

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

FILED

JUL 26 9 24 AM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Solid Waste Management Board TITLE NUMBER: 54

CITE AUTHORITY W.Va. Code §§ 22C-3-6; 22C-4-8; 22C-4-23; 20-11-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES ☒ NO ☐

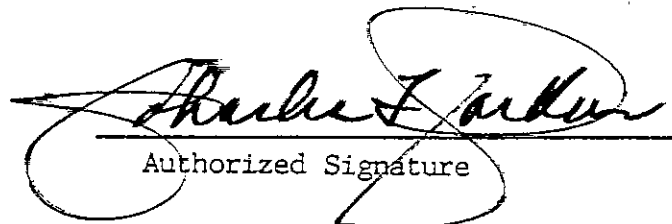
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Rules and Regulations for the Development
of Comprehensive Litter and Solid Waste Control Plans

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature



BUREAU OF ENVIRONMENT
10 McJunkin Road
Nitro, WV 25143-2506

GASTON CAPERTON
GOVERNOR

LAIDLEY ELI MCCOY, PH.D.
COMMISSIONER

July 21, 1995

Ms. Judy Cooper
Director, Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
Charleston, West Virginia 25305

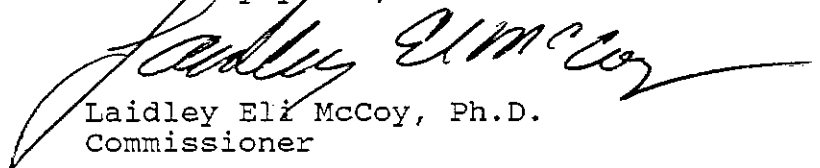
RE: 54CSR3 - "Rules for the Development of
Comprehensive Litter and Solid
Waste Control Plans"

Dear Ms. Cooper:

This is to advise you that I am giving approval for the filing of the above-captioned agency-approved rule with the Secretary of State's Office and Legislative Rule-Making.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please feel free to contact Roger T. Hall at 759-0515.

Sincerely yours,


Laidley Eli McCoy, Ph.D.
Commissioner

LEM;RTH:cc

Attachment

STATEMENT OF CIRCUMSTANCES

TITLE 54 LEGISLATIVE RULES SOLID WASTE MANAGEMENT BOARD

SERIES 3 RULES AND REGULATIONS FOR THE DEVELOPMENT OF UPDATING AND AMENDING COMPREHENSIVE LITTER AND SOLID WASTE CONTROL PLANS

Since the last filing of these rules in 1991, H.B. 4065 was passed changing W.Va. Code. Also, substantial definition changes were made in other solid waste legislation. All 50 plans have been approved by the solid waste authorities and the Solid Waste Management Board. As required by the rules, it is now time for the five-year update of these plans. The original rules related primarily to the "development" of comprehensive litter and solid waste control plans. Changes were made in the rules to advise in the "updating and amending" of the plans.

In working with the solid waste authorities in the development of their plans, it was noted that the rules were difficult for the authorities to understand and ambiguous in certain areas. The changes in the rules have been made to clarify certain requirements and to explain additional requirements of legislation after the 1991 filing date.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations for the Development of Comprehensive Litter and Solid Waste Plans

Type of Rule: ☐ Legislative ☒ Interpretive ☐ Procedural

Agency Solid Waste Management Board

Address 1615 Washington Street East

Charleston, West Virginia 25311

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

No expenses will be incurred with the amending of these rules. Since the last filing in 1991, substantial changes in code have required the updating of these rules. The original rules related primarily to the "development" of comprehensive litter and solid waste control plans by the county solid waste authorities. Changes were made to advise in "updating and amending" the plans.

3. Objectives of these rules:

To provide advisory rules to the solid waste authorities in the updating and amending of comprehensive litter and solid waste control plans as required by W.Va. Code §§ 22C-3-6; 22C-4-8; 22C-4-23; 20-11-1 et seq.

