



**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AGENCY RULES AS OF OCTOBER 24, 2018**

**ABANDONED MINE LANDS**

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulations Citation
59-01	<b>Abandoned Mine Lands Reclamation Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> Legislative rule pertaining to abandoned mine lands and reclamation fund, objectives, responsibilities, funds, definitions, general reclamation requirements, eligibility, project evaluation, right of entry acquisition management and disposition of lands and water, procedures therefore and gifts, reclamation on private land, appraisals, liens, state reclamation plan and grants, audit, administrative procedures, costs and records. This rule was first promulgated as 38-2D November 11, 1983 and renamed during technical correction in 1997.</li> <li><i>Subsequent rule modifications:</i> 1989, 1995, 1997</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule is being recommended for repeal.</li> <li><i>Reasoning for above determination:</i> The program is operated through WV Code and an annual operating agreement with the Office of Surface Mining. The rule is outdated and unnecessary.</li> </ul>	L	6/1/95	12/20/2006	30 CFR 870

## DIVISION OF AIR QUALITY

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulations Citation
45-01	<b>Alternative Emission Limitations During Startup, Shutdown, and Maintenance Operations</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule sets forth criteria for establishing emission limitations during periods of startup, shutdown, and maintenance. This rule was first promulgated May 15, 2017.</li> <li><i>Subsequent rule modifications:</i> Series 1 of Title 45 was reused with a different name when promulgated in 2017. Prior rules with different names were repealed in 2009 and 2000.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change, pending results of SSM litigation.</li> <li><i>Reasoning for above determination:</i> This rule was developed in response to the Startup, Shutdown, Malfunction (SSM) SIP Call issued by EPA to address in part West Virginia's response to the SSM SIP Call.</li> </ul>	L	6/1/17	Not yet submitted; waiting for ruling on SSM court case	n/a
45-02	<b>To Prevent and Control Particulate Air Pollution from Combustion of Fuel in Indirect Heat Exchanges</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes emission limitations for smoke and particulate matter which are discharged from fuel burning units. This rule was first promulgated January 31, 1972.</li> <li><i>Subsequent rule modifications:</i> 1974, 1989, 1995, and 2000.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change unless necessitated by the outcome of the pending SSM lawsuit.</li> <li><i>Reasoning for above determination:</i> This rule was part of WV's original SIP package and continues to serve as a "backstop" for existing sources. Maintaining this rule allows the State to maintain primacy of the Clean Air program. WV was not in attainment with the 1971 Total Suspended Particulate (TSP) National Ambient Air Quality Standards (NAAQS). The limitations in Rule 2 were developed to bring the</li> </ul>	L	8/31/00	10/10/03	40 CFR § 52.2520(c)(56) [68FR47473]

	state into attainment with the NAAQS as required by the CAA. The CAA does not allow “backsliding”.				
45-02A	<b>Testing, Monitoring, Recordkeeping, and Reporting Requirements</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This interpretive rule provides guidance and clarification for complying with the testing, monitoring, recordkeeping, and reporting requirements for the owner/operators of fuel burning indirect heat exchangers subject to 45CSR2. This rule was first promulgated June 15, 1989.</li> <li><i>Subsequent rule modifications:</i> 2001.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This interpretive rule was the result of a thorough review in a stakeholder process to provide guidance and clarification for complying with the testing, monitoring, recordkeeping and reporting requirements of Rule 2. WV was not in attainment with the 1971 Total Suspended Particulate NAAQS. The limitations in Rule 2 and the corresponding testing, monitoring, recordkeeping, and reporting requirements were required to bring the state into attainment. The CAA does not allow “backsliding”.</li> </ul>	I	3/15/01	n/a	n/a
45-03	<b>To Prevent and Control Air Pollution from the Operation of Hot Mix Asphalt Plants</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes emissions limitations for smoke and particulate matter from hot mix asphalt plants. This rule was first promulgated in 1966.</li> <li><i>Subsequent rule modifications:</i> 1979 and 2000.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change unless necessitated by the outcome of the pending SSM lawsuit.</li> <li><i>Reasoning for above determination:</i> This rule was part of WV’s original SIP package and continues to serve as a backstop for the existing sources that are not subject to the federal new source performance standards. This rule is part of WV’s SIP; maintaining this rule allows the State to maintain primacy of the Clean Air program.</li> </ul>	L	8/31/00	12/10/02	40 CFR § 52.2520(c)(48) [67FR63270]
45-04	<b>To Prevent and Control the Discharge of Air Pollutants into the Open Air Which Causes or Contributes to an Objectionable Odor or Odors</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule is designed to prevent and control the discharge of pollutants into the open air which causes or contributes to an objectionable odor or odors. This rule was first promulgated August 28, 1967.</li> <li><i>Subsequent rule modifications:</i> This rule has not been modified.</li> </ul>	L	10/1/67	n/a	n/a

	<ul style="list-style-type: none"> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is achieving its purpose by authorizing the agency to investigate the many complaints it receives from citizens each year regarding objectionable odors. For example, it was this rule that the agency enforced when it first responded to odor complaints associated with the Freedom Industries chemical leak.</li> </ul>				
45-05	<p><b>To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants &amp; Coal Handling Operations</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> The purpose of this rule is to prevent and control air pollution from the operation of coal preparation plants, coal handling operations and coal refuse disposal areas. This rule was first promulgated July 26, 1968.</li> <li>• <i>Subsequent rule modifications:</i> 1993, 1995, and 2000.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change unless necessitated by the outcome of the pending SSM lawsuit.</li> <li>• <i>Reasoning for above determination:</i> This rule was part of WV's original SIP package; maintaining this rule allows the State to retain primacy of the Clean Air program.</li> </ul>	L	8/31/00	12/06/02	40 CFR § 52.2520(c)(47) [67FR62379]
45-06	<p><b>To Prevent and Control Air Pollution from Combustion of Refuse</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes emission standards for particulate matter and requirements for activities involving incineration of refuse which are not subject to, or exempted from regulation under a federal counterpart for specific sources. This rule also prohibits (with limited exception) open burning and sets forth the registration, permitting, reporting, testing, emergency, natural disaster and exemption provisions for activities involving the combustion of refuse and land clearing debris. This rule was first promulgated July 30, 1969.</li> <li>• <i>Subsequent rule modifications:</i> 1980, 1995, 2000, 2001, and 2008.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change unless necessitated by the outcome of the pending SSM lawsuit.</li> <li>• <i>Reasoning for above determination:</i> This rule was part of WV's original SIP; maintaining this rule allows the State to retain primacy of the Clean Air program.</li> </ul>	L	6/1/08	3/25/09	40 CFR § 52.2520(c) [74FR12560])

45-07	<b>To Prevent and Control Particulate Air Pollution from Manufacturing Processes and Associated Operations</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule requires the control of particulate matter emissions from manufacturing processes and associated operations. This rule was first promulgated in 1970.</li> <li><i>Subsequent rule modifications:</i> 1974, 1980, 1982, 1983, 1994, 1998, and 2000.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change unless necessitated by the outcome of the pending SSM lawsuit.</li> <li><i>Reasoning for above determination:</i> This rule was part of WV's original SIP package; maintaining this rule allows the State to retain primacy of the Clean Air program. WV was not in attainment with the 1971 Total Suspended Particulate NAAQS. The limitations in this rule were required to bring the state into attainment with the TSP NAAQS. The CAA does not allow "backsliding".</li> </ul>	L	8/31/00	8/4/03	40 CFR § 52.2520(c)(55) [68FR33010]
45-07A	<b>Compliance Test Procedures for 45CSR7 – To Prevent and Control Particulate Air Pollution from Manufacturing Process and Associated Operations</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes test procedures to determine compliance with 45CSR7. This rule was first promulgated January 23, 1984.</li> <li><i>Subsequent rule modifications:</i> 1999.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule is part of the SIP and serves as a "backstop" for existing sources not subject to federal standards. WV was not originally in attainment with the 1971 TSP, 1997 PM, and 2006 PM2.5 NAAQS.</li> </ul>	P	2/1/99	8/28/85	40 CFR § 52.2520(c) [45FR26732]
45-08	<b>Ambient Air Quality Standards</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule incorporates by reference (IBR) the National Ambient Air Quality Standards and the ambient air monitoring reference methods and equivalent methods. This rule also adopts appendices to these standards and methods. This rule was first promulgated in 1972.</li> <li><i>Subsequent rule modifications:</i> 1975, 1979, 1990, 1999, 2000, 2002, 2008, 2009, 2010, 2011, 2012, 2014, and 2017.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue with identified modifications pending for the 2018 Legislative Session.</li> </ul>	L	6/1/18	4/23/18	40 CFR § 52.2520(c) [83FR12679]

