



# COMPREHENSIVE LITTER & SOLID WASTE CONTROL PLAN UPDATE PROCESS

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## **Plan Updates and Information**

Every county or regional solid waste authority is required to update and amend their Comprehensive Litter and Solid Waste Control Plan every five years, although they may update or amend at any time. The period covered by the plan is to be extended for twenty (20) years.

The process for updating or amending a comprehensive plan is outlined in WV Code Rules 54CSR3. Sections 3, 4 and 5 state exactly what is required to be included and what format is to be used for the plan.

The following information is a summary, or a quick step reference to updating the required plan. A printed copy of WV Code Rules 54CSR3 has been included at the end of this information for a more detailed explanation of each step.

Should your authority have any question regarding the process or procedures at any point, please contact the Solid Waste Management Board staff at 304-926-0448.

## **The Process (summarized)**

For the updates to the Comprehensive Litter and Solid Waste Control Plan, there are basically four parts to the process:

- First Public Hearing
- Second Public Hearing
- Submission for Approval by the Solid Waste Management Board
- Final Submission of Approved Plan

The following information summarizes, how the Solid Waste Management Board staff would explain the process to each authority.

- 1)** It is always a good practice to ensure that the entire authority board is aware that the process of updating is starting. A board motion is not required, but as a point of public record, it is recommended that the meeting minutes reflect the start of this process.
- 2)** Class I Legal Ad must be advertised stating the purpose, time, date, and location of the public hearing and the final date of the written comment period and where comments may be sent.
  - a. Public hearing **MUST** be a minimum of thirty (30) days from the date of publication of the Class I legal ad.
  - b. Written comment period **MUST** be a minimum of ten (10) days from the date of the public hearing.
  - c. Timeframes are based on calendar days, not working days.
  - d. A copy of the affidavit and ad will become part of the final plan.
- 3)** Copies of the plan must be placed at the required locations by the day the legal ad is published.
  - a. County Clerk's Office;
  - b. All public libraries and branch libraries in the county or counties;
  - c. Office of each appropriate regional planning and development council; and
  - d. By posting the public notice at the appropriate county courthouse(s).
- 4)** Start updating the "draft" version. Information tends to change over a five-year period. Your board needs to review the information for any changes in goals, objectives, programs, statistical data, etc. This Plan is a complete overview of your county's program and goals for the next twenty (20) years.
- 5)** 1<sup>st</sup> public hearing is held and 1<sup>st</sup> written comment period.
  - a. No quorum is needed for the public hearing. May be conducted by a board member or an employee. Entire board is not required to be in attendance.

- b. Purpose of the public hearing is to solicit ideas, opinions and comments from the public concerning the plan being updated. The public hearing is not the time to respond to any comments received. No action is required.
  - c. Public shall be given a reasonable time limit for oral statements.
  - d. Hearing should last at least an hour, unless public participation would constitute it to last longer.
  - e. Hearing must be recorded by “mechanical means” (any type of electronic recorder). Copies of all written comments and hearing minutes shall be retained for a period of three (3) years from the date of the public hearing.
  - f. Public hearing minutes will become part of the final plan.
- 6)** At the following board meeting, board members should acknowledge any verbal or written comments received.
- a. A brief letter acknowledging the receipt of any written comments should be sent to person submitting comments.
  - b. The authority shall prepare a written summary of the public comments received and how it was responded to. This will be included in the final plan.
- 7)** 2<sup>nd</sup> Class I Legal Ad is advertised stating the dates of the public hearing and ending of the written comment period. (same information included in step 2)
- 8)** Copies of the “draft” version is placed at the required locations by the day the legal as is published. (same locations as listed under step 3)
- 9)** 2<sup>nd</sup> public hearing is held and 2<sup>nd</sup> written comment period ends. (see step 5)
- 10)** At the following board meeting, the board addresses any comments received. (step 6) If agreed, a motion must be made to submit the plan to the Solid Waste Management Board for final approval. Approved minutes must be included in the final plan.
- 11)** SWMB staff reviews the plan for completeness.
- a. If found complete, plan is placed on the next monthly agenda.
  - b. If found incomplete, the insufficiencies will be noted and the plan will be returned to your board for corrections. Within ninety (90) days, the authority shall revise the plan and submit the corrected version to the SWMB for approval.
- 12)** Upon approval the by SWMB, an approval letter and the original plan will be sent back to your board. Your authority will be given sixty (60) days after approval to mail four (4) copies of its final plan back to the SWMB. One (1) copy must be mailed to the appropriate regional planning and development council, county planning commission and the office of the appropriate county clerk, who shall file the plan in an appropriate manner and make it available for public inspection.
- 13) THIS PROCESS IS NOT FINALIZED UNTIL THE FINAL VERSIONS ARE RECEIVED BY THE SWMB.**

## Public Hearing Worksheet

The Comprehensive Litter and Solid Waste Control Plan must have two (2) public hearings and written comment periods.

