

POCAHONTAS COUNTY SOLID WASTE AUTHORITY
MANDATORY SOLID WASTE DISPOSAL REGULATIONS

Section 1. Authority: These regulations are adopted pursuant to the authority granted to the Pocahontas County Solid Waste Authority under applicable state solid waste management statutes and implementing regulations.

The Pocahontas County Solid Waste Authority ("Authority") is charged with ensuring that all municipal solid waste generated within its County is collected, transported, and disposed of in a lawful manner that protects public health, preserves environmental quality, and ensures the economic sustainability of the solid waste management system.

These regulations establish a mandatory system of municipal solid waste disposal within Pocahontas County.

These regulations shall be interpreted consistently with the Constitution and laws of the United States and the State of West Virginia.

Section 2: Legislative Findings: The Pocahontas County Solid Waste Authority hereby finds that:

- Illegal dumping, open burning, and unlawful disposal of municipal solid waste threaten the public health, groundwater, surface waters, tourism economy, and environmental resources of Pocahontas County;
- Rural geographic conditions and low population density create unique challenges in financing and maintaining lawful solid waste infrastructure;
- The establishment of an integrated countywide solid waste management system is necessary to:
 - Ensure universal access to lawful disposal,
 - Prevent unlawful dumping,
 - Protect environmental quality,
 - Maintain financial sustainability of public waste infrastructure,
 - Comply with state solid waste management obligations;
- Mandatory participation and flow-control requirements are necessary components of maintaining economically viable public solid waste infrastructure and ensuring equitable allocation of system costs among waste generators;

These regulations are adopted for public health, environmental protection, sanitation, and governmental purposes and not for the economic protection of private commercial interests.

Section 3. Purpose: The purpose of these regulations is to:

- Ensure that all municipal solid waste generated within the county is disposed of in a lawful manner.

- Ensure that the costs of municipal solid waste disposal are borne equitably.
- Eliminate illegal dumping, burying, and burning of waste.
- Ensure fair participation and cost sharing in the solid waste management system by all waste generators and property owners.
- Ensure a clean environment for our citizens and visitors.
- Protect groundwater, surface water, and environmental quality.
- Maintain the economic viability of public solid waste infrastructure.
- Provide effective enforcement mechanisms necessary to ensure compliance.

Section 4. Definitions: The following words are defined as follows:

Approved Alternative Disposal: A disposal method specifically authorized in writing by the Authority.

Approved Disposal Facility: A landfill, transfer station, recycling facility, or other solid waste management facility authorized by the Pocahontas County Solid Waste Authority. Green Boxes operated by the Authority are designated collection points for delivery of waste to the Authority's commercial solid waste authority.

Authority: The Pocahontas County Solid Waste Authority is responsible for administering these regulations.

Bulky Goods: Means items or materials that cannot be deposited into the Green Box system including, but not limited to, furniture, mattresses, or other items that are three (3) feet or more in length, width, or height, and/or fifty (50) pounds or more in weight.

Free Day: Residents may dispose of up to one 1/2 ton (1,000 lbs.) of household garbage for free, though they must identify themselves at the office with the use of a driver's license or other identifying documentation. Bulky goods and white goods are not permitted on Free Day.

Generator: Any person, household, business, institution, or property within Pocahontas County.

Integrated Public Solid Waste Management System: The publicly administered system of collection, transportation, transfer, recycling, and disposal facilities operated or designated by the Authority.

Licensed Hauler: Any person or company authorized by the West Virginia Public Service Commission and the Authority to collect and/or transport solid waste within Pocahontas County.

Municipal Solid Waste: All solid waste generated by residential, commercial, institutional, or industrial sources in Pocahontas County excluding hazardous waste and regulated medical waste.

Municipal Solid Waste for Green Boxes: Bagged household trash or other household items less than three (3) feet in length, width, or height and weighing less than fifty (50) pounds.

Occupied Property: Any structure used for residential, commercial, recreational, seasonal, or institutional occupancy and is occupied at least one night per year.

Proof of Lawful Disposal: Documentation demonstrating that municipal solid waste has been delivered to an approved disposal facility in Pocahontas County.

Seasonal Occupancy: Property occupied for fewer than 180 days annually.