	<ul style="list-style-type: none"> <li>• <i>Reasoning for above determination:</i> This rule was part of WV's original SIP package; maintaining this rule allows the State to retain primacy of the Clean Air program. This rule is routinely modified to IBR federal updates.</li> </ul>				
45-10	<p><b>To Prevent and Control Air Pollution from the Emission of Sulfur Oxides</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule requires the control of sulfur dioxide (SO<sub>2</sub>) emissions from fuel burning units (boilers), manufacturing processes, and the combustion of refinery or process gas streams. This rule was first promulgated in 1972.</li> <li>• <i>Subsequent rule modifications:</i> 1973, 1976, 1978, 1994, and 2000.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change unless necessitated by the outcome of the pending SSM lawsuit.</li> <li>• <i>Reasoning for above determination:</i> This rule was part of WV's original SIP package and continues to serve as a "backstop" for existing sources. WV was not originally in attainment with the 1971 SO<sub>2</sub> NAAQS. Currently, there are two areas of the state that are not in attainment with the 2010 SO<sub>2</sub> NAAQS. Maintaining this rule allows the State to retain primacy of the Clean Air program.</li> </ul>	L	8/31/00	8/04/03	40 CFR § 52.2520(c)(53) [68FR33002]
45-10A	<p><b>Testing, Monitoring, Recordkeeping, and Reporting Requirements under 45CSR10</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This interpretive rule provides guidance and clarification for complying with the testing, monitoring, record keeping, and reporting requirements of 45CSR10. This rule was first promulgated February 13, 2001.</li> <li>• <i>Subsequent rule modifications:</i> 2002.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule continues to provide the guidance for sources to comply with 45CSR10.</li> </ul>	I	1/25/02	n/a	n/a
45-11	<p><b>Prevention of Air Pollution Emergency Episodes</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule provides a mechanism to prevent the build-up of air pollutant concentrations during periods of adverse meteorological conditions, thereby preventing the occurrence of a health emergency due to the effects of these pollutants. This rule was first promulgated February 2, 1972.</li> <li>• <i>Subsequent rule modifications:</i> 1990.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> </ul>	L	4/25/90	8/27/93	40 CFR § 52.2520(c)(28) [58FR34526]

	<ul style="list-style-type: none"> <li><i>Reasoning for above determination:</i> This rule is part of the SIP and is consistent with its federal counterpart. Maintaining this rule allows the State to retain primacy of the Clean Air program.</li> </ul>				
45-13	<p><b>Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, Permission to Commence Construction, and Procedures for Evaluation</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule sets forth procedures for stationary source reporting and the criteria for obtaining a permit to construct and operate a new stationary source that is not a major stationary source, to modify a non-major stationary source, to make modifications that are not major modifications to an existing major stationary source, to relocate non-major stationary sources within the state, and to set forth procedures to allow facilities to commence construction in advance of permit issuance. The rule also establishes the requirements for obtaining an administrative update to an existing permit, a temporary permit or a general permit registration and for filing notifications and maintaining records of changes not otherwise subject to the permit requirements. This rule was first promulgated in 1972.</li> <li><i>Subsequent rule modifications:</i> 1974, 1994, 2000, 2003, 2009, and 2017.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule is part of the WV SIP; maintaining this rule allows the State to retain primacy of the Clean Air program.</li> </ul>	L	6/1/17	8/20/14	40 CFR § 52.2520(c) [79FR42213]
45-13A	<p><b>The Permitting of Research and Development (R&amp;D) Activities under 45CSR13</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule provides guidance and clarification regarding the permitting of Research and Development (R&amp;D) activities under the previous rule, while ensuring compliance with all applicable requirements and providing operational flexibility. This rule was first promulgated February 28, 2002.</li> <li><i>Subsequent rule modifications:</i> This interpretive rule has not been modified.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule meets its intended purpose.</li> </ul>	I	3/30/02	n/a	n/a
45-13B	<p><b>The Permitting of Laboratory Facilities under 45CSR13</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule provides guidance and clarification regarding the permitting of laboratory facilities under 45-13, while ensuring compliance with all applicable requirements and providing operational flexibility. This rule was first promulgated February 28, 2002.</li> </ul>	I	3/30/02	n/a	n/a

	<ul style="list-style-type: none"> <li>• <i>Subsequent rule modifications:</i> This interpretive rule has not been modified.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This interpretive rule meets its intended purpose.</li> </ul>				
45-14	<p><b>Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes a preconstruction permit program in accordance with federal counterpart regulations. Preconstruction permits issued pursuant to this rule contain emission limitations and such other measures as may be necessary for the prevention of significant deterioration of air quality. This rule was first promulgated as an emergency rule December 2, 1983 and a legislative rule in 1984.</li> <li>• <i>Subsequent rule modifications:</i> 1990, 1993, 1995, 2005, 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2017.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is part of the SIP and is consistent with its federal counterpart regulation. Maintaining this rule allows the State to retain primacy of the Clean Air program. This rule is updated as needed to incorporate changes to the federal counterpart regulations.</li> </ul>	L	6/1/17	9/12/16	40 CFR § 52.2520(c) 81FR53009
45-16	<p><b>Standards of Performance for New Stationary Sources</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule adopts standards of performance for new stationary sources promulgated federal counterpart regulations and codifies general procedures and criteria to implement the standards of performance for new stationary sources set forth in the federal counterpart regulation. This rule also adopts associated reference methods, performance specifications and other test methods appended to these standards. This rule was first promulgated as an emergency rule October 28, 1983 and a legislative rule 1984.</li> <li>• <i>Subsequent rule modifications:</i> 1994, 1995, 1997, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue with identified modifications pending for the 2018 Legislative Session.</li> <li>• <i>Reasoning for above determination:</i> Maintaining this rule allows the State to retain primacy of the Clean Air program. This rule is updated annually to incorporate any new or modified federal regulations for which WV has accepted delegation.</li> </ul>	L	6/1/18	Automatic Delegation	40 CFR §60.4(b)(50)  [49FR48692]



45-17	<p><b>To Prevent &amp; Control Particulate Matter Air Pollution from Materials Handling, Preparation, Storage, and Other Sources of Fugitive Particulate Matter</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule prohibits fugitive particulate matter (dust) from being discharged beyond the boundary lines of the property on which the discharge originates at any public or residential location. This rule only applies to sources that are not subject to other particulate control rules. This rule was first promulgated in 1980.</li> <li><i>Subsequent rule modifications:</i> 2000.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> Although this rule is not part of the SIP, the agency receives many complaints from citizens each year regarding dust; this rule establishes requirements that allow the agency to address these citizen concerns.</li> </ul>	L	8/31/00	n/a	n/a
45-18	<p><b>Control of Air Pollution from Combustion of Solid Waste</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule adopts and incorporates by reference standards of performance and establishes emission guidelines and compliance times pursuant to federal counterpart regulations for the control of certain designated pollutants from solid waste combustors, combustion units, incinerators, and incineration units. This rule was first promulgated April 16, 2002.</li> <li><i>Subsequent rule modifications:</i> 2008, 2011, 2012, 2013, 2014, and 2016.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue with identified modifications pending for the 2018 Legislative Session.</li> <li><i>Reasoning for above determination:</i> This rule is part of WV's SIP and State Plan for existing sources. Pending modifications are required to adopt changes made to the federal counterpart regulations. Maintaining this rule allows the State to retain primacy of the Clean Air program. This rule is updated as needed to incorporate changes to the federal counterpart regulations.</li> </ul>	L	6/1/18	10/2/2009  3/26/12	40 CFR §62.12155 [74FR38346] (CISWI)  40 CFR §62.12150 [77FR3391] (HMIWI)
45-19	<p><b>Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution Which Cause or Contribute to Nonattainment</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes a preconstruction permit program for any area designated nonattainment for any national ambient air quality standard, in accordance with federal counterpart regulations. This preconstruction permit program applies to any new major stationary source or major modification that is major for the pollutant for which the area is designated nonattainment, if the stationary source or</li> </ul>	L	6/1/14	6/25/15	40 CFR § 52.2520(c) [80FR29973]

	<p>modification would locate anywhere in the designated nonattainment area. This rule was first promulgated in 1979.</p> <ul style="list-style-type: none"> <li>• <i>Subsequent rule modifications:</i> 1981 (Emergency Rule), 1983, 1993, 2005, 2010, 2011, 2012, and 2014.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is part of the SIP; maintaining this rule allows the State to retain primacy of the Clean Air program. This rule is updated as needed to incorporate changes to the federal counterpart regulations.</li> </ul>				
45-20	<p><b>Good Engineering Practice as Applies to Stack Heights</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule ensures that the degree of emission limitation required for an air pollutant is not affected by that portion of any stack that exceeds good engineering practice or by any other dispersion technique. This rule adopts by reference EPA's Technical Support Documents. This rule was first promulgated in 1989.</li> <li>• <i>Subsequent rule modifications:</i> None.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is part of the SIP; maintaining this rule allows the State to retain primacy of the Clean Air program.</li> </ul>	L	7/14/89	6/20/94	40 CFR § 52.2520(c)(27) [59FR18489]
45-21	<p><b>Regulation to Prevent and Control Air Pollution from the Emission of Volatile Organic Compounds</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule requires the application of reasonably available control technology to reduce emissions of volatile organic compounds (VOCs). This rule applies only in the five counties (Cabell, Kanawha, Putnam, Wayne, &amp; Wood) that were designated as nonattainment with the 1997 1-hour ozone NAAQS. This rule was first promulgated in 1979.</li> <li>• <i>Subsequent rule modifications:</i> 1991, 1993, and 1996.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change unless necessitated by the outcome of the pending SSM lawsuit.</li> <li>• <i>Reasoning for above determination:</i> Although these five counties have been re-designated to attainment with respect to the 1997 standard and are designated attainment with the 2008 and 2015 ozone NAAQS, the CAA includes requirements to prevent "backsliding" for areas previously designated non-attainment. Rule 21 is part of the WV SIP and is part of a federally approved ozone maintenance plan and remains</li> </ul>	L	5/1/96	4/3/95	40 CFR § 52.2520(c)(33) [60FR6022]

	necessary to meet the anti-backsliding provisions of the CAA. Maintaining this rule allows the State to retain primacy of the Clean Air program.				
45-22	<b>Air Quality Management Fee Program</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes a minor source fee program for certificates to operate and permits to construct, modify, or relocate. This rule was first promulgated in 1991.</li> <li><i>Subsequent rule modifications:</i> The fees have not changed since 1991.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary to provide partial funding for the agency and should continue without change.</li> <li><i>Reasoning for above determination:</i> The fees in this rule provide partial funding for the agency and the agency has strived to keep the fee structure flat for the last 27 years.</li> </ul>	L	5/6/91	n/a	n/a
45-23	<b>To Prevent and Control Emissions from Municipal Solid Waste Landfills</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule adopts and incorporates by reference standards of performance and establishes emission guidelines for municipal solid waste landfills in accordance with the federal counterpart regulations. This rule was first promulgated May 1, 1998.</li> <li><i>Subsequent rule modifications:</i> 2000 and 2001.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue with modifications pending for the 2018 Legislative Session.</li> <li><i>Reasoning for above determination:</i> This rule is part of the SIP and State plan. Maintaining this rule allows the State to retain primacy of the Clean Air programs. This rule is updated as needed to incorporate changes to the federal counterpart regulations.</li> </ul>	L	6/1/18	7/23/01	40 CFR §62.12125 [66FR28379]
45-25	<b>Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes a program of regulation over air emissions and emission standards for the treatment, storage, and disposal of hazardous waste pursuant to federal counterpart regulations which this rule adopts by reference with limited exception. Associated reference methods, performance specifications, and other test methods appended to the standards are also adopted by reference. This rule also establishes the permitting process for hazardous waste management. This rule was first promulgated in 1982.</li> <li><i>Subsequent rule modifications:</i> 1983, 1984, 1989, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017.</li> </ul>	L	6/1/18	1/24/14	78FR70225

