

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

FILED
JAN 15 AM 9:29
DEPARTMENT OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

Department of Commerce, Labor
and Environmental Resources,

AGENCY: Division of Natural Resources TITLE NUMBER: 47

RULE TYPE: Legislative; CITE AUTHORITY W.Va. Code §20-5m-9

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: 55

TITLE OF RULE BEING PROPOSED: Groundwater Protection Act Fee Schedule

DATE OF PUBLIC HEARING: February 19, 1992 TIME: 7:00 p.m.

LOCATION OF PUBLIC HEARING: Conference Center

State Capitol Complex

Building 7, Room C

Charleston, West Virginia

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Laidley Eli McCoy, Chief

DNR-Water Resources Section

1201 Greenbrier Street

Charleston, WV 25311

The Department requests that persons wishing to make
comments at the hearing make an effort to submit written
comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

Laidley Eli McCoy

2.40

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

FILED
1992 JAN 19 AM 8:28
JAN 19 1992
DEPT. OF COMMERCE, LABOR
AND ENVIRONMENTAL RESOURCES

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

Department of Commerce, Labor
and Environmental Resources,
AGENCY: Division of Natural Resources TITLE NUMBER: 47

RULE TYPE: Legislative; CITE AUTHORITY WV Code §20-5m-9

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 55

TITLE OF RULE BEING PROPOSED: Groundwater Protection Act Fee Schedule

DATE OF PUBLIC HEARING: February 20, 1992 TIME: 7:00 p.m.

LOCATION OF PUBLIC HEARING: Mountainlair

University Avenue

West Virginia University

Morgantown, West Virginia

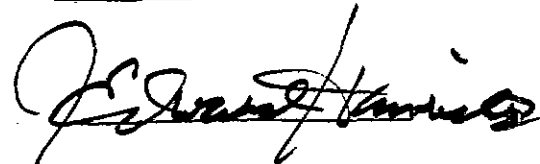
COMMENTS LIMITED TO: ORAL ___ , WRITTEN ___ , BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Laidley Eli McCoy, Chief
DNR-Water Resources Section
1201 Greenbrier Street
Charleston, WV 25311

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comments at the hearing make an effort to submit written
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The issues to be heard shall be limited to the proposed rule.

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL



WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

FILED
1992 JAN 13 AM 9 28

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

Department of Commerce, Labor
and Environmental Resources,
AGENCY: Division of Natural Resources TITLE NUMBER: 47

RULE TYPE: Legislative; CITE AUTHORITY WV Code §20-5m-9

AMENDMENT TO AN EXISTING RULE: YES ___ NO x

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

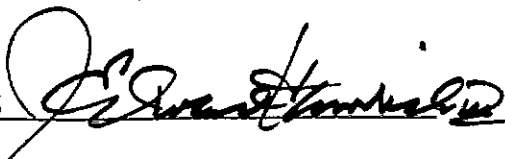
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 55

TITLE OF RULE BEING PROPOSED: Groundwater Protection Act Fee Schedule

~~IN LIEU OF A PUBLIC HEARING~~, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON March 2, 1992 AT 12:00 p.m. (2400 hours). ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Laidley Eli McCoy, Chief
DNR-Water Resources Section
1201 Greenbrier Street
Charleston, WV 25311

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

47CSR55 

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL



STATE OF WEST VIRGINIA
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

Capitol Complex, Building 3
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305
Telephone (304)348-2754

FILED

1992 JAN 13 AM 9 29

SECRETARY OF STATE
SECRETARY OF STATE

GASTON CAPERTON
Governor

J. EDWARD HAMRICK III
Director

ANN A. SPANER
Deputy Director

Memorandum

To: John M. Ranson, Secretary
Department of Commerce, Labor
and Environmental Resources

From: J. Edward Hamrick III, Director
Division of Natural Resources

Date: January 13, 1992

Subject: Division Approval of Proposed Rule and Request for
Department Consent to File

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The proposed rule listed on the enclosed "MEMORANDUM OF CONSENT" has my approval to be proposed as a legislative rule pursuant to the West Virginia Administrative Act. The agency needs to provide notice of the this rule to the Secretary Of State by Wednesday, January 15, 1992. Your approval is requested.

