WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION
Form #6

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MAY 13 3 44 PM '94
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE

AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Division of Environmental Protection TITLE NUMBER: 47

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 RULE BEING PROPOSED: 58

TITLE OF RULE BEING PROPOSED: Groundwater Protection Regulations

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

AUTHORIZATION IS CITED IN (house or senate bill number) SB 1005

SECTION 64-3-17(j), PASSED ON 3/16/94

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: 6/1/94

Roger D. Wall

David C. Callaghan, Director
Division of Environmental Protection

4. 20

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March 18, 1994

Laidley Eli McCoy
Natural Resources
Water Resources Section
1201 Greenbrier St.
Charleston, WV 25311

SB 1005 authorizing, **Title 47, Series 58,** Groundwater Protection Regulations , passed the Legislature on **March 16, 1994 .** It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 1005, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 1005** section 64-3-17(j). The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

***IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, **YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT,** TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE **MUST** BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, **WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT,** AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division

Promulgation History
For

Rule Name: Groundwater Protection Regulations

Rule Title: 47 CSR 58

Date of Notice of Public Hearing/Comment Period on Proposed Rule: 1/16/92

Date of Public Hearing or Close of Comment Period: 7/28/92

Date Agency Approved Proposed Rule Filed with the Legislative Rule Making Review Committee: 1/28/93

Date of LRMRC Approval: 1/9/94

Date Rule Modification of Proposed Rule Filed: 1/20/94

Rule Authorized by: SB 1005, Section 64-3-17(j)

Date Passed Legislature: 3/16/94

Date Governor Signed: 4/6/94

Date of Final Filing and Adoption of a Legislative Rule Authorized by the West Virginia Legislature: 4/29/94

Date Rule to become Effective: 5/1/94

FILED

MAY 13 3 44 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 47
LEGISLATIVE RULES
DIVISION OF ENVIRONMENTAL PROTECTION
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES

SERIES 58
GROUNDWATER PROTECTION REGULATIONS

§ 47-58-1. General.

1.1. Scope and Purpose. -- This rule establishes a series of practices which must be followed by any person who owns or operates facilities or conducts activities subject to the provisions of chapter 20-5M-1 et seq. of the West Virginia Code and is subject to regulation by the Division of Environmental Protection's Office of Waste Management or Office of Water Resources.

1.2. Authority -- West Virginia Code 20-5M-5(d)

1.3. Filing date -- May 13, 1994

1.4. Effective date -- June 1, 1994

§ 47-58-2. Definitions.

2.1. "Contaminant" means any material in a solid, liquid or gaseous state that has the potential to cause contamination.

2.2. "Contamination" means any man made or man induced alteration of the chemical, physical, or biological, integrity of the groundwater, resulting from activities regulated under this rule, in excess of existing groundwater quality, unless that site has been granted a deviation or variance from existing quality as provided for in the West Virginia Groundwater Protection Act, or is subject to an order, permit, or other regulatory action that requires restoration or maintenance of groundwater quality at a different concentration or level.

2.3. "Director" means the director of the Division of Environmental Protection of the Department of Commerce Labor, and Environmental Resources or his authorized designee.

2.4. "Existing Facility" for the purpose of this regulation means any facility and/or activity which was in operation prior to the effective date of this regulation or which does not meet the definition of a new facility.

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

2.6. "Impoundment" means an area which is a natural topographic depression, man-made excavation, or diked area that is designed or improved in such a manner so as to hold an accumulation of contaminated surface runoff, process wastewater, product, or sewage, or any other liquid substance that could impact groundwater, but does not include any area used for secondary containment.

2.7. "Industrial Establishment" means any mill, factory, tannery, paper or pulp mill, mine, colliery, breaker or mineral processing operation, quarry, refinery, electric power generating facility, well, and each and every industry or plant or works, or activity in the operation or process of which industrial wastes, sewage, or other wastes are produced. Furthermore, any facility or activity not set forth above may be subject to any or all of the requirements of this rule at the director's discretion pursuant to Section 5 of this rule. This definition does not include private or publicly owned sewage treatment operations.

2.8. "Liner" means a continuous layer of natural or man-made materials, beneath and on the sides of an area, which restricts the downward or lateral escape of contaminants.

2.9. "New Facility" for the purpose of this regulation means any facility and/or activity which begins construction 180 days or more after the effective date of this regulation.

2.10. "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.

