

**Virginia Regulations for the Development of Solid Waste Management Plans
9VAC20-130-10 *et seq* – Amendment 2
Technical Advisory Committee Public Meeting February 8, 2006**

DEQ Facilitator: Frank Daniel

TAC Members:

Bill Dennison--Southwest Virginia Solid Waste Management Association

Debbie Devine--Southeastern Public Service Authority & Hampton Roads Planning District

Jeff Smithberger--Solid Waste Association of North America

Rick Guidry--Virginia Waste Industries Association

Mike Benedetto--Virginia Recycling Markets Development Council—called in sick today

Paul Vaughan--Campaign Virginia

Roger Diedrich--Sierra Club of Virginia

Steve Yob--Virginia Municipal League

Larry Land--Virginia Association of Counties--absent

Allan Lassiter--DEQ Division of Environmental Enhancement; technical representative to TAC.

(Other names that appear in today's notes are the names of DEQ staff members that were present to answer questions raised by the TAC: Kathy Frahm, Steve Coe, Leslie Beckwith, and Allen Brockman)

Today's meeting notes:

Introductions were made by Frank Daniel. All members represented at the first TAC meeting (Jan. 25) were present. In addition, Steve Dietrich of the Department of Environmental Quality's (DEQ's) West-Central Regional Office listened to the meeting by phone. Frank Daniel opened the floor for comments on the Jan. 25 meeting and the minutes from that meeting. Jeff Smithberger requested that DEQ staff provide TAC members an email copy of meeting minutes after they are revised with all TAC

comments. It was noted they would be posted to Town Hall's website, but posting time may vary, therefore DEQ agreed to email the completed meeting minutes to TAC members. [*Note from the minutes taker: once the minutes are posted, any further discussion of the minutes/changes will carry over to the next TAC meeting*].

At this point, Frank Daniel introduced today's presenter, Allan Lassiter. Allan gave his power point slide presentation entitled: "Defining and Calculating Recycling in Virginia." Handouts of the 52 slides were distributed to the TAC members.

Allan Lassiter noted that his presentation was designed to address a number of questions raised by TAC members about **Discussion Items #3 and #6** from the Jan. 25 meeting: Data Collection, the Recycling Definition, and Calculation and Measurement of Recycling Rates. Among the specific topics requested for discussion that were addressed in this presentation included: Recycling & Reuse (**Item #3**), HB 647 (**Item #6**), Diversions, EPA modelling, Waste Energy, and Recycling reports.

Allan Lassiter began by reviewing the elements of existing Virginia statute 10.1-1411—Regional and local solid waste management plans. Then, Allan reviewed the history of the existing Solid Waste Management Planning Regulations (9 VAC 20-130). Next, he reviewed EPA's required recycling elements listed in a Guide for State and Local Governments (EPA530-R-97-011). Allan explained that EPA's "Account for imports & exports" equals "waste generation" in Virginia's regulations.

Next, Allan Lassiter recited the definition of "recycling" from 9 VAC 20-130-10 and compared it to EPA's definition of recycling. Then, Allan recited the definition of "reuse" from 9 VAC 20-130-10.

At this point Bill Dennison asked: "Do we exclude asphalt from reuse? Particularly when it is reprocessed?" Allan Lassiter replied that DEQ sees such asphalt as an industrial waste and so not included in reuse. Steve Yob noted that he has seen asphalt landfilled before (so could be part of the waste stream).

Steve Yob and Allan Lassiter discussed that yard waste and leaves constitute recycling. Under HB 647, Allan Lassiter noted that many of the distinctions between recycling and reuse are mooted. Allan Lassiter stated that he wants to eliminate the definition "used or reused material" from 9 VAC 20-130.

Next, Allan Lassiter discussed the definition of "source reduction" from 9 VAC 20-130, in comparison to EPA's definition of the same term.

