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OCT 18 8 45 AM '00

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

*State Capitol - Room MB-49
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610
(304) 347-4840
(304) 347-4919 FAX*

email: tanders@mail.wvnet.edu

*Senator Mike Ross, Co-Chairman
Delegate Mark Hunt, Co-Chairman
Debra A. Graham, Counsel*

*Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Teri Anderson, Administrative Assistant*

October 16, 2000

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Charles Jordan
Solid Waste Management Board
1615 Washington St., East
Charleston, WV 25311

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Rules for Developing, Updating and Amending Comprehensive Litter and Solid Waste Control Plans, 54CSR3**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
(a) as originally filed ☒
(b) as modified by the agency ☐
2. Authorize the agency to promulgate part of the Legislative rule;
a statement of reasons for such recommendation is attached. ☐
3. Authorize the agency to promulgate the Legislative rule with
certain amendments; amendments and a statement of reasons
for such recommendation is attached. ☐
4. Authorize the agency to promulgate the Legislative rule as
modified with certain amendments; amendments and a
statement of reasons for such recommendation is attached. ☐
5. Recommends that the Legislative rule be withdrawn; a statement
of reasons for such recommendation is attached. ☐

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULE

Agency: Solid Waste Management Board

Subject: Rules for Developing, Updating and Amending
Comprehensive Litter and Solid Waste Control Plans

CSR Cite: 54CSR3

Counsel: JAA

PERTINENT DATES

Filed for public comment: June 16, 2000
Public comment period ended: July 17, 2000
Filed following public comment period: August 29, 2000
Filed LRMRC: August 29, 2000
Filed as emergency: n/a

OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE

OCT 10 3 25 PM '00

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Fiscal Impact: None.

ABSTRACT

Summary

This rule is being updated to bring it into compliance with changes in the state code and DEP rules since the rule was last modified in 1991.

The definitions for "composting facility" "recycling" "solid waste" and "transfer station" have been updated to reflect statutory and Office of Solid Waste Management rules amendments.

Section 3.2.a. is amended to require that "comprehensive litter and solid waste control plans" shall be submitted to the Board within 90 days of the creation of a local solid waste authority and be updated every five years.

Section 3.4.b. is amended to require that local authorities submit a copy of their plans to the county planning commissions in addition to regional development council and county clerks of counties covered by the plan.

Section 5.2.b.1. is amended to remove language which lists what state agencies have information on which haulers serve a particular local area.

Section 5.2.c. is amended to include, as part of solid waste plans, the volume of solid waste being generated in the area which is likely to be disposed of within that county or region. Section 5.2.j. is amended to also require the plan provide an estimate of wastes not generated but disposed of in the county or region.

AUTHORITY

Statutory authority: W.Va. Code, §22C-4-23 provides:

The authority may exercise all powers necessary or appropriate to carry out the purposes and duties provided in this article, including the following...

(3) The authority board of directors shall promulgate rules to implement the provisions of sections nine and ten of this article and is authorized to promulgate rules for purposes of this article and the general operation and administration of authority affairs....

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.