Unauthorized Disposal: Dumping, burning, burying, or abandoning municipal solid waste in violation of applicable law and the failure to comply with these regulations.

Vacant Property: Real property containing no occupied structure and generating no municipal solid waste.

White Goods: Bulky appliances such as stoves, hot water heaters, sinks, washers, dryers, refrigerators, and dishwashers.

Section 5. Mandatory Disposal Requirement: All real property owners within the County shall ensure that all municipal solid waste generated on their property is disposed of through one of the following lawful methods:

- Collection by a licensed solid waste hauler;
- Disposal of residential garbage into the Green Box system operated by the Authority for those persons who have paid the annual fee;
- A resident may use the Free Day as lawful disposal if the use occurs each of the twelve months of the year, without fail; and/or
- Disposal of commercial solid waste, bulky items and construction and demolition materials at a commercial solid facility operated by the Authority.

No property owner may dispose of or manage municipal solid waste except through the lawful disposal methods authorized under these regulations.

Section 6. Generator Registration: The Authority shall establish a generator registration system requiring waste generators to report their method of disposal. Registration information may include:

- Property address
- Waste service provider

- Estimated waste generation volume

Failure to register when required constitutes a violation of these regulations.

Section 7. Exemptions and Hardship Relief: The Authority may grant exemptions or variances from mandatory participation requirements upon written application and proof satisfactory to the Authority that:

1. The property is undeveloped agricultural or timber property not used for residential, commercial, or recreational occupancy;
2. The structure is uninhabitable or condemned;
3. The generator lawfully disposes of all municipal solid waste through an approved alternative system authorized by the Authority; or
4. Enforcement of these regulations would create an undue hardship inconsistent with the purposes of these regulations.

All exemptions shall:

- Be in writing;
- Be subject to annual review and renewal;
- Be revocable upon evidence of noncompliance or changed circumstances.

The burden of proving entitlement to an exemption shall rest solely upon the applicant.

Section 8. Administrative Review and Appeals: Any person aggrieved by a notice of violation; denial of an exemption; assessment of civil penalties; administrative compliance orders; or any final enforcement action of the Authority may request administrative review.

A written request for review must be submitted within thirty (30) days of service of the decision or enforcement notice.

Upon receipt of a timely request, the Authority shall provide: a written notice of hearing; provide an opportunity to present evidence; opportunity to present witnesses; and opportunity to be represented by counsel. Following the hearing, the Authority shall issue written findings and a final administrative determination. Failure to timely request review constitutes waiver of administrative appeal rights. Nothing herein limits the Authority's right to seek injunctive relief or emergency enforcement where necessary to protect public health, safety, or the environment.

After the year 2026, any hearings for administrative review and appeals shall take place during the first meeting following the annual meeting setting the solid waste management fee.

Section 9. Flow Control Requirement: All municipal solid waste generated within Pocahontas County and subject to these regulations shall be delivered to facilities designated or approved by the Authority as part of the Authority's integrated public solid waste management system.

The Authority may designate transfer stations, collection sites, recycling facilities, disposal facilities, or other approved facilities necessary to implement the County's public solid waste management program.

These requirements are adopted to protect public health and environmental quality; to ensure the financial viability of publicly administered waste infrastructure; to reduce illegal dumping; and to provide efficient countywide solid waste management services.

Nothing herein shall prohibit the lawful transport of waste as otherwise authorized by the Authority or applicable law.

Section 10. Notice of Violation and Opportunity to Cure: Except where immediate action is necessary to protect public health or prevent unlawful dumping, the Authority shall provide written notice of violation prior to assessment of civil penalties.

The notice shall include: the nature of the violation; the property or activity involved; the corrective action required; the time for compliance; and notice of appeal rights.

A person receiving a notice of violation shall have thirty (30) days to cure the violation unless a shorter period is necessary to protect public health or environmental quality. Failure to cure within the specified period may result in: civil penalties; administrative enforcement; referral for injunctive relief; and recovery of cleanup and enforcement costs.

Section 11. Inspection Authority: The Authority may conduct inspections reasonably necessary to enforce these regulations. Inspections shall occur during reasonable hours; be limited to matters relevant to enforcement; and be conducted in compliance with applicable constitutional and statutory requirements.

