

TITLE 47
LEGISLATIVE RULES

DIVISION OF ENVIRONMENTAL PROTECTION
~~DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES~~
BUREAU OF ENVIRONMENT
WATER RESOURCES-WASTE MANAGEMENT

SERIES 55
GROUNDWATER PROTECTION ACT FEE SCHEDULE

§47-55-1. General.

1.1. Scope and Purpose. -- This rule reauthorizes a schedule of fees for the groundwater protection fund. This rule is applicable to any person who owns or operates facilities or conducts activities subject to the provisions of ~~West Virginia Code §20-5M-1 et seq.~~ W. Va. §22-12-1 et seq.

1.2. Authority. -- ~~West Virginia Code §20-5M-9 subsection (a).~~ W. Va. Code §22-12-9(a).

1.3. Filing Date. -- ~~May 13, 1994.~~

1.4. Effective Date. -- ~~June 17, 1994.~~

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

§ 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 has authority under ~~West Virginia Code § 20-5M-1 et seq.~~ West Virginia Code §22-12-1 et seq. to regulate facilities, or activities which have the potential for impacting groundwater.

2.2. "Chief" means the chief of the office of water resources of the division of environmental protection.

2.3. "Class (A through F) landfill" means any landfill Class A through F as defined in ~~Solid Waste Management Regulation 47 C.S.R. 30~~ Solid Waste Management rule 33 C.S.R. 1.

2.4. "Director" means the director of ~~the division of environmental protection of the~~ Division of Environmental Protection, department of commerce, labor and environmental resources of the Bureau of Environment, unless otherwise specified in this rule.

2.5. "Generator" means any generator as defined in ~~West Virginia Code §20-5C-1 et seq.~~ W.Va. Code §22-19-1 et. seq.

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

2.7. "Groundwater Certification" means an assurance issued by the director of the division of environmental protection 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 ~~West Virginia Code §20-5M-1 et seq.~~ W.Va. Code §22-12-1 et. seq., and the legislative rules promulgated pursuant to that chapter in accordance with W. Va. Code §29A-1-1 et. seq. and any other requirements of state law, rules or agreements regarding groundwater.

2.8. "Groundwater protection fund" is the fund established by ~~West Virginia Code §20-5M-9(c)(1)~~ W. Va. §22-12-9(c)(1).

2.9. "Hazardous waste" means any hazardous waste as defined in ~~section subdivision 3.1, 3.1.c~~ of the division of environmental protection's hazardous waste management regulations rule, 47 C.S.R. 35 33 C.S.R. 20.

2.10. "Injection well (Class 1 through 5)" means any injection well, Class 1 through 5, as defined in Regulations for the West Virginia Underground Injection Control Program; Underground Injection Control Fee Schedule, 46 C.S.R. 9.

2.11. "Major facility" means any facility as defined in ~~subsection 2.22~~ 2.24 of the State-National Pollutant Discharge Elimination System rules; Rules Governing The State National Pollutant Discharge Elimination System (NPDES) Program, ~~46 C.S.R. 2~~ 47CSR10.

2.12. "Monitoring well driller" means the individual operating the drilling rig when drilling, altering or abandoning (i.e., properly closing) a monitoring well(s).

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

2.14. "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.

2.15. "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.

2.16. "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 Federal Pollution Control Act, (PL 92-500) as amended by the Clean Water Act, (PL 95-217). This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

2.17. "Solid waste" means any solid waste as defined in ~~West Virginia Code §20-5F-2(k)~~ W. Va. Code §22-15-2(27).

§ 47-55-3. Groundwater Protection Fund.

3.1. Annual groundwater protection fund fees required -- Any person whose activities may affect groundwater quality or who is required to obtain a permit from any agency shall pay the appropriate groundwater protection fund fees in accordance with the provisions of subsection 3.5 of this rule.

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

3.2.a. All groundwater protection fund fees assessed under this rule shall be paid to the appropriate agency by check, money order or electronic transfer.

3.2.b. Agencies receiving the groundwater protection funds shall transfer to the director of the division of environmental protection or his or her duly authorized representative, at such frequency as the director may consider appropriate, all groundwater protection fund fees collected.

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

3.3.a. Each agency's permit shall require that all

groundwater protection fund fees be paid in accordance with subsection 3.5 of this rule. The permit shall also contain language stating that failure to remit groundwater protection fund fees shall result in withdrawal or denial of groundwater certification, and subject the person to the penalties outlined in ~~West Virginia Code §20-5M-10~~ W. Va. Code § 22-12-10.

