

# SECRETARY OF STATE

KEN HECHLER

## ADMINISTRATIVE LAW DIVISION

Form #1

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### NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

The Commercial Hazardous Waste Management

AGENCY: Facility Siting Board TITLE NUMBER: Title 57

RULE TYPE: Legislative; CITE AUTHORITY WV Code §20-10-3(j)

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 1

TITLE OF RULE BEING PROPOSED: "Commercial Hazardous Waste  
Management Facility Siting Board Certification Requirements"

DATE OF PUBLIC HEARING: August 10 1993 TIME: 7:00 PM

LOCATION OF PUBLIC HEARING: Office of Air Quality  
1558 Washington Street East  
Charleston, WV 25301

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: WV DEP

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

Office of Waste Mgt.  
1356 Hansford St.  
Charleston, WV 25301

ATTN: Buddy Davidson

*George F. Potter*  
Chair  
CHWMF Siting Board

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 57 Series 1: "Commercial Hazardous Waste Management

Facility Siting Board Certification Requirements"  
 Type of Rule: yy Legislative      Interpretive      Procedural

Agency The Commercial Hazardous Waste Management Facility Siting Board

Address \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

1. Effect of Proposed Rule

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

2. Explanation of above estimates: All expenses incurred will be reimbursed from Siting Application fees.

3. Objectives of these rules: These regulations establish the procedures for obtaining a Certificate of Site Approval prior to the construction of a commercial hazardous waste management facility.

Rule Title: Title 47 Series 35A: "Commercial Hazardous Waste Management Facility Siting Fees"

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

No impact.

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

No impact.

C. Economic Impact on Citizens/Public at Large.

No impact.

Date: July 1, 1993

Signature of Agency Head or Authorized Representative

Herbert F. Potter, Chair  
CHWMP Siting Board

TITLE 57  
LEGISLATIVE RULES  
COMMERCIAL HAZARDOUS WASTE MANAGEMENT FACILITY SITING BOARD

FILED

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SERIES 1  
CERTIFICATION REQUIREMENTS

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

§56-1-1. General.

1.1. Scope and Purpose. -- These regulations establish the procedures for obtaining a Certificate of Site Approval prior to the construction of a commercial hazardous waste management facility. By no means do these regulations permit the operation of a facility, they may only approve or reject the proposed location of a facility.

1.2. Authority. -- West Virginia Code §20-10-3(j).

1.3. Filing Date. --

1.4. Effective Date. --

§56-1-2. Definitions.

2.1. "Board" means the Commercial Hazardous Waste Management Siting Board established pursuant to West Virginia Code §20-10-3.

2.2. "Commercial Hazardous Waste Management Facility" or "Commercial Facility" means any hazardous waste treatment, storage, or disposal facility, including incinerators, which accepts hazardous waste, as identified or listed by the Director of the Division of Environmental Protection under Title 47, Series 35 "Hazardous Waste Management Regulations" of the West Virginia State Code of Regulations (47 C.S.R. 35), generated by sources other than the owner or operator of the facility and shall not include an approved hazardous waste facility owned and operated by a person for the sole purpose of disposing of hazardous waste created by that person or such person or other persons on a cost-sharing or nonprofit basis.

2.3. "Construction" as used in these regulations, means:

2.3.1. For new facilities, pursuant to §20-10-3(c), the significant alteration (as determined by the Board) of a site to install, or the installation of permanent equipment or structures;

2.3.2. For existing facilities, an alteration or expansion that increases the capacity of the facility to accept fifty percent (50%) more hazardous waste, or any change in design or process that results in a substantially different type of facility (e.g., disposal facility being converted to a storage facility).

Comment: Construction does not include preliminary engineering or site surveys, environmental studies, site acquisition, or acquisition of options to purchase and other similar activities normally incident thereto.

2.4. "Hazardous Waste Management Facility" means any facility including land and structures, appurtenances, improvements and equipment used for the treatment, storage or disposal of hazardous wastes, which accepts hazardous waste for storage, treatment or disposal. A facility may consist of one (1) or more treatment, storage or disposal operational units. For the purposes of these regulations, it does not include:

2.4.1. Facilities for the treatment, storage or disposal of hazardous wastes principally as fuels in an on-site production process; or

2.4.2. Facilities used exclusively for the pretreatment of wastes discharged directly to a publicly owned sewage treatment works.

2.5. "Person" means any individual, trust, firm, joint stock company, public, private or government corporation, partnership, association, state or federal agency, the United States government, this state or any other state, municipality, county commission, or any other political subdivision of a state or interstate body.

