

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION
Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: DCL&ER, Division of Environmental Protection TITLE NUMBER: 47

CITE AUTHORITY §20-5A-6a

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

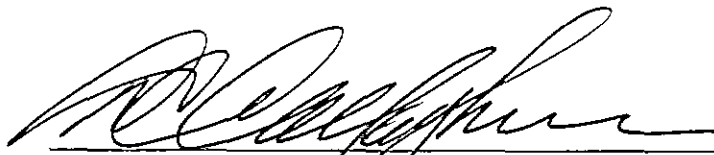
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 9

TITLE OF RULE BEING PROPOSED: Underground Injection Control Fee Schedule

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


David C. Callaghan, Director
Division of Environmental Protection

4.40

TITLE 47
LEGISLATIVE RULES

DIVISION OF ENVIRONMENTAL PROTECTION
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES

SERIES 9
UNDERGROUND INJECTION CONTROL FEE SCHEDULE

§47-9-1. General.

1.1. Scope and Purpose -- ~~These~~ This legislative rules establishes schedules of permit fees for state underground injection control permits issued by the Chief of the Office of Water Resources. This rule applies to any person who is required to apply for and obtain a permit from the Chief in order to conduct an activity that is enumerated in WV Code §20-5A-5, and is separate from permit fees required under WV Code §22B-1-6.

1.2. Authority -- §20-5A-6a.

1.3. Filing Date --

1.4. Effective Date --

1.5. Incorporation by Reference -- Whenever federal or State statutes or regulations are incorporated into ~~these regulations~~ this rule by reference, the reference is to the statute or regulation in effect on July 1, 1992.

§47-9-2. Definitions.

2.1. "Activity" means an activity for which a permit is required pursuant to the provisions of WV Code §20-5A-5.

2.2. "Chief" means the Chief of the Office of Water Resources of the Division of Environmental Protection of the West Virginia Department of Commerce, Labor and Environmental Resources.

2.3. "Class 1 well" is an underground injection well as described in the Underground Injection Control rule 46 C.S.R. 9, paragraphs 4.1 a and b.

2.4. "Class 2 well" is an underground injection well as described in the Underground Injection Control rule 46 C.S.R. 9 paragraphs 4.2.a through c.

2.5. "Class 3 well" is an underground injection well as described in the Underground Injection Control rule 46 C.S.R. 9 paragraphs 4.3.a through e.

2.6. "Class 4 well" is an underground injection well as described in the Underground Injection Control rule 46 C.S.R. 9 paragraph 4.4.a.

2.7. "Class 5 well" is an underground injection well as described in the Underground Injection Control rule 46 C.S.R. 9 paragraphs 4.5.a through r.

2.8. "Facility" means any "injection well or group of wells" that is subject to rule under the UIC program.

2.9. "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

2.10. "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.

2.11. "Major modification" means a modification of an issued permit made in accordance with the provisions of the Underground Injection Control rule 46 C.S.R. 9, Subsection 13.18.

2.12. "Minor modification" means a modification of an issued permit made in accordance with the provisions of the Underground Injection Control rule 46 C.S.R. 9, Subsection 13.20.

2.13. "Permit" means an authorization, license or equivalent control document issued by the State to implement the requirements of the UIC Program. "Permit" includes an area permit and a UIC Emergency Permit. "Permit" does not include UIC authorization by rule or any permit which has not yet been the subject of final agency action, such as a "draft permit."

2.14. "Person", "persons", or "applicant" shall means any industrial user, public or private corporation, institution, association, firm or company organized or existing under the laws of this or any other state or country; State of West Virginia; governmental agency, including federal facilities; political subdivision; county commission; municipal corporation; industry, sanitary district; public service district; drainage district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group; or any legal entity whatsoever.

2.15. "UIC" means the Underground Injection Control program under Part C of the Safe Drinking Water Act, 42 USC §300f including an approved State program.