3.3.a.1. Agencies may require operating facilities or activities, which do not hold a valid permit and which are identified in subsection 3.5 of this rule, to pay the fees provided for in subsection 3.5.

3.3.a.2. Prior to issuing a permit, each agency shall require that all groundwater protection fund fees be paid following the provisions set forth in ~~subsection 3.4.1~~ subdivision 3.4.a of this rule.

3.3.b. The director shall not issue, modify, or renew a permit subject to the requirements of ~~West Virginia Code §20-5M-1 et seq.~~ W. Va. Code §22-12-1 et seq. without groundwater certification unless he or she declares otherwise pursuant to ~~West Virginia Code §20-5M-8~~ W. Va. Code §22-12-8(c).

3.4. Schedule of groundwater protection fund fees. -- (Fees are assessed on facility or activity type based on the projected cost of administering the Groundwater Protection Act. ~~West Virginia Code § 20-5M-1 et seq.~~ W. Va. Code §22-12-1 et seq.)

3.4.a. Persons subject to the fees outlined in subsection 3.5 of this rule will be notified by the director, or his or her delegate, of the appropriate rate or actual amount of the fee, and the date fees are due.

3.4.b. The director shall coordinate the fee collection activities to assure that the statutory limit on fees provided for in ~~West Virginia Code §20-5M-9 subsection (a)~~ W. Va. Code §22-12-9 subsection (a) are not exceeded.

3.5. Schedule of groundwater protection fund fees -- The annual groundwater protection fund fee for the following facilities or activities except ~~paragraph 3.5.3~~ subdivision 3.5.c of this rule which is a one time registration fee due prior to installation are:

3.5.a. Registering a pesticide -- \$15.00.

3.5.b. Fertilizers - reserved.

3.5.c. Septic tank registration seals - \$30.00 each. These seals are to be purchased from the division of environmental protection, office of water resources.

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

3.5.e. Generators of hazardous waste - \$100.00.

3.5.f. 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 following the procedures outlined in ~~West Virginia Code §20-5F-5a~~ W. Va. Code §22-15-11.

3.5.g. A Class F solid waste facility - \$300.00.

3.5.h. 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 ~~West Virginia Code §22A-3-1~~ W. Va. Code §22-3-1 et seq., or ~~West Virginia Code §20-5A-5 (b)(6)~~ W. Va. Code §22-11-8(b)(6), or ~~West Virginia Code §22A-4-1~~ W. Va. Code §22-6 et seq. - \$100.00.

3.5.i. A facility which may impact groundwater quality, as determined by the chief, which is required to obtain a permit under ~~West Virginia Code §20-5A-5 (b)(1 through 6)~~ W. Va. Code §22-11-8 (b)(1 through 6), and which is designated a major facility (industrial) - \$500.00.

3.5.j. A facility which may impact groundwater quality, as determined by the chief, which is required to obtain a permit under ~~West Virginia Code §20-5A-5 (b)(1 through 6)~~ W. Va. Code §22-11-8 (b)(1 through 6), and which is not designated as a major facility (industrial) or is not described in paragraphs subdivisions 3.5.11, 3.5.12 or 3.5.13 3.5.k, 3.5.l, or 3.5.m of this rule - \$50.00.

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

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

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

3.5.n. An oil well - \$3.00 per well.

3.5.o. A gas well - \$3.00 per well.

3.5.p. A class 2 or class 3 UIC underground injection well:

3.5.p.1. Class 2-D or class 3 underground injection well - \$75.00 per well.

3.5.p.2. Class 2-R underground injection well - \$50.00 per well.

3.5.q. Class 5 underground injection wells - \$15.00 per permit.

3.5.r. Class 1 underground injection wells - \$200.00 per well.

3.5.s. A monitoring well drilling operation shall utilize a certified monitoring well driller for the drilling of groundwater monitoring wells. The certification fee for each monitoring well driller is - \$200.00.

3.5.t. Facilities, activities or 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 ~~paragraphs subdivisions 3.5.1~~ 3.5.a through ~~3.5.19~~ 3.5.s of this rule - reserved.

§ 47-55-4. Severability.

If any provisions of this rule or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of the rule, and to this end the provisions of the rule are declared severable.