2.6. All other terms shall have the meaning prescribed in Title 47, Series 35 "Hazardous Waste Management Regulations" of the West Virginia Code of State Regulations (47 C.S.R. 35).

**§56-1-3. Exclusions From the Commercial Hazardous Waste Management Facility Siting Board Regulations.**

3.1. Commercial hazardous waste management facilities, as defined in Section 2 of these regulations, shall be exempt from these regulations if they can demonstrate to the Board that:

3.1.1. It is owned and operated by a person(s) solely for the treatment, storage, disposal, or recycling of hazardous waste generated by that person or that person and others on a cost-sharing, nonprofit basis;

3.1.2. The facility treats, stores, disposes, or recycles hazardous wastes used principally as fuels in an on-site production process;

3.1.3. The facility is used exclusively for the pretreatment of wastes discharged directly to a publicly-owned sewage treatment works (POTW).

§56-1-4. Applying for Site Approval.

4.1. Prior to submitting a siting application to the Board, the applicant shall file pre-siting notices, publish legal notices as prescribed in Chapter 20, Article 10A, Section 3 of the West Virginia Code, and hold a public information hearing in the proposed host community. Then the referendum process shall be carried forth. See Siting Flow Chart (Appendix I) and Pre-Siting Notice (Appendix II).

4.2. After the pre-siting procedure has been executed, and if the referendum indicates that a majority of the legal votes cast upon the question be in favor of the facility, any person(s) wanting to construct or operate a commercial hazardous waste management facility must obtain an application outline from the Board. Applications that do not explicitly follow the outline will be deemed incomplete. See Completeness Outline (Appendix III).

4.3. Any person(s) wanting to construct or operate a commercial hazardous waste management facility must submit to the Board, the information required under Title 47, Series 35, Hazardous Waste Management Regulations, Sections 11.5.1.1 through 11.5.1.m. of the West Virginia Code of State Regulations.

4.4. Such person(s) must submit an indication of whether this is a new or revised application.

4.5. Such person(s) must submit a descriptive history of any previous hazardous waste management activities in which the owner and/or operator was or is involved.

4.6. In addition to the information required under Section 4.3 and 4.5 of these regulations, the applicant must also submit the following information:

4.6.1. A drawing of the facility at a scale of one inch equal to not more than one hundred feet (1" = 100') showing the location, where applicable, of all past, present, and future hazardous waste treatment, storage, disposal, and recycling areas. Existing facilities must provide photographs of the same;

4.6.2. A 7.5 minute series USGS topographic map showing a distance of one thousand (1,000) feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet) if relief is less than 6.1 meters (20 feet). Owners and operators of hazardous waste facilities located in mountainous areas should use larger contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

- 4.6.2.a. Map scale and date;
- 4.6.2.b. 100-year floodplain area;
- 4.6.2.c. Surface waters including intermittent streams;
- 4.6.2.d. Surrounding land uses (e.g., residential, commercial, agricultural, recreational, schools, hospitals, institutions and other businesses);
- 4.6.2.e. A wind rose (i.e., prevailing wind speed and direction);
- 4.6.2.f. Orientation of the map (north arrow);
- 4.6.2.g. Legal boundaries of the hazardous waste management facility site;
- 4.6.2.h. Access control (e.g., fences, gates);
- 4.6.2.i. Injection and withdrawal wells both on-site and off-site;
- 4.6.2.j. Buildings, treatment, storage, or disposal operations or other structures (e.g., recreation areas; runoff control systems; access and internal roads; storm, sanitary, and process sewage systems; loading and unloading areas; and fire control facilities);
- 4.6.2.k. Barriers for drainage or flood control; and
  - 4.6.2.l. Location of operational units within the hazardous waste management facility site, where hazardous waste is or will be treated, stored, or disposed (include equipment clean-up areas); and
- 4.6.3. A listing of all permits or construction approvals received or pending as required under Title 47, Series 35, Section 11.4.1.j of the West Virginia Code of State Regulations;
- 4.6.4. The Standard Industrial Classification Codes (SIC) that reflect the types of hazardous waste generators to be served by the facility;
- 4.6.5. A detailed written analysis along with supporting documentation that addresses the nature of the probable environmental and economic impacts of the facility to include, but not limited to the following:
  - 4.6.5.a. The predictable adverse impacts on:
    - 4.6.5.a.1. Wetlands;

- 4.6.5.a.2. Farmlands;
- 4.6.5.a.3. Surface water;
- 4.6.5.a.4. Groundwater;
- 4.6.5.a.5. Wildlife;
- 4.6.5.a.6. Endangered species;
- 4.6.5.a.7. Public health and safety;
- 4.6.5.a.8. Transportation networks;
- 4.6.5.a.9. Historic, cultural, and recreational areas;

and

- 4.6.5.a.10. Air quality;
- 4.6.5.a.11. Counties or communities adjacent to the proposed host community.

