



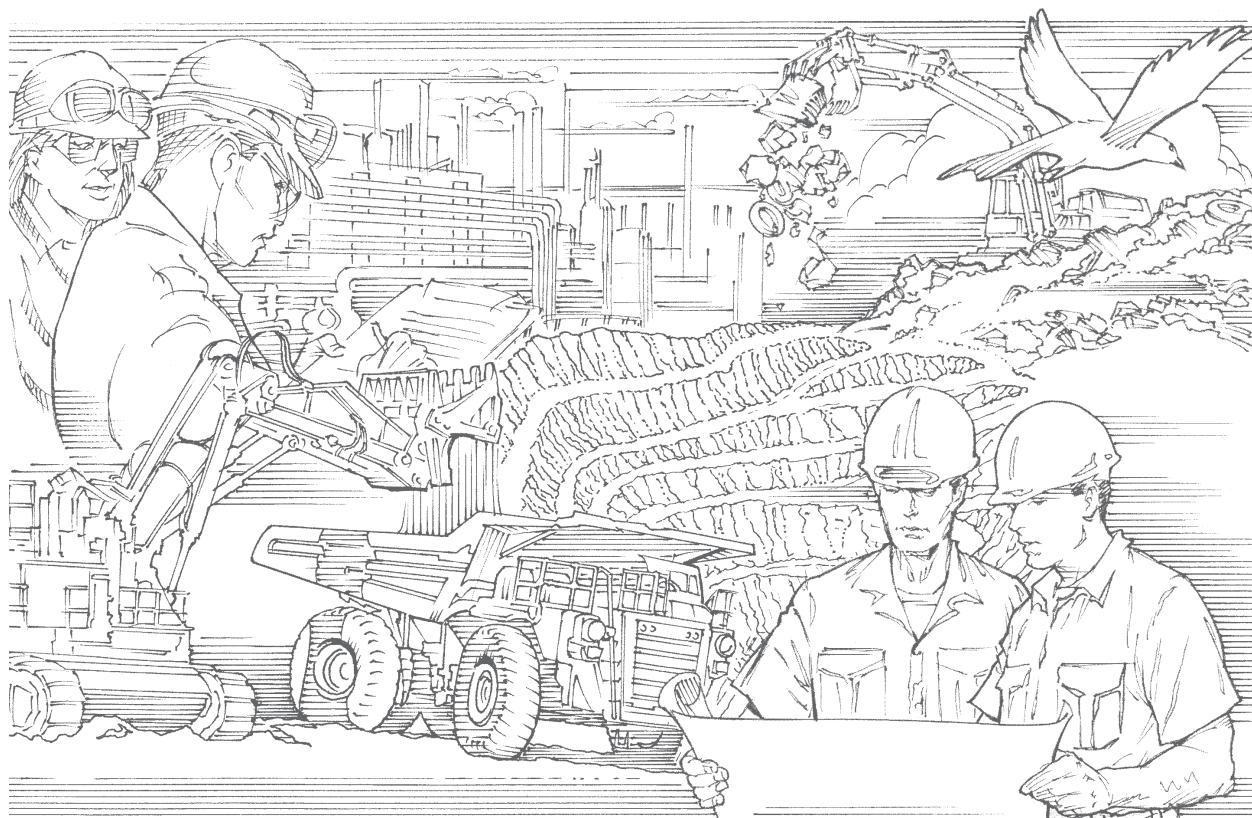
west virginia department of environmental protection

Citizen's Guide

Office of Environmental Advocate

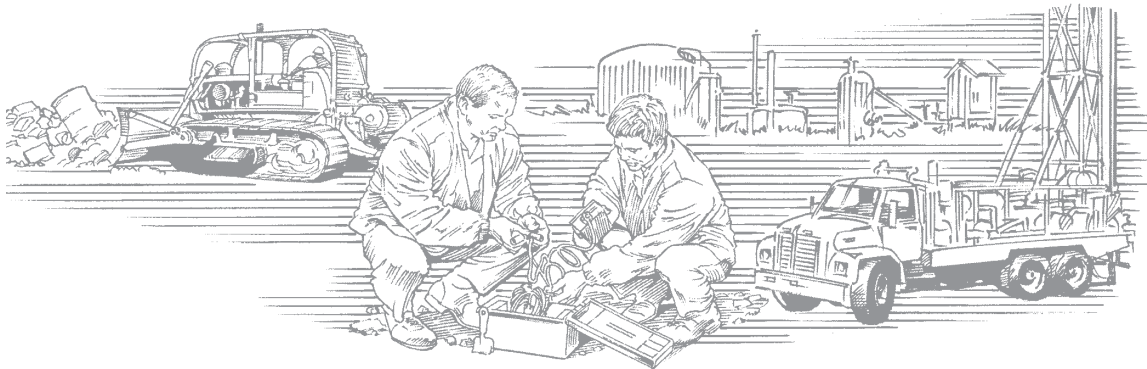
West Virginia Department of Environmental Protection

