

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

FILED

JUL 26 1 21 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

Dept. of Commerce, Labor & Environmental Resources
AGENCY: State Water Resources Board TITLE NUMBER: 46

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 12

TITLE OF RULE BEING PROPOSED: Requirements Governing Groundwater Standards

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

AUTHORIZATION IS CITED IN (house or senate bill number) HB 100

SECTION 64-3-10(g), PASSED ON May 26, 1993

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: August 25, 1993

Frances E Hunter

3.40

PROPOSED

Title 46 - Series 12

WEST VIRGINIA LEGISLATIVE RULES

State Water Resources Board

1992

REQUIREMENTS GOVERNING GROUNDWATER STANDARDS

Department of Commerce, Labor and Environmental Resources
STATE WATER RESOURCES BOARD
1615 Washington Street, East
Charleston, West Virginia 25311-2126
(304) 558-4002

NOTE: This is an entirely new series, nothing has been underscored.

FILED

PROPOSED
TITLE 46
LEGISLATIVE RULES
WATER RESOURCES BOARD
REQUIREMENTS GOVERNING GROUNDWATER STANDARDS
Series 12
1992

FEB 16 3 48 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

46-12-1. General

1.1. Scope and Purpose - The purpose of this Legislative rule is to establish minimum standards of purity and quality for groundwater located within this State.

1.2. Authority - W. Va. Code § 20-5M-4 and 20-5-5.

1.3. Filing Date -

1.4. Effective Date -

46-12-2. Definitions - As used in this rule:

2.1. "Act" means the Groundwater Protection Act, W. Va. Code § 20-5M-1 et seq.

2.2. "Board" means the State Water Resources Board.

2.3. "Constituent" means any chemical or biological substance found in groundwater due to either natural or man-made conditions.

2.4. "Groundwater" means the water occurring in the zone of saturation beneath the seasonal high water table, or any perched water zones.

2.5. "Person" means any industrial user, public or private corporation, institution, association, firm or company organized or existing under the laws of this or any other state or country; State of West Virginia; governmental agency, including federal facilities; political subdivision; county commission; municipal corporation; industry; sanitary district; public service district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group; or any legal entity whatever.

46-12-3. Groundwater Standards

3.1. Except as provided in Sections 3.2 and 3.3, the standards of purity and quality for groundwater in the state shall be the constituent concentrations found in Appendix A.

3.2. Where the concentration of a constituent exceeds an otherwise applicable groundwater quality standard as a result of natural

conditions, the naturally occurring level of that constituent shall become the groundwater quality standard for the affected area.

3.2.a. Where the concentration of a certain constituent exceeds an otherwise applicable groundwater quality standard due to human-induced contamination, no further contamination by that constituent shall be allowed, and every reasonable effort shall be made to identify, remove or mitigate the source of such contamination, and to strive where practical to reduce the level of contamination over time to support drinking water use.

3.3. Constituents in groundwater shall not cause a violation of the standards found at 46 CSR Series 1 in any surface water.

3.4. Groundwater quality standards do not apply:

3.4.a. Within areas of geologic formations which are site specific to site production or storage zones of crude oil or natural gas and which are utilized for the exploration, development or production of crude oil or natural gas permitted pursuant to W. Va. Code 22B; and

3.4.b. Within areas of geologic formations which are site specific to the injection zones of Class II or III or wells permitted pursuant to the statutes and regulations governing the underground injection control program.

3.4.c. To any constituent or any class of activities for which a variance from groundwater quality standards has been granted by the Director pursuant to W. Va. Code § 20-5M-5(1).

3.4.d. To coal extraction and earth disturbing activities directly involved in coal extraction that are subject to W. Va. Code § Chapter 22A, Article 3 or Chapter 20, Article 5A.

3.5 Measurement of inorganic constituents

3.5.a. Compliance with groundwater protection standards for inorganic constituents shall be determined in terms of dissolved concentrations rather than total concentrations except as specified in section 3.5.b.

