

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

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2006 JUL 24 A 11:53

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: West Virginia Solid Waste Management Board TITLE NUMBER: 54

CITE AUTHORITY: W. Va. § 22C-3-26, W. Va. § 22C-4-9a(d), and W. Va. § 22C-4-9a(g)

AMENDMENT TO AN EXISTING RULE: YES NO X

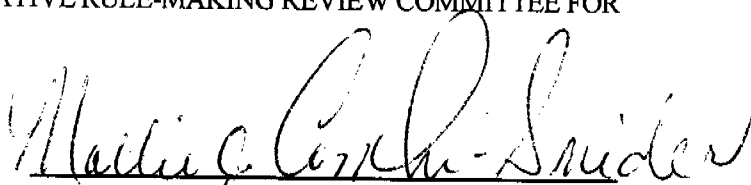
IF YES, SERIES NUMBER OF RULE BEING AMENDED: N/A

TITLE OF RULE BEING AMENDED: N/A

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 54 CSR 6

TITLE OF RULE BEING PROPOSED: Performance Measures and Review Standards for Solid Waste
Authorities Operating Commercial Solid Waste Facilities

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

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 7/24/06

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Solid Waste Management Board
601 57th Street, SE
Charleston, WV 25304
(304) 926-0448

LEGISLATIVE RULE TITLE: ~~Performance Measures and Review Standards for Solid~~
Waste Authorities Operating Commercial Solid Waste Facilities

1. Authorizing statute(s) citation W Va § 22C-3-26, W Va § 22C-4-9a(d), and W Va
§ 22C-4-9a(g).

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

Notice of Hearing Filed May 22, 2006, Notice of Comment Period May 24, 2006

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

Notification to the Solid Waste Management Board Members, Chair and landfill managers of the
seven affected Solid Waste Authorities, West Virginia Public Service Commission staff, Office of
the State Auditors, Department of Environmental Protection Permit Section, the West Virginia
Waste Haulers Association and the Association of West Virginia Solid Waste Authorities.
Publication in the Charleston Gazette and the Charleston Daily Mail.

c. Date of Public Hearing(s) *or* Public Comment Period ended:

Public Hearing 6/21/06 and the Public Comment Period ended 6/23/06 at 4:00 p.m.

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

Attached X No comments received

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

July 24, 2006

- f. Name, title, address and **phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Richard P. Cooke

Executive Director

601 57th Street, SE

Charleston, WV 52304

Telephone: (304) 926-0448

Fax (304) 926-0472

E-mail: dcooke@wvswmb.org

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same as above

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 or comment period:

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



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LEGAL ADVERTISING INVOICE

INVOICE DATE	05/26/06
ACCOUNT NBR	069170006
SALES REP ID	0014
INVOICE NBR	318425001

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The Daily Mail is at a rate of \$.14 per word, and the Charleston Gazette is at a rate of \$.14 per word.

ISSUE DATE	AD TYPE	PUB	DESCRIPTION	AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR PURCHASE ORDER #		TOTAL RUN			
05/25	LEG	DM	Public Hearing - Tit	0228769	1X0425			
			318425001		4.25	8.82	37.49	37.49
05/25	LEG	GZ	Public Hearing - Tit		1X0425			
			318425002		4.25	8.82	37.49	37.49
TOTAL INVOICE AMOUNT								74.98

State of West Virginia,

AFFIDAVIT OF PUBLICATION

Danara Lays

of

A DAILY DEMOCRATIC NEWSPAPER,

APER,

solemnly swear that the annexed notice of

was posted at the front door of the court house of said Kanawha County,
published during the following dates: 05/25/06-05/25/06



Notary Public of Kanawha County, West Virginia

In accordance with Chapter 29A, Article 3 of the W.Va. Code, notice is hereby given that the West Virginia Solid Waste Management Board will conduct a Public Hearing on Wednesday, June 21, 2006, at 1:30 p.m. to receive oral statements and written public comments regarding the proposed TITLE 24, LEGISLATIVE PERFORMANCE MEASURES AND REVIEW STANDARDS FOR SOLID WASTE OPERATING AUTHORITIES. The public hearing will be held in conference room 1041 at the DEP building located at 601 57th Street, SE, Charleston, Kanawha County, West Virginia.

Written comments regarding the proposed TITLE 24, LEGISLATIVE PERFORMANCE MEASURES AND REVIEW STANDARDS FOR SOLID WASTE OPERATING AUTHORITIES may be mailed to: West Virginia Solid Waste Management Board, Attn: Richard P. Cooke, 601 57th Street, SE, Charleston, WV 25304 and must be received by 4:00 p.m. on Friday, June 23, 2006.



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ACCOUNTS PAYABLE
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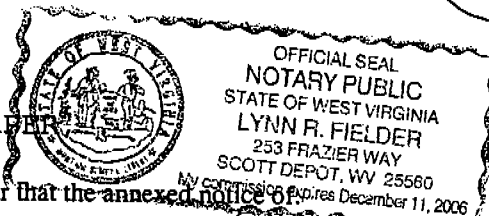
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			318425002		4.25	8.82	37.49	37.49
TOTAL INVOICE AMOUNT								74.98

State of West Virginia,

AFFIDAVIT OF PUBLICATION

I, Danara Lugs of THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER
THE DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER,
published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of
Public Hearing - Title 5
was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha Count
West Virginia, on the 26TH day of MAY 2006. Published during the following dates: 05/25/06-05/25/06
Subscribed and sworn to before me this 30 day of May
Printers fee \$ 74.98



Notary Public of Kanawha County, West Virginia



west virginia department of environmental protection

Solid Waste Management Board
601 57th Street SE
Charleston, WV 25304
(304) 926-0448
www.state.wv.us/swmb

Joe Manchin III, Governor
Stephanie R. Timmermeyer, Cabinet Secretary
www.wvdep.org

May 22, 2006

NUMBER OF PAGES : 1

RE: Publication of Public Comment Period and Public Hearing

FAX TO: The Charleston Newspapers
Fax # 348-5133 (348-4844 Legal Ad Dept.)

