

*Superseded*  
*5/1/94*

**TITLE 110**  
**LEGISLATIVE RULES**  
**TAX DEPARTMENT**

**SERIES 6**  
**POLLUTION CONTROL FACILITIES**

**§110-6-1. General.**

1.1. Scope. -- These regulations established general operating procedures for the tax treatment of pollution control facilities.

1.2. Authority. -- W. Va. Code §11-6A-4

1.3. Filing Date. -- November 1, 1981

1.4. Effective Date. -- November 1, 1981

**§110-6-2. Definitions**

2.1. "Commissioner" means the State Tax Commissioner.

2.2. "Facility" or "Pollution Control Facility" means any personal property designed, constructed, or installed primarily for the purpose of abating or reducing water or air pollution or contamination by removing, altering, disposing, treating, storing, or dispersing the concentration of pollutants, contaminants, wastes or heat in compliance with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, the design, construction, and installation of which personal property was approved as a pollution control facility by the Water Resources Division of the Department of Natural Resources or the Air Pollution Control Commission, as the case may be. The definition of facilities eligible for salvage tax treatment shall be strictly construed so as to include only such equipment and devices as are installed primarily and immediately to abate air or water pollution. Those items of personal property which may coincidentally comply with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, but which are primarily

installed for plant operations or are productive, or add to the economic value of a business enterprise or have a market value after installation in excess of salvage value, will not be deemed eligible for salvage tax treatment.

2.3. "Personal Property" means things of value, moveable and tangible, which are the subjects of ownership. This definition is found as a part of West Virginia Code § 11-5-3 and applied to all of Chapter 1

2.4. "Moveable", as used in section 2.3, relates to a device or piece of equipment capable of being moved from one location to another.

2.5. "Salvage Value" means the price for which such facility would sell in place if voluntarily offered for sale by the owner thereof, that is to say, the scrap value of the material of an eligible facility less the cost of removal of said facility. Administratively, salvage value will be five percent of original cost.

**§110-6-3. Recommendation of Values to County Assessor**

3.1. Each county assessor will be notified before August first of any eligible facility in his county on the preceding July first assessment day together with the salvage value of each such facility. Said notice will recommend that the assessor use the salvage value provided as the appraised value of such facility.

**§110-6-4. Annual List of Eligible Facility Items**

4.1. The tax commissioner, annually before July tenth, will prepare a list of apparatus, equipment and components which are eligible for salvage treatment under provisions of Article 6A, Chapter 11 of the Code and these regulations. Such list shall be revised annu-

ally to include items made eligible by administrative or judicial decision.

**110-6-5. Administrative Remedy**

5.1. Any taxpayer or government official claiming

to be aggrieved or damaged by the tax commissioner by the inclusion or exclusion of a facility or any component thereof, may appeal such action to the commissioner. The commissioner or his representative shall issue a written opinion stating the reason thereof.



**State Tax Department  
of West Virginia**

Charleston 25305

JOHN D. ROCKEFELLER IV  
GOVERNOR


HERSCHEL H. ROSE III  
TAX COMMISSIONER

JOHN M. FARMER  
ASSISTANT COMMISSIONER

GARY A. GORRELL  
DEPUTY COMMISSIONER

Telephone  
(304)348-2501

I, Herschel H. Rose III, Commissioner of the West Virginia State Tax Department do hereby resubmit to the Office of the Secretary of State two copies of existing rules and regulations to be refiled pursuant to W. Va. Code § 29A-2-5. This refiling pertains to Pollution Control Facilities, Chapter 11, Article 1, Series VI-A.

  
Herschel H. Rose III  
State Tax Commissioner

Date Submitted: December 29, 1982

WEST VIRGINIA AMINISTRATIVE REGULATIONS

STATE TAX DEPARTMENT

LEGISLATIVE

Chapter 11-1  
Series VI-A  
(1974, Amended 1981)

Subject: Pollution Control Facilities

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Refiled: December 29, 1982

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State Tax Department  
Leg. Reg. 11-1  
Series VI-A

TABLE OF PARALLEL REFERENCES

This table shows where the subject matter of various sections in these regulations is treated in the West Virginia Code of 1931, as amended.

