

US EPA ARCHIVE DOCUMENT

APPENDIX IV
DEPARTMENT OF HIGHWAYS
REGULATIONS



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25305

ARCH A. MOORE, JR.
Governor

November 30, 1985

RONALD R. POTESTA
Director
MICHAEL A. FOTOS
Deputy Director

Ms. Renee Gruber
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, Pennsylvania 19107

Dear Renee:

Pursuant to our recent telephone call, I am enclosing a copy of the official rule promulgated by the Department of Highways on June 12, 1985 relating to hazardous waste transportation.

The Department of Highways' current official regulations, therefore, are comprised of the enclosed as they are modified by the August 6, 1985 emergency promulgation which we previously sent to you.

We are sorry for any confusion which the other set of DOH regulations may have caused.

Sincerely,

A handwritten signature in cursive script that reads "Ron Shipley".

Ron Shipley
Special Assistant to the Director

RS/gb

Enclosure

cc: Bob San Julian

Kcid
11-26-85

FILING OF LEGISLATIVE RULES
BY THE
DEPARTMENT OF HIGHWAYS
PROMULGATION HISTORY ABSTRACT

RULE TITLE: Transportation of Hazardous Wastes, Series VII

RULE TYPE: Legislative

FILED NOTICE OF PUBLIC HEARING: July 27, 1984

PUBLIC HEARING HELD: August 9, 1984

FILED EMERGENCY REGULATIONS: July 27, 1984

FILED AGENCY APPROVED REGULATIONS: September 7, 1984

FILED AGENCY APPROVED REGULATIONS WITH LRMRC: September 7, 1984

ACTION BY LRMRC: Modified and Approved on October 4, 1984, Filed
Modification on October 5, 1984

LEGISLATIVE ACTION: Amended and Passed S. B. 399, 64-2-20(5e)(7)(b)
passed April 13, 1985, effective from passage

FINAL REGULATION FILED WITH SECRETARY OF STATE: June 12, 1985

EFFECTIVE DATE: June 12, 1985

FILING OF LEGISLATIVE RULES

BY THE

DEPARTMENT OF HIGHWAYS

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WEST VIRGINIA LEGISLATIVE RULES

COMMISSIONER OF HIGHWAYS

CHAPTER 20-5E

SERIES VII

Title: Transportation of Hazardous Wastes by Highway
Transporters

Section 1. General

1.01. Scope. -- These legislative rules and regulations apply to all persons transporting hazardous waste by vehicle upon the roads and highways of this State if the transportation requires a manifest under Section 6 of the regulations of the Department of Natural Resources implementing the State Hazardous Waste Management Act or if the transportation requires a manifest under the provisions of 40 CFR Part 262, and 263. These regulations do not apply to on-site movements of hazardous waste by generators or by owners and/or operators of hazardous waste facilities that have been issued permits under the appropriate State or Federal law.

1.02. Authority. -- These legislative rules and regulations are promulgated by the West Virginia Department of Highways pursuant to the authority of West Virginia Code §20-5E-7(a) (Hazardous Waste Management Act of 1981). They are to be administered by the Highway Services Division, 1900 Washington Street, East, Charleston, West Virginia 25305; Telephone (304) 348-3338.

1.03. Filing Date. -- June 12, 1985

1.04. Effective Date. -- June 12, 1985

1.05. Enforcement. -- The Commissioner of Highways delegates the enforcement authority granted to him in the Hazardous Waste Management Act to the Highway Services Division as identified in the above section.

Section 2. Definitions

2.01. Terms. -- Other than those terms defined in the following section, the terms used in these regulations shall have the same meaning ascribed to them in the regulations promulgated by the Director of the Department of Natural Resources pursuant to the State Hazardous Waste Management Act.

(1) "Highway Transporter" - means any transporter of hazardous waste by vehicle upon the roads and highways of the State of West Virginia.

(2) "Vehicle" - includes a vehicle, machine, tractor, trailer or semitrailer, or any combination thereof, propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property. It does not include a vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

(3) "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.

(4) "Hazardous Waste Management" - means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.

(5) "Manifest" - means the shipping document EPA form 8700-22 and, if necessary, EPA form 8700-22A, originated and signed by the generator in accordance with the instructions included in the Appendix to 40 CFR Part 262.

(6) "Manifest Document Number" - means the U. S. EPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the Manifest by the generator for recording and reporting purposes.

(7) "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.

(8) "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, amendable 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.

Section 3. Manifest System

3.01. General Requirements. --

(1) A generator or transporter who offers or transports hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest OMB control number 2000-0404 on EPA form 8700-22, and, if necessary, EPA form 8700-22A in accordance with either Section 6 of the regulations of the Department of Natural Resources implementing the State Hazardous Waste Management Act or 40 CFR Part 262, and 263, as amended effective September 20, 1984.

(2) Before transporting the hazardous waste, the highway transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The highway transporter must return a signed copy to the generator before leaving the generator's property.

(3) The highway transporter must ensure that the manifest accompanies the hazardous waste.

(4) Before accepting hazardous waste from a rail transporter, a highway transporter must sign and date the manifest and provide a copy to the rail transporter.

3.02. Number and Delivery of Copies. -- A highway transporter who delivers a hazardous waste to another

transporter or to the designated facility must:

(1) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest; and,

(2) Retain one copy of the manifest in accordance with Section 4; and,

(3) Give the remaining copies of the manifest to the accepting transporter or designated facility.