**PUBLIC
HEARING
AND
COMMENT
PERIOD
NOTICE:**

In accordance with Chapter 29A, Article 3 of the W.Va. Code, notice is hereby given that the West Virginia Solid Waste Management Board will conduct a Public Hearing on **Wednesday, June 21, 2006 at 1:30 p.m.** to receive oral statements and written public comments regarding the proposed **TITLE 54 LEGISLATIVE RULE SERIES 6** entitled **PERFORMANCE MEASURES AND REVIEW STANDARDS FOR SOLID WASTE AUTHORITIES OPERATING COMMERCIAL SOLID WASTE FACILITIES**. The public hearing will be held in conference room 1041 at the DEP building located at 601 57th Street, SE, Charleston, Kanawha County, West Virginia.

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Publish in the: ☒ Charleston Gazette ☒ Daily Mail

Please publish the notice above as a Class I legal advertisement, soon as received in the Charleston Newspaper selected. Publish one time only.

Attention Billing Clerk - Charleston Newspapers, Legal Ad Dept.

The invoice must be itemized with a descriptive break-down of cost. Please send an original and two copies of the invoice, an original Affidavit of Publication, and one tear sheet of the ad to the Solid Waste Management Board, 601 57th Street SE, Charleston, WV 25304.

With kindest regard,


Richard P. Cooke, Executive Director
Solid Waste Management Board

TRANSMISSION VERIFICATION REPORT

TIME : 05/22/2006 20:30
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TEL : 304-926-0448

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SUMMARY OF PROPOSED RULE

This legislative rule establishes a system for performance reviews and measures to be conducted by the West Virginia Solid Waste Management Board. Solid waste authorities operating a commercial solid waste facility shall report quarterly, or more often, in the areas of regulatory/statutory compliance, finances, operations, and management.

Biennial performance reviews shall be conducted of each county and regional solid waste authorities operating a commercial solid waste facility. These reviews will benchmark both the performance of the authority and of the commercial solid waste facility.

STATEMENT OF CIRCUMSTANCES

On April 8, 2005 the West Virginia State Legislature passed House Bill 3356 which was signed by Governor Joe Manchin III on May 4, 2005 and became effective on July 7, 2005. This new law mandated that the West Virginia Solid Waste Management Board propose legislative rules for promulgation to implement a performance review process and system of quarterly performance measures.

The Legislature determined that there were circumstances regarding the productivity and operational health of solid waste authorities that operate commercial solid waste facilities that necessitate performance measures and reviews to gauge their health and foster accountability.

Fiscal Note for Proposed Rules

Rule Title: "Performance Measures and Review Standards For Solid Waste Authorities Operating Commercial Solid Waste Facilities"

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: Solid Waste Management Board

Address: 601 57th Street, S.E.
Charleston, WV 25304

Phone Number: 304-926-0448 Email: dcooke@wvswmb.org

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

Conducting biennial Performance Reviews on the Solid Waste Authorities that operate commercial solid waste facilities will be conducted by current SWMB staff and will have limited impact on SWMB finances.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of breakdown by fiscal year, including long-range effect.

Effect of Proposal	FISCAL YEAR		Fiscal Year (Upon Full Implementation)
	Current Increase/Decrease (use "-" - ")	Next Increase/Decrease (use "-" - ")	
1. Estimated Total Cost	\$5,500	\$2,000	\$,8,000
Personal Services	0	0	0
Current Expenses	0	\$2,000	\$8,000
Repairs and Alterations	0	0	0
Assets	\$5,500	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title: "Performance Measures and Review Standards For Solid Waste Authorities Operating Commercial Solid Waste Facilities"

3. **Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

The SWMB fiscal year 2006 budget will be impacted approximately \$5,500 for the purchase of computer equipment and office furniture.

The estimated costs to be incurred in conducting Performance Reviews on the seven (7) Solid Waste Authorities (SWAs) that operate commercial solid waste facilities: County SWAs of Greenbrier, Mercer, Nicholas, Pocahontas, Raleigh, Tucker and the Regional SWA of Region Eight.

7 facilities x 3 days each =

21 overnight stays x 2 employees = 42 overnight stays

42 x \$125 expenses per night (meals and lodging) =

\$5,250 expense to conduct performance reviews plus

\$500 gasoline expense (16 mpg @ \$3.50 per gallon) for 2,300 miles, round-trip to all seven facilities.

The total estimated additional expense for two employees to perform seven performance reviews is \$5,750.

In order to be proactive, it will be necessary for at least one SWMB employee to attend periodic monthly board meetings of these authorities. At least one (1) trip to each entity can be coordinated with the performance reviews, but attending additional meetings will incur the following estimated expenses:

7 facilities x 1 employee =

5 overnight stays (two trips may not necessitate an overnight stay) x \$125/night =

\$625 x 2 additional monthly board meetings per SWA =

\$1,250 expense to attend SWA monthly board meetings plus

\$1,000 gasoline expense (16 mpg @ \$3.50 per gallon) for 2,300 miles, round-trip x 2 trips.

The total estimate for one employee attending two additional SWA monthly board meetings throughout the year, is \$2,250.

The SWMB fiscal year 2007 budget will be impacted approximately \$2,000. This is based on completing one Performance Review between the time 54 CSR 6 becomes law and June 30, 2007.

The total estimated cost for full implementation of this program beginning July 1, 2007 will be approximately \$8,000. At this time it is not anticipated that any additional personnel will be required. The SWMB will not have any change in the revenue it receives to operate its agency.

MEMORANDUM

2

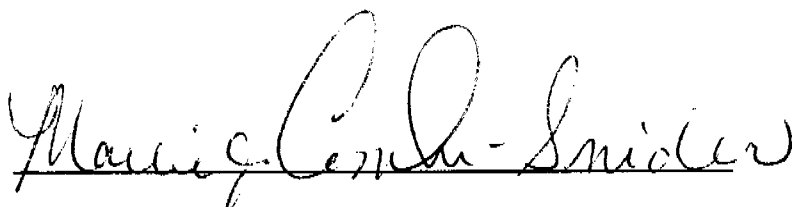
Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues not captured elsewhere on this form.

If the SWMB determines through a performance review or performance measures that an authority's commercial solid waste facility is seriously impaired and the authority does not correct the impairments, implementation of the intervention process may incur the following expenses:

- Appointing a team of improvement consultants. Costs associated with representatives from the private sector are the responsibility of the Authority. However, if the Authority is not financially able to pay these costs, the SWMB may have to bear the expense of consulting engineers, heavy equipment specialists, financial managers, etc.
- Conducting additional on-site reviews. Depending on the severity of the circumstances, semi-monthly visits could be necessary.
- Presiding as Chair over the SWA's monthly board meeting. This would include a monthly visit to the SWA that may be coordinated with the semi-monthly visits to conduct on-site reviews.
- Superseding of a SWA would involve significant effort and expense on behalf of the SWMB.

