

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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

AGENCY: Water Resources Board TITLE NUMBER: 46

AMENDMENT TO AN EXISTING RULE: YES X, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Special Regulations

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

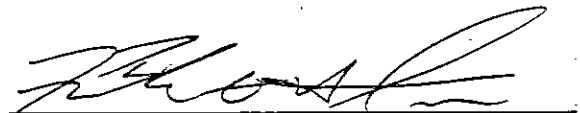
TITLE OF RULE BEING PROPOSED:

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

AUTHORIZATION IS CITED IN (house or senate bill number) SB 761

SECTION 64-2-20(5a)(3), 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





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STATE WATER RESOURCES BOARD

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NOTICE OF AGENCY APPROVAL

LEGISLATIVE RULES: Series I, Water Quality Standards, Series II, National Pollutant Discharge Elimination System Rules (NPDES), Series III, Special Rules and Series IX, Underground Injection Control Rules (UIC).

The attached legislative rules constitutes the official rules approved by the State Water Resources Board on the 23rd day of February, 1987 and filed pursuant to law with the West Virginia Secretary of State and the Legislative Rule-Making Review Committee.

John C. Ailes

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SECRETARY OF STATE

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OFFICE OF THE
SECRETARY OF STATE

WEST VIRGINIA LEGISLATIVE RULES

STATE WATER RESOURCES BOARD

Chapter 20-5 and 20-5A

Series III
(1985)

Mailing Address: State Water Resources Board
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WEST VIRGINIA LEGISLATIVE RULES
STATE WATER RESOURCES BOARD
Chapter 20-5 & 20-5A
Series III
(1985)

Title: Special Rules

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**TITLE 46
LEGISLATIVE RULES
WATER RESOURCES BOARD**

**SERIES 3
SPECIAL REGULATIONS**

T. 1044

~~WEST VIRGINIA LEGISLATIVE RULE~~
~~STATE WATER RESOURCES BOARD~~
~~Chapter 20-5 & 20-5A~~
Series III *3*
(1985) *e*

TITLE: Special Rules

Section 1. General.

1.1 Scope - These rules establish requirements governing pollution control measures which are considered special situations that are not generally covered in Series I and II of the State Water Resources Board's Legislative Rules.

1.2 Authority - W. Va. Code 20-5 and 20-5A.

1.3 Filing Date - ~~February 24, 1987.~~ *e*

1.4 Effective Date -

1.5 Repeal of Former Rule - This legislative rule repeals West Virginia Administrative Regulations, State Water Resources Board, Chapter 20-5 and 20-5A, Series III (1983) "Special Regulations", filed April 11, 1984.

Section 2. Reporting Spills and Accidental Discharges.

2.1 It is recognized that spills and accidental discharges of sewage, industrial wastes and other wastes are contrary to the language and intent of the State Law and Federal Law and that these spills and accidental discharges may occur from time to time, notwithstanding efforts to prevent them.

2.2 It is further recognized that such spills and discharges are likely to have adverse effects upon the quality of the waters of the State impairing existing and future uses of those waters. The State Water Resources Board hereby declares it mandatory that, in order to minimize the adverse effects which the above described occurrences may have upon users of waters of the State, the following procedures shall be followed:

2.2.a Each and every person who may cause or be responsible for any spill or accidental discharge of pollutants into

WRB

Leg. Rule 20-5 & 20-5A
Series III, Sec. 2.2.a

the waters of the State shall give immediate notification to the Division of Water Resources' Emergency Notification Number 1-800-642-3074.

2.2.b Such notification shall set forth insofar as possible and as soon thereafter as practical the time and place of such spill or discharge, type or types and quantity or quantities of the material or materials therein, action or actions taken to stop such spill or discharge and to minimize the polluting effect thereof, the measure or measures taken or to be taken in order to prevent a recurrence of any such spill or discharge and such additional information as may be requested by the Division of Water Resources. A written verification of such notification shall be submitted upon request of the Division of Water Resources.