	<ul style="list-style-type: none"> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue with identified modifications pending for the 2018 Legislative Session</li> <li>• <i>Reasoning for above determination:</i> WV has authorization of the RCRA Hazardous Waste Management Program. Maintaining this rule along with the maintenance of the corresponding 33CSR20 allows WV to retain primacy of this program. This rule is routinely updated to incorporate changes made to the federal counterpart regulations.</li> </ul>				
45-27	<p><b>To Prevent and Control the Emissions of Toxic Air Pollutants</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> The purpose of this rule is to prevent and control the discharge of toxic air pollutants requiring the application of best available technology (BAT). This rule was first promulgated in 1990.</li> <li>• <i>Subsequent rule modifications:</i> None.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule requires the application of the best available technology to control the emission of the fourteen toxic air pollutants identified in the 1987 Kanawha Valley Toxics Screening Study, which studied the health effects associated with long-term exposure to the 14 toxic air pollutants at issue. <ul style="list-style-type: none"> <li>• Subsequent reports and studies include: (a) January 1989 “Report on Ambient Exposures to Volatile Organic Compounds in the Kanawha Valley” by the Harvard University Energy and Environmental Policy Center; (b) November 1990 EPA Summary of Reports with respect to the high risk point source initiatives program summarizing results of 19 funded initiatives through fiscal year 1990; and (c) April 1992 National Institute for Chemical Studies study carried out by the Harvard School of Public Health and funded by EPA “Final Findings of NICS/EPA Kanawha County Health Study”.</li> </ul> </li> </ul> <p>This rule should not be recommended for change or repeal without re-visiting the underlying basis of this health-based finding. There are thirteen Title V major sources subject to this rule.</p>	L	6/30/90	n/a	n/a
45-28	<p><b>Air Pollutant Emissions Banking and Trading</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes a voluntary statewide air pollutant emissions trading program that provides incentives to make progress toward the attainment or maintenance of the national ambient air quality standards, the reduction or prevention of hazardous air pollutant emissions, and the protection of human health, welfare, and the environment. This rule was first promulgated June 2, 2000.</li> <li>• <i>Subsequent rule modifications:</i> None.</li> </ul>	L	8/31/00	n/a	n/a

	<ul style="list-style-type: none"> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> WV Code §22-5-18 requires this rule. It does not impose any requirements, rather it establishes a voluntary emissions trading program. There is a remote possibility this rule may be beneficial for economic development and provide a path forward to permitting large sources wanting to locate in nonattainment areas.</li> </ul>				
45-30	<b>Requirements for Operating Permits</b> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes a comprehensive air quality permitting system for major stationary sources and certain other sources consistent with the requirements of Title V of the CAA. This rule was first promulgated April 27, 1994.</li> <li>• <i>Subsequent rule modifications:</i> 2001, 2003, 2012, 2013, and 2015.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> West Virginia has full program approval of its Title V operating permit program. Maintaining this rule allows the State to retain primacy of the Clean Air program. This rule is updated as needed to incorporate changes from the federal counterpart regulations.</li> </ul>	L	5/1/15	03/14/16	40CFR Part 70, Appendix A (g) [81FR763]
45-30A	<b>Deferral of Nonmajor Area Sources from Permitting Requirements</b> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This interpretive rule provides for the deferral of nonmajor and area sources from the obligation to obtain a permit under 45CSR30. This rule was first promulgated September 5, 1995.</li> <li>• <i>Subsequent rule modifications:</i> 1999 and 2000.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is achieving its purpose and defers nonmajor and area sources subject to requirements under §§111 or 112 of the CAA from the obligation to obtain a permit under 45CSR30 under the authority granted to the Director under 45CSR30 §3.2.</li> </ul>	I	2/18/00	n/a	n/a
45-30B	<b>Identification and Counting of Fugitive Emissions in Major Source Determinations under 45CSR30</b> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule provides guidance with respect to which stationary sources are required to count fugitive emissions and the proper method of identifying such emissions in determining applicability of the Title V permitting program (45CSR30). This rule was first promulgated September 5, 1995.</li> <li>• <i>Subsequent rule modifications:</i> None.</li> </ul>	I	10/5/95	n/a	n/a

	<ul style="list-style-type: none"> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is achieving its purpose and provides necessary interpretation to determine major source applicability.</li> </ul>				
45-31	<p><b>Confidential Information</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes requirements for claiming information submitted to the agency is confidential and, therefore, protected from disclosure under FOIA, in accordance with W. Va. Code § 22-5-10. This rule was first promulgated July 7, 1993.</li> <li>• <i>Subsequent rule modifications:</i> 1997.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is achieving its purpose and is required by W. Va. Code § 22-5-10.</li> </ul>	L	9/25/97	n/a	n/a
45-31A	<p><b>Release of Previously Submitted Confidential Information</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes factors the agency will consider pursuant to §45CSR31-3.2 to determine whether or not to release confidential information submitted prior to the effective date of 45CSR31 (September 25, 1997). This rule was first promulgated</li> <li>• <i>Subsequent rule modifications:</i></li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> <b>This rule was repealed, effective August 10, 2018.</b></li> <li>• <i>Reasoning for above determination:</i> §45CSR31-3.2 requires that the claim of confidentiality be submitted within 180 days of September 25, 1997. This interpretive rule is obsolete.</li> </ul>	I	9/21/98	n/a	n/a
45-31B	<p><b>Confidential Business Information and Emission Data</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule provides guidance and clarification concerning the term “types and amounts of pollutants discharged” defined under 45CSR31-2, and explains what information may not be claimed as confidential under that rule. This rule was first promulgated September 10, 2003.</li> <li>• <i>Subsequent rule modifications:</i> None.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This interpretive rule achieves its purpose and provides additional clarification regarding what constitutes emissions data.</li> </ul>	I	11/10/03	n/a	n/a

45-32	<b>Serious and Minor Violations of Applicable Rules</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule defines serious violations and minor violations for the violation of any provision W. Va. Code §22-5-1 et seq., or for violation of any rules issued pursuant to Article 5, Chapter 22 of WV Code, or for the violation of any order, agreement, or permit, or any part thereof, issued under W. Va. Code §22-5-1 et seq.. This rule was first promulgated July 7, 1993.</li> <li><i>Subsequent rule modifications:</i> None.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule is achieving its purpose and there have not been any changes that warrant a change to the rule.</li> </ul>	L	7/7/93	n/a	n/a
45-33	<b>Acid Rain Provisions and Permits</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes and adopts the general provisions and the operating permit program requirements for affected sources under the Acid Rain Program. The agency adopts and incorporates by reference the standards in this rule along with associated reference methods, performance specifications and other test methods appended to these standards. This rule was first promulgated April 28, 1995.</li> <li><i>Subsequent rule modifications:</i> 1996, 1998, 1999, 2000, 2002, 2003, 2006, and 2010.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> The EPA approved Title V program encompasses this rule. Maintaining this rule allows the state to retain primacy of the Clean Air programs.</li> </ul>	L	6/1/10	12/15/95; Part of Title V program approval	40 CFR 70, Appendix A (a) [60FR57352, 60FR62846]
45-34	<b>Emission Standards for Hazardous Air Pollutants</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule adopts and incorporates by reference national emission standards (NEHSAP) for hazardous air pollutants. Also adopted are associated reference methods, performance specifications and other test methods appended to these standards. This rule was first promulgated April 28, 1995.</li> <li><i>Subsequent rule modifications:</i> 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue with identified modifications pending for the 2018 Legislative Session.</li> <li><i>Reasoning for above determination:</i> Maintaining this rule allows the State to retain primacy of the Clean Air program. This rule is updated annually to IBR any new or modified federal regulations which WV has accepted delegation</li> </ul>	L	6/1/18	Automatic Delegation	40 CFR §61.04(b)(50) and 40 CFR §63.99(a)(49)  [49FR48692, 67FR15486]

