

John D. Rockefeller IV
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia


DEPARTMENT OF HEALTH
CHARLESTON 25305

NOTICE OF PUBLIC HEARING

Pursuant to Section five, Article three, Chapter twenty-nine-A of the Code of West Virginia, one thousand nine-hundred thirty-one, as amended, the West Virginia Department of Health shall convene a public hearing at 1:00 p.m. on January 18, 1985, in Conference Room 522 of the Department of Health, 1800 Washington Street, East, Charleston, West Virginia for the purpose of taking evidence pertaining to the filing of Infectious Waste, West Virginia Board of Health Legislative Rules, Chapter 16-1, Series XI (1985). This rule establishes procedures for the handling, decontamination and disposal of infectious wastes.

Any citizen or other interested party may appear in person to present evidence. Any citizen or other interested party may submit written evidence to the Regulatory Services Program of the West Virginia Department of Health, by mail to 1800 Washington Street, East, Charleston, West Virginia 25305 or in person at Room 7, Second Floor, P & G Building, 2019 Washington Street, East, Charleston, West Virginia not later than 4:30 p.m., January 18, 1985. All comments, written and oral, will be made part of the public record of comments received and will be considered as a part of the public hearing. The Department requests that parties wishing to comment make an effort to submit written copies of their comments in order to facilitate review of the comments.

The issues to be heard shall be limited to the proposed and above-mentioned rule. Copies of the proposed rule may be obtained from the address heretofore appearing or by telephoning 304-348-3223 or from the Office of the Secretary of State, Capitol Complex, Charleston, West Virginia 25305, telephone 345-4000.


L. Clark Hansbarger, M.D.
Director of Health

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

1984 DEC 19 PM 3:01

FILED

ENTERED

FISCAL NOTE FOR PROPOSED RULES

FILED

1984 DEC 19 PM 3:01

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Rule Title: Infectious Waste

Type of Rule: Legislative Interpretive Procedural

Agency Health Department Address 1800 Washington Street, East

Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates.

Since much of the proposed rule is a compilation of requirements presently enforced as policy, no additional administrative cost is anticipated.

3. Objectives of these rules:

To establish as a rule, regulations governing infectious waste handling, decontamination and disposal as mandated by the Hazardous Waste Management Act, Chapter 20, Article 5E of the Code.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

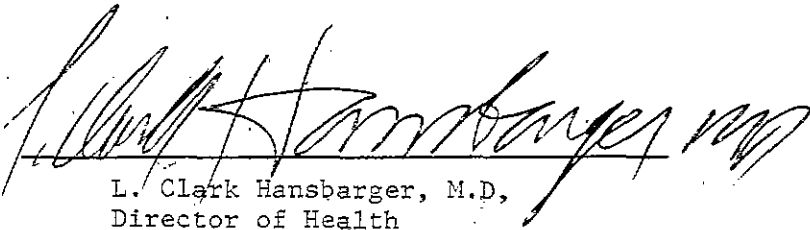
B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

No increase is projected (see #2). In some cases, costs to regulated facilities may be decreased by the provision for storage, in others costs may be reduced since the detailed requirements will be clarified, available in a single document and less a matter of interpretation.

C. Economic Impact on Citizens/Public at Large.

Date - December 18, 1984

Signature of Agency Head or Authorized Representative



L. Clark Hansbarger, M.D.,
Director of Health

PROPOSED RULE ABSTRACT
WEST VIRGINIA BOARD OF HEALTH

TITLE: Infectious Waste

TYPE: Legislative Rule

NUMBER: Chapter 16-1, Series XI (1985)

AUTHORITY: §§16-1-7, 16-1-9, 16-1-10(2) and 20-5E-7(d)

RELATED: §20, Article 5E

ABSTRACT: This proposed new rule governs infectious waste handling, decontamination, and disposal. Under authority of 16-1-7, 16-1-9, 16-1-10(2), and 20-5E-7(d), the West Virginia Board of Health is mandated to issue regulations pertaining to hazardous wastes with infectious characteristics. This mandate is to be carried out avoiding duplication and inconsistencies with rules and regulations promulgated by other state agencies granted authority over various types of hazardous waste under Chapter 20.