J. Edward Hamrick III, Director
Division of Natural Resources

FILED

1992 JAN 19 AM 3 29

DEPARTMENT OF COMMERCE, LABOR,
AND ENVIRONMENTAL RESOURCES

MEMORANDUM OF CONSENT

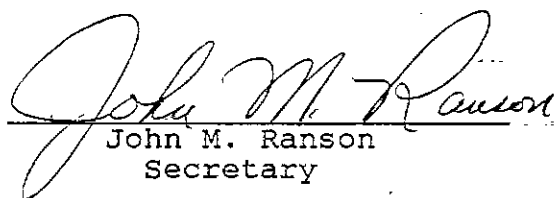
MEMORANDUM TO: J. Edward Hamrick III, Director
Division of Natural Resources

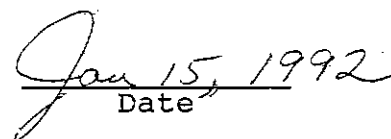
FROM: John M. Ranson, Secretary
Department of Commerce, Labor,
and Environmental Resources

SUBJECT: Consent to File Agency Proposed Regulations

The following regulation concerning groundwater protection act fees has my approval to be proposed pursuant to the Administrative Procedures Act set forth under Chapter 29A of the West Virginia Code [W. Va. Code §29A et seq.].

<u>Title</u>	<u>Series</u>	<u>Name</u>
47	55	Groundwater Protection Act Fee Schedule regulations


John M. Ranson
Secretary


Date

FISCAL NOTE FOR PROPOSED RULE

FILED

1992 JAN 15 AM 8:28

Rule Title: Groundwater Protection Act Fee Schedule

Type of Rule: Legislative Interpretive Procedural

Agency: West Division of Natural Resources

Address: Building 3, State Capitol Complex, Charleston, West Virginia

1. Effect of Proposed Rule	ANNUAL		Current	FISCAL YEAR	
	Increase	Decrease		Next	Thereafter
Estimated Total Cost	\$1,004,880	\$	\$	\$1,004,880	\$1,004,880
Personal Services	285,583			285,583	285,583
Current Expenses	113,397			113,397	113,397
Repairs & Alterations	8,170			8,170	8,170
Equipment	155,230			155,230	155,230
Other	442,500			442,500	442,500

2. Explanation of above estimates: The Groundwater Protection Act authorizes collection of up to one million dollars per year for the Protection Fund and allows the collection of two hundred and fifty thousand dollars over a two year period for the Remediation Fund. One hundred and twenty five thousand dollars per year will go to the Remediation Fund. Remediation Funds are not allocated in the above table. The funds outlined above will be allocated to agencies as follows: DEP - \$150,000; Agriculture - \$75,000; Health - \$167,500; Water Resources Board - \$50,000; DNR - \$562,380.

3. Objectives of this rule: To provide a funding mechanism necessary for implementing the provisions of the Groundwater Protection Act.

4. Explanation of Overall Economic Impact of Proposed Rule.

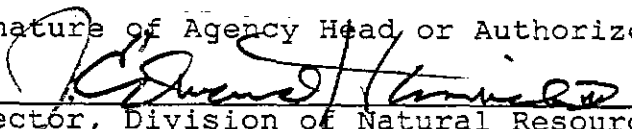
A. Economic Impact on State Government. Proposed rule will have no impact to the General Revenue Fund.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens. Local Health Departments will receive \$112,500 per year. Industries will pay \$683,150 per year. Monitoring well drillers will pay between \$50,000 - \$120,000 per year depending upon the number of drillers.

C. Economic Impact on Citizens/ Public at Large. Citizens will pay \$225,000 per year through the purchase of new septic tanks.

Date: January 15, 1992

Signature of Agency Head or Authorized Representative


Director, Division of Natural Resources

PREAMBLE TO A PROPOSED RULE
CONCERNING
GROUNDWATER PROTECTION ACT FEE SCHEDULE

AGENCY: Department of Commerce, Labor, and Environmental Resources; Division of Natural Resources.

REGULATION: Title 47, Series 55, "Groundwater Protection Act Fee Schedule."

ACTION: Filing of a Proposed Rule, Notice of Two Public Hearings, and Notice of a Forty-six Day Public Comment Period.