Rule Title: Rules and Regulations for the Development of Comprehensive Litter and Solid Wastes Control Plans

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

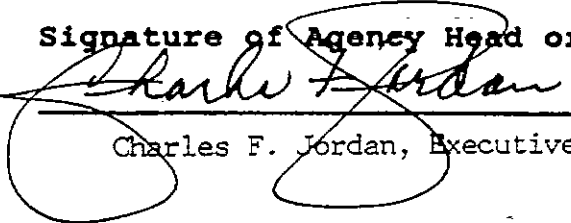
None

C. Economic Impact on Citizens/Public at Large.

None

Date: June 21, 1995

Signature of Agency Head or Authorized Representative

 6/21/95
Charles F. Jordan, Executive Director 558-0844

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Solid Waste Management Board

LEGISLATIVE RULE TITLE: Rules and Regulations for the Development of
Comprehensive Litter and Solid Waste Control Plans

1. Authorizing statute(s) citation W.Va. Code §§ 22C-3-6; 22C-4-8;

22C-4-23; 20-11-1 et seq.

2. a. Date filed in State Register with Notice of Hearing

June 22, 1995

b. What other notice, including advertising, did you give
of the hearing?

Mailed copy of proposed rules to 50 Solid Waste Authorities

requesting comments

c. Date of Hearing(s) N/A

d. Attach list of persons who appeared at hearing,
comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved
proposed Legislative Rule following public hearing:
(be exact)

July 26, 1995

f. Name and phone number(s) of agency person(s) to
contact for additional information:

Charles F. Jordan 558-0844

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

- b. Date of hearing: N/A
-

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

- d. Attach findings and determinations and reasons:

Attached N/A

SUMMARY

TITLE 54 LEGISLATIVE RULES SOLID WASTE MANAGEMENT BOARD

SERIES 3 RULES AND REGULATIONS FOR THE DEVELOPMENT OF UPDATING AND AMENDING COMPREHENSIVE LITTER AND SOLID WASTE CONTROL PLANS

The modifications to the above rule include:

1. Changing W.Va. Code citations to conform to the new legislation passed during the 1994 Legislative Session as H.B. 4065.
2. Removing definitions that were not used in the rules and updating existing definitions.
3. Providing language to conform to current code.
4. Providing clearer instructions for updating and amending plans.
5. Providing additional information on recycling plans and universal garbage collection.

FILED

JUL 26 9 24 AM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**TITLE 54
LEGISLATIVE RULES
SOLID WASTE MANAGEMENT BOARD**

**SERIES 3
RULES AND REGULATIONS FOR ~~THE DEVELOPMENT OF~~ UPDATING AND
AMENDING COMPREHENSIVE LITTER AND SOLID WASTE CONTROL PLANS**

§ 54-3-1. General.

1.1. Scope. - The scope and purpose of these ~~regulations~~ rules is to establish minimum standards and planning requirements for all county and regional solid waste authorities to follow in ~~the development of updating and amending~~ comprehensive litter and solid waste control plans as required by W.Va. Code ~~§ 20-9-4~~ § 22C-4-1 et seq. Such minimum standards and requirements are designed to protect the public health, safety, and environment throughout the State of West Virginia; provide for an integrated waste management hierarchy; provide for the most effective and efficient use of available resources; and to ensure the establishment of the most proper and effective solid waste collection, transportation, processing, recycling, and disposal services for all residents of the State.

1.2. Filing Date. --

1.3. Effective Date. --

1.4. Authority. -- W. Va. Code §§ ~~16-26-6; 20-9-7; 20-9-12;~~ 22C-3-6; 22C-4-8; 22C-4-23; 20-11-1 et seq.

§ 54-3-2. Definitions

The following words and terms, when used in these ~~regulations~~ rules, shall have the following meaning, unless the context clearly indicates otherwise:

2.1. ~~"Approved Solid Waste Facility" - means a commercial solid waste facility or practice which has a valid permit or compliance order under W. Va. Code §20-5F-1 et seq.~~

~~2-2-2.1.~~ "Authority" - means any solid waste authority of any county or region in West Virginia, established by ~~West Virginia Code §20-9-3 and §20-9-4~~ W. Va. Code § 22C-4-3 and § 22C-4-4; or the County Commission of any county which elected not to establish an authority, as allowed by ~~West Virginia Code §20-9-5a~~ W. Va. Code § 22C-4-6.

~~2-3-2.2.~~ "Board" - means the West Virginia Solid Waste Management Board as established by ~~West Virginia Code §16-26-4~~ W. Va. Code § 22C-3-4, or its authorized representatives.