- The existing plan may be used for the first (1<sup>st</sup>) public review period.
- An updated “draft” copy must be placed out for the second (2<sup>nd</sup>) public review period.

Any changes that are being made to the “draft” version should be made as follows:

- Language being REMOVED needs to be done so with ~~striketroughs~~.
- Language being ADDED needs to be done so using underlines.
- This allows the general public to quickly note what information is being changed.

Plan **must** be placed in the following locations by the date of publication of Class I Legal Ad:

- County clerk’s office;
- Every county public library and its’ branches;
- Regional Planning and Development office; and
- The SWA office (should you choose).

Public hearing date **must be** a minimum of thirty (30) days from the **published** date of the Class I legal ad. Written comment period **must be** extended a minimum of ten (10) days from the hearing date. **Note: Timeframes are calendar days, not working days.**

### First Hearing

### ACTUAL DATES

### SAMPLE DATES

Date legal ad appears in publication

\_\_\_\_\_

Jan. 3, 2017

Date of public hearing

\_\_\_\_\_

Feb. 3, 2017 (33 days)

Date of written comment period

\_\_\_\_\_

Feb. 13, 2017 (10 days)

### Second Hearing

### ACTUAL DATES

### SAMPLE DATES

Date legal ad appears in publication

\_\_\_\_\_

March 7, 2017

Date of public hearing

\_\_\_\_\_

April 7, 2017 (32 days)

Date of written comment period

\_\_\_\_\_

April 17, 2017 (10 days)

## **SAMPLE CLASS I LEGAL AD**

*This is only to serve as a suggested template for the Class I legal ad based on the required information from 54CSR3. Wording may vary as to each board's preference of wording. However, this information is, at a minimum, required to be included.*

The (Name of County) County Solid Waste Authority will hold a public hearing concerning the five-year update of the Comprehensive Litter and Solid Waste Control Plan. The hearing will take place at (location), on (date), (month), (year), at (time), during which time public comments will be heard. The plan may be reviewed at the (county library – location), (county) County Clerk's Office, and the (regional planning & development office). Written comments will be accepted until (date – 10 days from hearing) and may be sent to (Authority or Chairman/Director), at (mailing address and email address, if you so choose).

In accordance with 54CSR3-5.2.1, "Public hearings for the comprehensive plan update may be held at the same time as the siting plan update hearings, as long as both plans are advertised and addressed equally."

If your authority is needing to provide updates for both, the comprehensive and siting plans at the same time, you may combine the Class I legal ad to reflect so. This may be done by adding "and Commercial Solid Waste Facility Siting Plan" to the first sentence to reflect the public hearing for both. Not only does this ensure both are being done properly, at the same time, but saves the authority from paying for two Class I legal ads.

Just make sure that the recording and minutes for the public hearings indicate that comments are/were being accepted for both plans.

## Required Format of Plan

WV Code Rules §54-3-4, plainly states the format of each plan. The Comprehensive Plan shall include:

- **Cover sheet**
  - o Includes the name of the authority,
  - o Title of the plan, and
  - o Signature of the authority chair.
- **Introduction**
  - o Explaining the plan’s background,
  - o Scope, and
  - o Purpose.
- **Table of Contents**
  - o Indicating the major subdivisions of the plan – information outlined in section 5.
- **Executive Summary**
  - o Describes the methodology,
  - o Goals and Objectives.
  - o Conclusions, and
  - o Recommendations.
- **Copy of Class I legal advertisements** – as outlined in section 7.
  - o Brief summary of public comments and a statement explaining how the authority responded to each.
- **Maps of appropriate size and scale.**

Section 5 of this Rule goes on to explain the Content of Plan. This section explains in detail what each of the sections listed above and those major subdivisions are to include. The Table of Contents on the next page shows each item “required” from the Rule to be included in the plan and the code citing for each.

For a detailed description of each, refer to the copy of 54CSR3 included at the end of this overview.