<u>Regulations</u>	<u>Code §§</u>
Section 1 . . . . .	29A-2-6
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WEST VIRGINIA ADMINISTRATIVE REGULATIONS

STATE TAX DEPARTMENT

LEGISLATIVE

Chapter 11-1  
Series VI-A  
(1974, Amended 1981)

Subject: Pollution Control Facilities

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Section 1. General.

1.01. Type of Regulations. -- These regulations are "legislative rules" as defined in W. Va. Code § 29A-1-2(d) (1982).

1.02. Scope. -- These regulations establish general operating procedures for the tax treatment of pollution control facilities.

1.03. Authority. -- These regulations are issued under authority of West Virginia Code, Chapter 11, Article 6A, Section 4.

1.04. Effective Date. -- These regulations were promulgated on July 28, 1974, and became effective 30 days thereafter and were amended November 1, 1981.

1.05. Filing Date. -- These regulations were filed in the Office of the Secretary of State on June 28, 1974. In compliance with W. Va. Code § 29A-2-5 (1982), these regulations were refiled with the Secretary of State on December 29, 1982.

1.06. Citation. -- These regulations may be cited as W. Va. Leg. Reg. (Pollution Control Facilities) 11-1, Series VI-A, § \_\_\_\_\_, page \_\_\_\_\_ (1974).





Section 2. Definitions

2.01. "Commissioner" means the State Tax Commissioner.

2.02. "Facility" or "Pollution Control Facility" means any personal property designed, constructed, or installed primarily for the purpose of abating or reducing water or air pollution or contamination by removing, altering, disposing, treating, storing, or dispersing the concentration of pollutants, contaminants, wastes or heat in compliance with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, the design, construction, and installation of which personal property was approved as a pollution control facility by the Water Resources Division of the Department of Natural Resources or the Air Pollution Control Commission, as the case may be. The definition of facilities eligible for salvage tax treatment shall be strictly construed so as to include only such equipment and devices as are installed primarily and immediately to abate air or water pollution. Those items of personal property which may coincidentally comply with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, but which are primarily installed for plant operations or are productive, or add to the economic value of a business enterprise or have a market value after installation in excess of salvage value, will not be deemed eligible for salvage tax treatment.

Section 2.03

2.03. "Personal Property" means things of value, moveable and tangible, which are the subjects of ownership. This definition is found as a part of West Virginia Code § 11-5-3 and applied to all of Chapter 11.

2.04. "Moveable", as used in section 203, relates to a device or piece of equipment capable of being moved from one location to another.

2.05. "Salvage Value" means the price for which such facility would sell in place if voluntarily offered for sale by the owner thereof; that is to say, the scrap value of the material of an eligible facility less the cost of removal of said facility. Administratively, salvage value will be five percent of original cost. (Amended November 1, 1981.)

Section 3. Recommendation of Values to County Assessor

3.01. Each county assessor will be notified before August first of any eligible facility operating in his county on the preceding July first assessment day together with the salvage value of each such facility. Said notice will recommend that the assessor use the salvage value provided as the appraised value of such facility.



Section 4. Annual List of Eligible Facility Items

4.01. The tax commissioner, annually before July tenth, will prepare a list of apparatus, equipment and components which are eligible for salvage treatment under provisions of Article 6A, Chapter 11 of the Code and these regulations. Such list shall be revised annually to include items made eligible by administrative or judicial decision.

State Tax Department  
Leg. Reg. 11-1  
Series VI-A

Section 5. Administrative Remedy

5.01. Any taxpayer or government official claiming to be aggrieved or damaged by the tax commissioner by the inclusion or exclusion of a facility or any component thereof, may appeal such action to the commissioner. The commissioner or his representative shall issue a written opinion stating the reasons therefor.



State Tax Department  
Leg. Reg. 11-1  
Series VI-A

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

STATE TAX DEPARTMENT

LEGISLATIVE

Chapter 11-1  
Series VI-A  
(1974, Amended 1981)

Subject: Pollution Control Facilities

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State Tax Department  
Leg. Reg. 11-1  
Series VI-A

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**State Tax Department  
of West Virginia**

Charleston 25305

HERSCHEL H. ROSE III  
COMMISSIONER

August 10, 1981

Honorable A. James Manchin  
Secretary of State  
State Capitol Building  
Charleston, West Virginia 25305

Dear Mr. Manchin:

Pursuant to the provisions of Chapter 29A, Article 3 of the West Virginia Code of 1931, as amended, I hereby submit three (3) copies of a proposed change in Section 2.05 of the Pollution Control Facilities Tax Treatment Rules and Regulations promulgated by this Department. This proposed change would decrease from fifteen percent (15%) to five percent (5%), of original cost, the administrative definition of "salvage value."

