

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

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MAY 7 2 30 PM '99

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #5

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

DIVISION ENVIRONMENTAL PROTECTION
AGENCY: OFFICE OF WATER RESOURCES TITLE NUMBER: 47

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 RULE BEING PROPOSED: 3

TITLE OF RULE BEING PROPOSED: Pollution Prevention and Compliance
Assistance Rule

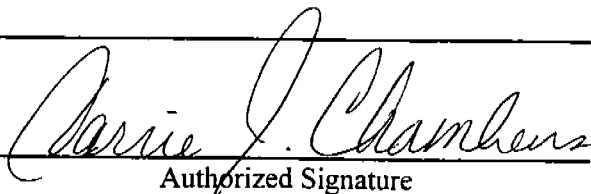
THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 2533

SECTION 64-3-1(n) PASSED ON March 21, 1999; signed 4/2/99

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: May 7, 1999


Authorized Signature

\$2.80



Executive Office
#10 McJunkin Road
Nitro, WV 25143-2506
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West Virginia Bureau of Environment

Cecil H. Underwood
Governor

Michael P. Miano
Commissioner

May 7, 1999

Ms. Judy Cooper
Director, Administrative
Law Division
Secretary of State's Office
Capitol Complex
Charleston, WV 25305

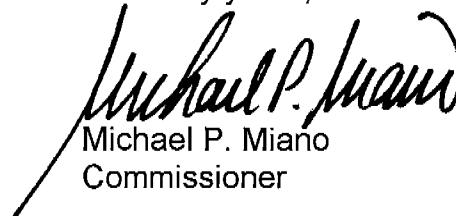
RE: 47CSR3 - "Pollution Prevention and Compliance Assistance Rule"

Dear Ms. Cooper:

This is to advise that I am giving approval to file the above-referenced rule with your Office as a final rule authorized by HB 2533, signed by Governor Underwood April 2, 1999.

Your cooperation in this regard is very much appreciated. If you should have any questions or require additional information, please feel free to contact Carrie Chambers in my office at 759-0515.

Sincerely yours,


Michael P. Miano
Commissioner

MPM:cc

Attachment

cc: Barbara Taylor
Lyle Bennett
Carrie Chambers

RULE PROMULGATION HISTORY

TITLE 47 - SERIES 3 DIVISION OF ENVIRONMENTAL PROTECTION OFFICE OF WATER RESOURCES

POLLUTION PREVENTION AND COMPLIANCE ASSISTANCE RULE

JUNE 22, 1998	NOTICE OF PUBLIC HEARING FILED WITH SECRETARY OF STATE'S OFFICE
JULY 23, 1998	PUBLIC HEARING HELD
JULY 31, 1998	AGENCY APPROVED RULE FILED WITH LEGISLATIVE RULE-MAKING AND SECRETARY OF STATE'S OFFICE
MARCH 21, 1999	HB 2533 PASSED THE LEGISLATURE
APRIL 2, 1999	HB 2533 SIGNED BY THE GOVERNOR
MAY 7, 1999	FINAL FILED WITH SECRETARY OF STATE'S OFFICE
MAY 7, 1999	EFFECTIVE DATE OF 47CSR33

FILED

TITLE 47
LEGISLATIVE RULE
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF WATER RESOURCES

MAY 7 2 31 PM '99

OFFICE OF THE GOVERNOR
SECRETARY OF STATE

SERIES 3
POLLUTION PREVENTION AND COMPLIANCE ASSISTANCE RULE

§47-3-1. General.

1.1. Scope and Purpose. -- To promote pollution prevention by encouraging the reduction or elimination of pollutants at the source through process modification, material substitution, in process recycling, reduction of raw material use or other source reduction opportunities. This rule establishes requirements governing the Division of Environmental Protection's in-house mechanisms for encouraging bonafide pollution prevention efforts by industries to assist in achieving regulatory compliance; and to further improve compliance with environmental laws by improving advisory and technical assistance features of programs within the Division.

