



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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8/30/2012 10:33:13 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY Waste Management Division Of Water And Waste Management

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 33-12

RULE NAME Covered Electronic Device Recycling Rule

CITE AUTHORITY 22-15A-22(d) and (f)

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.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

**Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 33-12



Rule Id: 8700



Document: 24134



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY **Waste Management Division Of Water And Waste Management**
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RULE NAME **Covered Electronic Device Recycling Rule**

CITE AUTHORITY **22-15A-22(d) and (f)**

AUTHORIZING STATUTE(S) CITATION
22-15A-22(d) and (f)

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD
Friday, July 06, 2012

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?
Charleston Gazette
DEP Website
Public notice ListServe

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED
Tuesday, August 07, 2012

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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

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ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED,
AMENDMENTS, REASONS FOR AMENDMENTS.

Attached

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE
FOLLOWING PUBLIC HEARING: (BE EXACT)

Friday, August 10, 2012

NAME, TITLE, ADDRESS AND PHONE FAX EMAIL NUMBERS OF AGENCY PERSON(S) TO
RECEIVE ALL WRITTEN CORRESPONDENCE REGARDING THIS RULE

Ken Holliday
Environmental Resources Specialist
Phone: 304-926-0499 ext1615
Fax: 304-926-0456
kenneth.c.holliday@wv.gov

**Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in
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IF DIFFERENT FROM ABOVE, 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

Same

IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION, 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.

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 4)

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CITE AUTHORITY **22-15A-22(d) and (f)**

DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS
REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS
None

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

**Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY **Waste Management Division Of Water And Waste Management**
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CITE AUTHORITY **22-15A-22(d) and (f)**

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

The implementation of this rule will have no impact on costs and revenues of the state government

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

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CITE AUTHORITY 22-15A-22(d) and (f)

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	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0.00	0.00	0.00
PERSONAL SERVICES			
CURRENT EXPENSES			
REPAIRS AND ALTERATIONS			
ASSETS			
OTHER			
ESTIMATED TOTAL REVENUES	0.00	0.00	0.00

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

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RULE NAME **Covered Electronic Device Recycling Rule**

CITE AUTHORITY **22-15A-22(d) and (f)**

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

The implementation of this rule will have no impact on costs and revenues of the state government

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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CITE AUTHORITY **22-15A-22(d) and (f)**

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.

The implementation of this rule will have no impact on costs and revenues of the state government

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY **Waste Management Division Of Water And Waste Management**
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CITE AUTHORITY **22-15A-22(d) and (f)**

**SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND
STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.**

West Virginia Code § 22-15A-29 requires the Secretary to propose for promulgation
Legislative rules to implement the provisions of sections 24 through 28 of Article 15A.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

**Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 33-12



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**TITLE 33
LEGISLATIVE RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WASTE MANAGEMENT**

**SERIES 12
COVERED ELECTRONIC DEVICES RECYCLING RULE**

§33-12-1. General.

1.1. Scope. – This legislative rule establishes requirements for the proper storage, handling, recycling, and disposal of covered electronic devices.

1.2. Authority. – W. Va. Code § 22-15A-22(d) and (f).

1.3. Filing Date. –

1.4. Effective Date. –

§33-12-2. Definitions.

All definitions in W. Va. Code §§ 22-15-2 and 22-15A-2 are fully incorporated into this rule by reference. The following definitions apply to this rule unless otherwise specified or unless the context in which used clearly requires a different meaning.

2.1. “Covered Electronic Device” or CED means a television, computer or video display device with a screen that is greater than four inches measured diagonally. "Covered electronic device" does not include a video display device that is part of a motor vehicle or that is contained within a household appliance or commercial, industrial or medical equipment.

2.2. “Computer” means a desktop, personal computer or laptop computer, including the computer monitor. Computer does not include a personal digital assistant device, computer peripheral devices such as a mouse or other similar pointing device, a printer or a detachable keyboard.

2.3. “Television” means any telecommunication system device that can receive moving pictures and sound broadcast over a distance and includes a television tuner or a video display device peripheral to a computer in which the display contains a television tuner.

2.4. "Video Display Device" means an electronic device with an output surface that displays or is capable of displaying moving graphical images or visual representations of image sequences or pictures that show a number of quickly changing images on a screen to create the illusion of motion. Video display device includes a device that is an integral part of the display and cannot easily be removed from the display by the consumer and that produces the moving image on the screen. A “video display device” may use a cathode-ray tube (CRT), liquid crystal display (LCD), gas plasma, digital light processing, other image-projection technology or imaging display technologies.

2.5. “Cathode Ray Tube” means vacuum tubes, made primarily of glass, which constitute the video display components of, among other things, televisions and computer monitors.

2.6. “Covered Electronic Device Collector” means any person that accepts and stores CEDs for the purpose of sending them to an electronics recycling facility.

§33-12-3. General Requirements Governing Covered Electronic Devices.

3.1. Certain Disposal Prohibited. – After January 1, 2011, it is unlawful to deposit CEDs in a solid waste landfill in West Virginia. CEDs must be delivered to a commercial solid waste facility or to a collection or recycling facility authorized to take them by the laws of the State of West Virginia or of the state where the collection or recycling facility is located.