Citizen's Guide



Published by the
West Virginia Department of Environmental Protection
Office of Environmental Advocate
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Charleston, WV 25304
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Revised 2008



Environmentally Concerned Citizens,

The West Virginia Department of Environmental Protection's mission is to promote a healthy environment. While we can technically do that with the rules and regulations we are empowered with, there is still an element missing: Public participation.

Without citizens' help and involvement in our day-to-day work, we become ineffective in our mission. My goal during my tenure as DEP Cabinet Secretary is to increase public participation opportunities and make it easier for citizens to be involved in agency decisions. This guide is a step in the right direction.

Through this guide, you can become familiar with the DEP as an agency and decide how you can be a part of our mission. I encourage you to ask questions of DEP staff, and use our Environmental Advocate as a resource.

I maintain an open door policy at DEP. If you have questions of me, or concerns about the agency and its actions, I encourage you to call and make an appointment with me so that we can work toward solutions and find common ground.



Randy C. Huffman, Cabinet Secretary

What's your role?

Citizen participation is vital to protecting our environment. Problems are better solved when concerned citizens are involved in developing a dialogue among industry, environmental protection officials, and their communities.

If you've attempted to wade into public issues before, you might have been discouraged by the sheer size of the Department of Environmental Protection. It's a massive agency with more than 800 employees, many of whom have very specialized scientific duties. Please, don't be discouraged if the first person you reach has to refer you to another area of the department. We want you to get the information you seek from the right source.

Where do you start?

It might be difficult to know which division or office to go to for your specific issue, and once you do find it, you may be confused by technical lingo and scientific data. Your question may have to do with land and water and you don't know which office can help you the most – the Division of Water and Waste Management or the Division of Land Restoration? Once you locate the appropriate division, the acronyms and jargon used there might be confusing or intimidating.

This booklet breaks down the agency by office and contains a beginner glossary to help you understand some of the acronyms and technical terms our engineers, scientists and inspectors might use. If you don't find what you are looking for in the glossary, please don't hesitate to ask someone at the DEP. We know those acronyms are confusing.

We hope this guide will help answer your questions. If it doesn't, please tell us at the Office of Environmental Advocate how we can improve it. We offer this as a service for you and we want to make it as helpful as possible.

An advocate for citizens

The Office of Environmental Advocate helps people who have information requests or complaints and serves as the starting point for those unfamiliar with the agency. If you have questions, but don't know which division or office to contact, you can call the Office of Environmental Advocate for direction.

Our advocate can help you put together information requests, monitor regulation and permit progress, as well as prepare for public hearings and meetings with DEP personnel. The advocate works hand-in-hand with the DEP and the public to design workshops and forums to educate and inform citizens of issues that might affect them.

This booklet is intended to serve as a guide to the DEP. It is not to be interpreted as a legal opinion. If you have questions or issues not addressed here, please contact the advocate's office at (800) 654-5227 ext. 1328.

About the DEP

Promoting a healthy environment is the mission of the West Virginia Department of Environmental Protection. It is our responsibility to use all available resources to protect and restore our environment.

In 1992 the West Virginia Legislature created the Division of Environmental Protection. The governor and the Legislature elevated the DEP to Cabinet-level status in 2001 and changed the agency name to the West Virginia Department of Environmental Protection. The change now allows our Cabinet Secretary to have a more direct line to the lawmaking arm of state government.

The DEP operates and regulates according to environmental laws adopted by the United States Congress and the West Virginia Legislature. We seek a balance between our natural resources, businesses and residents of the state, now, and in the future. And it will take everyone – citizens, businesses, industries, civic and environmental groups, and other government agencies – working with the DEP to achieve that goal.