~~2.4. "Commercial Solid Waste Facility" - means any solid waste facility which accepts solid waste generated by sources other than the owner or operator of the facility and shall not include an approved solid waste facility owned and operated by a person for the sole purpose of disposing of solid wastes created by that person or that person and another person on a cost sharing or nonprofit basis and shall not include the legitimate reuse and recycling of materials for structural fill, road base, mine reclamation and similar applications.~~

~~2-5-2.3.~~ "Composting Facility" - means a facility at which organic solid waste is biologically decomposed under controlled anaerobic or aerobic conditions to yield a humus-like product. means any solid waste facility processing solid waste by composting, including sludge composting, organic waste or yard waste composting, but does not include a facility for composting solid waste that is located at the site where the waste was generated.

~~2.6. "Energy Recovery Facility" - means any resource recovery facility at which solid wastes are incinerated, or processed for future incineration, with the intention of using the resulting energy for generation of steam, electricity, or any other use not specified in these regulations.~~

~~2.7. "Incinerator" - means any device used to accomplish incineration, including incinerators associated with resource recovery.~~

~~2-8-2.4.~~ "Landfill" - means a facility or part of one at which solid waste, or its residue after treatment, is intentionally placed in or on land, and at which solid waste will remain after closure. The term landfill does not include a land application unit, surface impoundment, solid waste disposal surface impoundment or injection well. means any solid waste facility for the disposal of solid waste on land. Such facility, for the purposes of this rule, is situated in the county where the majority of the spatial area of such facility is located.

~~2-9-2.5.~~ "Materials Recovery Facility" - means any resource recovery facility at which solid wastes are manually or mechanically shredded, separated, and recovered from the general waste stream for the purpose of recycling or reusing the resource recovered. means any solid waste facility at which source-separated materials or materials recovered through a mixed waste processing facility are manually or

mechanically shredded, or separated, for purposes of reuse and recycling, but does not include a composting facility.

2-10-2.6. "Open Dump" - means any solid waste disposal which does not have a permit under W. Va. Code ~~§20-5F-1~~ § 22-15-1 et seq., or is in violation of state law, or where solid waste is disposed in a manner that does not protect the environment.

2-11-2.7. "Plan" or "Comprehensive Plan" - means the comprehensive litter and solid waste control plan or update of such plan required under W. Va. Code ~~§20-9-7~~ § 22C-4-8 and Section 6 of these rules.

2-12-2.8. "Recycle" or "Recycling" - means the collection, separation, recovery and sale, or reuse of metals, glass, paper, and other materials.

2-13-2.9. "Recycling Facility" - means any solid waste facility for the purpose of recycling at which neither land disposal, nor biological, chemical or thermal transformation of solid waste occurs. ~~Sorting of recyclables into separate categories may occur, but the manual or mechanical separation of recyclables from the general waste stream may not.~~ Provided, That mixed waste recovery facilities, sludge processing facilities and composting facilities are not considered recycling facilities nor considered to be reusing or recycling solid waste within the meaning of W.Va. Code §§ 20-11, 22-15, 22C-4.

2-14-2.10. "Resource Recovery Facility" - means any solid waste facility at which solid wastes are mechanically, biologically, chemically, or thermally transformed for the purpose of separating, removing, or creating any material or energy for reuse or sale and at which land disposal of solid waste does not occur. Resource recovery facilities include composting facilities, environmentally acceptable incinerators, materials recovery facilities, energy recovery facilities and other such solid waste facilities not herein specified.

2-15-2.11. "Solid Waste" - means any garbage, paper, litter, refuse, cans, bottles, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, other discarded material, including ~~carcasses of any dead animal or any other~~ offensive or unsightly matter, solid, liquid, semisolid or contained liquid or gaseous material resulting from industrial, commercial, mining or ~~from~~ community activities but does not include solid or dissolved material in sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources and have permits under W. Va. Code ~~§20-5A~~ § 22-11, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, including any nuclear or by-product material considered by federal standards to be below regulatory concern, or a hazardous waste either identified or listed under W. Va. Code ~~§20-5E~~ § 22-18, or refuse, slurry, overburden or other wastes or material resulting from coal-fired electric power or steam generation, the exploration, development, production, storage and recovery of coal, oil and gas, and other mineral resources placed or disposed of at a facility which is regulated under W. Va. Code Chapter ~~§§ 22, Chapter 22A, or Chapter 22B~~, so long as such placement or disposal is in conformance with permit issued

pursuant to said chapters; "solid waste" ~~shall also~~ does not include materials which are recycled by being used or reused in an industrial process to make a product, as effective substitutes for commercial products, or are returned to the original process as a substitute for raw material feedstock.