CONTACT PERSON: Kay Howard, Regulatory Services Division, 348-3223

RESPONSIBLE DIVISION: Environmental Engineering, Don Kuntz, Director, 348-2981

FILED

1984 DEC 19 PM 3: 01

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

PROPOSED

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Infectious Waste

Chapter 16-1
Series XI
(1985)

For Public Hearing
January 18, 1985

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Infectious Waste

Chapter 16-1
Series XI
(1985)

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WEST VIRGINIA LEGISLATIVE RULES

BOARD OF HEALTH

FILED

Chapter 16-1
Series XI
(1985)

1984 DEC 19 PM 3:01

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Subject: Infectious Waste

Section 1. General

1.1. Scope - This legislative rule establishes the handling, decontamination and disposal of infectious wastes.

1.2. Authority - This rule is issued under the authority and is related to Chapter 16, Article 1, Section 7; Chapter 16, Article 1, Section 9; Chapter 16, Article 1-Section 10(2); and Chapter 20, Article 5E, Section 7(d) of the West Virginia Code.

1.3. Filing Date - This rule was promulgated on the _____ day of _____, 19____, and filed on the _____ day of _____, 19____, in the Secretary of State's office.

1.4. Effective Date - This legislative rule became effective on the _____ day of _____, 19____.

Section 2. Supersession and Repeal of Former Regulations - [Reserved]

Section 3. Application and Enforcement

3.1. Application - This legislative rule applies to all facilities which produce, treat, store, or dispose of infectious wastes as defined in Section 4 of this rule.

3.2. Enforcement - Enforcement of this legislative rule is vested with the director of the West Virginia department of health or his lawful designee.

Section 4. Definitions

4.1. Director - The state director of health or his designee.

4.2. Etiologic Agent - A type of micro-organism, including, but not limited to, bacteria, helminths and viruses, which may produce disease in

humans.

4.3. Fomites - Inanimate objects contaminated with etiologic agents which may serve to transmit those etiologic agents to humans.

4.4. Grit - Heavy suspended mineral matter present in wastewater such as sand, gravel or cinders.

4.5. Infectious Waste - Any waste material or article which harbors or may reasonably be considered to harbor viable etiologic agents in sufficient numbers to make transmission of communicable disease highly probable given human contact with the waste material or article. Infectious wastes include but are not limited to the following:

4.5.1. Laboratory wastes (which includes but is not limited to cultures of etiologic agents).

4.5.2. Pathologic specimens and attendant disposal fomites means specimens (which shall include human or animal tissues, blood elements, excreta and secretions) which contain etiologic agents as defined in Section 4.2.

4.5.3. Surgical specimens (which shall include human or animal parts and tissues removed surgically or at autopsy which contain etiologic agents) and attendant disposal fomites.

4.5.4. Equipment, instruments, utensils and other materials of a disposable nature which may transmit etiologic agents from the rooms of humans or the enclosures of animals which have been isolated with suspected or diagnosed communicable disease.

4.5.5. Carcasses of animals infected with etiologic agents which may present a substantial potential or existing hazard to public health.

4.5.6. Mutagenic micro-organisms, occurring naturally or induced, which possess infectious characteristics.

4.5.7. Sanitary wastewater sludges, screenings, grit, septage, contents of sewage holding tanks and other by-products of wastewater treatment processes.

4.6. Pathogen - An etiologic agent.

4.7. Pathological Incinerator - An enclosed device for the thermal destruction of wastes with auxiliary fuel supplying not less than 8000 BUT/lb of waste, equipped with auxiliary fueled secondary chamber of capacity to provide a minimum retention time of 2.2 seconds at a minimum temperature of 1600°F, having a hearth of not less than 1/10 square feet area per lb/hr rated capacity to retain liquid renderings, and meeting emission standards of the air pollution control commission.

4.8. Screenings - Suspended organic or inorganic material present in wastewater, such as feces, paper, food particles, wood, cloth and plastics, and which is separated from wastewater by screens.

4.9. Septage - Sludge from a septic tank.

4.10. Sharps - Hypodermic needles, hypodermic syringes, blades and broken glass which have been contaminated with etiologic agents as defined in Section 4.2. For purposes of this rule, sharps also includes any devices, instruments or other objects which have acute rigid corners, edges, or protuberances and have been contaminated with etiologic agents as defined in Section 4.2.

4.11. Sludge - Any solid, semisolid, residue or precipitate created by a wastewater treatment plant exclusive of industrial waste, agricultural waste and those wastes defined as hazardous wastes under the provisions of Chapter 20-5E-6(a)(2) of the West Virginia Code and regulations promulgated under the authority of said chapter.

