

WEST VIRGINIA CODE: §22-18-7

§22-18-7. Authority and jurisdiction of other state agencies.

(a) The Commissioner of the Division of Highways, in consultation with the director, and avoiding inconsistencies with and avoiding duplication to the maximum extent practicable with legislative rules required to be promulgated pursuant to this article by the director or any other rule-making authority, and in accordance with the provisions of chapter twenty-nine-a of this code, shall promulgate, as necessary, legislative rules governing the transportation of hazardous wastes by vehicle upon the roads and highways of this state. Such legislative rules shall be consistent with applicable rules issued by the federal Department of Transportation and consistent with this article: *Provided*, That such legislative rules apply to the interstate transportation of hazardous waste within the boundaries of this state, as well as the intrastate transportation of such waste.

In lieu of those enforcement and inspection powers conferred upon the Commissioner of the Division of Highways elsewhere by law with respect to the transportation of hazardous waste, the Commissioner of the Division of Highways has the same enforcement and inspection powers as those granted to the director, or authorized representative or agent, or any authorized employee or agent of the division, as the case may be, under sections twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen of this article. The limitations of this subsection do not affect in any way the powers of the Division of Highways with respect to weight enforcement.

(b) The Public Service Commission, in consultation with the director, and avoiding inconsistencies with and avoiding duplication to the maximum extent practicable with rules required to be promulgated pursuant to this article by the director or any other rule-making authority, and in accordance with the provisions of chapter twenty-nine-a of this code, shall promulgate, as necessary, rules governing the transportation of hazardous wastes by railroad in this state. Such rules shall be consistent with applicable rules and regulations issued by the federal Department of Transportation and consistent with this article: *Provided*, That such rules apply to the interstate transportation of hazardous waste within the boundaries of this state, as well as the intrastate transportation of such waste.

In lieu of those enforcement and inspection powers conferred upon the Public Service Commission elsewhere by law with respect to the transportation of hazardous waste, the Public Service Commission has the same enforcement and inspection powers as those granted to the director or authorized representative or agent or any authorized employee or agent of the division, as the case may be, under sections twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen of this article.

(c) The rules required to be promulgated pursuant to subsections (a) and (b) of this section apply equally to those persons transporting hazardous wastes generated by others and to those transporting hazardous wastes they have generated themselves or combinations

thereof. Such rules shall establish such standards, applicable to transporters of hazardous waste identified or listed under this article, as may be necessary to protect public health, safety and the environment. Such standards shall include, but need not be limited to, requirements respecting: (A) Recordkeeping concerning such hazardous waste transported, and its source and destination; (B) transportation of such waste only if properly labeled; (C) compliance with the manifest system referred to in subdivision (3), subsection (a), section six of this article; and (D) transportation of all such hazardous waste only to the hazardous waste treatment, storage or disposal facilities which the shipper designates on the manifest form to be a facility holding a permit issued under: (1) This article or any rule required by this article to be promulgated; (2) Subtitle C; (3) the laws of any other state which has an authorized hazardous waste program pursuant to Section 3006 of the Resource Conservation and Recovery Act; or (4) Title I of the Federal Marine Protection, Research and Sanctuaries Act.

(d) The Secretary of the Department of Health, in consultation with the director, and avoiding inconsistencies with and avoiding duplication to the maximum extent practicable with legislative rules required to be promulgated pursuant to this article by the director or any other rule-making authority, shall promulgate rules pursuant to article five-j, chapter twenty of this code. The Secretary of the Department of Health shall have the same enforcement and inspection powers as those granted to the director or agent or any authorized employee or agent of the division, as the case may be, under sections twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen of this article, and in addition thereto, the Department of Health shall have those inspection and enforcement powers with respect to hazardous waste with infectious characteristics as provided for in article five-j, chapter twenty of this code.

(e) The Environmental Quality Board, in consultation with the director, and in accordance with the provisions of chapter twenty-nine-a of this code, shall, as necessary, promulgate water quality standards governing discharges into the waters of this state of hazardous waste resulting from the treatment, storage or disposal of hazardous waste as may be required by this article. The standards shall be consistent with this article.

(f) All legislative rules promulgated pursuant to this section shall be consistent with rules and regulations promulgated by the federal environmental protection agency pursuant to the resource conservation and recovery act.

(g) The director shall submit written comments to the Legislative Rule-Making Review Committee regarding all legislative rules promulgated pursuant to this article.