

REGULATION OF SOLID WASTES BY PUBLIC LAW
IN WEST VIRGINIA

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

Environmental Health Service

Bureau of Solid Waste Management

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INTRODUCTION

The preservation of an environment favorable to man and those organisms in his biological ecology which support him is the purpose of any regulatory mechanisms to which society resorts. State law and local ordinances affirm this purpose in such phrases as "the public health, comfort, safety and well being demands" and declaring certain practices to be "nuisances and hazardous to the human health." It is interesting to observe by a review of State and local law and regulatory actions the extent to which such purposes are served. The laws which have been written are, and reflect a response to such matters as demands, to provide a service of removal, kinds of wastes least tolerable to man's proximity, getting those served to perform certain minimal preparations, historic and prestige influences, reducing some of the consequences of the existence of certain wastes and confinement of others. The outcome is to deal adequately with some problems, inadequately with others, and not at all with others. Such measures confirm that the public approach is still a defense. To take positive, offensive steps requires measures to utilize, salvage, and recover the valuable resources which flow into our refuse stream. Consistent with such approach is to eliminate the disperse authority which exists under present laws.

The lessening public tolerance of air and water pollution and the responding regulations which increasingly limit their use for disposal

will increase the kinds and volumes of solid wastes. Orderly clean-up and preservation of the landscape, prohibition of haphazard refuse disposal practices, demolition of unsightly and unsafe structures similarly increases the quantity and variety of solids.

Increased regulations and control of solid wastes increases the costs. They are the direct costs of the service of greater volumes collected, and approved disposal, of regulating agencies, of policing, of clean-up activities for streets and highways, and of inquiry into and development of more effective procedures. As these pressures develop, research must provide means to lessen them.

Regulations and the standards they impose (as well as the complexity and magnitude of the problems to be solved) is rapidly raising the requirements for technological skill and competence.

These considerations point up the essential need for engineers to know what has been ordained by law in his field of solid waste technology.

The Regulation of Solid Wastes by Public Law in West Virginia

There are three types of law in the State of West Virginia which provide regulation and control of solid wastes. They are: (1) State legislation providing State control, (2) State legislation which empowers local governing bodies to enact locally appropriate laws, and (3) such local law, called ordinances. In addition, both the State legislature and City Councils may provide in the laws they enact, the power to adopt and enforce regulations. Such formulation, adoption, and enforcement of regulations has certain advantages and limitations and restraints. The advantages are that complete regulatory details of the law do not have to be written into it, flexibility is thereby provided for, legislatures and city councils do not have to go through the process of rewriting and passage of needed changes in the law. The Commission or Board which is responsible for implementing and administering a program can make such adjustments by suitable new or amended regulations. Such regulations, because they are provided for in the law, have the force of law. The limitations upon any authority to adopt regulations are (1) the regulation must be consistent with the particular law wherein the power is granted, and (2) the preparation and adoption must comply with the general law in the West Virginia Code¹ which pertains to the adoption of regulations.

The legislature frequently provides, in State general law, State boards and commissions with authority to adopt regulations. By means of such regulations the agency is able to develop, after suitable appraisal

¹West Virginia Code is the name of the entire body of Law for the State of West Virginia.

of the need, the specifics of the law. It states in Chapter 16, Public Health Law of the West Virginia Code, "The State Board of Health is empowered and directed to adopt and promulgate regulations necessary for the protection of the public health." The Solid Waste Regulation of the State Board of Health is an example of just such enlargement of the law. In Chapter 16, Article 20, the Air Pollution Control Law of West Virginia, there are examples of two different types of regulations; one provides that "the Commission may establish rules for the regulation of its affairs and the conduct of all proceedings before it"; another directs commissions to regulate air pollution and provide specific requirements for compliance: "the commission is hereby authorized and empowered (1) to develop ways and means for regulation and control of pollution of the air ... , (4) to adopt and to promulgate regulations relating to air pollution ... , and (5) to enter orders requiring compliance with the provisions of this article and the regulations lawfully promulgated hereunder."

