



West Virginia Coal Association

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July 24, 2015

Mr. Charles Sturey
West Virginia Department of Environmental Protection
Division of Mining & Reclamation
601 57th Street
Charleston, WV 25304
Via Electronic Mail: Charles.S.Sturey@wv.gov

Re: Public Comment Period on Proposed Administrative Proceedings and Civil Penalty Assessment Rule for Coal Mining Operations, 47 CSR 30B

Dear Mr. Sturey:

Pursuant to the public notice published by the Division of Mining & Reclamation (DMR), the West Virginia Coal Association (WVCA) offers the following comments regarding the agency's proposed Administrative Proceedings and Civil Penalty Assessment Rule for Coal Mining, 47 CSR 30B.

The West Virginia Coal Association (WVCA) is a non-profit state coal trade association representing the interests of the West Virginia coal industry on policy and regulation issues before various state and federal agencies that regulate coal extraction, processing, transportation and consumption. WVCA's general members account for 95 percent of the Mountain State's underground and surface coal production. WVCA also represents associate members that supply an array of services to the mining industry in

West Virginia. WVCA's primary goal is to enhance the viability of the West Virginia coal industry by supporting efficient and environmentally responsible coal removal and processing through reasonable, equitable and achievable state and federal policy and regulation. WVCA is the largest state coal trade association in the nation.

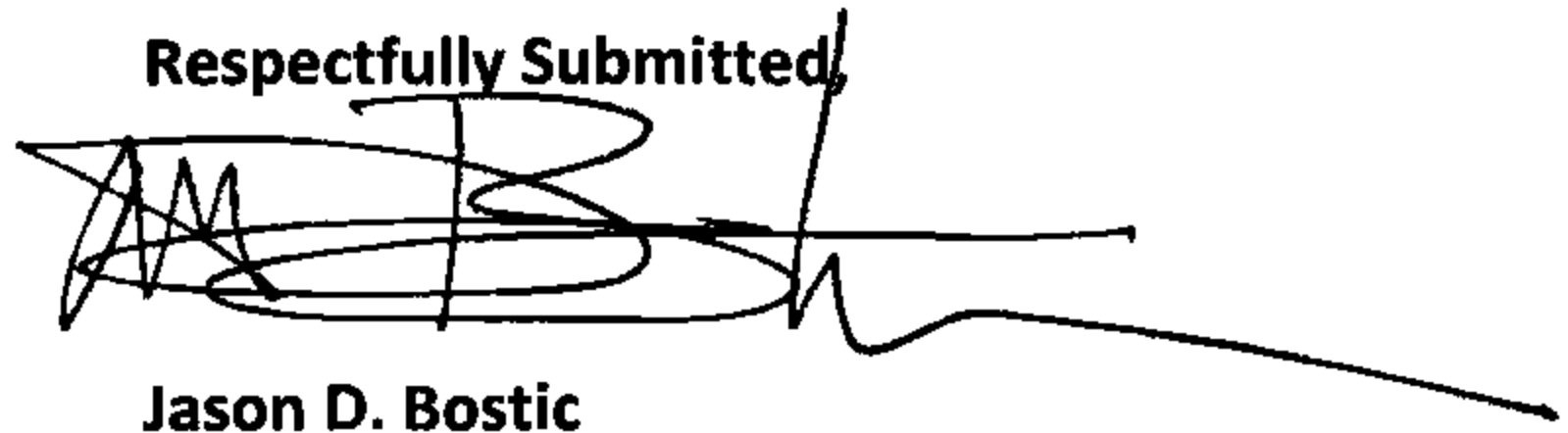
WVCA commends the DMR for its work to develop a new administrative and legislative rule to fully implement the provisions of Senate Bill (SB) 357 that was passed by the West Virginia Legislature in the 2015 Regular Session.

To remedy differences between the state and federal NPDES enforcement programs that lessened the effectiveness of state administrative and civil penalty actions in the face of anti-mining activist litigation in federal court, SB 357 created a new code section to govern regulatory enforcement of coal mining NPDES permits. The enactment of SB 357 then created the requirement of an entirely new coal mining NPDES enforcement rule.

WVCA believes the proposed new rule, 47 CSR 30B, reflects the intention of the Legislature as expressed in SB 357 and provides an effective and reasonable framework for state enforcement of coal mining NPDES permits. Additionally, by addressing the differences between the state and federal enforcement processes, SB 357 and 47 CSR 30B stabilize the regulatory program for the coal industry and further remove the potential for interference by the federal courts in the state's administration of its environmental regulatory programs.

WVCA appreciates the opportunity to provide these comments regarding the proposed rule.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'J. Bostic', with a long horizontal line extending to the right.

