutory goals for solid waste recycling. These regulations not only specify the statutory requirement that local governments are responsible for recycling a minimum percentage of solid waste, but also the requirements for plan contents.

These regulations confirm the statutory requirements for withholding issuance of solid waste management facility permits if the locality or region's plan has not been approved. The regulations provide for variances and exemptions, when reasonable. Finally, these regulations provide for the reporting and assessment of solid waste management and recycling in the Commonwealth.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

Specifically, the department has proposed that 9 VAC 20-130-120.B be reworded to seek ways to redefine how the mandatory minimum recycling rate is to be calculated. Such redefinition is designed to conform with current recycling practices in the localities and regions. Further, the department has proposed that 9 VAC 20-130-165 (Waste Information and Assessment Program) be extracted from the planning regulations, because the provision is duplicated elsewhere in the VSWMR at 9 VAC 20-80-115. The Waste Information Assessment Program focuses on permitted facilities while this regulation focuses on Solid Waste Planning Regions.

Planning requirements in 9 VAC 20-130-120 and mandatory plan elements required elsewhere throughout 9 VAC 20-130 have been consolidated and clarified. The department is rewording these sections to define which plan elements are mandatory, and which, if any, are optional, as consistent with the Virginia Code section and Board policy. The department has revised procedures for calculating regional recycling rates and has developed specifications for variance qualifications.

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

The regulatory action is not seen to pose disadvantages to the public or the Commonwealth. Instead, the main objective here is to incorporate statutory revisions and to clarify existing language and procedures. No net change in cost to the public or the Commonwealth is anticipated.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
40	Purpose 6 was retained.	Deleted purpose 6.	To ensure the purpose section reflects the change in Section 165, removing the waste assessment program from these planning regulations, due to the redundancy of this

			requirement in 9 VAC 20-80-115 of the solid waste management regulations.
120.I	A planning unit that does not meet the requirements of these regulations may submit an action plan ...	“may” has been changed to “shall”	The planning unit is required to submit an action plan if the solid waste management plan does not meet the requirements in this regulation. In the event of a deficient plan, such a submission is not intended to be optional.
130.A & B	The use of citizen advisory groups was deleted from the Public Participation Requirements both for development of the solid waste management plan and amendments thereto	The optional use of a citizen advisory groups for plan development and amendments has been restored, and the explanation of procedures has been reordered to explain, first, their part in plan development, and second, their part in plan amendments.	The purpose of this change is both to clarify and to avoid narrowing the requirements for public participation in the development of plans and amendments.
175.A.1.a	Major amendments shall include: <u>a.</u> any addition, deletion, or cessation...	The word “disposal” was added	To address an adverse economic impact to small businesses identified in a public comment from Mr. Harry Gregori and to clarify that only disposal facilities constitute major plan amendments. In the original wording, the requirement that “any addition” of any solid waste facility constituted a major plan amendment (even when the facility to be added represented a implementation of a strategy that was higher in the waste management hierarchy) conflicted both with the wording in 175.A.2: “Minor amendments shall include any change that moves toward implementation of a waste management strategy that is higher in the waste management hierarchy” and with the hierarchy, itself, established at 9 VAC 20-80-30.
175.A.2.	See changes to proposed	2. Minor amendments shall include:	For additional clarification between major and minor

	stage underlined at right:	<p>a. <u>any addition, deletion, or cessation of operation of any facility that is not a solid waste disposal facility;</u></p> <p>b. any change that moves toward implementation of a waste management strategy that is higher in the waste management hierarchy; and or</p> <p>c. any nonsubstantive administrative change such as a change in name. Minor amendments shall be submitted, by mail or electronic mail, directly to the department for notation. The planning units are the repository for the minor amendments to the plans.</p> <p><u>3. Minor amendments shall be submitted, by mail or electronic mail, directly to the department for notation. The planning units are the repository for the minor amendments to the plans.</u></p>	plan amendments.
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Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Mr. Denny K. Morris, Executive Director of the Crater Planning District Commission	The commission staff has reviewed this proposed amendment and finds it to be an enhancement of the Commonwealth's overall solid waste management planning activities. In particular, we are pleased with the accommodation for the new 15% minimum recycling rate, critical to rural jurisdictions within our Region. We look forward to its implementation.	Thank you for your comment and participation in the regulatory process.
Mr. Harry Gregori, Vice President, Environmental	The current definition of Major amendment indicates that "any" additional facility is to be added to the plan for formal plan	Upon re-inspection of the proposed regulation, we agree with your assessment of a conflict between the definitions of minor and major plan amendments and its adverse implications to