This proposed regulatory change was originally filed in your office on May 1, 1981. A public hearing was held, as required by W. Va. Code § 29A-3-8, on June 4, 1981 in Charleston, West Virginia. Public comments were received by this Department.

Copies of this adopted regulatory change are also being filed with the Legislative Rulemaking Review Committee, a subcommittee of the Joint Committee on Government and Finance.

This adopted regulatory change will take effect September 25, 1981.

Very truly yours,

Herschel H. Rose III  
State Tax Commissioner

HHRIII/dwp

Enclosure

REC'D  
OFFICE  
SECY. OF STATE

81 AUG 10 AM 10:21

RECEIVED



**State Tax Department  
of West Virginia**

Charleston 25305

HERSCHEL H. ROSE III  
COMMISSIONER

August 10, 1981

Honorable A. James Manchin  
Secretary of State  
State Capitol Building  
Charleston, West Virginia 25305

Dear Mr. Manchin:

I, Herschel H. Rose III, State Tax Commissioner, hereby submit three (3) copies of Rule 2.05 of the Pollution Control Facilities Tax Treatment Rules and Regulations. These regulations are promulgated under the authority of Chapter 29A, Article 3 of the West Virginia Code of 1931, as amended.

I hereby certify that the enclosed regulations are true and accurate copies of the official regulations filed in the Office of the Secretary of State on May 1, 1981.

A handwritten signature in cursive script, reading "Herschel H. Rose III".

HERSCHEL H. ROSE III  
STATE TAX COMMISSIONER

OFFICE  
SECY. OF STATE

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RECEIVED

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
STATE TAX COMMISSIONER  
CHAPTER 11-6A  
SERIES I

Section 2. Definitions.

2.05. "Salvage Value" means the price for which such facility would sell in place if voluntarily offered for sale by the owner thereof; that is to say, the scrap value of the material of an eligible facility less the cost of removal of said facility. Administratively, salvage value will be ~~fifteen~~ five percent of original cost.

REC'D  
OFFICE  
SECY. OF STATE

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RECEIVED



State Tax Department  
of West Virginia

Charleston 25305

HERSCHEL H. ROSE III  
COMMISSIONER

October 15, 1981

FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE  
THIS DATE 10-15-81

Honorable A. James Manchin  
Secretary of State  
State Capitol Building  
Charleston, West Virginia 25305

Dear Mr. Manchin:

Pursuant to the provisions of Chapter 29A, Article 3 of the West Virginia Code of 1931, as amended, I hereby submit three (3) copies of a change in Section 2.05 of the Pollution Control Facilities Tax Treatment Rules and Regulations promulgated by this Department. This proposed change will decrease from fifteen percent (15%) to five percent (5%), of original cost, the administrative definition of "salvage value."

This final regulatory change was originally filed in your office on May 1, 1981 as a proposed regulatory change. A public hearing was held, as required by W. Va. Code § 29A-3-8, on June 4, 1981 in Charleston, West Virginia. Public comments were received by this Department.

This adopted regulatory change will take effect November 16, 1981.

Very truly yours,

Herschel H. Rose III  
State Tax Commissioner

HERIII/dwp

Enclosure

THIS DATE 10-15-81  
Administrative Law Division

contamination by removing, altering, disposing, creating, storing, or dispersing the concentration of pollutants, contaminants, wastes or heat in compliance with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, the design, construction, and installation of which personal property was approved as a pollution control facility by the Water Resources Division of the Department of Natural Resources or the Air Pollution Control Commission, as the case may be. The definition of facilities eligible for salvage tax treatment shall be strictly construed so as to include only such equipment and devices as are installed primarily and immediately to abate air or water pollution. Those items of personal property which may coincidentally comply with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, but which are primarily installed for plant operations or are productive, or add to the economic value of a business enterprise or have a market value after installation in excess of salvage value, will not be deemed eligible for salvage tax treatment.

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