2.2.c It shall be the responsibility of each industrial establishment or other entity discharging directly to a stream to have available the following information pertaining to those substances that are employed or handled in its operation in sufficiently large amounts as to constitute a hazard in case of an accidental spill and discharge into a public stream:

2.2.c.1 Potential toxicity in water to man, animals and aquatic life;

2.2.c.2 Details on analytical procedures for the quantitative estimation of such substances in water; and

2.2.c.3 Suggestions on safeguards or other precautionary measures to nullify the toxic effects of a substance once it has gotten into a stream.

2.3 Section 2.1.a and 2.1.b shall also apply to spills to the waters of the State resulting from accidents to common carriers by highway, rail and water.

2.4 Failure to furnish such information as required by Section 9, Article 5A, Chapter 20, Code of West Virginia shall be punishable under Section 19, Article 5A, Chapter 20, Code of West Virginia.

2.5 It shall be the responsibility of any person who causes or contributes in any way to the spill or accidental discharge of any pollutant or pollutants into State waters to immediately take any and all measures necessary to contain such spill or discharge.

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Leg. Rule 20-5 & 20-5A

Series III, Sec. 2.5.a

2.5.a It shall further be the responsibility of such person to take any and all measures necessary to clean up, remove, and otherwise render such spill or discharge harmless to the waters of the State.

2.5.b When the Chief determines it necessary for the effective containment and abatement of spills and accidental discharges, the Chief may require the person or persons responsible for such spill or discharge to monitor affected waters in a manner prescribed by the Chief until the possibility of any adverse effect on the waters of the State no longer exists.

2.6 Within 30 days after the spill or accidental discharge, a permittee shall apply for a modification to its permit incorporating any new or altered device, equipment or measure which is a permanent change to its disposal system, facility or activity. For the purposes of this section, a permanent change is one which will remain in place for at least one (1) year after installation, construction or initiation.

Section 3. Coin-Operated and Other Commercial Laundries.

3.1 The increasing appearance of coin-operated and other commercial laundries, particularly in unsewered areas, has led to a variety of wastewater treatment problems. In order to establish minimum requirements governing construction of such wastewater handling facilities and in accordance with Chapter 20, Article 5A, Code of West Virginia, the following Legislative Rules are established.

3.2 Coin-operated laundries and other commercial laundries located within the corporate limits of a West Virginia municipality, town, or within the boundaries of a public service district, or sanitary district, or a privately owned installation having an approved sewage treatment facility shall divert wastewater to these systems for treatment.

3.2.a Laundry discharging directly to a sewer: A laundry without pretreatment of the wastewater connected to a sewer requires adherence to local plumbing codes and to any special regulations regarding acceptance of waste at the sewage treatment plant.

3.2.b Laundry with pretreatment and discharge directly to sewer: The laundry shall provide equipment for removal of lint from the water.

3.3 Coin-operated and other commercial laundries located such that a POTW is unavailable or incapable of handling or treating the wastewater from such establishment shall either divert the wastewater to an approved sewage treatment facility or shall apply to the Chief for a permit to construct, install and operate a disposal system. The system to be constructed, installed and operated must meet the following minimum requirements in addition to those described elsewhere by law:

3.3.a Substantial removal of all settleable solids.

3.3.b Ninety percent removal of 5-day biochemical oxygen demand.

3.3.c Chlorination of final effluent is required at the initial installation. A chlorination contact chamber shall provide a contact period of at least 15 minutes with a residual of 0.5 mg/l of chlorine at maximum flow. Dechlorination may be necessary to meet water quality standards criteria (see Section 8, Series I).

3.3.d Laundry discharging water to a receiving stream used primarily for recreational pursuit and supporting sport fisheries shall in addition to items 3.3.a through 3.3.c provide tertiary treatment of additional BOD removal to 10 mg/l.

3.4 Laundry with no wastewater discharge: A laundry may be located where no discharge of the wastewater can be made to a sanitary sewer or to a receiving stream. In these cases, holding tanks shall be provided for wastes and the waste must be transported to an approved wastewater treatment plant for treatment.