**TABLE OF CONTENT FORMAT ACCORDING TO 54CSR3 WITH WV RULE CITING**

Introduction ..... (4.1.b.)  
    Background  
    Scope  
    Purpose  
Executive Summary..... (4.1.d.)  
Goals & Objectives ..... (5.1.a.)  
Status of Existing Solid Waste Activities ..... (5.1.b.)  
Funding Strategy ..... (5.1.c.)  
Hierarchy of Solid Waste Disposal ..... (5.1.d.)  
Assessment of Litter and Solid Waste Problems ..... (5.2.a.)  
Evaluation and Assessment of Solid Waste Collection and Disposal Services..... (5.2.b.)  
    Waste Hauler Information ..... (5.2.b.1.)  
    Demographic and Population Projection Information ..... (5.2.b.2. & 5.2.b.3.)  
    Geological Information ..... (5.2.b.3.A & 5.2.b.3.B)  
    Transportation Information ..... (5.2.b.3.C.)  
Recommendation for Siting of a Landfill ..... (5.2.c. to 5.2.c.3.)  
Timetable for Implementation of Plan ..... (5.2.d.)  
Cleanup and Open Dump Programs ..... (5.2.e.)  
Voluntary Assistance Programs ..... (5.2.f.)  
Coordination with Other Entities ..... (5.2.g. & 5.2.i.)  
Use of Inmates for Litter Pickup ..... (5.2.h.)  
Identification of Out-of-County Waste ..... (5.2.j.)  
Mandatory Disposal ..... (5.2.k. to 5.2.k.1.)  
Facilities Generating More Than Five Tons of Solid Waste..... (5.2.k.2.)  
Conclusions ..... (5.2.k.4.)  
Class I Legal Ads ..... (4.1.e.)  
Public Comments ..... (4.1.f. and 5.2.l.)  
Hauler Map ..... (4.1.g.)  
Comprehensive Recycling Plan ..... (5.3.)  
Mandatory Garbage Disposal Program..... (5.4.)

**Recycling Plan Content**

Recycling Goals (5.3.a.)  
Collection and Processing ..... (5.3.b.)  
    Characterization of Waste Stream ..... (5.3.b.1.)  
    Existing and Anticipated Markets ..... (5.3.b.2.)  
Potential Strategies for Collection of Materials..... (5.3.c. to 5.3.c.2.)  
Recycling Program Ordinance (if applicable) ..... (5.3.d.)  
Public Education Program ..... (5.3.e. to 5.3.e.5.)

**Mandatory Garbage Program Content**

Methods of Proof of Proper Disposal ..... (5.4.a.)  
Provisions to Assist Law Enforcement ..... (5.4.b.)

## **Submission for Approval by the Solid Waste Management Board**

When the authority has completed both public hearings, and the entire board agrees with the contents of the plan, it is now time to submit the document for review and approval by the Solid Waste Management Board (SWMB).

The following items are to be included in the packet when sending the plan to the SWMB for approval:

- Clean copy of the updated plan (underlines & strikethroughs removed).
- All appendices attached.
  - o Maps (waste hauler areas and any other maps cited throughout plan)
  - o Public Participation Process
    - Copies of affidavit and legal ads for both hearings
    - Copies of minutes from both public hearings
    - Copies of any public comments received and the written responses
- Copy of the last board meeting showing approval for submission (may be the draft copy – approved, signed version must be sent prior to SWMB approval)

Once received, the SWMB staff will review the document for administrative and technical completeness.

- If the SWMB finds the plan “incomplete,” the plan and a letter explaining the insufficiencies will be returned to the authority. The authority will then be given ninety (90) days to revise the plan and submit the correction version to the Board.
- If found “complete,” the plan will be submitted to the SWMB for approval.

The Board will send a letter of approval and the original plan back to the authority upon approval.

As required by the Rule, the Authority will have sixty (60) days after approval to return four (4) full copies, to include the approval letter, of its final plan back to the SWMB. Each authority shall transmit one copy of the final plan to the appropriate regional planning and development council, county planning commission, and the office of the appropriate county clerk who shall keep the plan on file for public review.

The update process for the Comprehensive Litter and Solid Waste Control Plan is finally complete.