Municipality governing bodies have not taken advantage of this device in the solid waste ordinances they have passed. Some few instances of limited authority to adopt regulations have been written into ordinances where there is an administrative board created by the ordinance. Solid waste ordinances of twenty-five West Virginia municipalities were reviewed; all of them have been written and passed with near complete regulatory detail. The following is an example of regulations used in conjunction with a solid waste ordinance (these do not appear in the ordinance).

Village of Barboursville, Barboursville, West Virginia

Effective January 1, 1968, the rules and regulations regarding the collection of garbage in the Village of Barboursville, Barboursville, West Virginia, must be complied with.

1. All garbage cans must be registered at the Recorder's Office.
 2. All garbage cans must be 20 gallons or less.
 3. All garbage cans must be kept covered at all times.
 4. No barrels will be picked up after January 15, 1968.
 5. Payment must be made by 15th day of the quarter.
 6. Tags are available at the Recorder's Office, 721 Central Avenue.
 7. No can will be picked up without a tag showing the color of quarter and registration number.
 8. All quarterly tags must be attached to the body of the can, not the lid.
 9. Your can number is registered at the City Hall. If card is lost or misplaced, you may call at the Recorder's Office for a new number and can card.
 10. All cans must have your tag number painted on them.
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West Virginia State Law

The primary State authority and responsibility for solid waste disposal belongs to the State Board of Health through its solid waste section. In Article 1 of Chapter 16, Section 9, the establishment of specific services affecting the public health, systems of drainage, water supply, excreta disposal and garbage and refuse disposal, is prohibited unless established according to rules issued by the State Board of Health or methods approved in writing. Effective July 1, 1967, the Board adopted a regulation for solid waste disposal (see Appendix). The regulation allows disposal by sanitary landfill, incineration, or other having approval of the Department of Health, combustion methods, additionally, requiring approval by the West Virginia Air Pollution Control Commission; disposal by sanitary landfills and incinerators must comply with described standards; department approved manner for disposal of hazardous materials is required.

The State applies controls and restraints on the disposal of solid wastes by laws which are administered by other departments and agencies. The West Virginia Air Pollution Control Commission regulates combustion of refuse with its Regulation VI. Open burning is prohibited with very limited exception, particularly described. Incinerators must meet standards of design and operation, the combustion residues must be confined by the equipment to specifications. Persons must register incinerators with the Commission. Disposal of incineration of hazardous material shall be done only in such manner as to be a danger to no one.

The State by general law found in Chapter 20, "cited as the Natural Resources Law of the West Virginia Code, orders, ordains, requires the "conservation, protection, and development of its natural resources including the maintenance and improvement of the natural beauty." Specifically Chapter 20 provides law for prohibition and/or restraints (authority residing with the Department of Natural Resources and for Article 5A, the Water Resources Board) on

1. the disposal by burning of natural debris in or near forest lands and open fields (Article 3),
2. railroads allowing the accumulation of natural and other flammable materials along their right of way (Article 3),
3. any person or firm disposing of flammable wastes on land without adequate clearing of and keeping clear the area surrounding (Article 3),
4. littering along highways, roads, etc. (Article 4),
5. disposal in or along waterways, and littering in and along waterways, including on one's own property (Article 5, Water Resources Law),
6. disposal of any solid wastes from any source in any manner (See Article 5A, Section 2, Definitions.) ("Pollution" is so broadly defined in the law that it is quoted here in part to cite the manner of including solid wastes. It states, "'pollution' shall mean the discharge, release, escape, deposit or deposition, directly or indirectly of ... other wastes of

whatever kind or character in or near any waters of the State" and "'other wastes' shall mean garbage, refuse, decayed wood, sawdust shavings, bark and other wood debris and residues, sand, lime, cinders, ashes, offal, night soil, silt, oil, tar") (Article 5A, Water Pollution Control Act),

7. the throwing, dumping, piling, or otherwise placing any surface mine overburden, stones, rocks, coal, particles of coal, earth, soil, dirt debris, trees, wood logs, or any other materials or substances of any kind beyond the area of land which is under permit, nor place such substances where slides and erosion will carry them beyond (similarly such materials are not to reach waterways) (Article 6, Surface Mining Law) (This law requires covering of all solid toxic materials, roof coal, pyritic shale, or materials determined to be acid producing, toxic, or creating a fire hazard, the demolition and removal or covering with back-fill and grading and planting to a stable condition of the disturbed area).

