

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

**FILED**

2003 JUL 22 P 4: 14

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Health and Human Resources TITLE NUMBER: 64

CITE AUTHORITY: WV Code §§16-1-4 and -9a

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 15

TITLE OF RULE BEING AMENDED: Cross-Connection Control and Backflow Prevention

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Shana Kay Phares 07/22/03  
Authorized Signature

## **Cross Connection Control and Backflow Prevention, 64CSR 15**

### **Statement of Circumstances**

The existing rule is over 25 years old, outdated, and in need of updating to current terminology and other standards. The 1996 Amendments to the Safe Drinking Water Act have added emphasis to protect the water in the distribution system. In the revision of this rule, West Virginia is taking a pro-active role in protecting the citizens of the state, especially those who obtain their water from public water systems.

# **Cross Connection and Backflow Prevention Regulations**

**64csr15**

## **Brief Summary**

This proposed rule extensively revises and updates an existing rule to bring the language up to current technical usage and legislative requirements. Also, the frequency of inspections for backflow prevention assemblies has increased in conjunction with a new proposed “Certification of Backflow Prevention Assembly Testers” rule.

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** Cross Connection Control and Backflow Prevention, Title 64 Series 15

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

**Agency:**        Bureau for Public Health, DHHR  
                  Office of Environmental Health Services -Victor Wilford

**Address:**        815 Quarrier Street, Suite 418  
                  Charleston, WV 25301

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
<b>Estimated Total Cost</b>	\$	\$	\$0	\$75,886	\$65,886
<b>Personal Services</b>			0	\$59,886	\$59,886
<b>Current Expense</b>			0	\$6,000	\$6,000
<b>Repairs &amp; Alterations</b>			0	0	0
<b>Equipment</b>			0	0	0
<b>Other (Contract)</b>			0	\$10,000	0
<b>Revenue</b>			0	0	0

**2. Explanation of above estimates.**

*First Year:*

Personal Services

0.2 FTE/District X 5 District Engineer II = 1.0 FTE	\$45,000	
Administrative Fee @ \$240/FTE	\$ 240	
FICA Retirement & Workers Compensation (21.88)	\$ 9,846	
Health Insurance @ \$4,800/FTE	\$ 4,800	
<b>Total</b>	<b>\$59,886</b>	<b>\$59,886</b>

Current Expense

2000 mi/dist @.36¢/mile X 5 districts	\$3,600	
Office supplies \$800/FTE	\$ 800	
Telephone \$400/FTE	\$ 400	
Rent 100 sq. ft./FTE @ 13.51/sq. ft.	<u>\$1,351</u>	
Total	\$6,000	\$ 6,000

Other

Outside contract - lump sum for system training	\$10,000	<u>\$10,000</u>
Total first year		\$75,507

*Subsequent years:*

Personal Services

0.2 FTE/District X 5 District Engineer II = 1.0 FTE	\$45,000	
Administrative Fee @ \$240/FTE	\$ 240	
FICA Retirement & Workers Compensation (21.88%)	\$ 9,846	
Health Insurance @ \$4800/FTE	<u>\$ 4,800</u>	
Total	\$59,886	\$59,886

Current Expense

2000 mi/district @ .36¢/mi X 5 districts	\$3,600	
Office Supplies \$800/FTE	\$ 800	
Telephone \$400/FTE	\$ 400	
Rent 100 sq. ft./FTE @ 13.51/sq. ft.	<u>\$1,351</u>	
Total	\$6,000	<u>\$ 6,000</u>
Total subsequent years		\$65,886

**3. Objectives of this rule:**

To update the language in the rule to correspond to other rules pertaining to public water systems, update the references to current names of agencies associations and societies, and update the terms in the rule to correspond to current usage in the backflow/cross connection industry.

**4. Explanation of Overall Economic Impact of Proposed Rule.**

**A. Economic Impact on State Government.**

Economic Impact anticipated is limited to the estimated costs outlined above.

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

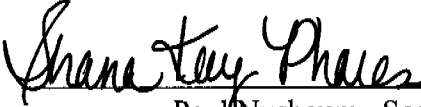
Minimal economic impact is anticipated to political subdivisions in adapting the changes in the proposed rule.

**C. Economic Impact on Citizens/Public at Large.**

There are minimal economic impacts anticipated on citizens or the public at large, as only the language is proposed to be modified in this rule.