2.11. "Practice" means any action which is protective of groundwater.

2.12. "Runoff/Infiltration Control System" means any system which is designed to prevent contamination of groundwater from any materials stored in an outside material storage area, by either prohibiting stormwater from contacting the material, or by intercepting and properly disposing of stormwater which has become contaminated due to contact with the material.

2.13. "Secondary Containment" means utilizing dikes, berms, synthetic or natural liner systems, double walled containment vessels, or any combination thereof to prevent contaminants from accidentally discharging into the environment.

§ 47-58-3. Conflicting Provisions.

3.1. Recognizing that in certain cases, existing regulations impose requirements that are more or less restrictive than the requirements of this rule, in the event that this rule conflicts with another applicable rule, the director shall determine which rule, or section(s) thereof, best complies with the intent of the Groundwater Protection Act, and require adherence to said rule or section(s) thereof. The director may, at his discretion, begin the formal regulatory process to remove the conflict between the regulations.

§ 47-58-4. Groundwater Protection Practices For Industrial Establishments.

4.1. Where the evaluation of an existing facility reveals that contamination is occurring, a schedule of compliance must be submitted by the facility or activity and approved by the director whereby the facility or activity must retrofit or improve or discontinue existing systems, activities, or procedures to make them, to the satisfaction of the director, protective of groundwater.

4.2. Subsurface borings (e.g., water wells, injection wells, soil boring, production wells, extraction wells, exploratory wells and groundwater monitoring wells) shall be constructed, operated and closed in a manner that protects groundwater.

4.3. Outside Material Storage or Disposal Areas

4.3.1. Existing areas used for outdoor, non-containerized storage or disposal of raw materials, products or waste shall be evaluated for their potential to contaminate groundwater. Where substantial potential exists, the areas shall have runoff/infiltration control systems. Placement of groundwater monitoring stations may be necessary to determine if contamination has occurred or is occurring.

4.3.2. New areas used for storage or disposal of raw materials, products or wastes shall be designed, constructed and operated to prevent release of contaminants to the groundwater, using liner systems if necessary. Groundwater monitoring stations may be necessary to assure protection of the groundwater resource.

Note: 46 C.S.R. 3 requires all spills and accidental discharges to be reported by calling 1-800-642-3074.

4.4. Loading and Unloading Areas; Distribution and Bulk Facilities.

4.4.1. Loading and unloading stations including but not limited to drums, trucks and railcars shall have spill prevention and control facilities and procedures as well as secondary containment, if appropriate or otherwise required. Spill containment and cleanup equipment shall be readily accessible.

4.4.2. Distribution facilities and bulk containers shall be designed/installed in such a manner so as to prevent spills and leaks from contaminating groundwater.

4.5. Impoundments (Holding, Storage, Equalization, Treatment, etc.)

4.5.1. Existing impoundments shall be evaluated for their potential to cause groundwater contamination. Where potential for contamination exists, action shall be taken to eliminate, to the degree practicable, the potential for groundwater contamination. In addition further evaluation may be necessary to determine if contamination has occurred and to address

such contamination in accordance with the act. Placement of groundwater monitoring stations may be necessary to perform this evaluation.

4.5.2. New impoundments shall be designed and operated to prevent contamination of groundwater. New impoundments which are found to have the potential to contaminate groundwater shall use a liner or other appropriate control system. Groundwater monitoring stations may be necessary to assure protection of the groundwater resource.

4.6. Impoundment Closure Requirements

4.6.1. All wastewater shall be treated and removed. All solids and sludges shall be properly disposed by in place closure if approved by the director, or removed to a landfill, or incinerated, unless a beneficial reuse is allowed in existing regulations.

4.6.2. If in-place closure is to be performed, stabilize, if necessary, unless determined innocuous by the director.

4.6.3. Impoundments must be graded and leveled to the maximum extent possible including, where practicable, filling with soils or other material approved by the director, capped if the director determines necessary, and vegetated.

4.6.3.a. In the event the impoundment is subject to regulation by the West Virginia Dam Control Act (20-5D-1 et seq.) or the rules promulgated thereunder, it must be closed in accordance with applicable sections of both Articles (Chapter 20-5M and 20-5D).

4.6.4. Prior to closing an impoundment which has been found to be contaminating groundwater, a plan which includes, but is not limited to, details of capping, filling, grading, and runoff control must be submitted to the director for approval.

