

WEST VIRGINIA LEGISLATIVE RULES  
BOARD OF HEALTH

Chapter 16-1  
Series XXII  
(1983)

Solid Waste Disposal

FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE

THIS DATE 12-30-82  
Administrative Law Division

*Transferred to DNR*

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*effective June 10, 1983*

WEST VIRGINIA LEGISLATIVE RULES  
BOARD OF HEALTH

Solid Waste Disposal

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WEST VIRGINIA LEGISLATIVE RULES  
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Chapter 16-1  
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Subject: Solid Waste Disposal

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Section 1. General

1.1. Scope - These legislative rules establish the design, construction, installation and operation requirements of solid waste disposal systems and methods.

1.2. Authority - These legislative rules are issued under the authority of Chapter 16, Article 1, Section 7 and are related to Chapter 16, Article 1, Section 9 of the West Virginia Code of 1931, as amended.

1.3. Filing Date - These legislative rules were filed on the 31st day of May 1974, in the Secretary of State's office.

1.4. Effective Date - The legislative rules became effective on the 1st day of July 1974.

1.5. Refiling Date - These legislative rules were refiled pursuant to Chapter 29A, Article 2, Section 5 of the West Virginia Code of 1931, as amended on the 30th day of December 1982, in the Secretary of State's office.

Section 2. Application and Enforcement

2.1. Application - These legislative rules apply to owners and operators of solid waste disposal systems.

2.2. Enforcement - The enforcement of these legislative rules is vested with the director of the West Virginia department of health or his lawful designee.

Section 3. Definitions

3.1. Solid Waste - Putrescible matter and discarded materials and objects rendered of little utility or nondesirable by human activity resulting from governmental, residential, commercial, industrial and agricultural operations. Human excreta, animal manure, suspended solids in waste water effluent and streams, and those industrial process wastes subject to control by the Department of Natural Resources or the West Virginia Air Pollution Control Commission are excluded for the purposes of these regulations.

3.2. Solid Waste Disposal Class - A rating according to the most severe disposal precautions which must be exercised:

3.2.1. Class I - Wastes of hazardous nature or water soluble substances having toxic or infectious properties or special water pollution potential which must be kept away from usable water sources regardless of costs.

3.2.2. Class II - Decomposable organic materials including but not limited to normal household solid waste.

3.2.3. Class III - Inert and relatively nondecomposable material presenting only confinement and esthetic problems.

3.3. Person - Individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, or any entity recognized by law.

3.4. Disposal Facility - An area, with structures and equipment for the destruction, transformation or deposit of the solid wastes of others:

3.4.1. Landfill Disposal Facility - A specific parcel or plot of land prepared for the controlled disposal of solid waste in accordance with engineered plans and specifications prepared by a registered engineer and

approved by the director.

3.4.2. Incinerator - A multi-chambered furnace designed for burning solid waste in the temperature range of 1600°F to 2000°F with stack emissions not exceeding limits set by the West Virginia Air Pollution Control Commission.

3.5. Director - The administrative head and chief executive officer of the state department of health or his duly authorized representative.

3.6. Permit - A written document issued by the director giving the permit holder permission to construct, install, extend, alter or operate an approved solid waste disposal system or method on a particular tract or parcel of land.

3.7. Leachate - The contaminated liquid or percolate produced within or issuing from a landfill disposal facility or other waste deposit.

#### Section 4. Permits

4.1. On and after July 1, 1974 solid waste shall be disposed of only by landfill disposal in accordance with these regulations, or by incinerator constructed in accordance with these regulations and the requirements of the West Virginia Air Pollution Control Commission, or by other methods equal or superior to these means and approved in writing by the director.

4.2. On and after July 1, 1974 no person shall establish, construct or operate or agree to establish, construct or operate a solid waste disposal facility without having a valid permit issued by the director, nor shall any person use or agree to use any solid waste disposal facility for which a permit has not been issued, except as provided in Section 5.

4.3. Permits shall be issued only after it has been determined that the site is acceptable and other conditions hereinafter provided are met.

4.4. An application for a permit shall be made in writing to the director on prescribed forms and shall contain all pertinent information relative to location, construction and installation of the disposal facility and such other information as may be deemed necessary by the director.

4.5. Permits shall not be transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.

4.6. If the disposal facility has not been constructed or installed within six (6) months from the date of issuance of the permit, or if operations cease for a period of six (6) months, said permit shall automatically expire.