3.5 The following systems are non-allowable and will not be permitted:

3.5.a Septic tanks with or without leach fields.

3.5.b Cesspools.

3.5.c Direct or indirect discharge of untreated or inadequately treated laundry wastewater to the waters of the State.

Section 4. Coin Operated and Other Fee Generating Car Washing Establishments.

4.1 The following minimum requirements are established for coin operated and other fee generating car washing establishments.

4.2 Any coin operated and other fee generating car washing establishment located such that a publicly owned treatment works and sewerage system is available to handle and treat such wastewater shall direct its wastewater to the publicly owned treatment works. A coin operated or other fee generating car washing establishment so situated need not install a pretreatment system unless the POTW certifies to the establishment that it could not handle and treat the establishment's wastewater without minimum pretreatment as set forth in paragraph 4.2.b.

4.2.a A car wash discharging to a POTW without pretreatment of the wastewater must adhere to local plumbing codes and to any special local ordinances or regulations regarding acceptance of waste at the sewage treatment plant.

4.2.b A car wash pretreatment system at a minimum shall consist of a device to prevent large objects from entering the sewer lines and a settling tank to remove settleable solids and shall comply with the applicable requirements of the local sewer use ordinance or regulations including the pretreatment requirements of Section 14 (NPDES Series II rules) where applicable.

4.3 Any coin-operated or other fee generating car washing establishment located such that a POTW is unavailable or incapable of handling or treating the wastewater from such establishment shall either direct its wastewater to an approved sewage treatment facility or shall apply to the Chief for a permit to construct, install and operate a disposal system. The disposal system to be constructed, installed and operated must meet the following minimum requirements, in addition to those prescribed elsewhere by law:

4.3.a Substantial removal of all settleable solids.

4.3.b Substantial removal of 5-day biochemical oxygen demand.

4.3.c A grease trap shall be installed and properly maintained within to prevent oil and grease from entering the wastewater treatment facility.

4.3.d A grit removal chamber shall be installed in such a manner to be readily cleaned.

4.3.e A car wash discharging wastewater to a receiving stream used primarily for recreational pursuit and supporting sport fisheries may be required to provide treatment in addition to the minimum requirements of the above cited 4.3.a - 4.3.e.

4.4 A car wash which does not provide treatment facilities under subsection 4.3 shall provide impervious holding facilities for wastes and the wastes must be transported to an approved wastewater treatment plant for treatment.

4.5 A car wash employing a reuse system shall provide proper disposal of settleable materials.

4.6 The following systems are non-allowable and will not be permitted:

4.6.a Septic tanks with or without leach fields.

4.6.b Cesspools.

4.6.c Direct or indirect discharge of untreated or improperly treated wastewater from coin-operated or other fee generating car washing establishments to the waters of the State.

Section 5. Water Purification Wastewater Control Measure.

5.1 Waste disposal: Provision must be made for proper disposal of wastes from water treatment plants. Such wastes include but are not limited to those emanating from sanitary facilities, laboratories, clarification facilities, softening facilities, and filter backwash. Discharges shall be governed by Chapter 20, Article 5A, Code of West Virginia and the following rules:

5.1.a The following means of waste and sludge disposal may be considered:

5.1.a.1 Lagoon design must provide the following:

5.1.a.1.i Location above the 25-year flood level;

5.1.a.1.ii Dikes, deflecting gutters or other means of diverting surface water when necessary;

5.1.a.1.iii A minimum depth of 4 to 5 feet;

5.1.a.1.iv Multiple cell, except where filter backwash frequency is less than once a day in which case a single cell may be used;

5.1.a.1.v Adjustable decanting devices; and

5.1.a.1.vi Convenient cleaning.