Section 5. Wastewater Treatment Facilities; Treatment, Storage and Disposal of Infectious Waste

5.1. All wastewater treatment facilities, except those which treat industrial wastewater only, shall comply with this section.

5.2. Sanitary wastewater sludges, screenings, grit, septage, contents of sewage holding tanks and other by-products of wastewater treatment processes shall be rendered non-infectious by any one of the following methods: digestion, chemical stabilization, sterilization, burial, incineration, composting or other methods approved by the director. All wastewater treatment facilities shall submit to the department of health a description of the methods employed by that facility to render their infectious waste non-infectious. The director shall, in writing, approve or disapprove all methods of treatment of sludge, septage and fine screenings, and methods of disposal of untreated septage and coarse screenings. If the director disapproves the method employed by a facility he shall specify the necessary corrective actions required to gain approval. The director may also require such additional information as deemed necessary, including but not limited to an analysis of the material before and after treatment. The West Virginia department of agriculture and the cooperative extensive service of West Virginia University shall be consulted by the facility to determine the proper loading rates for land application of sludge and septage prior to such land application.

5.3. Sludge shall be treated by one of the following processes to significantly reduce pathogens:

5.3.1. Aerobic digestion, a process which is conducted by agitating sludge with air or oxygen to maintain aerobic conditions at residence time ranging from sixty (60) days at 15°C (59°F) to forty (40) days at 20°C (68°F)

with a volatile solids reductions of at least thirty-eight (38) percent.

5.3.2. Air drying, a process in which liquid sludge is allowed to drain or dry on under-drained sand beds or equivalent, or paved or unpaved basins in which the sludge is at a depth of nine inches. A minimum of three months is needed, two months of which temperatures average above 0°C (32°F) on a daily basis.

5.3.3. Anaerobic digestion, a process conducted in the absence of air at residence times ranging from sixty (60) days at 20°C (68°F) to fifteen (15) days at 35°C (85°F) to 55°C (131°F) with a volatile solids reduction of at least thirty-eight (38) percent.

5.3.4. Composting, a process in which, using either the within-vessel, the static aerated pile or the windrow composting methods, the sludge is maintained at minimum operating conditions of 40°C (104°F) for five (5) days. For four hours during this period the temperature of the sludge shall exceed 55°C (131°F).

5.3.5. Lime stabilization, a process in which sufficient lime is added to produce a pH of twelve (12) after two (2) hours of contact.

5.3.6. Other methods or procedures to significantly reduce pathogens may be acceptable to the director if sufficient evidence is presented to show, to the satisfaction of the director, that the method or procedure will reduce pathogens and volatile solids equivalent to the reduction achieved by the methods set forth in Sections 5.3.1. thru 5.3.5.

5.4. Septage - Disposal of septage shall not occur unless treated by one of the methods set forth in Sections 5.3.1. thru 5.3.6. except septage may be disposed of in the manner set forth in Sections 12.7 through 12.8 of the West Virginia Legislative Rules, Board of Health, Sewage System Rules, effective

May 12, 1983.

5.5. Screenings - Disposal of fine screenings shall not occur unless treated by one of the methods set forth in Sub-sections 5.3.1., 5.3.5 or 5.3.6. Coarse screenings shall be disposed of by burial or such other method as approved by the director.

5.6. Grit - Disposal of grit shall be by burial or other means as approved by the director.

5.7. Land application - In order to protect the public health, disposal of sludge or septage by land application shall not occur unless the sludge has been treated by a method set forth in Section 5.3., access to the site is controlled for at least twelve (12) months, grazing by animals whose products are consumed by humans is prevented for at least one month, and the site is not used for the production of crops for direct human consumption for a period of at least 18 months. In the event crops for direct human consumption are to be grown on the site within eighteen (18) months of application or incorporation the sludge or septage must be treated by one of the following processes to further reduce pathogens:

5.7.1. High temperature composting, a process in which either the within-vessel method is used, maintaining the sludge at 55°C (131°F) for three days; or the static aerated pile method, when the sludge is maintained at 55°C (131°F) or greater for three days; or the windrow method, when the sludge is maintained at 55°C (131°F) or greater for a minimum of fifteen (15) days during which there shall be a minimum of five turnings of the windrow.