45-35	<p><b>Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity)</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule adopts by reference the federal counterpart regulations, which requires that all federal actions conform to any applicable implementation plan. This rule codifies general criteria, procedures, and requirements for demonstrating and assuring conformity of such actions to any applicable implementation plan. This rule was first promulgated as an emergency rule in 1994 and a legislative rule on April 28, 1995.</li> <li><i>Subsequent rule modifications:</i> 2012.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule is part of WV's SIP; maintaining this rule allows the State to retain primacy of the Clean Air program.</li> </ul>	L	6/1/12	3/25/13	40 CFR § 52.2520(c)  [78FR4333]
45-36	<p><b>Requirements for Determining Conformity of Transportation Plans, Programs and Projects Developed, Funded or Approved under Title 23 USC or the Federal Transit Laws to Applicable Air Quality Implementation Plans (Transportation Conformity)</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule adopts the federal counterpart regulation, which codifies general policy, criteria, and procedures for demonstrating and assuring conformity of the listed activities to applicable air quality implementation plans developed under the CAA. This rule was first promulgated as an emergency rule in 1994 and a legislative rule on April 28, 1995.</li> <li><i>Subsequent rule modifications:</i> 2004.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> <b>This rule is proposed for repeal in the 2019 session.</b></li> <li><i>Reasoning for above determination:</i> The approved SIP includes six MOU's based on three specific requirements of SAFETEA-LU. The rule is not required for WV to remain in compliance with its Transportation Conformity obligations.</li> </ul>	L	6/1/04	n/a	n/a
45-38	<p><b>Provisions for Determination of Compliance with Air Quality Management Rules</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule clarifies the types of data that may be used by an owner of a facility or by the agency to determine compliance or violation. This rule was first promulgated April 28, 1995.</li> <li><i>Subsequent rule modifications:</i> None.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> <b>This rule is proposed for repeal in the 2019 session.</b></li> <li><i>Reasoning for above determination:</i> This rule was promulgated in response to the "Enhanced Monitoring SIP Call". EPA subsequently decided to suspend development</li> </ul>	L	5/1/95	n/a	n/a



	of the original enhanced monitoring rule and instead finalized credible evidence revisions that added compliance requirements into the federal NSPS and NESHAP regulations and added compliance assurance monitoring “CAM” into the Title V regulations.				
45-40	<p><b>Control of Ozone Season Nitrogen Oxides Emissions</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule includes the requirements from the Nitrogen Oxides (NO<sub>x</sub>) SIP Call and establishes: (a) ozone season NO<sub>x</sub> emission limitations, monitoring, recordkeeping, reporting, excess emissions, and NO<sub>x</sub> budget demonstration requirements for large industrial boilers and combustion turbines with a maximum design heat input greater than 250 mmBTU/hr; (b) ozone season NO<sub>x</sub> reduction, compliance plan, monitoring, recordkeeping and reporting requirements for affected stationary internal combustion engines; and (c) ozone season NOX control standards, compliance plan, reporting, monitoring and recordkeeping requirements for applicable cement manufacturing kilns. This rule was first promulgated April 28, 2006.</li> <li>• <i>Subsequent rule modifications:</i> 2008 and 2016.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and will be proposed for modification during the 2019 session.</li> <li>• <i>Reasoning for above determination:</i> This rule is achieving its purpose, remains necessary and is part of the SIP under §110 of the CAA. This rule is modified as necessary to incorporate changes from the federal counterpart regulation.</li> </ul>	L	7/1/16	8/4/09	<p>40 CFR § 52.2520(c)</p> <p>[74FR38536]</p>

## DIVISION OF MINING AND RECLAMATION

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulations Citation
38-02	<b>West Virginia Surface Mining Reclamation Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes general and specific rules for permit application requirements and contents; haulageways or access roads; drainage and sediment control systems; blasting; premining and postmining land use; fish and wildlife considerations; revegetation; prime farmlands; insurance and bonding; replacement, release, and forfeiture of bonds; requirements of a notice of intent to prospect; performance standards; performance standards applicable to underground mining operations; subsidence control; small operator assistance program; citizen's actions; designation of areas unsuitable for mining; inspection and enforcement; Surface Mine Board; and Coal Refuse. This rule was first promulgated August 28, 1967.</li> <li><i>Subsequent rule modifications:</i> Prior to 1983 this rule was Chapter 20-6 Series 1 and modified 1978, 1983, 1984, every year 1986-1989, every year 1990-1999, every year 2000-2006, 2008,2009,2011 2016 and 2018.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change, until decision of the Federal Office Surface Mining on previously submitted changes.</li> <li><i>Reasoning for above determination:</i> This rule is consistent with its federal counterpart. Maintaining this rule allows the State to retain primacy of the Coal Surface Mining program.</li> </ul>	L	07/01/2018	All changes from 2008 to date are pending decision from the Federal Office of Surface Mining	30 CFR Part 948
38-02F	<b>Groundwater Protection Rules Coal Mining Operations</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> These rules establish a series of practices for the protection of groundwater which are to be followed by any person who conducts coal mining operations subject to the provisions of W. Va. Code §22-12-1 et seq. and subject to regulation under W. Va. Code §22-3, and/or under W.Va. Code §22-11, as it relates to coal mining operations. The rule was first promulgated in June 1, 1994.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> </ul>	L	06/1/1994	n/a	n/a

	<ul style="list-style-type: none"> <li>• <i>Reasoning for above determination:</i> This rule meets its intended purpose.</li> </ul>				
38-03	<p><b>Rules for Quarrying and Reclamation</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This Legislative rule establishes general and specific rules for quarrying and reclamation operations including requirements for definitions, permit application requirements and contents; bond and bond pooling fund; haulageways and transportation facilities; blasting; drainage system; method of operation; excess spoil disposal; revegetation and standards for evaluating vegetative cover; mapping, approved person, and markers; transfer or sale of permit rights; public hearings, annual Bonding Progress Report Map and permit renewals, permit modification; inspection and enforcement; final release of bond or bond pooling fund, final inspection report; state and federal compliance. This rule was first promulgated August 12, 2001.</li> <li>• <i>Subsequent rule modifications:</i> None</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule meets its intended purpose.</li> </ul>	L	08/1/2001	n/a	n/a
38-04	<p><b>Coal Related Dam Safety Rule</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> These rules establish general and specific rules for design, placement, construction, enlargement, repair, removal, or abandonment of dams in this State that are also regulated under West Virginia Surface Mining Reclamation Control Act 22-3 and West Virginia Surface Mining Reclamation Rules 38 CSR 2 by the Department of Environmental Protection, Division of Mining and Reclamation. This rule was first promulgated May 1, 2002.</li> <li>• <i>Subsequent rule modifications:</i> 2003</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule meets its intended purpose.</li> </ul>	L	06/01/2003	n/a	n/a
47-30	<p><b>WV/NPDES Rule for Coal Mining Facilities</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes requirements implementing the powers, duties, and responsibilities of W. Va. Code § 22-11-1 with respect to all coal mines and preparation plants and all refuse and waste therefrom in the State. This rule was first promulgated April 24, 1986.</li> <li>• <i>Subsequent rule modifications:</i> 1987, 2002, 2004, 2008, 2009, 2010, 2013, and 2015</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> </ul>	L	07/01/2015	All changes from 2013 and 2015 to date are pending decision from the USEPA	40 CFR Part 122

	<ul style="list-style-type: none"> <li>• <i>Reasoning for above determination:</i> This rule is consistent with its federal counterpart. Maintaining this rule allows the State to retain primacy of the Coal Surface Mining NPDES program.</li> </ul>				
47-30B	<p><b>Administrative Proceedings and Civil Penalty Assessment</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes a procedure for the resolution of enforcement actions and the assessment of civil penalties in lieu of the institution of a civil action as provided in W. Va. Code § 22-11-22a(a). This rule was first promulgated July 1, 2016.</li> <li>• <i>Subsequent rule modifications:</i> None</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed.:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is consistent with its federal counterpart.</li> </ul>	L	07/01/2016	8/18/1990	§ 309(g) of the Clean Water Act (33 USC § 1319(g))
199-01	<p><b>Surface Mining Blasting Rule</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes general and specific rules for overseeing and regulating blasting on all surface mining operations; implementing and overseeing the pre-blast survey process; inspection and monitoring of blasting operations; seismograph use; warning methods; site specific limitations for type, size, timing and frequency of blasts; public notice requirements; maintaining and operating a system to receive and address questions, concerns and complaints relating to mining operations; setting the qualifications for individuals and firms performing pre-blast surveys; establishing the education, training, examination and certification of blasters; disciplinary procedures for blasters; and administering a claims process, including arbitration, for property damage caused by blasting This rule was first promulgated April 18, 2000.</li> <li>• <i>Subsequent rule modifications:</i> 2001,2005 and 2008.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule should be repealed.</li> <li>• <i>Reasoning for above determination:</i> 38CSR2 – West Virginia Surface Mining Reclamation Rule was amended during the 2018 legislative session to consolidate all the blasting requirements of 199-1 under 38CSR2</li> </ul>	L	07/01/2008	2008 changes are pending decision from the Federal Office of Surface Mining	30 CFR Part 948

## OFFICE OF OIL AND GAS

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulations Citation
35-01	<b>Miscellaneous Water Pollution Control Rules</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes requirements relating to discharge notification and response, waste load allocations, small wastewater treatment plants, permit application filing fee, and outlet markers, and spill prevention, for facilities operated in connection with the exploration, development, production, storage and recovery of oil and gas, and related mineral resources in this state. This rule was initially promulgated in 1991.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule meets its intended purpose.</li> </ul>	L	6/1/91	n/a	
35-03	<b>Coalbed Methane Wells Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule governs and applies to proceedings under <i>W.Va. Code §22-21-1 et. seq.</i>, governing coalbed methane wells. Certain portions of this series applies to <i>W.Va. Code §22-10-1 et. seq.</i>, related to abandoned wells, <i>W. Va. Code §22-12-1 et. seq.</i>, related to groundwater protection, and <i>W.Va. Code §22-6-1 et. seq.</i>, related to oil and gas wells and other wells. This rule was initially promulgated in 1996.</li> <li><i>Subsequent rule modifications:</i> 2006</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule meets its intended purpose.</li> </ul>	L	4/28/06	n/a	
35-04	<b>Oil and Gas Wells and Other Wells</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule governs and applies to proceedings under <i>W.Va. Code §22-6-1, et seq.</i>, related to oil and gas wells and other wells. Certain portions of this series governs and applies to <i>W.Va. Code §22-12-1, et seq.</i> related to groundwater protection and to <i>W.Va. Code §22-10-1, et seq.</i> related to abandoned wells. This rule was initially promulgated in 1973.</li> <li><i>Subsequent rule modifications:</i> 1977, 1978, 1983, 1993, 2001, 2010</li> </ul>	L	4/15/10	n/a	