Note: If there is a potential for adverse impacts beyond the host community, the Board shall notify the respective County Commission(s) and publish a Class I-O legal advertisement identifying those impacts in a newspaper published in that county(s).

4.6.5.b. An evaluation of and a plan for measures that will mitigate such effects.

4.6.6. The information required under Title 47, Series 35, Section 11.2.9 (exposure information) of the West Virginia Code of State Regulations, except that such information shall be required of all commercial hazardous waste management facilities regardless of the type of management practice employed. Such information shall include a quantitative assessment of the degree of health risk to human populations within a four (4) mile radius of the proposed facility. This assessment shall consider and discuss:

4.6.6.a. Chronic and acute exposure scenarios;

4.6.6.b. Carcinogenic, teratogenic, systemic or other health risks, as appropriate;

4.6.6.c. The above scenarios and risks quantitatively, to the extent possible, as per the Board; and

4.6.6.d. Each pathway identified pursuant to Title 47, Series 35, "Hazardous Waste Management Regulations," Section 11.2.9.a.1 of the West Virginia Code of State Regulations.

4.6.7. The nature of expected environmental benefits;

4.6.8. The nature of expected economic benefits likely to be derived from the facility;

4.6.9. The activities to be conducted at the facility;

4.6.10. A list of hazardous wastes (include EPA Hazardous Waste Codes) that will be received by the facility; their respective annual volumes; and the type of treatment, storage, or disposal;

4.6.11. The latitude and longitude of the facility;

4.6.12. The names, addresses, and telephone numbers of the owner, operator, and principal shareholders of the facility.

4.7. The applicant shall submit twenty (20) copies of the completed application to the Board.

4.8. Signatories to the Application. The following statement must precede any required signatures.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with measures designed to assure that qualified personnel gathered and evaluated the information submitted. Based upon my inquiry of those persons directly involved with the preparation of this application, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false or misleading information, including the possibility of fine and imprisonment for knowing violations."

4.8.1. The application must be signed by the following person(s):

4.8.1.a. For a corporation, the "responsible corporate officer" as defined in Title 47, Series 35, Section 2 (47 C.S.R. 35 §2) of the West Virginia Code of State Regulations;

4.8.1.b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively; or

4.8.1.c. For a municipality, State, federal, or other public agency, by either the principal executive officer, or ranking elected official.

4.9. On or before sixty (60) calendar days of the receipt of the application for Site Approval by the Board, the Board shall mail written notice to the applicant as to whether or not the application is complete. If the application is determined to be incomplete, the Board shall notify the applicant and assess the resubmittal fees pursuant to Title 47, Series 35A (47 C.S.R. 35A). When the application has been determined to be complete, the Board shall notify the applicant and the County Commission of the

intended host county and the County Commissions of all Counties within the 4 mile radius of the quantitative assessment required under Section 4.6.6 of these regulations. The County Commission of the host County shall, within thirty (30) calendar days of such notice, appoint two (2) ad hoc members to the Board to act upon the application.

Note: When a facility or proposed facility is owned and operated by different persons, it is the operator's obligation to submit the application, but the owner must also sign the application.

#### §56-1-5. Determination of Completeness and Notification.

5.1. Within thirty (30) calendar days upon the Board's determination that the application is complete, the Board shall, at the expense of the applicant, do the following:

5.1.1. Publish in the State Register a notice of a public comment period and a public hearing and provide a copy of the application to the public library in the proposed host community (or the most proximate library) for public inspection;

5.1.1.a. The public hearing shall be held within sixty (60) calendar days of the Board's determination of the completeness of the application;

5.1.1.b. The public hearing shall be in the county in which the facility is proposed to be located, and at a location convenient to a population center nearest to the proposed facility location;

5.1.1.c. An accurate record, transcribed at the applicant's expense, of the hearing shall be kept by the Board (i.e., cassette recording, stenographer);

5.1.1.d. The close of the hearing shall also end the written comment period. No written comments received after the close of the hearing will be considered, except as provided under Section 5.1.1.e of these regulations;

5.1.1.e. The Board shall reopen the public comment period and schedule an additional public hearing if the Board finds it necessary for additional input on any unsettled issues concerning the application;

5.1.1.f. The Board will make transcripts of the hearing available through the Division of Environmental Protections Public Information Office at a reasonable cost;

5.1.2. Provide written notice to the Chief Executive Officer of each affected municipality in which the proposed facility is to be located; and

5.1.3. Direct the applicant to publish a Class I-O legal advertisement in at least two (2) daily or weekly newspapers having circulation within the vicinity of the proposed facility. The legal advertisement shall identify the proposed location; the type of facility and activities involved; the name of the owner and the operator; the date, time, and place that the Board will convene a public hearing regarding the application; an address to which written comments can be sent; and the name, address, and telephone number of a person from whom interested parties may obtain further information, including copies of the application.