~~2-16-2.12.~~ "Solid Waste Disposal" - means the practice of disposing of solid waste including placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any solid waste.

~~2-17-2.13.~~ "Solid Waste Facility" - means any system, facility, land, contiguous land, improvements on the land, structures or other appurtenances or methods used for processing, recycling or disposing of solid waste, including landfills, transfer stations, ~~environmentally acceptable incinerators, resource recovery facilities, recycling facilities,~~ materials recovery facilities, mixed waste processing facilities, composting facilities, energy recovery facilities and other such facilities not herein specified, but not including land upon which sewage sludge is applied in accordance with W.Va. Code § 22-15-20 (b). Such facility shall be deemed to be situated, for purposes of these ~~regulations~~ rules, in the county where the majority of the spatial area of such facility is located: Provided, That a salvage yard, licensed and regulated pursuant to the terms of W.Va. Code § 17-23, is not a solid waste facility.

~~2.14.~~ "Source-separated materials" - means materials separated from general solid waste at the point of origin for the purpose of reuse and recycling but does not mean sewage sludge.

~~2-18-2.15.~~ "Transfer Stations" - means a combination of structures, machinery or devices at a place or facility where solid waste is taken from collection vehicles and placed in other transportation units for movement to another solid waste management facility.

§ 54-3-3. Procedure for Plan Development and Approval.

3.1. Submission to the Board.

~~3.1.1. No later than March 31, 1991, each authority shall submit to the Board one copy of a draft comprehensive litter and solid waste control plan. The comprehensive and solid waste control plan is to be updated and submitted to the Board every five years. The plan shall be submitted five years from the date of initial Board approval.~~

3.2. Administrative Completeness Plan Review.

~~3.2.1. The Board shall review each plan for administrative and technical completeness. If the Board finds the draft plan to be incomplete, i.e., to not contain all of the information required by these regulations~~ rules, it shall return the plan to the authority along with a written statement explaining how the plan is incomplete.

~~3.2.2. The authority shall have thirty (30) days to amend the plan by providing the remaining required information and to submit the amended plan to the Board. No plan will be reviewed for technical merit until it is administratively complete.~~

~~3.3. Technical Review.~~

~~3.3.1. When a plan is determined to be administratively complete, it will be subjected to a technical review of its contents, procedures, and processes.~~

~~3.3.2. If the Board determines that the plan should be rejected, it shall return the plan to the authority with a written statement of the insufficiencies in the plan.~~

~~3.3.3.3.2.2.~~ Within ninety (90) days of receipt of a letter disapproving the plan, or by July 1, 1991, whichever is later, the authority shall revise the plan to eliminate the insufficiencies and submit the amended corrected plan to the Board.

~~3.4.3.3.~~ Final Submission to the Board.

~~3.4.2.3.3.1.~~ The Board shall approve the final plan in writing if the Board determines that the plan complies with the purposes and requirements of applicable state and applicable federal law, if any, and the regulations rules promulgated in this series.

~~3.4.1.3.3.2.~~ No later than July 1, 1991 or a later date if allowed under subsection ~~3.3.3.~~ of these regulations sixty (60) days after approval, each county authority shall submit to the Board ~~three (3)~~ four (4) copies of its final plan. Each regional authority must submit one additional copy of the plan for each county within that region.

~~3.5.3.4.~~ Plans Developed by the Board.

~~3.4.1~~ The Board shall has developed a plan for any authority which ~~failed~~ to submit a plan ~~on or before July 1, 1991, or such other date established in subsection 3.3.3, of these regulations, provided that in preparing such plans, the Board may determine whether to prepare a regional or county-based plan for these authorities which fail to complete such a plan.~~

~~3.4.2~~ Once a plan has been developed for an authority, the authority shall be responsible for the five-year plan update.

§54-3-4. Required Format of Plan.

