

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE April 3, 1989 2:45 pm
ADMINISTRATIVE LAW DIVISION

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

AGENCY: Public Service Commission TITLE NUMBER: _____

CITE AUTHORITY: §24-1-1, §24-1-7, §24-2-1, §24-2-7

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE x

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

§24-1-7

AMENDMENT TO AN EXISTING RULE: YES _____, NO x

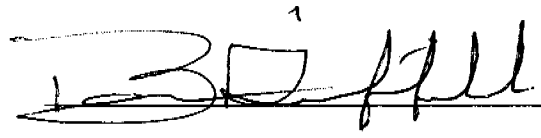
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: XX

TITLE OF RULE BEING ADOPTED: Rules and Regulations For The Use
and Consumption of Water by the Inhabitants and All Users
Regardless of Class of Service, During Times of Emergency
and Periods of Temporary Inadequacy of Supply of Available
Water.

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS June 1, 1989



WEST VIRGINIA LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION
CHAPTER 24-1
SERIES XX

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE April 3, 1989 2:45pm
ADMINISTRATIVE LAW DIVISION

RULES AND REGULATIONS FOR
THE USE AND CONSUMPTION OF WATER BY THE
INHABITANTS AND ALL USERS, REGARDLESS OF CLASS
OF SERVICE, DURING TIMES OF EMERGENCY AND PERIODS
OF TEMPORARY INADEQUACY OF SUPPLY OF AVAILABLE WATER

1.0 GENERAL

- 1.1 Scope - This legislative rule establishes the rules and regulations for the use and consumption of water by the inhabitants and all users, regardless of class of service, during times of emergency and periods of temporary inadequacy of supply of available water.
- 1.2 Authority - West Virginia Code Chapter 24-1-1, 24-1-7, 24-2-1 and 24-2-7.

1.3 Filing Date - April 3, 1989

1.4 Effective Date - June 1, 1989

2.0 LOCAL WATER RATIONING PLAN

2.1 General

That upon any water utility declaring that there is a temporary shortage of water, and that it is necessary for the health and welfare of the utility's customers to supply, the utility shall, upon the giving of public notice, restrict the use of said water supply to human consumption and sanitary purposes as noted in the Local Water Rationing Plan.

The utility is herein authorized to enforce a Water Rationing Plan by virtue of the declaration of a public water emergency proclamation by the utility.

2.2 Definitions

- (a) Special Emergency Area - the area or areas within which the utility has declared a state of drought and water shortage emergency.
- (b) Service Area - the territory and the customers serviced by the utility.
- (c) Emergency Service Area - the service areas of the water supply covered by this Local Water Rationing Plan.

- (d) Residential Customer - any customer who receives water service for a single or multi-family dwelling unit. The term residential customer does not include educational or other institutions, hotels, motels, or similar commercial establishments.
- (e) Non-Residential Customer - commercial, industrial, institutional, public and all other users with the exception of hospitals and health care facilities.
- (f) Service Interruption - the temporary suspension of water supply, or reduction of pressures below that required for adequate supply, to any customer, portion of a water supply system, or an entire system.
- (g) Excess Use - the usage of water by a water customer in excess of the water allotment provided under the Local Water Rationing plan for that customer, over any applicable period.
- (h) Water Customer - any person who is connected to and receives water services from a water supply system.

2.3 Purpose

This local water rationing plan is intended to establish measures for essential conservation of water resources, and to provide for equitable distribution of limited water supplies, in order to balance demand and limited available supplies and to assure that sufficient water is available to preserve public health and safety within the Emergency Service Area.

2.4 Scope

This Local Water Rationing Plan shall apply to all water uses within the service area of all customers and entities served by the utility including uses by customers of wholesale customers of the utility.

2.5 Objective of the Plan

- (a) It is imperative that water customers within the Emergency Service Area achieve an immediate and further reduction in the water use in order to extend existing water supplies and, at the same time, assure that sufficient water is available to preserve the public health and sanitation, and provide fire protection service and electric power generation.

- (b) The Plan provides for equitable reductions in water usage, and for equal sacrifice on the part of each water customer, insofar as such restrictions do not interfere with the public health, adequate fire protection and the generation of electric power. The success of this plan depends on the cooperation of all water customers in the emergency service area.

