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## Proposed Regulation Agency Background Document

<b>Approving authority name</b>	Virginia Waste Management Board
<b>Virginia Administrative Code (VAC) citation</b>	9 VAC 20 -130
<b>Regulation title</b>	Regulations for the Development of Solid Waste Management Plans, Amendment 2
<b>Action title</b>	Amendment
<b>Document preparation date</b>	June 6, 2006

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

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

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.

## 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 number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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At § 10.1-1411, the Virginia Waste Management Act contained in Chapter 14, Title 10.1, Code of Virginia (1950), as amended, 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. Local governments may join with other jurisdictions in a regional plan, if the jurisdictions approve. 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 by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

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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 briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

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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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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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.

## Requirements More Restrictive Than Federal

*Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

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Virginia's State 1979 draft Solid Waste Plan was written under Subtitle D of RCRA. To qualify for federal funding, each plan was required to outline steps the state would take to ensure that the solid waste within its borders was managed in an environmentally sound manner, and that resources were conserved and recovered where possible. Key components of these plans involved: (1) using the technical criteria provided by the U.S. Environmental Protection Agency ("EPA") to identify inappropriately managed facilities, termed "open dumps", which had to be closed or upgraded, and (2) developing a regulatory scheme that would ensure facilities operate properly.

At the early stages, the EPA's role with respect to state plans was limited to setting the minimum regulatory requirements that states had to follow in designing their plans, approving plans that complied with these requirements, and administering a grant program for states with approved plans. Those states that undertook development and implementation of EPA-approved plans were eligible for federal technical and financial assistance. These requirements were first set forth in the late 1970's, in 40 CFR 256.

Virginia submitted a draft state solid waste plan for EPA's approval in 1979, but before the plan could be approved, EPA had redirected available plan funding to other priorities, and EPA never completed formal approval of the 1979 plan. In 2005, given that funds are no longer available, EPA has dispensed with the approval of new solid waste plans. To compensate for the lack of a federally mandated state plan, the Virginia Legislature enacted §10.1-1411 and the Waste Management Board promulgated the associated regulations at 9 VAC 20-130.

In conclusion, the requirements of this regulation are not more stringent than federal requirements as the requirements are based on state statute and there are no similar requirements in federal law or regulation.

### Locality Particularly Affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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In accordance with §10.1-1411.A, all localities, or combinations thereof, must submit solid waste management plans in accordance with the Waste Management Board's regulations, therefore one locality or subset of localities is particularly affected or bears any identified disproportionate material impact which would not be experienced by other localities.

### Public Participation

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulation on farm or forest land preservation.*

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The Board is seeking comments from the general public about whether or not to retain a provision for converting volumes to weight in tons as a method for expressing amounts in the recycling rate formula (proposed 9 VAC 20-130-125.B.2). This provision has been used in the past by small businesses that do not maintain weight scales at the solid waste management facility. Also, the Board is seeking comments from the general public about whether or not to retain a provision allowing estimation of tonnage of recycling rate amounts on the basis of survey data on a case by case basis (existing 9 VAC 20-130-120.C.1.c).

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal and on any impacts of the regulation on farm and forest land preservation. Also, the Board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing or by mail, email or fax to Allen R. Brockman, P.O. Box 10009, Richmond, Virginia 23240-0009, telephone

(804)698-4468, fax (804)698-4327 and arbrockman@deq.virginia.gov; comments must include the name and address of the commenter. In order to be considered comments must be received by 5:00 p.m. on the date established as the close of the comment period.

A public hearing will be held and notice of the public hearing can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b></p>	<p>No net increase in cost from the costs associated with implementing and enforcing the existing regulation.</p>
<p><b>Projected cost of the regulation on localities</b></p>	<p>No net increase in costs to localities from the historical costs associated with this regulation are anticipated. Instead, the statutory changes have potentially reduced recycling rates to 15% from 25% for qualifying localities. Also, minor plan amendments will no longer be required for director’s approval (9 VAC 20-130-175), so that should eliminate additional costs traditionally borne by planning units.</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b></p>	<p>Only localities, counties, and regional planning units will have to directly bear any financial burdens historically associated with these regulations.</p>
<p><b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>No small businesses will be directly affected. However small businesses which are environmental consulting firms engaged in the production of solid waste management plans and major amendments are likely to see a financial benefit from the requirements in this regulatory change.</p>
<p><b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b></p>	<p>Historical costs associated with this regulation are likely to decrease due to a combination of factors—including a drop in the mandatory recycling rate from 25% to 15% for qualifying local governments (see statutory change) and the elimination of the former requirement for local governments to obtain director’s approval of minor plan amendments. In addition, small business consultants will continue to see income from production of the reports, major amendments, and data generation requirements that have historically been required in this regulation.</p>

## Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

Although the potential adoption of a new planning document for solid waste could result in less extensive delegation of planning decisions to the local level as an alternative to the existing planning regulations, the department views this alternative as contrary to the requirements of Va. Code § 10.1-1411. The existing policy requires each region, city, county, or town to develop comprehensive and integrated solid waste management plans. Pursuit of a statewide plan where solid waste management planning is not conducted by the localities would require significant statutory and regulatory modifications. Therefore it is anticipated that this alternative course would be less cost-effective than allowing localities to continue to conduct waste planning activities as provided in the current regulations.

In contrast, the alternative not to amend the regulations at this time is considered inappropriate, because there are adjustments to the regulations that need to be made.

## 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 requirements, which are directed specifically toward local governments as the regulated community.

## Public comment

A summary of the comments received in response to the NOIRA can be found below. In order to develop a proposal for Board consideration, a Technical Advisory Committee was formed to discuss the development of the proposed regulation. The Committee consisted of representatives from: the Solid Waste Association of North America; the Southeastern Public Service Authority and the Hampton Roads Planning District; the Virginia Recycling Markets Development Council; the Southwest Virginia Solid Waste Management Association; the Virginia Waste Industries Association; the Virginia Association of Counties; the Virginia Municipal League; the Sierra Club; and Campaign Virginia. The summary of public comments received during the notice of intended regulatory action period was provided to the Technical Advisory Committee. The Technical Advisory Committee utilized the comments during their discussions

on what amendments should be made to the regulation. After the proposal was submitted to the Waste Management Board, a final Technical Advisory Committee Meeting was held (May 11, 2006) to review the proposed language developed by the Department. Each section of the regulation was reviewed and consensus was reached on final changes to the proposal that had been submitted to the Board. (The minutes of the meetings of the Technical Advisory Committee are available on the Virginia Regulatory Town Hall web site.) This updated proposal, agreed to by the Technical Advisory Committee, was presented to the Waste Management Board and approved at its meeting on May 22, 2006.

Committer	Comment	Agency response
One comment was presented at the NOIRA public meeting on Oct. 24, 2005—John Mitchell of the Central Virginia Waste Management Authority—Code <b>C1</b>	1. The CVWMA does not want any regulatory changes that would diminish “the effort that has been established during the last decade and a half” by all of the localities that have consistently met the current 25% recycling threshold.	<b>No responses were provided to any of the NOIRA period commenters here or below. Instead, all comments were provided to the Technical Advisory Committee for consideration at its three meetings</b>
<b>C1</b>	2. DEQ should consider an amendment that possibly could make plan approval contingent on continuous improvement of the locality’s recycling rate, with goals intermediate to the 25% rate met by specific dates.	
<b>C1</b>	3. DEQ should assist “non-achieving” localities in their investigation of innovative waste diversion strategies and should encourage networking with their neighbors to maximize resources and to limit expenses.	
<b>C1</b>	4. CVWMA believes that changes to the 25% mandatory recycling rate should be a very last resort	
Written comments were provided by a citizen that requested to remain anonymous—Code <b>C2</b>	1. The Technical Advisory Committee (TAC) for these regulations should consider how waste is being managed in homes, schools, public offices, private offices, retail, restaurants, farms, service industries, and manufacturing industries. Are these various entities recycling, and if so what and how much? What can be done to better encourage waste reduction, recycling and reuse and to educate the public and school students in applications?	
<b>C2</b>	2. Are the current recycling facilities accessible, understandable, convenient, and affordable. Are municipal litter & waste codes adequate and enforced? What could be used to encourage favorable practices?	
<b>C2</b>	3. What is being done to encourage proper disposal of waste in private and public areas?	

