

WATER RESOURCES BOARD

FILED

1985 APR 22 PM 2:52

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF APPROVAL AND ADOPTION

BY: State Water Resources Board

EMERGENCY LEGISLATIVE RULE:

West Virginia Administrative Regulations  
State Water Resources Board  
Chapter 20-5 and 20-5A (1983)  
Series I, Water Quality Standards

The attached amendments to the above titled Legislative rule constitutes the official emergency rule approved and adopted by the State Water Resources Board on the 16th day of April 1985 and filed pursuant to law in the Office of the Secretary of State, State of West Virginia.

\_\_\_\_\_  
Entered

  
\_\_\_\_\_  
John C. Ailes



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STATE OF WEST VIRGINIA  
STATE WATER RESOURCES BOARD

1206 Greenbrier Street  
Charleston, West Virginia 25311  
(304) 348-4002

SECRETARY OF STATE

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Executive Secretary

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Buckhannon, West Virginia
- WILLIAM PLASS  
21 Grandview Drive  
Princeton, West Virginia

April 22, 1985

The Honorable Ken Hechler  
Secretary of State  
State Capitol Bldg. # 1 - Room 157K  
Charleston, WV 25305

Re: Emergency Rules

Attn: Mr. Rich O. Hartman

Dear Sir:

The State Water Resources Board, after duly complying with applicable W. Va. Administrative procedures, hereby submits for filing, pursuant to W. Va. Code 29A-3-15, the attached Emergency Rules.

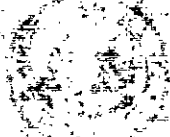
Very truly yours,

*Frances E. Hunter*

Frances E. Hunter  
Executive Secretary

3 attachments

1. Emergency Rules
2. Facts and Circumstances
3. Notice of Approval by Board



STATE OF NEW YORK

OFFICE OF THE COMPTROLLER

APRIL 22, 1932

The Comptroller has the honor to acknowledge the receipt of your letter of the 14th inst. in relation to the proposed new schedule of rates for the year 1932.

The Board of Transportation has advised that it has approved the proposed schedule of rates for the year 1932, and that it has directed the Board of Public Transportation to implement the same.

Very truly yours,

JOHN W. WHELAN  
Comptroller

Approved by the Board of Public Transportation

EMERGENCY  
WRB  
Leg. Rule, 20-5A  
Series I, Sec. 7.5.2

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FACTS AND CIRCUMSTANCES

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

W. Va. Code 20-5 and 20-5A et seq. authorize the State Water Resources Board to promulgate rules and regulations and to establish water quality standards to protect the State's surface waters. The Board has established approved Procedural regulations to provide procedures for the revision of water quality standards on a case by case basis. These procedures require as a minimum, compliance with public notice and opportunity to comment on proposed revisions in addition to affirmative recommendations from applicable State agencies such as the Water Resources Division of the Department of Natural Resources and when necessary the State Health Department.

Emergency rule amendment to Series I, Section 7.5.2 of the Board's Administrative Regulations:

7.5.2

...

- (c) Except in the stretch of Cow Creek (O-55) from its mouth to a point approximately 2,300 feet upstream, the water use category B-1 shall not apply.

This emergency rule is an addition to Series I, Section 7.5.2 and was requested by the American Cyanamid Company, Pleasants County, W. Va. as a result of a Consent Degree in the Civil Action No. 83-0259C in the U. S. District Court for the Northern District of West Virginia regarding an action by the United States of America and the State of West Virginia (Department of Natural Resources) vs American Cyanamid Company.

Specifically, this Consent Degree, entered into by all parties, required American Cyanamid to obtain a water quality revision for that certain small portion of Cow Creek to delete the use category of B-1 by July 13, 1985.

After having duly complied with all laws and regulations, the State Water Resources Board has approved and adopted this emergency rule amendment to the water quality standards and further declares an emergency does exist pursuant to W. Va. Code 29A-3-15(e) in that it is necessary to promulgate said emergency rule for the immediate preservation of public peace, health, safety and welfare and is necessary to comply with a Federal Court ordered time limitation in the above referenced Consent Degree. This emergency rule was also necessary to prevent substantial harm to the public interest.

Any delay in implementing this emergency rule would find American Cyanamid in contempt of court and would also cause an

adverse impact on the environment and the social and economic well-being of the community.

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OFFICE OF SECRETARY OF STATE

EMERGENCY  
WEST VIRGINIA LEGISLATIVE RULE  
STATE WATER RESOURCES BOARD  
CHAPTER 20-5 & 20-5A  
SERIES I

Title: Requirements Governing Water Quality Standards

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Section 1. General

1.1 Scope - These regulations establish requirements governing the discharge or deposit of sewage, industrial wastes and other wastes into the waters of the State and establish water quality standards for the waters of the State.