2.6 Measures to Implement the Water Rationing Plan

Each water supply purveyor within the Emergency Service Area will develop and adopt such implementing measures as are necessary and appropriate to assure compliance with requirements of this Local Water Rationing Plan.

2.7 Prohibited Non-Essential Water Uses

The following water uses are declared non-essential and are prohibited within the Emergency Service Area:

- (a) Watering of outside shrubbery, trees, lawns, grass, plants or any other vegetation, except from a watering can or other container not exceeding three (3) gallon capacity. This limitation shall not apply to vegetable gardens, greenhouse or nursery stocks and newly established lawns or sod less than five (5) weeks old, which may be watered in the minimum amount required to preserve plant life before 8:00 a.m. or after 6:00 p.m.
- (b) The watering of golf course fairways.
- (c) The washing of automobiles, trucks, trailers or any other type of mobile equipment except in vehicle wash/facilities operating with a water recycling system with a prominently displayed sign in public viewing so stating, or from a bucket or other container not exceeding three (3) gallons.
- (d) The washing of streets, driveways, parking lots, service station aprons, office buildings, exteriors of homes or apartments or other outdoor surfaces.
- (e) The serving of water in restaurants, clubs or eating places unless specifically requested by the individual.
- (f) Ornamental water use, including but not limited to fountains, artificial waterfalls, and reflecting pools.
- (g) The use of water for flushing sewers or hydrants by municipalities or any public or private individual or entity except as deemed necessary and approved in the interest of public health or safety by the utility.

- (h) The use of fire hydrants by fire companies for testing fire apparatus and for fire department drills except as deemed necessary in the interest of public safety and specifically approved by the municipal governing body.
- (i) The use of fire hydrants by municipal road departments, contractors and all others, except as necessary for fire fighting or protection purposes.
- (j) The filling of swimming or watering pools requiring more than five (5) gallons of water, or the refilling of swimming or wading pools which were drained after the effective date of the order, except that pools may be filled to a level of two feet below normal, or as necessary to protect the structure from hydrostatic damage, as to pools constructed or contracted for on or after the date of the final order.

2.8 Recourse

Any person aggrieved by a decision relating to these rules rendered by a public utility may file a complaint with the Public Service Commission.

2.9 Penalties

Any person who violates the provisions of this plan, who fails to carry out duties and responsibilities imposed by this plan, or who impedes or interferes with any action undertaken or ordered pursuant to this plan, shall be subject to the following penalties:

- (1) For the first excess use, a warning of possible discontinuation of service shall be issued to the customer by the utility.
- (2) For the second or subsequent excess use, the water supplier may interrupt or shut off service to the customer pursuant to Rule 4.08 as fraudulent use.
- (3) For the second or subsequent excess use, the utility may add a surcharge of 10% to the end users monthly bill for the month of the infraction, which surcharge shall be held by the utility in a separate bank account pending disposition as directed by the Public Service Commission.

2.10 Effective Period

This plan shall remain in effect until terminated by action of the utility declaring an end to the emergency condition or until terminated by order of the Public Service Commission, whichever comes first.

2.11 Effective Date

This plan shall take effect immediately upon adoption by the utility.

ABSTRACT OF PROMULGATION HISTORY

Based on the lack of rain experienced in West Virginia during the summer of 1988, the Commission received numerous inquiries from utilities regarding the possibility of implementing water rationing procedures. On July 5, 1988, and July 6, 1988, the Commission received petitions from the City of Weirton and the City of Richwood requesting the enactment of emergency water conservation measures. Moreover, throughout the summer, the Commission's Customer Relations Division received numerous inquiries from water customers concerning various problems relating to water supply. On July 7, 1988, the Governor of the State made written request that the Secretary of the U. S. Department of Agriculture issue a drought disaster declaration for the State of West Virginia.

To respond to this situation, the Commission established emergency rules on July 8, 1988, to be implemented on a voluntary basis governing the consumption of water. These rules were to remain in effect until the Commission was able to promulgate final rules, which require that a thirty (30) day comment period be provided pursuant to West Virginia Code §24-3-7. West Virginia Code §24-1-7 further provides that a final rule is not effective until 60 days after final Commission approval.

