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GOVERNOR

DIVISION OF ENVIRONMENTAL PROTECTION
1356 Hansford Street
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MICHAEL P. MIANO
DIRECTOR

July 8, 1998

BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION

BRIEFING DOCUMENT

Rule Title: Proof of Proper Solid Waste Disposal

A. AUTHORITY: WV Code §22C-4-10.

B. SUMMARY OF RULE:

The enclosed proposed Rule is necessary to provide a technical cleanup of the West Virginia Proof of Proper Solid Waste Disposal Rule, formerly Title 47, Series 38B, and now changed to Title 33, Series 7.

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	THREEYEAR
<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 7
PROOF OF PROPER SOLID WASTE DISPOSAL

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FILED

TITLE 47 33

JUL 22 9 47 AM '98

INTERPRETIVE RULE

DIVISION OF ENVIRONMENTAL PROTECTION

~~WATER RESOURCES~~ ~~WASTE MANAGEMENT~~ OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

OFFICE OF WASTE MANAGEMENT

SERIES 38B 7

PROOF OF PROPER SOLID WASTE DISPOSAL

~~§47-38B-1.~~ §33-7-1. General.

1.1. Scope and Purpose.

This rule provides guidance to persons occupying a residence or operating a business establishment in this state regarding the approved method of providing proof of proper solid waste disposal to the ~~Department~~ Division of Environmental Protection.

1.2. Authority. -- W. Va. Code ~~20-9-9.~~ §22C-4-10.

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

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

~~§47-38B-2.~~ §33-7-2. Proof of Proper Solid Waste Disposal.

2.1. Applicability.

Each person occupying a residence or operating a business establishment in this state must be able to provide proof to the ~~Department~~ Division of Environmental Protection that his solid waste was disposed of at an approved solid waste facility.

2.2. Forms of Proof.

Proof of proper solid waste disposal includes:

~~2.2.1.~~ 2.2.a. Records demonstrating that a person has subscribed to and used a solid waste collection service and has paid the fees established therefor; or

~~2.2.2.~~ 2.2.b. Records, including bills of receipt, demonstrating that a person has delivered his or her waste to an approved solid waste facility for disposal.

Note: The term "solid waste collection service" means a collection service offered either by a common carrier certificated by the West Virginia Public Service Commission (or similar body of a contiguous state) or by a municipality or other governmental body.

2.3. Recordkeeping Requirements.

The owner or operator of each approved solid waste facility in this state must maintain records of each delivery of solid waste made by an individual who is not in the business of hauling or disposing of solid waste. Such records must include:

~~2.3.1.~~ 2.3.a. The name and address of the individual who delivered the waste for disposal;

~~2.3.2.~~ 2.3.b. A description of the origin, type, and estimated amounts of the waste delivered for disposal; and

~~2.3.3.~~ 2.3.c. A copy of the bill of receipt for the waste delivered for disposal.

2.4. Maintenance and Retention of Records.

All records required under ~~these regulations~~ this rule must be maintained for a minimum of three (3) years and be made available for inspection by an authorized representative of the director upon request.



BUREAU OF ENVIRONMENT

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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: 33CSR7 - "Proof of Proper Solid Waste Disposal"

Dear Ms. Cooper:

This is to advise that I am giving approval to file the above-referenced interpretive 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