4.1. Required Format.

In addition to the information required in Section 5 of these regulations rules, each plan submitted shall include:

~~(1)~~ 4.1.1. A cover sheet which includes the name of the authority, the ~~name~~ title of the plan, and the signature of the ~~chairman~~ of the authority chair;

~~(2) 4.1.2. A forward or preface which includes the purpose of the plan; An introduction explaining the plan's background, scope and purpose;~~

~~(3) 4.1.3. A table of contents indicating the major subdivisions of the plan;~~

~~(4) 4.1.4. A brief summary of the plan and its procedures, its methodology and its conclusions; An executive summary of the plan which briefly describes its methodology, goals and objectives, conclusions and recommendations;~~

~~(5) 4.1.5. The published announcement of all public hearings; A copy of the Class I legal advertisement as specified in Section 7.1 of these rules regarding the required public hearings;~~

~~(6) 4.1.6. A brief summary of public comments and a statement describing how the authority responded to the public comments; and~~

~~(7) 4.1.7. Appropriate highway maps; Maps of an appropriate size and scale that will allow the reader to identify the location of features, services, facilities and population listed in 5.5.5a and 5.2.2c;~~

§ 54-3-5. Content of Plan.

5.1. General Information.

The plan shall include the following general information:

5.1.1. ~~Description of the purposes of the plan goals and objectives for solid waste management within the authority for a period of twenty (20) years;~~

5.1.2. ~~Status of existing solid waste management activities in the county or region and a description of how the plan has been implemented. If portions of the plan have not been implemented, discuss the reasons and need for plan modification;~~

5.1.2.3. ~~Descriptions of the funding and resources necessary to implement the plan and a strategy for the provision of those funds and resources; and Describe how funds, including grant funding, have been used and will be used to implement the plan;~~

5.1.3.4. ~~A description of the authority's evaluation of~~ Describe the actions taken by the authority to implement the hierarchy established in W. Va. Code §20-9-1 § 22C-4-1 and how the authority gives preference to alternatives in the following order of priority: (1) source reduction, (2) recycling, reuse and resource recovery, and (3) landfilling.

5.2. Specific Information and Data.

In addition, the plan shall include the following specific information:

5.2.1. An assessment of litter and solid waste problems in the county ~~including, but not limited to, a listing of any open and unpermitted dumps and any other problem areas for litter control. A limited amount of information on open dumps is available from the State Division of Natural Resources (DNR).~~

5.2.2. ~~Provisions for the establishment of~~ An evaluation and assessment of existing solid waste collection and disposal services for all county residents at their residences, where practicable, or the use of refuse collection stations at disposal access points in areas where residential collection is not practicable. In developing such collection services, primacy shall be given to private collection services currently operating with a certificate of convenience and necessity from the motor carrier division of the State Public Service Commission.

5.2.2.a. Locate on a county highway map or maps, and include a listing of, haulers and areas served, existing and planned solid waste collection, storage, treatment, transportation, disposal, recycling and other management facilities, and their projected capacities ~~and systems for their use.~~ Information shall be included for all solid waste generated within the area covered by the authority from collection to final disposal whether or not the above listed facilities are located within the geographic area of the authority. Information on private haulers is available from the State Public Service Commission. Contact local government for information on public haulers. Information on existing permitted landfills and transfer stations is available from ~~DNR~~ DER. Limited information on recycling facilities is available from the Board and ~~DNR and Governor's Office of Community and Industrial Development.~~

5.2.2.b. Include demographic information and projections over twenty (20) years ~~of population growth and development patterns;~~ Information may be obtained from Regional Research Institute at West Virginia University.

5.2.2.c. Include data on urban concentrations, geographic conditions, ~~markets,~~ transportation conditions, and related factors.

5.2.2.c.1. ~~Regarding urban concentrations,~~ Indicate the regions which are predominantly urban in nature, their population density, projected changes in the area or population of these regions. Also indicate any additional regions which are expected to ~~become urban in the future~~ urbanize or where growth is anticipated.

5.2.2.c.2. ~~Regarding geographic conditions,~~ Include a general description of ~~such conditions~~ geographic features in the region, e.g., rolling hills, steep valleys, narrow river plains, or eroded plateau. A short description of soil conditions and underlying bedrock is also requested.

