



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25305

FILED
1985 DEC -9 AM 11:14

SECRETARY OF STATE



ARCH A. MOORE, JR.
Governor

December 9, 1985

RONALD R. POTESTA
Director

MICHAEL A. FOTOS
Deputy Director

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

Re: Approved Rules: Chapter 20,
Article 6, Series VII; WW/NPDES

Dear Mr. Hechler:

Enclosed please find two copies of amendments to legislative rules which were approved by the Director on December 6, 1985.

We are filing the same with the Legislative Rulemaking Review Committee. If you have any questions, please contact Mr. Ron Shipley at 348-2761.

Sincerely,

Ronald R. Potesta
Director

RRP/rsb

Enclosure

cc: Legislative Rulemaking Review Committee

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

C. Economic Impact on Citizens/Public at Large.

Date: 12/6/85

Signature of Agency Head of Authorized Representative



APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

FILED

1985 DEC -9 AM 11:14

Rule Title: WV/NPDES Regulations for the Coal Mining Point Source
 Category and Related Sewage Facilities

Type of Rule: XX Legislative Interpretive Procedural

Agency WV Dept. of Nat. Resources Address: 1800 Washington Street,
East, Charleston, West Virginia 25305

1. Effect of Proposed Rule	Increase	ANNUAL		FISCAL YEAR	
		Decrease	Current	Next	Thereafter
Estimated Total Cost \$	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations			N O N E		
Equipment					
Other					

2. Explanation of above estimates:

3. Objectives of these rules: Minor procedural changes
 necessary to conform with EPA requirements

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

DATE: December 6, 1985

TO: LEGISLATIVE RULEMAKING REVIEW COMMITTEE

FROM: Ron Shipley, Special Assistant to the Director
Director's Office of Regulatory Affairs
WV Department of Natural Resources

FILED

1985 DEC -9 AM 11:14

STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES

LEGISLATIVE RULE TITLE: WV/NPDES Regulations for the Coal Mining
Point Source Category and Related Sewage
Facilities

1. Authorizing statute(s) citation W.Va. Code Section 20-1-7(30)

2. a. Date filed in State Register with Notice of Hearing:

August 2, 1985

b. What other notice, including advertising, did you give of the hearing?

None

c. Date of hearing(s): September 6, 1985

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received XX

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

December 9, 1985

f. Name and phone number of agency person to contact for additional information:

Ron Shipley, 348-2761

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation: "NA"

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

EMERGENCY REGULATORY AMENDMENTS:

FILED

Chapter 20, Article 6, Series VII, Section 10 (1985)

(May 31, 1985)

1985 JUN -3 PM 3:55
OFFICE OF THE SECRETARY OF STATE



The following sections of Legislative Rules, Chapter 20, Article 6, Series VII (1985) (NPDES) are hereby amended as follows:

- 10D.05(a) 6 - Insert after "structures:" "each of its hazardous waste treatment, storage or disposal facilities"
- 10H.02(c)1.H. - Insert after "receiving stream" "and would not require new or different permit conditions."
- 10H.02(c)1.K. - Delete item K entirely.
- 10J.02(d)1.D. - New item D.
- 10J.02(d)1.E. - Renumber former item D as new item E.

FILED
1985 AUG -2 AM 11:17
OFFICE OF THE SECRETARY OF STATE

FILED

FILED

1985 AUG -2 AM 11: 075 JUN -3 PM 3: 55

SECRETARY OF STATE

SECRETARY OF STATE

an abandonment permit at least 180 days prior to sealing of the deep mine. Any person proposing to abandon a surface mine facility under W.Va. Code §20-5A-5(b)(6) and 10C.01(a)5 shall apply for an abandonment permit with a request for Phase II bond release under 4I.

10D.05 Information Required from Applicants

(a) Information required from all applicants - All applicants for WV/NPDES permits shall provide the Director with a complete application in the manner and on a form prescribed by the Director. The form may require information in addition to that specified in this section.

1. The activities conducted by the applicant which require it to obtain a permit.

2. Name, mailing address, and location of the facility for which the application is submitted.

3. Up to four Standard Industrial Classification (SIC) codes which best reflect the principal products or services provided by the facility.

4. The operator's name, address, telephone number, ownership status, including the name and address of the owner if different, and status as Federal, State, private, public, or other entity.

5. Other relevant environmental permits necessary for the construction and/or operation of this facility such as dredge and fill permits under CWA §404 and Article 6 permits.

6. A topographic map drawn to a reasonable scale and extending at least one thousand (1000) feet beyond the site, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage or disposal facilities and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.

(b) Information required from Existing Sources - All applicants (including all applicants for reissuance) for WV/NPDES permits whose facilities are existing sources shall also provide the following information to the Director:

1. Outlet Location. For each point source, the latitude and longitude to the nearest second and the name of the immediate receiving water and river mile point. For haulroads and on-bench drainage control, the outlet location shall be considered to be the lowest downstream discharge point where water leaving the permit area enters the stream.