2.16. "Underground Injections" means the subsurface emplacement of fluids through a well, drainfield, cesspool or pit, or any means thereof.

2.17. "Well" for the purpose of the State UIC Program, means a bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension and includes those types of Class 5 wells as defined in Subsection 4.5 of the Underground Injection Control rule, 46 C.S.R. 9.

§47-9-3. Fee Assessment and Collection.

3.1. Assessment of Permit Application Fees -- Any person who applies or reapplies for a permit shall pay the appropriate permit application or renewal fee in accordance with the provisions of Sections 4 through 6 of ~~the regulations~~ this rule.

3.2. Assessment and Collection of Annual Permit Fees -- Any person who holds a permit shall pay an annual permit fee in accordance with the provisions of Section 7 of ~~these regulations~~ this rule. The first annual permit fee shall be remitted to the proper office one (1) calendar year from the date of permit issuance; subsequent annual permit fees shall be remitted on or before the anniversary date of the permit issuance.

3.2.1. A permit becomes void if the annual permit fee has not been paid within one hundred and eighty (180) days of the due date.

3.2.2. The chief shall not reissue a permit until all annual permit fees due during prior terms of that permit have been paid in full.

3.3. Method of Fee Payment -- All fees assessed under ~~these regulations~~ this rule shall be submitted to the appropriate office by check or money order payable to the West Virginia Division of Environmental Protection.

3.3.a. The appropriate office for remitting fees related to Class 1 or Class 5 well(s) is the Office of Water Resources.

3.3.b. The appropriate office for remitting fees related to Class 2 or Class 3 well(s) is the Office of Oil and Gas.

3.4. Collection of Permit Application Fees -- The permit application fee shall be submitted to the appropriate office with the permit application. No permit application will be processed until the appropriate fee has been received.

3.4.1. ~~A person~~ An applicant may seek verification of the correct amount of a permit application fee by submitting his or her calculation of the fee to the appropriate office in writing. The applicant shall submit this calculation ~~shall be submitted~~ sufficiently in advance of

the permit application so that the provisions of the Rules Governing The State National Pollutant Discharge Elimination System (NPDES) Program, 46 C.S.R. 2, Subsection 4.3 are met. Within thirty (30) days of the receipt of this calculation, the appropriate office shall notify the applicant of the accuracy of his or her calculation. If the applicant's calculation is incorrect, the appropriate office shall advise ~~him~~ the applicant of the correct amount to be submitted as the permit application fee.

3.4.2. If the appropriate office determines that a submitted application is incomplete and must be returned to the applicant for additional information, a permit application resubmission fee shall accompany the refiled application. This fee ~~shall be~~ is either a sum equivalent to five percent (5%) of the permit application fee or fifty dollars (\$50), whichever is greater.

~~3.5. Collection of Annual Permit Fees -- The annual permit fee shall be submitted to the appropriate office no later than the anniversary of the date of permit issuance in each year of the term of the permit.~~

~~3.5.1. A permit will become void if the annual permit fee has not been paid within one hundred and eighty (180) days of the due date.~~

~~3.5.2. A permit will not be reissued until all annual permit fees due during prior terms of that permit have been paid in full.~~

~~3.5. 3.6.~~ If a permittee wishes to continue an activity pursuant to paragraph 13.12.b of the Underground Injection Control rule, 46 C.S.R. 9, the permittee must apply for a permit renewal at least one hundred eighty (180) days prior to expiration of the permit.

§47-9-4. Initial UIC Permit Application Fees.

4.1. Class 1 Wells -- The initial permit application fee ~~shall be~~ is one thousand dollars (\$1,000).

4.2. Class 2 Wells -- The initial permit application fee ~~shall be~~ is five hundred dollars (\$500), which ~~shall be~~ is in lieu of any individual well work permit fee required under WV Code §22B-1-1 et seq.

