

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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FILED
1987 MAY 29 PM 1:35
SECRETARY OF STATE

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

AGENCY: Department of Natural Resources TITLE NUMBER: 47

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 30

TITLE OF RULE BEING AMENDED: _____

WV/NPDES Regulations for Coal Mining Facilities

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

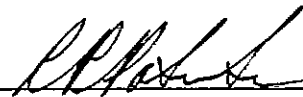
TITLE OF RULE BEING PROPOSED: _____

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

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill No. 761

SECTION 64-2-20-(1)(7), PASSED ON May 13, 1987

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: July 1, 1987



PROMULGATION HISTORY

West Virginia Administrative Regulations
Department of Natural Resources
Series 30
WV/NPDES Regulations for Coal Mining Facilities
Legislative Rules

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Proposed Rule Filed: October 30, 1986

Public Hearing(s) Held: December 9, 1986

End of Comment Period: December 12, 1986

Agency-Approved Rule Filed: December 30, 1986

LRRRC Approval: January 12, 1987

Legislative Authorization: May 13, 1987

Final Filing: May 29, 1987

Effective Date: July 1, 1987

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West Virginia Administrative Regulations
Department of Natural Resources

SECRETARY OF STATE

Series 30

WV/NPDES Regulations for Coal Mining Facilities
Legislative Rules

Section 1. GENERAL.

1.1. Scope and Purpose. These regulations establish requirements implementing the powers, duties, and responsibilities of Article 5A of Chapter 20 with respect to all coal mines, preparation plants and all refuse and waste therefrom in the State which are vested in the director pursuant to W. Va. Code §20-6-43.

1.2. Authority. W. Va. Code §20-1-7(30).

1.3. Effective Date. -- July 1, 1987.

1.4. Filing Date. -- May 29, 1987.

1.5. Applicability. These regulations shall apply to all coal mines, preparation plants and refuse and waste therefrom as defined herein. These regulations also establish a transition program for those pending Article 5A/NPDES applications for which a draft permit has been prepared.

1.6. Invalidity. If any provision of these regulations or the application thereof to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of these regulations.

1.7. Incorporation by Reference. Whenever federal statutes or regulations are incorporated into these regulations, the reference is to the statute or regulation in effect on April 24, 1986.

1.8. Promulgation History. The regulations in this section originally become effective on the 30th day of May, 1985, that being the date on which the Governor issued a proclamation stating that final approval of the partial transfer of the National Pollutant Discharge Elimination System (NPDES) established under the federal Clean Water Act contemplated by W. Va. Code §20-6-43 has been given by the Administrator of the United States Environmental Protection Agency. The original effective date of these regulations as repromulgated pursuant to Legislative authorization (1986 Legislative Session; SB 434) was April 24, 1986.

WV Administrative Regulations
Department of Natural Resources
Series 30, Legislative Rules

1.9. Conflict of Interest. The director or his authorized representative who has or shares authority to approve all or portions of permits, either in the first instance or as modified and reissued, shall not be a person who receives or has during the previous two (2) years received, a significant portion of income directly or indirectly from permit holders or applicants for a permit.

1.9.1. For the purposes of this paragraph:

1.9.1.a. "Significant portion of income" means five thousand dollars (\$5,000) or ten percent or more of gross personal income for a calendar year, whichever is less, except that it means fifty percent or more of gross personal income for a calendar year if the recipient is over sixty (60) years of age and is receiving that portion under retirement, pension, or similar arrangement.

1.9.1.b. "Permit holders or applicants for a permit" does not include any department or agency of the State.

1.9.1.c. "Income" includes retirement benefits, consultant fees, and stock dividends.

1.9.1.d. Income is not received "directly or indirectly from permit holders or applicants for a permit" when it is derived from mutual fund payments, or from other diversified investments for which the recipient does not know the identify of the primary sources of income.

Section 2. DEFINITIONS.

The definitions set forth in Chapter 20, Article 5A, Section 2, of the West Virginia Code shall apply to these regulations along with the following definitions, unless the context clearly indicates otherwise.

2.1. "Administrator" means the administrator of the United States Environmental Protection Agency, or his authorized representative.