The DEP has four divisions that issue pollution control permits. They are the divisions of Air Quality, Mining and Reclamation, Water and Waste Management, and the Office of Oil and Gas. Applications for pollution control permits allow for public comments. The comment periods vary within each division and are detailed in this guide.

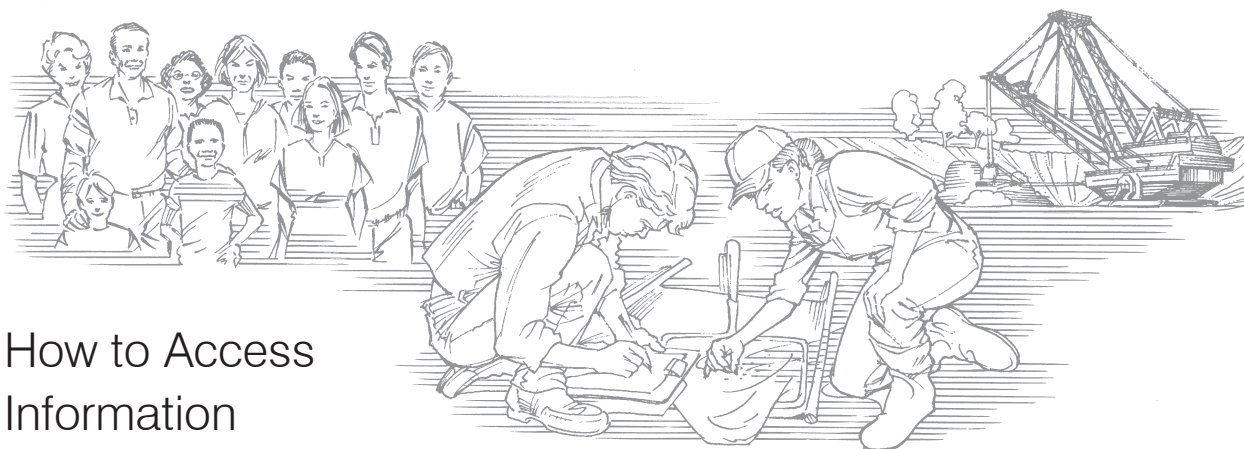
The West Virginia Department of Environmental Protection is headquartered in Charleston in an environmentally friendly building. It meets the stringent standards of the United States Green Building Council to be classified as

a “green” building. We are hoping our building will create a trend to build more offices that have a minimal impact on the environment.

This guide to the DEP is designed to provide an overview of the agency and some of its procedures, and ways the DEP divisions and offices work and respond to citizens’ issues and complaints. ***This booklet is only a guide and not to be looked at as a legal document*** because laws will be altered periodically during legislative sessions. For the most updated information, check out the current electronic Citizen’s Guide on the internet at www.wvdep.org or call the Office of Environmental Advocate for assistance.

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How to Access Information

Public Information Office

The DEP receives thousands of requests for information each year. These requests are handled by the Public Information Office, which is responsible for the Speaker's Bureau, informational brochures, newsletters, press releases, and other publications. The InDEPth newsletter is a monthly publication available as hard copy and published on the DEP Web site. InDEPth contains current information on policies and program functions of the agency.

For increased public participation in environmental issues, citizens can visit the agency's Web page (www.wvdep.org) to sign up to receive weekly notice of public comment periods, permit application status, and public hearings. However, if you do not have access to email, contact the Public Information Office to receive the information by U.S. Mail.

Information such as promotional and educational brochures, booklets and pamphlets, general reports and regularly maintained lists such as permits, violations, and facility listings do not require a Freedom of Information Act request. The majority of these documents can be accessed on our site at www.wvdep.org under the Public Information Office link. Or, you may contact the office at:

West Virginia Department of Environmental Protection
 Public Information Office
 601 57th Street, SE
 Charleston, West Virginia 25304
 Phone: (304) 926-0440 Fax: (304) 926-0447

Freedom of Information Act Requests

The Freedom of Information Act is a federal law that guarantees you access to documents in the public record. The DEP Public Information Office receives and tracks requests for information. There are some things you should know before you make a request for information.