	<ul style="list-style-type: none"> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule meets its intended purpose.</li> </ul>				
35-05	<p><b>Designation of Future Use and Inactive Status for Oil and Gas Wells Rule</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This legislative rule establishes requirements pertaining to the operator's designation of bona fide future use of wells and certification of inactive status and information and data to be required by the chief as necessary to such designation. This rule was initially promulgated in 1993.</li> <li>• <i>Subsequent rule modifications:</i> None</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule meets its intended purpose.</li> </ul>	L	7/1/93	n/a	
35-06	<p><b>Abandoned Wells Rule</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This legislative rule establishes a variety of requirements pertaining to oil and gas wells in West Virginia, the West Virginia Abandoned Well Act, W.Va. Code §22-10-1 et seq., and more specifically in relation to abandoned wells, financial responsibility requirements, a priority system for plugging abandoned wells, the declaration of operator status, authorizing interested persons to plug abandoned wells, schedules for plugging wells, and emergency procedures for abandoned wells. This rule was initially promulgated in 1993.</li> <li>• <i>Subsequent rule modifications:</i> None</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule meets its intended purpose.</li> </ul>	L	7/1/93	n/a	
35-07	<p><b>Certification of Gas Wells</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This legislative rule governs and applies to proceedings under W.Va. Code §22-6-2(c)(11) concerning gas wells and implementation of the Natural Gas Policy Act of 1978 (NGPA), and pertinent federal regulations. This rule was initially promulgated in 2001.</li> <li>• <i>Subsequent rule modifications:</i> None</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule should be repealed.</li> <li>• <i>Reasoning for above determination:</i> Provisions for well category determinations for certain categories of high-cost gas under NGPA section 107 are not needed.</li> </ul>	L	5/10/01		

35-08	<b>Rules Governing Horizontal Well Development</b> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule governs and applies to proceedings under <i>W.Va. Code §22-6A-1, et seq.</i>, related to horizontal wells. Certain portions of this rule also govern and apply to <i>W.Va. Code §22-12-1, et seq.</i>, related to groundwater protection. This rule was initially promulgated in 2013.</li> <li>• <i>Subsequent rule modifications:</i> 2014, 2016</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule meets its intended purpose.</li> </ul>	L	7/9/16	n/a	
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## OFFICE OF ENVIRONMENTAL ADVOCATE – REHABILITATION ENVIRONMENTAL ACTION PLAN

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulations Citation
33-10	<b>Recycling Assistant Grant Program</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule sets out guidelines and procedures for providing assistance grants to local governments and other interested parties for the purpose of planning, initiating, expanding, or upgrading recycling programs, provide related public education programs, and assist in recycling market procurement efforts. This rule was first promulgated June 1, 1993 as rule 58-43.</li> <li><i>Subsequent rule modifications:</i> 1995, 1999, 2000, 2008</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> The Recycling Assistance Grant Rules assist local communities with reducing the amount of waste that enters WV landfills, thereby extending the usable life of the landfills.</li> </ul>	L	April 15, 2008	n/a	n/a
33-11	<b>Covered Electronic Devices Takeback Program</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes procedures for covered electronic device manufacturers to register their brands with the state and sets out guidelines for municipalities and counties to apply for and receive grants for the purpose of conducting electronic collection events and programs. The funding available for grants is established by the registration fee imposed on all covered electronic device manufacturers that conduct business in West Virginia. This rule was first promulgated April 15, 2010.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> The Covered Electronic Devices (CED) Manufacturer Registration and Takeback/Recycling Program assists in resource recovery and in reducing the amount of waste that enters WV landfills, thereby extending the usable life of the landfills.</li> </ul>	L	April 15, 2010	n/a	n/a



33-12	<b>Covered Electronic Device Recycling Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes requirements for the proper storage, handling, recycling, and disposal of covered electronic devices. This rule was first promulgated July 1, 2013.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> The rule successfully assists municipalities, county commissions or county solid waste authorities to establish collection and recycling programs in order to conserve resources and reduce the amount of waste that is disposed of in WV landfills.</li> </ul>	L	July 1, 2017	n/a	n/a
33-41	<b>Awarding of Matching Grants for Local Litter Control Programs</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule sets out guidelines and procedures for providing matching assistance grants to counties and municipalities for the initiation and administration of litter control programs. This rule was first promulgated June 1, 2017.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> The Litter Control Grant is a matching fund that assists municipalities and county government agencies with community cleanup and litter enforcement projects.</li> </ul>	L	June 1, 2017	n/a	n/a

## CABINET SECRETARY'S OFFICE

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulations Citation
60-03	<b>Voluntary Remediation and Redevelopment Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This Legislative rule establishes the eligibility, procedures, standards, and legal documents required for voluntary remediation activities and brownfield revitalization. This rule was first promulgated July 1, 1997.</li> <li><i>Subsequent rule modifications:</i> 2002, 2008, 2009, 2012, 2014, 2017, and 2018</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue with minor modifications.</li> <li><i>Reasoning for above determination:</i> The rule is necessary to continue to allow the remediation and redevelopment of previously contaminated sites for future development. Clarifications to the administrative process are needed for consistent execution and to reflect contemporary times.</li> </ul>	L	4/1/2018	n/a	n/a
60-04	<b>Awarding of West Virginia Stream Partners Program Grants Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> The purpose of this rule is to provide Stream Partners Program grant requirements and guidance concerning the awarding of grants to broad-based community organizations for watershed improvement projects. This rule was first promulgated May 1, 1999.</li> <li><i>Subsequent rule modifications – 2000, 2002</i></li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> </ul> <p><i>Reasoning for above determination:</i> The Stream Partners Program grants are very important to local volunteer efforts that enhance WV's streams and rivers. This rule simply outlines the grant requirements and guidance.</p>	L	5/01/15	NA	NA

60-05	<b>Anti-degradation Implementation Procedures (W. Va. Code §22-11-7b(d))</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes the procedures by which the Department of Environmental Protection shall implement the State's water quality anti-degradation policy found at 47 CSR 2-4. The rule was first promulgated July 2, 2001.</li> <li><i>Subsequent rule modifications:</i> 2002</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> </ul> <p><i>Reasoning for above determination:</i> This rule is necessary to describe the federally-required process for antidegradation review and implementation.</p>	L	7/1/08	11/19/08	40 CFR §131
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## WASTE MANAGEMENT

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulations Citation
33-01	<b>Solid Waste Management Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes requirements for the siting (including location standards), financial assurance, installation, establishment, construction, design, groundwater monitoring, modification, operation, permitting, closure and post-closure care of any solid waste facility that processes, recycles, composts, transfers or disposes of solid waste pursuant to W. Va. Code §22-15-1 et seq. This rule applies to any person who owns or operates a solid waste facility or who is responsible for the processing, composting, commercial recycling, transfer or disposal of solid waste, except for those recycling facilities exempted from permitting requirements as authorized by W. Va. Code §20-11-12. This rule was first promulgated May 1, 1990 as rule 47-38, renamed 33-01 in 1996.</li> <li><i>Subsequent rule modifications:</i> 1996, 1999, 2004, 2006, 2010, 2012, 2015</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change to comply with both Federal and State Code requirements</li> <li><i>Reasoning for above determination:</i> Maintaining this rule allows the State to retain primacy of the Solid Waste Management program.</li> </ul>	L	6/1/2015	10/9/1991	40 CFR Parts 257 and 258
33-01A	<b>Disposal of Completion or Production Waste</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule provides guidance and direction to commercial solid waste facilities for the proper disposal of completion or production waste as a special solid waste generated from horizontal well sites, pursuant to the provision of the Solid Waste Management Rule, 33 C.S.R. 1. This rule was first promulgated August 1, 2017.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This interpretive rule is the result of industry request to the DEP to provide guidance and clarification for the disposal of completion or production waste generated from horizontal well sites.</li> </ul>	I	8/1/2017	n/a	n/a

33-02	<b>Sewage Sludge Management Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes requirements for the permitting siting, bonding, installation, establishment, construction, modification, and operation of any facility that generates, processes, recycles and/or disposes of sewage sludge by whatever means, including, but not limited to, land application, composting, incineration, mixed waste composting, or any other method of handling sewage sludge within the state. This rule applies to any person who owns or operates a sewage sludge facility or who is responsible for the processing or disposal of sewage sludge. This rule was first promulgated June 1, 1994 as 47-38D and was renamed 33-02 in 1996.</li> <li><i>Subsequent rule modifications:</i> 1996, 1999, 2000</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule remains necessary to provide guidance on the handling and land application of sewage sludge.</li> </ul>	L	6/12/2000	10/9/1991	40 CFR Parts 257 and 258
33-03	<b>Yard Waste Composting Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes requirements for the proper handling and composting of yard waste including siting, bonding, design, construction, modification, operation, closure and permitting procedures pertaining to any facility or activity that generates, processes, composts or otherwise reuses or recycles yard waste by whatever means and sets forth requirements for operator training and certification. This rule was first promulgated June 1, 1994 as 47-38E and renamed 33-03 in 1996.</li> <li><i>Subsequent rule modifications:</i> 1996, 2001</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule remains necessary to provide guidance to permittees on the design and operation of yard waste composting facilities.</li> </ul>	L	6/26/2001	10/9/1991	40 CFR Parts 257 and 258
33-04	<b>Lead Acid Battery Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes requirements for the proper storage, handling, recycling, and disposal of lead acid batteries. This rule was first promulgated in 1994 as 47-38F and renamed 33-04 in 1996.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule provides guidance on the proper storage, recycling or disposal of lead acid batteries as they are prohibited from being disposed in solid waste disposal facilities.</li> </ul>	L	6/1/1994	10/9/1991	40 CFR Parts 257 and 258

