

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

FILED

1987 JUN -1 AM 11: 20

SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: Department of Health TITLE NUMBER: 64

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: 53

TITLE OF RULE BEING PROPOSED: Hazardous Materials Treatment

Information Repository.

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 761

SECTION 64-2-16(3a)(2), PASSED ON May 13, 1987

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: 6-1-87

Handwritten signature of David K. Heydinger, M.D.

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

SECRETARY OF STATE

1987 JUN 11 AM 11: 05

FILED

PROMULGATION HISTORY ABSTRACT

AGENCY: Department of Health

RULE TITLE Hazardous Materials Treatment Information Repository

SERIES # 53

RULE TYPE: Legislative

NEW RULE: X; AMENDMENT OF EXISTING RULE: \_\_\_\_\_

SECTION(S) AMENDED: \_\_\_\_\_

DATE FILED PROPOSED RULE OR AMENDMENTS FOR PUBLIC HEARING: 12-4-85

DATE(S) OF PUBLIC HEARING: 1-3-86

For Interpretive, Procedural or Exempt Rules ONLY

DATE AGENCY ADOPTED RULE FILED: _____
DATE EFFECTIVE: _____

For Legislative Rules ONLY

DATE AGENCY APPROVED RULE FILED: <u>8-13-86</u>
DATE OF ACTION BY L.R.M.R.C. : Approved <u>10-6-86</u> , Amended _____
Approve Part _____, Reject _____
MODIFIED TO MEET L.R.M.R.C. COMMENTS; yes <u>X</u> , no _____
BILL OF AUTHORIZATION # <u>761</u> , PASSED ON <u>5-13-87</u>
AMENDED BY THE LEGISLATURE, yes _____, no <u>X</u>
FINAL FILING ON <u>6-1-87</u>
EFFECTIVE ON <u>6-1-87</u>

SEARCHED  
SERIALIZED  
INDEXED  
MAY 11 1987  
FBI

DATE RULE OR AMENDMENT FILED AS AN EMERGENCY RULE: \_\_\_\_\_

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES  
DEPARTMENT OF HEALTH

Hazardous Material Treatment Information Repository

Series 53

1987

SECRETARIAT OF STATE

1987 APR 11: 05

FILED

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

SECRETARY OF STATE

1987 APR 11 10:05

FILED

FILED

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES  
DEPARTMENT OF HEALTH

1987 *Small* 2 AM 11:05  
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 - June 1, 1987.

1.4. Effective Date - June 1, 1987.

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-

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 1, 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.

1  
2  
3  
4  
5  
6  
7  
8  
9

H. B. 2575

(By Delegate Knight)

(Introduced February 4, 1987; referred to the  
Committee on Health and Human Resources then  
the Judiciary)

10 A BILL to amend article two, chapter sixty-four of the code of  
11 West Virginia, one thousand nine hundred thirty-one, as  
12 amended, by adding thereto a new section designated section  
13 sixteen ~~(three-a) (two)~~, relating to authorizing the  
14 director of the department of health to promulgate  
15 legislative rules governing the hazardous material treatment  
16 information repository.

17 Be it enacted by the Legislature of West Virginia:

18 That article two, chapter sixty-two of the code of West  
19 Virginia, one thousand nine hundred thirty-one, as amended, be  
20 amended by adding thereto a new section, designated section  
21 sixteen (three-a) (two), to read as follows:

22 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE  
23 LEGISLATIVE RULES.

24 §64-2-16(3a)(2). Director of health.

25 The legislative rules filed in the state register on the  
26 thirteenth day of August, one thousand nine hundred eighty-six,

2575

1 modified by the director of the department of health to meet the  
2 objections of the legislative rule-making review committee and  
3 refiled in the state register on the sixteenth of October, one  
4 thousand nine hundred eighty-six, relating to the director of the  
5 department of health (hazardous material treatment information  
6 repository) are authorized.

7 NOTE: The purpose of this bill is to authorize the Director of  
8 the Department of Health to promulgate legislative rules  
9 governing the Hazardous Material Treatment Information  
10 Repository.

11  
12 This section is new; therefore, strike-throughs and  
13 underscoring have been omitted.  
14

1  
2  
3  
4  
5  
6  
7  
8  
9

Senate Bill No. 334  
(By Senator Tucker)

[Introduced February 4, 1987; referred to the Committee  
on EIM ; then to the  
Committee on THE JUDICIARY .]

10 A BILL to amend article two, chapter sixty-four of the code of  
11 West Virginia, one thousand nine hundred thirty-one, as  
12 amended, by adding thereto a new section designated section  
13 sixteen (three-a) (two), relating to authorizing the  
14 director of the department of health to promulgate  
15 legislative rules governing the hazardous material treatment  
16 information repository.

17 Be it enacted by the Legislature of West Virginia:

18 That article two, chapter sixty-two of the code of West  
19 Virginia, one thousand nine hundred thirty-one, as amended, be  
20 amended by adding thereto a new section, designated section  
21 sixteen (three-a) (two), to read as follows:

22 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE  
23 LEGISLATIVE RULES.

24 §64-2-16(3a)(2). Director of health.

25 The legislative rules filed in the state register on the  
26 thirteenth day of August, one thousand nine hundred eighty-six,

1 modified by the director of the department of health to meet the  
2 objections of the legislative rule-making review committee and  
3 refiled in the state register on the sixteenth of October, one  
4 thousand nine hundred eighty-six, relating to the director of the  
5 department of health (hazardous material treatment information  
6 repository) are authorized.

7 NOTE: The purpose of this bill is to authorize the Director of  
8 the Department of Health to promulgate legislative rules  
9 governing the Hazardous Material Treatment Information  
10 Repository.

11

12 This section is new; therefore, strike-throughs and  
13 underscoring have been omitted.

14