Note: A qualified daily or weekly newspaper shall meet the criteria of West Virginia Code §59-3-1(b).

#### §56-1-6. Approval or Denial of Application.

6.1. Upon completion of the public hearing, the Board shall render a decision based upon written and oral comments received concerning the application.

6.2. Before a decision is made, the Board may seek consultation from the applicant or the Division of Environmental Protection if clarification is needed regarding the application and any comments received.

6.3. Within sixty (60) calendar days of the public hearing the Board shall render one of the following decisions:

6.3.1. Grant Certificate of Site Approval;

6.3.2. Grant Conditional Certificate of Site Approval; or

6.3.3. Deny Certificate of Site Approval.

6.4. Immediately upon the decision of the Board, the Board shall send written notification to the applicant. The written notification shall be sent by certified mail. The written decision shall be available to the public upon request.

6.5. Any person, pursuant to West Virginia Code §§20-10-6 and 20-10-7, having an interest adversely affected by the decision of the Board is entitled to judicial review thereof in the Circuit Court of Kanawha County, or the county in which the public hearing took place, by filing a petition with the court within sixty (60) calendar days of the Board's written decision.

Note: The certification process is outlined in Appendix I of these regulations.

§56-1-7. Effect of Certification.

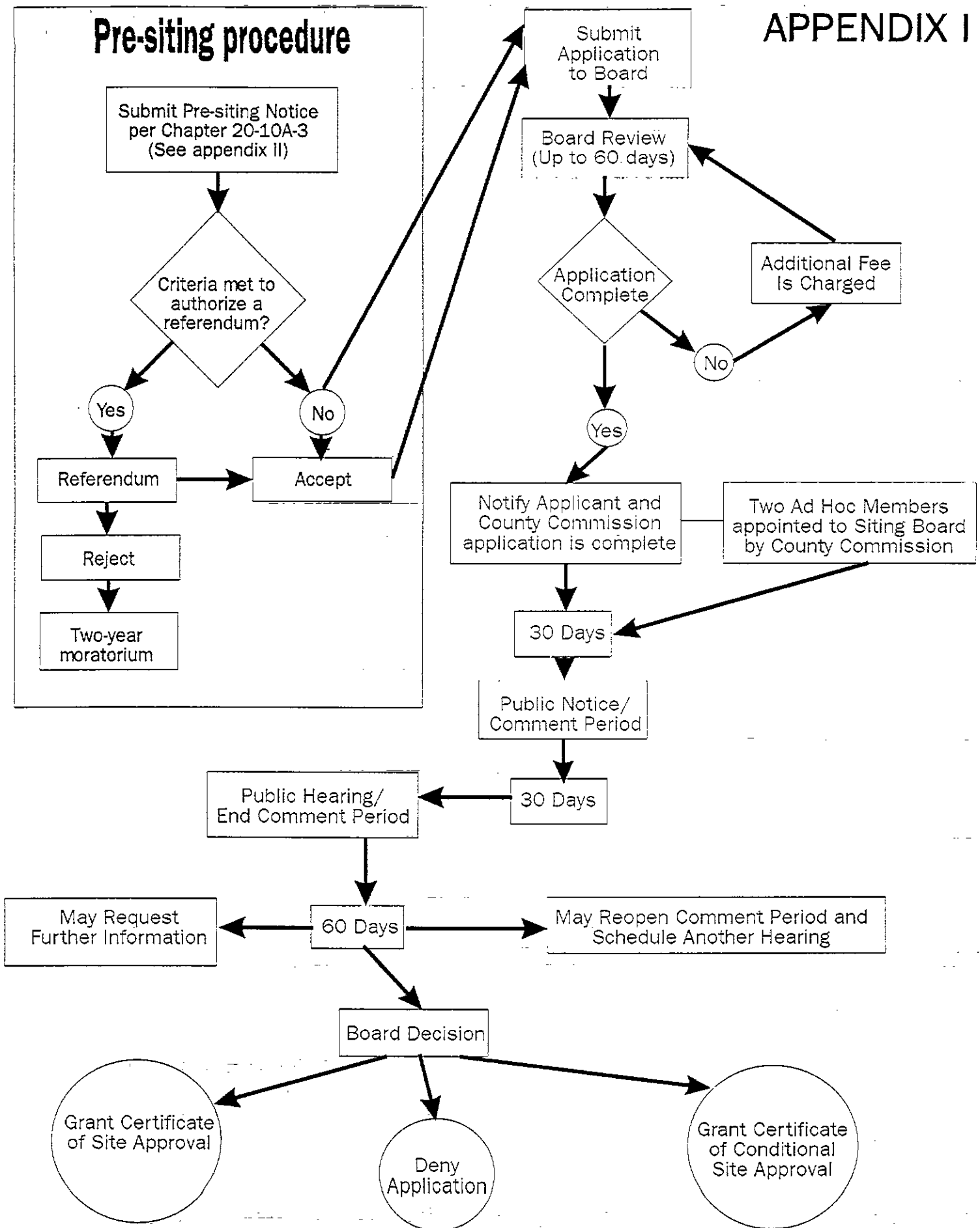
7.1. The approval and conditions thereto of the Certificate of Site Approval shall supersede any local ordinance or regulation that is inconsistent or conflicts with the terms contained in the Certificate of Site Approval.