<p>Solutions, Inc.</p>	<p>amendment. However, in a free market, particularly for small businesses, the business operation may not be part of the "governments integrated waste management plan" and the requirement to approve private operations as Major amendment is an excessive burden for a small business that are dedicated to the development of waste management programs that move waste upward in the hierarchy, as already provided in the definition of Minor. There appears to be a conflict in that the definitions of Major and Minor... both indicate "any" change. Private operations designed to move waste up the hierarchy that are not part of the government plan are viewed by the Department as a Major when the definition of Minor provides for minor changes that move the waste up the hierarchy.</p> <p>By interpreting the regulations to capture all facilities, the free market is impaired in that the approval of the plan amendment may have no direct relationship to the government's operations. The process for Major amendment requires an unnecessary burden on small business to complete the processes for the government plan amendment when they provide business activities that move waste up the management hierarchy. A public review process is already provided in the regulatory processes for public comment and conformance with regulatory limits.</p>	<p>small business operations that result in upward movement in the waste hierarchy. Therefore, the major/minor amendment determination of a facility addition has been reworded to rest more heavily on whether the addition reflects an upward or downward move in the hierarchy.</p>
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All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section	Proposed new section	Current requirement	Proposed change and rationale
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number	number, if applicable		
Title		“Regulations for Solid Waste Management Planning”	Changed to “Solid Waste Planning and Recycling Regulations” both to reflect full range of planning and recycling and to keep the title as concise as possible
10		Definition “Abandoned material”	Removed because term is not contained in the text of the regulation
10		Definition “Agricultural waste”	Truncated to conform with definition in Virginia Solid Waste Management Regulations (VSWMR - 9 VAC 20-80-10)
10		Definition “Compost”	Added to conform with definition in VSWMR - 9 VAC 20-80-10
10		Definition “Composting”	Modified to allow for either anaerobic or aerobic processes on recommendation of Technical Advisory Committee (TAC--see TAC meeting 2/22/06 notes, p. 8, posted on VA Town Hall).
10		Definition “Construction waste”	Modified to conform with definition in VSWMR - 9 VAC 20-80-10
10		Definition “Contamination”	Removed because term is not contained in the text of the regulation
10		Definition “Debris waste”	Clarified to mean “solid waste”
10		Definition “Demolition waste”	Added “the” to conform with definition in VSWMR -9 VAC 20-80-10
10		Definition “Director”	Modified to conform with definition in VSWMR - 9 VAC 20-80-10
10		Definition “Discarded material”	Removed because term is not contained in the text of the regulation
10		Definition “Friable asbestos”	Removed because term is not contained in the text of the regulation
10		Definition “Garbage”	Removed because term is not contained in the text of the regulation
10		Definition “Groundwater”	Removed because term is not contained in the text of the regulation
10		Definition “Household waste”	Removed--text of this definition transferred to definition of “Residential Waste”
10		Definition “Incinerator”	Removed because term is not contained in the text of the regulation
10		Definition “Industrial waste landfill”	Removed because term is not contained in the text of the regulation
10		Definition “Landfill”	Modified to conform with definitions in VSWMR - 9 VAC 20-80-10
10		Definition “Large diameter tree stumps”	Deleted due to change in definition of Principal Recyclable Materials
10		Definition “Market(s)”	Added in support of language in 9VAC 20-130-125, 150, 200 and 230
10		Definition “Market conditions”	Added in support of language in 9VAC 20-130-230
10		Definition “Materials recovery facility”	Added due to change in language in 9VAC 20-130-120
10		Definition “Mulch”	Modified to conform with definition in VSWMR - 9 VAC 20-80-10