Thereafter, on September 6, 1988, the Commission issued proposed final rules and invited comment. Comments were received on behalf of Monongahela Power Company, the Potomac Edison Company, Masontown Water Works and the City of Weirton. After consideration of the comments

filed, the Commission has concluded that the proposed rules, as modified consistent with the recommendation of Monongahela Power Company and the Potomac Edison Company, are reasonable, and should be adopted by the Commission as its final rules and regulations governing the use and consumption of water during times of temporary inadequacy of available water.

**TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION**

**SERIES 20
RULES AND REGULATIONS FOR THE USE AND
CONSUMPTION OF WATER BY THE INHABITANTS AND ALL USERS, REGARDLESS
OF CLASS OF SERVICE, DURING TIMES OF EMERGENCY AND PERIODS OF
TEMPORARY INADEQUACY OF SUPPLY OF AVAILABLE WATER**

§150-20-1. General.

1.1. **Scope.** -- This legislative rule establishes the rules and regulations for the use and consumption of water by the inhabitants and all users, regardless of class of service, during times of emergency and periods of temporary inadequacy of supply of available water.

1.2. **Authority.** -- WV Code §24-1-1, §24-1-7, §24-2-1, and §24-2-7.

1.3. **Filing Date.** -- April 3, 1989

1.4. **Effective Date.** -- June 1, 1989

§150-20-2. Local Water Rationing Plan.

2.1. **General.** That upon any water utility declaring that there is a temporary shortage of water, and that it is necessary for the health and welfare of the utility's customers to supply, the utility shall, upon the giving of public notice, restrict the use of said water supply to human consumption and sanitary purposes as noted in the Local Water Rationing Plan.

The utility is herein authorized to enforce a Water Rationing Plan by virtue of the declaration of a public water emergency proclamation by the utility.

2.2. **Definitions.**

a. **Special emergency area.** The area or areas within which the utility has declared a state of drought and water shortage emergency.

b. **Service area.** The territory and the custom-

ers serviced by the utility.

c. **Emergency service area.** The service areas of the water supply covered by this Local Water Rationing Plan.

d. **Residential customer.** Any customer who receives water service for a single or multi-family dwelling unit. The term residential customer does not include educational or other institutions, hotels, motels, or similar commercial establishments.

e. **Non-residential customer.** Commercial, industrial, institutional, public and all other users with the exception of hospitals and health care facilities.

f. **Service interruption.** The temporary suspension of water supply, or reduction of pressures below that required for adequate supply, to any customer, portion of a water supply system, or an entire system.

g. **Excess use.** The usage of water by a water customer in excess of the water allotment provided under the Local Water Rationing plan for that customer, over any applicable period.

h. **Water customer.** Any person who is connected to and receives water services from a water supply system.

2.3. **Purpose.**

This local water rationing plan is intended to establish measures for essential conservation of water resources, and to provide for equitable distribution of limited water supplies, in order to balance demand

and limited available supplies and to assure that sufficient water is available to preserve public health and safety within the Emergency Service Area.

2.4. Scope.

This Local Water Rationing Plan shall apply to all water uses within the service area of all customers and entities served by the utility including uses by customers of wholesale customers of the utility.

2.5. Objective of the plan.

a. It is imperative that water customers within the Emergency Service Area achieve an immediate and further reduction in the water use in order to extend existing water supplies and, at the same time, assure that sufficient water is available to preserve the public health and sanitation, and provide fire protection service and electric power generation.

b. The Plan provides for equitable reductions in water usage, and for equal sacrifice on the part of each water customer, insofar as such restrictions do not interfere with the public health, adequate fire protection and the generation of electric power. The success of this plan depends on the cooperation of all water customers in the emergency service area.

2.6. Measures to implement the water rationing plan.

Each water supply purveyor within the Emergency Service Area will develop and adopt such implementing measures as are necessary and appropriate to assure compliance with requirements of this Local Water Rationing Plan.