33-05	<b>Waste Tire Management Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule is intended to meet the requirements of W. Va. Code §§20-11-8 and 22-15-21, as amended, to properly manage waste tires, including collection, accumulation, storage, disposal, processing, monofilling, reusing, transporting, recycling, permitting and recordkeeping. This rule was first promulgated in June 2, 1996.</li> <li><i>Subsequent rule modifications:</i> 2001</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule is achieving its purpose by authorizing the agency to regulate the proper handling and disposal of waste tires. Waste tires may not be disposed of in solid waste landfills (excluding WV DEP and WV DOH exemptions).</li> </ul>	L	6/26/2001	n/a	n/a
33-06	<b>Solid Waste Assessment Fee Exemptions</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes procedures to be followed in obtaining solid waste assessment fee exemptions provided under W. Va. Code §22-15-11(e). this rule was first promulgated April 1, 1999.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule is achieving its purpose by allowing the agency to exempt state assessment fees for the disposal of solid waste at state regulated solid waste facilities.</li> </ul>	P	4/1/1999	n/a	n/a
33-07	<b>Proof of Proper Solid Waste Disposal</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule provides guidance to persons occupying a residence or operating a business establishment in this state regarding the approved method of providing proof of proper solid waste disposal to the Division of Environmental Protection. This rule was first promulgated January 1, 1989 as 47-38B and renamed 33-07 in 1999</li> <li><i>Subsequent rule modifications:</i> 1999</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule is achieving its purpose by requiring solid waste facilities to maintain records of delivery of solid waste made by an individual who is not in the business of hauling or disposing of waste. This rule helps</li> </ul>	I	4/1/1999	n/a	n/a

	to deter improper disposal of solid waste and allows the agency to enforce proper disposal by individuals.				
33-08	<p><b>Standards For Beneficial Us of Materials Similar to Sewage Sludge</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes a mechanism and requirements for the permitting, siting, bonding, and use of sludge or other material that has beneficial properties similar to sewage sludge. This rule applies to any person who seeks approval from the Secretary to beneficially reuse sludge or other non-hazardous material within the state. This rule does not apply to sewage sludge, products derived from sewage sludge, or materials regulated as hazardous waste under W. Va. Code §§22-18-1, et seq. This rule was first promulgated March 21, 2003.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change</li> <li><i>Reasoning for above determination:</i> This rule is achieving its purpose by providing an avenue to any person wishing to beneficially reuse sludge (other than sewage sludge). Further this rule helps keep these materials out of solid waste disposal facilities.</li> </ul>	L	3/21/2003	n/a	n/a
33-09	<p><b>Standards For Beneficial Use of Filtrate from Water Treatment Plants</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes a mechanism and requirements for the permitting, siting, bonding, and use of water treatment plant sludge from water treatment plants that has beneficial properties. This rule applies to the beneficial use of water treatment plant sludge and to any person who seeks approval from the Secretary to beneficially use such sludge within the state. This rule is intended to enhance the resource recovery and recycling goals of article fifteen of chapter twenty-two of the West Virginia Code and to encourage the beneficial use of water treatment plant filtrate. Section 22-15-23 of the West Virginia Code and this rule, and not the provisions of W. Va. Code §22-15-10 or 33 CSR 1, shall govern the beneficial use of water treatment plant sludge. This rule does not apply to sewage sludge, products derived from sewage sludge, sludges regulated under 33 CSR 8, or materials regulated as hazardous waste under W. Va. Code §22-18-1, et seq. This rule was first promulgated June 16, 2008.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change</li> </ul>	L	6/16/2008	n/a	n/a

	<ul style="list-style-type: none"> <li>• <i>Reasoning for above determination:</i> This rule is achieving its purpose by providing an avenue to any person wishing to beneficially use water treatment plant filtrate. This rule enhances the resource recovery and recycling goals of the State.</li> </ul>				
33-20	<p><b>Hazardous Waste Management System</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes and adopts a program of regulation for the generation, treatment, storage, and disposal of hazardous waste to the extent necessary for the protection of the public health and safety and the environment. This Rule was originally promulgated under 47-35, December 17, 1981. The rule was first promulgated under 33-20 May 1, 1997.</li> <li>• <i>Subsequent rule modifications:</i> 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2008, 2009, 2010, 2011, 2012, 2015, 2018</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary. Future modification will be necessary to incorporate by reference federal hazardous waste management requirements.</li> <li>• <i>Reasoning for above determination:</i> Maintaining this rule allows the State to maintain primacy of the Hazardous Waste Management program.</li> </ul>	L	6/1/2018	5/30/2017	40 C.F.R. §§ 260 - 268, 270, 273, and 279
33-22	<p><b>Assessment of Civil Administrative Penalties</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes the criteria and procedures that shall be followed in the assessment of civil administrative penalties imposed under the provisions of 22-18-17 or 22-15-15. This rule was first promulgated April 22, 1991 as rule 47-4. The rule number was changed in 2009 while being modified.</li> <li>• <i>Subsequent rule modifications:</i> 2009</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is achieving its purpose by providing guidance for the resolution of administrative enforcement actions and ensuring consistency in the assessment of civil administrative penalties.</li> </ul>	L	7/1/09	n/a	n/a
33-24	<p><b>Hazardous Waste Management Fee</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> The purpose of this rule is to establish procedures for the assessment and collection of hazardous waste management fund fees pursuant to W. Va. Code §§22-18-22-(b) and (c). This rule was first promulgated on April 17, 2003.</li> <li>• <i>Subsequent rule modifications:</i> 2009</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change. Fiscal considerations may necessitate future modifications.</li> </ul>	L	6/1/2009	n/a	n/a



	<ul style="list-style-type: none"> <li><i>Reasoning for above determination:</i> The fees in this rule provide partial funding for the agency and the agency has strived to keep the fee structure flat.</li> </ul>				
33-26	<p><b>Hazardous Waste Emergency Response Fund</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> The purpose of this rule is to establish procedures for the assessment and collection of hazardous waste generator fees pursuant to W. Va. Code §22-19-1 et seq. This rule was first promulgated as 47-40A January 1, 1998. was first promulgated under 33-26 in 2000.</li> <li><i>Subsequent rule modifications:</i> 2000, 2002</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change. Fiscal considerations may necessitate future modifications.</li> <li><i>Reasoning for above determination:</i> The fees in this rule provide necessary funding for the agency.</li> </ul>	P	9/27/2002	n/a	n/a
33-27	<p><b>Hazardous Waste Administrative Proceedings and Civil Administrative Penalty Assessment</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes a procedure for the resolution of enforcement actions and the assessment of civil penalties for violations of the Hazardous Waste Management Act in lieu of the institution of a civil action. This rule was promulgated on June 1, 2013.</li> <li><i>Subsequent rule modifications:</i> None.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule is achieving its purpose by providing guidance for the resolution of administrative enforcement actions and ensuring consistency in the assessment of civil administrative penalties.</li> </ul>	L	6/1/13	n/a	n/a
33-30	<p><b>Underground Storage Tanks</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule governs the construction, installation, upgrading, use, maintenance, testing, and closure of underground storage tanks in this State. This rule was initially promulgated as 47-36 in 1990, the number was changed in 1996.</li> <li><i>Subsequent rule modifications:</i> 1991,1993, 1995, 1996, 2001, 2008, 2018.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> Maintaining this rule allows the State to maintain primacy of the Underground Storage Tank program.</li> </ul>	L	6/1/2018	10/13/2015	40 CFR § 280

33-31	<b>Underground Storage Tank Fee Assessment</b> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This legislative rule establishes procedures for the assessment and collection of fees for the Underground Storage Tank Administrative Fund and the Leaking Underground Storage Tank Response Fund pursuant to W. Va. Code §§22-17-20 and 22-17-21. This rule was initially promulgated as 47-37 May 1, 1990, the number was changed in 1993 to 33-31.</li> <li>• <i>Subsequent rule modifications:</i> 1993, 2004.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change. Fiscal considerations may necessitate future modifications.</li> <li>• <i>Reasoning for above determination:</i> The fees in this rule provide partial funding for the agency and the agency has strived to keep the fee structure flat.</li> </ul>	L	6/1/2005	n/a	n/a
33-40	<b>Commercial Solid Waste Landfill Closure Assistance Program</b> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This legislative rule establishes requirements for the operation of the Landfill Closure Assistance Program pursuant to W. Va. Code §22-16-1 et seq. Article 16 provides an application process for the permittee, sets conditions for application approval, provides guidance for interim status assistance, and establishes a prioritization procedure for assistance. This rule applies to any permittee who may desire closure assistance from the Division of Environmental Protection. This rule was first promulgated as 47-38C June 1, 1994 and renamed during technical correction in 1997.</li> <li>• <i>Subsequent rule modifications:</i> 1997</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and other than changing all references of the “Director of Division of Environmental Protection” to the “Secretary of Department of Environmental Protection” no other changes are recommended at this time.</li> <li>• <i>Reasoning for above determination:</i> This rule provides an application process for the permittee, sets conditions for application approval, provides guidance for interim status assistance, and establishes a prioritization procedure for assistance.</li> </ul>	L	6/1/1994	n/a	n/a