10		Definition "Open dump"	Removed because term is not contained in the text of the regulation
10		Definition "Principal recyclable materials"	Definition changed to support 9VAC 20-130-125, and due to the elimination of the category of Supplemental Recyclable Materials
10		Definition "Recycled material"	Removed because term is not contained in the text of the regulation
10		None	Added definition of "Recycling residue" from §10.1-1400 to define the term found in new 9 VAC 20-130-125, per TAC.
10		Definition "Refuse"	Removed because term is not contained in the text of the regulation
10		Definition "Residential waste"	Added. Household waste definition moved to Residential waste to support language in HB647
10		Definition "Rubbish"	Removed because term is not contained in the text of the regulation
10		Definition "Sanitary landfill"	Modified to conform with definition in VSWMR - 9 VAC 20-80-10
10		Definition "Scrap metal"	Removed because term is not contained in the text of the regulation
10		Definition "Sludge"	Modified to conform with definition in VSWMR - 9 VAC 20-80-10
10		Definition "Solid waste"	Modified to conform with definition in VSWMR - 9 VAC 20-80-10
10		Definition "Solid waste planning unit"	Definition added to conform with new language in HB 647
10		Definition "Source reduction"	Definition added to conform with new language in HB 647
10		Definition "Source separation"	Modified to conform with definition in VSWMR - 9 VAC 20-80-10
10		Definition "Special wastes"	Removed because term is not contained in the text of the regulation
10		Definition "Supplemental recyclable material"	Category eliminated, with elements of this definition incorporated into definition of Principal Recyclable Materials
10		Definition "Tons"	Added on recommendation of TAC --(see TAC meeting 2/22/06 notes, p. 6, posted on VA Town Hall).
10		Definition "Trash"	Removed because term is not contained in the text of the regulation
10		Definition "Used or reused material"	Removed because term is not contained in the text of the regulation
40		Purpose is to establish minimum standards in 9 VAC 20-130-40.1	Removed term "standards" and replaced with "requirements" to clarify purpose for establishing regulatory requirements rather than industry standards here
40		Purpose is to establish minimum standards in 40.1	Added term "recycling" to clarify that both planning and recycling requirements are set forth
40		Original excerpt from purpose 40.3: "plan responsibility for ...	Excerpt from purpose 40.3 changed to: "plan responsible for ... recycling rates;" to improve clarity of phrase and to adjust to new

		recycling rates of 25%"	recycling rates in revised §10.1-1411 (HB 647)
40		6. Provide for reporting and assessment of solid waste management in the Commonwealth in accordance with the Virginia Waste Management Act, § 10.1-1413.1 of the Code of Virginia.	Deleted purpose 40.6. To ensure the purpose section reflects the change in Section 165, removing the waste assessment program from these planning regulations, due to the redundancy of this requirement in 9 VAC 20-80-115 of the solid waste management regulations.
60; 110; 120; 130; 175;180; 190; 200; 210; 220	60.A; 110.A; 110.D; 120.B; 130.A; 175.E; 180; 190; 200; 210; 220	60.A; 110.A; 110.E; 120.B; 130.A; 175.G; 180; 190; 200; 210; 220	substituted term "solid waste planning unit" to conform with new language in revised Virginia Code §10.1-1411.A (HB 647)
60		60.A	Language was added to include Permits by Rule to description of applicability
60		"county and town within that county"; 60.A	clarification to city, county, and town
60		In 60.A: the term "local solid waste management plan."	Removed term "local," as archaic, per TAC, under new wording presented by HB 647 (revised language in Virginia Code §10.1-1411)
70; 110; 230	70.A; 110.D.iii; 110.E.iii; 230.A	70.A; 110.E.iii; 110.F.iii; 230.A	Substituted new citation for the Virginia Admin Process Act (APA 2.2-4000) for the older APA citation form
70	70.B	70.B	Added to conform with HB 647 revised language in Virginia Code §10.1-1411.D.2
70	70.C	None	Added to conform with HB 647 revised language in Virginia Code §10.1-1411.D.2
70	70.D	None	Added to conform with HB 421 revised language in Virginia Code §10.1-1408.1.B.9
70	70.E	None	Added to conform with HB 421 revised language in Virginia Code §10.1-1408.1.R
90		solid waste management regulation 90.A	Changed to "solid waste planning and recycling" regulation to better reflect nature of this chapter, in response to TAC recommendation--(see TAC meeting 1/25/06 notes, p. 5, posted on VA Town Hall).
110		110.A	Added "and maintain" to meet need for ongoing plan use and updates
110		Revised plans to be provided by July 1, 2004-- 110.B	Deleted. Date now expired.
110	110.C	Reference to section C; submit a corrected plan; 110.D	Revised reference to new section 110.B; Changed "corrected" to more accurate term of "revised" in new 110.C
110	110.D	Plans approved...effective on notification...; 110.E	Added "of such approval by the department" to clarify required notification in new 110.D
110	110.D	it; plans; 110.E	Clarified to "the department" and "plan" in new 110.D
110	110.D.iii; new 110.E.iii; new	informational proceeding; 110.E.iii; 110.F.iii; 175.G	Changed to new term (APA 2.2-4000): "informal fact-finding" proceeding; new