<p><b>C2</b></p>	<p>4. Is the public knowledgeable about what household hazardous waste is and what the available options for disposal are?</p>	
<p><b>C2</b></p>	<p>5. How do publicly funded jobs and private jobs dispose of construction and demolition debris (CDD) waste? Is any of this material recycled or reused?</p>	
<p><b>C2</b></p>	<p>6. Are there any public/private partnerships that would allow for the diversion of large diameter logs, that would otherwise be incinerated or landfilled, for use as fuel or for use in chip mills?</p>	
<p><b>C2</b></p>	<p>7. The definitions for “abandoned” and “discarded” material are unclear in the regulations. Please improve the clarity of these definitions.</p>	
<p><b>C2</b></p>	<p>8. The commenter would like to revise the waste hierarchy, set forth in the regulations, to emphasize favorable consumer practices (such as bulk purchasing to reduce packaging needs, extend product life, and prevent waste). Perhaps the waste hierarchy could list “waste prevention or minimization” and define that term to include source reduction.</p>	
<p><b>C2</b></p>	<p>9. As written in the regulations, the recycling rate calculation and qualifications could lead to gross abuses. How are the calculations cross checked? There is too much leeway with respect to what can be included in recycling. The commenter doubts that allowing for the importation of recyclables in the figure does much to encourage recycling within the planning unit area. The commenter has similar concerns about industrial recycling numbers (reporting recycling numbers from elsewhere). If companies in a planning unit send their recycling material out of the planning unit area, what numbers should the planning unit use? Planning units should not be using numbers given by companies in addition to the numbers from the collector that the companies send to - this would be double counting.</p>	
<p><b>C2</b></p>	<p>10. Recycling yard waste is great - but districts which recycle this material have an advantage over districts that don't pick up yard waste. Yard waste including small diameter limbs that are composted or mulched should only count as a fraction of the recycled rate. Municipalities that collect all yard waste can use this to significantly increase their recycling rate, whereas districts that don't accept this waste have to rely on other means of recycling. The commenter believes there needs to be a limit--like no more than 20 -30% of the total recycling rate can come from yard waste.</p>	
<p><b>C2</b></p>	<p>11. There needs to be an effort for planning units to more accurately calculate or estimate the amount of MSW generated from inside the district versus that disposed of outside of the planning unit area.</p>	



<p><b>C2</b></p>	<p>12. The regulations might encourage the plans to address the purchasing of goods made with recycled material--at least in the public sector.</p>	
<p><b>C2</b></p>	<p>13. Innovative ideas and solutions along with problems from plans should be shared with other planning units.</p>	
<p><b>C2</b></p>	<p>14. Other comments--Regional networks for recycling could be developed for areas that have problems reaching markets. More needs to be done to fund and promote the VEEP program. Educating the citizens is the key to an effective program. Litter education is not working - We need to look at programs that have worked and think about what can be done here - some major behavior modifications need to occur. The Virginia Legislature apparently disdains litter to the degree that we have one of the toughest fines. However, at the local level there seems to be no enforcement. We need to encourage recycling industries to come to Southwest Virginia, where we have the workforce, the transportation network, and the land for successful operations.</p>	
<p>Written comments were provided by Roger Diedrich of the Sierra Club, VA Chapter—Code <b>C3</b></p>	<p>1. The current requirements for the development of solid waste management plans are inadequate, and do not create the proper environment for robust planning and implementation of progressive waste management practices that comply with the hierarchy.</p>	
<p><b>C3</b></p>	<p>2. The basic change needed is to require waste management planning that will gradually result in less disposal. In general, that would mean more waste reduction, reuse and recycling. The regulations must outline a more specific, stricter, and enforceable set of rules to make that happen. The localities should be required to set measurable goals over the plan horizon to reduce disposal, or at least per-capita disposal. They should be given support for how to set up those goals and how to meet them. If they fail to meet the goals, the state should help them understand why and how to improve, and should set penalties for poor compliance.</p>	
<p><b>C3</b></p>	<p>3. In Section 130-70, add an item:  <b>C.</b> Each year, the department shall review the reported values and calculated rates as required under section 130-165 as to whether the required recycling rate has been met. A failure to reach the required 25 % recycling rate shall be considered a violation of the management plan, and the jurisdiction shall be so notified. If a jurisdiction is meeting the 25 % recycling rate but the rate has fallen by greater than a percentage point from the previous year, they should be asked to provide an analysis of why that drop occurred.</p>	
<p><b>C3</b></p>	<p>4. Section 130-120, C 1, delete item “b. The volume weight of each component.” In C 1 c, change the language after “.. based on” to “conversion rates provided by the department”.</p>	