4.7. In addition to all other requirements of these regulations, all solid waste disposal facilities constructed, installed, extended or operated after these regulations become effective shall be constructed, installed, extended or operated in accordance with the applicable standards contained in the West Virginia Department of Health, Solid Waste Program Bulletin SWP-D1, "Design Standards for Solid Waste Disposal." Bulletin SWP-D1 is filed in the Secretary of State's office and becomes a part of these regulations.

#### Section 5. Compliance

5.1. On and after July 1, 1974 any person collecting, transporting or disposing of solid wastes for others or having in his employ those who do so, shall register with the director specifying the territory he services and the disposal facilities he uses, nor shall any person begin such service or assume an established service without first registering with the director. These requirements are in addition to and do not supersede any

applicable authority granted by the West Virginia Public Service Commission.

5.2. Holders of valid landfill disposal site approvals issued prior to and operating in accordance with these regulations on July 1, 1974 shall be reissued a permit.

5.3. Any landfill disposal facility not having any approval or not operating in accordance with these regulations on July 1, 1974 shall meet the compliance schedule established by the director, and failure to meet such schedule shall be cause for closing said facility at the time and in the manner specified by the director.

Section 6. Class I Disposal Facilities - The requirements for Class I waste disposal shall be determined separately for each application.

Section 7. Class II Disposal Facilities Sites, Plans and Operating Requirements

7.1. Sites shall be acceptable geologically and hydrologically for stability, adaptability of the soil, and protection of ground and surface waters, unless natural limitations can be overcome by design and construction.

7.2. Facilities shall be designed and operated to prevent surface and ground water from contacting deposited waste.

7.3. Facilities shall be situated to conform with long range regional requirements, shall exhibit evidence of operational stability, and shall have minimum detrimental effect upon like adjacent facilities.

7.4. Design:

7.4.1. Drawing quality and details shall be suitable for bid solicitation, and shall provide a clear and specific operating guide and construction assembly sequence.

7.4.2. The plans shall specify a method or methods of leachate control and treatment.

7.4.3. One set of specifications and plans shall be maintained at the site for operator instructions and for recording progress and deviations.

7.4.4. The director at his discretion will confer with other agencies on questions relating to site selection, adequacy of the proposed facility and other problems that may arise.

7.4.5. The director may require specific information and acts to be performed before granting a permit including but not limited to core borings, elevation of water table, soil and bedrock characteristics, flood data as it affects the site, and other pertinent data if it is not readily apparent or available.

7.5. Operation:

7.5.1. All waste shall be covered with not less than six (6) inches of compacted earth, or other material as approved in writing, at the end of each working day and smoothly graded to facilitate rainfall runoff and prevent ponding. Final cover shall be not less than two (2) feet thick, compacted, and stabilized by vegetation or as approved in writing by the director.

7.5.2. Facilities shall be maintained in an orderly manner, and free from nuisances of odors, and rodents or other vectors.

7.5.3. Open and uncontrolled burning of waste is prohibited.

7.5.4. Protruding and scattered debris shall be covered each day.

7.5.5. Salvage and recovery shall be conducted only in a specified area. Material not removed daily shall be neatly stored.

Section 8. Class III Land Disposal and Other Methods

8.1. The requirements of Section 7 shall apply to Class III land disposal facilities with respect to protection of water sources, the waste confinement and esthetic considerations.

8.2. Plans and specifications for incinerators shall be prepared by a registered engineer and submitted for review and approval in accordance with Air Pollution Control Commission Regulation XIII which is filed in the Secretary of State's office, and shall be approved by the director prior to construction and operation.

Section 9. Suspension, Revocation Permit Denial, Hearings and Penalties

9.1. Permits may be suspended and operation shall cease upon written notice to the owner for any deficiency constituting a health or pollution hazard, for an overloaded facility due to mechanical, geological or weather conditions, or for failure to adhere to plans approved for said site.

9.2. For serious or repeated violations of these regulations or for interfering with a representative of the director in the performance of his duties, the permit may be permanently revoked at the end of ten (10) days following service of notice.

9.3. A permit shall be denied whenever reasonable assurance against creating a pollution or health hazard cannot be established due to site characteristics, insufficient operating funding, plan inadequacies, operational deficiencies or for false or misleading information in the application.

9.4. Any person aggrieved by a notice of suspension, revocation, permit denial or other order may, within ten (10) days after receipt of such notice, if he so desires, petition the director for hearing of said notice. Said hearing shall be conducted by the director at a time and place

designated by him.