Costs associated with these scenarios would only occur if a SWA was found to be "seriously impaired". These costs may vary, depending on the circumstances and severity of the problem.

Date: 7-19-06



Signature of Agency Head or Authorized Representative

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

FILED

2006 JUL 24 A 11:53

SERIES 6
PERFORMANCE MEASURES AND REVIEW STANDARDS FOR SOLID WASTE
AUTHORITIES OPERATING COMMERCIAL SOLID WASTE FACILITIES

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§ 54-6-1. General.

1.1. Scope. -- This legislative rule establishes a system for performance reviews and measures to be conducted by the West Virginia Solid Waste Management Board. The Board shall conduct a biennial performance review of a county and regional solid waste authority that operates a commercial solid waste facility to gauge the productivity and operational health of the authority. The Board shall also conduct a biennial performance review of each commercial solid waste facility operated by a county or regional solid waste authority to promote accountability, support effective and efficient facility operations and identify serious impairments of the facility.

1.2. Authority. -- W. Va. § 22C-3-26, W. Va. § 22C-4-9a(d), and W. Va. § 22C-4-9a(g).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Incorporation by Reference.

§ 54-6-2. Definitions. All terms used herein shall, unless the context indicates otherwise, have the meanings ascribed to them as set forth below.

2.a. "Act" means W. Va. Code § 22C-4-1 et seq.

2.b. "Audit" means a systematic examination and collection of sufficient, competent evidential matter needed for an auditor to attest to the fairness of management's assertions in the financial statements, and to evaluate whether management has sufficiently and effectively carried out its responsibilities and complied with applicable laws and regulations. An audit shall be conducted in accordance with generally accepted auditing standards, standards issued by the chief inspector, and, as applicable, the single audit requirement of OMB Circular A-133 Audits of States, Local Governments and Non-Profit Organizations as amended or revised from time to time, or any successor circular.

2.c. "Benchmark" means a reference point to evaluate and determine the effective and efficient performance of a solid waste authority and its commercial solid waste facility and to assist in the identification of any impairments.

2.d. "Board" means the West Virginia Solid Waste Management Board, as established by W. Va. Code § 22C-3-4.

2.e. "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 does not include an approved solid waste facility owned and operated by a person for the sole purpose of the disposal, processing or composting of solid wastes created by that

person or such person and other persons on a cost-sharing or nonprofit basis, and does not include land upon which reused or recycled materials are legitimately applied for structural fill, road base, mine reclamation, and similar applications.

2.f. "Director" means the appointed executive director of the West Virginia Solid Waste Management Board.

2.g. "Examination" includes an audit or review as defined in W. Va. Code § 6-9-1a.

2.h. "Financial audit" includes financial statement audits and financial related audits, as defined by government auditing standards and conducted by the WV State Auditor's office or designee.

2.i. "Improvement Consultants" means a team of experienced professionals in the field of solid waste management, appointed by the director, to conduct on-site reviews and make strategic recommendations toward remedy of serious impairments at a commercial solid waste facility operated by a county or regional solid waste authority.

2.j. "Impairment" means any operational, financial, managerial or any other practice(s) which diminishes the current or future efficient or effective operation of a commercial solid waste facility.

2.k. "Performance Measure" means outcomes and outputs. "Outcomes" represent effects or results of programs. "Outputs" represent the units of services or activities produced.

2.l. "Performance Review" means an accountability system which establishes benchmarks to evaluate and determine the effective and efficient performance of a county or regional solid waste authority operating a commercial solid waste facility.

2.m. "Program" means solid waste disposal, recycling, composting, reduction, transferring or other solid waste management practices or any combination thereof.

2.n. "Review" means an inquiry or analytical procedure that provides the auditor with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting and conducted by the WV State Auditor's office or designee.

2.o. "Seriously impaired" means any operational, financial, managerial or other practice(s) which jeopardizes the current or future, efficient or effective operation of a commercial solid waste facility.

2.p. "Solid Waste Authority" means a county or regional governmental agency as defined in W. Va. Code § 22C-3-3, and also as created and established by W. Va. Code § 22C-4-3 and 22C-4-4.

2.q. "Supersedure" means the temporary intervention by the West Virginia Solid Waste Management Board to exercise in part or in whole, the powers granted to only county or regional solid waste authorities that operate solid waste facilities as provided in chapters seven, twenty two, twenty two-c and twenty-four of the W. Va. Code, and as provided in W. Va. Code § 22C-3-26.

2.r. "Uniform Chart of Accounts" means delineating common revenue and expense account naming conventions to be used by all solid waste authorities as provided in § 22C-4-9a(i).

§ 54-6-3. Performance Measures for Accountability. A written quarterly report shall be submitted to the Board by a solid waste authority operating a commercial solid waste facility on forms provided by the Board. The report shall include accurate information in the areas of regulatory/statutory compliance, financial records, operations

management, number of full and part-time employees, outcomes and outputs. A solid waste authority shall provide the performance management data more frequently if required. The performance management data reported shall serve as a useful tool in gauging the productivity and operational health of a solid waste authority operating a commercial solid waste facility as provided for in subsection (c) of W. Va. Code § 22C-4-9a.

§ 54-6-4. Performance Review. A performance review by the Board shall be conducted at least once every two years of each county and regional solid waste authority that operates a commercial solid waste facility. The review shall benchmark both the performance of the county or regional solid waste authority and its commercial solid waste facility.

4.1. Notification - The director will send a standard letter notifying the county or regional solid waste authority of the upcoming performance review. The letter should include:

4.1.a. Statutory and regulatory authority for conducting the review;

4.1.b. Request to hold an entrance conference;

4.1.c. Identification of assigned Board staff; and

4.1.d. Request advanced information such as organizational chart, bylaws, policies and procedures, annual operations report, budgetary documents, minutes of solid waste authority board meetings, etc.