**Date:** July 22, 2003

**Signature of Agency Head or Authorized Representative:**



Paul Nusbaum, Secretary  
Department of Health and Human Resources

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: July 22, 2003

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, Address & Phone No.) Martha Barnitt

Department of Health and Human Resources

State Capitol Complex, Building 3, Room 206; Charleston, WV 25305

Telephone: (304) 558-5598

LEGISLATIVE RULE TITLE: Cross-Connection Control and Backflow Prevention

1. Authorizing statute(s) citation: WV Code §§ 16-1-4 and -9a.

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 18, 2003

b. What other notice, including advertising, did you give of the hearing?

Notice of the proposed rule was sent to newspapers, county health

departments, and industry associations, including the WV Rural Water

Association and the American Water Works Association.

c. Date of Public Hearing(s) or Public Comment Period ended:

July 18, 2003

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached \_\_\_\_\_ No comments received  X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing (be exact):

July 22, 2003

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule (please type):

Martha Barnitt

Policy Development & Regulatory Affairs - - DHHR

Building 3 - Room 206

Charleston, West Virginia 25305 Tel: 558-5598 Fax: 558-7075

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule (please type):

Vic Wilford, Director - Environmental Engineering Division

Office of Environmental Health Services - DHHR

815 Quarrier Street, Suite 418

Charleston, West Virginia 25305 Tel: 558-2981

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

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b. Date of hearing or comment period:

N/A

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c. On what date did you file in the State Register the findings and determinations required together with the reasons therefore?

N/A

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d. Attach findings and determinations and reasons:

Attached  N/A

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64CSR15

TITLE 64  
LEGISLATIVE RULES  
BUREAU FOR PUBLIC HEALTH

SERIES 15  
CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION

FILED

2003 JUL 22 P 4: 14

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§64-15-1. General.**

1.1. Scope. -- This legislative rule governs cross-connection control and backflow prevention for public water systems. This rule should be read in conjunction with W. Va. Code § 16-1-9, -9a, -17 and -18. The W. Va. Code is available in public libraries and on the Legislature's web page: <http://www.legis.state.wv.us/>.

1.2. Authority. -- W. Va. Code §§16-1-4 and -9a.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of former rule. -- This legislative rule repeals and replaces the Department of Health rule, "Cross-Connection and Backflow Prevention," 64CSR15, effective April 1, 1976.

**§64-15-2. Application and Enforcement.**

2.1. Application. - This legislative rule applies to any owner, operator or customer of a public water system.

2.2. Enforcement. - This rule is enforced by the Commissioner of the Bureau for Public Health.

**§64-15-3. Definitions.**

3.1. Air Gap Separation. - A physical separation between the free-flowing discharge end of a water supply pipe and the flood level rim of a vessel open to the atmosphere having a minimum unobstructed vertical distance between the supply pipe equal to twice its inside diameter or one inch, whichever is greater.

3.2. Approved. - Authorized by the Commissioner as being suitable for the proposed use.

3.3. Approved Backflow Prevention Assembly. - A double check valve assembly, reduced pressure backflow prevention assembly, other devices or methods approved for preventing backflow.

3.4. Auxiliary Water Supply. - Any water source or system available within the building or premises other than the public water system, including, but not limited to individual wells, springs and cisterns. A private water storage tank supplied by a public water system is considered an auxiliary water supply unless its design meets the most current minimum design standards required for storage tanks for public water systems, and the water contained in them is potable.

3.5. Backflow. - The unintentional reversal of the normal direction of flow within a piping system.

3.6. Commissioner. - The Commissioner of the Bureau for Public Health or his or her designee.

3.7. Cross-Connection. - Any physical connection or other arrangement through which a backflow of liquids, gases or other substances into a public water system may occur.

3.8. Degree of Hazard. - The potential risk to health and potential adverse effects upon the public water system based on the probability of backflow occurring and the type or nature of the contaminant.

3.9. Double Check Valve Assembly. - An arrangement or device consisting of two (2) single independently acting watertight check valves with connections for testing the watertightness of each check valve.

3.10. Flood Level Rim. - The edge of the vessel or receptacle from which water overflows.

3.11. Health Hazard. - Any condition, device or practice that in the judgment of the Commissioner creates or may create a danger to the health and well-being of the water customer.

3.12. Interchangeable Connection. - An arrangement or device that allows the alternate but not simultaneous use of two (2) sources of water.

3.13. Low-Suction Pressure Cut-Off Controller. - An arrangement or device designed to shut off a pump when the pressure at the suction side of the pump falls below a specified level.