9.5. As provided in Chapter 16, Article 1, Section 9 of the West Virginia Code, any person who violates any provision of these regulations shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than \$25.00 nor more than \$500.00, and continued violations shall constitute a separate, distinct and additional offense for each twenty-four hour period the violation exists.

Section 10. Safety

10.1. In any case involving questions of safety or environmental impact, the waste producer or generator may be required to certify the composition of the waste materials.

10.2. Normal precautions shall be practiced by landfill operators of construction-type equipment including warning devices and other requirements of the Federal Occupational Safety and Health Act.

Section 11. Separability - If any provision of these regulations, or the application thereof to any person or circumstance, shall be held invalid, such invalidity shall not affect the provisions or application of these regulations which can be given effect without the invalid provisions or application, and to this end the provisions of these regulations are declared to be separable.

Section 12. Repeal of Former Regulations - All regulations previously adopted by the State Board of Health which are in conflict with the provisions of these regulations are hereby repealed.

Effective 1967-1974

REGULATIONS

Ch. 1

ARTICLE 12.

SOLID WASTE REGULATIONS.

Sec.	Sec.
1.0. Definitions.	5.0. Disposal of Hazardous Materials.
2.0. Disposal.	6.0. Enforcement.
3.0. Standards for Sanitary Landfills.	7.0. Repeal and Date of Effect.
4.0. Standards for Incinerators and Incineration.	8.0. Severability.

SEC. 1.0. Definitions.

- 1.1. **Solid Waste**—All putrescible and non-putrescible discarded material (except household sewage) including but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, sewage plant sludge, and industrial wastes, except those industrial wastes which are controlled or subject to control by the Department of Natural Resources, or West Virginia Air Pollution Control Commission.
- 1.2. **Garbage**—Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food, including wastes from markets, storage facilities, handling, and the sale of produce and other food products.
- 1.3. **Ashes**—The solid residue from burning of wood, coal, coke, or other combustible material used for heating buildings or the solid residue from incineration of combustible solid wastes.
- 1.4. **Rubbish**—Non-putrescible solid wastes (excluding ashes) consisting of both combustible and non-combustible wastes. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials. Non-combustible rubbish includes glass, crockery, tin cans, aluminum cans, dust, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1600° F to 1800° F).
- 1.5. **Premises** shall mean any place, land, building, watercraft on the waters of this state, or any other place upon or in which solid waste is stored.
- 1.6. **Sanitary Landfill** shall mean a controlled area of land upon which solid waste is deposited, compacted, and covered daily with compacted earth.
- 1.7. **Incinerator** shall mean a multi-chambered furnace designed for the volume reduction of solid waste by burning in a fire box which has been lined with refractory material and the design approved by the Director of Health and the West Virginia Air Pollution Control Commission.

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## PUBLIC HEALTH LAWS OF WEST VIRGINIA

- 1.8. **Incineration** shall mean the destruction of solid waste by burning in a furnace designed for that purpose with proper controls at a temperature in the range of 1600° F to 2000° F with stack emissions not exceeding the limits set by the West Virginia Air Pollution Control Commission. Open burning is not considered incineration. Residue from incineration shall contain no more than 10% organic material.
- 1.9. **Incinerator Residue** shall mean the solid material remaining after burning of solid waste in an incinerator as described above.

### SEC. 2.0. DISPOSAL.

Disposal of garbage and rubbish by open dumping is hereby declared to be a nuisance and hazardous to the human health. On and after July 1, 1967, disposal of solid waste shall be made only through the use of:

- 2.1. Sanitary landfills—established, conducted, operated, and maintained in accordance with standards of this regulation.

OR

- 2.2. Incinerators constructed, operated, and maintained in accordance with the provisions of this article.

OR

- 2.3. Any other method approved in writing by the Director of the West Virginia State Department of Health and, if combustion is to be utilized, by the West Virginia Air Pollution Control Commission.

### SEC. 3.0. STANDARDS FOR SANITARY LANDFILLS.

- 3.1. No solid waste shall be disposed of on the land except in approved sanitary landfills that have been prepared by excavation or otherwise for that purpose and approved by the proper authority. The site will be selected to protect waters of the state from pollution.
- 3.2. Suitable equipment to perform the necessary digging, compacting, and covering is to be available for use at all times. Standby equipment is to be available within 24 hours in the event of failure of regular equipment. Satisfactory evidence of availability of standby equipment is to be on file for inspection.
- 3.3. The sanitary landfill shall be pre-planned by a registered engineer and a copy of the plan shall be submitted to the Division of Sanitary Engineering for approval, and approval shall be obtained prior to beginning use, including operating procedures.
- 3.4. Maintenance shall be by properly trained personnel responsible for conduct of the operation.
- 3.5. The face of the working fill is to be kept as small as consistent with good operation to keep the area of exposed material as small as possible.