~~5.2.2.c.3. Regarding markets, describe the existing and anticipated markets for resource recovery, materials recovery, recycling, energy recovery facilities, environmentally acceptable incinerators, and composting facilities within the area.~~

~~5.2.2.c.4.3. Regarding transportation conditions, Identify major highways, rail or river routes currently used in the transportation of solid waste and which are anticipated to be used in the future. Describe any existing or anticipated problem areas and conditions along such routes.~~

5.2.3. A recommendation, and the reasons for such recommendation, for the siting of one or more properly permitted public or private solid waste landfills and other solid waste facilities, whether existing or proposed, to serve the solid waste needs of the county or the region, as the case may be, consistent with the comprehensive plan prepared by the county planning commission;

5.2.3.a. To ensure that the present and future solid waste needs of the county or regional authority are attained, the authority may recommend that its solid waste be processed, recycled or disposed of at an existing or proposed solid waste facility located either within or without the authority's geographic area.

5.2.3.b. If an authority recommends that its solid waste be processed, recycled or disposed of at a proposed solid waste facility, such facility may not be located within a prohibited or tentatively prohibited zone established pursuant to 54 CSR Series 4.

5.2.3.c. Whether an authority proposes using a solid waste facility within its area or outside its area, it shall provide documentation that the facility will meet the authority's future solid waste needs.

~~5.2.4. The evaluation, including specific reasons, of the feasibility of requiring or encouraging the separation of residential or commercial solid waste at its source prior to collection for the purpose of facilitating the efficient and effective recycling of such wastes and the reduction of those wastes which must be disposed of in landfills or by other nonrecycling means;~~

~~5.2.5. A comprehensive recycling plan as required under W. VA. Code §20-11-4 designed to reduce the solid waste stream by twenty percent (20%) by January 1, 1994 and to further reduce the solid waste stream by thirty percent (30%) by January 1, 2000. The comprehensive recycling plan shall include, but not be limited to:~~

~~5.2.5.a. Designation of the recyclable materials that can be most effectively source separated in the region or county, which shall include at least three recyclable materials; and~~

~~5.2.5.b. Designation of potential strategies for the collection, marketing and disposition of designated source separated recyclable materials in each region or county including consideration of utilizing existing private and public recycling facilities.~~

~~5.2.6. A copy of any ordinance adopting a county recycling program pursuant to W. Va. Code §20-11-5, if applicable.~~

~~5.2.7. Innovative incentives to promote recycling efforts, e.g., a competition between schools for tonnage recycled, a poster or essay contest in schools, developing a new recycling market such as using shredded paper for animal bedding or car tires in playground construction.~~

5.2.8.4. A timetable for the implementation of the plan over the twenty(20) year projection including stages of progress toward the accomplishment of each item in section 5.2. of these regulations rules and the parties responsible for each step in the timetable;

5.2.9.5. A program for the cleanup, reclamation and stabilization of any open and unpermitted dumps. The authority should consider using the Pollution Prevention Open Dumps (PPOD) cleanup funds available through the ~~DNR~~ DEP.

5.2.10.6. A program to enlist the voluntary assistance of private industry and civic groups in volunteer cleanup efforts to the maximum practicable extent;

5.2.11.7. Coordination with the West Virginia Division of Highways and other local, state, and federal agencies in the control and removal of litter and the cleanup of open and unpermitted dumps;

5.2.12.8. Establishment of a program to encourage and utilize those individuals incarcerated in the county jail and those adults and juveniles sentenced to probation for the purposes of litter pickup. Coordination with the local Sheriff's office and magistrate's office will be required.

5.2.13.9. Provisions for the coordination of the plan with the related solid waste collection and disposal services of municipalities and, if applicable, other counties. Copies of any intergovernmental agreements shall be included in the plan.

5.2.14.10. A program to identify the disposal of solid wastes which are not generated by sources situated within the boundaries of the authority. Information on the source of wastes may be available from the ~~Division of Natural Resources~~ DEP and landfills within the county or region for which the plan is being developed.

5.2.15.11. Provision for the safe and sanitary disposal of all refuse from commercial and industrial sources within the county or region, as the case may be, including refuse from commercial and industrial sources, but excluding refuse from sources owned or operated by the state or federal governments.