According to the way West Virginia interprets the federal FOIA law, all persons are, unless otherwise expressly prohibited by law, entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. (§29B of the West Virginia Code)

There are exemptions to the FOIA, but legal opinion has shown that the law is to be interpreted broadly. If the information that you seek is considered exempt you can institute proceedings for injunctive or declaratory relief in the circuit court in the county where the public record is kept. (§29B-1-5.1 of the West Virginia Code)

How does the state define what is public record? Any writing containing information relating to the conduct of the public's business, prepared, owned and retained by a public body is considered public record. Writing is defined as any books, papers, maps, photographs, cards, tapes, recordings or other documentary materials regardless of physical form or characteristics.

Making a FOIA request

For the DEP to process a request for information under the FOIA, you must make a written request. The letter should be brief and state, as specifically as possible, the information you want. The letter should be dated and include your name, address, phone number, and the best time to be reached in case there are questions about your request.

Send requests to the Public Information Office via mail, e-mail or fax. Once the request is received, it's forwarded to the appropriate DEP office for a response. You should receive written notification specifying the office to which your request has been forwarded.

If you plan to come in to review the information, an appointment must be made with the appropriate program office.

There are exemptions to a FOIA request. Trade secrets and other information may not be disclosed because they are considered confidential. You will not be able to view exempt information.

FOIA facts and costs

To determine what it will cost to process your FOIA request, you have to have a pretty good idea of how much information you will want copied. The listing below gives you an idea of how much your search could cost you.

- Your e-mail, fax, or letter will be answered within five days by an e-mail, letter, or telephone call. If enough information is provided by the requester, a file search will be done. If any information is found, then an appointment will be scheduled for the requester to review and copy the information. If no information is found, something in writing will be provided to the requester.
- Copying costs are 25 cents per page unless waived.
- The first half hour of search and labor is free and no charge will be made if the total cost to process a request is \$5 or less. On rare occasions, the DEP may have to charge search and labor fees. If complicated research is required, costs could range anywhere from \$11.46 to \$29.50 per hour for research.
- An invoice for the total amount of fees will be sent to you. The total or partial pre-payment may be required if the cost to reproduce the information is determined to exceed \$25. Or, you may be requested to pay an outstanding balance with the DEP before the agency can provide copies of the information.
- If you cannot afford to pay for the FOIA request, you may be required to provide a signed and notarized affidavit to the DEP that includes the reasons you cannot pay. If the agency officials agree with the affidavit, the request will be processed as if the fees have been paid. If you have a special situation to discuss, contact the Public Information Office at (304) 926-0499 ext. 1549.

Remember, you don't need to make a FOIA request for permits and other agency actions out for public notice and comment. They will be readily available for review and efforts will be made to make the information available in or near the community where the proposed permitted action is to occur.

File Review

The DEP wants to make all of its public information accessible for review. Below are some things to keep in mind when planning your research.

- Schedule an appointment for a file review. The Public Information Office attempts to respond to information requests from people without an appointment. However, in some cases, it may not be possible to honor a walk-in request immediately.
- Ask for an overview of the file before you begin your review. It may make it easier to understand the contents of the file. If you have questions, ask for help. The FOIA staff will help you or find someone else who can.
- Try to specify the information you wish to review. If you are uncertain about the material you want to review, contact the Public Information Office, the DEP permit writer or the inspector of the facility to discuss your needs. One of these people may be able to assist you in developing the scope of your request, and can explain the setup of the file.
- If the company you are researching has several permits, the information you request could be located in a variety of other files. The permit writer or inspector may be able to direct you to information that is not contained in the specified file or permit application.
- Often, the correspondence section of the file can be the most revealing. It offers explanations for the statistical and technical sections of the file. When reviewing compliance information, look for references to permit limits to deter-

mine if the information submitted is in compliance with the permit. For instance, discharge monitoring reports are required for most water pollution control permit compliance monitoring. The facility does the testing or contracts with an approved laboratory. The compliance monitoring test results are sent to the DEP for record-keeping.

- Make notes as you go through the file and tag information you wish to copy. A photocopier will be made available and you will be responsible for making your own copies. It is very important that you keep ALL files in the order they are given to you. Do not remove pages from the file. (Reminder: You may be subject to copying costs as listed above.)

Rule-making Process

The DEP depends on rules to implement the statutes and laws created by the West Virginia Legislature and the United States Congress. This process is very technical and guided by specific duties and obligations described by the Secretary of State's office and the Legislative Rule Making Review Committee.