5.1.a.2 Sludge beds for lime softening sludge or other sludges must provide the following:

5.1.a.2.i Location above the 25-year flood level;

5.1.a.2.ii Multiple beds, each designed for at least one year's storage;

5.1.a.2.iii Size of sludge beds will be governed by the concentration of solids to be disposed of with an ultimate depth of 12 inches dry basis;

5.1.a.2.iv Distribution channels may be required for spreading sludge over entire area;

5.1.a.2.v Easy access roads and loading ramps with proper under drains must be provided; and

5.1.a.2.vi Tank Truck: Trucking wet sludge to agricultural lands or disposal areas requires proper handling, vehicles and equipment to permit hauling and spreading without creating of nuisances. It is necessary to provide sludge holding facilities for use during times that trucks cannot operate.

5.1.a.3 Community Wastewater Treatment Facility: Discharges to sewer systems and their treatment facilities depend on type of treatment, rate of discharge, plant design capacity, character of waste, and local conditions.

5.1.a.4 Other Methods: These include holding tanks, vacuum filters, centrifuging and re-calcining. Detailed studies must be made to justify their use.

5.1.a.5 Direct discharge when the Chief finds that water quality standards as set forth in Series I of the Water Resources Board's Legislative Rules will not be violated.

Section 6. Waste Load Allocations for Sewage Discharges.

6.1 Purpose - Waste load allocations for sewage dischargers are to be issued by the Chief to potential applicants for a Water Pollution Control Permit to assist with planning of wastewater treatment works which will meet prescribed effluent requirements and not violate State Water Quality Standards for the receiving waters. Applications for the waste load allocation shall be made prior to the initiation of any planning of any facilities which will produce or result in a wastewater discharge to the State's surface waters. Waste load allocations are not intended to, and shall not be interpreted to be an advance approval of wastewater treatment facilities which may be proposed nor is an assurance that a Water Pollution Control Permit will be issued. It is emphasized that waste load allocations are issued on major effluent criteria only for planning purposes.

6.2 Application forms may be prescribed by the Chief requiring submission of necessary information and data by the applicant to enable the Division of Water Resources to make a waste load allocation determination. Such determination shall be valid for a period of time specified by the Chief. Reapplication for a new waste load allocation will be required upon expiration of the preceding waste load allocation unless application for a Water Pollution Control Permit has been filed.

6.3 Waste load allocations shall prescribe the concentration and quality of significant wastewater substances and physical, chemical, or biological conditions for the proposed discharge. The waste load limitations shall represent 30-day and 7-day average values for biochemical oxygen demand, solids, nitrogen, and other criteria defining the load, except for pH and dissolved oxygen which are instantaneous limits if it is deemed necessary to assure protection of water uses immediately downstream from the point of discharge to the receiving waters.

6.4 Waste load allocations for the achievement of water quality standards shall normally be based on a specified low flow. The design flow for this purpose shall be the minimum mean 7-consecutive day flow with a 10-year return frequency.

6.5 In cases where a waste discharge is proposed to a wet weather stream, the allocation shall define the treatment plant effluent quality which will not affect designated uses of downstream waters in the nearest downstream segment of the stream but in no case less than the established water quality standard for this segment.

6.6 More stringent requirements may be specified by the Chief where necessary to protect downstream uses or where special conditions such as recreation or water supply impoundments or danger to aquatic or animal life exists.

6.7 A waste load allocation may be denied when the assimilative capacity of the receiving waters is being fully utilized or if the additional waste load would result in a violation of water quality standards.

6.8 Waste load allocations are not required prior to an application to dispose of treated domestic sewage effluents by land treatment and disposal methods. Applications for a Water Pollution Control Permit for such purpose will be reviewed on a case-by-case basis. Such systems may require a Water Pollution Control Permit from the Chief, Division of Water Resources.

6.9 United States Geological Survey data may be used in determining the mean 7-consecutive day drought flows with a 10-year recurrence interval but does not preclude the use of other reliable data systems as they become available.

Section 7. Small Wastewater Treatment Plants.

7.1 For the purpose of this section, these rules pertain to sewage treatment plants of 40,000 gallons per day capacity or less.

7.2 Operational reliability for such plants shall be provided in order that pollutants are not discharged during periods of power failure.

7.3 The wastewater treatment structure shall be protected against physical damage for the 25-year flood level and operability be maintained during the 10-year flood level.