**TITLE 54  
LEGISLATIVE RULE  
SOLID WASTE MANAGEMENT BOARD**

**SERIES 3  
COMPREHENSIVE LITTER AND  
SOLID WASTE CONTROL PLANS**

**§54-3-1. General.**

1.1. Scope. -- The scope and purpose of this rule is to establish minimum standards and planning requirements for all county and regional solid waste authorities to follow in developing, updating, and amending comprehensive litter and solid waste control plans as required by W. Va. Code §22C-4-1 et seq. Such minimum standards and requirements are designed to protect the public health, safety, and environment throughout the state of West Virginia; provide for an integrated waste management hierarchy; provide for the most effective and efficient use of available resources; and ensure the establishment of the most proper and effective solid waste collection, transportation, processing, recycling and disposal services for all residents of the state.

1.2. Authority. -- W. Va. Code §§22C-3-6, 22C-4-8, 22C-4-23, and 20-11-1 et seq.

1.3. Filing Date. -- May 21, 2001.

1.4. Effective Date. -- May 21, 2001.

**§54-3-2. Definitions.**

The following words and terms, when used in this rule, shall have the following meaning, unless the context clearly indicates otherwise:

2.1. "Authority" means any solid waste authority of any county or region in West Virginia, established by W. Va. Code §§22C-4-3 and 22C-4-4; or the county commission of any county which elected not to establish an authority, as allowed by W. Va. Code §22C-4-6.

2.2. "Board" means the West Virginia Solid Waste Management Board, as established by W. Va. Code §22C-3-4, or its authorized representatives.

2.3. "Commercial composting facility" means any solid waste facility processing solid waste by composting, including sludge composting, organic waste or yard waste composting, but does not include a composting facility owned and operated by a person for the sole purpose of composting waste created by that person or such person and other persons on a cost-sharing or non-profit basis and shall not include land upon which finished or matured compost is applied for use as a soil amendment or conditioner.

2.4. "Landfill" means any solid waste facility for the disposal of solid waste on or in the land for the purpose of permanent disposal. Such facility is situated, for the purpose of this rule article, in the county where the majority of the spatial area of such facility is located.

2.5. “Materials recovery facility” means any solid waste facility at which source-separated materials or materials recovered through a mixed waste processing facility are manually or mechanically shredded or separated for purposes of reuse and recycling, but does not include a composting facility.

2.6. “Open dump” means any solid waste disposal which does not have a permit under W. Va. Code §22-15-1 et seq., or is in violation of state law, or where solid waste is disposed in a manner that does not protect the environment.

2.7. “Plan” or “Comprehensive Plan” means the comprehensive litter and solid waste control plan or update of such plan required under W. Va. Code §22C-4-8 and sections 5 and 6 of this rule.

2.8. “Recycle” or “Recycling” means the process by which recovered products are transformed into new products, and includes the collection, separation, recovery, and sale or reuse of metals, glass, paper, tires, lead-acid batteries, and other materials.

2.9. “Recycling facility” means any solid waste facility for the purpose of recycling at which neither land disposal nor biological, chemical, or thermal transformation of solid waste occurs: Provided, that mixed waste recovery facilities, sludge processing facilities, and composting facilities are not considered recycling facilities nor considered to be reusing or recycling solid waste within the meaning of W. Va. Code §§20-11-1 et seq., 22-15-1 et seq., or 22C-4-1 et seq.

2.10. “Resource recovery facility” means any solid waste facility at which solid wastes are mechanically, biologically, chemically, or thermally transformed for the purpose of separating, removing, or creating any material or energy for reuse or sale, and at which land disposal of solid waste does not occur. Resource recovery facility includes composting facilities, environmentally acceptable incinerators, materials recovery facilities, energy recovery facilities and other such solid waste facilities not herein specified.

2.11. “Solid waste” means any garbage, paper, litter, refuse, cans, bottles, waste processed for the express purpose of incineration, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; other discarded material, including offensive or unsightly matter, solid, liquid, semisolid, or contained liquid or gaseous material resulting from industrial, commercial, mining, or community activities, but does not include solid or dissolved material in sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources and have permits under W. Va. Code §§22-11-1 et seq., or source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, including any nuclear or byproduct material considered by federal standards to be below regulatory concern, or a hazardous waste either identified or listed under W. Va. Code §§22-18-1 et seq., or refuse, slurry, overburden, or other waste or material resulting from coal-fired electric power or steam generation, the exploration, development, production, storage, and recovery of coal, oil and gas, and other mineral resources placed or disposed of at a facility which is regulated under W. Va. Code §§22-2-1 et seq., 22-3-1 et seq., 22-4-1 et seq., 22-6-1 et seq., 22-7-1 et seq., 22-8-1 et seq., 22-9-1 et seq., 22-10-1 et seq., or 22A-1-1 et seq., so long as such placement or disposal is in conformance with a permit issued pursuant to said chapters.