The DEP is required to have public hearings on each proposed legislative rule to receive comments from the public and the regulated community. As the rule goes through the legislative process, the public continues to have opportunities to request public hearings and make comments on the proposed legislation.

One of the key elements to understanding the rule-making process is to understand the different types of rules and how they flow through the system. The following definitions are taken from Chapter 29-A of the West Virginia Code.

Legislative Rule: Every rule which, when put into effect has (1) the force of the law (2) supplies a basis for the imposition of civil or criminal liability, or, (3) grants or denies a specific benefit. Every rule which, when effective, is determinative on any issue affecting private rights, privileges or interests in a legislative rule. *A legislative rule is a proposal by the DEP that has no legal force or effect until enacted by the Legislature.*

Interpretive Rule: Every rule adopted by an agency independent of any delegation of legislative power which is intended by the agency to provide information or guidance to the public regarding the agency's interpretations, policy or opinions upon the law enforced or administered by it and which is not intended by the agency to be determinative of any issue affecting private rights, privileges or interests. *An interpretive rule is an agency rule that provides information to the public about DEP policy. It's not a legislative action.*

Procedural Rule: Every rule that fixes the rule of procedure, practice or evidence for dealings with or proceedings before an agency, including forms prescribed by the agency. *A procedural rule is an agency rule that establishes the way DEP inspectors fill out paperwork and do their jobs. It's not a legislative action.*

Emergency Rule: Only legislative rules can be filed as an emergency rule, not interpretive or procedural rules. Emergency rules remain valid up to fifteen months from filing. *An emergency rule is put into effect when it's necessary to comply with a time limitation established by state law, federal statute or regulation, or to prevent substantial harm to the public interest.*

Steps of Legislative Rule-making

- The DEP recognizes a need and drafts a rule.
- The DEP files the proposed legislative rule with the Secretary of State and the Legislative Rule Making Review Committee.
- The notice of the 30-day comment period and public hearing is placed in the State Register. In some instances the DEP will place a Class I legal advertisement in a local newspaper. A notice is also placed on the DEP's online public notice list.
- The DEP reviews all written and verbal comments received on the proposed legislative rule and prepares a response.
- The DEP then files the agency-approved rule, the hearing transcript, and responses to the comments with the Secretary of State's office and the Legislative Rule Making Committee within 90 days of the close of the public comment period and hearing.

- The committee's legal counsel reviews the proposed rule and places the proposed rule on the agenda to be discussed during the legislative interim meetings. The committee may conduct a public hearing if requested.
- Committee members will recommend changes, approve or deny the proposed rule. If amendments are recommended, the DEP must file an amended rule with the Secretary of State's office and the Legislative Rule Making Committee within 10 days of the interim meeting.
- The committee must notify Secretary of State's office and the State Register of the action taken.
- The proposed legislative rule is then submitted to the full Legislature and treated as any other piece of legislation. Citizens have the right to try to influence their legislative representative regarding the proposed rule.
- Following passage of the bill, the Legislature or the DEP may establish the effective date of the rule. The effective date may be up to 90 days from the final file date.
- The DEP has 60 days to file the final rule from the date the governor signs the legislation.

Steps for Emergency Rule-making

- The DEP recognizes a need and drafts a rule.
- The DEP files the emergency rule with the West Virginia Secretary of State and the Legislative Rule Making Review Committee.
- The notice of the 30-day comment period and public hearing is placed in the State Register. In some instances the DEP will place a Class II legal advertisement in a local newspaper. A notice is also sent out on the DEP's online public notice list. (The agency must file the notice of public hearing and comment period with the Secretary of State's office and rule-making committee within 30 days of the date the emergency rule was filed. If the agency fails to file notice, the rule expires on the 31st day.)
- After the close of the public hearing and comment period, the DEP reviews all comments received for possible amendments or changes, and provides responses to the comments.
- The Secretary of State reviews the emergency rule to determine eligibility for emergency provisions.
- The Secretary of State has 42 days from the date the rule is filed as an emergency to make a determination. If the Secretary of State determines the emergency rule should not be approved, the decision can be appealed to the Supreme Court of Appeals.
- An emergency rule becomes effective upon approval of the Secretary of State or after the deadline for action by the Secretary of State, whichever comes first.
- After a proposed rule reaches the West Virginia Legislature it becomes more complex and difficult to monitor due to the numerous tasks placed before the Legislature. The Legislative Rule Making Committee attempts to address these difficulties by dealing with regulations during the interim sessions. The Legislative interim sessions are scheduled three days each month.
- For more information on how a bill becomes law, you can contact the office of the West Virginia Secretary of State or access information at www.wvsos.com.