In the next slide, Allan Lassiter introduced Virginia's recycling rate calculation process (9 VAC 20-130): $\text{Rate} = (\text{Recycled} / \text{Total Municipal Solid Waste (MSW)}) \times 100\%$

Lassiter further explained that Virginia includes credits, that can be added to the equation on a ton for ton basis for "supplemental recycling materials" (SRM's). SRM's are materials that are reused or recycled (other than those recycled materials specified by

EPA's definition). Virginia designed the list of SRM's specifically to encourage recycling of those items. Allan noted that, in Virginia, Construction Demolition & Debris (CDD) is included as an SRM (EPA does not include it).

In Virginia, industrial waste is not included in recycling, in order to avoid any penalty for the generation of industrial waste (e.g. at captive landfills). EPA does not count industrial waste in recycling, either.

Debbie Devine asked about how residue from compost reject process is counted when included in another use as a feedstock? Allan Lassiter replied that such residue would not be counted as recycled material because it is not included in the definition of residue in 9 VAC 20-130. But Lassiter said HB 647 would allow such residue to be counted as recycling.

Allan Lassiter suggested to the TAC that principal recycling materials (PRM's) and SRM's be combined as "recycling materials" in the revision to 9 VAC 20-130.

Next, Allan Lassiter explained that other recycling credits going beyond EPA determinations but allowed in Virginia under 9 VAC 20-130 include: scrap tires, mulched & composted yard waste (when marketed/used productively), used oil, filters, antifreeze, source reduction or reuse only available through a variance—if the rate is below 25%, and recycling residue. Lassiter went on to note that the status of all of these recycling credits will change once HB 647 is enacted.

Lassiter went on to discuss recycled materials that are excluded from EPA recycling calculations but included in Virginia's recycling calculations. For example, Virginia counts food processing waste and natural disaster debris in the recycling calculations, but EPA excludes these categories, among others.

Debbie Devine asked what the benefit would be from counting debris from, let's say a big disaster like Hurricane Katrina, as a credit in the denominator of the recycling calculation, given that it would be a large number that we can't control? Debbie Devine asked if Virginia provides an option to omit such disaster debris from the calculations? Allan Lassiter admitted he hadn't considered this circumstance, but said it would be worth considering. At this point, Steve Coe said Virginia's guidance discouraged including natural disaster numbers on the form (e.g. for Hurricane Isabel), or else to count only part of it if it was recycled. Debbie Devine next asked: "How do you discern food waste debris related to such natural disasters in your calculations?" Allan Lassiter stated that this would be a difficult determination.

Next, Allan Lassiter explained recycling calculation modifications that will result from the enactment of HB 647 (**Item #6**)—regarding credits above and beyond the standard MSW for recycling. Allan noted that total recycling credits under HB 647 are not to exceed 5 percentage points of the annual recycling rate. Under HB 647, the credit is on a ton per ton basis. The planning unit earns a flat-out credit of 2 percentage points, if they have *any* kind of source reduction program.

At this point, Allan Lassiter asked the TAC to consider how DEQ should verify the credit for source reduction programs under the revised regulations.

Allan Lassiter noted that HB 647 authorizes a recycling credit of one ton per ton for reuse. Also under HB 647, there is a recycling credit for non municipal waste (including industrial waste) recycling materials.

Next, Lassiter referred to EPA's definition of "source reduction." He asked the TAC to consider whether EPA's criteria for source reduction options should be part of Virginia's verification program for source reduction credits in revised 9 VAC 20-130.

At this point, Lassiter went on to single out best practices for recycling/diversion/data concerns from across Virginia and the United States. Finally, Lassiter presented state maps of Virginia's counties and cities to show how their rates would compare under the HB 647 changes.

At the close of Allan Lassiter's presentation, Frank Daniel asked the TAC group for their questions.

Jeff Smithberger expressed his appreciation for the information and said he was certain that recycling market forces, rather than legislated limits, will drive the actual recycling rates. Allan Lassiter noted that he hoped that the new 15% rate will encourage rural areas to recycle.