	175.E		110.D.iii; new 110.E.iii; new 175.E
110	110.D	None; 110.E.	Added (iv) to new 110.D to conform with new provision at 9 VAC 20-130.120.I, in response to TAC
110	110.E	None; 110.F	Added explanation of “significant deviations” in new 110.E to conform with new comprehensive list of planning requirements found at 9 VAC 20-130-120
120		“The solid waste management plan shall include”; 120.A	Changed to “Basic planning elements:” to distinguish this subsection from other subsections that include other elements of the plans
120	120.A.1	“An integrated waste management strategy”; 120.A.1	These words were moved to the plan implementation section 120.A.2, to establish a more logical order of elements
120	120.A.2	None; 120.A.2 & 140.1	Former section 140.1 was incorporated into new 120.A.2.. This section was added to implementation section 120.A.2, to clarify meaning of “integrated strategy” and how it fits with the waste hierarchy. The consolidation of sections 120, 140, and 150 was approved by consensus of the TAC (see TAC meeting 2/22/06 notes, pp. 6 and 7 posted on VA Town Hall).
120	120.A.1	“objectives for solid waste management ...”; 120.A.3	These words were moved to new A.1, to better order this section—discussing plan objectives before method of implementation
120			In new 120.A.2, removed semicolon after “implemented,” per TAC
120	120.A.3	None; 120.A.4	Words of elaboration to explain specific elements required to demonstrate progress toward solid waste objectives and schedule implementation; This elaboration brings forth the nexus between plans and permits required in revised Virginia Code §10.1-1408.1.B.9 (HB 421). This new language was reviewed by the TAC in April 2006
120	120.A.4 and 120.A.5	120.A.5 and 120.A.6	The order of these provisions were reversed and renumbered to new 120.A.4 and 120.A.5 to reflect deletion of former section 120.A.3; purpose of reordering was to ensure strategy for funding was pursued in advance of describing the funds and resources that were identified as a result of pursuing the strategy.
120		25% recycling rate; 120.B	Recycling rate revised to conform with HB 647 revised language in Virginia Code §10.1-1411.D
120	120.B.1	“..plan shall describe how this rate shall be met or exceeded”; 120.B	To avoid redundancy this sentence was deleted and the term “met and” was added before “maintained” in the previous sentence; also, “met and exceeded” was copied into new subsection B.1, as suggested by the TAC
120	120.B.1 and 2	None; 120.B	Section 120.B.1 was added to set forth the criteria required (to meet the applicable

			minimum recycling rate) for a plan's approval; Section 120.B.2 was added to establish that the failure to maintain the applicable minimum recycling rate constitutes a "significant plan deviation" that would subject the plan to revocation under former 110.F and new 110.E
120	125	Calculation methodology for recycling; 120.C	Moved out of 120 and made into a new section entitled "Recycling Requirements" 125; New section 125 incorporates the changes required to conform with HB 647 revised language in Virginia Code §10.1-1411); Specifically incorporated in new section 125—the new recycling rates (§10.1-1411.D.1 & 2); the new recycling credits (§10.1-1411.C); the new calculation methodology based on the changes in rates and credits; and weight and volume conversions and requirements. The new language for 125 was reviewed by the TAC in March 2006
120	120.C	Incorporated Data; 150	Former section 150 was incorporated as new 120.C. The consolidation of these sections in 120 places all planning requirements in the same section. The consolidation of sections 120, 140, and 150 was approved by consensus of the TAC (see TAC meeting 2/22/06 notes, pp. 6 and 7 posted on VA Town Hall).
120	120.C	"local government or regional solid waste management plan"; 150	In new 120. C substituted term "solid waste planning unit" to conform with new language in revised Virginia Code §10.1-1411.A (HB 647);
120	120.C.3	"households ... institutions, industries, and other types"; 150.3	In new 120.C.3 substituted terms: "residential, institutional, industrial, construction demolition, debris, and other types" for clarification and to retain parts of the subsequent sentence that conform with revised §10.1-1411.C
120		"Estimates should identify special waste ...agricultural wastes and spill residues"; 150.3	In new 120.C.3, sentence deleted, retaining parts that conform with revised §10.1-1411.C
120	120.C.3	None; 150.3	In new 120.C.3, added sentence: "Entities engaged in the collection ... when requested by the planning unit" to ensure collection of quality waste generation data—suggested by TAC majority (see TAC meeting 2/8/06 notes, pp. 6 and 7 posted on VA Town Hall).
120, 230		"director"; 120.D, 120.E, 230.A, 230.B	Substituted term "department" for "director" to ensure timely receipt of plan submittals by DEQ staff.
120		"Waste types include ... and supplemental recyclable materials.";	Deleted from 120.E on the recommendation of the TAC (see TAC meeting 2/22/06 notes, p. 7 posted on VA Town Hall).