## WATER RESOURCES

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulations Citation
47-01	<b>Administrative Proceedings and Civil Penalty Assessment</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes a procedure for the resolution of enforcement actions and the assessment of civil penalties in lieu of the institution of a civil action as provided in 22-11-22. This rule was first promulgated May 1, 2002.</li> <li><i>Subsequent rule modifications:</i> None.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule is achieving its purpose by providing guidance for the resolution of administrative enforcement actions and ensuring consistency in the assessment of civil administrative penalties.</li> </ul>	L	5/1/02	n/a	n/a
47-02	<b>Requirements Governing Water Quality Standards (W. Va. Code §22-11-7b(a)&amp;(c))</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> These rules establish requirements governing the discharge or deposit of sewage, industrial wastes and other wastes into the waters of the state and establish water quality standards for the waters of the State standing or flowing over the surface of the State. It is declared to be the public policy of the State of West Virginia to maintain reasonable standards of purity and quality of the water of the State consistent with (1) public health and public enjoyment thereof; (2) the propagation and protection of animal, bird, fish, and other aquatic and plant life; and (3) the expansion of employment opportunities, maintenance and expansion of agriculture and the provision of a permanent foundation for healthy industrial development. (See W. Va. Code §22-11-2.). The rule was first established on April 27, 1970 by the WV State Water Resources Board, and subsequently promulgated as Water Quality Standards in 1981. Authority is given for this rule by W. Va. Code § 22-11-4(a)(16) and §22-11-7b.</li> <li><i>Subsequent rule modifications:</i> 1983, 1986, 1989, 1991, 1993, 1995, 1996, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2008, 2011, 2014, 2015, and 2016</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule is in the process of being modified as part of the required triennial review. The proposed changes should be made, and the rule should continue to be in place, if the State does not maintain WQS the EPA will promulgate them for the State.</li> </ul>	L	7/8/16	1/26/18	40 CFR §131

	<ul style="list-style-type: none"> <li>• <i>Reasoning for above determination:</i> This rule is necessary to establish standards of water quality for the State of West Virginia and to remain in compliance with the Clean Water Act. Re-examining this rule every three years is required in the Clean Water Act.</li> </ul>				
47-02A	<p><b>Designation of Tier 3 Waters (W. Va. Code §22-11-7b(d))</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule provides guidance and clarification for designating a Tier 3 water pursuant to the provisions of 47 CSR 2 Section 4.1.c. Authority for this is given by W. Va. Code § 22-11-7b and 47 CSR 2 Section 4.1.c. The rule was first promulgated December 1, 2008.</li> <li>• <i>Subsequent rule modifications:</i> n/a</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is necessary to describe the federally-required Tier 3 waters designation.</li> </ul>	I	12/1/08	n/a	40 CFR §131
47-05A	<p><b>Rules for Individual State Certification of Activities Requiring a Federal Permit (W. Va. Code §22-11-7a(a)(2))</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> - The purpose of this legislative rule is to carry out the responsibilities placed upon the State by Section 401 of the Federal Clean Water Act, 33 U.S.C. §1341 and W. Va. Code §§22-1-6(d)(7) and 22-11-7(a). Section 401 of the Clean Water Act requires that any applicant for a federal license or permit to conduct an activity that will or may discharge into waters of the United States (as defined in the Clean Water Act) to present the federal authority with a certification from the appropriate state agency. This rule establishes the procedures and criteria for the application, processing and review of state water quality certifications that require a federal permit including those from the United States Army Corps of Engineers under Section 404 of the Clean Water Act, 33 U.S.C. §1344; Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. §403; and licenses issued by the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C. §1791 et. seq. The rule was first promulgated January 1, 1983.</li> <li>• <i>Subsequent rule modifications:</i> 1985, 1999, 2002, 2007, 2014</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is necessary and should continue without change but may require modification in future years to appropriately address changes to federal rules and regulations.</li> <li>• <i>Reasoning for above determination:</i> This rule provides the framework for the state to meet Clean Water Act responsibilities and ensure that Water Quality Standards for the</li> </ul>	L	5/14/14	n/a	33 U.S.C. §1341

	state are met through §401 Certification when activities involving discharge of fill into waters of the United States occur.				
47-09	<b>Underground Injection Control Fee Schedule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes schedules of permit fees for state under-ground injection control permits issued by the Chief of the Office of Water Resources. This rule applies to any person who is required to apply for and obtain a permit from the Chief in order to conduct an activity that is enumerated in W. Va. Code §22-11-8, and is separate from permit fees required under W. Va. Code §22-6-6. This rule was first promulgated June 1, 1994.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue, some changes may be needed in the future.</li> <li><i>Reasoning for above determination:</i> The fees outlined in this rule fund the UIC program and allow the Agency to fulfill its responsibility and retain primacy.</li> </ul>	L	6/1/94	n/a	n/a
47-10	<b>National Pollutant Discharge Elimination System (NPDES) Program Abandoned Mine Lands Reclamation Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes requirements governing the State National Pollutant Discharge Elimination System (NPDES) Program. The rule was first promulgated April 8, 1982 as 46-02 and renamed 47-10 in 1993.</li> <li><i>Subsequent rule modifications:</i> 1984, 1987, 1993, 2005, 2008, 2010, 2011, 2012.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> The rule implements the statutory requirements for the WV/NPDES Water Pollution Control Permit program and the Pretreatment Program, both of which the EPA delegated primacy to WV to implement in 1982.</li> </ul>	L	7/2/2012	10/4/2010	Clean Water Act  PL 92-500  40 CFR Part 122  40 CFR Part 403
47-11	<b>Special Rules</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes requirements governing pollution control measures which are considered special situations that are not generally covered in the DWWM legislative rules 47CSR2 and 47CSR10. This rule was first promulgated July 31, 1987, it was previously named 46-3.</li> <li><i>Subsequent rule modifications:</i> None.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> </ul>	L	7/31/87	n/a	n/a

	<ul style="list-style-type: none"> <li><i>Reasoning for above determination:</i> The rule implements special requirements for reporting spills and accidental discharges, coin-operated and other commercial laundries, coin operated and other fee generating car washing establishments, water purification wastewater control measures, wasteload allocation for sewage discharges, small wastewater treatment plants, and outlet markers that were previously not addressed.</li> </ul>				
47-11A	<p><b>Waste Loads</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule provides the agency's interpretation of the rights and privileges associated with waste load allocations using the provisions of 47CSR10 and 47CSR11, National Pollutant Discharge Elimination System (NPDES) Program and Special Rules respectively. It is further the purpose of this rule to explain the procedures used in requesting and transferring a waste load determination and the length of time for which that determination is applicable. This rule was first promulgated December 23, 1996.</li> <li><i>Subsequent rule modifications:</i> None.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> The waste load allocation is a calculation to determine a stream's capacity, which takes into consideration a margin of safety, to assimilate a potential discharge within the immediate receiving watershed. This allocation is used by the applicant to plan and complete wastewater treatment works design in preparing to make application for an NPDES permit and is used by the agency in developing permit effluent limits.</li> </ul>	P	12/23/96	n/a	n/a
47-12	<p><b>Requirements Governing Groundwater Standards (W. Va. Code §22-12-4)</b></p> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> The purpose of this Legislative rule is to establish minimum standards of purity and quality for groundwater located within this State. Authority is given for this rule by W. Va. Code §22-12-4. The rule was first promulgated August 25, 1993 under the name 46-12.</li> <li><i>Subsequent rule modifications:</i> 1992, 1998, 2002, 2010</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule should continue without change but may require modification in future to reflect updated surface water standards for the parameters of concern to groundwater.</li> <li><i>Reasoning for above determination:</i> As stated in the WV Groundwater Protection Act (W. Va. Code §22-12), because much of WV's rural population depends on groundwater for drinking water, and "a diverse array of human activities can adversely</li> </ul>	L	7/1/11	n/a	n/a

	impact groundwater,” this rule is essential to regulate groundwater quality for the State of West Virginia.				
47-13	<b>Underground Injection Control</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> These rules set forth criteria and standards for the requirements which apply to the State Underground Injection Control Program (U.I.C.). The UIC permit program regulates underground injections by five (5) classes of wells. The five (5) classes of wells are set forth in section 4 of this rule. All owners or operators of these injection wells must be authorized either by permit or rule by the Director. This rule was first promulgated August 25, 1993.</li> <li><i>Subsequent rule modifications:</i> 2002</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule clearly states the requirements needed to obtain a rule or permit for injection well and remains necessary to retain UIC primacy from the USEPA</li> </ul>	L	6/1/02	12/10/2010	40CFR144
47-26	<b>Water Pollution Control Permit Fee Schedules</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes schedules of permit application fees and annual permit fees for state water pollution control permits and national pollutant discharge elimination system permits issued by the Director of the Division of Water and Waste Management. This rule applies to any person who is required to apply for and obtain a permit from the Director in order to conduct an activity that is enumerated in W. Va. Code §22-11-8. This rule was first promulgated June 1, 1990.</li> <li><i>Subsequent rule modifications:</i> 1991, 1992, 1993, 2000, 2003, 2010, 2013.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue but fees may need to be updated in the future to allow the operating fund to remain solvent.</li> <li><i>Reasoning for above determination:</i> The funds generated by the permit fees are used to support the permitting procedures of the WV/NPDES Water Pollution Control Permit program.</li> </ul>	L	7/1/2013	n/a	n/a
47-31	<b>State Water Pollution Control Revolving Fund</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes requirements to govern the disbursement and use of loans from moneys held in the state Water Pollution Control Revolving Fund. Such loans shall be made to local entities for the planning, design, acquisition, or construction of wastewater treatment works, for the implementation of point and nonpoint source control management programs, and for the development and</li> </ul>	L	6/1/09	3/19/1990	40 CFR § 35