3.14. Person. - An individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, or any entity recognized by law.

3.15. Potable Water. - Water free from impurities in amounts sufficient to cause disease or harmful physiological effects, with bacteriological, chemical, physical and radiological quality conforming to applicable regulations and standards of the Bureau for Public Health.

3.16. Public Water System. - A public water system is any water supply or system that

regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of twenty-five individuals per day for at least sixty days per year, or which has at least fifteen service connections, and shall include: (1) Any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system and used primarily in connection with the system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system. A public water system does not include a system which meets all of the following conditions: (1) Which consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (2) Which obtains all of its water from, but is not owned or operated by a public water system that otherwise meets the definition; (3) Which does not sell water to any person; and (4) Which is not a carrier conveying passengers in interstate commerce.

3.17. Reduced Pressure Backflow Prevention Assembly. - A device containing a minimum of two (2) independently acting check valves, an automatically operated pressure differential relief valve located between the two (2) check valves and watertight valves located at each end of the assembly, with connections for testing the operation of the device.

3.18. Severe Health Hazard. - A hazard to the health of the user that could reasonably be expected to result in significant morbidity or death.

3.19. Unprotected Cross-Connection - Any cross-connection with no approved backflow prevention assembly, air gap separation, double check valve assembly, or reduced pressure backflow prevention assembly installed.

3.20. Water Customer. - The owner or person in charge of any building or premises supplied by or in any manner connected to a public water system.

3.21. Water Service Line. - A pipe or water line, with or without a meter and valves, through which the water customer conveys the water from the public water system to the initial point of use.

#### **§64-15-4. Cross-Connections.**

4.1. No person shall install or maintain an unprotected cross-connection in a public water system.

4.2. The public water system shall not install a water service connection to any premises where a violation of Subsection 4.1 of this rule exists.

4.3. After giving written notice to the water customer with an opportunity for administrative due process, the public water system shall discontinue water service to any premises:

4.3.a. Where an unprotected cross-connection or unauthorized connection exists;

4.3.b. Where a required backflow prevention method has been removed or bypassed;

or

4.3.c. When the public water system is denied entry to the water customer's premises to confirm compliance with this rule.

4.4. When the public water system finds deficiencies in a water customer's premises, as listed in Subsection 4.3 of this Section, the public water system shall;

4.4.a. Ensure that the public water system ceases water service to those premises until the deficiencies are corrected; and

4.4.b. Notifies the owner, person occupying or in charge of the premises of the findings and orders that the cross-connection be removed or that an approved backflow prevention method be installed prior to water service resuming.

**§64-15-5. When Protection Is Required.**

5.1. Each water service line requires installation of an approved backflow prevention method when the public water system determines that either an actual or potential health hazard, or other degradation of the public water system, including the following, exists:

5.1.a. On premises that have unprotected internal cross-connections that the public water system determines are not correctable or that have intricate plumbing arrangements that make it impractical to determine whether unprotected cross-connections exist;

5.1.b. On premises where it is impossible or impractical to make a cross-connection survey because of security requirements or other prohibitions or restrictions;

5.1.c. On premises that have a repeated history of unprotected cross-connections;  
and

5.1.d. On others specified by the public water system.

5.2. Each water service line, including but not limited to, the following types of facilities, requires installation of an approved backflow prevention method, unless investigation by the public water system determines that no actual or potential health hazard, or other degradation of the public water system exists:

5.2.a. Hospitals, mortuaries, clinics, nursing homes, and animal hospitals;

5.2.b. Laboratories;

5.2.c. Sewage treatment plants, sewage pumping stations, and storm water pumping stations;

5.2.d. Chemical plants, dyeing plants, metal plating industries, and tanneries;

- 5.2.e. Petroleum processing or storage plants;
- 5.2.f. Slaughterhouses, poultry processing plants, and food or beverage processing plants;
- 5.2.g. Piers, docks, and waterfront facilities;
- 5.2.h. Photo development plants;
- 5.2.i. Car washes and laundromats;
- 5.2.j. Public swimming pools;
- 5.2.k. Farms when they use water for reasons other than household purposes; and
- 5.2.l. Other facilities specified by the community public water system.