4.3. Class 3 Wells -- The initial permit application fee ~~shall be~~ is five hundred dollars (\$500), which ~~shall be~~ is in lieu of any individual well work permit fee required under WV Code §22B-1-1 et seq.

4.4. Class 4 Wells. -- Class 4 injection wells are prohibited.

4.5. Class 5 Wells -- The initial permit application fee shall be calculated through use of the following formula: the initial permit application fee shall equal the volume fee multiplied

by the treatment factor multiplied by the well type factor (i.e. Initial Permit Application Fee = Volume Fee X Treatment Factor X Well Type Factor). An applicant shall use the following paragraphs to calculate the fees and factors.

4.5.1. The appropriate volume fee ~~shall be~~ is determined from Table A of Attachment I of ~~these regulations~~ this rule.

4.5.2. The appropriate treatment factor ~~shall be~~ is determined from Table B of Attachment I of ~~these regulations~~ this rule.

4.5.3. The appropriate well type factor ~~shall be~~ is determined from Table C of Attachment I of ~~these regulations~~ this rule. Refer to The interpretive rule, Class 5 Injection Well Type Descriptions, 47 C.S.R. 9A ~~for~~ contains descriptions of well type codes.

4.5.4. The total amount of the initial permit application fee for a Class 5 injection well shall be no less than twenty five dollars (\$25) and no more than one thousand five hundred dollars (\$1,500).

§47-9-5. Permit Renewal Application Fees.

5.1. The permit renewal application fee for a Class 1 UIC Permit ~~shall be~~ is one thousand dollars (\$1,000).

5.2. The permit renewal application fee for a Class 2 UIC Permit ~~shall be~~ is five hundred dollars (\$500).

5.3. The permit renewal application fee for a Class 3 UIC Permit ~~shall be~~ is five hundred dollars (\$500).

5.4. Class 4 injection wells are prohibited.

5.5. The permit renewal application fee for Class 5 injection wells ~~shall be~~ is calculated using the formula in Section 4.5 of ~~these regulations~~ this rule. (i.e. Permit Renewal Application Fee = Volume Fee X Treatment Factor X Well Type Factor).

§47-9-6. Permit Modification Application Fees.

6.1. The permit modification fee for a Class 1 UIC Permit which requires a major modification ~~shall be~~ is five hundred dollars (\$500). The permit modification fee for Class 1 UIC Permit which requires a minor modification ~~shall be~~ is one hundred dollars (\$100).

6.2. The permit modification fee for a Class 2 UIC Permit which requires a major modification ~~shall be~~ is two hundred and fifty dollars (\$250). ~~The permit modification fee for Class 2 injection wells requiring minor modifications is reserved.~~

6.3. The permit modification fee for a Class 3 UIC Permit which requires a major modification ~~shall be~~ is two hundred and fifty dollars (\$250). ~~The permit modification fee for Class 3 injection wells requiring minor modifications is reserved.~~

6.4. Class 4 wells are prohibited.

6.5. The permit modification fee for Class 5 injection wells ~~shall be~~ is calculated through the use of the following formula: the permit modification application fee ~~shall be~~ is equal the volume fee multiplied by the treatment factor multiplied by the well type factor (i.e., Permit Modification Application Fee = Volume Fee X Treatment Factor X Well Type Factor).

6.5.1. The appropriate volume fee ~~shall be~~ is determined through the use of Table A of Attachment 1 of ~~these regulations~~ this rule. Only the discharge volume of the activity affected by the modification ~~shall be~~ is used in determining the appropriate volume fee.

6.5.2. The appropriate treatment factor ~~shall be~~ is determined through the use of Table B of Attachment 1 of ~~these regulations~~ this rule.

6.5.3. The appropriate well type factor ~~shall be~~ is determined through the use of Table C of Attachment 1 of ~~these regulations~~ this rule. Refer to The Interpretive rule, Class 5 Injection Well Type Descriptions, 47 C.S.R. 9A for contains descriptions of well type codes.