SUMMARY: The proposed, filed rule provides for a schedule of fees to be charged for the purpose of funding the activities of the Groundwater Protection Act.

Public Hearings will be held on dates and at locations as follows:

February 19, 1992, 7:00 p.m.

Conference Center
State Capitol Complex
Building 7, Room C
Charleston, West Virginia

February 20, 1992, 7:00 p.m.

Mountainlair
University Avenue
West Virginia University
Morgantown, West Virginia

Written comments with postmarks prior to midnight March 2, 1992 will be accepted. Written comments should be sent to:

Laidley Eli McCoy, Chief
DNR-Water Resources Section
1201 Greenbrier Street
Charleston, West Virginia 25311

FILED

JAN 16 1994

DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES

TITLE 47
LEGISLATIVE RULES

DIVISION OF NATURAL RESOURCES
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES

SERIES 55
GROUNDWATER PROTECTION ACT FEE SCHEDULE

§47-55-1. General.

1.1. Scope and Purpose. -- This is a new rule which establishes a schedule of fees for the groundwater protection fund and the groundwater remediation fund. This rule is applicable to any person who owns or operates facilities or conducts activities subject to the provisions of §20-5M-1 et seq. of the West Virginia Code.

1.2. Authority. -- West Virginia Code §20-5M-9 subsections (a) & (b).

1.3. Filing Date. -- _____.

1.4. Effective Date. -- _____.

1.5. In order to allow for a review of the effectiveness of the schedule of fees set forth in this regulation, the fee schedule may through rulemaking be revised at any time prior to the regulations expiration. This regulation expires July 1, 1994.

1.6. Incorporation by Reference. -- Whenever federal or state statutes or regulations are incorporated into these regulations by reference, the reference is to the statute or regulation in effect on the filing date listed in Section 1.3 of this regulation.

§47-55-2. Definitions.

2.1. "Agency" means any branch, section, division, department or unit of the state, county or local government however designated or constituted which is authorized to regulate facilities, activities or products which have the potential for impacting groundwater.

2.2. "Chief" means the chief of the water resources section of the division of natural resources.

2.3. "Class (A through F) landfill" means any landfill Class A through F as defined in Solid Waste Management regulations §47-

38-2.

2.4. "Commercial solid waste facility" means any solid waste facility which accepts solid waste generated by sources other than the owner or operator of the facility and shall not include an approved solid waste facility owned and operated by a person for the sole purpose of disposing of solid wastes created by that person and other persons on a cost-sharing or nonprofit basis.

2.5. "Director" means the director of the division of natural resources of the department of commerce, labor and environmental resources, unless otherwise specified in these regulations.

2.6. "Generator" means any generator as defined in §20-5G-1 et seq. of the code of West Virginia.

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

2.8. "Groundwater Certification" means an assurance issued by the director of the division of natural resources that a permit or other approval issued by a state, county, or local government body regarding an activity that affects or is reasonably anticipated to affect groundwater complies with all requirements of §20-5M-1 et seq. of the West Virginia Code, and the legislative rules promulgated pursuant to that chapter in accordance with chapter twenty-nine-a [§29A-1-1 et seq.] of the West Virginia Code and any other requirements of state law, regulations or agreements regarding groundwater.

2.9. "Groundwater protection fund" is the fund established by §20-5M-9(c)(1) of the West Virginia code.

2.10. "Groundwater remediation fund" is the fund established by §20-5M-9(c)(2) of the West Virginia code.

2.11. "Hazardous waste" means any hazardous waste as defined in section 3.1.3 of the division of natural resources' hazardous waste management regulations, 47CSR35.

2.12. "Injection well (Class I through V)" means any injection well, Class I through V, as defined in Regulations for the West Virginia Underground Injection Control Program, 46CSR9.

2.13. "Major facility" means any facility as defined in section 2.22 of the State-National Pollutant Discharge Elimination System Regulations, 46CSR2.

2.14. "Permit" means any license, certification, registration, permit, or any other approval granted by an agency authorized to regulate facilities, activities, or products which may have an

impact on groundwater.

2.15. "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; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group; or any legal entity whatever.