		120.E	
120	120.F; 120.G; 120.H; and 120.A.2	Plan objectives; 140.3, 140.4, and 140.2; 140.1	Former sections 140.3, 140.4, and 140.2 were incorporated respectively as new 120.F, 120.G, and 120.H. Former section 140.1 was incorporated above into new 120.A.2. The consolidation of these sections in 120 places all planning requirements in the same section. The consolidation of sections 120, 140, and 150 was approved by consensus of the TAC (see TAC meeting 2/22/06 notes, pp. 6 and 7, posted on VA Town Hall).
120	120.I	None	Action plans--new section 120.I was added to provide planning units an option resolve plan deficiencies, such as attainment of a minimum recycling rate, restoration of a fallen recycling rate, or for other plan elements that do not satisfy the requirements listed above in section 120. This section was added on the recommendation of the TAC (see TAC meeting 2/22/06 notes, p. 5, posted on VA Town Hall)
120	120.I	There is no requirement for the submission of action plans under the original wording of this regulation.	The new procedure for submitting action plans has been clarified to state that a "planning unit that does not meet the requirements of these regulations shall submit an action plan ..." Rationale: The planning unit is required to submit an action plan if the solid waste management plan does not meet the requirements in this regulation. In the event of a deficient plan, such a submission is not intended to be optional.
125	125	Calculation methodology for recycling; former 120.C	"Recycling Requirements" --New section 125 incorporates the changes required to conform with HB 647 revised language in Virginia Code §10.1-1411); Specifically incorporated in new section 125—the new recycling rates (§10.1-1411.D.1 & 2); the new recycling credits (§10.1-1411.C); the new calculation methodology based on the changes in rates and credits; and weight and volume conversions and requirements. The new language for 125 was reviewed by the TAC in March 2006
125	125.B.2	None	Added citation to Form DEQ 50-30 for volume conversion chart in new 125.B.2. Added consideration of this section to public participation (above) for additional comment, per TAC.
120	120.I.2	None	In new I.2, eliminated words "not to exceed a maximum extent of two years." at the end of the sentence. This gives the department more flexibility to set a reasonable time requirement in the action plans, per TAC.

130		None; 130.A	When the solid waste planning unit represents multiple ... is to be located"; This language was added to reduce the notification burden for plan amendments on the planning units representing multiple government units; A consensus of the TAC approved the addition of language to this effect (see TAC meeting 2/8/06 notes, p. 9, posted on VA Town Hall)
130		"extensive" with regard to public participation; 130.B	The word extensive was stricken at the request of the TAC (see TAC meeting 2/8/06 notes, p. 8, posted on VA Town Hall)
130.A & B	130.B & A	The current requirement mentions the use of citizen advisory groups as one procedure which may be used in plan development, if it is in accord with the planning unit's own rules and procedures, but the requirement is unclear as to whether citizen advisory groups are to be required in plan development when the use of citizen advisory groups are not in accord with the planning unit's or local government's own rules and procedures. Some local governments and planning units have maintained that a public hearing or meeting is equivalent to the use of a citizen advisory group in their jurisdictions. Further, the current wording is unclear as to whether a citizen advisory group's involvement is required when a plan is amended.	The optional use of a citizen advisory group for plan development and amendments has been clarified and the explanation of procedures has been reordered to explain, first, their part in plan development, and second, their part in plan amendments. The purpose of this change is both to clarify and to avoid narrowing the requirements for public participation in the development of plans and amendments.
140	120.F; 120.G; 120.H; and 120.A.2	Plan objectives; 140.3, 140.4, and 140.2; 140.1	Former sections 140.3, 140.4, and 140.2 were stricken from their former location in the planning regulations and incorporated respectively as new 120.F, 120.G, and 120.H. Former section 140.1 was incorporated above into new 120.A.2. The consolidation of these sections in 120 places all planning requirements in the same section. The consolidation of sections 120, 140, and 150 was approved by consensus of the TAC (see TAC meeting 2/22/06 notes, pp. 6 and 7, posted on VA Town Hall).
150	120.C	Incorporated Data; 150	Former section 150 was stricken from its former location in the planning regulations