6.6. Non-volume related Major Modifications -- For an application seeking a major modification of a Class 5 UIC Permit where no discharge volume is involved, the permit modification application fee ~~shall be~~ is twenty five percent (25%) of the initial permit application fee or a minimum of twenty five dollars (\$25).

6.7. Non-volume related Minor Modifications -- For an application seeking a minor modification of a Class 5 UIC Permit where no discharge volume is involved, the permit modification application fee ~~shall be~~ is twenty five dollars (\$25).

§47-9-7. Annual Permit Fees.

7.1. The annual permit fee for a Class 1 injection well ~~shall be~~ is seven hundred and fifty dollars (\$750).

7.2. The annual permit fee for a Class 2 disposal well ~~shall be~~ is twenty five dollars (\$25) per well and ten dollars (\$10) per well for enhanced recovery injection wells.

7.3. The annual permit fee for a Class 3 injection well ~~shall be~~ is twenty five dollars (\$25) per well.

7.4. Class 4 wells are prohibited.

7.5. The annual permit fee for a Class 5 injection well ~~shall be~~ is calculated through the use of the following formula: annual permit fee shall equal the volume fee multiplied by the treatment factor multiplied by well type factor multiplied by 0.333 (i.e., Annual Permit Fee = Volume Fee X Treatment Factor X Well Type Factor X 0.333). The total amount of the annual permit fee ~~shall be~~ is no less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500). An applicant shall use the following paragraphs to calculate the fees and factors.

7.5.1. The appropriate volume fee ~~shall be~~ is determined from Table A of Attachment 1 of ~~these regulations~~ this rule.

7.5.2. The appropriate treatment factor ~~shall be~~ is determined from Table B of Attachment 1 of this rule.

7.5.3. The appropriate well type factor ~~shall be~~ is determined from Table C of Attachment 1 of ~~these regulations~~ this rule. Refer to The interpretive rule, Class 5 Injection Well Type Descriptions, 47 C.S.R. 9A for contains descriptions of well type codes.

§47-9-8. Area Permit Fees.

8.1. Class 1 UIC area permit.

8.1.1. The initial application fee ~~shall be~~ is one thousand dollars (\$1,000).

8.1.2. The permit renewal application fee ~~shall be~~ is one thousand dollars (\$1,000).

8.1.3. The application fee for a major permit modification ~~shall be~~ is five hundred dollars (\$500).

8.1.4. The application fee for a minor permit modification ~~shall be~~ is one hundred dollars (\$100).

8.1.5. The annual permit fee ~~shall be~~ is two hundred fifty dollars (\$250).

8.2. Class 2 UIC area permit.

8.2.1. The initial permit application fee ~~shall be~~ is five hundred dollars (\$500).

8.2.2. The renewal permit application fee ~~shall be~~ is five hundred dollars (\$500).

8.2.3. The application fee for a major permit modification ~~shall be~~ is two hundred and fifty dollars (\$250).

8.2.4. ~~The application fee for a minor permit modification—reserved.~~

8.3. Class 3 UIC area permit.

8.3.1. The initial permit application fee ~~shall be~~ is five hundred dollars (\$500).

8.3.2. The renewal permit application fee ~~shall be~~ is five hundred dollars (\$500).

8.3.3. The application fee for a major permit modification ~~shall be~~ is two hundred and fifty dollars (\$250).

~~8.3.4. The application fee for a minor permit modification reserved.~~

8.4. Class 4 wells are prohibited.

8.5. Class 5 UIC area permit.

8.5.1. The initial permit application fee shall be determined by the applicant by the following procedure: (1) Total the volumes for each well to be covered by the permit, and (2) Follow the procedures outlined in section 4.5 through 4.5.3 of ~~these regulations~~ this rule.

8.5.1.a. The appropriate treatment factor ~~shall be~~ is determined from Table B of Attachment 1 of ~~these regulations~~ this rule.