7.2. Nothing in these regulations shall affect the authority of the host community to enforce its regulations and ordinances to the extent that they are not inconsistent with the terms and conditions of the approval certificate.

7.3. Facility site approval will not preclude or excuse the applicant from any required permits or approvals under any State or federal laws and regulations.

# APPENDIX I

## Pre-siting procedure



APPENDIX II

West Virginia  
Commercial Hazardous Waste Management  
Facility Siting Board

Pre-Siting Notice Outline

The Pre-Siting Notice shall contain, at a minimum, the following information in an outline format:

- I. Name of owner(s) and description of prior hazardous waste management experience.
- II. Name of operator(s) and description of prior hazardous waste management experience.
- III. Type of facility (ie. hazardous waste management processes to be employed).
- IV. Volume, type and source of wastes to be managed.
- V. A topographic map of the proposed facility and its environs. The contour interval of the map shall be sufficient to clearly show the pattern of surface water flow. The map shall also include:
  - Map scale and date;
  - 100 year floodplain;
  - Surface waters, including intermittent streams;
  - Surrounding land uses;
  - Locations of schools, hospitals, recreational facilities and other public institutions and places, major businesses or commercial activities;
  - Wind rose;
  - Orientation of map;
  - Municipal and county boundaries;
  - Injection and withdrawal wells.
- VI. Synopsis of potential adverse impacts.
- VII. Synopsis of potential beneficial impacts.

APPENDIX III

INSTRUCTIONS FOR OBTAINING A CERTIFICATE OF SITE APPROVAL

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Siting Fee

Each application shall be accompanied by a money order or a cashier's check made payable to "The Commercial Hazardous Waste Management Facility Siting Fund" in the amount specified in Section 3.1 of Title 47, Series 35A (Commercial Hazardous Waste Management Facility Siting Fees). An additional fee in the amount specified in Section 3.3 of Title 47, Series 35A shall be paid by the applicant for each incomplete application that must be resubmitted to the Board, or for any subsequent modifications offered by the applicant after the Board has determined that the application is complete pursuant to the "Commercial Hazardous Waste Management Facility Siting Board Regulations" under Title 56, Series 1.

Number of Copies

Twenty (20) complete sets of the application are to be submitted to the Board at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Format

An outline is attached which describes the requirements for siting approval. Part I specifies the items to be submitted as part of the application and the format in which these are to be provided. Part II specifies the duties of the Siting Board.

Effect of Certification

The approval and conditions of the Certificate of Site Approval shall supersede any local ordinance or regulation that is inconsistent or conflicts with the terms in the Certificate of Site Approval, but will not preclude or excuse the applicant from any required permits or approvals under any State or federal laws and regulations.

WEST VIRGINIA SITING APPLICATION FORMAT

PART 1

References are to Sections of the following West Virginia Administrative Regulations: The Certification Requirements of the Commercial Hazardous Waste Management Facility Siting Board (Title 56, Series 1), the Commercial Hazardous Waste Management Siting Fees (Title 47, Series 35A), and The Hazardous Waste Management Regulations (Title 47, Series 35).