			and incorporated as new 120.C. The consolidation of these sections in 120 places all planning requirements in the same section. The consolidation of sections 120, 140, and 150 was approved by consensus of the TAC (see TAC meeting 2/22/06 notes, pp. 6 and 7, posted on VA Town Hall).
165		Waste information and assessment program; 165	Sections 165 A, B, C, and D were deleted. Section D was reworded to more clearly state the requirement for submitting recycling report data and to link the requirement to the new recycling requirements section 125: "Every solid waste planning ... 9 VAC 20-130-125 A, B, and C." The waste information and assessment program apply to waste facilities rather than to planning units. Many planning units were reporting waste managed data rather than waste generation data in their plans and recycling reports. Therefore, removal of the greater part of this section should remove any remaining confusion of management and generation data. The companion provision for waste facilities remains intact can be found at 9 VAC 20-80-115. The change was approved by consensus of the TAC (see TAC meeting notes 1/25/06, p. 5 and 2/8/06 notes, p. 5, both posted on VA Town Hall).
165	165	Waste Information and assessment program; 165	This section was renamed: "Annual Recycling Data Reporting"
175	175.A.1 (a thru c and e)	"Major amendments shall include...in the approved area."; 175.A.1	This section was broken out into components "a through e" to better highlight the requirements.
175.A.1	175.A.1.a	"Major amendments shall include: any addition, deletion, or cessation..."	The word "disposal" was added. To address an adverse economic impact to small businesses identified in a public comment from Mr. Harry Gregori and to clarify that only disposal facilities constitute major plan amendments. In the original wording, the requirement that "any addition" of any solid waste facility constituted a major plan amendment (even when the facility to be added represented a implementation of a strategy that was higher in the waste management hierarchy) conflicted both with the wording in 175.A.2: "Minor amendments shall include any change that moves toward implementation of a waste management strategy that is higher in the waste management hierarchy" and with the hierarchy, itself, established at 9 VAC 20-80-30.
175	175.A.1.d	None; 175.A.1	A provision "d" was added to 175.A.1 to include action plans (see new 120.I) as one of the enumerated major plan amendments.

			The new language to include action plans as major plan amendments was reviewed by the TAC in March 2006
175	175.A.2 & 3	<p>2. Minor amendments shall include:</p> <p>d. <u>any addition, deletion, or cessation of operation of any facility that is not a solid waste disposal facility:</u></p> <p>e. any change that moves toward implementation of a waste management strategy that is higher in the waste management hierarchy; and or</p> <p>f. any nonsubstantive administrative change such as a change in name. <u>Minor amendments shall be submitted, by mail or electronic mail, directly to the department for notation. The planning units are the repository for the minor amendments to the plans.</u></p> <p><u>3. Minor amendments shall be submitted, by mail or electronic mail, directly to the department for notation. The planning units are the repository for the minor amendments to the plans.</u></p>	For additional clarification between major and minor plan amendments.
175		[avenue of] "submittal"; 175.A.2; 175.C	Added "mail or electronic mail" as avenues of submittal to assist applicants
175		None; 175.A.2	Added the principle, decided by TAC, that minor plan amendments are to be submitted for notation purposes to the department only—minor amendments no longer require departmental approval; in addition, clarification is provided that the planning units are the official repository for minor amendments. The TAC's discussion of these