4.2. Areas to Examine - The Board's performance review shall, at a minimum, examine the following areas of the county or regional solid waste authority:

4.2.a. Agency appointments to

board of directors, vacancies and attendance record of board members;

4.2.b. Review of all business operations including but not limited to, financial /administrative functions, loans, notes or lines of credit, contracts, agreements and procurement practice, pending or potential litigation involving more than five-thousand dollars (\$5,000);

4.2.c. Review or recommend solid waste management training/education for the solid waste authority's board and staff members;

4.2.d. Solid waste authority's general status of compliance with W. Va. Code, Chapter 22C, Article 4 (County and Regional Solid Waste Authorities Act);

4.2.e. Operation of composting activities and facilities, or operation of recycling activities and facilities, or operation of drop-off locations for solid waste and composting activity or facility, and

4.2.f. Other areas as determined by the director for examination.

4.3. The Board's performance review shall, at a minimum, examine the following areas of the commercial solid waste facility operated by a solid waste authority:

4.3.a. Overall efficient and effective operation of facility;

4.3.b. Certification requirements and training of commercial solid waste facility manager;

4.3.c. Review of employee safety training, personal protective equipment and overall safety program;

4.3.d. Efficiency and effectiveness of daily operations at the working face including, but not limited to, size of working face, equipment movement, spreading the waste, compaction of waste, daily cover material, method for tracking airspace utilization, and condition of access

road to current working face;

4.3.e. Recordkeeping at scale house, preferably by electronic medium, including, but not limited to, vehicle identification, weight of each vehicle entering and exiting facility, date and time of vehicle entry and exit, types of waste received, time each vehicle spends on the site, rate charged per ton or part thereof and whether collected or billed, method for handling cash and other transactions at close of day;

4.3.f. Equipment selection, maintenance, servicing and repair, including but not limited to, appropriate for the job application, local availability of parts/service and back-up equipment, and preventative maintenance program;

4.3.g. Review of leachate management practices, stormwater management and associated costs; and

4.3.h. Other areas as determined by the director for examination.

§ 54-6-5. Performance Review Categories.

Each member of the solid waste authority's board of directors shall receive a copy of the Final Performance Review, which shall identify any impairments that exist requiring corrective action by the solid waste authority. Based upon the final performance review the solid waste authority and its commercial solid waste facility shall be placed in one of the following categories:

5.1. "Exemplary," when the Board determines that the solid waste authority's performance and progress in all areas promotes a efficient or effective operation.

5.2. "Satisfactory," when the Board determines that the solid waste authority's performance and progress in most areas allows for a efficient or effective operation.

5.3. "Impaired," when the Board determines that any operational, financial, managerial or other practice by the solid waste authority, diminishes the current or future efficient or effective operation of the authority's commercial solid waste facility.

5.4. "Seriously Impaired," when the Board determines that any operational, financial, managerial or other practice by the solid waste authority, jeopardizes the current or future efficient or effective operation of the solid waste authority's commercial solid waste facility.

§ 54-6-6. Process for Correcting Impairments.

A solid waste authority placed in a category of impaired or seriously impaired shall correct the impairments within ninety (90) days after receiving the final performance review which begins the intervention process. Provided, That prior to correction the director may require the solid waste authority to employ an appropriate professional such as an engineer, accountant or planner to make strategic recommendations for remedy. Only after approval by the solid waste authority's board, the director may grant a one-time extension up to an additional ninety (90) days to correct impairments. Upon written request of the solid waste authority's board, the Board may determine that extraordinary circumstances necessitate a further extension of time to correct serious impairments which the Board may grant. Provided, However, the Board or its director as part of the intervention process may at any time include, but is not limited to, the following:

6.1. Appoint a team of improvement consultants specific to the area of impairment(s) to conduct on-site reviews and make strategic recommendations toward

remedy of serious impairments.

6.1.a. The team of improvement consultants may include representatives from the Board, solid waste authority, department of environmental protection, public service commission, state auditor's office and if deemed necessary by the Board, representatives from the private sector.

6.1.b. Costs associated with representatives from the private sector to be the responsibility of the solid waste authority.

6.2. Require that the solid waste authority's board prioritize and target its funds strategically toward alleviating the serious impairments.

6.3. Require the solid waste authority to prepare an annual fiscal budget, which must be submitted to the Board for approval.

6.4. Recommend to the agencies that appoint the members to the solid waste authority's board of directors that one or more members of the solid waste authority's board of directors be replaced.

6.5. The director or his or her designee, may preside as chair of the solid waste authority board meetings during intervention.

6.6. After receiving a final performance review or through regular monitoring of performance measures that identifies serious impairments a solid waste authority shall not be eligible to receive grant funds from the Board's grant program or from the department of environmental protection's recycling grant program, until such impairments have been corrected. Provided, That the Board or the department of environmental protection may, at their discretion, award grant funds if they determine

that the specific purpose of such funds is to correct the serious impairments.

6.7. The director shall notify the solid waste authority in writing that the temporary intervention has ended only after a determination by the Board that impairments have been corrected.

§ 54-6-7. Supersedure over Solid Waste Authorities. The Board may by resolution supersede and exercise, in part or whole, the powers granted to only county or regional solid waste authorities that operate commercial solid waste facilities as provided by W. Va Code §22C-3-26. Actions of the Board supersede those powers granted to such solid waste authorities.

Responses to Public Comments and Summary of Changes Proposed Legislative Rule 54CSR6

Oral public comments were presented at the public hearing on June 21, 2006 in conference room 1041 at 601 57th Street, S.E. Charleston, WV by Jerry L. Haynes, Mercer County Solid Waste Authority regarding Proposed Legislative Rule 54 CSR 6.

At the public hearing the first speaker, Mr. Jerry Haynes, presented general comments on behalf of the Mercer County Solid Waste Authority. He stated that they have some concerns with the proposed rule and they feel like there is a duplication of effort along the lines of regulatory/statutory compliance, that finances are being handled through the state audits being conducted, and that the rule involves only seven solid waste authorities.

Mr. Haynes commented that if a solid waste authority needs additional surveillance (performance review) by the Board, there will be an additional cost and that the other solid waste authorities covered by the rule may have to pay for this additional cost. Although Mr. Haynes does not cite a specific provision in the rule to support this comment, the agency assumes he is referring to section 6.1.b. The agency disagrees because there is no provision in the proposed rule, including section 6.1.b that provides for allocation of additional costs to be passed on to other solid waste authorities.