<p><b>C3</b></p>	<p>5. In Section 130-165, add at the end of the second paragraph, or as a separate third paragraph, the following:          “Values reported or calculated from this data, such as those for waste generated, recycled or disposed should be reconciled with values reported or calculated in the departments report Solid Waste Managed in Virginia, developed from data reported on Form DEQ 50-25. At a minimum, an explanation of differences should be provided.”</p>	
<p>Written comments were provided by Skip Decker of the City of Roanoke’s Solid Waste Division—Code <b>C4</b></p>	<p>1. Mr. Decker would like the TAC to revisit the way that we calculate the mandatory recycling rates for localities. Up until the last two years asphalt road millings were allowed to be calculated into the MSW mix. These projects are budgeted items which use tax payers funding . Mr. Decker was very surprised and somewhat dismayed when this tonnage was no longer acceptable.</p>	
<p>Written comments were provided by Susan McSwain of Nelson County’s Solid Waste &amp; Recycling—Code <b>C5</b></p>	<p>1. Recycling is the third of the Three R’s of waste reduction – not the first. A long-term goal of DEQ and residents in Virginia should be the first R – Reduce – but this is a goal that can probably be best accomplished at a national rather than state level. However, the second R – Re-Use – needs to receive focus as part of the solid waste plans of jurisdictions around the State. Recycling should only be done after the first two methods of reduce and re-use have been considered. Recycling often requires the input of significant levels of energy, while the first two methods require creative thinking and wise planning. I believe that Virginia must amend its recycling mandate to accommodate rural counties. I favor a two-tier requirement to encourage rural communities to be creative and not wasteful of resources. I firmly favor allowing Re-Use to become an important factor in determining a “Waste Diversion” rate.</p>	
<p>Written comments were provided by Rochelle Garwood of the Thomas Jefferson Planning District</p>	<p>1. Some of our rural localities have had difficulties in meeting the 25% recycling mandate. Residences are too scattered for efficient collection and quantities of recycled materials are too small for a profitable return. We would urge the Department of Environmental Quality to consider a two-tiered recycling rate with a lower rate for areas of lower population density.</p>	

—Code <b>C6</b>		
<b>C6</b>	2. Many areas, both rural and urban, are seeing a significant proportion of discarded items going for reuse, which, while being higher in the waste management hierarchy than recycling, cannot be counted at all. So we urge, also, that DEQ consider reuse in its recycling rate calculations, as well as to consider a two-tiered recycling rate with a lower rate for areas of lower population density.	
Written comments were provided by Tom Frederick, Anne Bedarf, and Bruce Edmonds of the Rivanna Solid Waste Authority — Code <b>C7</b>	1. RSWA believes that combining into regions makes sense from an economy of scale and cooperative point of view. However, if one locality in that region meets the rate and another doesn't, the conforming locality (with recycling rate 25% or more) may be penalized with permit denial, and thus the conforming locality is driven to exit the region. This result is counterproductive to the regional concept. RSWA wants the proposed regulations to be amended to encourage conforming localities to remain part of the regional plan, while not being subjected to any penalties for recycling shortfalls assessed to nonconforming localities within that same region.	
<b>C7</b>	2. If a locality withdraws from a regional solid waste management plan, does the locality have to submit a plan of its own, and if so, what is the deadline for submitting the locality's new separate plan?	
<b>C7</b>	3. RSWA wants the State to provide additional recycling funding for electronic recycling events (as has been done in the past), for the development of regional manufacturing plants utilizing recycled material, and for recycling positions. RSWA notes that Pennsylvania provides grants to localities to pay for up to 50 percent of those localities' recycling coordinator salaries and expenses. RSWA identified the funding source in Pennsylvania as a \$2 per ton tax on landfill tipping fees.	
<b>C7</b>	4. RSWA wants reuse to be counted toward the recycling rate in a revision to the planning regulations.	
<b>C7</b>	5. RSWA would like to see the recycling calculation simplified to: Amount MSW Recycled/Amount of MSW Generated; where MSW = Municipal Solid Waste RSWA says this change would make the equation more straightforward, enabling planners to visualize that 25 tons of MSW recycled out of 100 tons of MSW generated equals a recycling rate of 25%.	
Written comments were provided by Arthur L. Collins of the Hampton Roads Planning District —Code <b>C8</b>	1. If DEQ attempts to revise the current recycling rate equation with regard to construction and demolition debris (CDD), great care needs to be taken to avoid compounding current difficulties presented by recycling market vagaries and interpretive differences about recycling rate calculations.	
<b>C8</b>	2 Routine questions need to be addressed in the regulations, including: what solid waste facilities require a consistency determination against	