	<p>implementation of water conservation and management plans. This rule was first promulgated on May 1 ,1990.</p> <ul style="list-style-type: none"> <li>• <i>Subsequent rule modifications:</i> 1995, 2000, and 2009</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule was developed to allow the State to receive millions in federal grants each year to help fund a revolving loan program to offer low interest loans to municipalities and public service districts to fund critical wastewater infrastructure and govern the parameters of the disbursement of moneys from the program.</li> </ul>				
47-32	<p><b>Environmental Laboratories Certification and Standards of Performance</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule governs the certification of laboratories conducting environmental analysis of waste and wastewater performed as required by rules or orders issued pursuant to the covered statutory programs. The rule establishes the provisions for obtaining and maintaining laboratory certifications and the criteria and procedures laboratories will be required to follow in analyzing samples. This rule was first promulgated May 1, 1995.</li> <li>• <i>Subsequent rule modifications:</i> 2009</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule establishes the provisions for obtaining and maintaining laboratory certifications and the criteria and procedures laboratories will be required to follow in analyzing samples where the data will be reported to the WV DEP.</li> </ul>	L	7/1/09	8/28/17 (most recent amendment)	40 CFR § 136
47-34	<p><b>Dam Safety Rule</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This legislative rule establishes requirements relating to the design, placement, construction, enlargement, alteration, removal, abandonment, and repair of dams in this State that fall within the definition set forth in 2.12. This legislative rule also establishes requirements to govern the disbursement and use of moneys held in the State Dam Safety Rehabilitation Revolving Fund. The scope does not extend to those dams that are related to coal activities. Rule was first promulgated in 1989.</li> <li>• <i>Subsequent rule modifications:</i> 1991, 1994, 1995, 2009</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> </ul>	L	6/1/09	n/a	n/a



	<ul style="list-style-type: none"> <li>• <i>Reasoning for above determination:</i> This rule is achieving its purpose by meeting the intent of the Dam Control and Safety Act (WV State Code 22-14). Specifically, it provides for the proper control and regulation of dams to the extent necessary to protect the public from the danger of potential or actual dam failure. In addition, the provisions of this rule are within the general requirements of other state and federal guidelines for regulating and controlling dams across the United States.</li> </ul>				
47-55	<b>Groundwater Protection Act Fee Schedule</b> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule reauthorizes a schedule of fees for the groundwater protection fund. This rule is applicable to any person who owns or operates facilities or conducts activities subject to the provisions of W. Va. §22-12-1 et. seq. This rule was first promulgated June 18, 1993.</li> <li>• <i>Subsequent rule modifications:</i> 1994</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> Fees are reasonable and necessary to fulfill the requirements in the Act.</li> </ul>	L	6/1/94	n/a	n/a
47-56	<b>Assessment of Civil Administrative Penalties</b> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This legislative rule establishes the criteria and procedures that shall be followed in the assessment of civil administrative penalties imposed under the provisions of W. Va. Code §22-12-10. This rule was first promulgated May 1, 1994.</li> <li>• <i>Subsequent rule modifications:</i> 2009</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is achieving its purpose by providing guidance for the resolution of administrative enforcement actions and ensuring consistency in the assessment of civil administrative penalties.</li> </ul>	L	7/1/09		
47-57	<b>Groundwater Quality Standard Variances</b> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This legislative rule establishes criteria for variances and deviations from the requirements of W. Va. Code, §22-12-1 et seq. that would otherwise obligate sources to assure compliance with existing quality, groundwater quality standards of the state Water Resources Board and preventative action limits imposed by groundwater regulatory agencies. This rule was first promulgated June 1, 1994.</li> </ul>	L	6/1/1994	n/a	n/a

	<ul style="list-style-type: none"> <li>• <i>Subsequent rule modifications:</i> None</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule was developed to allow groundwater quality variances to occur where the standard cannot be met. This need remains and for that reason the rule is needed.</li> </ul>				
47-57A	<p><b>Groundwater Protection Standards at Steam Electric Generating Facilities</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> Variances may be granted by the legislative to allow groundwater quality standards to be exceeded for a single source or a class of sources which by their nature cannot be conducted in compliance with the requirements of W. Va. Code §22-12-5, "Groundwater Protection Act". The benefits of granting the variance must outweigh the benefits of complying with existing groundwater quality standards and demonstrate that there is no technologically feasible alternative available, and that granting the variance is more in the public interest than adherence to existing groundwater quality standards. This rule was first promulgated June 1, 2000.</li> <li>• <i>Subsequent rule modifications:</i> None.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue but may need updated in the future.</li> <li>• <i>Reasoning for above determination:</i> Variances to the groundwater standard are still needed at steam electric generation facilities which necessitates this rule.</li> </ul>	L	6/1/2000	n/a	n/a
47-57B	<p><b>Groundwater Protection Standards At Steam Electric Generating Facilities</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> Variances may be granted by the legislature to allow groundwater quality standards to be exceeded for a source or a class of sources which by their nature cannot be conducted in compliance with the requirements of W.Va. Code §22-12-5, "Groundwater Protection Act". The benefits of granting the variance must outweigh the benefits of complying with existing groundwater quality standards and demonstrate that there is no reasonable and prudent alternative available, and that granting the variance is more in the public interest than adherence to existing groundwater quality standards. The rule was first promulgated June 1, 2002.</li> <li>• <i>Subsequent rule modifications:</i> None.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue with a change.</li> <li>• <i>Reasoning for above determination:</i> This rule remains necessary to fulfill its purpose but nickel was removed from the groundwater quality standards (47CSR12) but not</li> </ul>	L	6/1/2002	n/a	n/a

	removed from 47-57B due to an oversight. Nickel needs removed from this rule to be consistent with the groundwater standard rule.				
47-58	<b>Groundwater Protection Rule</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes a series of practices which must be followed by any person who owns or operates facilities or conducts activities subject to the provisions of W. Va. Code §22-12-1 et seq. and is subject to regulation by the Division of Environmental Protection's Office of Waste Management or Office of Water Resources. This rule was first promulgated June 1, 1994.</li> <li><i>Subsequent rule modifications:</i> None.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary but should continue without changes.</li> <li><i>Reasoning for above determination:</i> The rule remains necessary to comply with the Groundwater Protection Act.</li> </ul>	L	6/1/1994	n/a	n/a
47-59	<b>Monitoring Well Rules</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes the certification of monitoring well drillers and monitoring well installations and alterations. This rule was first promulgated June 1, 1994.</li> <li><i>Subsequent rule modifications:</i> 2010</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue with change.</li> <li><i>Reasoning for above determination:</i> This rule is over burdensome to drillers and DEP Staff in that certification must be renewed annually. Modification of the Rule should be made to allow for a 5- year certification period. Whereas other states with certifying programs offer reciprocity, this rule does not and should be modified in cooperation with other states.</li> </ul>	L	4/9/2010	n/a	n/a
47-60	<b>Monitoring Well Design Standards</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes minimum acceptable documentation and standards for the design, installation, construction, and abandonment of monitoring wells and for the abandonment of all boreholes. This rule was first promulgated on May 1, 1996.</li> <li><i>Subsequent rule modifications:</i> 2010, 2011</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> The rule is needed to assure monitoring wells are constructed installed and abandon in a safe and respond manner.</li> </ul>	L	6/21/2011	n/a	n/a

47-61	<b>Community Infrastructure Investment Program</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule establishes requirements governing the Community Infrastructure Investment Program established pursuant to W. Va. Code §22-28-1 et seq. The program will facilitate the construction or expansion of project facilities for the promotion of economic development and the protection of public health and environment in the state. This rule was first promulgated April 20, 2006.</li> <li><i>Subsequent rule modifications:</i> None</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule provides an avenue for private entities to transfer newly constructed utilities valued at \$10 million or less to a public utility without cost to the public utility.</li> </ul>	L	4/20/06	n/a	n/a
47-63	<b>Aboveground Storage Tanks</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This legislative rule governs the registration, construction, installation, upgrading, use, inspection, maintenance, testing, and closure of aboveground storage tanks in this State. This rule was first promulgated August 1, 2016.</li> <li><i>Subsequent rule modifications:</i> None.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li><i>Reasoning for above determination:</i> This rule is required by WV Code 22-30-23.</li> </ul>	L	8/1/2016	n/a	n/a
47-64	<b>Rules Governing Aboveground Storage Tank Fee Assessments</b> <ul style="list-style-type: none"> <li><i>Description of the rule:</i> This rule establishes schedules of registration fees, annual operating fees, and annual response fees for aboveground storage tanks governed by the Aboveground Storage Tank Act, W. Va. Code § 22-30-1, et seq. This rule applies to any person who is subject to regulation by that Act. This rule was first promulgated August 1, 2016.</li> <li><i>Subsequent rule modifications:</i> None.</li> <li><i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change. Fiscal considerations may necessitate future modifications.</li> <li><i>Reasoning for above determination:</i> The fees in this rule provide necessary funding for the agency.</li> </ul>	L	8/1/2016	n/a	n/a

47-65	<p><b>Aboveground Storage Tank Administrative Proceedings and Civil Penalty Assessment</b></p> <ul style="list-style-type: none"> <li>• <i>Description of the rule:</i> This rule establishes a procedure for the resolution of enforcement actions and the assessment of civil penalties for violations of the Aboveground Storage Tank Act in lieu of the institution of a civil action. This rule was first promulgated August 1, 2016.</li> <li>• <i>Subsequent rule modifications:</i> None.</li> <li>• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule remains necessary and should continue without change.</li> <li>• <i>Reasoning for above determination:</i> This rule is achieving its purpose by providing guidance for the resolution of administrative enforcement actions and ensuring consistency in the assessment of civil administrative penalties.</li> </ul>	L	8/1/16		
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**\*\* NOTE \*\***

There was a third bullet point in the 2015 version of the chart submitted by DEP that responded to the final question of the Legislative Rule-Making Review Committee: *Will the agency now undertake a substantive review of the rule's provisions?* For each rule listed above, we answered, *"Yes, the agency is now undertaking a substantive review of the rule."*