Bill Dennison asked if Virginia's overall recycling rate had been increasing even before recycling rates became mandated. Allan Lassiter replied that the overall state rate went up all along, but that DEQ's records were not adequate to accurately detect such a trend prior to the establishment of the mandates. Bill Dennison said the trend of increased recycling over this period should lessen the public's worries about any rate backsliding occurring as a result of the HB 647 changes. However, Debbie Devine pointed out that HB 647 may have a negative effect on multi-county regions—favoring a breakup into individual counties planning areas.

Rick Guidry asked what the difference was between the recycling report data vs. the Solid Waste Information Assessment (SWIA) data. Allan Lassiter replied that the recycling report data is provided by the counties, but the SWIA data is provided by individual facilities to track waste managed. Allan Lassiter explained that transfer station waste that is later disposed in Virginia is counted twice in the SWIA report (once as waste transferred and another in disposal). The SWIA report was originally set up to account for transportation of waste. Jeff Smithberger noted that tracking the actual SWIA tonnages is tricky and often inaccurate.

A Break was called at this point by Frank Daniel (2:20 pm).

After the break, Frank Daniel reviewed that the TAC had reached consensus on **Item 1** (add “recycling” to the main title of 9 VAC 20-130) & **Item 2** (eliminate any redundancy between SWIA in 9 VAC 20-130-165 and the mostly parallel section from 9 VAC 20-80) discussed in the Jan. 25 TAC meeting. The TAC agreed.

Frank Daniel further noted that the outcome of **Item 3** (Data Collection/Definition of Recycling/Recycling rate measurement & calculation) was to be decided after the TAC had listened to Allan Lassiter’s presentation of the first part of today’s meeting. Also, Debbie Devine proposed wording for a disclaimer for the recycling rate reports on the DEQ website. Debbie Devine clarified that this disclaimer wasn’t to be incorporated into revised regulation 9 VAC 20-130. Instead Lassiter agreed that the disclaimer should go into the recycling rate reports.

At this point, the TAC deliberated on the wording of the proposed disclaimer. Roger Diedrich requested clarification of the term “best representation.” Roger Diedrich said today’s discussion of Allan Lassiter’s presentation showed that none of the numbers from the individual recycling reports are accurate. Jeff Smithberger recommended omitting the word “best,” and to shorten it to “representation.” Bill Dennison said this process is a “numbers game,” due to problems obtaining the data from vendors and inherent inaccuracies that accrue across collection processes. The recycling numbers presented are the “best” numbers meeting the requirements of the report. Rick Guidry suggested that the data are based on the best available at the time, during the reporting period. Frank Daniel suggested that we add a qualifying sentence or two that would illustrate the complexities in determining the information. The TAC group agreed to the following wording: “Due to the complexity and difficulty in obtaining data this report reflects the best efforts of the planning units to represent recycling in Virginia.” Debbie Devine suggested that this statement should be posted on DEQ’s Division of Environmental Enhancement’s website. Lassiter agreed. He said it should be in the DEQ Recycling Report.

Paul Vaughan asked if there is a problem between the above statement and enforcement requirements. Frank Daniel replied that it is a valid issue, but that DEQ doesn’t have much leeway for enforcement of the data collection effort. Debbie Devine clarified that it is not that the numbers are wrong, but rather that their determination is not a “science.” Bill Dennison pointed out that the numbers are checked and cross checked by DEQ, so any errors should be identified by the agency. Allan Lassiter noted that the disclaimer statement would be a disclaimer on a summary report.

Allan Lassiter agreed to work on the disclaimer statement for the individual reports: “the submitted information is true accurate and complete.” The TAC group stated that we could add “to the best of our knowledge.” However, Bill Dennison and Paul Vaughan stated that the individual report disclaimer should be left alone.

Jeff Smithberger asked if we could add anything to the regulations requiring that information sources have to provide recycling information to the planning unit. Frank

Daniel and Bill Dennison agreed that the best place to achieve such a requirement would be at the statutory level.

