

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

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JUN 1 2 17 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: ENVIRONMENTAL QUALITY BOARD TITLE NUMBER: 46

AMENDMENT TO AN EXISTING RULE: YES X 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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 4136

SECTION 64-3-2 (b), PASSED ON MARCH 14, 1998

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: JULY 1, 1998

Ann Holstein

\$3.40



BUREAU OF ENVIRONMENT

10 McJunkin Road
Nitro, WV 25143-2506

CECIL H. UNDERWOOD
GOVERNOR

May 7, 1998

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

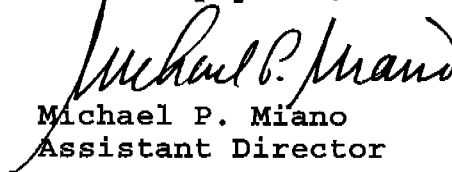
RE: 46CSR12 - "Requirements Governing Groundwater
Standards"

Dear Ms. Cooper:

This is to advise that I am giving approval to file the above-referenced rule with your office as a final rule authorized by HB 4136, signed by Governor Underwood April 2, 1998.

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,


Michael P. Miano
Assistant Director

JEC:cc

Attachment

cc: Libby Chatfield, EQB

**46 CSR 12, Requirements Governing Groundwater Standards
Promulgation History - 1998 Legislative Session**

Notice of Hearing filed: June 19, 1997

Agency Approved Rule filed: August 1, 1997

Modified Rule filed: January 22, 1998

Enrolled Bill 4136 signed: April 2, 1998

Final filing date: June 1, 1998

Effective Date: July 1, 1998

FILED

JUN 1 2 17 PM '98

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. — June 1, 1998

1.4. Effective Date. -- July 1, 1998

§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 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(1).

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/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***
Combined Radium 226 and 228	5 pCi/l

*MFL = million fibers per liter

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

*** pCi = picocurie

4162

46-12

1 Bill-EQB, Gro

H. B. 4162

2

(By Delegates Hunt, Linch, Compton, Jenkins,
3 Faircloth and Riggs)

3

4

[Introduced January 30, 1998; referred to the
5 Committee on the Judiciary.]

5

6

7

8

9

10 A BILL to amend article three, chapter sixty-four of the
11 code of West Virginia, one thousand nine hundred
12 thirty-one, as amended, by adding thereto a new
13 section, designated section two, relating to
14 authorizing the environmental quality board to
15 promulgate a legislative rule relating to requirements
16 governing groundwater standards.

17 *Be it enacted by the Legislature of West Virginia:*

18 That article three, chapter sixty-four of the code of
19 West Virginia, one thousand nine hundred thirty-one, as
20 amended, be amended by adding thereto a new section,
21 designated section two, to read as follows:

22 **ARTICLE 3. AUTHORIZATION FOR BUREAU OF ENVIRONMENT TO**
23 **PROMULGATE LEGISLATIVE RULES .**

4162

1 §64-3-2. Environmental quality board.

2 The legislative rule filed in the state register on
3 the first day of August, one thousand nine hundred
4 ninety-seven, authorized under the authority of section
5 four, article three, chapter twenty-two-b, of this code,
6 modified by the environmental quality board to meet the
7 objections of the legislative rule-making review committee
8 and refiled in the state register on the twenty-third day
9 of January, one thousand nine hundred ninety-eight,
10 relating to the environmental quality board (requirements
11 governing groundwater standards, 46 CSR 12), is authorized

12

13 NOTE: The purpose of this bill is to authorize the
14 Environmental Quality Board to promulgate a legislative
15 rule relating to Requirements Governing Groundwater
16 Standards.

17
18 This section is new; therefore, strike-throughs and
19 underscoring have been omitted.

46-12

Senate Bill No. 296

(By Senator(s) Ross, Anderson, Bowman,
Macnaughtan, Boley and Buckalew)

[Introduced January 30, 1998; referred to the
Committee on Natural Resources; and then to the
Committee on the Judiciary.]

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