

FINAL NOTES
Virginia Solid Waste Management Regulations – Amendment 7
9VAC20-80-10 *et seq*
Technical Advisory Committee (TAC) Public Meeting - June 5, 2008

F. Scott Reed—Dominion Virginia Power

Bob Dick—Virginia Waste Industries Association (VWIA) and private consultants

Atman Fioretti—Sierra Club, Virginia Chapter --absent

Rick Guidry—King George County Landfill, Inc.

Jerry Martin—Augusta County Service Authority

Jimmy Sisson—Virginia Recycling Markets Development Council

Fouad Arbid—Solid Waste Association of North America

Joe Levine—Southwest Virginia Solid Waste Management Association

(Other's in attendance): (1) Deb Miller- facilitator; other staff members that were present to answer questions raised by the TAC: Bob Goode, Sanjay Thirunagari, Karen Sismour, Don Brunson, Jason E. Williams, Allen Brockman, and (2) names of public attendees: John Westerfield (Joyce Engineering), John Hurford (Draper Aden), Mike Thomas (Waste Management), Scott Whitehurst (SPSA), Terri Phillips (Golder), Ed Hollos (Resource International), Ray McGowan (Allied Waste).

Today's meeting notes:

Deb Miller explained that changes occur throughout the text, but that *major* changes were highlighted in yellow.

Next, Deb reviewed the status of action items from the May 19 TAC meeting:

1. Amendment 5 was sent out to TAC members
2. Processing capacity definition was prepared by Don Brunson and will be circulated to the TAC.

Fouad Arbid suggested that we wait on further discussion of definitions until later in the process. Rick Guidry and Fouad Arbid will email their capacity definition to

Brockman to distribute to the TAC members and staff. Deb will put these items on the agenda for the very next TAC meeting (June 19th--15 minutes to ½ hour).

3. Brockman’s definitions text indicating any strike-throughs and any definitions which were removed from the text previously circulated to the TAC —will be presented at June 19 meeting.
4. & 5: term (and definition) for a lesser unit—like a cell, to help make closure and phases more performance-based or triggered (there’s a lot of closure before final closure) and further info about what definitional requirements are set forth by the Code of Virginia and EPA, and the pertinent parts of the EPA Amendment 7 crosswalk will be provided by Brockman and Miller.
6. Deb Miller distributed to the TAC wording clarifying the remediation regulations that apply in 9 VAC 20-81-45 B 2 f and described the proper corrective action process that applies:

9 VAC 20-81-45 B 2 f. “In addition to those exceptions found in 40 CFR 257.1 (c), the open dump criteria shall not apply to sites that are undergoing remediation per the requirements of CERCLA or the RCRA Corrective Action Program and are doing so with the department’s and /or the Environmental Protection Agency’s oversight.”

Fouad Arbid said this addressed his earlier concern. It was further clarified that for permitted SWMF that are investigating/remediating under the VSWMR, the open dump requirements would not be applied. The TAC came to consensus on accepting the 45 B 2 f wording.

7. Also, staff will specify throughout the text that citations to the Code of Federal Regulations apply as follows: “CFR reference as amended.”

As for May 19 action items undertaken by the TAC:

1. By the June 19 meeting, Rick Guidry and Fouad Arbid will write a “disposal capacity” definition for further consideration by the TAC.
2. As for the gypsum board exemption provision in the text circulated on May 7 at 9 VAC 20-81-95 C. 7. o.; Jason Williams distributed the following proposed revised wording at today’s meeting:

Gypsum Board clarification (Section 95, top of p. 34):

o. “Clean ground gypsum wallboard when used as a soil amendment or fertilizer, provided the following conditions are met:

- (1) The gypsum wallboard has not been glued, painted, or otherwise been contaminated from manufacture or use (e.g., waterproof or fireproof drywall).
- (2) The ...”

Region	Rate
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Piedmont, Mountains, and Ridge and Valley	250 lbs/1,000 ft ²
Coastal Plain	50 lbs/1,000 ft ²

Jason explained that the above language was developed with the assistance of Dr. Evanylou of Va. Tech. Fouad Arbid said he wasn't sure if this is an adequate analysis for these purposes.

Jim Sisson asked if there was any concern that painted paper from wall board separated from reusable gypsum? Deb agreed to clarify the language for construction activities only. This became an **action item (1)** for Jason Williams by the June 19 meeting.

3. The following action item was postponed for a later meeting: “staff would appreciate any proposed wording from all the TAC members on how the facility boundary, waste disposal boundary, etc. boundary definitions could be worded in Amendment 7, based on our discussions from Monday. At the same time, the staff will peruse the Waste Management Act and EPA regulations to see what terminology is used in those sources.”

