

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #1

FILED

JUL 22 9 51 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Water Resources Changed to Waste Management
WV Division of Environmental Protection TITLE NUMBER: 47 33

RULE TYPE: Procedural; CITE AUTHORITY Section 22-15-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 38A 6

TITLE OF RULE BEING AMENDED: "Solid Waste Assessment Fee Exemptions"

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

TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: None August 24, 1998 TIME: 12:00 NOON

LOCATION OF PUBLIC HEARING: _____

COMMENTS LIMITED TO: ORAL _____, WRITTEN , BOTH _____

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: WV DEP
Office of Waste Management
Attn: William Rheinlander
1356 Hansford Street
Charleston, WV 25301-1401

The Department requests that persons wishing to make
comments at the hearing make an effort to submit written
comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

L S Atha ERS III
Authorized Signature

\$3.20



DIVISION OF ENVIRONMENTAL PROTECTION
1356 Hansford Street
Charleston, WV 25301-1401

CECIL H. UNDERWOOD
GOVERNOR

MICHAEL P. MIANO
DIRECTOR

July 15, 1998

BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION

BRIEFING DOCUMENT

Rule Title: Solid Waste Assessment Fee Rule

A. AUTHORITY: WV Code §22-15-5.

B. SUMMARY OF RULE:

The enclosed proposed Rule is necessary to provide a technical cleanup of the West Virginia Solid Waste Assessment Fee Rule, formerly Title 47, Series 38A, and now changed to Title 33, Series 6.

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:

This revision is necessary to ensure consistency with legislative rules promulgated by the West Virginia Secretary of State under Title 153, Series 6 for "Standard Size and Format."

D. FEDERAL COUNTERPART REGULATIONS - INCORPORATION
BY REFERENCE/DETERMINATION OF STRINGENCY:

There are no federal counterpart regulations.

E. CONSTITUTIONAL TAKINGS DETERMINATION:

In accordance with §22-1a-1 and 3(c), the Director has determined that this rule will not result in taking of private property within the meaning of the constitutions of West Virginia and the United States of America.

F. CONSULTATION WITH THE ENVIRONMENTAL PROTECTION
ADVISORY COUNCIL:

This amendment to the rule will be reviewed by the Advisory Council during its meeting in July, 1998. Recommendations of the Council and the Director's response to the Council's recommendations will be included in the August 1, 1998 filing with the Secretary of State's Office and the Legislative Rulemaking Review Committee.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency _____

Address _____

1. Effect of Proposed Rule

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

2. Explanation of above estimates:

3. Objectives of these rules:

TITLE 33
PROCEDURAL RULES

DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF WASTE MANAGEMENT
SERIES 6
SOLID WASTE ASSESSMENT FEE EXEMPTIONS

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FILED

TITLE 47 33
PROCEDURAL RULES
DIVISION OF ENVIRONMENTAL PROTECTION
~~WATER RESOURCES -- WASTE MANAGEMENT~~
OFFICE OF WASTE MANAGEMENT

JUL 22 9 51 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 38A 6
SOLID WASTE ASSESSMENT FEE EXEMPTIONS

~~§47-38A-1.~~ §33-6-1. General.

1.1. Scope.

This rule establishes procedures to be followed in obtaining solid waste assessment fee exemptions provided under W. Va. Code ~~§20-5F-5a(e)~~ §22-15-11(e).

1.2. Authority. --W. Va. Code ~~§20-5F-4.~~ §22-15-5.

1.3. Filing Date. --~~November 7, 1988.~~

1.4. Effective Date. -- ~~January 1, 1989.~~

~~§47-38A-2.~~ §33-6-2. Solid Waste Assessment Fee Exemptions.

2.1. Exemptions for Certain Facility Owners, Operators, and Lessees.

A person who owns, operates, or leases an approved solid waste disposal facility is exempt from the payment of solid waste assessment fees, upon the receipt of a Certificate of Exemption from the director, if that facility is used exclusively to dispose of waste originally produced by such person in ~~his~~ his or her regular business or personal activities or by persons utilizing the facility on a cost-sharing or nonprofit basis.