4.7. Pipelines, Ditches, Pumps, and Drums

4.7.1. Pipelines conveying materials which have the potential to contaminate groundwater shall preferentially be installed above ground.

4.7.2. Ditches shall not be installed as primary conveyances for materials which have the potential to contaminate groundwater unless provided with appropriate liners.

4.7.3. Pumps and ancillary equipment (e.g. valves, flanges, filters, condensate lines and instrumentation) handling materials that have the potential to contaminate groundwater shall be selected and installed to prevent or contain any spills or leaks.

4.7.4. Drums, containing materials that have the potential to contaminate groundwater, shall be stored so that spills and leaks are contained. Measures shall be taken to control drum deterioration and/or damage due to handling.

4.8. Sumps and Tanks.

4.8.1. Above-ground storage tanks shall have secondary containment that is appropriate considering the potential to contaminate groundwater. Such secondary containment shall be adequately designed and constructed to contain the materials for a time sufficient to allow removal and disposal without additional contamination of groundwater, but in no case will that time be less than seventy-two (72) hours.

4.8.2. Under-ground tanks containing materials which have the potential to contaminate groundwater shall be designed, constructed, and operated utilizing leak detection or secondary containment, or other appropriate controls that are capable of preventing groundwater contamination.

4.8.3. New tanks containing materials that have the potential to contaminate groundwater may only be installed underground for overriding safety, legal, security or fire protection concerns.

4.8.4. Sumps containing materials which have the potential to contaminate groundwater shall be designed, constructed, and operated utilizing leak detection or secondary containment, or other appropriate controls that are capable of preventing groundwater contamination.

4.8.5. Secondary containment is not required for sumps and tanks used only as secondary containment for other facilities.

4.9. Monitoring

4.9.1. Existing facilities not currently monitoring groundwater shall do so upon order of the director if the director reasonably believes that an industrial establishment is causing or has caused contamination of groundwater.

4.9.2. Industrial establishments may submit such baseline data and monitoring information as they deem appropriate to meet the requirements of the Act and this rule, including information necessary to determine existing quality.

4.9.3. New facilities shall monitor groundwater upon order of the director if the director reasonably believes that an industrial establishment or activity has the potential to contaminate groundwater.

4.9.4. Groundwater monitoring stations shall be located drilled and constructed in a manner that allows accurate determination of groundwater quality and levels, and prevents contamination of groundwater through the finished well hole or casing.

4.9.5. Groundwater monitoring stations shall be designed and installed in

accordance with applicable rules promulgated pursuant to the Act.

4.9.6. All groundwater monitoring stations shall be accurately located utilizing latitude and longitude by surveying, or other acceptable means, and the coordinates shall be included with all data collected.

4.9.7. Data Management - The director may at his discretion require submittal of any or all groundwater monitoring data collected in association with a regulated activity, and may further specify an electronic format in which the data is to be submitted.

4.10. Site Selection Criteria -- Facilities or activities must determine if they are planning to locate or expand into areas of karst, wetlands, fault(s), subsidence, or delineated wellhead protection areas, as determined by the Bureau of Public Health. If areas of karst, wetlands, fault(s), subsidence, delineated wellhead protection areas or other areas determined by the director to be vulnerable based on geologic or hydrogeologic information, are determined to exist then the facility or activity design must adequately address the issues arising from locating in the area(s) of a potentially more vulnerable groundwater resource.

4.11. Each industrial establishment shall have a comprehensive groundwater protection plan (GPP). Each GPP shall contain the following:

5.11.1. An inventory of all operations that may reasonably be expected to contaminate the groundwater resources with an indication of the potential for soil and groundwater contamination from those operations;

4.11.2. A description of procedures designed to protect groundwater from the identified potential contamination sources, with specific attention given to:

4.11.2.a. Manufacturing facilities;

4.11.2.b. Materials handling;

4.11.2.c. Equipment cleaning;

4.11.2.d. Construction activities;

4.11.2.e. Maintenance activities;

4.11.2.f. Pipelines carrying contaminants; and

4.11.2.g. Sumps and tanks containing contaminants.

4.11.3. A list of procedures to be employed in the design of any new equipment/operations;

4.11.4. A summary of all activities carried out under other regulatory programs that have relevance to groundwater protection; and

4.11.5. A discussion of all available information reasonably available to the facility/activity regarding existing groundwater quality at, or which may be affected by the site.