2. Line Drawing. A line drawing of the water flow through the facility with a water balance, showing operations contributing influent to the treatment

permit shall remain in effect for the duration of the permit.

(b) If the Director tentatively decides to modify a permit and the modification is made under paragraph (c)(2) (Major Modifications), he or she shall prepare a draft permit under Section 10J.01, follow the public notice procedures in Section 10J.02, and shall follow the procedural requirements in Section 8 of Article 5A. The draft permit shall fulfill the requirement of notice under Section 8 of the State Act. When a draft permit is prepared for the modification, only those conditions to be modified shall be reopened when a new draft permit is prepared.

(c) Causes for modification.

1. Minor modifications - Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section without preparing a draft permit under Section 10J.01, or following the procedures of Section 10J or 10K or procedures in Section 8 of the State Act. Minor modifications may:

- A. Correct typographical errors.
- B. Require more frequent monitoring or reporting by the permittee.

C. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement.

D. Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that any forms prescribed by the Director, including a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees have been submitted to the Director.

E. Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge.

F. Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.

G. Allow disposal system equipment substitution, when the substituted equipment would not alter the degree of treatment required by the permit.

H. Allow rerouting of discharging lines, when the rerouted line would not discharge to a different receiving stream and would not require new or different permit conditions.

Dept. of Nat. Resources
Reclamation Division
Emergency Rules, Chapter 20
Article 6, Series VII (1985) (NPDES)
Section 10H.02

I. Allow relocation of elements of treatment facilities or disposal systems, due to topography or equipment failures.

J. When the WV/NPDES or NPDES permit becomes final and effective after March 9, 1982 conform to changes regarding 10E.13(d)(2) and 10E.15(c)(1).

K. Other causes not specified as major causes of modification which do not affect the quality or quantity of the effluent or change the outlet location to a different stream.

2. Major Modifications - The following are causes for major modification, but not reissuance of a permit unless the permittee requests or agrees, and requires the preparation of a draft permit under Section 10J.01 and the public notice procedures of Section 10J.02. If the permittee requests or agrees, then the following causes can be reason for a permit reissuance which will open the entire permit for comment and change.

A. Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit (Note: Certain reconstruction activities may cause the new source provisions of 40 CFR §122.29 and Part 434 to be applicable. See also Sections 10B.30 and 10L).

B. Information. The Director has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. This cause shall include any information indicating that cumulative effects on the environment are unacceptable.

C. New Regulations or Judicial Decision. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

(1) For promulgation of amended standards or regulations, when:

a. The permit condition to be modified was based on a promulgated effluent limitation guideline or water quality standards; and

b. The EPA or State has revised, withdrawn or modified that portion of the effluent limitation guideline or water quality standard on which the permit condition was based; and

Dept. of Nat. Resources
Reclamation Division
Emergency Rules, Chapter 20
Article 6, Series VII (1985) (NPDES)
Section 10J.02

may waive his or her rights to receive notice for any classes and categories of permits):

A. Federal, State and interstate agencies with jurisdiction over fish and wildlife resources, (U.S. Fish and Wildlife Service; Dept. of Natural Resources, Division of Wildlife Resources), the U. S. Army Corps of Engineers, the State Historic Preservation Unit of the Department of Culture and History, the Advisory Council on Historic Preservation and other appropriate government authorities, including any affected States.

B. The Division of Water Resources, Attn: Public Information Office.

C. Any other State or Federal agency which the Director knows has issued or is required to issue a permit for the same facility or activity under any of the following Federal programs: RCRA, UIC, 404, and PSD. For RCRA, and UIC these are: The division of Water Resources, Hazardous Waste/Groundwater Branch and the W. Va. Air Pollution Control Commission; for UIC, the Division of Water Resources, Hazardous Waste/Groundwater Branch and the Commission of Oil and Gas; for 404, the United States Army Corps of Engineers, Pittsburgh District or Huntington District; for PSD, the West Virginia Air Pollution Control Commission.

D. To any unit of local government having jurisdiction over the area where the facility is proposed to be located;

E. Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

2. After receipt of its copy of the Public Notice, the Division of Water Resources shall send the Public Notice to persons on a mailing list which is developed by:

A. Including those who request in writing to be on the list;

B. Soliciting persons for "area lists" from participants in past permit proceedings in that area; and

C. Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and State funded newsletters or environmental bulletins. (The list may be updated from time to time by requesting written indication of continued interest from those listed. Persons may be deleted from the list if they fail to respond to such a request).

3. In addition to the general public notice described in paragraph (e) of this section, all persons identified in (d)(A), (B) and (C) of this Section shall be mailed a copy of the fact sheet, if any, and the draft permit and application unless such person requests, in writing, that these documents not be sent.