

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Department of Energy, Oil and Gas Div TITLE NUMBER: 38

AMENDMENT TO AN EXISTING RULE: YES___, NO XX

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 11

TITLE OF RULE BEING PROPOSED: Miscellaneous Water Pollution Control

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 748

SECTION 64-2-22(1)(16)(a), PASSED ON March 14, 1987

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: June 12, 1987

WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF ENERGY
DIVISION OF OIL AND GAS
CHAPTER 22-1, 22B-1 and 20-5A
SERIES 5

Title: Miscellaneous Water Pollution Control

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~~WEST VIRGINIA LEGISLATIVE RULE~~
~~DEPARTMENT OF ENERGY~~
~~DIVISION OF OIL AND GAS~~
~~CHAPTER 22-1, 22B-1 and 20-5A~~
SERIES 5-11

Title: Miscellaneous Water Pollution Control

Section 1. General

1.1 Scope - This legislative rule establishes requirements relating to discharge notification and response, waste load allocations, small wastewater treatment plants, permit application filing fee, and outlet markers, for facilities operated in connection with the exploration, development, production, storage and recovery of oil and gas, and related mineral resources in this state.

1.2 Authority and Related Code Citation(s) - W.Va. Code §§22-1-13, 22-1-15, 22-1-16, 22B-1-2, 22B-1-7 and 20-5A-1 through 24.

1.3. Filing Date - June 12, 1987

1.4 Effective Date - June 12, 1987

1.5 Former Rule Superseded - This legislative rule supersedes West Virginia Legislative Rule, Water Resources Board, Chapter 20-5 and 20-5A, Series 3, "Special Regulations" in effect on July 11, 1985, to the extent that any provision of said Series 3 pertains to the exploration, development, production, storage and recovery of oil and gas, and related mineral resources in this state. The provisions of said Series 3 had continued in effect pursuant to W.Va. Code §22-1-15 for the benefit of the Department of Energy to the extent that they pertained to the provisions of The West Virginia Energy Act.

Section 2. Definitions

Unless the context in which used clearly requires a different meaning, the definitions set forth in W.Va. Code §§20-5A-2, 22B-1-1 and 22-1-3 shall apply to this rule in addition to the definitions set forth in Series 4 of the Division's rules.

Section 3. Discharge Notification and Response

3.1 The owner or operator or person in charge of a facility subject to these regulations from which a reportable discharge as described in Section 3.3 occurs shall notify the Division of Oil and Gas by calling 1-800-642-3074 immediately, but in no case later than 24 hours after becoming aware of the discharge.

3.2 The person who notifies the Division pursuant to 3.1 shall report the type of substance and the estimated quantity discharged, if known; the location of the discharge; actions the person reporting the discharge proposes to take to contain, clean-up and remove the substance, if any, and any other information concerning the discharge which the Division may request at the time of notification. A written verification of such notification shall be submitted upon request of the Division.

3.3 The following discharges from a facility subject to these regulations are "reportable discharges" within the meaning of this section:

3.3.1 Any discharge which would be reportable pursuant to Section 311(b) of the Federal Water Pollution Control Act Amendment of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. 1321, and the regulations promulgated thereunder;

3.3.2 Any upset or bypass causing effluent limitations established under the general permit to be exceeded; or

3.3.3 Any pit failure which results in a discharge to any surface water of the State.

3.4 The owner or operator of a facility from which a reportable discharge has occurred, or any person responsible for causing such discharge, shall attempt to stop the discharge and shall take reasonable measures to contain, clean-up and remove the discharge, to the extent he is capable of doing so.

Section 4. Waste Load Allocations

4.1 Sewage Discharges - Waste load allocations for sewage dischargers are to be issued by the Director to potential applicants for a Water Pollution Control Permit [W.Va. Code §22B-1-7] to assist with planning of wastewater treatment works which will meet effluent limitations guidelines and not violate State Water Quality Standards for the receiving waters. Applica-

tions for the waste load allocation shall be made for any facilities which will produce or result in a discharge of sewage to the State's surface waters. Waste load allocations are not intended to be, and shall not be interpreted to be, an advance approval of wastewater treatment facilities which may be proposed nor is it an assurance that a Water Pollution Control Permit will be issued. It is emphasized that waste load allocations are issued on major effluent criteria only for planning purposes.

4.1.1 Application forms may be prescribed by the Director requiring submission of necessary information and data by the applicant to enable the Division of Oil and Gas to make a waste load allocation determination. Such determination shall be valid for a period of time specified by the Director. Reapplication for a new waste load allocation will be required upon expiration of the preceding waste load allocation unless application for a Water Pollution Control Permit has been filed.

4.1.2 Waste load allocations shall prescribe the concentration and quality of significant wastewater substances and physical, chemical, or biological conditions for the proposed discharge. The waste load limitations shall represent 30-day and 7-day average values for biochemical oxygen demand, solids, nitrogen, and other criteria defining the load, except for pH and dissolved oxygen which are instantaneous limits, if it is deemed necessary to assure protection of water uses immediately downstream from the point of discharge to the receiving waters.