Nothing in these regulations authorizes unlawful entry onto private property. Where required by law, the Authority shall obtain consent, administrative warrants, or other lawful authorization prior to entering constitutionally protected private areas.

Section 12. Proof of Disposal: All generators must maintain proof of lawful disposal including:

- Proof of payment of the annual Green Box Fees

- Receipts from a licensed commercial hauler evidencing payment for service for the Authority's entire fiscal year;
- Receipts every 30 days for disposal at the Authority's commercial solid waste facility for businesses without hauler service;
- A resident may utilize the Authority's Free Day program as a lawful disposal method subject to documentation requirements established by the Authority.

The Authority may request proof of disposal at any time. Failure to produce proof within 30 days creates a rebuttable presumption of unlawful disposal.

Section 13. Licensed Hauler Requirements: All persons engaged in the collection or transportation of municipal solid waste in Pocahontas County must:

- Register with the Authority.
- Deliver all waste to the Authority's commercial solid waste facility.
- Submit monthly and annual tonnage reports to the Authority.

Section 14. Construction and Demolition Waste: All construction and demolition waste generated within Pocahontas County must be delivered to an Authority approved municipal solid waste facility.

Contractors and property owners must maintain disposal documentation for a period of three years.

Section 15. Prohibited Conduct: The following activities are prohibited:

- Open dumping of municipal solid waste.
- Open burning of municipal solid waste.
- Burial of municipal solid waste on private property unless the property owner has received a valid Class D Solid Waste Facility permit from the WV Department of Environmental Protection for burial of construction/demolition waste.
- Transporting municipal solid waste to unauthorized facilities.
- Taking municipal solid waste out of Pocahontas County, unless authorized by the Authority.

Section 16. Enforcement Authority: The Authority may enforce these regulations through:

- Inspections
- Administrative compliance orders
- Civil penalties
- Injunctive relief
- Recovery of cleanup costs
- Referral to law enforcement agencies

Section 17. Civil Penalties: Violations may result in civil penalties of \$150.00. Each day of violation constitutes a separate offense and will subject violators to multiple penalties.

Section 18. Cost Recovery: Any person responsible for illegal disposal shall be liable for:

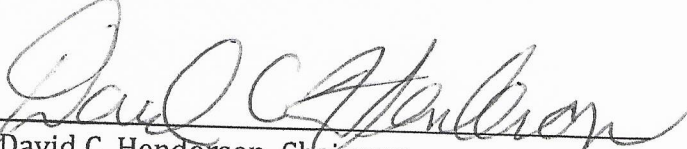
- Cleanup costs
- Investigation costs
- Administrative costs
- Disposal costs
- Any other remedy available under the laws of the State of West Virginia

Section 19. Severability: If any provision of these regulations is held invalid, the remaining provisions shall remain in full force and effect.

Section 20. Effective Date: These regulations shall take effect on July 1, 2026.

Attestation:

I hereby certify that the foregoing regulations constitute the official regulations adopted by the Pocahontas County Solid Waste Authority on May 13, 2026 and modified on the 29th day of June 2026.


David C. Henderson, Chairman

Pocahontas County
Melissa L. Bennett, Clerk
Instrument 339597
07/07/2026 @ 02:04:09 PM
MISCELLANEOUS DOC
Book 11 @ Page 259
Pages Recorded 7

Section 17 Civil Penalties: Violations may result in civil penalties of \$250.00. Each day of violation constitutes separate offense and will require separate citations to multiple violations.

Section 18 Civil Penalties: The person responsible for the violation shall be liable for the following:

- Criminal offense
- Investigation costs
- Administrative costs
- Disposal costs

Any person who violates this order shall be liable for the laws of the State of West Virginia.

Section 19 Jurisdiction: If a violation of the provisions is held to be a violation, the provisions shall remain in full force and effect.

Section 20 Effective Date: These provisions shall take effect on July 1, 2024.

Witness my hand and seal this 1st day of July, 2024.

I hereby certify that the foregoing resolution was adopted by the Board of Directors of the Board of Directors on July 1, 2024 and is hereby adopted on the 1st day of July, 2024.


David L. Hensley, Chairman

Respectfully,
David L. Hensley, Chairman
West Virginia
July 1, 2024
Page 1 of 1