WEST VIRGINIA CODE: §22C-6-3

§22C-6-3. Procedure for public participation.

(a) From and after June 5, 1992, in order to obtain approval to locate either a commercial hazardous waste management facility or a hazardous waste management facility which disposes of greater than 10,000 tons per annum on site in this state, an applicant shall:

(1) File a presiting notice with the county or counties in which the facility is to be located or proposed. Such notice shall be submitted on forms prescribed by the commercial hazardous waste management facility siting board;

(2) File a presiting notice with the commercial hazardous waste management facility siting board; 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 hazardous waste management 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: *Provided*, That such a referendum is not required for a hazardous waste management facility for which at least 90 percent of the capacity is designated for hazardous waste generated at the site of disposal. 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 hazardous waste management facility be located in the county or that a hazardous waste management facility disposing of greater than 10,000 tons of hazardous waste per annum on site be located in the county. Any election at which such question of locating a hazardous 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

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thereon substantially the following depending upon the type of facility to be located with the county:

"Shall a commercial hazardous waste management facility be located within _____ County, West Virginia?

/ / For the facility

/ / Against the facility

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

"Shall a hazardous waste management facility disposing of greater than 10,000 tons per annum on site be located within _____ County, West Virginia?

/ / For the facility

/ / 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 Division of Environmental Protection and the commercial hazardous waste management facility siting board, in the case of a commercial facility, of the result and the commercial hazardous waste management facility siting board or Division of Environmental Protection, as the case may be, shall 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 §22-18-1 *et seq*. of this code and §22C-5-1 *et seq*. in the case of a commercial hazardous waste management facility, may proceed: *Provided*, That such vote is not binding on nor does it require the commercial hazardous waste management facility siting board to grant a certificate of site approval or the Division of Environmental Protection to issue the permit, as the case may be. 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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