		Page No.
A.	FACILITY DESCRIPTION	
A-1.	General Description: 4.6.9, 4.6.10 (Title 56, Series 1)	_____
	1. Describe activities to be conducted at the facility:	_____
	- type of treatment, storage, or disposal	
	- types of wastes and industries served	
	- list of hazardous wastes; including:	
	- EPA hazardous waste codes	
	- their respective volumes	
	2. Provide descriptive history:	_____
	- previous hazardous waste management activities	
	- present hazardous waster management activities	
	- SIC Codes applicable to the hazardous waste facility	
	- listing of all permits or construction approvals received or pending as required under Title 47, Series 35, Section 11.4.1.j.	
	3. Latitude and longitude of the facility	_____
	4. Names, addresses, and telephone numbers of the owner, operator, and principal shareholders of the facility.	_____
A-2.	Maps and Drawings: 4.6 (Title 56, Series 1)	_____
A-2a.	General Requirements for Drawing:	_____
	1. Scale	
	- Must be 1" to 100' (or less)	
	2. Indicate (where applicable) location of all past, present, and future hazardous waste treatment, storage, disposal, and recycling areas.	

A-2b. General Requirements for topographic map \_\_\_\_\_

1. Scale \_\_\_\_\_ No.

- 7.5 minute series USGS topographic map
- Must be 1" to 200' (or less)

2. Contour interval \_\_\_\_\_

- Must be sufficient to determine pattern of surface water flow (5 feet if relief is greater than 20 feet; 2 feet if less than 20 feet; larger contour interval if located on mountains).

3. Coverage \_\_\_\_\_

- At least 1000 feet around the facility

4. Show the following (more than one topo map or drawing may be used for clarity): \_\_\_\_\_

- map scale
- date
- 100-year floodplain area
- surface water (including intermittent streams)
- wind rose (prevailing wind speed and direction)
- map orientation
- legal boundaries of hazardous waste management facility site
- access control
- injection and withdrawal wells (on-site and off-site)
- buildings and other structures
- sewers (process, storm, sanitary)
- loading and unloading areas
- access and internal roads
- fire control facilities
- run-off control systems
- flood control or drainage barriers
- location of operational TSD units within hazardous waste management facility site
- equipment clean-up areas
- surrounding land uses (e.g., residential, commercial, agricultural, recreational, schools, hospitals, institutions, and other businesses)

A-3. Facility Location Information: 4.3 (Title 56, Series 1), \_\_\_\_\_  
11.5.1.1 (Title 47, Series 35)

A-3a. Location Standards: 11.5.1.1, 12 (Title 47, Series 35) \_\_\_\_\_

A-3a(1). Seismic Considerations 11.5.1.1.1 (Title 47, Series 35) \_\_\_\_\_

1. No faults within 3,000 feet of facility based on data from:
- U.S. Geological Survey (USGS) Publications
  - USGS Aerial Reconnaissance within 5 miles
  - aerial photo analysis within 3,000 feet
  - reconnaissance based on walking area within 3,000 feet, or

2. No faults within 200 feet of facility's hazardous waste management activity based on data from:
  - a comprehensive geologic analysis of the site
  - subsurface exploration (trenching) if necessary

A-3a(2). Karst Terrain Standard: 11.5.1.1.2 (Title 47, Series 35) \_\_\_\_\_

1. No solution cavities underlying or possibly influencing the site based upon:
  - U.S. Geological Survey and WV Geological and Economic fracture trend maps and Karst subsidence maps.
  - test borings and engineering analysis sufficient to determine overburden stability.

A-3a(3). Subsurface Mining Area Standard: 11.5.1.1.3 (Title 47, Series 35) \_\_\_\_\_

1. Facility not within 1,000 feet of a probable area of subsidence influence based upon:
  - WV Department of Mines reports and maps
  - U.S. Bureau of Mines maps
  - provide calculations (include angle of draw) if necessary

A-3a(4). Critical Recharge Standard: 11.5.1.1.4 (Title 47, Series 35) \_\_\_\_\_

1. Not within an area which serves to recharge a public groundwater supply based upon:
  - U.S. Geological Survey Maps
  - Office of Water Resources
  - Department of Health and Human Resources

A-3a(5). Wetlands Standard: 11.5.1.1.5 (Title 47, Series 35) \_\_\_\_\_

1. Not within or in an area influencing a wetlands based upon:
  - U.S, Geological Survey Maps
  - WV Division of Natural Resources, Section of Wildlife Resources.
  - demonstrate that the site is not within, or topographically or hydrogeologically upgradient from a wetland.

