

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Environmental Quality Board TITLE NUMBER: 46

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: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature



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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
Charleston, West Virginia 25305
(304) 347-4840

Senator: Mike Ross, Co-Chairman
Delegate: Mark Hunt, Co-Chairman
Counsel: Debra A. Graham

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Audrey R. Ross, Admin. Assistant

December 16, 1997

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Ms. Elizabeth Chatfield, Technical Advisor
Environmental Quality Board
1615 Washington Street, E.
Charleston, WV 25311-2126

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: *Requirments Governing Groundwater Standards (46CSR12)*

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

FILED

TITLE 46
LEGISLATIVE RULE

JAN 23 4 05 PM '98

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 1 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 ~~Section 22B~~ 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 ~~§20-5M 5(1)~~ §22-12-5(l).

d. To coal extraction and earth disturbing activities directly involved in coal extraction that are subject to ~~W. Va. Code §Chapter 22A, Article 3 or Chapter 20, Article 5A~~ 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

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/l 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>5 pCi/l</u>

*MFL = million fibers per liter

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

*** pCi = picocurie



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

CECIL H. UNDERWOOD
GOVERNOR

JOHN E. CAFFREY
COMMISSIONER

January 23, 1998

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 that I am giving approval to file the above-referenced rule with your office and Legislative Rule-Making Review Committee as notice of rule modification of a proposed rule.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please feel free to contact Carrie Chambers at 759-0515.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "John E. Caffrey".

John E. Caffrey
Commissioner

JEC:cc

Attachment

cc: Libby Chatfield, Environmental
Quality Board