

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
STATE WATER RESOURCES BOARD

CHAPTER 20 - 5A
SERIES VI
(1984)

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 8-9-84
Administrative Law Division

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

STATE WATER RESOURCES BOARD

Chapter 20
Article 5A

Series VI
(1984)

FILED IN THE OFFICE OF
A. JAMES MANNCHIN
SECRETARY OF STATE

THIS DATE 8-9-84
Administrative Law Division

SUBJECT: **Procedural Regulations for the Revision of Water Quality Standards

TABLE OF CONTENTS		Page
Section 1.00	General	1
1.01	Scope	1
1.02	Authority	1
1.03	Effective Date	1
1.04	Filing Date	1
Section 2.00	Revision of Water Quality Standards	2
2.01	Who May Revise a Water Quality Standard	2
2.02	Contents of Application	2-3
2.03	Board Review	3
2.04	Decision on Application	4
2.05	Proposal of Revision	4-5
2.06	Multiple Applications	6
	Promulgation History	7
	Fiscal Note	8

**Procedural Rule

PROMULGATION HISTORY

The proposed procedural regulation for the revision of water quality standards was filed with the Secretary of State on June 29, 1981 with an effective date of July 29, 1981.

The Board then went to public notice on October 28, 1982 with a combined procedural regulation for the revision of water quality standards and petitions for rule making under Chapter 20, Articles 5A and 5E and adopted the combined regulations designated Series VI on the 20th day of January 1983, with an effective date of February 19, 1983.

On June 14, 1984 the Board filed in the Office of the Secretary of State proposed changes/additions/amendments/deletions to these regulations with the comment period closing July 14, 1984. In this proposed regulation all reference to Petitions for Rule Making under Chapter 20, Article 5E had been deleted as the Board no longer has this authority (reference Memorandum to Members of the State Water Resources Board dated March 10, 1983 from David C. Callaghan, Director - Department of Natural Resources).

On August 6, 1984 by proper motion and vote the Board adopted the proposed changes to Series VI Administrative Regulations and they were duly filed with the Secretary of State on August 9, 1984 with an effective date of September 8, 1984.

WRB
Adm. Reg. 20-5A
Series VI

FISCAL NOTE

The proposed changes/additions/amendments/deletions to Series VI of the Administrative Regulations of the State Water Resources Board are not expected to require any additional fiscal impact on the public or the State.

*Title 46
Procedural Rules*

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~

e
STATE WATER RESOURCES BOARD

~~Chapter 20
Article 5A~~

Series ~~VI~~ *6*
(1984)*e*

PROCEDURAL REGULATIONS FOR THE REVISION OF WATER QUALITY STANDARDS

Section 1.00 General

1.01 Scope

The rules of procedure provided herein shall govern and apply to proceedings before the Board on the Revision of Water Quality Standards under Chapter 20-5A-1 et seq. of the West Virginia Code.

1.02 Authority

WVa Code 20-5A-1

~~These rules are promulgated pursuant to the Authority of Chapter 29A-3-3 of the West Virginia Code and Chapter 20-5A-1, et seq. of the West Virginia Code.~~

1.03 Effective Date

These rules were adopted by the Board on August 6, 1984 and become effective on September 8, 1984.

1.04 Filing Date

These rules were filed in the Office of the Secretary of State on August 9, 1984.

Section 2.00 Revision of Water Quality Standards

2.01 Who May Revise a Water Quality Standard

The Board may revise a water quality standard upon the application of any person, including the Chief, or upon its own initiative.

2.02 Contents of Application

Any application for a revision of standards shall be filed in six (6) copies and shall contain the following:

(a) A U.S.G.S. 7.5 minute map showing those stream segments for which the standard is to be revised and showing existing and proposed discharge points.

(b) The existing and proposed designated uses for the stream segment(s) in question.

(c) The existing and proposed water quality criteria for the stream segment(s) in question.

(d) Existing uses and water quality data for the stream segment(s) in question. Where adequate data are unavailable, additional studies may be required by the Board.

(e) General land uses (e.g., mining, agricultural, recreation, residential, commercial, industrial, etc.) as well as specific land uses adjacent to the waters for the length of the segment(s) proposed to be revised.

(f) The existing and designated uses of the receiving waters into

which the segment in question discharges and the location where those downstream uses begin to occur.

(g) General physical characteristics of the stream segment including but not limited to width, depth, bottom composition and slope.

(h) The average amount of flow in the segment and the amount of flow at a designated control point.

(i) An assessment of aquatic life in the stream segment in question and in the adjacent upstream and downstream segments.

(j) In addition, for establishing a less restrictive use, information must be supplied as follows:

(i) An explanation of the irretrievable person-induced or natural conditions which preclude attainment of a higher use designation; or

(ii) An assessment of the adverse social and economic impacts of additional controls beyond the effluent limitations required pursuant to Section 301(b)(2)(A) and (B) of the Federal Act.

(k) The Board may require any additional information or data it deems necessary to make a decision.

(l) Alphanumeric Code if known.

2.03 Board Review

The Board shall review any application prepared and submitted pursuant to the above and the recommendation of the Chief and then, shall decide

whether to tentatively approve the requested revision to the standards. The recommendation of the Chief shall be based upon all available information.

2.04 Decision on Application

If the Board decides to tentatively approve a revision, including one on its own initiative, it shall prepare or cause to be prepared an information sheet containing at least the following where applicable:

- (a) The name and address of the applicant.
- (b) The name and sketch or description of the waters proposed for revision of standards, including the location of existing and proposed discharge points and the Alphanumeric designation.
- (c) The existing and proposed designated use(s).
- (d) The proposed changes in water quality criteria for the segment(s) based on the proposed designated use(s).
- (e) A brief abstract of the supportive documentation which demonstrates that the revision is appropriate.
- (f) A summary of the implications of such designation for the community and other users or potential users of the waters in question.
- (g) The Chief's recommendations and any relevant Division reports, etc.
- (h) Any other information deemed necessary.

2.05 Proposal of Revision

In proposing said revision(s), the Board shall follow the applicable

procedures in Chapter 29A-3-1, et seq., with the following added for clarification:

(a) In addition to filing notice of the proposed rule(s) in the State Register, the Board shall publish notice of a public hearing on the proposed rule(s) as a Class I legal advertisement in a publication area determined by the Board.

(b) The said notice of public hearing shall include the following information:

- (i) Time and location of hearing;
- (ii) Hearing agenda;
- (iii) Notification of the availability of an information sheet as required under Section 2.04; and
- (iv) The location where reports, documents, and data pertaining to the hearing agenda are available for public inspection.

(c) Any such notice of public hearing shall also be mailed to any person who has filed with the Board a request for notices of proposed rules revising water quality standards. Such notices shall also be mailed to affected downstream States and Federal, State and interstate agencies which may be affected by the proposed revision(s).

(d) The Board shall cause to be prepared a transcript of any public hearing held pursuant to these rules and shall make such transcript available for public inspection.

2.06 Multiple Applications

In consideration of limited time and resources, the Board may, within its discretion, consider several applications for revised standards at one time and may defer all such considerations to its triennial review required under Section 303 of the Federal Act.