**Jason D. Bostic
Vice-President**

BEFORE THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE:

WEST VIRGINIA SURFACE
MINING RECLAMATION
RULE, 38 CSR2;

and

ADMINISTRATIVE PROCEEDINGS
AND CIVIL PENALTY ASSESSMENT
FOR COAL MINE FACILITIES
RULE, 47CSR30A

HELD JULY 24, 2015

6:00 P.M.

Donna H. Miller
Court Reporter

CAPITOL CITY REPORTING
"PROFESSIONAL STENOMASK FOR THE RECORD"

A P P E A R A N C E S

ON BEHALF OF THE DEP:

TOM ALUISE
Public Information Office

P R O C E E D I N G S

1 MR. ALUISE: Good evening. I am Tom
2 Aluise with the Department of Environmental
3 Protection's Public Information Office. I would
4 like to welcome you to tonight's public hearings on
5 two proposed rules.

6 We'll first accept comments on the
7 Administrative Proceedings and Civil Penalty
8 Assessment for Coal Mine Facilities Rule, and that
9 number is 47CSR30A.

10 We'll also accept comments this evening
11 on the West Virginia Surface Mining Reclamation
12 Rule, 38CSR2.

13 We're going to start out with the Civil
14 Penalty Assessment Rule, and as I mentioned the
15 purpose of tonight's hearing is to give you the
16 opportunity to share your comments or information
17 about the proposed rules.

18 Tonight's hearings are being recorded
19 by a court reporter so that the comments shared can
20 be taken into consideration and entered into the
21 public record for these proposed rules.

22 If you've indicated on the sign-in
23 sheet that you would like to comment, I will call

1 your name, and before you speak, please state your
2 name once again, and if you are with any groups or
3 organizations.

4 If you have written comments, we'll
5 accept those as well tonight. Just submit those to
6 me after the meeting or when you come up to speak.

7 Okay, so if anyone doesn't have any
8 questions, we'll start with our public hearing on
9 the Administrative Proceedings and Civil Penalty
10 Assessment for Coal Mine Facilities Rule. This is a
11 new rule proposed in accordance with Senate Bill
12 357, which created a civil administrative penalty
13 structure to resolve violations of the mining MPDS
14 rule.

15 Specifically, this proposed rule
16 establishes procedures for notice of commencement of
17 administrative proceedings, hearings and appeals,
18 assessment of civil penalties and entry of consent
19 orders.

20 No one has signed up to offer comment
21 on this proposed rule, and, therefore, this will
22 conclude the public hearing on this rule, which is
23 Number 47CSR30A.

24 Now, we will begin our public hearing

1 on our second proposed rule, which is the West
2 Virginia Surface Mining Reclamation Rule 38CSR2.

3 In accordance with Senate Bill 357, the
4 Coal Jobs and Safety Act of 2015, the amendments to
5 this rule conform West Virginia's rule with regard
6 to contemporaneous reclamation and inactive status
7 to its counterpart federal regulation.

8 Specifically, the amendments address and clarify the
9 procedure regarding inactive status, including
10 renewing active operations and bonding requirements,
11 and distance, acreage, and bonding requirements for
12 contemporaneous reclamation. The proposed
13 amendments also address concerns raised by the
14 federal Office of Surface Mining Reclamation and
15 Enforcement with regard to the use of the terms
16 topsoil, topsoil substitute, soil, and soil
17 substitute.

18 We do have a speaker signed up to offer
19 comments. That would be Chad Cordell. So, if you
20 would like to offer comments.

21 MR. CORDELL: Sure. I'll make a quick
22 comment.

23 MR. ALUISE: Do you want to come up here,
24 Chad, for her benefit? Thank you.

1 MR. CORDELL: It's my understanding that
2 the proposed rule removes the requirement for public
3 notice when a mine moves into idle status. I would
4 recommend that the DEP continue to require public
5 notice as is currently required so the public can be
6 aware of the status of a mine site.

7 Thank you.

8 MR. ALUISE: Okay. Is there anyone else
9 who would like to speak on this proposed rule? So
10 we have no more speakers.

11 This will conclude the public hearing
12 on Rule 38CSR2. The public comment period for both
13 of these rules concludes this evening. We will
14 review all comments and take them into consideration
15 for the rules.

16 Thank you for very much.

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CONCLUDED AT 6:10 P.M.

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* * * *

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to wit:

I, Donna H. Miller, Notary Public in and for the State of West Virginia, duly commissioned and qualified, do hereby certify that the foregoing was duly taken by and before me, under the West Virginia Rules of Civil Procedure, at the time and place and for the purpose specified in the caption thereof.

I do certify that the said hearing was correctly taken by me by means of the Stenomask; that the same was transcribed by me, and that the said transcript is a true record of proceedings had.

I further certify that I am not connected by blood or marriage with any of the parties to this action, am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, or financially interested in the action, or interested, directly or indirectly, in the matter in controversy.

Given under my hand this _____ day of
July, 2015.

Donna H. Miller
Notary Public

My commission expires October 1, 2023.