Rick Guidry pointed out that the multiple pick-ups from different localities involved in recycling activities make it difficult to determine accurate waste numbers for recycling. Roger Diedrich suggested that planning units could rely less on the drivers as the information source and instead develop an independent manner of determining the numbers. Debbie Devine agreed with Roger's statement. Rick Guidry emphasized that the info sources vary from big corporations to small sole proprietorships—and that there is little uniformity in information standards. Debbie Devine agreed with Rick, but said that if DEQ doesn't adjust the wording of the regulation, recycling information won't be included in the reports. Further, Debbie Devine stated that if the recycling information is incomplete, that's all the more justification for including a disclaimer statement on the reports. Frank Daniel again returned to the view that any change should be approached at the statutory level.

Jeff Smithberger suggested that accurate information collection could be linked to a recycling management licensure requirement. Allan Lassiter asked for clarification as to whether the information of interest is waste generation or rather recycling information. Jeff Smithberger replied that the information of interest is mostly recycling information. Debbie Devine noted that, in the absence of a statutory requirement, she routinely has to make multiple presentations to get ordinance changes in various city and town councils. Bill Dennison pointed out that a statutory change would require that such recycling entities provide the necessary data. Frank Daniel asked how many entities they were talking about—that were not providing the recycling information. To this, Jeff Smithberger and Debbie Devine both replied—"quite a few."

Allen Brockman suggested that a wording change could be made at 9 VAC 20-130-150.3. Bill Dennison pointed out that the information suppliers are not regulated by 9 VAC 20-130. Nevertheless, Debbie Devine stated that she still wanted to pursue a change in the regulation. Both Steve Yob and Bill Dennison suggested that the local governments could enforce recycling data collection under their police powers for solid waste management. Jeff Smithberger pointed out that the recycling entities could refuse compliance by claiming that their activities concern the info is recycling rather than solid waste management. Jeff Smithberger queried--if an entity would not turn over recycling information, could DEQ then deny any other needed permits (air, water, waste) to them? Thus it would tie recycling information requirements to approval of other DEQ permits, unless the recycling data is released. Frank Daniel pointed out that DEQ can't hold such information providers hostage. Leslie Beckwith suggested that DEQ could upgrade a "should" to "shall" in 9 VAC 20-130-120.A.8 and could reiterate the revised statement elsewhere in the recycling rate calculation section. Diedrich said it couldn't hurt to tighten the regulatory language in this way.

In sum, the majority of the TAC proposed the following text for the proposed additional entry under 9 VAC 20-130-120: "Entities engaged in the collection, processing, and marketing of recyclable materials should provide data for incorporation into the recycling

rate calculation, when requested by the planning unit.” However, Rick Guidry stated his opposition to any such addition to the regulation. All the other TAC members expressed their support of the entry as worded. This was the conclusion of the TAC’s discussion of the data collection concern in **Item 3**.

Next, the TAC moved on to the Recycling Definition concern in **Item 3**. The group wrestled with the concept of what “recycling” is. Allan Lassiter asked the TAC if they wanted him to set forth any specifications on “source reduction.” Jeff Smithberger asked Allan Lassiter to specify the source reduction items. Bill Dennison asked that an “other” box be provided in the source reduction specifications to allow for technological advances. Allan Lassiter then clarified that the TAC had asked him to develop specifications on what a source reduction program is to allow localities to qualify for the credit under HB 647. Jeff Smithberger added that he would like to use the list to see what his peers are accomplishing with source reduction. Bill Dennison said that some short narrative should be required for explanation of the source reduction program. Jeff Smithberger agreed that both a list and a short narrative would be desirable. Steve Yob added that source reduction should be in the plan as well (i.e. included in the revised regulations). Bill Dennison concurred with Steve Yob on this point.