3.5.b. Any groundwater regulatory agency as specified in the Act may determine compliance with groundwater protection standards for inorganic constituents utilizing total concentration values, only as necessary to protect human health or the environment. Appropriate situations for utilizing total concentration values include, but are not limited to, the following:

3.5.b.1. Sample is from a carbonate formation in an area of karst terrane;

3.5.b.2. Sample is from a collection point for groundwater used for private or public water supply; or where

3.5.b.3. Sample is from a spring or seep.

APPENDIX A

<u>Constituent</u>	<u>Not To Exceed (in mg/l, except where noted)</u>
Alachlor	0.002
Antimony	0.006
Asbestos (fibers/l less than 10 ug/l)	7MFL*
Atrazine	0.003
Barium	2.0
Benzene	0.005
Benzo(a)pyrene (PAH)	0.0002
Beryllium	0.004
Cadmium	0.005
Carbofuran	0.04
Carbon Tetrachloride	0.005
Chlordane	0.002
Chromium (total)	0.1
Cyanide	0.2
2,4-D	0.07
Dalapon	0.2
Di[2-ethylhexyl]adipate	0.4
Di[2-ethylhexyl]phthalate	0.006
Dibromochloropropane (DBCP)	0.0002
Dichlorobenzene p-	0.075
Dichlorobenzene o-	0.6
Dichlorobenzene m-	0.6
Dichloroethane (1,2)	0.005
Dichloroethylene (1,1-)	0.007
Dichloroethylene (cis-1,2-)	0.07

Dichloroethylene (trans-1,2-)	0.1
Dichloromethane	0.005
Dichloropropane (1,2-)	0.005
Dinoseb	0.007
Diquat	0.02
Endothall	0.1
Endrin	0.002
Ethylbenzene	0.7
Ethylene dibromide (EDB)	0.00005
Fluoride	4.0
Glyphosate	0.7
Heptachlor	0.0004
Heptachlor epoxide	0.0002
Hexachlorobenzene	0.001
Hexachlorocyclopentadiene	0.05
Lead	0.015
Lindane	0.0002
Mercury (inorganic)	0.002
Methoxychlor	0.04
Monochlorobenzene	0.1
Nickel	0.1
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Total Nitrate and Nitrite (both as N)	10.0
Oxamyl (Vydate)	0.2
Pentachlorophenol	0.001

Picloram	0.5
Polychlorinated biphenyls	0.0005
Selenium	0.05
Simazine	0.004
Styrene	0.1
2,3,7,8-TCDD (Dioxin)	0.000000005
Tetrachlorethylene	0.005
Thallium	0.002
Toluene	1.0
Toxaphene	0.003
2,4,5-TP (Silvex)	0.05
Trichlorobenzene (1,2,4-)	0.07
Trichloroethane (1,1,1-)	0.2
Trichloroethane (1,1,2-)	0.005
Trichloroethylene	0.005
Vinyl Chloride	0.002
Xylenes (total)	10.0
Radionuclides	
Beta particle and photon activity	4 mrem**
Gross alpha particle activity	15 pCi/L***

*MFL = million fibers per liter

** mrem = millirem (rem = roentgen-equivalent-man)

*** pCi = picocurie

SENATE BILL NO. 177

(By Senator Manchin)

[Introduced March 1, 1993; referred to the
Committee on Natural Resources; and then to
the Committee on the Judiciary.]

8

9

10 A BILL to amend and reenact section ten, article three, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 water resources board to promulgate legislative rules
14 relating to requirements governing groundwater standards.

15 **Be it enacted by the Legislature of West Virginia:**

16 That section ten, article three, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 **ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND**
20 **ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.**

21 **§64-3-10. Water resources board.**

22 (a) The legislative rules filed in the state register on the
23 sixth day of January, one thousand nine hundred eighty-three,

1 relating to the state water resources board (underground
2 injection control program), are authorized.

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

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

11 (d) The legislative rules filed in the state register on the
12 fifteenth day of November, one thousand nine hundred
13 eighty-three, relating to the state water resources board (state
14 national pollutant discharge elimination system (NPDES) program),
15 are authorized.