2.16. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any undesirable insects, rodents, nematodes, fungi, weeds, or other organisms which the commissioner of agriculture may declare to be a pest, and any substances intended for use as a plant regulator, defoliant, desiccant or herbicide, except viruses on or in living man or other living animals.

2.17. "Product" means any pesticide, fertilizer, or septic tank.

2.18. "Publicly owned treatment works" or "POTW" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality as defined by Section 502(4) of the Clean Water Act. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

2.19. "Regulatory action" means any enforcement, compliance, or procedural activity initiated under the authority of §20-5M-1 et seq. of the West Virginia Code.

2.20. "Solid waste" means any solid waste as defined in §20-5F-3(i) of the West Virginia Code.

§47-55-3. Groundwater Protection Fund and Groundwater Remediation Fund Fees.

3.1. Annual groundwater protection fund fees and groundwater remediation fund fees required -- Any person whose activities may affect groundwater quality or is required to obtain a permit from any agency shall pay the appropriate groundwater protection fund and groundwater remediation fund fees in accordance with the provisions of subsections 3.5 and 3.6 of these regulations.

3.2. Method of fee collection, fee limits, and transfer of fees to funds.

3.2.1. All groundwater protection fund and groundwater

remediation fund fees assessed under these regulations shall be added together and paid to the appropriate agency by check, money order or electronic transfer.

3.2.2. Groundwater remediation fund fees will be collected for a period not to exceed two years (from the effective date of this regulation). Furthermore, the director shall also discontinue collection of groundwater remediation fund fees if \$250,000.00 is collected before the two year period expires.

3.2.3. Agencies receiving the aforementioned funds shall transfer to the director of the division of natural resources or his duly authorized representative, at such frequency as the director may deem appropriate, all groundwater protection fund and groundwater remediation fund fees collected.

3.3. Conditions of certification relative to fees and effect on permits.

3.3.1. Each agency's permit or other regulatory action shall require that all groundwater protection fund and groundwater remediation fund fees be paid in accordance with subsections 3.5 and 3.6 of these regulations. The permit or other regulatory action shall also contain language stating that failure to remit groundwater protection fund and/or groundwater remediation fund fees shall result in withdrawal or denial of groundwater certification, and subject the person to the penalties outlined in Chapter 20-5M-10 of the West Virginia code.

3.3.2. No permit, subject to the requirements of chapter 20-5M-1 et seq. shall be issued, modified, or renewed without groundwater certification, unless the director declares otherwise pursuant to 20-5M-8 (c).

3.4. Schedule of groundwater protection fund fees. -- (Fees are assessed on facility/activity/product type based on the projected cost of administering the groundwater protection act and the potential for that facility/activity/product to impact groundwater quality.)

3.4.1. Persons subject to the fees outlined in subsections 3.5 and 3.6 of these regulations will be notified by the director, or his delegate, of the appropriate rate or actual amount of the fee, and the date fees are due.

3.4.2. The director shall coordinate the fee collection activities to assure that the statutory limits on fees provided for in sections 9(a) and (b), article 5M, chapter 20 of the code of West Virginia are not exceeded.

3.5. The annual groundwater protection fund fee for the following facilities, activities or product types except 3.5.3

which is a one time product registration fee due at the time of purchase/construction, and except 3.5.6 which is a tipping fee, shall be:

3.5.1. Registering a pesticide product -- \$15.00.

3.5.2. Fertilizers - reserved.

3.5.3. Septic tank registration seals - \$30.00 each. These seals are to be purchased from the division of natural resources, water resources section, or an authorized vendor.

3.5.4. Underground storage tank certification / registration - \$5.00 per tank.

3.5.5. Generators of hazardous waste - \$100.00.

3.5.6. Disposal of solid waste in a class A, B, or C landfill - a tipping fee of one cent per ton (\$0.01/ton). These fees will be collected by the procedures outlined in chapter 20-5F-5a of the West Virginia code.

3.5.7. Disposal of solid waste in a Class F solid waste facilities - \$300.00.

3.5.8. A facility which may impact groundwater quality, as determined by the director of the division of environmental protection, which is required to obtain a permit under chapter 22A-3-1 et seq., or chapter 20-5A-5 (b)(6) (subject to the jurisdiction of the division of environmental protection), or chapter 22A-4-1 et seq. of the West Virginia code - \$100.00.