2.2. "Applicable Standards and Limitations" means all State, interstate, and federal standards and limitations to which a discharge or a related activity is subject under the Clean Water Act (CWA) Sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 and Article 5A, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, and pretreatment standards.

H. B. 2584

(By Delegate Knight)

(Introduced February 4, 1987; referred to the
Committee on the Judiciary)

10 A BILL to amend and reenact section twenty (one) (seven), article
11 two, chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating to
13 authorizing the department of natural resources to promulgate
14 legislative rules relating to the WV/NPDES program for coal
15 mines and preparation plants, and the refuse and waste
16 therefrom.

17 Be it enacted by the Legislature of West Virginia:

18 That section twenty (one) (seven), article two, chapter
19 sixty-four of the code of West Virginia, one thousand nine
20 hundred thirty-one, as amended, be amended and reenacted to read
21 as follows:

22 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
23 LEGISLATIVE RULES.

24 §64-2-20(1)(7). Department of natural resources.

25 (a) The legislative rules filed in the state register on the
26 twenty-sixth day of September, one thousand nine hundred eighty-

2584

1 four, relating to the department of natural resources (public use
2 of state parks, forests, hunting and fishing areas) are
3 authorized.

4 (b) The legislative rules filed in the state register on the
5 ninth day of September, one thousand nine hundred eighty-five,
6 relating to the department of natural resources (WV/NPDES
7 regulations for the coal mining point source category and related
8 sewage facilities) are authorized.

9 (c) The legislative rules filed in the state register on the
10 thirtieth day of December, one thousand nine hundred eighty-six,
11 relating to the department of natural resources (WV/NPDES program
12 for coal mines and preparation plants, and the refuse and waste
13 therefrom) are authorized with the amendments set forth below:

14 On page four, § 1.9.1.a by inserting the words "five thousand
15 dollars or" after the words "significant portion of income'
16 means" and

17 On page four, § 1.9.1.a by inserting the words "whichever is
18 less," after the words "ten percent or more of gross personal
19 income for a calendar year".

20 NOTE: The purpose of this bill is to authorize the
21 Department of Natural Resources to promulgate legislative rules
22 relating to the WV/NPDES Program for coal mines and preparation
23 plants, and the refuse and waste therefrom.

24
25 Strike-throughs indicate language that would be stricken from
26 the present law, and underscoring indicates new language that
27 would be added.

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Senate Bill No. 345
(By Senator Tucker)

[Introduced February 4, 1987; referred to the Committee
on EIM ; then to the
Committee on THE JUDICIARY .]

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23 plants, and the refuse and waste therefrom.

24
25 Strike-throughs indicate language that would be stricken from
26 the present law, and underscoring indicates new language that
27 would be added.



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25305

October 30, 1986

ARCH A. MOORE, JR.
Governor

RONALD R. POTESTA
Director
MICHAEL A. FOTOS
Deputy Director

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WEST VIRGINIA STATE

NOTICE OF PUBLIC HEARING
OR COMMENT PERIOD ON A PROPOSED RULE
PUBLIC HEARING

AGENCY: West Virginia Department of Natural Resources
RULE TYPE: - Legislative
RULE TITLE: WV/NPDES Regulations

A PUBLIC HEARING ON THE ABOVE PROPOSED RULE WILL BE HELD AT
3:00 p.m. on Tuesday, December 9, 1986 at Room 674,
1800 Washington Street, East, Charleston, WV 25305

COMMENTS ARE LIMITED TO: ORAL _____ WRITTEN _____ BOTH XX
COMMENTS MAY ALSO BE MAILED TO: Mr. Jeffrey E. Herrold,
West Virginia Department of Natural Resources, Room 842,
1800 Washington Street East, Charleston, WV 25305.

THE DEPARTMENT REQUESTS THAT PERSONS WISHING TO MAKE COMMENTS
AT THE HEARING MAKE AN EFFORT TO SUBMIT WRITTEN COMMENTS IN
ORDER TO FACILITATE A REVIEW OF THESE COMMENTS. THE ISSUES TO
BE HEARD SHALL BE LIMITED TO THE PROPOSED RULE.

Ronald R. Potesta
Director