Debbie Devine said that modifications to an existing source reduction program shouldn’t require a plan amendment. Steve Yob said that a plan amendment should be required only if the plan didn’t originally mention a source reduction program. The TAC reached consensus that DEQ should provide some sort of narrative/list on source reduction to meet future HB 647 requirements. However, Roger Diedrich stated his concern that the numbers aren’t accurate in the first place and expressed his doubts that a write-up on source reduction to any extent would be beneficial. Steve Yob countered that a source reduction write-up would be helpful to change prevailing attitudes about source reduction. Also, such source reduction credits would be helpful to the planning units, even if the numbers aren’t the most accurate. For example, Steve Yob continued that if his jurisdiction has a backyard composting program, he would never be able to figure out how many leaves his efforts kept from reaching the landfill. Bill Dennison agreed that source reduction is not quantifiable. However, Debbie Devine pointed out that source reduction numbers are not inestimable. Rick Guidry agreed that encouragement of source reduction is worthwhile. Roger Diedrich didn’t dispute that source reduction should be encouraged, he merely questioned the justification for the credit when the numbers aren’t accurate.

Allan Lassiter asked the TAC for their concurrence on whether the PRM and SRM recycling categories should be merged into a single category of recyclables in the revised regulations. Rick Guidry, Jeff Smithberger, Debbie Devine, and Steve Yob agreed that the requested change should be made. Roger Diedrich asked for clarification about how a combined list of recyclables would affect the recycling calculation. Allan Lassiter explained that SRM’s weren’t being recycled in 1990 but they are now in 2006. At this point, the TAC reached consensus on allowing the PRM’s and SRM’s to be merged. Thus, consensus was reached on all other points in **Item #3** except as otherwise noted in the notes above.

Item #4—Cost Benefits issue—this was resolved in the Jan. 25 TAC meeting.

Next, the TAC returned to **Item #5**—the Permits by Rule issue and how they should be addressed in the revised regulations. Jeff Smithberger shared the results of his research on the subject. Smithberger provided some proposed language revisions to 9 VAC 20-130. Jeff said he borrowed the language from HB 421 for his proposed update to 9 VAC 20-130, which he circulated to the TAC.

At this point (3:55 p.m.) Roger Diedrich had to leave to attend another meeting.

Next, Frank Daniel and Jeff Smithberger entered into a discussion of whether Jeff's proposed PBR changes to the regulations would be consistent with the overall solid waste regulatory framework in Virginia.

Kathy Frahm, Director of DEQ's Policy Division was asked to join the discussion. Kathy updated the TAC on the proposed language in HB 421 to which DEQ agreed, at the time of this writing--namely: *“No application for coverage under a permit-by-rule or for modification of coverage under a permit-by-rule shall be complete unless it contains certification from the governing body of the locality in which the facility is to be located that the facility is consistent with the solid waste management plan developed and approved in accordance with § 10.1-1411.”*

Kathy Frahm further clarified that there is a separate issue that individual permits must be consistent with a plan, however, she stated that the concern discussed by Frank Daniel and Jeff Smithberger about PBR's and local certification (see above) is not at issue. Instead, Kathy said that a remaining issue is whether DEQ should hold off processing the application until local certification was received. At this point, Jeff Smithberger expressed his satisfaction with the proposed resolution of the PBR issue (**Item #5**).

At this point, Kathy Frahm left the TAC meeting and Jeff Smithberger completed his review of his proposed PBR changes to 9 VAC 20-130. Among these changes, Jeff Smithberger proposed language in 9 VAC 20-130-175.E to require a plan amendment when the planning unit is found to no longer meet its required recycling threshold. Jeff Smithberger added further language that no such plan amendment should be required when the planning unit maintains its required recycling rate.

A further PBR change proposed by Jeff Smithberger was that the requirement for “extensive” public participation, in 9 VAC 20-130-130.B, be revised to eliminate the word “extensive.” Jeff emphasized that he felt strongly that this change should be pursued.

At this point, Allen Brockman asked the TAC if they found it necessary that the regulations continue to require “citizen advisory committees” in the public participation process detailed at 9 VAC 20-130-130.B. Brockman noted that during his review of some of the plans, many planning units had suggested that the citizen advisory committee

requirement was fulfilled by public attendance at a public meeting or hearing. Steve Yob said he supported the proposal to eliminate the “citizen advisory committee” requirement in 9 VAC 20-130-130.B. The remaining TAC members (not counting the absent Roger Diedrich) expressed a consensus on Steve Yob’s motion.