Oral and written public comments were presented at the public hearing on June 21, 2006 in conference room 1041 at 601 57th Street, S.E. Charleston, WV by Greg Sayre, Executive Director, Association of Independent Professional Recyclers regarding Proposed Legislative Rule 54 CSR 6.

Mr. Sayre recommended adding the following underlined language to section 54-6-3: number of full and part-time employees.

The agency believes that this is already included in the term 'operations management'. However, to add more specificity and clarity to the proposed rule the commentor's recommended language has been added.

Specifically, Mr. Sayre further recommended adding the following underlined language to section 4.2.b:

4.2.b. Review of all business operations including but not limited to, financial /administrative functions, contracts, agreements and procurement practice; loans, notes or lines of credit, contracts, agreements and procurement practices, and major civil litigation involving more than \$5,000.00 in damages.

Regarding loans, notes or lines of credit, the agency believes that this is already included in the term 'financial/administrative functions', but again to add more specificity and clarity to the proposed rule, the commentor's recommended language has been added.

The agency agrees that the SWMB needs to be kept fully aware of situations involving litigation and has added some of the commentor's recommendations. However, the agency does not agree that this awareness should be limited only to major civil litigation. Therefore, the language added to the proposed rule is: pending or potential litigation involving more than five-thousand dollars (\$5,000).

The commentor recommended the following underlined language to section 4.2.e.: Operation of composting activities and facilities, or operation of recycling activities and facilities, or operation of drop-off locations for solid waste: and.... The agency agrees with the commentor that the recommended language will add clarity to the proposed rule and has made the changes accordingly.

Written public comments were submitted on June 23, 2006 at 3:09 p.m. by Allen F. Ellison, as Landfill Manager of the Tucker County Landfill, Tucker County Solid Waste Authority regarding Proposed Legislative Rule 54 CSR 6.

Mr. Ellison points out that solid waste authority board members are unpaid volunteers and therefore suggests that the word "Review" should be changed to "Recommend" under section 4.2.c. The agency understands and respects the fact that the board of directors of a solid waste authority are volunteers. However, the agency believes that recommendations may best be made regarding solid waste management training/education after reviewing solid waste management training and educational backgrounds. Therefore, the agency agrees in part and has amended section 4.2.c. to read as follows:

4.2.c. Review or recommend solid waste management training/educational ~~background~~ of for the solid waste authority's board and staff members;

Mr. Ellison further suggested adding the words "and transfer station manager" to section 4.3.b. so that this section would read: certification requirements and training of commercial solid waste facility manager and transfer station manager. The agency disagrees because a commercial solid waste facility may include a transfer station, landfill, recycling facility, composting facility, materials recovery facility, processing facility, waste tire monofill, etc.

Under 4.3.e. Mr. Ellison suggests amending this section to read as follows: "Electronic recordkeeping at ~~gate and~~ scale house including, but not limited to...." The agency agrees that the words "gate and" are unnecessary and have removed these words. Adding the word "electronic" is a good suggestion, but should be consistent with use of the word as it presently appears in the Solid Waste Management Rule 33CSR1, section 4.12.b. Therefore, this proposed section has been amended to read as follows: "Recordkeeping at scale house, preferably by electronic medium, including but not limited to...."

Mr. Ellison also comments that 4.2.f. and 4.3.6. are duplicates. Because there is no section 4.3.6 in the proposed rule, the agency assumes that the commentor meant 4.3.h. The agency disagrees. Section 4.2.f. pertains to a county or regional solid waste authority and 4.3.h. pertains to a commercial solid waste facility.

Mr. Ellison suggests that there is too much detail in section 4.3.f. and recommends the following: Equipment selection, maintenance, servicing and repair, including but not limited to, appropriate for the job application, local availability of parts/service and back-up equipment, and preventative maintenance program. The agency agrees and has amended the proposed rule accordingly.

Mr. Ellison submitted a written public comment regarding section 5 of the proposed rule. He suggests ratings be done in each category that has been reviewed rather than having one overall rating for an authority/landfill. The agency disagrees and believes that based upon a final performance review, a solid waste authority and its commercial solid waste facility shall be placed in one category of Exemplary, Satisfactory, Impaired, or Seriously Impaired.

SOLID WASTE MANAGEMENT BOARD

PUBLIC HEARING ATTENDANCE SHEET

54 CSR 6

"PERFORMANCE MEASURES AND REVIEW STANDARDS FOR SOLID WASTE AUTHORITIES
OPERATING COMMERCIAL SOLID WASTE FACILITIES"

June 21, 2006
1:30 p.m.

DEP Building
601 57th Street S.E.
Charleston, WV 25304

Name	Affiliation	Address	Check if Speaking
<u>Jerry L. Haynes</u>	<u>Mexco Co. SWA</u>	<u>749 Frontage Rd. Princeton, WV</u>	☒
<u>Greg Sayre</u>	<u>WVTP Regulus</u>	<u>4407 Liberty Lane</u>	☒
<u>Dick Coke</u>	<u>WV SWMB</u>	<u>601 57th St SE Chas. WV</u>	
<u>Marsha L. Payton</u>	<u>WV SWMB</u>	<u>601 57th Street, SE, Chas, WV 25304</u>	
<u>Darlene Ratliff-Thomas</u>	<u>Attorney General</u>	<u>State Capitol Complex, Bldg 1 Rm E-26 Chas.</u>	
<u>Jan Berowski</u>	<u>swmb</u>	<u>601 57th St SE</u>	
<u>Scott Norman</u>	<u>SWMB</u>	<u>601 57th St SE</u>	
<u>Paul Hayes</u>	<u>SWMB</u>	<u>601 57th St. SE Charleston, WV 25304</u>	
<u>Sunilvir Patel</u>	<u>WV DEP/SWMB</u>	<u>601 57th St SE. Charleston WV 25304</u>	

COPY

BEFORE THE WEST VIRGINIA SOLID WASTE MANAGEMENT BOARD

IN THE MATTER OF:

Public Hearing, Title 54, Series 6:
Performance Measures and Review
Standards for Solid Waste
Authorities Operating Commercial
Solid Waste Facilities

TRANSCRIPT OF PROCEEDINGS had in the
above-styled matter, taken pursuant to notice, at the office of the West
Virginia Solid Waste Management Board, Conference Room 1041 at the
Department of Environmental Protection building, 601 57th Street, S.E.,
Charleston, West Virginia, commencing at 1:30 p.m., on the 21st day of
June, 2006.