3.03. Transfers to Foreign Consignees - Required Information. -- Transporters who transport hazardous wastes out of the United States must:

(1) Indicate on the manifest the date the hazardous waste left the United States, and,

(2) Sign the manifest and retain one copy in accordance with Section 4; and,

(3) Return a signed copy of the manifest to the generator.

3.04. Destination. --

(1) The highway transporter must deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:

(a) The designated facility listed on the manifest; or,

(b) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or,

(c) The next designated transporter; or,

(d) The place outside the United States designated by the generator.

(2) If the hazardous waste cannot be delivered in accordance with paragraph (a) of this section, the highway transporter must contact the generator for further direction

and must revise the manifest according to the generator's instructions.

Section 4. Recordkeeping

4.01. Record Retention - General Requirements. -- A highway transporter of hazardous waste must keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or the operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.

4.02. Record Retention - Foreign Shipments - Requirements. -- A transporter who transports hazardous waste out of the United States must keep a copy of the manifest indicating that the hazardous waste left the United States for a period of three years from the date the hazardous waste was accepted by the initial transporter.

4.03. Automatic Periods of Retention. -- The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator and/or the West Virginia Department of Highways.

Section 5. Transportation

5.01. Regulations. -- No highway transporter may transport a hazardous waste in this State except in accordance with the requirements of these regulations, the Department of Natural Resources regulations implementing the Hazardous Waste Management Act and all applicable regulations of the Department of Transportation as set forth in 49 CFR Parts 171-179, and 49 CFR Parts 390-397 as amended through September 20, 1984.

5.02. Compliance With Federal Hazardous Waste Regulations. -- A transporter of hazardous waste must also comply with 40 CFR Part 262, and 263, as amended through September 20, 1984, Standards Applicable to Generators of Hazardous Waste, if he:

(1) Transports hazardous waste into the United States from abroad; or,

Department of Highways
Leg. Rule, 20-5E
Series VII, Sec. 5.02

(2) Mixes hazardous wastes of different Department of Transportation shipping descriptions by placing them into a single container.

5.03. Identification Number Required. -- A transporter must not transport hazardous wastes without having received an Environmental Protection Agency identification number from the Administrator.

5.04. Identification Number Application - Procedure. -- A transporter who has not received an Environmental Protection Agency identification number may obtain one by applying to the Administrator using EPA Form 8700-12. Upon receiving the request, the Administrator will assign an EPA identification number to the transporter.

Section 6. Discharges

6.01. Immediate Procedures. -- In the event of a discharge of hazardous waste during transportation, the highway transporter must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).

6.02. Removal of Waste - Emergency Measures. -- If a discharge of hazardous waste occurs during transportation and an official (state, local government, or Federal agency) acting within the scope of his official responsibilities determines that immediate removal of the waste is necessary to protect human health or the environment, that official may authorize the removal of the waste by transporters who do not have EPA identification numbers and without the preparation of a manifest.

6.03. Required Notices. -- A highway transporter who has discharged hazardous waste must give notice to:

- (1) The West Virginia Department of Highways
1900 Washington Street, East
Charleston, West Virginia 25305
Telephone: (304) 348-3028; twenty-four
hours a day;

- (2) The West Virginia Department of
Natural Resources
Division of Water Resources
1021 Greenbrier Street
Charleston, West Virginia 25311
- (3) The National Response Center
1-800-424-8802 or (202) 426-2675, but only
if:
 - (a) A person is killed; or,
 - (b) A person receives injuries requiring
hospitalization; or,
 - (c) Total property damage from the spill
exceeds \$50,000; or,
 - (d) The discharge involves radioactive
waste and/or materials; or,
 - (e) The discharge involves shipment of
etiologic agents; or,
 - (f) The situation, in the judgment of the
carrier, should be reported.
- (4) The notice shall contain the following
information:
 - (a) Name of reporter;
 - (b) Name and address of carrier;
 - (c) Phone number where reporter can be
reached;
 - (d) Date, time and location of spill;
 - (e) Extent of injuries, if any;
 - (f) Type and quantity of hazardous waste
involved, if any;
 - (g) Description of incident and whether a
continuing danger to life exists at
the scene.

6.04. Written Report. --

(1) Within fifteen (15) calendar days of the date of discovery of the discharge of any quantity of hazardous waste, the highway transporter shall file a written report, as specified in 49 CFR 171.16, as amended through September 20, 1984, with the West Virginia Department of Highways, the West Virginia Department of Natural Resources, Division of Water Resources, and the United States Department of Transportation.

(2) The report shall contain the following information:

- (a) All information required by Section 6.03(4);
- (b) The location of the discharge in relation to surface water, public water supplies, groundwater, wildlife inhabitants, and agricultural production;
- (c) The quantity and description of the hazardous waste removed and the disposition of that material;
- (d) The disposition, quantity and description of the unremoved hazardous waste;
- (e) A copy of the hazardous waste manifest shall be attached to the report.

6.05. Clean Up. -- A highway transporter shall clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by Federal, State or local officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment.

6.06. Obligation. -- Nothing in this section shall relieve a highway transporter of the obligation of complying with applicable Special Regulations contained in Series II, Chapter 3, Section 1 of the Administrative Regulations of the Water Resources Board.