~~2.1.1.~~ 2.1.a. In order to obtain a Certificate of Exemption under ~~section subsection~~ subsection 2.1 of ~~these regulations,~~ this rule, a person must submit the following information to the ~~Department~~ Division of Environmental Protection on the form provided in Appendix A of ~~these regulations~~ this rule:

~~2.1.1.a.~~ 2.1.a.1. The name, address, and telephone number of the person applying for the exemption;

~~2.1.1.b.~~ 2.1.a.2. A notation of the status of the person applying for the exemption as either the owner, operator, or lessee of the approved solid waste disposal facility;

~~2.1.1.c.~~ 2.1.a.3. The location and permit number of the facility;

~~2.1.1.d.~~ 2.1.a.4. A description of the origins, types, and estimated amounts of all wastes disposed of at the facility;

~~2.1.1.e.~~ 2.1.a.5. A brief description of each business or activity that produces the wastes disposed of at the facility;

~~2.1.1.f.~~ 2.1.a.6. The name, address, and telephone number of each person utilizing the facility on a cost-sharing or nonprofit basis; and

~~2.1.1.g.~~ 2.1.a.7. A summary of the legal documents that describe the relationship between the owner, operator, or lessee of the approved facility and the other person or persons disposing of solid waste at the facility. Copies of the actual documents may be requested by the director.

2.2. Exemption for Reused or Recycled Solid Waste.

A person who segregates and delivers ~~his~~ his or her solid waste to an approved resource recovery or recycling facility for the purpose of reuse or recycling of that waste is exempt from the payment of solid waste assessment fees upon the receipt of a Certificate of Exemption from the director.

~~2.2.1.~~ 2.2.a. In order to obtain a Certificate of Exemption under subsection 2.2 of these regulations this rule, a person must submit the following information to the ~~Department~~ Division of Environmental Protection on the form provided in Appendix A of ~~these regulations this rule~~:

~~2.2.1.a.~~ 2.2.a.1. The name, address, and telephone number of the person applying for the exemption;

~~2.2.1.b.~~ 2.2.a.2. The location and permit number of the facility to which the waste is delivered for reuse or recycling;

~~2.2.1.c.~~ 2.2.a.3. A description of the origin, type, and estimated amount of the waste delivered for reuse or recycling;

~~2.2.1.d.~~ 2.2.a.4. A brief description of the process or method of reusing or recycling the delivered waste; and

~~2.2.1.e.~~ 2.2.a.5. A notarized statement from the owner or operator of the approved facility that certifies that a reuse or recycling process is in operation at ~~his~~ his or her facility and that the delivered waste will in fact be reused or recycled.

2.3. Exemption for Residential Solid Waste.

An individual who is not in the business of hauling or disposing of solid waste is exempt from the payment of solid waste assessment fees when disposing ~~his~~ his or her residential solid waste at an approved solid waste facility on such days and times as designated by the owner or operator of that facility and approved by the director.

~~2.3.1.~~ 2.3.a. Days and times for the exempt disposal of residential solid waste must be designated by the owner or operator of each approved facility in the state and submitted to the director for approval. The owner or operator must designate at least ten (10) hours per week for the exempt disposal of residential waste.

~~2.3.2.~~ 2.3.b. Changes in either the days or the times for the exempt disposal of residential waste at an approved facility may be made by the director at ~~his~~ his or her discretion.

~~2.3.3.~~ 2.3.c. Upon receiving approved days and times for the exempt disposal of residential waste from the director, the owner or operator must post a sign at the entrance to the facility that lists those approved days and times.

~~§47-38A-3.~~ §33-6-3. **Certificates of Exemption.**

3.1. Exemption Determination.

After reviewing the information submitted by a person seeking an exemption under ~~section~~ subsection 2.1 or 2.2 of ~~these regulations,~~ Department this rule, Division of Environmental Protection

personnel will recommend to the director that:

~~3.1.1.~~ 3.1.a. A Certificate of Exemption be granted;

~~3.1.2.~~ 3.1.b. A Certificate of Exemption be denied; or

~~3.1.3.~~ 3.1.c. A letter requesting additional information be sent to the person seeking the exemption.