3.2. Certain Disposal Allowed. – Solid waste landfills shall continue to accept for disposal all electronic devices that are not specifically exempted from landfill disposal by this rule.

3.3. Commercial Solid Waste Facilities Required to Accept Covered Electronic Devices

3.3.a. Commercial solid waste facilities shall accept CEDs from any person and may charge a reasonable fee for acceptance of the same, in accordance with the rates and charges established by the Public Service Commission pursuant to W. Va. Code § 24-1-1, et seq. CEDs accepted by the commercial solid waste facility shall not be disposed of in a landfill except as allowed in subsection 3.4 of this rule.

3.3.b. CEDs collected by commercial solid waste facilities or CED collectors shall be stored and handled in compliance with the requirements of section 4 of this rule.

3.3.b. CEDs collected by commercial solid waste facilities are exempt from the calculation of monthly tonnage limits and from any solid waste disposal assessment fees.

3.4. Exception to Prohibiting Covered Electronic Devices from Disposal in Landfills. – Commercial solid waste landfills may only dispose of CEDs generated from Department of Environmental Protection (DEP) remediation ~~or collection~~ events when the DEP has determined that there is no other reasonable disposal alternative available.

3.4.a. CEDs accepted from DEP as a result of DEP remediation ~~or collection~~ events that are permanently disposed of in a landfill are not exempt from the calculation of monthly tonnage limits or any solid waste disposal assessment fees.

3.4.b. DEP may negotiate with a solid waste landfill for rates and charges for the disposal of CEDs regardless of the rates and charges established by the Public Service Commission.

§33-12-4. Covered Electronic Device Storage, Handling, Recycling, and Disposal Requirements

4.1. General Operational Requirements. Unless otherwise approved by the Secretary in writing, all commercial solid waste landfills and CED collectors shall conform to the following operational requirements:

4.1.a. The facility shall be secure from theft, vandalism, fire, and unauthorized access.

4.1.b. The facility shall be designed to receive, process, and store CEDs and any components thereof in a manner that prevents surface water, stormwater or groundwater contamination.

4.1.b.1 Receiving, storage, operations, and shipping areas must be under a roof or in an enclosed area sufficient to prevent stormwater contamination.

4.1.b.2 Receiving, storage, operations, and shipment areas must have an impermeable surface sufficient to prevent surface water and groundwater contamination.

4.1.c. The facility must manage all cathode ray tubes (CRTs) in a manner that prevents breakage and ship them intact to a designated recycling facility. All CRTs, regardless of condition (broken, intact or otherwise separated from the CED), must be accepted by the facility and properly managed for recycling. Any broken CRTs shall be handled as described in subdivision 4.1.e below.

4.1.d. If circuit boards are removed from CEDs they must be removed, stored, and shipped to the recycler as an intact or whole circuit board. Components removed from a whole or intact circuit board are considered newly generated waste and may be subject to handling, storage, and shipment in accordance with the *West Virginia Hazardous Waste Management Act*, W. Va. Code § 22-18-1, et seq., and any rules promulgated thereunder.

4.1.e. The facility shall immediately clean up any broken CRTs from a CED and place all such waste in a container that is closed, structurally sound, compatible with the CRTs, and capable of preventing leakage, spillage or releases of broken CRTs, glass particles or other hazardous constituents from the broken CRTs to the environment. As soon as possible, the facility shall package and ship broken CRTs to a designated recycling facility.

4.1.f. The facility shall not shred, crush, heat or otherwise treat CEDs or any component thereof and shall not break the CRT in any CED. A facility may disassemble CEDs for the sole purpose of marketing, reselling, reusing or recycling components thereof.

4.1.g. The facility shall clearly label or mark each CED or container, package or pallet containing CEDs with one of the following phrases: “Universal Waste – Covered Electronic Devices” or “Waste Covered Electronic Devices” or “Used Covered Electronic Devices.”

4.1.h. The facility shall determine whether all CEDs and any component thereof destined for disposal meet the definition of “hazardous waste” as defined in W. Va. Code § 22-18-3(6). Any CED or component thereof that meets the definition of hazardous waste shall be stored, managed, handled, and disposed of in accordance with the *West Virginia Hazardous Waste Management Act*, W. Va. Code § 22-18-1, et seq., and the rules promulgated thereunder.

4.2. Annual Reporting Requirements. – Commercial solid waste landfills and CED collectors shall submit annual reports to the Secretary by December 31 of each year on forms provided by or acceptable to the Secretary. The report shall include, at a minimum:

4.2.a. The date, quantity, and origin of CEDs received at the facility;

4.2.b. The quantity or tonnage of CEDs processed at the facility;

4.2.c. The quantity or tonnage of CEDs stored at the facility;

4.2.d. Entities contracting for CED recycling services and dates on which those services were provided;

4.2.e. The name, address, telephone number, and certificated motor carrier identification number of all transporters that transport CEDs to and from the facility, including the quantity or tonnage of CEDs so

transported; and

4.2.f. A description of any theft, vandalism, fire, unauthorized access or environmental problems or changes in the facility's operational procedures for handling CEDs. With regard to each of these problems, describe the steps taken to prevent a recurrence.