~~5.2.15.a.11.a.~~ The purpose of this requirement is to ensure that the comprehensive plan addresses not only solid waste from county residents but also solid waste generated by commercial and industrial sources within the county or region and further to ensure that all such solid waste is disposed of in a manner which protects the public health and welfare.

~~5.2.15.b.11.b.~~ In order to carry out these purposes the authority shall inventory all major industrial and commercial sources of solid waste within its boundaries and determine the nature and quantity and ultimate disposal location of solid wastes which are disposed of at a location outside the property boundary of the particular source. Such information and data shall be included in the plan. For the purposes of this paragraph, the word "major" shall mean any industrial or commercial facility which generates more than five (5) tons of solid waste per month.

~~5.2.15.c.11.c.~~ The authority shall evaluate the information and data it collects pursuant to paragraph ~~5.2.15~~11.b. of these ~~regulations~~ rules for the following purposes:

~~5.2.15.c.1.11.c.1.~~ To determine what impact such solid wastes have and are expected to have on the overall solid waste collection, transportation, processing, recycling, and disposal system of the county or region.

~~5.2.15.c.2.11.c.2.~~ To ensure that such wastes are disposed of in an approved solid waste facility or in an otherwise lawful manner.

~~5.2.15.d.11.d.~~ The authority shall include its evaluation of this information and conclusions reached in the comprehensive plan.

~~5.2.16.~~ ~~The establishment of an appropriate mandatory garbage disposal program which shall include methods whereby residents must prove either (1) payment of garbage collection fee or (2) proper disposal at an approved solid waste facility or in an otherwise lawful manner. The authority shall include a copy of its rules and regulations implementing this provision as required under W. Va. Code §20-9-12(3). In establishing the methods for providing proper proof the authority shall comply with the regulations of the West Virginia Division of Natural Resources pertaining to such methods under 47 CSR 38B.~~

~~5.2.17.~~ ~~Provisions for how the authority will assist local law enforcement officials in the enforcement of the mandatory garbage disposal program.~~

~~5.2.18.12.~~ A summary of all written and oral public comments received at the public hearings required under Section 7 of these ~~regulations~~ rules, including a statement of how the authority responded to the comments. Public hearings for the comprehensive plan update may be held at the same time as siting plan update hearings as long as both plans are advertised and addressed equally.

5.3 Comprehensive recycling plan.

The comprehensive recycling plan shall include, but not be limited to:

5.3.1. The evaluation, including specific reasons, of the feasibility of requiring or encouraging the separation of residential or commercial solid waste at its source prior to collection for the purpose of facilitating the efficient and effective recycling of such wastes and the reduction of those wastes which must be disposed of in landfills or by other nonrecycling means;

5.3.2. Designation of the recyclable materials that can be most effectively source separated in the region or county, which shall include at least three recyclable materials. Before designation of the materials, the following should be examined:

5.3.2.a. Characterization of the waste stream to determine the quantity of materials potentially available for recycling. Geographic location and seasonal fluctuations should be taken into account in identifying sources of waste.

5.3.2.b. Description of the existing and anticipated markets for resource recovery, materials recovery, recycling and composting facilities within the area. Intermediate and final markets should be identified. Markets will dictate the types, quantity and quality of materials collected. Market conditions will dictate the type of processing necessary.

5.3.3. Designation of potential strategies for the collection, marketing and disposition of designated source separated recyclable materials in each region or county including consideration of utilizing existing private and public recycling facilities.

5.3.3.a. Estimate the likely program recovery rate through an analysis of residential, commercial and industrial recycling potential. All current recycling activities, including collection and processing, should be identified. Existing capacity of all municipal solid waste management facilities, public and private, should be examined.

5.3.4. A copy of any ordinance adopting a county recycling program pursuant to W. Va. Code §20-11-5, if applicable. Minutes from the authority board meeting where the ordinance is adopted should also be included.

5.3.5. A public education program to include:

5.3.5.a. Definition of the goals and objectives of the recycling educational efforts.

5.3.5.b. Identification of target audiences and the development of appropriate messages and formats. This should include the selection of an appropriate media for conveying recycling messages and development of educational materials. Use of materials that are readily available is encouraged.

5.3.5.c. Identification of methods to disseminate information and the development of an effective media relations strategy. Community organizations that can assist in the implementation of a public information program should be utilized.