**BILLANTI & ASSOCIATES
COURT REPORTERS
1033 RIDGEMONT DRIVE
ELKVIEW, WV 25071
304-965-7444**

APPEARANCES:**ON BEHALF OF THE WEST VIRGINIA
SOLID WASTE MANAGEMENT BOARD:**

**DARLENE RATLIFF-THOMAS
Assistant Attorney General
Office of the Attorney General
State Capitol Complex
Building 1, Room E-26
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305
(304) 5658-2021**

**MEMBERS OF THE WEST VIRGINIA
SOLID WASTE MANAGEMENT BOARD:**

**Richard P. Cooke, Executive Director
Paul Hayes, Assistant Director
Janet J. Borowski, Chief,
Business and Financial Assistance
Jerry Scott Norman, Accountant for Division**

**Marsha L. Payton, Secretary
Sudhir Patel**

I N D E XSPEAKERS:PAGE

Jerry L. Haynes

5

Greg Sayre

10

Reporter's Certificate..... 18

P R O C E E D I N G S

(1:30 p.m.)

EXECUTIVE DIRECTOR COOKE: This is Richard P. Cooke, Director of the West Virginia Solid Waste Management Board. We are here today in Conference Room 1041, at the Department of Environmental Protection building, located at 601 57th Street, S.E., Charleston, West Virginia, County of Kanawha, for a public hearing on a proposed rule, being 54 Code State Rule, Series 6, entitled "Performance measures and review standards for solid waste authorities operating commercial solid waste facilities."

This proposed rule has been published in the State Register for receiving both oral and written comments today at this public hearing beginning at 1:30 p.m.

We have Scott with us to be a time keeper. It doesn't appear that we have a lot of people here from the public to make public comments today, so we won't set a limit on your comments. Your comments are very important to

1 us. We want to hear what you have say, what you
2 have to offer to improve the quality of this
3 proposed rule.

4 Please be assured that we will take
5 comments seriously and into consideration for
6 any possible changes or amendments to this
7 proposed rule. This rule was written as a
8 result of House Bill 3356 that created Section
9 9A of Article 4, Chapter 22C.

10 We have a list of public speakers.
11 When your name is called, please come up to the
12 main table and speak clearly. We have a
13 microphone right here. First on the list is
14 Jerry L. Haynes, affiliation, Mercer County
15 Solid Waste Authority, 749 Frontage Road,
16 Princeton, West Virginia. Welcome Jerry.

17 MR. HAYNES: Thank you, Mr. Cooke. My
18 name is Jerry Haynes and I am from the Mercer
19 County Solid Waste Authority. I thought I
20 should introduce myself, because unlike my
21 neighbors to the north, you-guys hear very
22 little from us.

1 We do have some concerns with the
2 current proposed rules, though. We feel like
3 that there is a definite duplication of effort,
4 especially along the lines of the
5 regulatory/statutory compliances being submitted
6 to you. To us, it would make much more sense
7 for the enforcement portion of the agency to
8 supply these to you as needed. We feel like
9 that the finances are being handled through the
10 state audits that are being conducted, a copy of
11 which is always submitted to the state.

12 Also, our annual financial
13 statements are sent to the state. Upon request,
14 any monthly or more than once a year statements
15 are submitted, so we think this is a
16 duplication. In general, we just feel like
17 there will be a lot of duplication of effort
18 that could be handled internally within the
19 agency by sharing information.

20 The fact that it does involve only
21 seven solid waste authorities also concerns me.
22 My biggest concern is that the board will do

1 such a good job, they will decide or it will be
2 decided that they will need to expand upon this,
3 and at that time, who is going to be footing the
4 cost of this.

5 If there are only seven solid waste
6 authorities involved, then is an eventual
7 thousand, two thousand, three thousand dollar
8 cost going to be contributed to each of these
9 agencies, which creates a different fear,
10 because part of the rule states that if a solid
11 waste authority is found that they are in need
12 of additional surveillance by the board, then
13 they can actually not have to pay for this
14 additional cost.

15 In that case, does that mean one
16 solid waste authority, maybe two solid waste
17 authorities that are causing the problem, then
18 the other five solid waste authorities are going
19 to have to pay the cost of these. If it's not
20 divided among the actual solid waste
21 authorities, then instead a cost is contributed
22 by increasing the assessment fee, then that

1 presents a totally other problem.

2 To my knowledge, West Virginia
3 currently charges five dollars more in
4 assessment fee than any other state in this
5 nation. This assessment fee of \$8.75 has cost
6 the Mercer County Solid Waste Authority about 30
7 percent of our waste stream, because it has made
8 us non-competitive to the point that our most
9 major hauler is currently hauling approximately
10 80 miles away to a Virginia landfill. So any
11 additional assessment fee added to this \$8.75
12 could only hurt us that much more.

13 To be more exact, when we had our
14 last one set in 1995, it was based by the PSC
15 upon a 72,000 ton per year. We did reach this
16 amount for the first 2 years following that, but
17 then in the last 4 years, after 2 of our major
18 haulers began hauling to a Virginia landfill
19 because it was more competitive and I feel
20 certain the \$8.75 a ton is what made it more
21 competitive, then we did lose and over the last
22 3 years, we have averaged about 48,000 tons per

1 year, which is almost a 30 percent decrease.

2 So we do feel like it's a
3 duplication of effort. If it was only a matter
4 that it was going to generate a little bit more
5 paperwork for me, I would have no problem, but
6 our biggest fear is that it will eventually
7 generate or result in an increase in cost to the
8 Mercer County Solid Waste Authority for items in
9 which could be handled internally.

10 That is our concern and with that,
11 I would just like to close by saying that I have
12 found the improvements in the Solid Waste
13 Management Board over the last four years to be
14 very encouraging. The holding of various
15 quarterly meetings on various subjects have
16 proved very beneficial to the solid waste
17 authorities, especially those of us that do
18 operate landfills.

