

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

Division of Environmental Protection
Office of Oil and Gas

AGENCY: _____ TITLE NUMBER: 35*

CITE AUTHORITY WV Code 22-1-3, 22-1-10, 22-1-11, 22-6-3 and 22-15-1 through 8

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2*

TITLE OF RULE BEING AMENDED: Oil and Gas Operations - Solid Waste Rule

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

TITLE OF RULE BEING PROPOSED: _____

*Previously 38CSR12

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature



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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
Charleston, West Virginia 25305
(304) 347-4840

Senator: Mike Ross, Co-Chairman
Delegate: Mark Hunt, Co-Chairman
Counsel: Debra A. Graham

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Audrey R. Ross, Admin. Assistant

November 18, 1997

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. Theodore M. Streit, Chief
WV Div. of Env. Protection
Office of Oil & Gas
#10 McJunkin Road
Nitro, WV 25143-2506

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Oil & Gas Operations - Solid Waste Rule (35CSR2)

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
- 5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.



BUREAU OF ENVIRONMENT
10 McJunkin Road
Nitro, WV 25143-2506

CECIL H. UNDERWOOD
GOVERNOR

JOHN E. CAFFREY
COMMISSIONER

December 2, 1997

Ms. Judy Cooper
Director, Administrative Law Division
Office of the Secretary of State
Capitol Complex
Charleston, West Virginia 25305

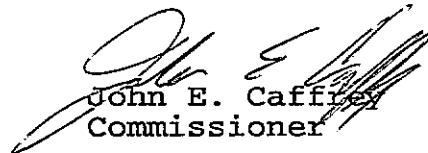
RE: 35CSR2 - "Oil and Gas Operations - Solid Waste Rule"

Dear Ms. Cooper:

This is to advise that I am giving approval to file the above-referenced rule as notice of rule modification with your office and Legislative Rule-Making Review Committee.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please feel free to contact Carrie Chambers at 759-0515.

Sincerely yours,


John E. Caffrey
Commissioner

JEC:cc

Attachment

**TECHNICAL CLEANUP
OFFICE OF OIL AND GAS**

35CSR2

PREVIOUSLY 38CSR12

The paragraph numbering, punctuation, etc., in this rule has been modified to conform to the Secretary of State's legislative rule, 153CSR6.

TITLE ~~38~~ 35

LEGISLATIVE RULES
~~DEPARTMENT OF ENERGY~~
~~BUREAU OF ENVIRONMENT~~
~~DIVISION OF OIL AND GAS~~
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF OIL AND GAS

SERIES ~~12~~ 2

~~SOLID WASTE~~ OIL AND GAS OPERATIONS - SOLID WASTE RULE

~~§38-12-1.35-2-1.~~ General.

1.1. Scope. -- This rule provides a solid waste permit by rule for certain solid waste facilities and provides for the issuance of other solid waste permits pertaining to the exploration, development, production, storage and recovery of oil and gas and related mineral resources in this state.

1.2. Authority and Related Code Citations(s). -- W.Va. Code ~~§§22-1-13, 22-1-15, 22-1-16, 22B-1-3 and 20-5F-1 through 8~~ 22-1-3, 22-1-10, 22-1-11, 22-6-3, and 22-15-1 through 8.

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 "Department of Natural Resources, Chapter 20-5F W. Va. Code §22-15, in effect on June 12, 1987, to the extent that such rule pertains to the exploration, development, production, storage and recovery of oil and gas, and related mineral resources in this state. Such rule was continued in effect pursuant to West Virginia Code §22-1-15 W. Va. Code §22-1-10 for the benefit of the Department of Energy Division of Environmental Protection to the extent that it pertained to the provisions of The West Virginia Energy Act.~~

~~§38-12-2.35-2-2.~~ Definitions.

Unless the context in which used clearly requires a different meaning, the definitions set forth in West Virginia Code ~~§20-5F-2 W. Va. Code §22-15-2~~ and in section 2 of West Virginia Legislative Rule "Department of Natural Resources, Chapter 20-5F, Series 38, 33CSR1, "Solid Waste Management Regulations Rule" in effect on July 11, 1985, shall apply to this regulations, rule except that for the purposes of this rule, "Department" shall mean the Department of Energy of Oil and Gas, and "Director" Chief shall mean the Director Chief of the Division Office of Oil and Gas of the Department of Energy Division of Environmental Protection.

~~§38-12-3.35-2-3.~~ Permits.

A permit shall be obtained from the ~~Department of Energy~~ Division of Environmental Protection, Division Office of Oil and Gas, prior to the installation, establishment construction, modification, operation or abandonment of any solid waste facility that is within the scope of subsection 1.1 of this rule. Such a permit shall satisfy the requirements of ~~West Virginia Code §20-5F-1~~ W. Va. Code §22-15-1 through 8 and contain such reasonable terms and conditions as may be prescribed by the ~~Director Chief~~ Chief of the ~~Department of Energy Division of Environmental Protection, Division Office~~ Division Office of Oil and Gas.

~~§38-12-4.35-2-4.~~ Permit by rule.

A solid waste facility shall be deemed to have a solid waste permit for that facility, if that facility complies with the regulatory and permitting requirements set forth in Series 18 of the rules of the ~~Department of Energy, Division of Environmental Protection Division Office~~ Division Office of Oil and Gas. Nothing in this section shall relieve an owner or operator of such a well of any obligation to apply for and receive appropriate authorizations from other agencies for such a facility, if the facility received waste from sources other than those associated with the exploration, development, production, storage and recovery of oil and gas and related mineral resources in this state.