

Arch A. Moore, Jr.
Governor



David K. Heydinger, M.D.
Director


State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

NOTICE OF RULE MODIFICATION

LEGISLATIVE RULE: Proposed Hazardous Material Treatment Information
Repository, Chapter 16-3A, Series 53, 1986

The above titled rule has been modified as a result of comments by the Legislative Rule-Making Review Committee and the attached modifications have been incorporated into the above titled rule and filed in the Secretary of State's Office.


David K. Heydinger, M.D.
Director of Health

FILED
1985 OCT 16 AM 9:34
SECRETARY OF STATE

FILED

1986 OCT 16 AM 9:35

WEST VIRGINIA
SECRETARY OF STATE

[PROPOSED]

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH

Hazardous Material Treatment Information Repository

Series 53

1986

[PROPOSED]

WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH

Hazardous Material Treatment Information Repository

64 CSR 53

INDEX

	Page
Section 1. General	1
Section 2. Application and Enforcement	1
Section 3. Definitions	1
Section 4. Program for Assembling and Updating Hazardous Materials List	2
Section 5. Program for Distribution of Information to Medical and Emergency Personnel	2
Section 6. Repository for Information	3
Section 7. Penalties	3
Section 8. Administrative Due Process	3
Section 9. Severability	3

[PROPOSED]

TITLE 64

FILED

WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH

1985 OCT 16 AM 9:35

STATE OF WEST VIRGINIA
SECRETARY OF STATE

Series 53

Title: Hazardous Material Treatment Information Repository

Section 1. General

1.1. Scope - This rule establishes the requirements for assembling and updating a list of hazardous materials in West Virginia including information on the immediate medical effects of exposure to such materials, the appropriate emergency medical treatment of persons exposed to such materials and the most effective methods of distributing this information to medical emergency personnel.

1.2. Authority - This rule is issued under the authority of Chapter 16, Article 3A, Section 2 of the West Virginia Code and is related to Chapter 16, Article 3A, Section 1, et seq.

1.3. Filing Date -

1.4. Effective Date -

Section 2. Application and Enforcement

2.1. Application - This rule shall apply to all manufacturers as defined in Section 3.4 of this rule, any medical group or person, or any academic institution or person.

2.2. Enforcement - The enforcement of this rule is vested with the director of the West Virginia department of health.

Section 3. Definitions

3.1. Hazardous Materials List - means a list, as approved by the director, of chemical substances which have been determined to be or are suspected to be hazardous or toxic to human health. This list will be a compilation of hazardous chemicals from several sources including: (1) the existing list prepared by the commissioner of labor pursuant to Section 18, Article 3, Chapter 21 of the code, (2) any list, publication, regulation, report, guideline or other compilation of the occupational health and safety administration of the United States department of labor, (3) any list, publication, regulation, report, guideline or other compilation of the national institute for occupational safety and health, (4) any list, publication, regulation, report, guideline or other compilation of the national fire protection association, (5) any list, publication, regulation, report, guideline or other compilation of the United States environmental protection agency, (6) the hazardous substances list developed by the department of health pursuant to the Community Right to Know Act Chapter 16, Article 31, Section 4a of the Code, or (7) any other source considered by the director to be reliable. The list may include materials not in routine use in this state.

3.2. Director - means the director of the West Virginia department of health or his or her lawful designee.

3.3. Medical and Emergency Personnel - means emergency medical personnel as defined in Chapter 16, Article 4C, Section 3 of the Code of West Virginia, and any physician, osteopathic physician, registered nurse or licensed practical nurse who provides emergency care to patients.

3.4. Manufacturers - means any industry, agency, firm, corporation or individual involved in the industrial or business use, production, storage or transportation of hazardous materials in this state.

Section 4. Program for Assembling and Updating Hazardous Materials List

4.1. Requests for Information from Manufacturers

4.1.1. Upon receipt of a request from the director for information related to the use, storage, production or transportation of materials listed on the hazardous materials list, the manufacturer or his designee, any medical group or person, or any academic institution or person, shall provide information related to the frequency of use, the frequency of exposure or over-exposure of persons to the materials as related to appropriate emergency medical treatment and the known harmful effects of exposure to such material. The recommended medical treatment of persons exposed to such materials shall be provided in such format as required by the director for each material used, produced, transported or stored by the manufacturer, unless good cause be shown to the satisfaction of the director why such request is unreasonable because of a potential breach of a trade secret. The information shall be requested by certified mail and shall be provided to the director within thirty days of the receipt of the request.

4.1.2. Information submitted to the Director from manufacturers in compliance with Chapter 16, Article 31 of the Code of West Virginia, as amended, and rules and regulations promulgated thereto, shall be used to establish baseline data for purposes of these rules and regulations and duplication of data previously submitted by any manufacturer will not be required.

4.2. Updating Hazardous Materials List

4.2.1. The director shall revise the hazardous materials list on an annual basis to reflect additions or deletions to such list based upon information as provided by manufacturers or other responsible sources.

4.2.2. The director may authorize the use of any reliable source which includes a comprehensive listing of hazardous materials and the emergency medical treatment recommended for exposure to such materials as meeting the intent of this rule in full or in part relating to the distribution of such information to medical or emergency personnel.