Chapter 20 gives the Chief of the Division of Water Resources the authority to deny a permit at his discretion for good cause. The following is an example of the exercise of that authority.

Staff Policy Regarding Issuance of Permits for Burial of Industrial Wastes

November 30, 1965

In consideration of the increasing number of proposals to use sanitary landfills operated by private persons and municipalities for the burial of

industrial wastes and further considering the hazards involved in such practice, it is hereby announced that effective this date the Water Resources Division, State Department of Natural Resources, is opposed to such practice and will not issue permits in the future for such unless the burial of industrial wastes is done on land owned or leased by the company or person producing such industrial wastes and is under the direct supervision of such company or person. It is further announced that no permit for such method of disposal of industrial wastes shall be approved unless the company or person operating such disposal facilities under the limitations set forth above shall have the means to sample and analyze the underground and surface water constituents being disposed of under the limitations set forth above.

Chief

The State Board of Health is the basic State agency of authority and responsibility for the public health. This includes matters of sanitation. An effective system of collection, removal, and disposal, though often looked upon only as a convenience, is actually a public health necessity and is so considered by the State. The law confirms this. For this reason the Board of Health is empowered to supervise, advise, regulate, inspect, intervene, and require improvements of municipal refuse programs and practices. The County Health Officer exercises this authority on the local level.

The Municipal Code of West Virginia

Chapter 8 of the West Virginia Code is known as and cited as the "Municipal Code of West Virginia" and sometimes as the Basic Municipal Code. This is the general law of the State whereby the State provides for the formation of towns and cities and the granting of charters of municipal corporation, which charter describes the municipal organization structure and the manner whereby such municipality shall conduct and manage its affairs. The Municipal Code of West Virginia, in Article 1, Section 6, confers, grants, and conveys to municipalities such essential corporate powers and authority by the statement, "In furtherance of the purpose of this chapter as set forth in Section One of this article, each municipality is subject to the provisions contained in this chapter and may exercise the power and authority conferred by this chapter." Simply stated, local government is granted its right to exist and govern by the State.

In Article 11 the code states: "To carry into effect the powers and authority conferred upon the municipality--the governing body (of the municipality) shall have power and authority to pass all needful ordinances, orders, bylaws, acts, resolutions, rules and regulations, not contrary to the constitution and laws of this State and to prescribe reasonable penalties in the form of fines and imprisonment for violation thereof." (Ordinance is the name for municipal law and results from the legislative actions of the governing body.) Municipalities can provide for collection of fees and imposition of penalties by ordinance only.

Public hearings must be held before passage of an ordinance whereby revenues are being raised. In Article 12, Section 5, municipalities are given enumerated general powers upon appropriate action on ordinances or resolutions, included are the powers to prohibit the accumulation and require the disposal of refuse, to establish and equip facilities to remove and dispose of refuse and to eliminate hazards to the public health and abate a public nuisance; further to provide penalties for failure to comply. Where an essential service is furnished, including refuse collection and disposal, reasonable rates, fees, and charges may be collected from the users, penalties imposed for violation, but the city shall not have a lien on property as security for payments. Regulations may be made with respect to the service (Article 13, Section 13).

Where a municipality must borrow money to construct and equip an incinerator or landfill, Article 16 provides that it may establish a Public Works for operation of such facility having a largely autonomous governing board which may borrow by means of revenue bonds. The Public Works must fix service fees adequate to retire the bonds and pay for its operations. When this procedure is exercised the disposal governing board would have to operate the collection services so that only a single fee be charged for the service. Fees collected are the revenues of the Public Works and must not go into the General Fund of the municipality. There is a provision in this Article which allows discontinuance of the service for failure to pay the service charge. This is a serious defect since the primary object of refuse collection and disposal is the safety, health, and well being of the public and not the assurance of revenues.

The Municipal Ordinance for Solid Waste Collection and Disposal

To bring into being a refuse collection and disposal service and its related regulation of general sanitation a municipality must exercise the power and authority granted it by the State Municipal Code. The governing body of the municipality does this by drawing up and enacting an appropriate ordinance. The State Board of Health, as stated above, has the authority to require a municipal corporation to protect the public health by enactment and implementation of such ordinance.