4.1.3 Waste load allocations are not required prior to an application to dispose of treated domestic sewage effluents by land treatment and disposal methods. Applications for a Water Pollution Control Permit for such purpose will be reviewed on a case-by-case basis. Such systems may require a Water Pollution Control Permit from the Director, Division of Oil and Gas, Department of Energy.

4.2 Other discharges - [Reserved]

4.3 Waste load allocations for the achievement of water quality standards shall normally be based on a specified low flow. The design flow for this purpose shall be the minimum, mean 7-consecutive day flow with a 10-year return frequency.

4.3.1 United States Geological Survey data may be used in determining the mean 7-consecutive day drought flows with a 10-year recurrence interval but this does not preclude the use of other reliable data systems as they become available.

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Division of Oil and Gas
Leg. Rule, 22-1, 22B-1 and 20-5A
Series 5, Sec. 4

4.4 In cases where a waste discharge is proposed to a wet weather stream, the allocation shall define the treatment plant effluent quality which will not affect designated uses of downstream waters in the nearest downstream segment of the stream but in no case less than the established water quality standard for that segment.

4.5 More stringent requirements may be specified by the Director where necessary to protect downstream uses or where special conditions such as recreation or water supply impoundments or danger to aquatic or animal life exists.

4.6 A waste load allocation may be denied when the assimilative capacity of the receiving waters is being fully utilized or if the additional waste load would result in a violation of water quality standards.

Section 5. Small Wastewater Treatment Plants

5.1 The requirements of this section apply to sewage treatment plants of 40,000 gallons per day capacity or less at facilities subject to these regulations.

5.2 Operational reliability for such plants shall be provided in order that pollutants are not discharged during periods of power failure.

5.3 The wastewater treatment structure shall be protected against physical damage for the 25-year flood level and operability be maintained during the 10-year flood level.

5.4 No construction, installation, modification or operation of a wastewater disposal system (treatment plant, sewers, lift stations and appurtenances) shall be performed until a Water Pollution Control Permit has been issued for such facilities.

Section 6. Outlet Markers.

6.1 In accordance with W.Va. Code §§22B-1-7 and 20-5A-5 each holder of a Water Pollution Control Permit for a facility subject to these regulations shall post a permanent marker at the establishment under permit in accordance with the following unless an alternative marker requirement is established by permit:

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Series 5, Sec. 6

6.1.1 A marker shall be posted on the stream bank at each surface water outlet covered by the permit.

6.1.2 The marker shall consist of the name of the establishment to which the permit was issued, the permit number, and the outlet number.

6.1.3 The marker shall be a minimum of two feet by two feet and shall be a minimum of three (3) feet above ground level.



STATE OF WEST VIRGINIA
DEPARTMENT OF ENERGY
322 70th STREET, SOUTHEAST
CHARLESTON, WEST VIRGINIA 25304
TELEPHONE 348-3741

ARCHA MOORE, JR.
GOVERNOR

KENNETH R. FAERBER
COMMISSIONER

December 15, 1986

DOE/DO&G-0264

The Honorable Ken Hechler
Secretary of State
State of West Virginia
Building 1, Suite 157-K
Charleston, West Virginia 25305

Dear Secretary Hechler:

Per Mr. Michael Mowery's instruction please find attached a revised copy of the Rules and Regulations for the Oil and Gas Division of the Department of Energy.

Also attached is a copy of the December 11, 1986, "NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE" which authorizes the agency to promulgate the Legislative Rule as originally filed or as modified by the agency.

Yours truly,

John H. Johnston
Director
Division of Oil and Gas

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Attachments (as stated)

H. B. 2600

(By Delegate Knight)

(Introduced February 4, 1987; referred to the

Committee on the Judiciary)

A BILL to amend article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section twenty-two (one) (sixteen), relating to authorizing the director of the division of oil and gas of the department of energy to promulgate legislative rules governing miscellaneous water pollution control.

Be it enacted by the Legislature of West Virginia:

That article two, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-two (one) (sixteen), to read as follows:

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-22(1)(16). Department of energy; director of the division of oil and gas.

1 The legislative rules filed in the state register on the
2 eleventh day of August, one thousand nine hundred eighty-six,
3 and refiled in the state register on the fifteenth day of
4 December, one thousand nine hundred eighty-six, relating to the
5 director of the division of oil and gas of the department of
6 energy (miscellaneous water pollution control) are authorized.

7

8 NOTE: The purpose of this bill is to authorize the Director
9 of the Division of Oil and Gas of the Department of Energy to
10 promulgate legislative rules governing miscellaneous water
11 pollution control.

12

13 This section is new; therefore, strike-throughs and
14 underscoring have been omitted.

15

Senate Bill No. 368

(By Senator Tucker)

[Introduced February 5, 1987; referred to the Committee
on EIM; then to
the Committee on the Judiciary.]

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