- 3.6. All exposed solid waste is to be covered with at least 6 to 8 inches of compacted earth at the close of each day's operation.
- 3.7. Solid waste is to be compacted to the maximum possible with available equipment in layers or cells with each single layer having not greater than a six to eight foot rise.
- 3.8. All solid waste received is to be buried in the landfill. In exceptional cases a place may be set aside to receive bulky materials such as tree stumps, etc., and covered as needed.
- 3.9. Final cover for top and side slopes is to be compacted and maintained not less than two feet in thickness.
- 3.10. Final grade on cover is to be regular and sloped to direct surface water across the fill without pooling. Drainage diverting ditches are to be used whenever necessary. Final top cover shall be maintained at not greater than 2% angle of repose.
- 3.11. Adequate controls to prevent scattering of paper, dust, etc., including a daily cleanup of scattered paper and other material, which is disposed of prior to closing the day's operation.
- 3.12. Adequate fire fighting equipment or facilities is to be readily available to control fires.
- 3.13. Uncontrolled dumping at the site is not to be permitted.
- 3.14. Cracks, erosions, etc., appearing in the cover or side slopes of a sanitary landfill are to be promptly repaired. As soon as practicable, cover and side areas of the landfill are to be planted in grass or other vegetation to assist in controlling erosion.
- 3.15. Approved toilet facilities are to be provided for the use of operating personnel.
- 3.16. Materials salvaged at the site are to be removed daily.

#### SEC. 4.0. STANDARDS FOR INCINERATORS AND INCINERATION.

- 4.1. Plans and specifications for incinerators shall be prepared by a qualified registered engineer.
- 4.2. Incinerators shall be designed, operated, and maintained to meet emission standards of the West Virginia Air Pollution Control Commission or of the local control authority, whichever is applicable.
- 4.3. Incinerator residue is to be incorporated in a sanitary landfill, for final disposal, operated and maintained pursuant to the requirements of Section 6.03 of this regulation.
- 4.4. Plans and specifications, including disposal of residue, for incinerators are to be submitted to the Division of Sanitary Engineering and the West Virginia Air Pollution Control Commission for review and approval prior to the construction or operation thereof.

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**PUBLIC HEALTH LAWS OF WEST VIRGINIA**

- 4.5. Incinerators shall be operated and maintained under the direct supervision of a person qualified by experience and/or special training in the field of incinerator management. Before any incinerator commences operation, the qualifications of such person shall be submitted to the Department of Health for approval.
- 4.6. Accumulation of solid wastes in and around any incinerator is forbidden.

**SEC. 5.0. DISPOSAL OF HAZARDOUS MATERIALS.**

- 5.1. Hazardous materials (i.e. Insecticides, empty insecticide containers, toxic or radioactive materials, used bandages, etc.) are to be disposed of in a manner acceptable to the State Department of Health.

**SEC. 6.0. ENFORCEMENT.**

This regulation is to be enforced in accordance with procedures outlined in Chapter 16, Article 1, of the Code of West Virginia.

**SEC. 7.0. REPEAL AND DATE OF EFFECT.**

All regulations of the State Board of Health in conflict with this regulation are hereby repealed; and this regulation shall take effect on the 1st day of July, 1967.

**SEC. 8.0. SEVERABILITY.**

Should any section, paragraph, phrase, sentence, or clause of this regulation be declared invalid or unconstitutional for any reason, the remainder of this regulation shall not be affected thereby.

WEST VIRGINIA LEGISLATIVE RULES  
BOARD OF HEALTH

Solid Waste Disposal

*Transferred  
to DNR*

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September 21, 1982

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4.2. On and after July 1, 1974 no person shall establish, construct or operate or agree to establish, construct or operate a solid waste disposal facility without having a valid permit issued by the director, nor shall any person use or agree to use any solid waste disposal facility for which a permit has not been issued, except as provided in Section 5.

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4.5. Permits shall not be transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.

4.6. If the disposal facility has not been constructed or installed within six (6) months from the date of issuance of the permit, or if operations cease for a period of six (6) months, said permit shall automatically expire.

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