Permit Applications and Public Participation

To initiate the pollution control permit process, an environmentally regulated facility submits a permit application to the appropriate division or office within the DEP. The four divisions and offices within the DEP that issue permits are:

- Division of Air Quality
- Division of Mining and Reclamation
- Division of Water and Waste Management
- Office of Oil and Gas

A DEP permit reviewer is assigned to examine the application to see that it contains all of the information necessary to process it. Designating an application complete for the purposes of the permit processing does not preclude a division's director from requesting or accepting any additional information. If the application is determined to be both administratively and technically correct, a draft permit is prepared.

The various divisions and offices, directed by different federal agencies, require public comment periods for their permit applications. The comment periods will vary because of this. Anyone who wants to review a permit application can do so at the DEP office during the public comment period. Efforts also will be made to make the information available in or near the community where the proposed permitted action is to occur.

Division of Air Quality

The Division of Air Quality develops and implements regulations and programs that protect public health and prevent environmental degradation caused by air pollution.

Using the Federal Clean Air Act and the state Air Pollution Control Act as direction, the DAQ monitors and regulates stationary sources of air pollution and certain industrial facilities that treat, store, or dispose of hazardous waste.

The DAQ is guided by the Federal Clean Air Act; W.Va. Code, Chapter 22, Articles 5 and 18; rules 45 CSR Series 1-38. The Federal Clean Air Act established (and the state adopted) National Ambient Air Quality Standards for particulate matter, sulfur dioxide, ozone, carbon monoxide, nitrogen oxides, and lead.

The rules require the DAQ and permit applicants to solicit public comments on proposed permitting actions.

Minor Source Permitting

There are general requirements for all applicants of permits for minor stationary sources of air pollution. They include general permit registrations and permits for construction, modification, relocation, administrative updates and temporary permits.

Within 14 days prior to submitting a general permit registration application, the applicant must place a Class I legal advertisement in a newspaper of general circulation and send a copy to the county courthouse where the source is or will be located. This will provide at least 30 days of notice to the public.

For Class II administrative updates and relocation and temporary permits, the applicant must also place a Class I legal advertisement in a newspaper of general circulation where the source is or will be located. This provides at least 30 days of notice to the public.

For construction and modification permit applications, after the applicant has provided the information needed by the DEP to analyze and process the permit application, the air quality director will place a Class I legal advertisement in a newspaper of general circulation to notify the public of the intent to approve the application. The DEP also will transmit the information to the county courthouse of the site location. The notification provides at least 45 days of notice to the public.

There are times when the director may require the applicant for these types of permits to place a commercial display advertisement in a newspaper of general circulation in the area. There may be additional requirements for more complex sources.

Major Source Permitting

All applicants for major sources have general requirements for construction and modification permit applications for public participation. The director will place a Class I legal advertisement in a local newspaper of general circulation where the proposed source will be located. It provides 30 days for written public comments and has a provision for requesting a public meeting.

Along with the Class I legal advertisement, the applicant may be required to place a commercial display advertisement in a newspaper of general circulation where the source is or will be located as well as placing a sign at the facility location. Public notice also must be provided to the United States Environmental Protection Agency and all officials and agencies having cognizance over the location of the proposed construction.

Hazardous Waste Facilities

The purpose of air pollution control permits for hazardous waste facilities is to regulate air emissions for the construction and operation of hazardous waste treatment, storage, or disposal facilities.

A public comment period of 45 days is required. A Class I legal advertisement must be placed in a local newspaper to inform the public of the permit application, and it must also be advertised on radio or television. Notices must be sent to individuals listed on a mailing list maintained by the air quality director, and to state and federal agencies as required by law or regulation. Public meetings are conditional, based on the level of public interest in issues relevant to the draft permit.

Title V Operating Permits

Title V operating permits are to ensure that major stationary sources of air pollution comply with the requirements of the Clean Air Act.