5.7.2. Heat drying the dewatered sludge cake by direct or indirect contact with hot gases and reducing the moisture content to ten (10) percent or less. The sludge particles shall reach temperatures in excess of 80°C (176°F)

or the wet bulb temperature of the gas stream in contact with the sludge, at the point it leaves the dryer, shall be is in excess of 80°C (176°F).

5.7.3. Heat treating liquid sludge to temperatures of 180°C (356°F) for thirty (30) minutes.

5.7.4. Thermophilic aerobic digestion, a method in which liquid sludge is agitated with air or oxygen with a residence time of ten (10) days at 55°C to 60°C (131°F to 140°F) with a volatile solids reduction of at least thirty-eight (38) percent.

5.7.5. Beta ray irradiation, gamma ray irradiation or pasteurization, after treatment to significantly reduce pathogens as set forth in Section 5.3.

5.7.6. Other methods to further reduce pathogens may be accepted by the director if sufficient evidence is presented indicating that the method or procedure will reduce pathogens and volatile solids equivalent to the reduction achieved by the methods set forth in Sections 5.7.1. through 5.7.5.

Section 6. Storage and Containment of Infectious Waste in Facilities Other Than Wastewater Treatment Facilities

6.1. Any facility which generates, stores, treats or disposes of infectious waste shall have an area for the storage of containerized infectious waste pending disposal. Storage shall be in a manner and location which precludes the transmission of disease or the creation of a nuisance and does not provide a breeding place or a food source for insects or rodents.

6.2. Infectious waste shall be segregated from other waste at the point of origin in the producing facility and shall be contained for storage and disposal in containers pursuant to the conditions prescribed in Sections 6.3. thru 6.12.

6.3. Infectious waste shall not be stored at a waste producing facility

for more than seven (7) days before disposal unless approved by the director; except storage of infectious waste at a temperature below 32°F shall be permitted for a period of not more than sixty (60) days before disposal without specific approval. Specimens preserved in formaldehyde are exempt from this provision.

6.4. Storage of infectious waste shall be in an enclosure separate from other wastes unless storage with other wastes is approved by the director. Storage of infectious waste shall be in an area affording protection from vermin, rain and wind and shall be so secured as to deny access to unauthorized persons. The area shall be provided with prominent warning signs located on storage enclosures and containers or adjacent to the exterior of entry doors, gates or lids indicating use of the enclosures or containers for storage of infectious waste and forbidding entry to unauthorized persons.

6.5. Infectious waste, except for sharps capable of puncturing or cutting, shall be contained for storage and disposal in double disposable plastic bags which are impervious to moisture and have a strength sufficient to preclude ripping, tearing or bursting under normal conditions of usage and handling. The bags shall be securely tied so as to prevent leakage or expulsion of solid or liquid wastes during storage, handling or transport. Sharps which have been crushed or otherwise processed so as to make them incapable of puncturing or cutting and which have not been rendered non-infectious shall also be contained for disposal in such bags or shall be contained as prescribed in Section 6.6.

6.6. Sharps which have been rendered unfit for reuse and which have not been processed so as to make them incapable of puncturing or cutting shall be contained for disposal in disposable rigid puncture-proof containers such as

cartons or metal cans which are taped closed or tightly lidded to preclude loss of the contents.

6.7. All bags used for storage and disposal of infectious waste shall be conspicuously labeled with the word "Biohazards." Rigid disposable containers of infectious sharps waste shall be labeled in the same way or placed and secured in the disposable bags used for other infectious waste.

6.8. Infectious waste contained in disposable containers as prescribed in Sections 6.5, 6.6 and 6.7 may be placed for storage or for transport to a disposal facility in reusable plastic or metal pails or drums or in metal dumpsters or metal portable bins. These reusable containers shall be leakproof, rodent-proof, have tight-fitting covers and be kept clean and in good repair. Each dumpster or portable bin shall provide for suitable access to allow complete cleaning and sanitizing at the storage area or disposal facility, and drainage and treatment of liquids. The reusable containers may be of any color and shall be conspicuously labeled with the word "Biohazard" on the lid and the sides so as to be readily visible from any lateral direction when the container is upright in addition to placarding required by the department of natural resources, water resources board or the department of highways as appropriate.