7.4 In the case of mine bathhouses, schools, shopping centers, or other wastewater treatment facilities which surcharge the plant on a periodic basis, as opposed to generally constant flows, equalization facilities shall be provided. In cases where the organic loading is of low concentration, supplemental substances may be added, to obtain adequate treatment.

7.5 No construction, installation, modification or operation of a wastewater disposal system (treatment plant, sewers, lift stations and appurtenances) shall be performed until a Water Pollution Control Permit has been issued for the facilities.

Section 8. Permit Application Filing Fee.

8.1 A filing fee of fifty dollars (\$50.00) by check or money order shall accompany the application.

8.2 If the application submitted is determined not to be complete and must be returned to the applicant for more information required by the application form, another filing fee of fifty dollars (\$50.00) by check or money order shall accompany the filing of a new application.

8.3 Further, a filing fee in the amount of fifty dollars (\$50.00) is required each time an application is submitted.

8.4 The check or money order shall be made payable to the "West Virginia Department of Natural Resources". The filing fee shall be deposited in the State Treasury to the credit of the State General Fund. The filing fee shall not be returned to the applicant.

8.5 Any applicant for a permit who is a State Agency need not submit the permit filing fee. A State Agency for the purposes of this waiver means any executive, legislative or judicial department of the State but does not include political subdivisions of the State, county boards of education, municipalities, public service districts or sanitary district.

Section 9. Outlet Markers.

9.1 In accordance with the definitions provided in Chapter 20, Article 5A, Code of West Virginia, the following rules are established to identify outlets.

9.2 Each holder of a Water Pollution Control Permit shall post a permanent marker at the establishment under permit in accordance with the following:

9.2.a A marker shall be posted on the stream bank at each outlet covered by the permit.

9.2.b The marker shall consist of the name of the establishment to which the permit was issued, the permit number, and the outlet number.

9.2.c The marker shall be a minimum of two feet by two feet and shall be a minimum of three (3) feet above ground level.

H. B. 2587

(By Delegate Knight)

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

10 A BILL to amend and reenact section twenty (five-a) (three),
11 article two, chapter sixty-four of the code of West Virginia,
12 one thousand nine hundred thirty-one, as amended, and to
13 further amend said article two by adding thereto a new
14 section, designated section twenty (five) (five), relating to
15 authorizing the water resources board to promulgate
16 legislative rules relating to special regulations.

17 Be it enacted by the Legislature of West Virginia:

18 That section twenty (five-a) (three), 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, and
21 that said article two be further amended by adding thereto a new
22 section, designated section twenty (five) (five), to read as
23 follows:

24 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
25 LEGISLATIVE RULES.

26 §64-2-20(5)(5). Water resources board.

2587

1 The rules authorized by the Legislature in subsection (g),
2 section twenty (five-a) (three) of this article, as they relate
3 to special rules, were also proposed by the state water resources
4 board pursuant to section five, article five, chapter twenty of
5 this code.

6 §64-2-20(5a)(3). Water resources board.

7 (a) The legislative rules filed in the state register on the
8 sixth day of January, one thousand nine hundred eighty-three,
9 relating to the state water resources board (underground
10 injection control program) are authorized.

11 (b) The legislative rules filed in the state register on the
12 fifteenth day of November, one thousand nine hundred eighty-
13 three, relating to the state water resources board (special
14 regulations) are authorized.

15 (c) The legislative rules filed in the state register on the
16 third day of August, one thousand nine hundred eighty-three,
17 relating to the state water resources board (groundwater
18 protection standards) are authorized.

19 (d) The legislative rules filed in the state register on the
20 fifteenth day of November, one thousand nine hundred eighty-
21 three, relating to the state water resources board (state
22 national pollutant discharge elimination system (NPDES) program),
23 are authorized.