A-3a(6). Dam-related Flood Standard: 11.5.1.1.6 (Title 47, Series 35) \_\_\_\_\_

1. Not within a floodpool
2. Not within danger-reach of unpermitted dam
  - document dam permit or approval
  - provide danger-reach flood level

3. Sources of information include:

- U.S. Army Corps of Engineers reports
- U.S. Geological Survey maps
- Office of Water Resources

A-3a(7). Floodplain Standard: 11.5.1.1.7, 11.5.1.1.8, 11.5.1.1.9  
(Title 47, Series 35)

1. Provide documentation as to whether the facility will be located in the 100-year floodplain based upon:

- Federal Insurance Administration (FIA) flood map
- provide calculations and maps used where FIA map is not available.
- other sources of information
  - U.S. Army Corps of Engineers
  - Soil Conservation Service
  - U.S. Geological Survey
- identify the 100 year flood level and any other special flooding (e.g. wave action).

A-3a(8). Demonstration of Compliance: 11.5.1.1.9, 12.1.7 (Title 47, Series 35)

1. If the facility is located within the 100 year floodplain, it must be designed, constructed, operated and maintained to prevent washout of hazardous waste by either:

- floodproofing and flood protection measures; or
- flood plan

A-3a(9). Flood Proofing and Flood Protection: 11.5.1.1.8 (Title 47, Series 35)

1. Provide the following:

- engineering analysis of hydrodynamic and hydrostatic forces expected from a 100-year flood.
- structural or other engineering studies of the design of the hazardous waste units and flood protection devices (e.g. floodwalls, dikes) and how they will prevent washout.

A-3a(10) Flood Plan: 11.5.1.1.8 (Title 47, Series 35)

1. Describe procedures for removing waste before flooding:

- timing relative to flood levels including time estimated to remove waste.
- location to which waste will be moved and demonstration that the new location is eligible to receive waste in accordance with the regulation under Sections 8 and 11, (Title 47, Series 35).

- procedures, equipment, and personnel to be used and means to ensure they will be available in time for use.
- potential for accidental discharge during movement

B. ENVIRONMENTAL ANALYSIS: 4.6.5 (Title 56, Series 1)

B-1. Provide a written analysis of environmental and economic impacts of the facility, including, but not limited to the following: \_\_\_\_\_

1. Predictable adverse impacts on: \_\_\_\_\_

- Wetlands
- Farmlands
- Surface Water
- Groundwater
- Wildlife
- Endangered Species
- Public Health and Safety
- Transportation networks
- Historical, cultural, and recreational areas
- Air Quality
- Counties or communities adjacent to proposed host community

2. Mitigation of such effects \_\_\_\_\_

- Evaluate and provide plan for mitigation

B-2. Exposure Information and Quantitative Assessment: 4.6.6 (Title 56, Series 1), 11.2.9 (Title 47, Series 35)

B-2a. Provide information on potential for public to be exposed to hazardous wastes or hazardous constituents through releases from the unit, including: \_\_\_\_\_

1. Potential releases from normal operations and accidents at the unit, including transportation to and from the unit.
2. Potential pathways of human exposure resulting from the release.
3. Potential magnitude and nature of human exposure due to the release.

B-2b. Quantitative Assessment of Health Risks \_\_\_\_\_

This assessment shall consider and discuss the following, quantitatively and for each pathway identified: \_\_\_\_\_

1. Assessment of risk to human populations within a four (4) mile radius of the proposed facility.
2. Acute and chronic exposure scenarios.

No. \_\_\_\_\_

3. Carcinogenic, teratogenic, systemic or other health risks, as appropriate.

B-3. Describe expected environmental benefits. \_\_\_\_\_

B-4. Describe expected economic benefits. \_\_\_\_\_

C. **ADDITIONAL INFORMATION REQUIRED: 4.4 (Title 56, Series 1)**

C-1. Indicate whether this is a new or revised application: 4.4 (Title 56, Series 1). \_\_\_\_\_

C-2. Provide a statement which indicates that, when the application is deemed to be complete by the Board, a legal advertisement containing required information will be published in at least 2 newspapers in vicinity of proposed location: 5.1.3 (Title 56, Series 1). \_\_\_\_\_

D. **SIGNATORIES TO THE APPLICATION: 4.8 (Title 56, Series 1)**

D-1. The required signature shall accompany the certification statement of Section 4.8 of Title 56, Series 1. \_\_\_\_\_

D-2. The application must be signed in accordance with Sections 4.8.1 and 4.9 of Title 56, Series 1. \_\_\_\_\_

D-3. Submit twenty copies of the completed application to the Board.