2.12. “Solid waste disposal” means the practice of disposing of solid waste, including placing, depositing, dumping, or throwing, or causing to be placed, deposited, dumped, or thrown any solid waste.

2.13. "Solid waste facility" means any system, facility, land, contiguous land, improvements on the land, structures, or other appurtenances or methods used for processing, recycling, or disposing of solid waste, including landfills, transfer stations, materials recovery facilities, mixed waste processing facilities, sewage sludge processing facilities, commercial composting facilities and other such facilities not herein specified, but not including land upon which sewage sludge is applied in accordance with W. Va. Code §22-15-20 (b). Such facilities shall be deemed to be situated, for the purposes of this rule in the county where the majority of the spatial area of such facility is located. Provided, that a salvage yard licensed and regulated pursuant to the terms of W. Va. Code §17-23, is not a solid waste facility.

2.14. "Source-separated materials" means materials separated from general solid waste at the point of origin for the purpose of reuse and recycling, but does not mean sewage sludge.

2.15. "Transfer station" means a combination of structures, machinery, or devices at a place, or facility where solid waste is taken from collection vehicles and placed in other transportation units (such as a "walking floor," or other method of transfer as determined by the director) for movement to another solid waste management facility. Provided, when the initial generator of solid waste disposes of said waste into a container such as a roll-off, greenbox or bin which is temporarily positioned (not more than five days) at a specific location for transport by a transportation unit, such container shall not be considered a transfer station. Under any circumstances, leachate, litter and windblown materials must be properly managed.

### **§54-3-3. Requirement and Procedure for Plan Development, Update, and Approval.**

3.1. Requirement of Plan. -- All authorities are required to have a plan and to update it.

3.2. Submission to the Board.

3.2.a. A comprehensive litter and solid waste control plan shall be submitted to the Board. The plan shall be updated and submitted every five years after any new or updated plan is approved by the Board or within ninety (90) days of the formation of a new authority.

3.2.b. A grant may be obtained from the Board for the purpose of updating the comprehensive plan in accordance with subsection 4.4 of 54CSR5 - "Disbursement of Grants to Solid Waste Authorities." Grant amounts will be subject to the availability of funds.

3.3. Plan Review.

3.3.a. The Board shall review each plan for administrative and technical completeness. If the Board finds the draft plan to be incomplete, i.e., to not contain all of the information required by this rule, it shall return the plan to the authority along with a written statement explaining how the plan is incomplete.

3.3.b. Within ninety (90) days of receipt of a letter disapproving the plan, the authority shall revise the plan to eliminate the insufficiencies and submit the corrected plan to the Board.

### 3.4. Final Submission to the Board.

3.4.a. The Board shall approve the final plan in writing if the Board determines that the plan complies with the purposes and requirements of applicable state and applicable federal law, if any, and the rules promulgated in this series.

3.4.b. No later than sixty (60) days after approval, each county authority shall submit to the Board four (4) copies of its final plan. Each regional authority must submit one additional copy of the plan for each county within that region. Each authority shall transmit one copy of its plan to each appropriate regional planning and development council, county planning commission and to the office of each appropriate county clerk, who shall file the plan in the appropriate manner and make it available for public inspection.

### 3.5. Plans Developed by the Board.

3.5.a. The Board shall develop a plan for any authority which fails to submit an update and for any new authority that fails to submit a plan within ninety (90) days of the due date under subsection 3.2.a, provided that in preparing such plans, the Board may determine whether to prepare a regional or county-based plan for those authorities which fail to complete such an update or for those new authorities that fail to complete a plan.

3.5.b. Once a plan or an update has been developed for an authority, the authority shall be responsible for the five-year plan update.

### **§54-3-4. Required Format of Plan.**

4.1. Required Format. -- In addition to the information required in section 5 of this rule, each plan submitted shall include:

4.1.a. A cover sheet which includes the name of the authority, the title of the plan, and the signature of the authority chair;

4.1.b. An introduction explaining the plan's background, scope, and purpose;

4.1.c. A table of contents indicating the major subdivisions of the plan;

4.1.d. An executive summary of the plan which briefly describes its methodology, goals and objectives, conclusions, and recommendations;

4.1.e. A copy of the Class I legal advertisement as specified in subsection 7.1 of this rule regarding the required public hearings;

4.1.f. A brief summary of public comments and a statement describing how the authority responded to the public comments; and

4.1.g. Maps of an appropriate size and scale that will allow the reader to identify the location of features, services, facilities, and population listed in paragraphs 5.2.b.1. and 5.2.b.3 of this rule.

