

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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Form #1

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Environmental Quality Board TITLE NUMBER: 46

RULE TYPE: Legislative; CITE AUTHORITY 22B-3-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 12

TITLE OF RULE BEING AMENDED: Requirements governing groundwater standards

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

TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: 7/21/97 TIME: 7:00 pm

LOCATION OF PUBLIC HEARING: 1615 Washington St. East

Charleston, WV 25311-2126

2nd Floor Conference Room

COMMENTS LIMITED TO: ORAL _____, WRITTEN _____, BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: 1615 Washington St. E.

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


Authorized Signature



BUREAU OF ENVIRONMENT
10 McJunkin Road
Nitro, WV 25143-2506

CECIL H. UNDERWOOD
GOVERNOR

JOHN E. CAFFREY
COMMISSIONER

June 18, 1997

Ms. Judy Cooper
Director, Administrative Law Division
Office of the Secretary of State
Capitol Complex
Charleston, West Virginia 25305

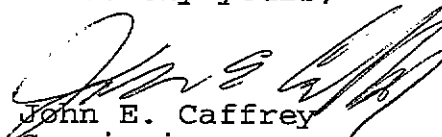
RE: 46CSR12 - "Requirements Governing Groundwater
Standards"

Dear Ms. Cooper:

This is to advise you that I am giving approval for filing the above-referenced rule as Notice of Public Hearing/Comment Period.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please feel free to contact Libby Chatfield at 558-4002.

Sincerely yours,


John E. Caffrey
Commissioner

JEC:cc

Attachment

46 CSR 12

Summary of Proposed Amendments

The following is a summary of revisions proposed by the Environmental Quality Board in the attached document:

- Adoption of a groundwater standard in Appendix A for combined radium 226 and 228 of 300 picocuries (pCi)
- Amendment of section 3.5 to include a provision allowing samples for metals to be based on total concentrations rather than dissolved where required by state or federal regulations.
- Adoption of new language (section 46-12-4) addressing criteria to be used in determining need for corrective action at hazardous waste treatment, storage and disposal facilities.

46 CSR 12

Statement of Circumstances Requiring Amendments

The Environmental Quality Board is authorized by the state Groundwater Protection Act to promulgate the legislative rule, 46 CSR 12, "Requirements Governing Groundwater Standards." In the course of reviewing this regulation, the Board received comments from the Office of Water Resources and Office of Waste Management of the Division of Environmental Protection suggesting amendments to the rule to respond to new federal regulations and to correct inconsistencies between the groundwater standards and existing federal regulations. The amendments proposed herein are made in response to those comments.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 46, Series 12 Requirements Governing Groundwater Standards

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency Environmental Quality Board

Address 1615 Washington St. E.

Charleston, WV 25311-2126

1. Effect of Proposed Rule N/A

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates: N/A

3. Objectives of these rules: The proposed amendments are made in response to changes in the federal Safe Drinking Water Act Regulations and to respond to inconsistencies between this rule and other federal laws.

Rule Title: Requirements Governing Groundwater Standards

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None anticipated

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

None anticipated

C. Economic Impact on Citizens/Public at Large.

None anticipated

Date: June 18, 1997

Signature of Agency Head or Authorized Representative

Ann L. Holstein

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**TITLE 46
LEGISLATIVE RULE**

**BUREAU OF THE ENVIRONMENT
ENVIRONMENTAL QUALITY BOARD**

**OFFICE OF WEST VIRGINIA
SECRETARY OF STATE**

**SERIES 12
REQUIREMENTS GOVERNING
GROUNDWATER STANDARDS**

§46-12-1. General.

1.1. Scope.- The purpose of this Legislative rule is to establish minimum standards of purity and quality for groundwater located within this State.

1.2. Authority. - W. Va. Code §§22-12-4 and 22B-3-4.

1.3. Filing Date. -- July 26, 1993

1.4. Effective Date. -- August 25, 1993

§46-12-2. Definitions.

As used in this rule:

2.1. "Act" means the Groundwater Protection Act, W. Va. Code §22-12-1 et seq..

2.2. "Board" means Environmental Quality Board.

2.3. "Constituent" means any chemical or biological substance found in groundwater due to either natural or man-made conditions.

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

2.5 "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.

§46-12-3. Groundwater Standards.

3.1. Except as provided in Sections 3.2 and 3.3, the standards of purity and quality for groundwater in the state shall be the constituent concentrations found in Appendix A.

3.2. Where the concentration of a constituent exceeds an otherwise applicable groundwater quality standard as a result of natural conditions, the naturally occurring level of that constituent shall become the groundwater quality standard for the affected area.

a. Where the concentration of a certain constituent exceeds an otherwise applicable groundwater quality standard due to human-induced contamination, no further contamination by that constituent shall be allowed, and every reasonable effort shall be made to identify, remove or mitigate the source of such contamination, and to strive where practical to reduce the level of contamination over time to support drinking water use.

3.3. Constituents in groundwater shall not cause a violation of the standards found at 46 CSR Series I in any surface water.

