



**WEST VIRGINIA  
SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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**6/23/2017 8:43:36 AM**

OFFICE OF  
WEST VIRGINIA SECRETARY OF STATE

**FORM 5 -- NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR  
A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

**AGENCY** Waste Management Division Of Water And Waste Management

**RULE TYPE** Interpretive **AMENDMENT TO EXISTING RULE** No **TITLE-SERIES** 33-

**RULE NAME** Disposal of Completion Waste **01A**

**CITE AUTHORITY** W. Va. Code § 22-15-5(a) and § 22-15-8(h)

**RULE IS LEGISLATIVE EXEMPT**

**Yes**

**CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW**

**W.Va. Code §29A-3-8 and W.Va. Code §22-1-3**

**THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE, THE  
EFFECTIVE DATE OF THIS RULE IS**

**Tuesday, August 01, 2017**

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.**

**Yes**

**Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in  
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 33-01A



Rule Id: 16406



Document: 49487

## **33CSR1A**

### **INTERPRETIVE RULE DEPARTMENT OF ENVIRONMENTAL PROTECTION WASTE MANAGEMENT**

#### **SERIES 1A DISPOSAL OF COMPLETION OR PRODUCTION WASTE**

##### **§33-1A-1. General.**

1.1. Scope. -- This rule provides guidance and direction to commercial solid waste facilities for the proper disposal of completion or production waste as a special solid waste generated from horizontal well sites, pursuant to the provisions of the Solid Waste Management Rule, 33 C. S. R. 1.

1.2. Authority. -- W. Va. Code §§ 22-15-5(a) and 22-15-8(h)

1.3. Filing. -- June 22, 2017.

1.4. Effective Date. -- August 1, 2017.

1.5. Applicability. – This rule is applicable to the commercial solid waste facilities that are permitted to take drill cuttings and drilling waste generated from horizontal oil and natural gas well sites pursuant to the West Virginia Solid Waste Management Act, W. Va. Code § 22-15-8(g).

##### **§33-1A-2. Definitions.**

Unless the context in which used clearly requires a different meaning, the definitions contained in W. Va. Code § 22-15-2 and 33 C.S.R. 1 § 2 apply to this rule, in addition to the definition set forth below.

2.1. “Completion or production waste” means wastes generated during the completion or production processes or derived from the hydraulic fracturing process associated with horizontal natural gas well development, including without limitation, flowback solids, brine, tank bottoms, pit cleanout material and sludges, filters and filter media, pipe scale and used fracturing sand and proppants. Completion or production waste does not include any waste containing radioactive tracers regulated by the Nuclear Regulatory Commission (NRC), unless the generator of the waste has obtained permission from the NRC to dispose of this waste in a West Virginia landfill.

##### **§33-1A-3. Acceptance and Handling of Completion or Production Waste as a Special Solid Waste.**

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3.1. Prior to the acceptance and disposal of completion or production waste, a permittee shall apply for and obtain a special waste minor permit modification in accordance with subsection 4.13 of the Solid Waste Management Rule.

3.2. The permittee shall dispose of all completion or production waste in a cell(s) dedicated solely to the disposal of drill cuttings and associated drilling waste, as established in the West Virginia Solid Waste Management Act and the Solid Waste Management Rule.

3.3. The permittee shall comply with all liner system requirements set forth in the Solid Waste Management Rule related to the construction of separate cells for the disposal of drill cuttings and associated drilling waste and all radiation monitoring requirements set forth in Section 3.5 below.

### 3.4. Waste Profiling Requirements.

3.4.a. The facility must obtain from the generator results from at least one representative composite sample of the waste, unless otherwise approved by the Secretary. At a minimum, the facility must submit the following analyses with each application for a special waste minor permit modification: Toxicity Characterization Leaching Procedure (TCLP) Metals, EPA Method 1311; TCLP Volatile Organic Compounds, EPA Method 8260B; and TCLP Semivolatile Organic Compounds, EPA Method 8270C. Sampling results for these parameters must not exceed the limits of 40 C.F.R. § 261.24. The facility must also submit analyses for Total Petroleum Hydrocarbons (TPH), EPA Method 8015C, and Percent Solids, EPA Method Number 160.3 or 2540.

3.4.b. In addition to analyses set forth in subdivision 3.4.a above, the permittee must analyze each load of completion or production waste entering the facility for the combined concentration of Radium 226 and Radium 228, and each load shall be accompanied by the test results for that load. The analysis must be done by a laboratory certified by the Department's Environmental Laboratories Certification program. If the combined concentration in the waste is less than or equal to fifty picocuries per gram (50pCi/gr.), the facility may accept the waste for disposal. If the values are greater than 50pCi/gr, the facility shall reject the load.

### 3.5. Radiation Monitoring

3.5.a. The facility must also have a portable radiation monitor capable of determining dose rate and the presence of contamination on a vehicle. The facility shall provide staff with documented training in the operation of all onsite radiation monitors.

3.5.b. The radiation monitor installed at the facility pursuant to the Solid Waste Management Rule must be capable of measuring exposure rates from ten microroentgens per hour (10  $\mu$ R/hr) to greater than fifty milliroentgens per hour (>50 mR/hr) (or equivalent units). The instrument must be maintained and calibrated according to manufacturer specifications.

3.5.c. The detector elements must be configured to be as close as practical to the waste load and in an appropriate geometry to monitor the waste.

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3.5.d. The facility shall set the detector to sound an alarm if the reading on the detector exceeds 10 $\mu$ R/hr (or equivalent units) above local background.

3.5.e. For each radiation alarm generated for completion or production waste the facility shall document the fixed detector reading and the associated combined concentration of Radium-226 and Radium-228 provided with the load. This information shall be supplied both to the Department and to the West Virginia Department of Health and Human Resources' (DHHR) Radiological Health Program on a monthly basis.

3.5.f. Facilities accepting completion or production waste must submit to the DEP a Radiation Monitoring Plan that outlines the facility's procedures for managing the waste.

### **§33-1A-4. Daily Cover**

4.1. The Secretary may require daily cover in excess of that required in the Solid Waste Management Rule on these drilling waste cells that receive completion or production waste if, in the Secretary's discretion, extra cover is needed to protect the environment or the health, safety, and welfare of the public.