### **§54-3-5. Content of Plan.**

5.1. General Information. -- The plan shall include the following general information:

5.1.a. Description of plan goals and objectives for solid waste management for the next twenty (20) years.

5.1.b. Status of existing solid waste management activities in the county or region, and a description of how the plan has been implemented. If portions of the plan have not been implemented, discuss the reasons and need for plan modification.

5.1.c. Describe how funds, including grant funding, have been used and will be used to implement the plan.

5.1.d. Describe the actions taken by the authority to implement the hierarchy established in W. Va. Code §22C-4-1, in the following order of priority: (1) source reduction, (2) recycling, reuse, and materials recovery, and (3) landfilling.

5.2. Specific Information and Data. -- In addition, the plan shall include the following specific information:

5.2.a. An assessment of litter and solid waste problems in the county or the region, including, but not limited to, a listing of any open and unpermitted dumps, including waste tire piles, and any other problem areas for litter control.

5.2.b. An evaluation and assessment of existing solid waste collection and disposal services for all county or regional residents at their residences, where practicable, or the use of refuse collection stations at disposal access points in areas where residential collection is not practicable. In developing such collection services, primacy shall be given to private collection services currently operating with a certificate of convenience and necessity from the motor carrier division of the state Public Service Commission.

5.2.b.1. Locate on a county or regional highway map or maps, existing and planned solid waste collection, storage, treatment, transportation, disposal, recycling, and other management facilities, and their projected capacities. Include a listing of haulers and the areas they serve. Information shall be included for all solid waste generated within the area covered by the authority from collection to final disposal, whether or not the above-listed facilities are located within the geographic area of the authority.

5.2.b.2. Include demographic information and projections over twenty (20) years. Information may be obtained from the Regional Research Institute at West Virginia University.

5.2.b.3. Include data on urban concentrations, geographic conditions, markets, transportation conditions, and related factors.

5.2.b.3.A. Indicate the regions which are predominantly urban in nature, their population density, and projected changes in the area or population of these regions. Also indicate any additional regions which are expected to urbanize or where growth is anticipated.

5.2.b.3.B. Include a general description of geographic features in the region, e.g., rolling hills, steep valleys, narrow river plains, or eroded plateau. A short description of soil conditions and underlying bedrock is also requested.

5.2.b.3.C. Identify major highways, rail or river routes currently used in the transportation of solid waste, and which are anticipated to be used in the future. Describe any existing or anticipated problem areas and conditions along such routes.

5.2.c. A recommendation, and the reasons for such recommendation, for the siting of one or more properly permitted public or private solid waste facilities, whether existing or proposed, to serve the solid waste needs of the county or the region, as the case may be, consistent with the comprehensive county plan prepared by the county planning commission, and the anticipated volumes of solid waste originating within or outside the county or region which are likely to be disposed of within the county or region.

5.2.c.1. To ensure that the present and future solid waste needs of the county or regional authority are attained, the authority may recommend that its solid waste be processed, recycled, or disposed of at an existing or proposed solid waste facility located either within or outside the authority's geographic area.

5.2.c.2. If an authority recommends that its solid waste be processed, recycled, or disposed of at a proposed solid waste facility, such facility may not be located within a prohibited or tentatively prohibited zone established pursuant to 54CSR4 - "The Development of Commercial Solid Waste Facility Siting Plans".

5.2.c.3. Whether an authority proposes using a solid waste facility within its area or outside its area, it shall provide documentation that the facility will meet the authority's future solid waste needs.

5.2.d. A timetable for the implementation of the plan over the twenty (20)-year projection, including stages of progress toward the accomplishment of each item in subsection 5.2 of this rule and the parties responsible for each step in the timetable.

5.2.e. A program for the cleanup, reclamation, and stabilization of any open and unpermitted dumps. The authority should consider using the Pollution Prevention Open Dumps (PPOD) cleanup funds available through the DEP.

5.2.f. A program to enlist the voluntary assistance of private industry and civic groups in volunteer cleanup efforts to the maximum practicable extent.

5.2.g. Coordination with the state Division of Highways and other local, state, and federal agencies in the control and removal of litter and the cleanup of open and unpermitted dumps.

5.2.h. Establishment of a program to encourage and utilize for the purposes of litter pickup those individuals incarcerated in the county or regional jail and those adults and juveniles sentenced to probation.