3.4. Groundwater quality standards do not apply:

a. Within areas of geologic formations which are site specific to site production or storage zones of crude oil or natural gas and which are utilized for the exploration, development or production of crude oil or natural gas permitted pursuant to W.Va. Code Chapter 22, Articles 6, 7, 8, 9 or 10: and

b. Within areas of geologic formations which are site specific to the injection zones of Class II or III or wells permitted pursuant to the statutes and regulations governing the underground injection control program.

c. To any constituent or any class of activities for which a variance from groundwater quality standards has been granted by the Director pursuant to W. Va. Code §22-12-5(l).

d. To coal extraction and earth disturbing activities directly involved in coal extraction that are subject to either or both article three or eleven (§22-3-2 et seq. or §22-11-1 et seq.) of chapter 22 of the West Virginia Code.

3.5. Measurement of inorganic constituents

a. Compliance with groundwater protection standards for inorganic constituents shall be determined in terms of dissolved concentrations rather than total concentrations except as specified in section 3.5.b.

b. Any groundwater regulatory agency as specified in the Act may determine compliance with groundwater protection standards for inorganic constituents utilizing total concentration values, only as necessary to protect human health or the environment. Appropriate situations for utilizing total concentrations values include, but are not limited to, the following:

A. Sample is from a carbonate formation in an area of karst terrane:

B. Sample is from a collection point for groundwater used for private or public water supply; or where

C. Sample is from a spring or seep.

D. Sample is one for which state or federal regulations require that total inorganic concentrations be measured.

§46-12-4 Hazardous Waste Treatment, Storage or Disposal Facilities

4.1. Nothing in this rule prohibits the Office of Waste Management, acting in accordance with federal regulations, from using criteria other than the standards specified in this rule for purposes of determining the need for corrective action at hazardous waste treatment, storage or disposal facilities, as provided in 40 C.F. R. Parts 264 and 265, Subpart F.

APPENDIX A

<u>Constituent</u>	<u>Not to Exceed (in mg/lm except where noted)</u>
Alachlor	0.002
Antimony	0.006
Asbestos	7 MFL*
Atrazine	0.003
Barium	2.0
Benzene	0.005
Benzo (a) pyrene (PAH)	0.0002
Beryllium	0.004
Cadmium	0.005
Carbofuran	0.04
Carbon tetrachloride	0.005
Chlordane	0.002
Chromium (total)	0.1
Cyanide	0.2
2, 4-D	0.07
Dalapon	0.2
Di(2-ethylhexyl)adipate	0.4
Di(2-ethylhexyl)phthalate	0.006

Dibromochloropropane (DBCP)	0.0002
Dichlorobenzene p-	0.075
Dichlorobenzene o-	0.6
Dichlorobenzene m -	0.6
Dichloroethane (1,2)	0.005
Dichloroethylene (1,1-)	0.007
Dichloroethylene (cis- 1,2-)	0.07
Dichloroethylene (trans - 1,2-)	0.1
Dichloromethane	0.005
Dichloropropane (1,2-)	0.005
Dinoseb	0.007
Diquat	0.02
Endothall	0.1
Endrin	0.002
Ethylbenzene	0.7
Ethylene dibromide (EDB)	0.00005
Fluoride	4.0
Glyphosate	0.7
Heptachlor	0.0004
Heptachlor epoxide	0.0002
Hexachlorobenzene	0.001
Hexachlorocyclopentadiene	0.05

Lead	0.015
Lindane	0.0002
Mercury (inorganic)	0.002
Methoxychlor	0.04
Monochlorobenzene	0.1
Nickel	0.1
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Total Nitrate and Nitrite (both as N)	10.0
Oxamyl (Vydate)	0.2
Pentachlorophenol	0.001
Picloram	0.5
Polychlorinated biphenyls	0.0005
Selenium	0.05
Simazine	0.004
Styrene	0.1
2, 3, 7, 8- TCDD (Dioxin)	0.000000005
Tetrachlorethylene	0.005
Thallium	0.002
Toluene	1.0
Toxaphene	0.003
2, 4, 5,- TP (Silvex)	0.05

Trichlorobenzene (1, 2, 4-)	0.07
Trichloroethane (1, 1, 1-)	0.2
Trichloroethane (1, 1, 2-)	0.005
Trichlorethylene	0.005
Vinyl Chloride	0.002
Xylenes (total)	10.0
Radionuclides	
Beta particle and photon activity	4 mrem**
Gross alpha particle activity	15 pCi/L***
<u>Combined Radium 226 and 228</u>	<u>300 pCi/l</u>

*MFL = million fibers per liter

**mrem = millirem (rem = roentgen - equivalent - man)

*** pCi = picocurie



ENVIRONMENTAL QUALITY BOARD

1615 Washington Street, East, Suite 301
Charleston, West Virginia 25311-2126

Telephone: (304) 558-4002
Fax: (304) 558-4116

June 18, 1997

Judy Cooper, Director
Administrative Law Division
Office of the Secretary of State
Building 1, Suite 157K
1900 Kanawha Blvd., E.
Charleston, WV 25305-0770

Dear Ms. Cooper:

Please find attached copies of Notices of Public Hearing for two legislative rules: 46 CSR 1, "Requirements Governing Water Quality Standards" and 46 CSR 12, "Requirements Governing Groundwater Standards" for publication in the State Register.

Please note that the Board will hold a public hearing to accept comments on proposed amendments to the two rules on July 21, 1997 at 7:00 P.M. at the Board Office at 1615 Washington Street East, Charleston, WV. The deadline for submission of written comments is July 23, 1997.

Please feel free to call me or Libby Chatfield if you have any questions regarding these rules.

Sincerely,

A handwritten signature in cursive script that reads "Ann Holstein".

Ann Holstein
Administrative Secretary

attachments