2.7. Prohibited non-essential water uses.

The following water uses are declared non-essential and are prohibited within the Emergency Service Area:

a. Watering of outside shrubbery, trees, lawns, grass, plants or any other vegetation, except from a watering can or other container not exceeding three (3) gallon capacity. This limitation shall not apply to vegetable gardens, greenhouse or nursery stocks and newly established lawns or sod less than five (5) weeks old, which may be watered in the minimum

amount required to preserve plant life before 8:00 a.m. or after 6:00 p.m.

b. The watering of golf course fairways.

c. The washing of automobiles, trucks, trailers or any other type of mobile equipment except in vehicle wash facilities operating with a water recycling system with a prominently displayed sign in public viewing so stating, or from a bucket or other container not exceeding three (3) gallons.

d. The washing of streets, driveways, parking lots, service station aprons, office buildings, exteriors of homes or apartments or other outdoor surfaces.

e. The serving of water in restaurants, clubs or eating places unless specifically requested by the individual.

f. Ornamental water use, including but not limited to fountains, artificial waterfalls, and reflecting pools.

g. The use of water for flushing sewers or hydrants by municipalities or any public or private individual or entity except as deemed necessary and approved in the interest of public health or safety by the utility.

h. The use of fire hydrants by fire companies for testing fire apparatus and for fire department drills except as deemed necessary in the interest of public safety and specifically approved by the municipal governing body.

i. The use of fire hydrants by municipal road departments, contractors and all others, except as necessary for fire fighting or protection purposes.

j. The filling of swimming or watering pools requiring more than five (5) gallons of water, or the refilling of swimming or wading pools which were drained after the effective date of the order, except that pools may be filled to a level of two feet below normal, or as necessary to protect the structure from hydrostatic damage, as to pools constructed or contracted for on or after the date of the final order.

2.8. Recourse.

Any person aggrieved by a decision relating to these rules rendered by a public utility may file a complaint with the Public Service Commission.

2.9. Penalties.

Any person who violates the provisions of this plan, who fails to carry out duties and responsibilities imposed by this plan, or who impedes or interferes with any action undertaken or ordered pursuant to this plan, shall be subject to the following penalties:

1. For the first excess use, a warning of possible discontinuation of service shall be issued to the customer by the utility.

2. For the second or subsequent excess use, the water supplier may interrupt or shut off service to the customer pursuant to rule 4.8 as fraudulent use.

3. For the second or subsequent excess use, the utility may add a surcharge of ten percent (10%) to the end users monthly bill for the month of the infraction, which surcharge shall be held by the utility in a separate bank account pending disposition as directed by the Public Service Commission.

2.10. Effective period.

This plan shall remain in effect until terminated by action of the utility declaring an end to the emergency condition or until terminated by order of the Public Service Commission, whichever comes first.

2.11. Effective date.

This plan shall take effect immediately upon adoption by the utility.

KEN HECHLER
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SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

ADMINISTRATIVE LAW DIVISION

MONTHLY SUPPLEMENT SERVICE TO THE WEST VIRGINIA CODE OF STATE RULES
MONTH OF January, 1991

THE ATTACHED RULES ARE FOR THE FOLLOWING AGENCY:

TITLE NO. 150, SERIES 20, VOL. NO. 11

AGENCY Public Service Commission

DIRECTIONS

- A. THIS IS A NEW SERIES RULE. IT SHOULD BE PLACED IN VOLUME 11
FOLLOWING SERIES NUMBER 19.
- B. THIS IS AN AMENDMENT TO AN EXISTING SERIES RULE. REMOVE THE
EXISTING SERIES FROM VOLUME _____ AND REPLACE IT WITH THE
ATTACHED SERIES RULE. YOU MAY WISH TO KEEP THE OBSOLETE RULE FOR
AN HISTORICAL REFERENCE.
- C. THIS IS A REPRINT OF AN EXISTING SERIES RULE IN VOLUME _____.
THE RULE YOU CURRENTLY HAVE IN YOUR BOOK HAS TYPOGRAPHICAL ERRORS
OR SOME OTHER MISTAKE. THE ATTACHED SERIES RULE SHOULD REPLACE
THE VERSION IN YOUR BOOK. PLEASE DESTROY THE INCORRECT SERIES
RULE.
- D. SPECIAL INSTRUCTIONS:
