

Public Service Commission Of West Virginia

Michael D. Greer, Chairman
James D. Casto, Commissioner
Charlotte R. Lane, Commissioner



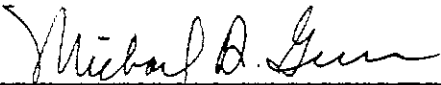
201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323

NOTICE OF PUBLIC HEARING OR COMMENT ON PROPOSED RULE COMMENT PERIOD

AGENCY: Public Service Commission of West Virginia
RULE TYPE: Legislative
RULE TITLE: Rules Governing the Transportation of Hazardous
by Rail

A COMMENT PERIOD ON THE ABOVE PROPOSED RULE HAS BEEN SCHEDULED
AND WILL END ON January 20, 1986 AT 4:00 p.m.. WRITTEN
COMMENTS ARE TO BE MAILED TO THE FOLLOWING ADDRESS: Howard M.
Cunningham, Executive Secretary, Public Service Commission of
West Virginia, Post Office Box 812, Charleston, West Virginia,
25323.

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THE PROPOSED RULE.


Michael D. Greer, Chairman

FILED
1985 DEC 20 AM 9 16
Charleston, West Virginia

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1985 DEC 20 AM 9:16

WEST VIRGINIA LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION
CHAPTER 24-1
SERIES XI

SECRETARY OF STATE

RULES GOVERNING THE TRANSPORTATION OF HAZARDOUS WASTE BY RAIL.

1. General

1.0 Scope. These regulations apply to all rail transporters who transport hazardous waste ~~in--shipments--that--originate, terminate--or--occur--entirely~~ within or through the State of West Virginia.

1.1 These rules are promulgated pursuant to West Virginia Code §20-5E-7(b).

1.2 Filing date -

1.3 Effective date -

1.4 For the purposes of these Regulations the Public Service Commission adopts by reference the Definitions of the Hazardous Waste Management Act, appearing in West Virginia Code §20-5E-3 (1981).

1.5 These regulations do not apply to on-site movements of hazardous waste by generators or by owners and/or operators of authorized hazardous waste management facilities.

1.6 Transportation of hazardous waste shipments which originate, terminate or occur entirely within the State of West Virginia shall comply with all of these rules. Transportation of hazardous waste shipments originating and terminating outside of West Virginia shall comply with sections 2, 3, 4 and 5 of these rules while in West Virginia.

1.7 A transporter of hazardous waste who transports hazardous waste into the United States from abroad or who mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container must also comply with the standards applicable to generators of hazardous waste contained in Section 6 of the West Virginia DNR.

1.8 These rules are promulgated by the Public Service Commission of West Virginia and administered by the Railroad Safety Division of the Public Service Commission of West Virginia.

Questions regarding these rules may be addressed to the Railroad Safety Division, Public Service Commission of West Virginia, 201 - Brooks Street, Post Office Box 812, Charleston, West Virginia 25323; Telephone: (304) 340-0474.

- 1.9 All transporters in the State must contact DNR and obtain an EPA Identification Number from the State before they accept hazardous waste for transport.
- 2.0 The Manifest System
- 2.1 (a) ~~A rail carrier may not accept hazardous waste from a generator unless it is accompanied by a manifest signed by the generator in accordance with Section 5 of the "Manifest Regulation for Hazardous Waste Management" established in the rules of the Department of Natural Resources.~~
- 2.1 (a) A rail carrier may not accept hazardous waste from a generator unless it is accompanied by a manifest signed by the generator in accordance with Section 6.02 of the West Virginia DNR Administrative Regulations, Chapter 20-5E, Series XV, Hazardous Waste Management Regulations 1985.
- 2.7 Transporters who transport hazardous waste out of the United States must:
- (a) Indicate on the manifest the date the hazardous waste left the United States; and
- (b) Sign the manifest and retain one copy in accordance with Section 3.1; and
- (c) Return a signed copy of the manifest to the generator.



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KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

RICHARD S. STEPHENSON
Deputy Secretary of State

Telephone: (304) 345-4000
Corporations: 345-8000

WILLIAM H. HARRINGTON
Chief of Staff

RICH O. HARTMAN
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

PROPOSED RULES

STATE REGISTER FILING

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AGENCY PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

CONTACT PERSON Howard M. Cunningham PHONE 340-0426

TYPE OF RULE Legislative

TITLE OF RULE RULES GOVERNING THE TRANSPORTATION OF HAZARDOUS WASTE BY RAIL

CHAPTER 24 ARTICLE 1 SERIES XI

AUTHORITY 24-1-7; 20-5E-7(b)

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CHECK APPLICABLE ITEMS BELOW TO SHOW KIND OF ACTION BEING TAKEN

NEW RULE

NOTICE OF HEARING / COMMENTS

AMENDMENTS TO EXISTING RULE

NOTICE OF AGENCY APPROVAL
(legislative rules only)

REPEAL OF EXISTING RULE

NOTICE OF AGENCY ADOPTION
(interpretive & procedural
rules only)

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REQUIRES AN ORIGINAL AND
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FINAL FILING

FIRST EMERGENCY FILING

SECOND EMERGENCY FILING

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Michael D. Greer, Chairman
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201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323

C E R T I F I C A T I O N

I, Michael D. Greer, Chairman of the West Virginia Public Service Commission, do hereby certify that the rules and regulations contained herein are the lawfully proposed legislative rules of the West Virginia Public Service Commission.