PART II  
ACTIONS REQUIRED TO BE TAKEN BY THE SITING BOARD

A. NOTIFICATION TO APPLICANT AND COUNTY COMMISSIONS: 4.6.5.a.11.,  
4.9 (Title 56, Series 1).

A-1. The Board shall, within 60 days of receipt of application,  
mail written notice to applicant as to whether or not the  
application is complete. \_\_\_\_\_

1. If incomplete, the Board shall:
  - Notify applicant of incompleteness
  - Assess resubmittal fees
2. When complete, the Board shall notify the following persons  
of the quantitative assessment required:
  - County Commission of host county
  - County Commissions of all counties within a 4 mile radius

NOTE: The County Commission must appoint 2 ad hoc  
members to the Board within 30 days of the notice.

A-2. The Board shall, if potential adverse impacts beyond host  
community are identified, perform the following: \_\_\_\_\_

1. Notify the respective County Commission(s).
2. Publish Class I-O legal advertisement in that county's  
newspaper identifying impacts.

B. DETERMINATION OF COMPLETENESS AND NOTIFICATION: 5 (Title 56,  
Series 1)

B-1. The Board shall perform the following within 30 calendar days  
after the Board's determination that the application is complete: \_\_\_\_\_

1. Publish the following information in the State Register:
  - notice of public comment period
  - notice of public hearing
2. Provide copy of the application to public library in  
proposed host community (or in closest library) for public  
inspection.
3. Hold the public hearing within 60 calendar days of  
completeness determination.
4. Hold the public hearing in the county:
  - where the facility is to be located.
  - convenient to a population center nearest to the  
proposed facility location.

5. Keep an accurate record (transcription) of the hearing.  
(At the applicant's expense.)
6. Consider no written comments after close of hearing.  
(Except as provided under Section 5.1.1.e (Title 56,  
Series 1.)
7. Reopen public comment public period and schedule additional  
public hearing, if necessary, for unsettled issues.
8. Make transcripts of the hearing available through the  
Office of Waste Management Public Information Office.
9. Provide written notice to Chief Executive Officer in affected  
municipality.
10. Direct applicant to publish legal advertisement containing  
required information in at least 2 newspapers in vicinity of  
proposed location.

C. APPROVAL OR DENIAL OF APPLICATION: 6 (Title 56, Series 1)

C-1. The Board shall render one of the following decisions, upon  
completion of the public hearing and within 60 days of the  
public hearing: \_\_\_\_\_

1. Grant Certificate of Site Approval
2. Grant Conditional Certificate of Site Approval
3. Deny Certificate of Site Approval

Note: Board may seek consultation with applicant or Office  
of Waste Management for clarification before decision  
is made.

C-2. The Board shall send immediate, certified, written notification  
of the decision to the applicant and, upon request, to the  
public. \_\_\_\_\_

C-3. The Board shall become involved in judicial review of interests  
adversely affected by the decision when a petition is filed. \_\_\_\_\_

SUMMARY TO A LEGISLATIVE RULE CONCERNING THE  
COMMERCIAL HAZARDOUS WASTE MANAGEMENT FACILITY SITING BOARD REGULATIONS

**AGENCY:** Department of Commerce, Labor and Environmental Resources  
Division of Environmental Protection  
Office of Waste Management

**Regulation:** Title 57 Series 1  
"Commercial Hazardous Waste Management Facility  
Siting Board Certification Requirements"

**Authority:** West Virginia Code §20-10-3(j)

**Action:** Filing of a Legislative Rule

On April 8, 1989, the Commercial Hazardous Waste Management Facility Siting Board (CHWMFSB) Act became effective. It established the Board itself, and directed that regulations be promulgated for the siting of commercial hazardous waste facilities.

This proposed Legislative Rule will establish the procedures whereby an applicant can file a Pre-Siting Notice and/or a Siting Application with the CHWMF Siting Board.



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES  
OFFICE OF THE SECRETARY

State Capitol, Room M-146  
Charleston, West Virginia 25305-0310  
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GASTON CAPERTON  
Governor

JOHN M. RANSON  
Cabinet Secretary

July 6, 1993

David C. Callaghan  
Director  
Division of Environmental Protection  
#10 McJunkin Road  
Nitro, West Virginia 25143-2506

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

JUL 6 3 58 PM '93

FILED

Re: Title 57, Series 1 - "Commercial Hazardous Waste  
Management Facility Siting Board Certification  
Requirements"

Dear Director Callaghan:

Pursuant to West Virginia Code Section 5F-2-2(a)(12), I hereby  
consent to the proposal of the rule specified above.

You may attach a copy of this letter to your filing with the  
Secretary of State as evidence of my consent.

Sincerely yours,

*John M. Ranson*  
John M. Ranson  
Cabinet Secretary

JMR/lab  
cc: Ken Ellison

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