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2026 APR -1 P 12:05

west virginia department of environmental protection

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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Harold D. Ward, Cabinet Secretary  
dep.wv.gov

March 11, 2026

Re: Updated Rule 47 CSR 10 & 47 CSR 13  
Response to Comments

Dear Citizens,

The West Virginia Department of Environmental Protection (DEP), Division of Water and Waste Management (DWWM), appreciates the opportunity to respond to the comments submitted by Citizens regarding Draft Regulations 47CSR10 & 47CSR13, which was made available for the public during public notice period.

Thank you for your interest and comments on the updated Regulation 47CSR10 & 47CSR 13. If you have any further questions or concerns, please do not hesitate to contact Yogesh P. Patel, P.E. of my staff at 304-926-0499 ext. 43877 or by email at [Yogesh.P.Patel@wv.gov](mailto:Yogesh.P.Patel@wv.gov).

Sincerely,

Jeremy W. Bandy  
Director

The comments provided by the Citizens are shown below in *italics* and the response is shown below in **bold**.

**Comments:**

*The proposed changes to 47 CSR 10 violate the Clean Water Act and undermine critical public protections. Specifically:*

- The proposed timeline for NPDES permit renewal (210 days before permit expiration) does not allow for the most current pollution data to be considered. This limits meaningful public input and oversight.*
- The allowance for modification of expired or extended permits is not in compliance with EPA requirements.*
- The lack of clarity around “indirect dischargers” and how cumulative pollution impacts will be addressed is highly concerning.*

*West Virginians cannot afford regulatory loopholes that put our rivers, streams, and public health at risk. These proposed changes would weaken protections, hinder accountability, and send the wrong message about our state’s commitment to clean and healthy water. I urge WVDEP to reject these changes and uphold strong permit requirements for pollution discharges in West Virginia.*

**Response:**

**The Agency understands your concerns. However, as you are aware, House Bill 2233 directs the West Virginia Department of Environmental Protection (WVDEP) to amend the legislative rule filed in the State Register on May 1, 2012, pursuant to the authority granted under §22-11-4 of the West Virginia Code. This pertains specifically to the National Pollutant Discharge Elimination System (NPDES) Program (47 CSR 10) and mandates certain regulatory changes.**

**The Agency is required to follow these legislative directives. In accordance with the Memorandum of Agreement between WVDEP and the U.S. Environmental Protection Agency (EPA), the Agency must obtain EPA’s prior approval before implementing any new state law that affects the NPDES program. Until such approval is granted, all facilities are expected to continue submitting all required data as outlined in their existing permit terms and conditions, regardless of application submission timing.**

**Under the current regulations, facilities are required to submit their permit renewal applications 180 days prior to the permit’s expiration date. The new regulation extends this requirement to 210 days prior to expiration. As a result, facilities will be submitting their applications 30 days earlier than previously required. The Agency does not anticipate that this change will have any impact on the technical review process for these applications. At this time, the Agency does not believe the implementation of House Bill 2233 will alter current data collection or analysis procedures. Furthermore, this new regulation will not affect the existing public notice process or opportunities for public input. The Agency remains committed to transparency and appreciates public participation in supporting well-informed decisions.**

**We are currently awaiting EPA’s guidance regarding the modification of requirements for expired or administratively continued permits. As stated previously, House Bill 2233 has**

passed through the legislative process and is now state law. The Agency has no discretion to deviate from this law once EPA authorizes its implementation.

Finally, we would like to clarify that the newly approved regulations do not impact indirect dischargers. All existing requirements for indirect dischargers remain unchanged under these provisions.

**Comments:**

*Regarding 47 CSR 13, I am seriously concerned about DEP's primacy of Class 6 UIC permits to inject carbon dioxide (CO2) underground. Inhalation of increased levels of CO2 can cause adverse effects on the respiratory, cardiovascular, and central nervous systems. Last year, CO2 leaks occurred at injection well sites in Illinois and Louisiana. CO2 leaks in WV could have catastrophic implications for our communities. I opposed any rule changes allowing Class 6 injection wells in WV, where abandoned gas wells have yet to be identified, creating a "Swiss cheese" environment that is unsafe for carbon injection.*

*Implementing these rule changes without meaningful input from West Virginians raises serious concerns about transparency and public trust. It's essential that West Virginians have a real opportunity to engage in decisions that directly affect our health, environment, and future.*

**Response:**

The Agency understands your concerns. However, as you are aware, House Bill 2233 directs the West Virginia Department of Environmental Protection (WVDEP) to amend the legislative rule filed in the State Register on May 1, 2012, pursuant to the authority granted under §22-11-8 of the West Virginia Code. This pertains specifically to the Underground Injection Control Program (47 CSR 13) and mandates certain regulatory changes.

The changes made to this rule do not relate to Class VI underground injection activities, however, the following changes have been proposed and approved:

- Certain Class V wells may be authorized by rule under subsection 14.2, unless the Director determines that an individual permit is required.
- Permit Duration:
  - UIC permits for Class I and Class V wells are effective for a fixed term not exceeding 10 years.
  - Permits for Class II and Class III wells are valid for the operating life of the facility.
  - Class VI well permits are issued for both the operating life of the facility and the post-injection site care period.

The changes to the rule have completed the required public notice process, during which WVDEP received and considered public comments.