

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

FILED

JAN 21 10 00 AM '04

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

AGENCY: Department of Commerce, Labor and Environmental Resources
Division of Environmental Protection TITLE NUMBER: 47

CITE AUTHORITY W. Va. Code 20-11-8(c)

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 38F

TITLE OF RULE BEING PROPOSED: "Lead Acid Battery Regulations"

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

300

TITLE 47
LEGISLATIVE RULES
DIVISION OF ENVIRONMENTAL PROTECTION

SERIES 38F
LEAD ACID BATTERY RULE

TABLE OF CONTENTS

SECTION	TITLE	PAGE
1.0	GENERAL.....	1
2.0	DEFINITIONS.....	2
3.0	LEAD ACID BATTERY HANDLING, STORAGE AND DISPOSAL REQUIREMENTS.....	2
3.1	Certain Disposal Prohibited.....	2
3.2	Disposal by Dealers.....	2
3.3	Collection for Recycling and Public Notice Requirements.....	2
3.4	Dealer's Reporting Requirements.....	3
3.5	Inspection of Automotive Battery Retailers.....	3
3.6	Storage.....	3
3.7	Public Information and Education.....	3

TITLE 47
LEGISLATIVE RULES
DIVISION OF ENVIRONMENTAL PROTECTION

SERIES 38F
LEAD ACID BATTERY RULE

47-38F-1. GENERAL

1.1. Scope and Purpose. This legislative rule establishes requirements for the proper storage, handling, recycling, and disposal of lead acid batteries.

1.2. Authority -- West Virginia Code 20-11-8(c)

1.3. Filing Date.

1.4. Effective Date.

47-38F-2. DEFINITIONS

All definitions in W. Va. Code §20-5F-2 , are fully incorporated into this rule by reference. The following additional definitions apply to this rule unless otherwise specified herein:

2.1. "Lead acid battery" means an encasement which contains or contained lead and sulfuric acid to produce an electrical charge.

2.2. "Lead acid battery storage facility" means any facility used for the storage of lead acid batteries, including any wholesale or retail business, automotive service or repair garages or other persons that handle lead acid batteries for purposes of commerce, recycling or disposal.

2.3. "Lead acid battery dealer" means any person selling, collecting, disposing, storing, recycling or otherwise handling new or spent lead acid batteries on a wholesale or retail basis.

2.4. "Spent lead acid battery" means an encasement which contains or contained lead and sulfuric acid which will no longer produce an electrical charge.

47-38F-3. LEAD ACID BATTERY HANDLING, STORAGE AND DISPOSAL REQUIREMENTS

3.1. **Certain disposal prohibited.** After the first day of June 1994, it shall be unlawful to deposit lead acid batteries in a solid waste disposal facility in West Virginia. Spent lead acid batteries must be delivered to an automotive battery dealer, or wholesaler, a secondary lead smelter permitted by the United States Environmental Protection Agency (USEPA), or a collection or recycling facility authorized under the Hazardous Waste laws of the State of West Virginia, or other jurisdiction.

3.2. **Disposal by dealers.** No lead acid battery dealer shall dispose of a spent lead acid battery except by delivery to a secondary lead smelter permitted by the USEPA, or to the agent of a battery manufacturer or wholesaler for delivery to a secondary lead smelter permitted by the USEPA, or to a collection or recycling facility authorized under the laws of the State of West Virginia or laws of the state where the collection or recycling facility is located.

3.3. **Collection for recycling and public notice requirements.** Any person selling or offering lead acid batteries for sale at retail or wholesale shall:

3.3.1. Accept, at the point of transfer, spent lead acid batteries from customers when purchases new batteries. It is not necessary to exchange a battery in order to purchase a new one.

3.3.2. Post written notices on at least 8 1/2 inch by 11 inch poster clearly visible to all customers and containing the universal recycling symbol and the following language:

3.3.2.a. It is unlawful to dispose of a lead acid battery in a W. Va. landfill.

3.3.2.b. Please **RECYCLE** your used batteries.

3.3.2.c. State rules require us to accept used or spent lead acid batteries for recycling in exchange for new batteries purchased from the dealer. Note: It is not necessary to exchange a used battery in order to purchase a new one.

3.4. **Dealer's reporting requirements.** Lead acid batteries shall be collected, recycled, or disposed of in a lawful manner, and records of such collection, recycling or disposal shall be kept on file at the facility for a period of not less than five (5) years for inspection.

3.5. **Inspection of automotive battery dealers.** Authorized agents of the Division of Environmental Protection may at reasonable times or during normal business hours inspect any lead acid battery storage facility governed by these rules.

3.6. **Storage.** New lead acid batteries and spent lead acid batteries shall be stored in compliance with all local, state and Federal Regulations to prevent contamination or injury from acid spillage or leakage.

3.7. **Public information and education.** The Division of Natural Resources' Recycling Program shall prepare a list of the names and locations of buy-back centers in West Virginia who will accept spent lead acid batteries; this list shall be disseminated by the DNR Recycling Program to the Solid Waste Management Board, lead acid battery dealers, the Division of Environmental Protection, and all county or regional solid waste authorities.



FILED

JAN 14 1 05 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

West Virginia Legislature
Legislative Rule-Making Review Committee

Room M-152, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

Senator Joe Manchin, III, Co-Chair
Delegate Brian A. Gallagher, Co-Chair

January 9, 1994

Debra A. Graham, Counsel
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register
TO: Mr. G. Max Robertson, Chief
Office of Waste Management
1356 Hansford Street
Charleston, WV 25301
FROM: Legislative Rule-Making Review Committee
PROPOSED RULE: Lead Acid Battery Regulations

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 X
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 rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Bill Rheinlander