1.2 Authority - W. Va. Code 20-5, 20-5A and 29A-3-15.

1.3 Filing Date - April 22, 1985.

1.4 Effective Date - April 22, 1985.

EMERGENCY

WRB

Leg. Rule, 20-5 & 20-5A

Series I, Sec. 7.3.1

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1995 APR 22 PM 2:51

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

7.3.1 Bluestone River, Bluestone Lake, East River,  
New River, Gauley River and Greenbrier River  
Basins - KNB, KN, KN-60, KNG, KG, KGC and KGW

Both the Bluestone and Greenbrier Rivers and all their tributaries from the Virginia-West Virginia State line to their individual confluence with the New River; the East River and all its tributaries arising in Virginia flowing into West Virginia and returning to Virginia, and portions thereof within the boundary of the State of West Virginia; the New River, including all tributaries in addition to those already mentioned from the Virginia-West Virginia State line to its confluence with the Gauley River; the Gauley River and all its tributaries including the Cranberry and Williams Rivers from their source to the confluence with the New River.

Exceptions:

(a) Water Use Categories B2 and D are deleted in Bluestone Lake and temperature rise shall be limited to no more than 3°F above natural not to exceed 81°F at any time during the months of May through November and not to exceed 73°F at any time during December through April in Bluestone Lake.

(b) Except the stretch of Laurel Creek (KN-5) (a tributary of the New River) from the confluence of Dempsey Branch and Laurel Creek to a point 1.7 miles below, where the specific criterion for iron shall be 3.0 mg/l total iron, and from that point to the confluence of Laurel Creek and the New River, the specific criterion for iron shall be 1.0 mg/l total iron.

EMERGENCY  
WRB  
Leg. Rule, 20-5A  
Series II, Sec. 7.5.2

7.5.1 Ohio River Basin - Main Stem - O

The main stem of the Ohio River from the Ohio-Pennsylvania-West Virginia State line to the Ohio-Kentucky-West Virginia State line.

Exceptions:

No exceptions specified.

7.5.2 Ohio River Basin - Tributaries - LK, LKH, LKW, LKS and OMi

All tributaries to the Ohio River, excluding the Big Sandy, Guyandotte and Kanawha Rivers.

Exceptions:

(a) Except the stretch of Conners Run (O-77-A) (a tributary of Fish Creek), from its mouth to the discharge from Conners Run impoundment, shall not have the use B1; therefore may contain arsenic not to exceed 200 ug/l and selenium not to exceed 62 ug/l.

(b) Except the stretch of Harmon Creek (a tributary of the Ohio River) from its mouth to a point 2.2 miles upstream shall be exempt from the specific criteria limitation for temperature.

(c) Except in the stretch of Cow Creek (O-55) from its mouth to a point approximately 2,300 feet upstream, the water use category B-1 shall not apply.

EMERGENCY  
WRB  
Leg. Rule, 20-5A  
Series I, Sec. 7.3.1

Emergency rule amendment to Series I, Section 7.3.1 of  
the Board's Administrative Regulations:

7.3.1

...

- (b) Except the stretch of Laurel Creek (KN-5) (a tributary of the New River) from the confluence of Dempsey Branch and Laurel Creek to a point 1.7 miles below, where the specific criterion for iron shall be 3.0 mg/l total iron, and from that point to the confluence Laurel Creek and the New River, the specific criterion for iron shall be 1.0 mg/l total iron.

This emergency rule is an addition to Series I, Section 7.3.1 and was requested by The New River Company, Fayette County, W. Va. as a result of a Consent Order, in Civil Action No. C-78-1124, in the Circuit Court of Fayette County, W. Va. in an action brought by the State of West Virginia (Department of Natural Resources vs The New River Company).

Specifically this Consent Order required New River to file a request for a revision of certain water quality standards for a small portion of Laurel Creek and within 60 days after notice of approval of such request The New River Company must perform such tasks as apply for a water pollution control permit which governs the treatment required of the water from the Lochgelly Mine Complex situated to discharge into Laurel Creek. Said treatment facility must be completed within six months from issuance of the permit.

After having duly complied with all laws and regulations, the State Water Resources Board has approved and adopted this emergency rule amendment to the water quality standards and further declares an emergency does exist pursuant to W. Va. Code 29A-3-15(e) in that it is necessary to promulgate said emergency rule for the immediate preservation of public peace, health, safety and welfare and is necessary to comply with a court ordered time limitation in the above referenced Consent Order. This emergency rule was also necessary to prevent substantial harm to the public interest.

Any delay in implementing this emergency rule would find The New River Company in contempt of court and would also cause an adverse impact on the environment and the social and economic well-being of the community.

ATTACHMENT

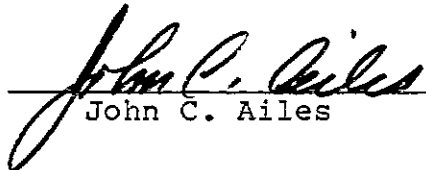
The amendments below to Series I, Section 7.31 and Section 7.52 of the West Virginia Administrative Regulations of the State Water Resources Board constitutes the emergency rules approved and adopted by the State Water Resources Board on April 16, 1985.

7.52

- ...  
(c) Except in the stretch of Cow Creek (O-55) from its mouth to a point approximately 2,300 feet upstream, the water use category B-1 shall not apply.

7.31

- ...  
(b) Except the stretch of Laurel Creek (KN-5) (a tributary of the New River) from the confluence of Dempsey Branch and Laurel Creek to a point 1.7 miles below, where the specific criterion for iron shall be 3.0 mg/l total iron, and from that point to the confluence of Laurel Creek and the New River, the specific criterion for iron shall be 1.0 mg/l total iron.

  
John C. Ailes