4.11.6. A clarification that no wastes be used for deicing, fills, etc., unless provided for in existing regulations.

4.11.7. Provisions for all employees to be instructed and trained on their responsibility to ensure groundwater protection. Job procedures shall provide direction on how to prevent groundwater contamination;

4.11.8. The GPP shall include provisions for quarterly inspections to ensure that all elements and equipment of the site's groundwater protection program are in place, properly functioning and appropriately managed;

4.12. Implementation Schedule -- In order to accomplish this task in a timely manner, the following schedule will be established.

4.12.1. Within one year of the effective date of these regulations, all industrial establishments shall complete and implement a Groundwater Protection Plan (GPP). The GPP shall be based on a groundwater assessment survey and an evaluation of other applicable groundwater protection regulations.

4.12.1.a. Failure to follow any practice set forth in the GPP constitutes a violation of this regulation.

4.12.2. For new facilities, the GPP shall be completed prior to construction.

4.12.3. The GPP must be available on site at all times after one year from the effective date of these regulations. The GPP is to be submitted and reviewed as part of the facility's or activity's permit application/renewal process. However, the director may review the GPP at any time.

4.12.4. The director may require modification to GPP's to assure adequate protection of groundwater. Further the director may, during review of a GPP require such other information as he reasonably needs to evaluate the plan

4.12.5. Effect of groundwater certification for facilities or activities with permits.

4.12.5.a. GPP's for those facilities or activities who are required to obtain a permit will be administered through the appropriate permitting program. Groundwater

certification will be incorporated into the issuance of the permit, only if all pertinent requirements of the act and rules promulgated thereunder have been met. If a compliance schedule is determined necessary to meet the requirements of the act the schedule shall be addressed in the facility/activity permit.

4.12.6. Groundwater certification for facilities or activities not required to obtain a permit - reserved.

4.12.7. Adherence to a GPP does not relieve the facility/activity of any obligation to comply with any other state, federal or local rule, regulation, law or act.

§ 47-58-5. Applicability To Facilities Or Activities Not Included In The Definition Of An Industrial Establishment.

5.1. Where a statute, rule, ordinance or other legal requirement (other than W. Va. Code Chapter 20, Article 5M and rules promulgated pursuant thereto) provides authority to regulate facilities and activities which may adversely affect groundwater, and such facilities and activities are not regulated by another groundwater regulatory agency, including another office of the Division of Environmental Protection, the Director may require such facility or activity to comply with any or all of the requirements of this rule which the Director reasonably determines to be necessary for the implementation of W. Va. Code Chapter 20, Article 5M.

5.2. The director must provide a written notification specifying which Section(s) of this rule will be enforced, before compliance with this rule or any provision thereof is required from any facility or activity not included in the definition of an industrial establishment

§ 47-58-6. Groundwater Protection Practices For Private Or Publicly Owned Sewage Treatment Operations. (reserved)

§ 47-58-7. Prohibitions.

7.1. It shall be unlawful for any person, unless an authorization has been issued by a groundwater regulatory agency, to deliberately allow crude oil, or any petroleum product derived from crude oil, or septage, or natural gas, or salt water, or any chemical mixture which may impact groundwater quality to escape from any well, pipeline, impoundment, storage tank, treatment unit, or storage container, or be deliberately allowed to flow onto or under the land surface in such a manner that could impact groundwater quality.

7.2. Groundwater quality may not be impacted by any facility operation or any activity unless 1) a valid permit exists and/or 2) the director has taken action pursuant to section(s) 20-5M-5 (f) through (l) of the W.Va. Code.

§ 47-58-8. Remediation.

8.1. The Division has the authority to order persons to conduct remedial actions. The division encourages agreements for investigation and cleanups in appropriate cases.

8.1.1. The use of permanent solutions to the maximum extent practical to correct groundwater contaminations is preferred.

8.1.2. Cleanup actions shall not rely primarily on dilution and dispersion of the substance if active remedial measures are technically and economically feasible, as determined by the director.

8.1.3. Adequate groundwater monitoring shall be conducted to demonstrate control and containment of the substance. The director shall specify which parameters should be monitored in a remedial operation. Groundwater monitoring must continue until results assure adequate remedial action was taken.

8.2. Remediation Guidelines. (reserved)

§ 47-58-9. Fees.

9.1. Nothing in this rule relieves any person of an obligation to pay fees as required by the Groundwater Protection Act Fee Schedule, 47 CSR 55.