This rule establishes a multi-media program to assist businesses with pollution reduction and elimination activities; providing duties and powers of the director; and designating existing programs by the Director within the Division of Environmental Protection engaged in bonafide pollution prevention and compliance assistance activities to keep information confidential and independent from enforcement or other division personnel unless an imminent hazard to human health or the environment exists.

1.2. Authority. -- W. Va. Code §§22-1-1(b)(10) and 22-1-6d

1.3. Filing Date. -- May 7, 1999

1.4. Effective Date. -- May 7, 1999

§47-3-2. Definitions.

2.1. "Agency" means the Division of Environmental Protection.

2.2. "Compliance Assistance" means services provided to the regulated community in order to assure environmental laws and

rules pertaining to treatment and proper disposal are being addressed by cooperating businesses.

2.3. "Director" means the Director of the Division of Environmental Protection.

2.4. "Imminent Hazard" means any conditions or practices that present an immediate threat to human health and an impending and unreasonable risk to the environment.

2.5. "Multi-media" means water, air, waste, and land.

2.6. "Pollution Prevention" is the means of the reduction or elimination of pollutants at the source through process modification, material substitution, in process recycling, reduction of raw material use, or other source reduction opportunities.

2.7. "Program" Pollution Prevention Services is designated as a program of the Division of Environmental Protection within the Office of Water Resources.

2.8. "Source Reduction" means any practice which reduces the amount of any substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

§47-3-3. Powers and Limitations.

The Director has established Pollution Prevention Services, a program within the Office of Water Resources that provides pollution prevention and compliance assistance to the regulated community within the state.

3.1. The multi-media section seeks to coordinate activities within the Offices of Air, Water, and Waste in matters relating to pollution prevention and compliance assistance.

3.2. Assistance does not protect participating businesses from ongoing enforcement actions or any independent action initiated after the assistance activities are underway. Assistance activities may be conducted concurrent to enforcement

activities by enforcement agencies.

3.3. The agency makes specific technical assistance available to businesses seeking information about pollution prevention/compliance assistance opportunities, including on site technical information, for the purpose of assisting in the development of pollution prevention plans.

3.4. The program will target assistance to businesses for whom lack of information is an impediment to pollution prevention.

3.5. The program participants will receive training in pollution prevention techniques.

3.6. Pollution prevention activities shall be coordinated with other assistance providers, federal agencies, other states' pollution prevention/compliance assistance providers, educational establishments, and any other organization engaged in providing pollution prevention resources.

3.7. Agency personnel function as the invitees of businesses seeking assistance. Participating businesses may terminate participation in this program at any time.

§47-3-4. Confidentiality.

4.1. The agency will maintain all information from site evaluations, interviews or otherwise, obtained from facility personnel confidential and shall not provide information to enforcement personnel except for conditions which would result in an imminent hazard as defined in this rule.

4.2. Any information generated subsequent to field evaluations, correspondence, etc., may be retained in a temporary file which shall be given to the participating business upon request following completion of agency involvement.

§47-3-5. Imminent Hazard.

5.1. The agency shall notify the company of obligation on part of pollution prevention personnel to report imminent hazards. If imminent hazards are noted, the agency shall inform company of hazard, and the Pollution Prevention staff will immediately notify the Office of Environmental Enforcement to

conduct an inspection. The Office of Environment Enforcement is the enforcement arm of the Office of Waste Management and the Office of Water Resources.

47-3

EEET

1 Bill-DEP, Pollu

H. B. 2533

2

(By Delegates Hunt, Linch, Compton, Faircloth,
Jenkins and Riggs)

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[Introduced February 1, 1999; referred to the
Committee on the Judiciary.]

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10 A BILL to amend and reenact section one, article three,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the division of environmental
14 protection to promulgate a legislative rule relating
15 to the pollution prevention and compliance assistance
16 rule.