Next, Allen Brockman asked the TAC if language should be added to the notice and hearing requirements of 9 VAC 20-130-130.A, to clarify that in multijurisdictional planning units, the notice and hearing would be published/held only in the county/city where the proposed plan amendment would be located (rather than conducted separately in each of the jurisdictions of the planning unit). On this issue, the TAC again reached consensus (minus the absent Roger Diedrich) and expressed their support of the clarification of the notice and hearing requirements of 9 VAC 20-130-130.A as proposed by Brockman.

At this point Allen Brockman agreed that at the Feb. 22 meeting he would provide wording for the Amendments and Variance sections of 9 VAC 20-130, to supplement the PBR language proposed today for the Amendments section by Jeff Smithberger.

Allan Lassiter then pointed out that the ongoing concern raised by Kathy Frahm, above (i.e. whether DEQ should hold off processing the application until local certification was received) is directly related to **Item #9** (the nexus issue discussion). More discussion of the nexus issue was reserved until the Feb. 22 TAC meeting.

Next, Jeff Smithberger discussed the general issue of 9 VAC 20-130 definitions. Jeff suggested that the planning and solid waste (9 VAC 20-80) definitions should be consistent. He noted that while not all definitions may be needed, the definitions that are shared between regulations should have the same language between regulations. It was noted there currently are differences. Allen Brockman agreed to pursue this further, and agreed that definition sets should be the same. Jeff suggested that the planning and solid waste (9 VAC 20-80) definitions should be consistent. With this final point, Jeff Smithberger’s PBR presentation concluded. The TAC members (minus the absent Roger Diedrich) announced a consensus on the preceding resolution of the PBR issue (**Item #5**).

Frank Daniel noted that HB 647 (**Item #6**) was addressed by Allan Lassiter’s presentation earlier today. Further the discussion of interjurisdictional conflicts (**Item #7**) was resolved at the TAC meeting on Jan. 25.

At this point, the TAC revisited the enforcement issue (**Item #8**). Frank Daniel read from the minutes of the Jan. 25 TAC meeting. Allan Lassiter asked the TAC what DEQ could do to ensure that planning units with low recycling rates meet the mandatory rate. Jeff Smithberger replied that DEQ has the tools to enforce, we just don’t seem to be using them. Jeff Smithberger further held that DEQ shouldn’t alter enforcement requirements in 9 VAC 20-130 now—it could lead to future mistakes about the limits to enforcement. Steve Yob, too, recommended that DEQ not add anything on enforcement to the regulations. Steve Yob recommended that the enforcement options should be left to DEQ discretion. Paul Vaughan said that it is not necessarily enforcement that should be the

tool. Paul said there needs to be an appropriate response, however—such as a Recycling Action Plan (RAP). Jeff Smithberger questioned if this would mean that a new RAP would have to be applied for each year in the case of poor recycling rate performance. Steve Yob said those unsuccessful with recycling rates could apply for a variance, if they qualify. Debbie Devine asked: “But what if some in this low rate category are merely thumbing their noses at the concept of responsible recycling? Bill Dennison said that such enforcement and RAP determinations should be up to DEQ’s discretion.

With regard to **Item #9** (nexus), it was agreed (above) to entertain further discussion of this issue on Feb. 22.

With regard to **Item #10**, Bill Dennison stated that he definitely wants further discussion about market conditions on Feb. 22.

With regard to **Item #11**, RAPs, Jeff Smithberger provided his proposed regulatory language to broaden the RAP concept to “Action Plans” in general, to include opportunities to improve many plan issues—not limited to low recycling rates alone. This topic is to be revisited on Feb. 22.

Also remaining for discussion on Feb. 22 are: **Item #12** (reporting as a unit versus recycling reports); **Item #13** (Amendments); and **Item #14** (Variances). Allen Brockman has agreed to provide proposed draft language on Items 13 and 14 for the TAC’s consideration on Feb. 22.

