



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25306

ARCH A. MOORE, JR.
Governor

NOTICE OF EMERGENCY RULE

RONALD R. POTESTA
Director

MICHAEL A. FOTOS
Deputy Director

RULE TITLE: Hazardous Waste Emergency Response Regulations, Subpart III,

Legislative Rule - Regulations Concerning Fee Assessment

The attached amendment to the Department's regulations is filed as an emergency rule consistent with the filing of the original regulation as an emergency rule. The facts and circumstances constituting the emergency were stated as follows:

In 1984, the West Virginia Legislature enacted S.B. 743, establishing a State Hazardous Waste Emergency Response Fund (hereafter "Fund"). The Legislature enacted S.B. 743 pursuant to its authority to provide for the general welfare and safety of the state. S.B. 743 will provide the state with the resources necessary to respond to hazardous waste emergencies.

S.B. 743 authorizes the Director of the Department of Natural Resources to assess a fee on hazardous waste generated within the state. Each year the Director may assess fees which amount to a total of five hundred thousand dollars. This fee is deposited into the Fund and can be expanded for four (4) principal purposes:

- (1) Responding to hazardous waste emergencies wherever the Director determines that immediate action may prevent or mitigate a significant risk of harm to human health, safety or the environment;
- (2) Reimbursing any person for reasonable cleanup costs incurred in responding to a hazardous waste emergency with the authorization of the Director;
- (3) Financing the non-federal share of federal "superfund" projects and the future operation and maintenance of these sites;
- (4) Financing preparations necessary for responding to hazardous waste emergency response activities.

Under S.B. 743 the fee cannot be assessed against hazardous waste generators until regulations have been promulgated. The Legislature, however, required that generators be assessed by August 1, 1984. Each generator's fees were due into the department by January 15, 1985.

During the Public Notice period on the proposed rulemaking filed concurrently with the original emergency rule, the department received several comments requesting extensions to the July 1, 1985 deadline for submission of generator measurement plans. The department has evaluated this comment and agrees that the deadline should be extended. We are revising the regulation (§4.01(a)) to require submission of such plans by October 1, 1985.

NOTICE OF EMERGENCY RULE (Continued)

Accordingly, as Director of the West Virginia Department of Natural Resources, I hereby find that an emergency exists pursuant to the provisions of W. Va. Code §29A-3-15 in that amendments to the Legislative Regulation entitled Hazardous Waste Emergency Response Regulations, Subpart III Regulations Concerning Fee Assessment are necessary to prevent substantial harm to the public interest and comply with a time limitation established by the West Virginia Code.



Ronald R. Potesta
Director



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help we can get)

STATE OF WEST VIRGINIA
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Charleston 25305

PROPOSED RULES

STATE REGISTER FILING

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TYPE OF RULE Legislative

TITLE OF RULE Hazardous Waste Emergency Response Regulations, Subpart III;
Regulations Concerning Fee Assessment

CHAPTER 20 ARTICLE 5G SERIES XX

AUTHORITY W.Va. Code §20-5G-5(d)

CHECK APPLICABLE ITEMS BELOW TO SHOW KIND OF ACTION BEING TAKEN

- NEW RULE
- AMENDMENTS TO EXISTING RULE
- REPEAL OF EXISTING RULE
- NOTICE OF HEARING
- NOTICE OF AGENCY APPROVAL
(legislative rules only)
- NOTICE OF AGENCY ADOPTION
(interpretive & procedural rules only)
- FINAL FILING
- EMERGENCY FILING

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