Michael D. Greer

Chairman.

December 20, 1985

Date

FILED

1985 DEC 20 AM 9 16

STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION

FILED

1985 DEC 20 AM 9:16

AMENDMENTS TO RULES GOVERNING THE
TRANSPORTATION OF HAZARDOUS WASTE
BY RAIL TRANSPORTATION.

DEPARTMENT OF STATE

FISCAL NOTE

This is a fiscal note issued pursuant to West Virginia Code §§29A-3-4, 5 and 9 and West Virginia Code §24-1-7, relating to the Commission's General Order No. 209.3, In the Matter of Rules Governing Transportation of Hazardous Waste by Rail.

I. OBJECTIVES OF THE RULES

The purpose of these proposed rules is to clarify and amend the above-cited Rules in order for West Virginia's program of hazardous waste to be declared consistent with, and equivalent to, the Federal program according to comments made by the Environmental Protection Agency's review of the Department of Natural Resources' application for final authorization for delegation of the Federal waste management program under the State Hazardous Waste Management Act. West Virginia Code §20-5E-2(b)(4). Federal regulations require that any state application for final authorization must demonstrate compliance with the Federal program. 40 CFR §271.21(e).

II. COST OF IMPLEMENTING THE PROPOSED RULES

There will be no significant implementation cost relating to the rulemaking for the State of West Virginia or for the persons affected by the proposed rules.

III. THE EFFECT THIS MEASURE WILL HAVE ON THE COSTS OF REVENUES OF STATE GOVERNMENT (Information required by fiscal notes for either House of the Legislature.)

This rulemaking will have no effect on the cost and revenues of State Government.

IV. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS

The Commission foresees that there will be no significant economic impact of these rules, as proposed, on the State or its residents.

DATE December 20, 1985 AGENCY Public Service Commission

SIGNATURE OF AUTHORIZED REPRESENTATIVE

Michael D. Gunn

(3) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters;

(4) "Division" means the division of water resources of the department of natural resources;

(5) "Generation" means the act or process of producing hazardous waste materials;

(6) "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;

(7) "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes;

(8) "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;

(9) "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;

(10) "Storage" means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste;

(11) "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, amenable 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;

(12) "Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended, or source, special nuclear or byproduct material as defined by the federal Atomic Energy Act of 1954, as amended. (1981, c. 119.)

§ 20-5E-1. Short title.

This article may be known and cited as the "Hazardous Waste Management Act." (1981, c. 119.)

§ 20-5E-2. Declaration of policy.

(a) The legislature finds that:

(1) Continuing technological progress and increases in the amount of manufacture and the abatement of air and water pollution have resulted in ever increasing quantities of hazardous wastes;

(2) The public health and safety and the environment are threatened where hazardous wastes are not managed in an environmentally sound manner.

(3) The knowledge and technology necessary for alleviating adverse health, environmental and aesthetic impacts resulting from current hazardous waste management and disposal practices are generally available;

(4) The manufacture, refinement, processing, treatment and use of coal, raw chemicals, ores, petroleum, gas and other natural and synthetic products are activities that make a significant contribution to the economy of this State; and

(5) The problem of managing hazardous wastes has become a matter of statewide concern.

(b) Therefore, it is hereby declared that the purposes of this article are:

(1) To protect the public health and safety, and the environment from the effects of the improper, inadequate or unsound management of hazardous wastes;

(2) To establish a program of regulation over the storage, transportation, treatment and disposal of hazardous wastes;

(3) To assure the safe and adequate management of hazardous wastes within this State; and

(4) To assume regulatory primacy through Subtitle C of the federal Solid Waste Disposal Act, as amended. (1981, c. 119.)

Editor's note. — The federal Solid Waste Disposal Act, referred to in (b)(4), is compiled in 42 U.S.C. §§ 3251 — 3259, 6901 et seq. W. Va. Law Review. — Flannery and

Poland, "Hazardous Waste Management Act — Closing the Circle," 84 W. Va. L. Rev. 347 (1982).

§ 20-5E-3. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

(1) "Chief" means the chief of the division of water resources of the department of natural resources;

(2) "Director" means the director of the department of natural resources;