The essential provisions and elements of the ordinance are listed in the following outline.

ARTICLE I--General Provisions

1. Purpose
2. Definitions
3. Authority to regulate - Sale collector
4. Official of authority and department created
5. Making regulations authorized
6. Duties of council
7. Authority to inspect
8. Participation mandatory
9. Service standards
10. Disposal
11. Salvage controls
12. Special duties of department
13. Unlawful acts

14. Authority of sanitation department to clean up refuse on private property
15. Penalties
16. Appeal from requirements

ARTICLE II--Fees, Rates, Charges

17. Statement of purpose, authority, to be equitable
18. Standard rate schedule
19. Non-standard rates
20. Refuse excluded from standard service, special service calls
21. Department authorized to set rates not covered
22. Disposal fees
23. Method of collection of unpaid fees; service not to be discontinued for non-payment
24. Right of Appeal
25. Collection and records
 - (a) Authorize collector, duties
 - (b) Auditor to set up record keeping methods
 - (c) Financial report to governing body
 - (d) Annual audit by professional auditors
26. Revenues to be kept separate - for department only.

The items in the outline above are more fully described.

1. Purpose. This short section tells the intent to provide a service, to maintain sanitary conditions to comply with State Health Law and regulations, and makes such other general statements of purpose of the ordinance.

2. Definitions. Several of the terms which are peculiar to this subject, such as refuse, garbage, disposal, etc., are defined.
3. The municipality establishes its authority over the service of collection and disposal of solid wastes and maintaining safe and sanitary conditions related to same, requiring by this section that all activities having a bearing on this authority shall be in compliance with this ordinance and regulations promulgated in accordance to it. The ordinance may provide that the city only will engage in the activity others may provide for private, contract collectors under municipal permit and control (the City of Charleston collects all commercial refuse by licensed contract collectors).
4. An official of authority is designated, usually the mayor or city manager, and a sanitation department is created, often a superintendent of the department is created to administer the program. A Board may be created which will have considerably autonomy where a Public Works is also created as provided for under the State Municipal Code (this is done in cities which finance incinerators or landfill by revenue bonds). The powers and duties of officials and departments are set forth and compliance with the provisions of this ordinance is required. Also, compliance with State Health law and regulations is required.
5. Authority is granted to officials and departments (and Boards) to make and enforce regulations which shall have the force of law.
6. Powers and duties of council are set forth in this section:
power to set and revise fees; duty to provide adequate revenues;

provide for necessary equipment and personnel; approve the manner and means of disposal; in some ordinances which were reviewed the council reserved the right to approve regulations (the power to make regulations should not be hindered by this reservation).

7. The authority to inspect is provided the city or county health officer or his delegated agent. Usually the sanitation department, police and fire departments, are authorized to inspect premises for compliance with the provisions of this ordinance and regulations made according to it to protect the health and safety.
8. Require all residences, commercial establishments, institutions, and industries to subscribe. An exception is provided for on-site incinerators. However, such incinerators must have a permit to operate which means meeting certain standards of construction and performance. The ordinance will have to authorize some procedure and an office for approving such incinerator inspections will have to be scheduled. Special collection rate schedules will have to be provided for this kind of situation to pick up and dispose of incinerator residues and noncombustible refuse. This section will provide that an individual may remove from his premises and convey to the disposal facility undue quantities or non-standard types of refuse.
9. Service Standards. To operate a refuse collection and disposal service, to maintain standards of safety and sanitation, and to

provide convenience, certain rules are required. The rules apply to frequency of collection, leaving proper type and size of containers, separation of such refuse as ashes, combustibles from noncombustible, keeping containers clean, safe to handle and covered, draining and wrapping garbage, placing containers at curb on pickup day, hazardous materials not to be disposed of by means of regular pickup, and other materials picked up only by special service call. Because there are a very considerable number of these rules and there must be different ones applicable to domestic, commercial and institutional, and industrial subscribers, this section simply should provide that such rules be developed and adopted according to Section 5, the authority to make regulations. A review of many ordinances shows that some of these standards appear in one ordinance, others will be in the provisions of another, no ordinance provides a complete set of such rules.

