



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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November 20, 2002

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

TO: Joe Manchin, Secretary of State, State Register

TO: Carroll Cather
DEP-Waste Management, Office of
1356 Hansford Street
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Hazardous Waste Management, 33CSR20**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.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: DEP - Division of Waste Management
Subject: Hazardous Waste Management, 33CSR20
Date: November 7, 2002
Counsel: Rita A. Pauley

2002 NOV 13 A 10:13
WEST VIRGINIA
SECRETARY OF STATE

PERTINENT DATES

Filed for public comment: June 24, 2002
Public comment period ended: July 25, 2002
Filed following public comment period: July 25, 2002
Filed LRMRC: July 26, 2002
Filed as emergency: N/A
Fiscal Impact: None

ABSTRACT

The rule regulates the generation, treatment, storage, and disposal of hazardous waste to the extent necessary for the protection of the public health and safety and the environment.

The rule is being amended.

This rule is amended annually to adopt and incorporate by reference the most current federal regulations governing the management of hazardous waste (40 CFR parts 260 through 279). The proposed 2003 rule takes effect on July 1, 2003, and adopts the 40 CFR issue published on July 1, 2001. The amended rule adds two listed hazardous wastes (K174 and K175) from the chlorinated aliphatics industry to the list of hazardous wastes at 40 CFR Section 1261.32. It also creates conditional exemptions from hazardous waste requirements for low-level mixed wastes (LLMW). The LLMW rule is less stringent and is intended to facilitate the

disposal of LLMW. The remaining changes to the July 1, 2001 40 CFR are primarily technical corrections.

AUTHORITY

Statutory authority: W.Va. Code, §22-18-1, which provides, in part, as follows:

(a) The director has overall responsibility for the promulgation of rules under this article. The director shall promulgate the following rules, in consultation with the department of health and human resources, the office of emergency services, the public service commission, the state fire marshal, the department of public safety, the division of highways, the department of agriculture, and the environmental quality board. In promulgating and revising such rules, the director shall comply with the provisions of chapter twenty-nine-a of this code, shall avoid duplication to the maximum extent practicable with the appropriate provisions of the acts and laws set out in subsection (b), section five of this article and shall be consistent with but no more expansive in coverage nor more stringent in effect than the rules and regulations promulgated by the federal environmental protection agency pursuant to the Resource Conservation and Recovery Act:

(1) Rules establishing a plan for the safe and effective management of hazardous wastes within the 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.

Counsel has suggested technical modifications.