19 The assistance that I received on
20 my last site plan and my litter control plan was
21 just unbelievable from the board, and I would
22 like to publicly commend the board for the

1 advancements they have made in the past and
2 state that we do enjoy working with the Solid
3 Waste Management Board. We thank you for the
4 assistance that you do give to us, but we do
5 have concerns when it may cost us money down the
6 road. Thank you.

7 DIRECTOR COOKE: Thank you, Mr. Haynes.
8 The next name on the list checking to speak is
9 Mr. Greg Sayre, West Virginia I.P. Recyclers, at
10 4407 Liberty Lane. Is that Charleston?

11 MR. SAYRE: Charleston, yes. My name is
12 Greg Sayre. I'm here representing the
13 association of Independent Professional
14 Recyclers. First of all, our group was very
15 much involved in this piece of legislation, as
16 was the Association of Waste Haulers and
17 Recyclers.

18 I think it's important to note that
19 there are three troubled public landfills in
20 West Virginia that we know of: Webster county,
21 which is now closed, sort of; abandoned may be a
22 better word for it. We have Tucker county,

1 which I'm going to say is at least three,
2 perhaps five million dollars in debt and an
3 uncertain future, and perhaps as much as a five
4 to six million liability on the state of West
5 Virginia in some capacity. And then we have
6 Nicholas county, which has not, as far as I
7 know, had an audit for the past five years, has
8 went through a lot of troubling problems over
9 the last few years and is trying to get itself
10 out of trouble and right the ship.

11 I think those three solid waste
12 authorities, unlike Mercer county, led to this
13 bill and led to these rules and regulations,
14 because basically I would say you could be
15 looking at 9 to 10 million dollars in potential
16 long term liability if we don't straighten
17 things up at those two facilities. Like Jerry
18 mentioned, that's 10 million dollars that
19 someone is going to have to come up with if we
20 don't make certain those facilities are operated
21 properly.

22 Just some brief comments on the

1 proposed rules. On your performance measures
 2 for accountability, I think you need to add
 3 something in there on the number of full and
 4 part-time employees; and I say that because this
 5 board has been asked a couple times, I believe,
 6 from several of the chairman in the government
 7 org committee about employees of solid waste
 8 authorities.

9 I don't see it in there as
 10 something you request, but I think the number of

11 full and part-time employees oftentimes is a
 12 good performance measure. I think it's
 13 something we can compare why one facility is
 14 able to do something with three people and maybe
 15 another one does the same thing with five, but I
 16 think that's a good thing to ask for.

17 In terms of the review of business
 18 operations, we would like to see two things
 19 added to that and they probably are in there,
 20 but I think maybe they need to be highlighted,
 21 and that's the addition of loans, notes or lines
 22 of credit.

1 What you have got right now is
2 financial and administrative functions, but I
3 think given the history we had there in Tucker
4 county in trying to resolve for a long time what
5 their indebtedness was, who they owed and what
6 they owed, maybe those should be highlighted.

7 Then second, in response to this
8 situation that's been in Webster county for
9 eight years and the immaculate litigation with
10 Kanawha Stone that never seems to be resolved, I
11 think you also need to include somewhere in here
12 that any civil litigation -- and I just put a
13 figure of five thousand dollars, if someone is
14 writing bad checks or they owe you money, I
15 don't think you need to know all about that --
16 but if any of these facilities are in some sort
17 of major litigation with a contractor like this
18 Kanawha Stone situation in Webster county, I
19 think you need to know about it.

20 For eight years, those people up
21 there were basing that landfill's future on them
22 getting a settlement of several hundred thousand

1 dollars from Kanawha Stone and it never
2 happened. And today, I still don't know what's
3 going on up there and I don't think they do
4 either.

5 Then one other comment on 4.2-E, I
6 think really you need to sort of break this
7 down. You have got "operation of recycling
8 drop-off or composting activity." The drop-off
9 thing kind of bothered me the way you had that
10 in there, because drop-off can refer to a lot of
11 things. So, I broke it down to operation of
12 composting activities and facilities, operation
13 of recycling activities and facilities, or
14 operation of drop-off locations for solid waste.

15 I was primarily thinking, like,
16 when I think of the drop-off, I'm really not
17 thinking of a recycling drop-off. I think
18 that's something else. I'm thinking of, do you
19 have a roll-off at the front of the landfill or
20 do you have a green box like Pocahontas county?

21 I didn't really write anything on
22 this, but I did have some concern over

1 primarily, if an operation would be judged to be
2 exemplary, I'm not saying you shouldn't reward
3 someone for doing something good, but there are
4 some things you don't look at.

5 Someone could be good at the things
6 you are looking at, but maybe they are not good
7 at maybe what the DEP looks at. And so I more
8 or less thought you probably should have just
9 the satisfactory or something else, another
10 term, and then your two distinctions between, I
11 can't remember the terminology, but the
12 deficiency standards.

13 I don't want to -- I don't think
14 anyone wants to make this costly either to the
15 board or to the public entities, but I think the
16 thing is, by not having this, we have already
17 incurred, I believe, a huge cost.

18 If we would have had this in place,
19 I think Webster county might still be open
20 today; I think Nicholas county might not be a
21 couple million dollars in debt, and I think
22 Tucker county might not be five million dollars

1 in debt. And so, I think this is a good
2 preventative tool, I think because we have some
3 facilities that are really on the borderline, we
4 need to -- I think this is a good approach.

5 MR. COOKE: Do we have anyone else from
6 the public that wishes to speak or make public
7 comments on this proposed rule?

8 (No response was given.)

9 Gentlemen, both speakers, do you
10 have written comments that you are going to
11 leave with us in addition to oral?

12 MR. HAYNES: I do not have.

13 MR. COOKE: Before we close the public
14 hearing for lack of any additional members from
15 the public wishing to speak, I would like to
16 reiterate maybe more clearly that we will be
17 reviewing the comments, both oral and written.

18 It's important to understand that
19 the responses of the agency to comments will be
20 in regard to comments pertaining to the proposed
21 rule. You will be receiving a response in
22 writing from the agency in response to your

1 public comments regarding the proposed rule.

2 Seeing no one further from the

3 public, we will close the public hearing.