5.2.i. Provisions for the coordination of the plan with the related solid waste collection and disposal services of municipalities and, if applicable, other counties. Copies of any intergovernmental agreements shall be included in the plan.

5.2.j. A program to identify the anticipated quantities of solid wastes which are disposed of, but are not generated by, sources situated within the boundaries of the county or the region established pursuant to W. Va. Code §22C-4-8. Information on the source of wastes may be available from the DEP and landfills within the county or region for which the plan is being developed.

5.2.k. Provision for the safe and sanitary disposal of all refuse from commercial and industrial sources within the county or region, as the case may be, including refuse from commercial and industrial sources, but excluding refuse from sources owned or operated by the state or federal government.

5.2.k.1. The purpose of this requirement is to ensure that the comprehensive plan addresses not only solid waste from county residents, but also solid waste generated by commercial and industrial sources within the county or region, and further to ensure that all such solid waste is disposed of in a manner which protects the public health and welfare.

5.2.k.2. In order to carry out these purposes, the authority shall inventory all major industrial and commercial sources of solid waste within its boundaries and determine the nature and quantity, and ultimate disposal location of solid wastes which are disposed of at a location outside the property boundary of the particular source. Such information and data shall be included in the plan. For the purposes of this paragraph, the word “major” shall mean any industrial or commercial facility which generates more than five (5) tons of solid waste per month.

5.2.k.3. The authority shall evaluate the information and data it collects pursuant to paragraph 5.2.k.2 of this rule for the following purposes:

5.2.k.3.A. To determine what impact such solid wastes have and are expected to have on the overall solid waste collection, transportation, processing, recycling, and disposal system of the county or region.

5.2.k.3.B. To ensure that such wastes are disposed of in an approved solid waste facility or in an otherwise lawful manner.

5.2.k.4. The authority shall include its evaluation of this information and conclusions reached in the comprehensive plan.

5.2.l. The authority shall provide a summary of all written and oral public comments received at the public hearings required under section 7 of this rule, including a statement of how the authority responded to the comments. Public hearings for the comprehensive plan update may be held at the same time as siting plan update hearings, as long as both plans are advertised and addressed equally.

5.3. Comprehensive Recycling Plan. -- The comprehensive recycling plan shall include, but not be limited to:

5.3.a. The evaluation, including specific reasons, of the feasibility of requiring or encouraging the separation of residential or commercial solid waste at its source prior to collection for the purpose of facilitating the efficient and effective recycling of such wastes and the reduction of those wastes which must be disposed of in landfills or by other nonrecycling means.

5.3.b. Designation of the recyclable materials that can be most effectively source-separated in the region or county, which shall include at least three (3) recyclable materials. Before designation of the materials, the following should be examined:

5.3.b.1. Characterization of the waste stream to determine the quantity of materials potentially available for recycling. Geographic location and seasonal fluctuations should be taken into account in identifying sources of waste.

5.3.b.2. Description of the existing and anticipated markets for resource recovery, materials recovery, recycling, and composting facilities within the area. Intermediate and final markets should be identified. Markets will dictate the types, quantity, and quality of materials collected. Market conditions will dictate the type of processing necessary.

5.3.c. Designation of potential strategies for the collection, marketing, and disposition of designated source-separated recyclable materials in each region or county, including consideration of utilizing existing private and public recycling facilities.

5.3.c.1. Estimate the likely program recovery rate through an analysis of residential, commercial, and industrial recycling potential. All current recycling activities, including collection and processing, should be identified. Existing capacity of all municipal solid waste management facilities, public and private, should be examined.

5.3.c.2. Estimate the likely program requirements for the collection, storage and retrieval, processing, and marketing of yard waste and tires.

5.3.d. A copy of any ordinance adopting a county recycling program pursuant to W. Va. Code §20-11-5, if applicable. Minutes from the authority board meeting at which the ordinance is adopted should also be included.

5.3.e. A public education program, to include:

5.3.e.1. Definition of the goals and objectives of the recycling educational efforts.

5.3.e.2. Identification of target audiences and the development of appropriate messages and formats. This should include the selection of an appropriate medium for conveying recycling messages and development of educational materials. Use of materials that are readily available is encouraged.

5.3.e.3. Identification of methods to disseminate information and the development of an effective media relations strategy. Community organizations that can assist in the implementation of a public information program should be utilized.