16 (e) The Legislature hereby authorizes and directs the state
17 water resources board to promulgate rules relating to water
18 quality standards in exact conformity with the rules relating to
19 water quality standards tendered to the secretary of state on the
20 seventh day of March, one thousand nine hundred eighty-four, by
21 the executive secretary of the state water resources board, to be
22 received and filed for inclusion in the state register by the
23 secretary of state.

24 (f) The legislative rules filed in the state register on the
25 seventeenth day of October, one thousand nine hundred

1 eighty-five, and modified by the state water resources board to
2 meet the objections of the legislative rule-making review
3 committee and refiled in the state register on the twenty-fourth
4 day of February, one thousand nine hundred eighty-seven, relating
5 to the state water resources board (special regulations), are
6 authorized.

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

14 (h) The legislative rules filed in the state register on the
15 seventeenth day of October, one thousand nine hundred
16 eighty-five, modified by the state water resources board to meet
17 the objections of the legislative rule-making review committee
18 and refiled in the state register on the eighth day of January,
19 one thousand nine hundred eighty-seven, and further modified by
20 the state water resources board to meet the objections of the
21 legislative rule-making review committee and refiled in the state
22 register on the twenty-fourth day of February, one thousand nine
23 hundred eighty-seven, relating to the state water resources board
24 (water quality standards), are authorized.

1 (i) The legislative rules filed in the state register on the
2 seventeenth day of October, one thousand nine hundred
3 eighty-five, modified by the state water resources board to meet
4 the objections of the legislative rule-making review committee
5 and refiled in the state register on the eighth day of January,
6 one thousand nine hundred eighty-seven, and further modified by
7 the state water resources board to meet the objections of the
8 legislative rule-making review committee and refiled in the state
9 register on the twenty-fourth day of February, one thousand nine
10 hundred eighty-seven, relating to the state water resources board
11 (state national pollutant discharge elimination system (NPDES)
12 program), are authorized.

13 (j) The legislative rules filed in the state register on the
14 seventeenth day of October, one thousand nine hundred
15 eighty-five, and modified by the state water resources board to
16 meet the objections of the legislative rule-making review
17 committee and refiled in the state register on the twenty-fourth
18 day of February, one thousand nine hundred eighty-seven, relating
19 to the state water resources board (underground injection control
20 program), are authorized.

21 (k) The legislative rules filed in the state register on the
22 seventeenth day of October, one thousand nine hundred
23 eighty-five, and modified by the state water resources board to
24 meet the objections of the legislative rule-making review
25 committee and refiled in the state register on the twenty-fourth

1 day of February, one thousand nine hundred eighty-seven, relating
2 to the state water resources board (special regulations), are
3 authorized.

4 (l) The legislative rules filed in the state register on the
5 thirtieth day of June, one thousand nine hundred eighty-seven,
6 relating to the water resources board (water quality standards),
7 are authorized.

8 (m) The legislative rules filed in the state register on the
9 fourteenth day of October, one thousand nine hundred
10 eighty-eight, relating to the water resources board (water
11 quality standards), are authorized.

12 (n) The legislative rules filed in the state register on the
13 twenty-seventh day of August, one thousand nine hundred ninety,
14 relating to the water resources board (requirements governing
15 water quality standards), are authorized.

16 (o) The legislative rules filed in the state register on the
17 eighteenth day of September, one thousand nine hundred ninety-
18 two, modified by the water resources board to meet the objections
19 of the legislative rule-making review committee and refiled in
20 the state register on the sixteenth day of February, one thousand
21 nine hundred ninety-three, relating to the water resources board
22 (requirements governing groundwater standards), are authorized.

23

24 NOTE: The purpose of this bill is to authorize the Water
25 Resources Board to promulgate legislative rules relating to
26 requirements governing groundwater standards.

27

1 Strike-throughs indicate language that would be stricken from
2 the present law, and underscoring indicates new language that
3 would be added.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

*Talked to Libby on phone about
proofing rule.*

TO: Fran Hunter

AGENCY: Water Resources

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 8, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 12 TITLE: 46 Water Resources

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Pam Reese

TITLE OF PERSON SIGNING: Admin. Assistant

DATE: 2-1-94

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.