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

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

22 **ARTICLE 3. AUTHORIZATION FOR BUREAU OF ENVIRONMENT TO**
23 **PROMULGATE LEGISLATIVE RULES.**

2533

1 §64-3-1. Division of environmental protection.

2 (a) The legislative rule filed in the state register
3 on the first day of August, one thousand nine hundred
4 ninety-seven, authorized under the authority of section
5 seven, article five, chapter twenty-two, of this code,
6 relating to the division of environmental protection (acid
7 rain provisions and permits, 45 CSR 33), is authorized.

8 (b) The legislative rule filed in the state register
9 on the first day of August, one thousand nine hundred
10 ninety-seven, authorized under the authority of section
11 seven, article five, chapter twenty-two of this code,
12 relating to the division of environmental protection
13 (emission standards for hazardous air pollutants pursuant
14 to 40 CFR Part 63, 45 CSR 34), is authorized.

15 (c) The legislative rule filed in the state register
16 on the first day of August, one thousand nine hundred
17 ninety-seven, authorized under the authority of section
18 six, article eighteen, chapter twenty-two of this code,
19 relating to the division of environmental protection
20 (hazardous waste management, 33 CSR 20), is authorized.

21 (d) The legislative rule filed in the state register
22 on the fourteenth day of August, one thousand nine hundred
23 ninety-seven, authorized under the authority of section

1 four, article five, chapter twenty-two, of this code,
2 relating to the division of environmental protection (to
3 prevent and control particulate air pollution from
4 manufacturing process operations, 45 CSR 7) is authorized.

5 (e) The legislative rule filed in the state register
6 on the first day of August, one thousand nine hundred
7 ninety-seven, authorized under the authority of section
8 four, article five, chapter twenty-two, of this code,
9 modified by the division of environmental protection to
10 meet the objections of the legislative rule-making review
11 committee and refiled in the state register on the seventh
12 day of January, one thousand nine hundred ninety-eight,
13 relating to the division of environmental protection (to
14 prevent and control of emissions from municipal solid waste
15 landfills, 45 CSR 23), is authorized.

16 (f) The legislative rule filed in the state register
17 on the first day of August, one thousand nine hundred
18 ninety-seven, authorized under the authority of section
19 seven, article one, chapter twenty-two of this code,
20 modified by the division of environmental protection to
21 meet the objections of the legislative rule-making review
22 committee and refiled in the state register on the second
23 day of December, one thousand nine hundred ninety-

1 seven, relating to the division of environmental protection
2 (to prevent and control air pollution from hazardous waste
3 treatment, storage or disposal facilities, 45 CSR 25), is
4 authorized.

5 (g) The legislative rule filed in the state register
6 on the first day of August, one thousand nine hundred
7 ninety-seven, authorized under the authority of section
8 three, article one, chapter twenty-two of this code,
9 modified by the division of environmental protection to
10 meet the objections of the legislative rule-making review
11 committee and refiled in the state register on the fifth
12 day of January, one thousand nine hundred ninety-eight,
13 relating to the division of environmental protection
14 (surface mining and reclamation regulations, 38 CSR 2), is
15 authorized.

16 (h) The legislative rule filed in the state register
17 on the thirty-first day of July, one thousand nine hundred
18 ninety-eight, authorized under the authority of section
19 six, article one, chapter twenty-two, of this code,
20 modified by the division of environmental protection to
21 meet the objections of the legislative rule-making review
22 committee and refiled in the state register on the twenty-
23 second day of January, one thousand nine hundred

1 ninety-nine, relating to the division of environmental
2 protection (pollution prevention and compliance assistance
3 rule, 47 CSR 3), is authorized.

4

5 NOTE: The purpose of this bill is to authorize the
6 Division of Environmental Protection to promulgate a
7 legislative rule relating to the Pollution Prevention and
8 Compliance Assistance Rule.

9
10 Strike-throughs indicate language that would be
11 stricken from the present law, and underscoring indicates
12 new language that would be added.