6.9. Before being reused, rigid containers for infectious waste which have been visibly soiled with potentially infectious material shall be decontaminated by agitation to remove visible soil combined with one of the following procedures:

6.9.1. Immersion in hot water of at least 180°F for a minimum of thirty (30) seconds.

6.9.2. Exposure to chemical sanitizer by rinsing or immersion for a

minimum of thirty (30) seconds. Acceptable chemical sanitizers include:

6.9.2.1. Hypochlorite solution (100 ppm available chlorine if immersed, 200 ppm if rinsed).

6.9.2.2. Combination chlorine-bromine solution (100 ppm available chlorine or bromine if immersed, 200 ppm if rinsed).

6.9.2.3. Iodoform or iodine (25 ppm available iodine if immersed, 50 ppm if rinsed).

6.9.2.4. Quaternary ammonium compound solution (200 ppm active agent if immersed, 400 ppm if rinsed).

6.9.2.5. Other method approved by the director in writing.

6.10. Infectious waste shall not be placed with noninfectious waste in a reusable container for either storage or transport unless all of the waste in the container is to be disposed of as infectious waste in accordance with the requirements of this rule.

6.11. Reusable pails, drums, dumpsters or bins used for containment of infectious waste shall not be used for containment of waste to be disposed of as noninfectious waste or for other purposes.

6.12. Garbage chutes shall not be used to transfer infectious waste between locations where it is produced or stored unless approved by the director.

Section 7. Disposal of Infectious Waste From Other Than Wastewater Treatment Facilities

7.1. Disposal of infectious waste shall be by one or more of the following methods:

7.1.1. By incineration in a pathological incinerator. The owner-operator shall have a valid permit for the operation of the incinerator issued pursuant

to the provisions of the air pollution control commission.

7.1.2. By burial at a hazardous waste landfill as designated and approved by the department of natural resources.

7.1.3. By discharge to a sanitary sewer through an on-site sewer appliance or other connection to a sewer system with primary or secondary treatment, if the waste is liquid or semi-liquid, provided that prior written approval has been obtained from the director and the receiving sewer agency specifying the types and amounts of infectious waste. Approval by the director may require compliance with specific provisions or prohibitions regarding the use of sewer disposal for some types of liquid or semi-liquid infectious waste.

7.1.4. At an out-of-state facility approved by the appropriate out-of-state authority.

7.1.5. By sterilization by heating in an autoclave so as to render the waste noninfectious. Infectious waste so rendered noninfectious shall be disposable as nonhazardous waste provided it is not an otherwise hazardous waste or hazardous material. Autoclave operating procedures shall include, but not be limited to the following:

7.1.5.1. Adoption of standard written operating procedures for each autoclave including time, temperature, pressure and maximum load quantity.

7.1.5.2. Check recording or indicating thermometers after and during each complete cycle to ensure the attainment of a temperature of 250°F for approximately one hour (depending on quantity and compaction of load) in order to achieve sterilization of the entire load.

7.1.5.3. Use of heat sensitive tape or other device for each container that is processed to indicate the attainment of adequate sterilization conditions.

7.1.5.4. Use of bacteriological spore test culture placed at the center of a load processed under standard operating conditions at least monthly to confirm the attainment of adequate sterilization conditions.

7.1.5.5. Maintenance of records of procedures for a period of not less than one year.

7.1.5.6. Any other method approved in writing by the director.

7.2. Cultures of viable etiologic agents shall be rendered noninfectious before disposal by heating the cultures in an on-site autoclave or by other on-site sterilizing treatment. The sterilized culture shall be disposable as nonhazardous waste.

7.3. Ashes resulting from the incineration of infectious waste may be disposed of at a permitted non-hazardous type landfill.

7.4. Other provisions herein notwithstanding, double-bagged wastes from isolation wards including disposable gowns, bed linens, food utensils and non-liquid items incapable of being sewerred, and triple bagged dressings may be disposed of in duly permitted non-hazardous landfills providing:

7.4.1. Such double and triple bagged infectious wastes shall not be comingled with non-infectious wastes.

7.4.2. Such properly permitted landfill owner-operator shall acknowledge written request for disposal of such infectious waste.

7.4.3. Infectious waste under this provision shall be delivered to the landfill at mutually acceptable predetermined times.

7.4.4. Landfill operating personnel shall be given oral and written instructions to place double bagged infectious waste at the bottom of the cell and cover the bags either with soil or sufficient non-infectious waste prior to performing any compaction.

