



WEST VIRGINIA DEPARTMENT OF HIGHWAYS

1900 Washington Street, East
Charleston, West Virginia
25305

July 27, 1984

John D. Rockefeller IV
GOVERNOR

Fred VanKirk
STATE HIGHWAY ENGINEER
ACTING COMMISSIONER

Emergency

Honorable A. James Manchin
Secretary of State
State Capitol Building
Charleston, West Virginia 25305

Dear Secretary Manchin:

The West Virginia Department of Highways wishes to cancel the existing Emergency Rules and Regulations filed in your office on July 9, 1984, regarding Series VII, "Transportation of Hazardous Wastes by Highway Transporters," and submit new emergency rules which will become effective as of this filing date, July 27, 1984.

Pursuant to Chapter 29A, Article 3, Section 15 of the West Virginia Code, 1931, as amended, enclosed please find three (3) copies of emergency amendments, additions, and deletions, and three (3) copies of a Statement of Emergency.

Also attached is the fiscal note required for these emergency regulations.

We wish to promulgate these regulations as of this date, July 27, 1984. Please publish this filing in the State Register at your earliest opportunity and stamp and return one copy to this office.

I hereby certify that the enclosed pages of amendments, additions, and deletions are true and accurate copies of Series VII, "Transportation of Hazardous Wastes by Highway Transporters," that are to be filed as emergency regulations.

Very truly yours,

Phillip A. Shucet
Executive Secretary -
Planning Manager

PAS/h

Enclosures

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE July 27, 1984
Administrative Law Division

STATEMENT OF EMERGENCY

Under Chapter 20A, Article 3, Section 15, an emergency exists when the promulgation of a rule is necessary to prevent substantial harm to the public interest.

The urgency for the promulgation of these emergency rules and regulations regarding the Transportation of Hazardous Wastes by Highway Transporters arises by reason of the fact that by statute the State Regulations must conform to changes made in the corresponding Federal Regulations dealing with hazardous wastes.

These rules and regulations apply to all persons transporting and/or offering hazardous wastes by vehicle upon the roads and highways of this state if the transportation requires a manifest under Section 6 of the regulations of the Department of Natural Resources implementing the State Hazardous Waste Management Act or if the transportation requires a manifest under the provisions of 40 CFR Part 262, and 263.

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 7-27-84
Administrative Law Division

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 7-9-84
Administrative Law Division

Reasons for Changes/Amendments/Additions/Deletions to Series VII
West Virginia Department of Highways Administrative Rules and Regulations

- Section 1.01 - General
- and 263 was added to ensure that the transporters would be covered under Title 40 CFR. (Code of Federal Register Environmental)
- of hazardous waste facilities was added for better clarification.
- Section 1.02 - Authority
- Roadside Services Division was recently changed to Highway Services Division.
- Section 2.01(5) - "Manifest"
- The meaning of "Manifest" was changed due to the CFR 40 change.
- Section 2.01(6) - "Manifest Document Number" was added due to the CFR 40 change.
- Section 3.01(1) - General Requirements
- General Requirements was changed due to CFR 40 change.
- Section 5.01 - Regulations
- and 49 CFR Parts 390-397, was added to ensure the mechanical safety of the motor vehicle.
- the date February 20, 1984 was changed to May 31, 1984 to be current with CFR 40.
- Section 5.02 - Compliance With Federal Hazardous Waste Regulations
- and 263 was added, and the date February 20, 1984 was changed to May 31, 1984, to ensure that the transporters would be covered under Title CFR 40, and the date be current with CFR 40.
- Section 6.04(a) - 6.2(d) changed to 6.03(d) due to typing error.

STATEMENT OF ECONOMIC IMPACT OF PROPOSED RULES OR REGULATIONS

Agency Department of Highways

Amendments to Existing
Administrative Rules and
Regulations

Rule No. _____

Subject _____

1. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date July 9, 1984

Agency Department of Highways

Signature of Agency Head

Signature of Authorized Representative

Freud Van Hook

Philip Whitman

FISCAL NOTE FOR PROPOSED RULES

Rule No. _____ Subject Amendments to Existing Administrative Rules and Regulations

Type of Rule: Legislative Interpretive Procedural

Agency Department of Highways Address 1900 Washington St., East
Charleston, WV 25305

Authorized Representative Philip A. Shucet Phone 348-2425

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$

Personal Services

Current Expense

Repairs and Alterations

Equipment

Others

These amendments will not increase or decrease costs to the State of West Virginia.

2. Explanation of above estimates.

These amended rules cover only the Hazardous Wastes Transportation Regulations.