4 (WHEREUPON, the hearing was

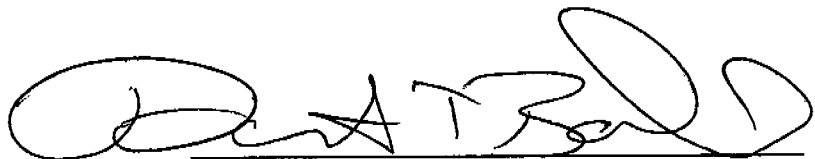
5 concluded at 1:54 p.m.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to wit:

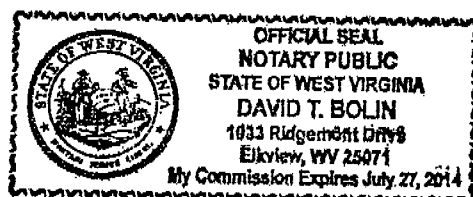
I, DAVID T. BOLIN, a Certified Reporter
and Notary Public in and for the State of West
Virginia, hereby certify that the foregoing is a
true and correct transcript of all proceedings
had and evidence adduced, together with all the
objections made and rulings thereon, and
exceptions thereto, as stated in the caption
hereto, as reported by me by means of the
stenomask and stenographic characters and
transcribed into the English language.

Given under my hand, this 3rd day of
July, 2006.



DAVID T. BOLIN
Court Reporter
and Notary Public

My commission expires July 27, 2004.



ASSOCIATION OF INDEPENDENT PROFESSIONAL RECYCLERS
PO BOX 3706
CHARLESTON, WV 25313
PHONE 342-4388



June 21, 2006

The Association of Independent Professional Recyclers would like to make the following comments to Title 54, Legislative Rule, Solid Waste Management Board, Series 6, Performance Measures and Review Standards for Solid Waste Authorities Operating Commercial Solid Waste Facilities.

The Association would like to add the following to proposed rule 54-6-3:

Performance Measures for Accountability. A written quarterly report shall be submitted to the Board by a solid waste authority operating a commercial solid waste facility on forms provided by the Board. The report shall include accurate information in the areas of regulatory/statutory compliance, financial records, operations management, **number of full and part-time employees**, outcomes and outputs.....

Having good accurate numbers on solid waste authority employment levels can be a useful evaluation tool for facility performance. Poor performance could be a result of too few or in some cases too many employees. It also allows for cross comparisons between operations that could lead to improved utilization of human resources.

The Association would like to insert the following in proposed rule 4.2.b.

"Review of all business operations including but not limited to, financial and administrative functions, **loans, notes or lines of credit**, contracts, agreements and procurement practices, and **major civil litigation involving more than \$5000.00 in damages**.

Loans, notes or lines of credit might be covered under contracts or agreements but it might be prudent to be specific about these financial instruments. Since indebtedness has been a major problem for solid waste authorities in the past, emphasis should be added to keeping the Board up to date about financial liabilities.

Solid waste authorities can find themselves in a major civil lawsuit that could have repercussions on their future. The Webster County Solid Waste Authority lawsuit

with Kanawha Stone comes to mind. The Board needs to be kept fully aware of these situations.

The Association would like to strike the language in 4.2.e and replace it with the following:

CURRENT

{4.2.e. Operation of recycling, drop-off, or composting activity or facility: and }

INSERT(NEW)

4.2.e Operation of composting activities and facilities, or operation of recycling activities and facilities, or operation of drop-off locations for solid waste: and

Thought this was better language than just the word drop-off. Need to clarify composting, recycling, drop-off (green boxes) for solid waste. These are really three different activities and each needs to be evaluated.

Sincerely,

A handwritten signature in cursive script that reads "Greg Sayre". The signature is written in dark ink and is positioned above the printed name.

Greg Sayre, Executive Director

TUCKER COUNTY SOLID WASTE AUTHORITY

P.O. Box 445
Davis, WV 26260
(304) 259-4867
(304) 259-4868 fax
tcswa@frontiernet.net

Fax

To: Jan Borowski, SWMB	From: Rella Cvetican, Office Manager
Fax: 304-926-0472	Pages: 3
Ph:	Date: 06-23-06
Re: Public Comments -- Proposed Legislative Rule 54 CSR 06	

MESSAGE

TUCKER COUNTY SOLID WASTE AUTHORITY

Post Office Box 445
Davis, West Virginia 26260

June 23, 2006

Mr. Richard P. Cooke
WV Solid Waste Management Board
601 57th Street, SE
Charleston, WV 25304

RE: Proposed Legislative Rule 54 CSR 06 - Performance Measures and Review
Standards For Solid Waste Authorities Operating Commercial Solid Waste Facilities

Dear Dick:

As Landfill Manager of the Tucker County Landfill, I would like to submit the following comments regarding proposed Rule 54 CSR 06.

54-6-4 Performance Review

4.2.c. Review solid waste management training/education background of the solid waste authority's board and staff members;

4.2.c. Comments:

Solid Waste Authority Board members are unpaid volunteers. Suggested wording of 4.2.c:

4.2.c Recommend solid waste management training/education for solid waste authority Board Members and staff.

4.3.b Certification requirements and training of commercial solid waste facility manager;

4.3.b Comments (suggested wording):

4.3.b Certification requirements and training of commercial solid waste facility manager *and transfer station manager*;

4.3.e. Recordkeeping at gate and scale house including, but not limited to.....

4.3.e. Comments (suggested wording):

4.3.e. Electronic recordkeeping at gate ~~and~~ scale house including, but not limited to...

Duplication: Rule 4.2.f. is a duplicate of 4.3.6.

TUCKER COUNTY SOLID WASTE AUTHORITY

Post Office Box 445
Davis, West Virginia 26260

June 23, 2006

Mr. Richard P. Cooke

Page 2

4.3.f. - Comments (suggested wording):

There is too much detail in 4.3.f. Suggest the following one sentence is complete in and of itself.

4.3.f. Equipment selection, maintenance, servicing and repair including, but not limited to, appropriate for job application, local availability of parts/service and back-up equipment, and preventative maintenance program.

54-6-5 Performance Review Categories

...Based upon the final performance review the solid waste authority and its commercial solid waste facility shall be placed in one of the following categories:...

54-6-5 Comments (suggested wording):

Rather than having one overall rating for an authority/landfill, we suggest ratings be done in each category that has been reviewed: Financial, Managerial, Operation, Compliance, etc. Each category should be rated separately.

Thank you for the opportunity to present my comments regarding proposed Rule 54 CSR 06.

Sincerely,



Allen F. Ellison
Landfill Manager