



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

*Building 1, Room MB-49
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610
(304) 347-4840
(304) 347-4919 FAX*

email: tanders@mail.wvnet.edu

*Senator Mike Ross, Cochair
Delegate Virginia Mahan, Cochair
Debra A. Graham, Counsel*

November 20, 2002

*Joseph A. Altizer, Associate Counsel
Connie A. Bowling, Associate Counsel
Teri Anderson, Administrative Assistant*

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Jim Youngblood
Highways, Division of
Capitol Complex
Building 5, Room A-949

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Transportation of Hazardous Wastes Upon the Roads and Highways, 157CSR7**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

FILED

Agency: West Virginia Division of Highways
Subject: Transportation of Hazardous Wastes Upon the Roads
and Highways (157 CSR 7)
Date: November 7, 2002
Staff Counsel: Connie A. Bowling

2002 NOV 13 A 10:12

WEST VIRGINIA
SECRETARY OF STATE

PERTINENT DATES

Filed for public comment: June 14, 2002
Public comment period ended: July 15, 2002
Filed following public comment period: July 24, 2002
Filed LRMRC: July 24, 2002
Filed as emergency: N/A

Fiscal Impact: None

ABSTRACT

The proposed rule amends a current legislative rule governing the transportation of hazardous waste by vehicle upon state roads and highways where a manifest is required under the Hazardous Waste Management Act.

The rule updates internal references to the West Virginia Code, state rules, and federal statutes and rules. The agency indicates that failure to make these changes will jeopardize full federal funding of West Virginia's hazardous waste program.

In addition, the proposed amendment changes references to the "Office" of Water Resources to the "Division" of Water Resources.

AUTHORITY

Statutory authority:

W Va. Code § 22-18-7(a):

(a) The commissioner of the division of highways, in consultation with the director, and avoiding inconsistencies with and avoiding duplication to the maximum extent practicable with legislative rules required to be promulgated pursuant to this article by the director or any other rule-making authority, and in accordance with the provisions of chapter twenty-nine-a of this code, shall promulgate, as necessary, legislative rules governing the transportation of hazardous wastes by vehicle upon the roads and highways of this state.

* * *

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

None.