3. Date July 9, 1984 Agency Department of Highways

Signature of Agency Head

Signature of Authorized Representative

Fred Van Hook

Philip A. Shucet

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
COMMISSIONER OF HIGHWAYS

CHAPTER 20-5E
SERIES VII
(1983)

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 7-27-84
Administrative Law Division

Subject: Transportation of Hazardous Wastes by Highway
Transporters

Section 1. General

1.01. Scope. -- These legislative rules and regulations apply to all persons transporting hazardous waste by vehicle upon the roads and highways of this State if the transportation requires a manifest under Section 6 of the regulations of the Department of Natural Resources implementing the State Hazardous Waste Management Act or if the transportation requires a manifest under the provisions of 40 CFR Part 262, and 263. These regulations do not apply to on-site movements of hazardous waste by generators or by owners and/or operators of hazardous waste facilities that have been issued permits under the appropriate State or Federal law.

1.02. Authority. -- These legislative rules and regulations are promulgated by the West Virginia Department of Highways pursuant to the authority of West Virginia Code §20-5E-7(a) (Hazardous Waste Management Act of 1981). They are to be administered by the Roadside-Highway Services Division, 1900 Washington Street, East, Charleston, West Virginia 25305;

does not include a vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

(3) "Hazardous Waste" - means a waste or combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics, may (A) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

(4) "Hazardous Waste Management" - means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.

(5) "Manifest" - ~~means the form used for identifying the quantity, composition and the origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal;~~
treatment or storage means the shipping document EPA form 8700-22 and, if necessary, EPA form 8700-22A, originated and signed by the generator in accordance with the instructions included in the Appendix to 40 CFR Part 262, and 263.

(6) "Manifest Document Number" - means the U. S. EPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the Manifest by the generator for recording and reporting purposes.

(7) "Person" - means any individual, trust, firm, joint stock company, public, private or government corporation, partnership, association, state or federal agency, the United States government, this State or any other state, municipality, county commission or any other political subdivision of a state or any interstate body.

(8) "Treatment" - means any method, technique or process including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amendable to recovery, amendable to storage or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

Section 3. Manifest System

3.01. General Requirements. --

(1) ~~A highway transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed by the generator in accordance with either Section 6 of the regulations of the Department of Natural Resources implementing the State Hazardous Waste Management Act or 40 CFR Part 262 as amended through February 20, 1984.~~

(1) A generator or transporter who offers or transports hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest OMB control number 2000-0404 on EPA form 8700-22, and, if necessary, EPA form 8700-22A in accordance with either Section 6 of the regulations of the Department of Natural Resources implementing the State Hazardous Waste Management Act or 40 CFR Part 262, and 263, as amended, effective September 20, 1984.

designated transporter or the owner or the operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.

4.02. Record Retention - Foreign Shipments -

Requirements. -- A transporter who transports hazardous waste out of the United States must keep a copy of the manifest indicating that the hazardous waste left the United States for a period of three years from the date the hazardous waste was accepted by the initial transporter.

4.03. Automatic Periods of Retention. -- The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator and/or the West Virginia Department of Highways.

Section 5. Transportation

5.01. Regulations. -- No highway transporter may transport a hazardous waste in this State except in accordance with the requirements of these regulations, the Department of Natural Resources regulations implementing the Hazardous Waste Management Act and all applicable regulations of the Department of Transportation as set forth in 49 CFR Parts 171-179, and 49 CFR Parts 390-397, as amended through February-20, 1984. May 31, 1984.

5.02. Compliance With Federal Hazardous Waste

Regulations. -- A transporter of hazardous waste

must also comply with 40 CFR Part 262, and 263, as amended through February-20-1984-May 31, 1984, Standards Applicable to Generators of Hazardous Waste, if he:

(1) Transports hazardous waste into the United States from abroad; or,

(2) Mixes hazardous wastes of different Department of Transportation shipping descriptions by placing them into a single container.

5.03. Identification Number Required. -- A transporter must not transport hazardous wastes without having received an Environmental Protection Agency identification number from the Administrator.

5.04. Identification Number Application - Procedure. -- A transporter who has not received an Environmental Protection Agency identification number may obtain one by applying to the Administrator using EPA Form 8700-12. Upon receiving the request, the Administrator will assign an EPA identification number to the transporter.

Section 6. Discharges

6.01. Immediate Procedures. -- In the event of a discharge of hazardous waste during transportation, the highway transporter must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).

waste, the highway transporter shall file a written report, as specified in 49 CFR 171.16, as amended through May 31, 1984, with the West Virginia Department of Highways, the West Virginia Department of Natural Resources, Division of Water Resources, and the United States Department of Transportation.

(2) The report shall contain the following information:

- (a) All information required by Section ~~6-2(d)~~ 6.03(d);
- (b) The location of the discharge in relation to surface water, public water supplies, groundwater, wildlife inhabitants, and agricultural production;
- (c) The quantity and description of the hazardous waste removed and the disposition of that material;
- (d) The disposition, quantity and description of the unremoved hazardous waste;
- (e) A copy of the hazardous waste manifest shall be attached to the report.

6.05. Clean Up. -- A highway transporter shall clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by Federal, State or local officials so that the hazardous waste discharge