§ 47-58-10. Enforcement.

10.1. Any person who violates the act or these regulations shall be subject to civil and criminal penalties, injunctive relief, enforcement orders, and procedures as set forth in Section 10 of the Act.

10.2. The appeal and review procedures set forth in Section 11 of the Act shall be applicable to actions arising under these regulations.

10.3. Civil penalties for violations of these regulations may be assessed by the director in accordance with 47 CSR 56.

§ 47-58-11. Waiver Provisions.

The director may, to the extent authorized by the act, waive some or all of the requirements of this rule upon determining in writing that such requirements are not necessary to protect groundwater from contamination.

§ 47-58-12. Appeals.

12.1. Any person ordered or requested to take any action pursuant to this rule may appeal such order or request to the Water Resources Board as provided for in W. Va. Code § 20-5M-11.

12.2. Any person against whom enforcement action is initiated pursuant to section 10 of this rule may appeal to the Water Resources Board as provided for in W.Va. Code § 20-5M-11.

§ 47-58-13. Requirements For Reuse Of Sludges. (reserved)

SENATE BILL NO. 167

(By Senators Anderson, Grubb, Macnaughtan and Minard)

[Introduced January 31, 1994; referred to the Committee on NATURAL RESOURCES]

A BILL to amend and reenact section seventeen, article three, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the division of environmental protection to promulgate legislative rules relating to groundwater protection.

Be it enacted by the Legislature of West Virginia:

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

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

§64-3-17. Division of environmental protection.

(a) The legislative rules filed in the state register on the eleventh day of October, one thousand nine hundred ninety-one, modified by the division of environmental protection to meet the

objections of the legislative rule-making review committee and refiled in the state register on the ninth day of November, one thousand nine hundred ninety-two, relating to the division of environmental protection (operator's designation of bona fide future use of oil and gas wells - qualification for inactive status), are authorized.

(b) The legislative rules filed in the state register on the third day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (oil and gas wells and other wells), are authorized.

(c) The legislative rules filed in the state register on the third day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (abandoned wells), are authorized.

(d) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review

committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (underground storage tank assessment fees), are authorized.

(e) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, relating to the division of environmental protection (underground storage tanks), are authorized.

(f) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (hazardous waste management), are authorized.

(g) The legislative rules filed in the state register on the third day of March, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (groundwater protection act fee schedule), are authorized.

(h) The legislative rules filed in the state register on the twenty-eighth day of January, one thousand nine hundred ninety-three, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of January, one thousand nine hundred ninety-four, relating to the division of environmental protection (groundwater protection), are authorized.

NOTE: The purpose of this bill is to authorize the Division of Environmental Protection to promulgate legislative rules relating to groundwater protection.

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

2917

H. B. 4252

(By Delegates Gallagher, Douglas, Compton, Huntwork, Burk and Faircloth)

(Introduced January 31, 1994; referred to the Committee on the Judiciary)

A BILL to amend and reenact section seventeen, article three, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the division of environmental protection to promulgate legislative rules relating to groundwater protection.

Be it enacted by the Legislature of West Virginia:

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

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

§64-3-17. Division of environmental protection.

(a) The legislative rules filed in the state register on the eleventh day of October, one thousand nine hundred ninety-one, modified by the division of environmental protection to meet the

objections of the legislative rule-making review committee and refiled in the state register on the ninth day of November, one thousand nine hundred ninety-two, relating to the division of environmental protection (operator's designation of bona fide future use of oil and gas wells - qualification for inactive status), are authorized.

(b) The legislative rules filed in the state register on the third day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (oil and gas wells and other wells), are authorized.

(c) The legislative rules filed in the state register on the third day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (abandoned wells), are authorized.

(d) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review

committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (underground storage tank assessment fees), are authorized.

(e) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, relating to the division of environmental protection (underground storage tanks), are authorized.

(f) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (hazardous waste management), are authorized.

(g) The legislative rules filed in the state register on the third day of March, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (groundwater protection act fee schedule), are authorized.

(h) The legislative rules filed in the state register on the twenty-eighth day of January, one thousand nine hundred ninety-three, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of January, one thousand nine hundred ninety-four, relating to the division of environmental protection (groundwater protection), are authorized.

NOTE: The purpose of this bill is to authorize the Division of Environmental Protection to promulgate legislative rules relating to groundwater protection.

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