State Tax Department
Leg. Reg. 11-1
Series VI-A

Title 110
Legislative Rule

Section 1.01

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~

~~STATE~~ TAX DEPARTMENT

~~LEGISLATIVE~~

~~Chapter 11-1~~
Series ~~VI-A~~ 6
~~(1974, Amended 1981)~~

Subject: Pollution Control Facilities

Section 1. General.

1.01. Type of Regulations. -- These regulations are "legislative rules" as defined in W. Va. Code § 29A-1-~~2(d)~~ (1982).

1.02. Scope. -- These regulations establish general operating procedures for the tax treatment of pollution control facilities.

1.03. Authority. -- These regulations are issued under authority of West Virginia Code, Chapter 11, Article 6A, Section 4.

WV Code § 11-6A-4

1.04. Effective Date. -- These regulations were promulgated on July 28, 1974, and became effective 30 days thereafter and were amended November 1, 1981.

1.05. Filing Date. -- These regulations were filed in the Office of the Secretary of State on June 28, 1974. In compliance with W. Va. Code § 29A-2-5 (1982), these regulations were refiled with the Secretary of State on December 29, 1982.

1.06. Citation. -- These regulations may be cited as W. Va. Leg. Reg. (Pollution Control Facilities) 11-1, Series VI-A, §__________, page_______ (1974).

Section 2. Definitions

2.01. "Commissioner" means the State Tax Commissioner.

2.02. "Facility" or "Pollution Control Facility" means any personal property designed, constructed, or installed primarily for the purpose of abating or reducing water or air pollution or contamination by removing, altering, disposing, treating, storing, or dispersing the concentration of pollutants, contaminants, wastes or heat in compliance with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, the design, construction, and installation of which personal property was approved as a pollution control facility by the Water Resources Division of the Department of Natural Resources or the Air Pollution Control Commission, as the case may be. The definition of facilities eligible for salvage tax treatment shall be strictly construed so as to include only such equipment and devices as are installed primarily and immediately to abate air or water pollution. Those items of personal property which may coincidentally comply with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, but which are primarily installed for plant operations or are productive, or add to the economic value of a business enterprise or have a market value after installation in excess of salvage value, will not be deemed eligible for salvage tax treatment.

2.03. "Personal Property" means things of value, moveable and tangible, which are the subjects of ownership. This definition is found as a part of West Virginia Code § 11-5-3 and applied to all of Chapter 11.

2.04. "Moveable", as used in section 203, relates to a device or piece of equipment capable of being moved from one location to another.

2.05. "Salvage Value" means the price for which such facility would sell in place if voluntarily offered for sale by the owner thereof; that is to say, the scrap value of the material of an eligible facility less the cost of removal of said facility. Administratively, salvage value will be five percent of original cost. (Amended November 1, 1981.)

Section 3. Recommendation of Values to County Assessor

3.01. Each county assessor will be notified before August first of any eligible facility operating in his county on the preceding July first assessment day together with the salvage value of each such facility. Said notice will recommend that the assessor use the salvage value provided as the appraised value of such facility.

Section 4. Annual List of Eligible Facility Items

4.01. The tax commissioner, annually before July tenth, will prepare a list of apparatus, equipment and components which are eligible for salvage treatment under provisions of Article 6A, Chapter 11 of the Code and these regulations. Such list shall be revised annually to include items made eligible by administrative or judicial decision.

Section 5. Administrative Remedy

5.01. Any taxpayer or government official claiming to be aggrieved or damaged by the tax commissioner by the inclusion or exclusion of a facility or any component thereof, may appeal such action to the commissioner. The commissioner or his representative shall issue a written opinion stating the reasons therefor.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

STATE TAX DEPARTMENT

LEGISLATIVE

Chapter 11-1
Series VI-A
(1974, Amended 1981)

Subject: Pollution Control Facilities

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State Tax Department of West Virginia

Charleston 25305

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 6/28/74

RICHARD L. DAILEY
COMMISSIONER

June 26, 1974

The Honorable Edgar F. Heiskell, III
Secretary of State
State Capitol Building
Charleston, West Virginia 25305

Dear Mr. Heiskell:

Enclosed are two copies of regulations by the Tax Commissioner concerning the special property tax treatment of certain qualified pollution abatement facilities. These regulations are specifically authorized by Chapter 11, Article 6A, Section 4 of the West Virginia Code, as amended.

I hereby certify that the attached regulations are true and accurate copies of official regulations promulgated by the Tax Commissioner on June 28, 1974.

Very truly yours,

Richard L. Dailey

Richard L. Dailey
State Tax Commissioner

RLD/jmc

Enclosures (2)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
STATE TAX COMMISSIONER

POLLUTION CONTROL FACILITIES TAX TREATMENT

(Chapter 11, Article 6A of the Code)

<u>RULES AND REGULATIONS</u>

Effective
July 28, 1974

Richard L. Dailey
State Tax Commissioner

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

State Tax Department

Chapter 11-6A
(1974)

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STATE TAX COMMISSIONER

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(1974)

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1.05 Certification. - These regulations are certified authentic by the State Tax Commissioner by certification number.

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