3.5.9. A facility which may impact groundwater quality, as determined by the chief, which is required to obtain a permit under chapter 20-5A-5 (b)(1 through 6) of the West Virginia code, and which is designated a major facility (industrial) - \$500.00.

3.5.10. A facility which may impact groundwater quality, as determined by the chief, which is required to obtain a permit under chapter 20-5A-5 (b)(1 through 6) of the West Virginia code, and which is not designated as a major facility (industrial) or is not described in 3.5.11, 3.5.12 or 3.5.13 below - \$50.00.

3.5.11. A POTW with design flow greater than one million gallons per day (gpd) - \$100.00.

3.5.12. A POTW with design flow less than one million gallons per day (gpd) - \$25.00.

3.5.13. A non POTW operating a sewage treatment plant - \$10.00 per plant.

- 3.5.14. An oil well - \$3.00 per well.
- 3.5.15. A gas well - \$3.00 per well.
- 3.5.16. A class II or class III underground injection well - \$75.00 per well.
- 3.5.17. Class V underground injection wells - \$15.00 per permit.
- 3.5.18. Class I underground injection wells - \$200.00 per well.
- 3.5.19. Certification of each monitoring well driller, who drills groundwater monitoring wells in the state of West Virginia - \$200.00.

3.5.20. Facilities/activities/persons which are reasonably suspected to have the potential to adversely impact groundwater quality, as determined by the chief, and which are not subject to fees outlined in 3.5.1 through 3.5.19 above - reserved.

3.6. Schedule of groundwater remediation fund fees -- The annual groundwater remediation fund fees for the following facilities, activities or product types except 3.7.3 which is a one time product registration fee due at the time of purchase/construction, and except 3.6.5 which is a tipping fee, shall be:

- 3.6.1. Registering a pesticide product - \$2.00.
- 3.6.2. Fertilizers - reserved.
- 3.6.3. Septic tank registration seals - \$3.75. These seals are to be purchased from the division of natural resources, water resources section, or an authorized vendor.
- 3.6.4. Generators of hazardous waste - \$12.50.
- 3.6.5. Disposal of solid waste in a Class A, B, or C landfill - a tipping fee of twelve and one half percent of one cent per ton (\$0.00125/ton). These fees will be collected by the procedures outlined in chapter 20-5F-5a of the West Virginia code.
- 3.6.6. For Class F solid waste facilities - \$37.50.
- 3.6.7. A facility which may impact groundwater quality, as determined by the director of the division of environmental protection, which is required to obtain a permit under chapter 22A-3-1 et seq., or chapter 20-5A-5 (b)(6) (subject to the jurisdiction of the division of environmental protection), or chapter 22A-4-1 et seq. of the West Virginia code - \$12.50.

3.6.8. A facility which may impact groundwater quality, as determined by the chief, which is required to obtain a permit under chapter 20-5A-5 (b)(1 through 6) of the West Virginia code, and which is designated a major facility (industrial) - \$62.50.

3.6.9. A facility which may impact groundwater quality, as determined by the chief, which is required to obtain a permit under chapter 20-5A-5 (b)(1 through 6) of the West Virginia code, and which is not designated as a major facility (industrial) or is not described in 3.6.10, 3.6.11 or 3.6.12 below - \$6.25.

3.6.10. A POTW with design flow greater than one million gallons per day - \$12.50.

3.6.11. A POTW with design flow less than one million gallons per day - \$3.13.

3.6.12. A non POTW operating a sewage treatment plant - \$1.25 per plant.

3.6.13. An oil well - \$0.38 per well.

3.6.14. A gas well - \$0.38 per well.

3.6.15. A class II or class III underground injection well - \$9.38 per well.

3.6.16. Class V underground injection wells -\$1.88 per permit.

3.6.17. Class I underground injection wells -\$25.00 per well.

3.6.18. Certification of each monitoring well driller, who drills groundwater monitoring wells in the state of West Virginia - \$25.00.

3.6.19. Facilities/activities/persons reasonably suspected to have the potential to adversely impact groundwater quality, as determined by the chief, and that are not subject to fees outlined in 3.6.1 through 3.6.18 above - reserved.