10. Disposal. This section says that council shall provide an adequately equipped and staffed disposal facility, which is safe and sanitary. The State Board of Health Solid Waste Regulation (see Appendix) standards must be complied with. The facility must be accessible to persons hauling refuse or items to be disposed of. Salvage activities should not interfere with good disposal practices and materials salvaged shall be removed from site daily.

11. Salvage. Because there will be some amount of salvage business in any municipality and because such enterprise provides channels for recovery and return of resources to usefulness, regulations in the refuse ordinance should encourage these activities and at the same time prevent unsightly and nuisance conditions.
12. Special Duties. Department to have authority and responsibility regarding demolition materials, removal of dead animals from street, providing and maintaining waste receptacles along the streets and sidewalks. This section may be combined with the provisions in Section 14.
13. Unlawful Acts. To properly maintain standards of sanitation, safety, and prevent nuisances, certain practices must be prohibited and be subject to penalties. The ordinance usually states "it shall be unlawful to" and then describes in sufficient detail each unlawful act. This is a most important section in the ordinance because it deals with enforcement, the basis whereby persons will be determined to be violators and penalties imposed. For these reasons, each act must be separately listed and definitely set forth. The following is a list of acts described as unlawful in most ordinances.

Dumping on private or public property or in or along waterways

Accumulation of refuse

Disposal other than provided in ordinance

Littering or allow accumulation of litter on property

Storage of refuse except in approved manner

Disposal of hazardous materials except as provided

Open burning

Private collectors except under provisions

Failure to subscribe to service

Maintain a nuisance or fire hazard

Refusal of entry for inspection

Not complying with regulations instituted under the provisions
of the ordinance.

14. A provision authorizing the sanitation department to clean up an accumulation of refuse where an order to clean up has not been complied with by the owner. Authorized, too, is making charges for the cost of the clean-up.
15. Penalties in the form of fines and imprisonment in jail are provided for upon conviction for violations.
16. Right of Appeal. Because provisions of the ordinance or sanitation department regulations may cause hardship or otherwise seem arbitrary, persons should be provided with a manner for obtaining relief. A time limit must be set on bringing appeals to hearing and decision.
17. Purpose. This section should state that council shall have the authority to make charges for the service sufficient to provide needed revenues to provide personnel and equipment essential for the service of collection and disposal, to pay bond indebtedness,

and to make the service self-supporting. Council is authorized to revise fees, when necessary, based on the aforementioned purposes. Fees shall be equitable based on benefits. To meet this last specification, commercial rates are set by some municipalities based on time required to pick up the commercial subscribers refuse, other ordinances charge on basis of weight, and others on the basis of volume.

19. Non-standard Rates. This section states that certain abnormal collection requirements make it necessary to charge above minimum standard rates, examples being distance from street, service to boardinghouses.
20. Refuse excluded from standard service, as construction or demolition wastes, tree trimmings, dead animals, automobiles, auto parts, hazardous materials, bulky items, excessive quantities, shall be collected by special service calls. Service calls shall be made on special billings and a rate schedule can be set on the man minutes required.
21. Charges for service not otherwise covered in rate schedules can be set by the department if authorized by the ordinance.
22. Disposal Fees. Charges are made for refuse delivered upon the disposal site. This is best done on a weight basis and requires a scale at the disposal site. No charges should be made for small quantities of materials delivered by individuals.
23. A method for collecting unpaid fees should be written into the ordinance and requiring the collector to proceed and not allow

delinquent accounts to continue. Stopping of the service should not be permitted as a means of force payment. (Discontinuing the service defeats the purpose of the service.)

24. The subscribers should have the right of appeal from charges when such charges may seem excessive.
25. Collection and Records. The ordinance shall designate an official to be the collector of fees and responsible for keeping the records of receipts and expenditures according to prescribed procedures prepared by the municipal auditor. The collectors other duties are set forth in the ordinance including making an annual or semiannual report to the governing body and taking immediate steps to collect any delinquent fees. The ordinance should require an annual audit by an independent auditing firm.
26. The ordinance should provide that "all fees and charges shall be the revenues of the Sanitation Department and shall be kept separate from the General Funds of the Municipality."

