WEST VIRGINIA CODE CHAPTER 20 ARTICLE 5K

WV Legislature

§20-5K-1. Legislative purpose.

The purpose of this article is to provide the opportunity for public participation in the decision to locate commercial infectious medical waste management facilities.

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§20-5K-2. Definitions.

Unless the context clearly requires a different meaning, as used in this article the terms:

(a) "Commercial infectious medical waste facility" means any infectious medical waste management facility at which thirty-five percent or more by weight of the total infectious medical waste stored, treated or disposed of by the facility in any calendar year is generated off-site.

(b) "Infectious medical waste" means medical waste identified as capable of producing an infectious disease. Medical waste shall be considered capable of producing an infectious disease if it has been, or is likely to have been, contaminated by an organism likely to be pathogenic to healthy humans, if such organism is not routinely and freely available in the community, and such organism has a significant probability of being present in sufficient quantities and with sufficient virulence to transmit disease. For the purposes of this article, infectious medical waste includes the following:

(1) Cultures and stocks of microorganisms and biologicals;

(2) Blood and blood products;

(3) Pathological wastes;

(4) Sharps;

(5) Animal carcasses, body parts, bedding and related wastes;

(6) Isolation wastes;

(7) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill of any infectious medical waste; and

(8) Any waste contaminated by or mixed with infectious medical waste.

(c) "Off-site" means a facility or area for the collection, storage, transfer, processing, treatment or disposal of infectious medical waste that is not on the generator's site, or a facility or area that received infectious medical waste for storage or treatment that has not been generated on-site.

(d) "Secretary" means the Secretary of the Department of Health or his or her designee.

WV Legislature

§20-5K-3. Procedure for public participation.

(a) From and after the effective date of this article, in order to obtain approval to locate a commercial infectious medical waste facility, currently not under permit to operate, an applicant shall:

(1) File a presiting notice with the county commission and local solid waste authority of the county or counties in which the facility is to be located or proposed. Such notice shall be submitted on forms prescribed by the secretary;

(2) File a presiting notice with the secretary; and

(3) File a presiting notice with the Division of Environmental Protection.

(b) If a presiting notice is filed in accordance with subsection (a) of this section, the county commission shall publish a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, in a newspaper of general circulation in the counties wherein the commercial infectious medical waste facility is to be located. Upon an affirmative vote of the majority of the county commissioners or upon the written petition of registered voters residing in the county equal to not less than 15 percent of the number of votes cast within the county for Governor at the preceding gubernatorial election, which petition shall be filed with the county commission within 60 days after the last date of publication of the notice provided in this section, the county commission shall, upon verification of the required number of signatures on the petition, and not less than 56 days before the election, order a referendum be placed upon the ballot. Any referendum conducted pursuant to this section shall be held at the next primary or general election:

(1) Such referendum is to determine whether it is the will of the voters of the county that a commercial infectious medical waste management facility be located in the county. Any election at which such question of locating a commercial infectious medical waste management facility is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the petition which shall include the printed name, address, and date of birth of each person whose signature appears on the petition.

(2) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following depending upon the type of facility to be located within the county:

Shall a commercial infectious medical waste management facility be located within _____ County.

[ ] For the facility

WVLegislature

[ ] Against the facility

(Place a cross mark in the square opposite your choice.)

(3) If a majority of the legal votes cast upon the question is against the facility, then the county commission shall notify the local solid waste authority, the Division of Environmental Protection, and the Secretary of the Department of Health of the result and the commercial infectious medical waste management facility may not proceed any further with the application. If a majority of the legal votes cast upon the question is for the facility, then the application process as set forth in §20-5j-1 *et seq*. of this code may proceed: *Provided*, That such vote is not binding on nor does it require the secretary to issue the permit. If the majority of the legal votes cast is against the question, the question may be submitted to a vote at any subsequent election in the manner herein specified: *Provided, however*, That the question may not be resubmitted to a vote until two years after the date of the previous referendum.

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