5.3.e.4. Innovative incentives to promote recycling efforts, e.g., a competition between schools for tonnage recycled, a poster or essay contest in schools, or developing a new recycling market such as using car tires in playground construction.

5.3.e.5. Plans for evaluation of recycling education effectiveness on recycling rate, program expansions, and other changes that measure progress.

5.4. Establishment of an appropriate mandatory garbage disposal program. The program shall include:

5.4.a. Methods whereby residents must prove either (1) payment of garbage collection fee, or (2) proper disposal at an approved solid waste facility or in an otherwise lawful manner. The authority shall include a copy of its rules implementing this provision as required under W. Va. Code § 22C-4-23(3). In establishing the methods for providing proper proof, the authority shall comply with the DEP, 33CSR7 rules - "Proof of Proper Solid Waste Disposal."

5.4.b. Provisions for how the authority will assist local law enforcement officials in the enforcement of the mandatory garbage disposal program.

**§54-3-6. Development, Update, and Amendment Process.**

6.1. Each authority shall update the plan for its county or region every five (5) years. Public notice and hearing on any proposed updates or amendments shall be given and held in the same manner as outlined in section 7 of this rule. Any updates or amendments proposed by the authority shall be submitted to the Board for approval in the same manner as provided in subsection 3.4.

6.2. At the time of the five-year update, the authority shall, in addition to any other amendments considered necessary, extend the period of time covered by the plan to include the next twenty (20) years following the five-year update.

6.3. The plan may be amended at any time by the county or regional authority which originated the plan. Amendments must meet all requirements of the original plan, including that of giving notice and holding a public hearing as detailed in section 7 of this rule. No amendments may become effective until approved by the Board in the same manner as the original plan.

6.4. Minutes from the authority meeting in which the new, updated, or amended plan is approved shall be included in the new, updated or amended plan before final submission for approval by the Board. Minutes should be signed by the chair. It is the authority's responsibility to ensure that it is legally constituted to conduct business in accord with W. Va. Code §22C-4-1 et seq.

**§54-3-7. Public Participation Process.**

7.1. Public Notice and Hearing.

7.1.a. Prior to the submission of a draft plan to the Board, and to assist the authority in the development of a draft plan, the authority shall publish notice and hold at least one public hearing to solicit ideas, opinions, and comments from the general public on the development of the draft plan.

7.1.a.1. The authority shall publish notice of the hearing at least thirty (30) days in advance of the hearing as a Class I legal advertisement published in a qualified newspaper, as defined in W. Va. Code §§59-3-1 and 2, serving the county or counties, whichever is appropriate.

7.1.a.2. The authority shall consider the public comments received at the public hearing, and shall record the proceedings of the hearing by mechanical means, and such recording and a copy of all written comments received and a written summary of the proceedings shall be retained by the authority for a period of three (3) years from the date of the public hearing.

7.1.b. After submission of the draft plan to the Board, the authority shall publish notice and conduct at least one public hearing to solicit ideas, opinions, and comments from the general public concerning the plan.

7.1.b.1. The authority shall publish notice of the hearing at least thirty (30) days in advance of the hearing as a Class I legal advertisement published in a qualified newspaper, as defined in W. Va. Code §§59-3-1 and 2, serving the county or counties, whichever is appropriate, and by posting the public notice at the appropriate county courthouse or courthouses.

7.1.b.2. A copy of the public notice of the hearing shall be mailed to those persons requesting to be placed on a mailing list to be maintained by the authority.

7.1.b.3. The public notice shall include the date, time, and place scheduled for the public hearing, an invitation for written and oral comments, an address to which comments may be mailed, and the locations in the area where a copy of the draft plan is available for public review.

7.1.b.4. At the public hearing, reasonable limits may be set upon the time allowed for oral statements. The submission of written comments shall be extended to ten (10) days after the public hearing date.

7.2. Public Review of the Plan. -- At least thirty (30) days prior to any public hearing under subsection 7.1.b, the authority shall place for public review a copy of the draft plan at the county clerk's office or clerks' offices, at all public libraries and branch libraries in the county or counties, and at the office of each appropriate regional planning and development council.

7.3. Consideration of Public Comments.

7.3.a. The authority shall consider all public comments received, written and oral, in the development of the final plan.

7.3.b. The authority shall prepare a written summary of the public comments received and a statement explaining how it responded to the public comments in the development of the final plan. Such written summary and statement shall be submitted to the Board with the final plan.

7.3.c. If requested by the Board, the authority shall submit all or any part of the public comment record to the Board for its review.