The DEP must publish a Class I legal advertisement announcing a 30-day comment period in a local newspaper. This is to inform the public that the DEP has developed a draft permit that meets legal and regulatory requirements. The agency also is required to inform states within 50 miles of the facility and Class I areas impacted by the facility.

DEP may schedule a public hearing based on the level of interest in issues relevant to the draft permit. Interested parties may request an extension of the public comment period and the agency may extend the comment period no more than 30 days.

Asbestos Removal, Demolition, New Construction, and Asbestos Containing Waste Disposal Activities

Prior to the start of any potentially regulated activity such as demolition, remodeling, renovation, or new construction that will tie into an existing structure, an inspection of all ceilings, floors, roofs, walls, or other structural members and facility components that may be disturbed during such work must be conducted for the presence of asbestos-containing materials.

The asbestos inspector must hold a current training certificate, and be an asbestos inspector licensed by the Bureau for Public Health. If asbestos-containing materials are discovered as a result of the asbestos inspection, and are regulated by the DAQ in their present condition, or may become regulated by the DAQ as a result of being disturbed during demolition, remodeling, renovation, or new construction that will tie into an existing structure, the asbestos-containing material(s) must be removed before the disturbance begins.

A Notification of Abatement, Demolition or Renovation must be accurately completed and filed in a timely manner for all demolition, remodeling and renovation activities, irrespective of the presence or absence of asbestos-containing materials, as well as for new construction that ties into an existing structure. While the inspection and notification processes are required to be followed in order to comply with the requirements of WV Code of State Rules 45CSR15, the filing of the notification form is not considered by the DAQ as a "permitting process" and thus does not require a public comment period. The DAQ receives the original notification form and single copies are mailed to the DEP's Division of Water and Waste Management, the Bureau for Public Health, and the U.S. Environmental Protection Agency, Region III in Philadelphia.

Prior to starting the activity described on the notification form, a mandatory 10-working-day waiting period, beginning with the day on which the envelope containing the notification form is postmarked, must be observed. This 10-working-day waiting period ends at midnight on the tenth working day. A working day is defined as any one of the five days of the week, Monday through Friday, including holidays that may fall on any one of these five days. If the notification form is postmarked on a Saturday or Sunday, the 10-working-day waiting period does not begin until the following Monday.

The disposal of the asbestos containing waste material from an activity that is subject to regulation under WV Code of State Rules 45CSR15 is also regulated by the DAQ.

Division of Mining and Reclamation

The Division of Mining and Reclamation oversees all mining activities. This includes reviewing permit applications for surface and underground coal mines, preparation plants, coal loading facilities, haulage ways and coal-related dams.

The division also reviews permit applications for non-coal quarry operations (sand, gravel, limestone, etc.) and for National Pollutant Discharge Elimination System permits for coal and non-coal mining operations.

It enforces compliance through regular inspections and ensures site reclamation through a bonding program.

The Division of Mining and Reclamation is guided by the following laws and rules: WV Code, Chapter 22, Article 3 (Surface Mining and Control Act); Chapter 22, Article 4 (Mining and Reclamation of Minerals Other than Coal); Chapter 22, Article 14 (Dam Control Act); Chapter 22, Article 11 (WPC); Chapter 22, Article 12 (Ground Water Protection Act); W.Va. Code, Chapter 22B, Article 1. Rules: Title 38 Series 2 and 2B, CSR 47-30, CSR 47-10, CSR 46-1, CSR 38-3, and CSR 46-12.

Rules require permit applicants to solicit public comments on proposed permits and permit modifications. Permits may have unique public participation requirements as described.

A copy of any mining permit will be available for review at the local county courthouse in the county where the mining site is located, and at the DEP field office. If a mining site spans county lines, the public notification will be published in each county and the permit will be available for review in each county courthouse where the mining site is located.

Coal Mining Permits

The purpose of a coal mining permit is to preserve the integrity of land and water resources that will be disturbed by mining operations and related activities.

The Division of Mining and Reclamation requires advertisement for public notification of a mining permit application in a qualified newspaper once a week for four consecutive weeks. There is a 30-day public comment period that begins on the date of the last publication. A public hearing on the permit will be scheduled if anyone requests it during the public comment period. Interested parties may appeal the DEP's permit decision to the Surface Mine Board.

Public participation also can occur concurrent with the technical review of the permit, depending on whether a public hearing is required.

