WEST VIRGINIA CODE: §24-2-1H

§24-2-1h. Additional powers and duties of commission to control flow of solid waste.

(a) Upon the petition of any county or regional solid waste authority, motor carrier or solid waste facility, or upon the commission's own motion, the commission may issue an order that solid waste generated in the surrounding geographical area of a solid waste facility and transported for processing or disposal by solid waste collectors and haulers who are "motor carriers", as defined in chapter twenty-four-a of this code, be processed or disposed of at a designated solid waste facility or facilities: Provided, That such order shall not include:

(1) Disposal of solid waste at a solid waste facility by the person who owns, operates or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by such person in such person's regular business or personal activities or by persons utilizing the facility on a cost-sharing or nonprofit basis;

(2) Reuse or recycling of any solid waste; or

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on such days and times as designated pursuant to the provisions of section seven, article fifteen, chapter twenty-two of this code.

(b) In determining whether to issue an order establishing flow control to a solid waste facility, the commission shall consider, but is not limited to considering, the nature and composition of the solid waste, the environmental impact of controlling the flow of solid waste, the efficient disposal of solid waste, financial feasibility of proposed or existing solid waste facilities, the county or region solid waste control plan, the statewide solid waste control plan and the public convenience and necessity.

(c) The Public Service Commission shall promulgate rules providing standards and criteria to effectuate the purposes of this section.

(d) Notwithstanding any provision of this code to the contrary, excepting rules of the Public Service Commission from legislative rule-making review, the Public Service Commission shall propose a legislative rule in accordance with the provisions of article three, chapter twenty-nine-a of this code, which shall mandate that motor carriers transport source-separated recyclable materials to a recycling facility. Such legislative rule shall provide, at a minimum, for a separate rate for the transportation of such materials or that such motor carriers may contract with a customer to waive the charge for transporting such materials in exchange for the value of such materials.

(e) Notwithstanding any provision of this code to the contrary, the Public Service Commission is hereby authorized to employ ten persons, who shall be in the classified exempt service, in addition to any personnel positions otherwise authorized or allocated to

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the commission as of the effective date of this section to facilitate enforcement of duties imposed upon the commission in the regulation of solid waste disposal during the second extraordinary session of the Legislature, one thousand nine hundred ninety-one.

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