			issues is found in TAC meeting 2/22/06 notes, pp. 10 thru 12, posted on VA Town Hall.
175	175.B	“Any amendments...prior to implementation”, former 175.B	This statement was narrowed to apply only to major plan amendments, for the reasons indicated immediately above; therefore, this line was deleted and the implementation delay that still pertains to major amendments was merged with former 175.C and incorporated into new provision 175.B
175	175.C	“Minor amendments ... to the department for approval”; 175.D	Deleted this provision as reasoned above, and clarification of the new status for minor amendments was appended to new 175.C to conform with the reasoning in TAC meeting 2/22/06 notes, pp. 10 thru 12, posted on VA Town Hall.
175	175.C	“comments on the deficiencies” and “days from the date the plans are received”; 175.E	The former wording in 175.E was revised in new 175.C to read “any deficiencies” to reflect the department’s certainty that some flawless major plan amendments will be received; “the date the plans are received” was a typographical error and has been corrected to state “the date the amendments are received.”
175	175.C	Review times for amendments; 175.E	New section 175.C was modified to pertain to major plan amendments only (to conform with new 175.B).
175	175.D	receipt of comments on his “solid waste management plan” ; 175.F	In new section 175.D this typographical error was modified to read “receipt of comments on his major plan amendment”
175	175.E	“Amendments approved...”; 175.G	In new section 175.E, this has been narrowed to “Major amendments approved...” to conform with the new approvals for major amendments only.
175	175.F	None	New 175.F adds the requirement that planning units maintain current plans. This statement memorializes statements made by TAC members, that their planning units routinely updates their plans and make the necessary changes as they see the need -- recorded in TAC meeting 2/22/06 notes, pp. 13 thru 14, posted on VA Town Hall. Additionally, new 175.F addresses concerns for maintenance through five-year checks and 20-year management projections that were discussed by the TAC and recorded in TAC meeting 2/22/06 notes, pp. 13-14.
175	175.F	None	Rather than require resubmissions of the updated plan every five-years, new section 175.F requires a certification letter to the department from the planning unit. In this letter, the planning unit certifies that: (1) waste generation estimates (to within 20 %) are current; (2) planning schedule increments have been met; and (3) either a 20 year

			waste-management capacity remains available or else projects are on schedule to meet the planning unit's needs. The certification of these three elements will determine whether the plan is in compliance with new section 110.E: no significant deviations from general section 120 plan contents have occurred.
230	230.B	None	This new section 230.B clarifies the variance process by providing the criteria for granting a variance: (1) demonstration of a good faith effort to comply with the recycling rates and chapter requirements and; (2) demonstration of hardship in meeting the recycling rate, if a variance from the recycling rate is sought; or (3) demonstration that the variance will not adversely impact the integrity of the plan. The TAC debated whether or not the language in Virginia Code §10.1-1411.B allows the director to grant any variance other than from the requirement to meet the recycling rate (see TAC meeting 2/22/06 notes, p. 14). The present reviewer concludes that other variances from the plan requirements may be granted if the director determines the above criteria have been met: <i>shall provide for reasonable variances and exemptions thereto as well as variances or exemptions from the recycling rates...</i> Hence it is assumed in the wording throughout new 230 that variances are not limited to recycling rates.
230	230.C.4	"based on evidence ... may be issued"; 230.B.4	The words: "the planning unit chooses ... 9 VAC 20-130-230.B.2)" was substituted for the original wording for the sake of brevity. The TAC reviewed this proposed wording in March 2006.
230	230.D	None	This language was added to comply with processing and resolution requirements in the Virginia Administrative Procedures Act
FORM DEQ 50-25		FORM DEQ 50-25	This form has been deleted to comply with the revisions of 9 VAC 20-130-165.
FORM DEQ 50-30		FORM DEQ 50-30	This form is being updated to comply with the TAC's decision recorded in TAC meeting 2/8/06 notes, p. 6.

Enter any other statement here

Regulatory Flexibility Analysis

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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

The current regulation changes, as proposed, embody the consolidation and simplification of requirements sought in this provision for small business. Also, the regulations do set forth performance standards, but they are designed to apply to local governments, not to small businesses. Finally small businesses are exempt from these planning requirements, which are directed specifically toward local governments as the regulated community.

Family impact

Please assess the 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.

The regulations protect the public's health, safety and welfare and the environment from harmful results of not planning for the management of solid waste and not maintaining mandatory recycling rates. However, the regulations for solid waste management plans and recycling (9 VAC 20-130) have no other direct impact on the institution of the family.