Next, Deb Miller returned to the Part II discussion began at the May 19 TAC meeting: TAC had consensus on the language in #5.

Deb moved to delay discussion of any CCB issues in 9 VAC 20-81-95 until the CCB review subcommittee could provide their recommendations. This meeting is scheduled for June 12. .

On 9 VAC 20-81-97—Deb Miller requested that the TAC returning this text to Part VII, which will be discussed at a later TAC meeting. TAC reached consensus, but Bob Dick asked how often this type of exemption occurred. Deb said not often. Fouad asked why we should include information here as a special case—Deb pointed out that this section also includes the more useful beneficial use section, but that we could cite to the Federal regulations for the solid waste classification exemption procedure.

Scott Reed asked to check with Dominion and his constituency before he joins the consensus on this topic. This concluded the TAC discussion on Part II. Deb Miller asked if there were additional Part II topics that the TAC would like to raise. Bob Dick emphasized that we will need to return to Part I at later TAC meetings to address unresolved issues. Fouad Arbid emphasized his interest in seeing Brockman's June 19 action item product on boundary terms and facility terms in both the Code and in the Federal regulations.

Bob Dick asked for Deb Miller to encapsulate the changes that occurred in Part II. Deb summarized that Part II is a consolidation of Parts II, III, and IV in the former regulations and has used CFR references for open dump thereby streamlining what is in our current Part IV. Bob Dick thanked her for the explanation.

Deb Miller asked for comments from the public at this time. There were no comments. So, the TAC took a break at 10:50 am.

Part III introduction presentation by Bob Goode. Handouts were circulated.

Bob Goode agreed to send electronic copies of his presentation to Deb Miller for circulation. In his presentation, Bob explained how old part V (9 VAC 20-80) was collapsed into new Part III (9 VAC 20-81).

In answer to a preliminary question, Deb explained that the alternate liner in Part III no longer requires a variance for approval. This is now a department approval procedure..

Rick Guidry asked the reasoning behind the new 10 % requirement in the following draft language circulated to the TAC on May 29, 2008:

“9 VAC 20-81-100 E 5 b. The procedures for random inspections of incoming loads to detect whether incoming loads contain regulated hazardous wastes, PCB wastes, regulated medical waste, or other unauthorized solid waste and ensure that such wastes are not accepted at the landfill. The owner or operator shall inspect a minimum of 10.0% of the incoming loads of waste;”

Jason Williams explained the benefits of the universal 10% inspection requirement for unauthorized waste. Joe Levine asked the need for this provision when we haven't detected increased unauthorized waste at present.

Jerry Martin asked why not conduct the facility's inspections from a compactor. Jason said there is no requirement to leave the compactor to conduct the facility's inspection of 10% of the incoming loads. Joe said some DEQ compliance inspectors expect them to get off the compactors. Rick Guidry suggested that the manner of the facility's inspection to be expressed in guidance.

Deb Miller asked if this language was clarified to a facility inspection during normal operations would be adequate. Joe Levine still had concerns about the 10% inspection rate even if the manner 10% of unauthorized waste was determined.

Bob Dick and Joe Levine asked if the 10% inside jurisdiction wide inspection was mandated by the Code. Bob Dick asked if this number was chosen as a result of the increase number of notifications of unauthorized waste.

Jerry Martin asked if the inspection couldn't be done away from the active face. Jason and Rick Guidry said that the active face was the best place to detect it.

Mike Thomas from Waste Management said that the documentation of the 10% of the waste load is the problematic part, not the actual inspection of the waste itself.

John Westerfield proposed perhaps a method employing Dictaphone recording to make it more efficient.

Bob Dick said the complication of this requirement is how the facility's inspection procedure is conducted—it is difficult to inspect individual loads. Rick Guidry said his staff is conducting the inspection continually. Fouad said the real question is how to accomplish documentation, he said he doesn't have an answer for this.

Deb Miller asked the TAC whether we want to keep status quo or if it needs to be broken out. Ray asked for clarification that this inspection is for 10% of all incoming waste, not just the out of state incoming waste.

After this clarification, Rick Guidry said he thought it was a good idea to have the same inspection percentage across the board.

Fouad proposed that if you take any out of state waste, establish it at 10%, but if you don't take any out of state waste, keep it a 1%. Documentation is required either way. This would provide some flexibility.

Bob Dick pointed out that a 9-fold increase in inspection effort (from 1 to 10), he would be more comfortable with a 3-fold increase.