The elements of a municipal solid waste ordinance described above can be described as a composite of several ordinances which were reviewed. In addition to these provisions or the more essential ones, some municipalities extended the applicability of the ordinance beyond the city bounds one mile, as permitted by the State Municipal Code. Some make the service available to subscribers outside city limits for an addition to the fee, some provide regulations for private collectors serving subscribers outside the city limits but where city streets must be traveled, requiring permits and

approved vehicles. These cities permit disposal at the city operated disposal facility.

Comments on Ordinances Reviewed

Charleston, Lewisburg, and Hinton depend on private collectors to provide a significant part of the service. Private collectors serve all commercial and industrial subscribers in Charleston. The ordinances of these cities contain extensive provisions regulating such private collectors. The town of Williamstown provides the service entirely by an annual contract with a private collector. Its ordinance deals almost with the manner of entering into said contract and the contractual requirements. The ordinance contains provisions requiring all residents and businesses to subscribe to the service requiring use of approved containers and prohibiting dumping and littering. Generally, small municipalities and villages have more simple ordinances which simply make provision for the collection service, set fee schedules, dates payable, and provides penalties for failure to pay fees, require all to subscribe. The only sanitation provisions are to provide suitable container with cover and prohibition of open burning. Most cities make no provision for on-site incinerators even though the cities are large enough to probably have a significant number in operation. A number of municipalities provide for suspension of service for delinquency of payment of fees, this, though it is contrary to the objective of good sanitation. Most ordinances provide that the city shall be the sole collector and do not allow private collectors.

Summary

The State provides by general law that several departments shall be responsible for and have authority to control disposal of solid wastes and refuse. The State Board of Health is the department which is empowered to regulate the sanitary aspects of solid wastes including local collection and disposal practices. Local government obtains its authority and power through a State approved municipal charter and that chapter of the general code, Chapter 8, known as the State Municipal Code. Cities and towns thus authorized create such service and sanitary regulations as they see fit and which meet their needs. No county governing body has instituted regulatory programs dealing with solid wastes.

APPENDIX

SOLID WASTE REGULATION



**A Regulation of the West Virginia
State Board of Health – effective July 1, 1967**

WEST VIRGINIA STATE DEPARTMENT OF HEALTH
Charleston 25305

**WEST VIRGINIA ADMINISTRATIVE REGULATIONS 16-1,
SERIES II, SECTION 6.**

A regulation of the West Virginia State Board of Health defining various types of waste materials with requirements for disposal in accordance with Chapter Sixteen, Article I, Section 9.—Supervision over local sanitation.

**Section 6. Regulations Defining Various Types of Waste Materials With
Requirements for Disposal**

6.01. Definitions:

- (a) **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
- (b) **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
- (c) **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.
- (d) **RUBBISH**—Non-putrescible solid wastes (excluding ashes) consisting of both combustible and non-combustible wastes. Combustible rubbish includes paper, rags, cartons, wood, ex-

celsior, 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).

- (e) 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.
- (f) SANITARY LANDFILL shall mean a controlled area of land upon which solid waste is deposited, compacted, and covered daily with compacted earth.
- (g) 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.
- (h) 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.
- (i) INCINERATOR RESIDUE shall mean the solid material remaining after burning of solid waste in an incinerator as described above.

6.02. **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:

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

OR

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

OR

- (c) 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.

6.03. **Standards for Sanitary Landfills.**—

- (a) 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.
- (b) 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.
- (c) 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.

- (d) Maintenance shall be by properly trained personnel responsible for conduct of the operation.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) Final cover for top and side slopes is to be compacted and maintained not less than two feet in thickness.
- (j) 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.
- (k) 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.

- (l) Adequate fire fighting equipment or facilities is to be readily available to control fires.
- (m) Uncontrolled dumping at the site is not to be permitted.
- (n) 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.
- (o) Approved toilet facilities are to be provided for the use of operating personnel.
- (p) Materials salvaged at the site are to be removed daily.

6.04. Standards for Incinerators and Incineration.—

- (a) Plans and specifications for incinerators shall be prepared by a qualified registered engineer.
- (b) 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.
- (c) 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.
- (d) 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.

(e) 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.

(f) Accumulation of solid wastes in and around any incinerator is forbidden.

6.05. Disposal of Hazardous Materials.—

(a) 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.

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

6.07. 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**.

6.08. 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 effected thereby.