47CSR55

**DIVISION ENVIRONMENTAL PROTECTION
OFFICE OF WATER RESOURCES**

“Beginning on page 1, and continuing throughout the text of the rule, by replacing text breakdown numbering to conform with the Secretary of State’s rule 153CSR6, Table 153-A;

On page 1, in the title, add ‘Bureau of Environment’, and strike the words ‘Department of Commerce, Labor, and Environmental Resources,’ and insert ‘Office of ‘ in front of ‘Water Resources’ and by striking ‘Waste Management’;

Beginning on page 1, and throughout the rule, by striking the code reference ‘§20 5M 1 et seq.’, and inserting in lieu thereof ‘§22-12-1 et.seq.’;

Beginning on page 1, and throughout the rule, by striking the code reference ‘§20-5M-9 subsection (a)’ and inserting in lieu thereof ‘§22-12-9 subsection (a)’;

On page 1, subsection 1.3, strike the existing ‘filing date’ and leave it blank;

On page 1, subsection 1.4, strike the existing ‘effective date’ and leave it blank;

On page 1, subsection 1.5, strike the word ‘Section’ and insert in lieu thereof with the word ‘subsection;

On page 1, subsection 2.3, by striking the code reference ‘Solid Waste Management Regulation 47 C.S.R. 38’ and inserting in lieu thereof ‘Solid Waste Management rule 33 CSR 1;

On page 1, subsection 2.4, by striking the words ‘division of environmental protection of the department of commerce, labor and environmental resources’ and inserting in lieu thereof ‘Division of Environmental Protection of the Bureau of Environment’;

On page 1, subsection 2.5, by striking the code reference §20-5G-1 et seq., and inserting in lieu thereof ‘§22-19-1 et seq.’;

On page 1, subsection 2.8, by striking the code reference ‘§20-5M-9(c)(1)’ and inserting

in lieu thereof '§22-12-9(c)(1)';

On page 1, subsection 2.9, by striking 'section 3.1.3' and inserting in lieu thereof 'subdivision 3.1.c', and by striking word 'regulations' and inserting in lieu thereof the word 'rule', and by striking code reference '47 C.S.R.35' and inserting '33 C.S.R. 20;

On page 2, subsection 2.11, by striking 'Section 2.22' and inserting in lieu thereof 'subsection 2.24' and by striking the code reference '46 C.S.R. 2' and inserting in lieu thereof '47 CSR10';

On page 2, subsection 2.17, by striking the code reference '§20-5F-2(k)' and inserting in lieu thereof '§ 22-15-2(27)';

On page 2, subdivision 3.3.a., by striking the code reference '§20-5M-10' and inserting in lieu thereof '§22-12-10';

On page 3, paragraph 3.3.a.2., by striking 'subsection 3.4.1' and inserting in lieu thereof 'subdivision 3.4.a.';

On page 3, subdivision 3.3.b., by striking the code reference '§20-5M-8(c) et seq.' and inserting in lieu thereof '§22-12-8(c) et seq.';

On page 3, subsection 3.5., by striking 'paragraph 3.5.3' and inserting in lieu thereof 'subdivision 3.5.c.';

On page 3, subdivision 3.5.f., by striking the code reference '§20-5F-5a' and inserting in lieu thereof '§22-15-11';

On page 3, subdivision 3.5.h., by striking code reference '§22A-3-1 et seq.' and inserting in lieu thereof '§22-3-1 et seq', and by code reference '§20-5A-5(b)(6)' and inserting in lieu thereof '§22-11-8(b)(6)', and by striking code reference '§22A-4-1 et seq' and inserting in lieu thereof '§22-6 et seq.';

On page 3, subdivision 3.5.i., by striking code reference '§20-5A-5(b)(1 through 6)' and inserting in lieu thereof '§22-11-8(b)(1 through 6)';

On page 3, subdivision 3.5.j., by striking code reference '§20-5A-5(b)(1 through 6)' and inserting in lieu thereof '§22-11-8(b)(1 through 6)', and by striking 'paragaraphs 3.5.11, 3.5.12 or 3.5.13' and inserting in lieu thereof 'subdivisions 3.5.k, 3.5.l, or 3.5.m';

AND

On page 4, subdivision 3.5.t., by striking 'paragaphs 3.5.1 through 3.5.19' and inserting in lieu thereof 'subdivisions 3.5.a. through 3.5.s.;"

Technical Changes

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help we can get)

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SEP 8 9 50 AM '97

FILED

TO: CARRIE CHAMBERS

AGENCY: DEP - OFFICE OF WATER RESOURCES

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: August 7, 1997

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: 55 TITLE: 47 DEP - OFFICE OF WATER RESOURCES

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: [Signature]

TITLE OF PERSON SIGNING: Ground Water Program leader

DATE: 8-25-97

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

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

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