John Westerfield pointed out that there still is a complication if you take both instate and out of state waste and the Code requires 10% of out of state, you still have to ensure that 10% of the out of state waste has been covered (not 10% of all the waste in- plus out-state coming into the landfill). [Editorial clarification, the Code of Virginia does not specify 10%]

At the end of the above discussion, by consensus of the TAC agreed to keep the unauthorized waste inspection rates in new 9 VAC 20-81-100 E 5 b at the same levels in the following text from existing 9 VAC 20-80-250 C 1 b: "The owner or operator shall inspect a minimum of 1.0% of the incoming loads of waste. In addition, if the facility receives waste generated outside of Virginia and the regulatory structure in that jurisdiction allows for the disposal or incineration of wastes as municipal solid waste that Virginia's laws and regulations prohibit or restrict, the facility shall inspect a minimum of 10% of the incoming loads"

Next, a consensus of the TAC voted that new text 9 VAC 20-81-100 E 1 should remain unchanged: "E 1. Control program for unauthorized waste. All landfills are required to implement..." as circulated to the TAC on May 29, 2008.

Additionally, by consensus the TAC accepted the following wording for 9 VAC 20-81-100 E 5 f, as suggested by Bob Dick: "f. All regulated medical waste, PCB waste or other unauthorized solid waste that are detected at a landfill shall be isolated from the incoming waste and properly contained until arrangements can be made for proper transportation for treatment and/or disposal at an approved facility."

Next, a consensus of TAC accepted the following wording for 9 VAC 20-81-110 B & C:

“B. Construction/Demolition/Debris (CDD) Landfills.

CDD landfills may only receive demolition waste, construction waste, debris waste, land clearing debris, split tires, and white goods. No other wastes are authorized for the CDD landfill unless specifically authorized by the landfill permit or the director.”

“C. Industrial Waste Landfills.

Industrial waste disposal facilities may only receive nonhazardous industrial waste and are subject to design and operational requirements dependent on the volume and the physical, chemical, and biological nature of the waste. No other wastes are authorized for the industrial landfill unless specifically authorized by the landfill permit or the director.”

Terri Phillips noted the following section (9 VAC 20-81-120 A 1): “The siting of all new sanitary, CDD and industrial landfills shall be governed by the standards set forth in this section. - A. Floodplains. - No new landfill shall be sited in a 100-year floodplain.” She asked if this requirement was revised for CDD & Industrial in the new text. Deb Miller affirmed. Deb requested a consensus vote of the TAC for the new text, but Scott Reed said he would need to check further with his constituency. The consensus vote was postponed for a later TAC meeting and the issue was tabled for now.

Fouad Arbid commented that Section 120 seems to be referring to lateral expansion for Part A purposes--differently than for the term lateral expansion (for Part B purposes).

Bob Dick stated that he didn't think the regulation should have the term “expansion” mean different things in different part of Section 120. Fouad said this section should only use “expansion” in the terms of expansion of the waste management boundary. He stated that vertical expansion is an increase in capacity.

Deb Miller said the new part A siting criteria do not apply retroactively to areas already permitted under the old part A siting criteria.—In answer to a question from Joe Levine.

Fouad suggested that “lateral expansion” should only pertain to change of waste management boundary.

The terms “new” and “lateral expansion” seem to overlap here because both are tied to new Part A's—Bob Dick—shouldn't we be trying to encourage the expansion of existing landfills over the construction of new landfills?

Fouad said this gets us back to the issue of how to delineate the concentric facility, waste management unit, and waste management unit boundary (TAC ongoing action item 3).

Fouad suggested that the landfill siting requirements should pertain to the landfill, not to each of the other solid waste facilities that also might be constructed under the permit. Deb said that it is set up that way.

Deb summed up that the Department has interpreted it that the Part A area or expansion of the Part A area is the trigger here. Deb suggested that we could clarify this throughout the wording in this text.

John Westerfield—suggested use of the term “new or modified Part A” (rather than the new or lateral expansion).

Bob Dick said the permit is not a Part A or Part A area, it is a permit. You can only show a Part A approval letter, not a Part A permit.

Fouad Arbid said a Part A line map result from the Part A approval. Fouad also said it looks like facility boundary is identified with the waste management unit boundary—the only area where you can manage solid waste.

Jason Williams suggested that what we need is for the TAC to define these various boundaries and subdivision.

Rick Guidry suggests that we open with “new or lateral expansion” rather than just “new” at the opening of Section 120, then the language wouldn’t be confusing.

Fouad said the boundary and subdivision distinctions still need to be made by the TAC to fix the wording in this section.

Deb Miller said we would start pulling these definitions aside to begin working on this clarification.