8.5.1.b. The total amount of the initial permit application fee ~~shall be~~ is no less than twenty five dollars (\$25) nor more than one thousand five hundred dollars (\$1,500).

8.5.2. The permit renewal application fee ~~shall be~~ is calculated using the formula listed under in Subsections 8.5.1 through 8.5.1.b of this rule.

8.5.3. The application fee for a major permit modification ~~shall be~~ is calculated using the formula listed under in Subsections 8.5.1 through 8.5.1.b of this rule.

8.5.4. The application fee for a minor permit modification ~~shall be~~ is fifty dollars (\$50).

8.5.5. The annual permit fee ~~shall be~~ is determined by the following procedure: (1) Total the volumes for each well to be covered by the permit, and (2) Follow the procedures outlined in section 7.5 through 7.5.3 of ~~these regulations~~ this rule.

8.5.5.a. The appropriate treatment factor ~~shall be~~ is determined using Table B of Attachment 1 of ~~these regulations~~ this rule.

8.5.5.b. The appropriate well type factor ~~shall be~~ is determined using Table C of Attachment 1 of ~~these regulations~~ this rule. Refer to The Interpretive rule, Class 5 Injection Well Type Descriptions, 47 C.S.R. 9A ~~for~~ contains descriptions of well type codes.

8.5.5.c. The total amount of the annual permit fee ~~shall be~~ is no less than twenty five dollars (\$25) no more than five hundred dollars (\$500).

ATTACHMENT 1

**TABLE A
VOLUME FEES**

<u>If the daily discharge (in gallons) is:</u>	<u>The Volume Fee is:</u>
<250	\$ 50.00
250 - 500	75.00
501 - 1000	150.00
1001 - 5000	200.00
5001 - 50,000	400.00
50,001 - 100,000	600.00
>100,000	850.00

**TABLE B
TREATMENT FACTORS**

<u>LEVEL OF TREATMENT</u>	<u>TREATMENT FACTOR</u>
NO TREATMENT	3
PRIMARY TREATMENT	2.5
SECONDARY TREATMENT	2
TERTIARY TREATMENT	1.5
>TERTIARY TREATMENT	1

ATTACHMENT 1
TABLE C -- WELL TYPE FACTORS

<u>WELL TYPE *</u>	<u>FACTOR</u>
<u>DRAINAGE WELLS</u>	
5F1	1
5D2	1
5D3	2
5D4	3
5G30	1
<u>GEO THERMAL REINJECTION WELLS</u>	
5A5	3
5A6	3
5A7	1
5A8	3
<u>DOMESTIC WASTEWATER DISPOSAL WELLS</u>	
5W9	3
5W10	1
5W11	2
5W31	2
5W32	1
5W12	1
<u>MINERAL AND FOSSIL FUEL RECOVERY RELATED WELLS</u>	
5X13	3
5X14	2
5X15	2
5X16	2
<u>OIL FIELD PRODUCTION WASTE DISPOSAL WELLS</u>	
5X17	3
5X18	2
<u>INDUSTRIAL/COMMERCIAL/UTILITY DISPOSAL WELLS</u>	
5A19	2
5W20	3
<u>RECHARGE WELLS</u>	
5R21	1
5B22	1
5S23	1
<u>MISCELLANEOUS WELLS</u>	
5N24	4
5X25	3
5X26	1
5X29	3
5X27	3

* Note: See 47 C.S.R. 9A for a description of Well Type codes.



West Virginia Legislature
Legislative Rule-Making Review Committee

Room M-152, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

FILED
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Senator Joe Manchin, III, Co-Chair
Delegate Brian A. Gallagher, Co-Chair

January 9, 1994

Debra A. Graham, Counsel
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: David C. Callaghan, Director
Division of Environmental Protection
10 McJunkin Road
Nitro, WV 25143-2506

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Underground Injection Control Fee Schedule

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

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) 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. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. 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: Eli McCoy
Dave Watkins