**§64-15-6. Type of Protection and Circumstances When Protection Is Required.**

6.1. The type of protection required under this rule depends on the degree of hazard that exists or may exist, as determined by the public water system and shall involve the installation of either:

6.1.a. An approved air gap separation when the public water system determines that contamination with substances could cause a severe health hazard;

6.1.b. An approved air gap separation or approved reduced pressure principle backflow prevention assembly when the public water system determines that contamination with substances could cause a health hazard; or

6.1.c. An approved double-check valve assembly, approved reduced pressure principal backflow prevention assembly, or an approved air gap separation when the public water system determines that contamination with substances could degrade the water quality of the public water system.

6.2. When the public water system does not approve any point of connection between a public water system and an auxiliary water supply, the water customer shall install an approved air gap separation or an approved interchangeable connection with a reduced backflow prevention assembly.

6.3. When a water customer installs a booster pump on the premises served by a public water system, or on the service line to the premises, the customer shall install a check valve on the discharge and a low-suction pressure cut-off controller designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to twenty (20) pounds per square inch gauge or less.

6.4. On premises where backflow prevention assemblies are required by this rule, and

the public interest requires continuous uninterrupted service, the water customer shall install two (2) approved backflow prevention assemblies in parallel and shall properly valve them to permit continuous operation, or service to the premises shall be from two separate water service lines each protected by an approved backflow prevention assembly.

6.5. The public water system shall require water customers that are open to the public to install internal backflow prevention methods as part of the public water system's approved backflow prevention program in Section 8 of this rule.

**§64-15-7. Backflow Prevention Assemblies.**

7.1. The public water system shall approve installation of an approved backflow prevention assembly at a location and in a manner that best facilitates testing and servicing in accordance with the approved cross connection and backflow prevention program in Subsection 8.2. of this rule.

7.2. The water customer shall purchase, install, maintain and test any backflow prevention assembly according to this rule.

7.3. When any approved backflow prevention assembly is found to be defective, the water customer shall immediately notify the public water system of any defect and within ten (10) days shall repair, overhaul, replace, and test the assembly again at the water customer's expense.

**§64-47-8. Plans, Surveys, Investigations and Testing.**

8.1. The water customer shall provide the public water system with all drawings, plans, specifications and other data related to the backflow prevention assemblies so that the public water system can ensure the water customer's compliance with this rule.

8.2. The public water system shall establish a cross-connection and backflow prevention program approved by the Commissioner.

8.3. The water customer shall furnish information on water use practices for facilities within the water customer's premises, including plumbing diagrams, drawings, or plans, at the request of the public water system.

8.4. The water customer on any premises that under this rule require the installation of backflow prevention assemblies, is responsible for getting the assemblies inspected and for the cost of the required inspections.

8.4.a. The water customer shall ensure that a person certified by the Commissioner as a certified backflow assembly tester inspects and tests the backflow prevention assemblies upon installation and at least every twelve (12) months after that; and

8.4.b. The certified backflow assembly tester shall provide records of all inspections and tests to the public water system within 15 days of the inspection or test.

8.5. The public water system shall maintain records of all inspections, surveys, tests and corrective actions taken, for a period of at least two (2) years and provide the information to the Commissioner upon request.

8.6. The public water system shall request permission from a potential water customer to inspect the premises and dwellings formerly served by individual wells when the public water system believes unprotected cross-connections may exist. If the potential water customer does not allow the inspection, the refusal will be grounds not to supply water service.

8.7. No provisions of this rule shall relieve the water customer of the responsibility for conducting surveys of water use practices on his or her premises to determine whether there are actual or potential unprotected cross-connections.

8.8. Requirements of this rule shall be in accordance with all applicable guidelines contained in the West Virginia Bureau for Public Health Manual, EW-114, "Cross-Connection and Backflow Prevention Manual," 2002, available at the Department of Health and Human Resources web site:

[http://www.wvdhhr.org/oehs/eed/Cross\\_Connections\\_and\\_Backflow.pdf](http://www.wvdhhr.org/oehs/eed/Cross_Connections_and_Backflow.pdf)

#### **§64-15-9. Penalties.**

9.1. Any person who violates any provision of this rule or orders issued under this rule is subject to injunction, criminal prosecution, and criminal, civil and administrative fines, all as provided in W. Va. Code §§ 16-1-9, -9a, -17 and -18.

#### **§64-15-10. Administrative Due Process.**

10.1. Those persons adversely affected by the enforcement of this rule may request a contested case hearing in accordance with the Division of Health rule, "Rules and Procedures for Contested Case Hearings and Declaratory Rules," 64 CSR 1.