The group moved on to reference the proposed new text at 120 C 1 a, b, c:

“C. Restrictions (distances are to be measured in the horizontal plane).

1. No landfill unit or leachate storage unit shall be closer than:

a. 1000 feet from any residence, school, daycare center, hospital, nursing home or recreational park area in existence at the time of application;

b. 200 feet from any perennial stream or river;

c. 200 feet from the facility boundary;”

Fouad Arbid suggested that this say no new landfill or landfill expansion (to avoid retroactive problems). Fouad Arbid asked Don Brunson what examples in Virginia caused this. Don Brunson and Deb Miller cited two instances, where the landfills back right up to housing developments.

Bob Dick asked if the the numbers were based on scientific/engineering studies—receptor studies. Although receptors are listed here—120 C 1, it was noted that they

were not based on any known studies. Bob noted the concerns are for urban/developed areas, and that it requires waste to be transported elsewhere at costs to energy resources.

Deb reiterated that 120 C 1 a, b, and c were the only numbers changed here.

Deb asked the TAC if we should go back to what we had or just change 120 C 1 a?

Fouad Arbid said he thought the new numbers are too harsh. Also, you would lose area for expansion of existing sites. Fouad agreed with 120 C 1 c, but not with “a.”

John Westerfield suggested that the rationale for the increased distances could be odor related.

Fouad suggested to stick with the old a, b, and c. The TAC reached Consensus on to stick with old a, b, and c set off numbers:

9 VAC 250 A 7: “No sanitary landfill disposal unit or leachate storage unit shall extend closer than:

- a. 100 feet of any regularly flowing surface water body or river;
- b. 50 feet from the facility boundary;
- c. 500 feet of any well, spring or other ground water source of drinking water in existence at the time of application;
- .
- .
- e. 200 feet from the active filling areas to any residence, school, hospital, nursing home or recreational park area in existence at the time of application. “

[double liner discussion—120D]

In regard to the source of 9 VAC 20-81-120 C 2 a, Brockman explained as that any changes were made to conform to Code changes for wetlands. The staff agreed to check on this language and report back to the TAC on the origin of (1) & (2). **Action Item 2.**

The TAC consensus voted in favor of the new wording at 9 VAC 20-81-120 C 2 a (6) and C 2 b(1):

“(6) Over a fault that has had displacement in Holocene time.

b. No new landfill or lateral expansion of an existing landfill shall be constructed:

(1) Within 200 feet of a fault that has had displacement in Holocene time unless the owner or operator demonstrates to the director that an alternative setback distance of less

than 200 feet will prevent damage to the structural integrity of the facility and will be protective of human health and the environment; or,”

Jason Williams explained that this text is clarification of Code language; Jason said the alternative setback distance can be evaluated with the aid of EPA guidance.

Bob Dick asked reason for the provision at 9 VAC 20-81-120 D 1: “d. Ability to install a double liner system with a leachate collection system above the top liner and a monitoring collection system between the two liners.” Jason Williams and Don Brunson said that to opt out of monitoring for CDD & Industrial landfills, the facility has to have a double liner.

Action Item 3 --Deb suggested that Department specify this as CDD or Industrial only (not Sanitary). Fouad saw this as applicable if you have a piggy back landfill and need a double liner with a witness zone. Fouad requested that the Dept. provide some clarity as to what is acceptable here. Deb said this is more a design element rather than a siting requirement. Fouad suggested that we reserve a piggy back landfill discussion separate from this double liner discussion.

Bob Dick requested that DEQ insert the necessary two – part clarification language here so that the requirements were as in the the existing language. The TAC reached consensus to use the language of the existing regulation for sanitary and for CDD & Industrial.

With respect to 9 VAC 20-81-120 E 1 b, a consensus of the TAC voted to make the following addition to the draft language: “After July 1, 1999, construction at existing permitted facilities, allowed under the provisions of §10.1-1408.5 will be allowed only with appropriate approvals under the provisions of 9 VAC 25-210-10 et seq. In addition, the demonstration noted in E.3. of this section must be made by the owner or operator to the director.”

In closing, Deb Miller said that the discussion at the next TAC meeting (June 19) will encompass sections 130 through 170. Deb mentioned the August/September additional dates that will be circulated by Brockman by email. Also, Deb stated that the draft notes will be circulated to the TAC members that were present today.

Summary of Action Items from June 19:

1. Clarification of Gypsum Board exemption as requested by TAC—Jason Williams by June 19 meeting.
2. Staff will check on origin of wording at 9 VAC 20-81-120 C 2 a (1) and (2) to make sure text is consistent with preexisting text.
3. Staff revision of text at 9 VAC 20-81- 120 D 1 d.