Bill Dennison asked what the schedule would be for getting the draft regulation to the TAC members prior to the Board meeting. Frank Daniel replied that the TAC will receive the draft regulation at the same time as the Waste Management Board. Also, the TAC members will have the opportunity to comment during the 60 day comment period on the draft regulation. Then Frank referred to the TAC guidelines that had been distributed to TAC members at the Jan. 25, 2006 meeting, where this procedure was explained.

Bill Dennison replied that he wants the record to reflect that he is not happy that he cannot see the draft regulation before it goes to the Waste Management Board. He further stated his concern that these TAC meetings may have just been an exercise in futility if, absent being able to review the draft, members are not assured that their suggestions have been considered by DEQ staff. Mr. Dennison's concern is that we go through the exercise of the TAC meetings, constantly reminded that DEQ is not bound by anything the TAC says or does, and that at the end of the day, DEQ staff totally disregards the TAC's input and drafts what amounts to an internally predetermined position. Bill Dennison stated that he is concerned that DEQ staff will not be listening to the TAC in drafting the regulations.

Debbie Devine agreed with Bill Dennison’s concern that the TAC should be provided the draft regulations during the TAC process and stated that she wanted to see her concern, here, recorded in the minutes.

Jeff Smithberger agreed that he shares Bill and Debbie's concern that the TAC should be provided the draft language during the TAC process and stated that he, too, wanted to see his concern, here, recorded in the minutes. Jeff stated he was aware of the issues with supplying a draft regulation before the Waste Management Board had been briefed, and doubted that it could be accomplished within the remaining time before the next meeting. Discussion also occurred that if TAC members felt that an additional TAC meeting was needed after seeing the draft regulations that a fourth meeting could be called and held (maintaining the public meeting requirement notification) sometime in the future.

Jeff Smithberger asked if the TAC members would be free to distribute the draft regulation to others at the same time the TAC members and the Waste Management Board members receive the draft regulations. Frank Daniel affirmed that TAC members could freely distribute copies of the draft regulations at that time.

Rick Guidry requested that Frank Daniel double check DEQ policy on the draft regulations. Frank Daniel replied that he would double check the policy with the DEQ Director and agency officials.

Allan Lassiter also recommended that the DEQ Director be asked about the policy on draft regulations, particularly if the procedure as explained is a change from prior requirements. Allan stated that he wished the notes to reflect his dissatisfaction with the draft regulation circulation policy. Frank Daniel responded that Allan Lassiter, as a member of the DEQ staff, was welcome to express his own views to the Director.

At this point, Allen Brockman requested the TAC's clarification on future correspondence. The TAC agreed that he should maintain email communication with the TAC after the Feb. 22 meeting to assist him in resolving questions about economic costs associated with the revised regulations (also related to **Item #4**, above), and about other issues as they may arise.

End of Minutes for TAC meeting 2.

Persons attending this meeting as members of the public:

Dori Brown—City of Newport News Public Works

Kathy Frahm—DEQ

Steve Dietrich--DEQ

Leslie Beckwith—DEQ

Leslie Romanchik—DEQ

Sanjay Thirunagari—DEQ

Steve Coe—DEQ

Dan Gwinner—DEQ

On February 9, Allen Brockman sent the following email to the TAC to clarify an issue raised during the meeting:

In response to your questions, raised at yesterday's TAC meeting, Frank Daniel has affirmed with agency officials that DEQ's procedure is not to release a copy of the draft proposed regulations to TAC members prior to sending the draft proposed regulations to the Waste Management Board members in the Board Books. Therefore, at the same time the Board receives the draft proposed regulations in the Board books (Board books are sent out 2 to 3 weeks before the Board's Spring meeting), copies of the draft proposed regulations also will be circulated by email to all of the TAC members for their review.

If the TAC members, after their review of the draft proposed regulations, decide that a fourth TAC meeting is necessary to discuss the proposed draft, DEQ will schedule a fourth TAC meeting in the window prior to the Board's Spring meeting for the purpose of preparing any necessary addenda to the draft proposed regulations, for presentation at the Board's Spring meeting.

Frank Daniel will discuss this procedure further at the 3d TAC meeting on February 22.