3.2. Notification of Denial.

If the director accepts a recommendation to deny the granting of a Certificate of Exemption, he will notify the person who sought the exemption of the denial and the reasons therefor.

~~3.2.1.~~ 3.2.a. A decision of the director to deny the granting of a Certificate of Exemption is appealable under the provisions of W. Va. Code ~~§20-5F-7~~ §22-15-16.

3.3. Changes in Information.

Whenever a change occurs which modifies the information submitted under ~~section subsection~~ subsection 2.1 or 2.2 of ~~these regulations~~ this rule, the person granted a Certificate of Exemption must, within thirty (30) days, submit written notice to the ~~Department~~ division detailing the change.

~~3.3.1.~~ 3.3.a. Failure by a person granted a Certificate of Exemption to submit the change of information notice required under ~~section subsection~~ subsection 3.3 of ~~these regulations~~ this rule constitutes cause for revoking the certificate.

APPENDIX A

~~WEST VIRGINIA DEPARTMENT OF NATURAL RESOURCES~~
WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION
SOLID WASTE ASSESSMENT FEE EXEMPTION APPLICATION

PLEASE COMPLETE AND RETURN TO:

~~WV Department of Natural Resources~~
W. Va. Division of Environmental Protection
Assessment Fee Exemption
~~Building 3, State Capitol Complex~~
1356 Hansford Street
Charleston, WV ~~25305~~ 25301

1. NAME, ADDRESS, AND TELEPHONE NUMBER OF APPLICANT:

Please indicate whether you are a the:

- Facility owner,
- Facility operator,
- Facility lessee,
- Person delivering ~~his~~ his or her waste to a resource recovery; or
- Recycling facility.

2. LOCATION OF THE FACILITY AND ITS PERMIT NUMBER:

3. BRIEF DESCRIPTION OF THE TYPE AND ESTIMATED ANNUAL AMOUNT OF WASTE DISPOSED AT THIS FACILITY:

4. BRIEF DESCRIPTION OF THE BUSINESSES OR ACTIVITIES WHICH GENERATE THE WASTE DISPOSED AT THIS FACILITY:

NOTE: If you are seeking an exemption for a facility that disposes of waste on a cost-sharing or nonprofit basis, please complete item 5. If you are seeking an exemption for reuse or recycling, please complete item 6.

5. BRIEF SUMMARY OF THE LEGAL DOCUMENTS WHICH DESCRIBE THE RELATIONSHIP BETWEEN YOUR FACILITY AND THE INDIVIDUALS DISPOSING WASTE THERE ON A COST-SHARING OR NONPROFIT BASIS:

Please attach an additional sheet listing the name, address, and telephone number of each person using the facility on a cost-sharing or nonprofit basis.

6. BRIEF DESCRIPTION OF THE PROCESS OR METHOD EMPLOYED TO REUSE OR RECYCLE YOUR DELIVERED WASTE:

Please attach a notarized statement from the facility owner or operator that certifies that a reuse or recycling process is in

operation at ~~his~~ his or her facility and that the delivered waste will in fact be reused or recycled.

I hereby declare that the information in this application is accurate and true to the best of my knowledge and belief. I understand that the filing of false, inaccurate, or misleading information is grounds for the revocation of my exemption.

Signature of Applicant

Date



BUREAU OF ENVIRONMENT

10 McJunkin Road
Nitro, WV 25143-2506

CECIL H. UNDERWOOD
GOVERNOR

Michael P. Miano
COMMISSIONER

July 13, 1998

Ms. Judy Cooper
Director, Administrative Law Division
Office of the Secretary of State
Capitol Complex
Charleston, West Virginia 25305

RE: 33CSR6 - "Solid Waste Management Fee Exemption"

Dear Ms. Cooper:

This is to advise that I am giving approval to file the above-referenced procedural rule with your office as notice of comment period.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please contact Carrie Chambers in my office at 759-0515.

Sincerely yours,


Michael P. Miano
Commissioner

MPM:cc

cc: Carrie Chambers
Larry Atha, OWM