Section 5. Program for Distribution of Information to Medical and Emergency Personnel

5.1. The director may authorize the distribution of recognized publica-

Left
of
7 here

Proposed Hazardous Material Treatment Information Repository Rule
Modifications Approved by the Legislative Rule-Making Review Committee
October 6, 1986 1986 OCT 16 AM 9:35

3.1. Hazardous Materials List - The means a list ~~as approved~~ by the director, of chemical substances which have been determined to be or are suspected to be hazardous or toxic to human health. This list will be a compilation of hazardous chemicals from several sources including: (1) the existing list prepared by the commissioner of labor pursuant to Section 18, Article 3, Chapter 21 of the code, (2) any list, publication, regulation, report, guideline or other compilation of the occupational health and safety administration of the United States department of labor, (3) any list, publication, regulation, report, guideline or other compilation of the national institute for occupational safety and health, (4) any list, publication, regulation, report, guideline or other compilation of the national fire protection association, (5) any list, publication, regulation, report, guideline or other compilation of the United States environmental protection agency, (6) the hazardous substances list developed by the department of health pursuant to the Community Right to Know Act Chapter 16, Article 31, Section 4a of the Code, or (7) any other source considered by the director to be reliable. The list may include materials not in routine use in this state.

3.2. Director - means the director of the West Virginia department of health or his or her lawful designee.

3.3. Medical and Emergency Personnel - means emergency medical personnel as defined in Chapter 16, Article 4C, Section 3 of the Code of West Virginia, and any physician, osteopathic physician, registered nurse or licensed practical nurse who provides emergency care to patients.

3.4. Manufacturers - means any industry, agency, firm, corporation or individual involved in the industrial or business use, production, storage or transportation of hazardous materials in this state.

4.1.1. Upon receipt of a request from the director for information related to the use, storage, production or transportation of materials listed on the hazardous materials list, the manufacturer or his designee, any medical group or person, or any academic institution or person, shall provide information related to the frequency of use, the frequency of exposure or over-exposure of persons to the materials as related to appropriate emergency medical treatment and the known harmful effects of exposure to such material. ~~and~~ The recommended medical treatment of persons exposed to such materials shall be provided in such format as required by the director for each material used, produced, transported or stored by the manufacturer, unless good cause be shown to the satisfaction of the director why such request is unreasonable because of ~~the~~ a potential breach of a trade secret. The information shall be requested by certified mail and shall be provided to the director within thirty days of the receipt of the request.

~~4.1.2. In cases where a chemical substance of known hazard is used, manufactured, stored or transported by any manufacturer and not included on the hazardous material list, the manufacturer shall prepare a special reporting form as provided by the director and the director shall, at his or her discretion, add the substance to the hazardous materials list.~~

4.1.32. ~~Material~~ Safety Data Sheets Information submitted to the Director from manufacturers in compliance with Chapter 16, Article 31 of the Code of West Virginia, as amended, and rules and regulations promulgated thereto, shall be used to establish baseline data for purposes of these rules and regulations and duplication of data previously submitted by any manufacturer will not be required.

5.2. The director may publish and make available handbooks, guidelines or other information materials which include a listing of hazardous materials used, manufactured, stored or transported in West Virginia for the purpose of disseminating ~~such~~ treatment information to emergency and medical personnel.

tions which provide information related to the hazards of materials and the medical treatment of exposed individuals.

5.2. The director may publish and make available handbooks, guidelines or other information materials which include a listing of hazardous materials used, manufactured, stored or transported in West Virginia for the purpose of disseminating treatment information to emergency and medical personnel.

Section 6. Repository for Information

6.1. The director may utilize the West Virginia poison information center as the central repository for the information and medical care practices necessary for treatment of persons exposed to substances identified in the hazardous materials list.

6.2. The director shall maintain a file of the chemical name of those materials found to be hazardous and produced, stored, used or transported by West Virginia firms, industries or individuals.

Section 7. Penalties - Any person, or corporation, that violates the provisions of this rule shall be subject to a civil penalty of not less than one hundred dollars nor more than one thousand dollars for each violation. When the director believes that a violation has occurred he may request the attorney general or the prosecuting attorney of the county where the violation occurred to file a civil action for civil penalties, or for injunctive or other relief, or both penalties and injunctive or other relief.

Section 8. Administrative Due Process - Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in Rules of Procedure for Contested Case Hearings and Declaratory Rulings, West Virginia Department of Health Procedural Rules, Series T, 1983.

Section 9. Severability - The provisions of this rule as declared to be severable. If any provisions of this rule shall be held invalid, the remaining provisions of this rule shall remain in effect.

(This is the end)

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee



FILED
1986 OCT 10 PM 4:11
OFFICE OF THE SECRETARY OF STATE

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

October 9, 1986

TO: Ken Hechler, Secretary of State, State Register

TO: David K. Heydinger, M.D., Director
Department of Health
State Capitol
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Hazardous Material Treatment Information
Repository, Series 53

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule as originally filed or 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. 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: Ms. Joan Rutledge, Regulatory Services Division
Ms. Judy Smith
Dr. Fred Cooley