	<p>the local or regional solid waste management plan? Does this requirement apply to permits-by-rule (PBR) facilities? How should the plan consistency review apply if the facility is proposed in adjacent localities or regions? To what degree should plans developed by one region apply to facilities outside the region, when those facilities have an adverse impact on the neighboring regional plan?</p>	
<b>C8</b>	<p>3 HRPDC wants the “central archive” requirement for solid waste data, in the planning regulations, to be streamlined to avoid duplication of effort between recordkeeping at the DEQ and the local level.</p>	
<b>C8</b>	<p>4 HRPDC wants the monitoring requirements for waste generation data, in the planning regulations, to be revised to reflect the ability of the localities to enforce the collection of the required information from private entities.</p>	
<p>Written comments were provided by John Anders of Golder Associates, Inc. —Code <b>C9</b></p>	<p>1. Mr. Anders states that his comments are based on having reviewed over 60 of the solid waste management plans generated in Virginia in 2004. He said his comments may be more on how to respond to the regulations rather than on the regulations themselves. In fact, he stated that some of the suggested guidance could be addressed by adding definitions to the regulations.</p>	
<b>C9</b>	<p>2. The regulations outline specific steps needed to have regions approved, and to make changes to regions. The regulated community, although responsible for assuring their own compliance with regulations, somehow needs to stay aware that changes to the regions need to be processed.</p>	
<b>C9</b>	<p>3. Some consideration should be given to the various categories of waste that need to be reported. Consideration should be given to a category listing that is more consistent with how the municipalities are tracking their waste.</p>	
<b>C9</b>	<p>4. A definition is needed to define “storage” and “treatment” of solid wastes. If the plan mentions the use of convenience centers and transfer stations—this could be seen as meeting the plan requirement for discussion of storage. Likewise, if there was a discussion of mixing liquid waste with a bulking agent prior to landfill disposal, this could be seen as meeting the plan requirement for the discussion of treatment. These are things the facilities do themselves. However, a plan that merely states hazardous waste is hauled away by a hauler, who takes hazardous waste to a treatment and disposal unit, does not rise to meet the plan requirement for the discussion of treatment—because the contracting of disposal of such waste may or may not involve treatment prior to disposal. In this latter case, the treatment and disposal activities are not performed directly by the facility.</p>	
<b>C9</b>	<p>5. A definition is needed to define “public and private partnerships.” For example, is it really a partnership if one entity is compensated for their</p>	