5.3.5.d. Innovative incentives to promote recycling efforts, e.g., a competition between schools for tonnage recycled, a poster or essay contest in schools, developing a new recycling market such as using car tires in playground construction.

5.3.5.e. Plans for evaluation of recycling education effectiveness on recycling rate, program expansions and other changes that measure progress.

5.4. Establishment of an appropriate mandatory garbage disposal program.

The program shall include:

5.4.1 Methods whereby residents must prove either (1) payment of garbage collection fee or (2) proper disposal at an approved solid waste facility or in an otherwise lawful manner. The authority shall include a copy of its rules and regulations implementing this provision as required under W. Va. Code § 22C-4-23(3). In establishing the methods for providing proper proof, the authority shall comply with the DEP Title 47 Series 38B rules.

5.4.2 Provisions for how the authority will assist local law enforcement officials in the enforcement of the mandatory garbage disposal program.

§ 54-3-6. Review and Amendment Process.

6.1. Each authority shall review the plan for its county or region every five years. Public notice and hearing on any amendments shall be held in the same manner as outlined in Section 7 of these regulations rules. Any changes or amendments proposed by the authority shall be submitted to the Board for approval.

6.2. At the time of the five year review, the authority shall, in addition to any other amendments considered necessary, extend the period of time covered by the plan to include the next twenty (20) years following the five year review date. ~~The authority shall amend the plan by revising the following:~~

~~6.2.1. Purposes and objectives for solid waste management within the authority;~~

~~6.2.2. Demographic information and projections over the twenty (20) year period;~~

~~6.2.3. Timetable for the implementation of the plan, including each item in section 5.2. of these regulations.~~

6.3. The plan may be amended at any time by the county or regional authority which originated the plan. Amendments must meet all requirements of the original plan, including that of holding a public hearing as detailed in Section 7 of these ~~regulations~~ rules. No amendments may become effective until approved by the Board in the same manner as the original plan.

6.4. A grant may be obtained from the Solid Waste Management Board for the purpose of updating the comprehensive plan in accordance with Section 4.4 of the SWMB Title 54 Series 5 Rules and Regulations for the Disbursement of Grants to Solid Waste Authorities.

6.5. Minutes from the authority meeting in which the updated or amended plan is approved shall be included in the amended or updated plan before final submittal for approval by the Board. Minutes should be signed by the chair. It is the authority's responsibility to ensure that it is legally constituted to conduct business in accord with W.Va. Code § 22C-4-1 et seq.

§ 54-3-7. Public Participation Process.

7.1. Public Notice and Hearing.

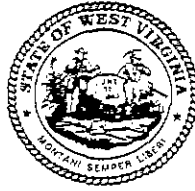
7.1.1.a Prior to the submission of a draft plan to the Board and to assist the authority in the development of a draft plan, the authority shall publish notice and hold at least one public hearing to solicit ideas, opinions and comments from the general public on the development of the draft plan.

7.1.1.a. The authority shall publish notice of the hearing at least thirty (30) days in advance of the hearing as a Class I legal advertisement published in a qualified newspaper, as defined in W. Va. Code § 59-3-1, serving the county or counties, whichever is appropriate.

7.1.1.b. The authority shall consider the public comments received at the public hearing and shall record the proceedings of the hearing ~~or~~ and prepare a written summary of the proceedings.

7.1.2. After submission of the draft plan to the Board, the authority shall publish notice and conduct at least one public hearing to solicit ideas, opinions and comments from the general public concerning the plan.

7.1.2.a. The authority shall publish notice of the hearing at least thirty (30) days in advance of the hearing as a Class I legal advertisement published in a qualified newspaper, as defined in W. Va. Code § 69-3-1, serving the county or counties, whichever is appropriate, and by posting the public notice at the appropriate county courthouse or courthouses.



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TITLE 54
LEGISLATIVE RULES
SOLID WASTE MANAGEMENT BOARD

SERIES 3
RULES AND REGULATIONS FOR THE DEVELOPMENT OF UPDATING AND
AMENDING COMPREHENSIVE LITTER AND SOLID WASTE CONTROL PLANS

COMMENT PERIOD CLOSED 7/24/95, 4:00 P.M.

NO COMMENTS RECEIVED

NO CHANGES MADE



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