24 (e) The legislature hereby authorizes and directs the state
25 water resources board to promulgate rules relating to water
26 quality standards in exact conformity with the rules relating to

1 water quality standards tendered to the secretary of state on the
2 seventh day of March, one thousand nine hundred eighty-four by
3 the executive secretary of the state water resources board, to be
4 received and filed for inclusion in the state register by the
5 secretary of state.

6 (f) The legislative rules filed in the state register on the
7 seventh day of January, one thousand nine hundred eighty-five,
8 modified by the water resources board to meet the objections of
9 the legislative rule-making review committee and refiled in the
10 state register on the thirteenth day of February, one thousand
11 nine hundred eighty-five, relating to the water resources board
12 (water quality standards), are authorized.

13 (g) The legislative rules filed in the state register on the
14 seventeenth day of October, one thousand nine hundred eighty-
15 five, relating to the state water resources board (special
16 regulations) are authorized. These rules were proposed by the
17 state water resources board pursuant to section three, article
18 five-a, and section five, article five, of chapter twenty of this
19 code.

20

21 NOTE: The purpose of this bill is to authorize the State
22 Water Resources Board to promulgate legislative rules relating to
23 special regulations.

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. 348
(By Senator Tucker)

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

10 A BILL to amend and reenact section twenty (five-a) (three),
11 article two, chapter sixty-four of the code of West Virginia,
12 one thousand nine hundred thirty-one, as amended, and to
13 further amend said article two by adding thereto a new
14 section, designated section twenty (five) (five), relating to
15 authorizing the water resources board to promulgate
16 legislative rules relating to special regulations.

17 Be it enacted by the Legislature of West Virginia:

18 That section twenty (five-a) (three), 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, and
21 that said article two be further amended by adding thereto a new
22 section, designated section twenty (five) (five), to read as
23 follows:

24 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
25 LEGISLATIVE RULES.

26 §64-2-20(5)(5). Water resources board.

1 The rules authorized by the Legislature in subsection (g),
2 section twenty (five-a) (three) of this article, as they relate
3 to special rules, were also proposed by the state water resources
4 board pursuant to section five, article five, chapter twenty of
5 this code.

6 §64-2-20(5a)(3). Water resources board.

7 (a) The legislative rules filed in the state register on the
8 sixth day of January, one thousand nine hundred eighty-three,
9 relating to the state water resources board (underground
10 injection control program) are authorized.

11 (b) The legislative rules filed in the state register on the
12 fifteenth day of November, one thousand nine hundred eighty-
13 three, relating to the state water resources board (special
14 regulations) are authorized.

15 (c) The legislative rules filed in the state register on the
16 third day of August, one thousand nine hundred eighty-three,
17 relating to the state water resources board (groundwater
18 protection standards) are authorized.

19 (d) The legislative rules filed in the state register on the
20 fifteenth day of November, one thousand nine hundred eighty-
21 three, relating to the state water resources board (state
22 national pollutant discharge elimination system (NPDES) program),
23 are authorized.

24 (e) The legislature hereby authorizes and directs the state
25 water resources board to promulgate rules relating to water
26 quality standards in exact conformity with the rules relating to

1 water quality standards tendered to the secretary of state on the
2 seventh day of March, one thousand nine hundred eighty-four by
3 the executive secretary of the state water resources board, to be
4 received and filed for inclusion in the state register by the
5 secretary of state.

6 (f) The legislative rules filed in the state register on the
7 seventh day of January, one thousand nine hundred eighty-five,
8 modified by the water resources board to meet the objections of
9 the legislative rule-making review committee and refiled in the
10 state register on the thirteenth day of February, one thousand
11 nine hundred eighty-five, relating to the water resources board
12 (water quality standards), are authorized.

13 (g) The legislative rules filed in the state register on the
14 seventeenth day of October, one thousand nine hundred eighty-
15 five, relating to the state water resources board (special
16 regulations) are authorized. These rules were proposed by the
17 state water resources board pursuant to section three, article
18 five-a, and section five, article five, of chapter twenty of this
19 code.

20

21 NOTE: The purpose of this bill is to authorize the State
22 Water Resources Board to promulgate legislative rules relating to
23 special regulations.

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.