	involvement (thru a contract) by the other?	
<b>C9</b>	6. What constitutes “documentation” where it is described in the regulations? Is it a newspaper ad, a written request to run an ad, official and draft excerpts from meetings, letters of affirmation that a hearing or meeting was held--from the local government to a consultant, or is it merely a note stating “no comments were made at the public hearing” without indicating the note’s author. Mr. Anders suggested that the regulations should clarify what constitutes “proof” or “documentation” in such cases.	
Written comments were provided by Jeffrey Smithberger of Fairfax County’s Division of Solid Waste Collection & Recycling — Code <b>C10</b>	1. One of DEQ’s proposals provides for including industrial waste and CDD waste in the calculation of the annual recycling rate. If these materials are to be included in the total quantity of municipal solid waste generated, accurate data on their generation must be acquired.	
<b>C10</b>	2. DEQ also desires to evaluate whether or not variances from the 25% recycling rate should be given to jurisdictions that experience difficulty in meeting the rate. While Fairfax County recognizes that certain jurisdictions have impediments to recycling, a reduction in the recycling rate might serve to undermine the Commonwealth’s waste management hierarchy. The opportunity for a variance results in lowering the recycling rate and serves to diminish the importance of recycling in protecting natural resources and reducing energy consumption in the Commonwealth. There should be a mechanism for a variance that does not lower the recycling rate.	
<b>C10</b>	3. One way of achieving flexibility in the recycling rate is to give recycling credits to jurisdictions that manage and implement documented source reduction, reuse or other innovative programs intended to reduce the waste stream.	
<b>C10</b>	4. Fairfax County believes that DEQ should not penalize those jurisdictions and regions, that cannot meet the mandated recycling rate, through the agency’s delay of processing applications for permits that are identified in the DEQ-approved solid waste management plans.	
<b>C10</b>	5. Another issue associated with solid waste management plans involves permits-by-rule. Fairfax County believes that facilities regulated under the permit-by-rule concept are facilities permitted to operate by DEQ (because these facilities are required to report certain information and are subject to inspections). Therefore, Fairfax County believes that facilities regulated by permit-by-rule must be included in the approved solid waste management plan. When permit-by-rule facilities are not identified and reported in the approved solid waste management plan, the plan must be modified and amended prior to the construction or operation of a proposed facility.	
<b>C10</b>	6. Fairfax County suggests that the grounds for withholding action on a solid waste management permit or amendment, when that plan is not	

	in compliance with regulations, need to be clarified to state which components must be in compliance. It would be better to clarify the intention, which is that all other requirements of the solid waste management regulation have been met, in order to be in full compliance with the solid waste management plan.	
<b>C10</b>	7. Fairfax County always supports opportunities to better organize and streamline regulations. To that end, we support moving the Waste Information and Assessment Program requirements to 9 VAC 20-80-115. We also support other opportunities to restructure the regulation for internal consistency.	
Written comments were provided by Erik Grabowsky of Arlington County's Solid Waste Bureau —Code <b>C11</b>	1. If new regulations are developed in order to clarify acceptable materials, Arlington County requests that the net effect of the regulations has no negative impact on a locality's existing recycling rate.	
<b>C11</b>	2. Arlington County opposes the inclusion of private construction, demolition, and debris (CDD) waste in the recycling rate calculations as it will be very difficult to collect this data from both private haulers and CDD landfills.	
<b>C11</b>	3. Arlington County urges the Waste Board to use this opportunity to affirm or restate the Commonwealth's overall strategy for managing solid waste. Such a strategy should address long-term waste reduction and recycling goals, along with disposal capacity needs for the State.	
Written comments were provided by Mary E. Jones of Sussex County —Code <b>C12</b>	1. Sussex County supports reduction of recycling rates for rural and small communities. To meet the mandated recycling rate, a locality needs to have high citizen participation in order to collect enough recyclables. It also requires curbside service, which Sussex County does not have. Recycling Marketing is another challenge for the County—at this time there is no such market close to Sussex County. These are all reasons why the County supports the reduction of recycling rates.	

**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.

**Detail of changes**

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

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
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 ... recycling rates of 25%"	Excerpt from purpose 40.3 changed to: "plan responsible for ... recycling rates;" to improve clarity of phrase and to adjust to new recycling rates in revised §10.1-1411 (HB 647)
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	Deleted. Date now expired.

		provided by July 1, 2004--110.B	
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 175.E	informational proceeding; 110.E.iii; 110.F.iii; 175.G	Changed to new term (APA 2.2-4000): “informal fact-finding” proceeding; new 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.”; 120.E	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	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)
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		"citizen advisory committees and"; 130.B	The required use of citizen advisory committees in the approval of plans and plan amendments was stricken by the TAC (see TAC meeting 2/8/06 notes, p. 8, posted on VA Town Hall). Many planning units have assumed that a public hearing alone is satisfactory for this purpose.
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	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		[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.