Section 8. On-site Movement of Infectious Waste

8.1. Infectious waste shall be contained, loaded, transported and unloaded by methods and procedures which limit the number of persons handling the waste and otherwise minimize the possibility of exposure of workers to the waste and which do not endanger public health and safety or cause a public nuisance.

8.2. Persons manually loading or unloading containers of infectious waste on or from transport vehicles shall be provided by their employer with, and required to wear, protective gloves and other protective clothing.

8.3. Surfaces of transport vehicles and of reusable containers that have contacted spilled or leaked infectious waste shall be decontaminated before reuse by one of the procedures of Section 6.9.

Section 9. Operating Plans

9.1. Any facility subject to the provisions of this rule, but not required to possess an infectious waste facility permit, shall provide to the director an operating plan for the storage, treatment or disposal of infectious waste generated by such facility including the types and amounts of infectious waste generated. Such information shall be provided within six months of the effective date of this rule.

Section 10. Infectious Waste Facility Permit

10.1. Any person who owns or operates a facility which provides storage, treatment or disposal services to other facilities which generate infectious waste shall possess a valid infectious waste facility permit.

10.2. Any hazardous waste landfill which has applied for and having been granted a hazardous waste facility permit from the department of natural resources will be considered as having applied for and been granted an in-

fectious waste facility permit and issuance of such infectious waste facility permit will be automatic.

10.3. Applications for an infectious waste facility permit shall contain an operating plan for the storage, treatment or disposal of infectious waste received by the facility, the types and amounts of infectious waste to be received, and the generators utilizing the storage, treatment or disposal service.

10.4. The operator of an infectious waste facility shall have and shall adhere to the operating plan which shall demonstrate compliance with these regulations for the handling and disposal of infectious waste approved in writing by the director.

10.5. A new or revised operating plan for treatment or disposal of infectious waste shall be submitted for approval to the director whenever there is an increase in volume of infectious waste generated or received at the facility or when changes are to be made in an existing operating plan.

10.6. An infectious waste facility permit may be withdrawn at any time by the director for non-compliance with the operating plan or this rule.

10.7. An infectious waste facility permit shall not be required for a facility which offers such storage, treatment or disposal services due to an emergency situation such as a breakdown of another facility's storage, treatment or disposal mechanisms. An infectious waste facility permit shall also not be required for a facility which stores, treats or disposes of its own infectious wastes, provided all other applicable provisions of this rule shall apply.

Section 11. Recordkeeping

The operator of a disposal facility subject to the requirements of Section 10 shall maintain records of infectious waste received at the facility for a period of three (3) years.

Section 12. Manifest Requirements for Infectious Waste Transport and Disposal

The hazardous waste manifest prescribed by the department of highways or the public service commission, as appropriate, shall be used for the off-site transport and disposal of infectious waste to a hazardous waste disposal or treatment facility and shall be completed and utilized by the producer, hauler, disposal or treatment facility operator.

Section 13. Inspections

13.1. Representatives of the director shall have access to the premises and records of infectious waste producers, transporters, treatment and disposal facilities to check compliance with this rule or to investigate complaints. Inspections shall be required at a frequency determined by the director.

Section 14. Penalties for Violating Provisions of Regulations - Any person who violates any provision of this rule or any regulation adopted by the West Virginia state board of health pursuant to authority granted by this rule shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars. The continued failure or refusal by such convicted person, firm, company, corporation, institution, whether public or private, county or municipal, to make the alterations necessary to protect the public health required by the state director of health or his duly authorized representative shall constitute a separate, distinct and additional offense for each twenty-four-hour period of such failure or refusal, and, upon conviction thereof, the violator shall be fined not less than twenty-five dollars nor more than five hundred dollars for each such conviction: Provided, that none of the provisions contained in this section shall apply to those commercial or industrial wastes which are subject to the regulatory control of the West Virginia de-

partment of natural resources or the West Virginia air pollution control commission.

Section 15. Administrative Due Process - Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interest or privileges shall do so in a manner prescribed in the West Virginia Procedural Rules, Board of Health, Chapter 16-1, Series I, 1981, Rules of Procedure for Contested Case Hearings and Declaratory Rulings. The aforementioned procedural rule is incorporated herein by reference.

Section 16. Severability - If any provision of this rule or the application thereof to any persons or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of this rule which can be given effect without the invalid provisions or application, and to this end the provisions of this rule are declared to be severable.