Permits for Surface Mining of Minerals Other Than Coal

Surface mining of minerals other than coal has to be done in a responsible manner to preserve the integrity of the land and water when it is disturbed from non-coal mining operations and related activities. Minerals other than coal that are extracted by surface mining include limestone, flagstone, sandstone, shale, sand, iron ore, gravel, clay, and any other metals and metallurgic ore.

Public notification about the permit will be placed in a local newspaper for three consecutive weeks. The 30-day comment period begins on the first date of the publication of the notice. Anyone can request a public hearing on the permit at any time during the public comment period. Interested parties may appeal the DEP's decision on the permit to the Surface Mine Board.

Public participation also can occur concurrent with the technical review of the permit, depending on whether a public hearing is required.

National Pollutant Discharge Elimination System Permit – Mining

The purpose of the National Pollutant Discharge Elimination System permit is to ensure the integrity of the rivers, streams, and other surface water disturbed by discharges from coal, non-coal mining operations, and related activities.

A Class I legal advertisement is required in a local newspaper to notify the public of the proposed NPDES permit application. The publication date in the newspaper begins the 30-day public comment period. A public hearing on the permit is conditional, based on the level of public interest in issues that are relevant to the permit. The length of time for public participation and a permit decision is approximately 90 days.

Groundwater Protection Plan

The purpose of the groundwater protection plan is to ensure the integrity of groundwater when it is disturbed by coal and non-coal mining operations. No public participation is required because the groundwater protection plan is processed as part of the NPDES permit.

State 401 Certification

The State 401 Certification is to ensure that any proposed activity that will fill in West Virginia surface waters with dredge or fill material will comply with state water quality standards. The certification must be obtained whenever a federal permit or license (i.e., United States Army Corps of Engineers permit) is issued.

The State 401 Certification requires that a Class I legal advertisement be placed in a local newspaper as a public notice, with a 30-day public comment period. It is processed as part of the NPDES permit. A public hearing is conditional, based on the level of public interest in issues relevant to the permit. Interested parties may appeal the agency's decision to the Environmental Quality Board.

Office of Explosives and Blasting

This Office of Explosives and Blasting oversees and regulates all blasting activities associated with surface coal mining, monitoring compliance through regular inspections and investigations, often responding to citizen complaint.

All permitting requirements, except for site-specific blast plans, are a part of the surface mine permit package and follow the required procedures set forth by the Division of Mining and Reclamation.

Pre-blast surveys are not part of the permitting process and are usually conducted after the mining permit is approved. Pre-blast surveys must be completed and submitted to the office for review at least 15 days prior to detonation of any explosives on the mining operation.

Office of Oil and Gas

The Office of Oil and Gas regulates drilling and production of oil and gas by overseeing industry through permitting, inspection, and enforcement programs. It ensures that operators comply with mine safety issues related to the location, development and plugging of wells. It is guided by WV Code, Chapter 22, Articles 6,7, 8, 9, 10 and 21; regulations 35 CFR Series 1 through 7.

Regulations require the permit applicants to notify all landowners and coal operators, owner and lessees that may be affected by a proposed operation. Regulations require applicants, in some cases, to solicit public comment on proposed permits.

Well Work Permits

Well work permits cover the preliminary work, drilling or repairs at well sites. It includes new drilling, re-drilling, deepening, stimulating, partial plugging, fracturing, perforating, and the conversion to injection.

The only individuals that are notified of the permit applications are the surface property owners, natural gas owners, coal owners, coal lessees and/or coal operators. They can submit written comments up to 15 days after a permit application is filed. If there are no objections during the comment period, the well work permit can be issued 15 days after the application is filed. The permit may be issued before 15 days if all parties sign a waiver.

Plugging Permits

Anyone planning to permanently or partially plug a well must apply for a plugging permit and a well work permit. The plugging permit covers permanent or partial closure of a depleted well or zone to prevent groundwater, oil reservoir, gas reservoir, and coal contamination.

The only individuals that are notified of the permit applications are the surface property owners, natural gas owners, coal owners, coal lessees and/or coal operators. They can submit written comments up to five days after permit application is filed. If there are no objections during this period, the plugging permit can be issued five days after the application is filed. If all the parties sign a waiver the time can be reduced.

Underground Injection Permit

Underground injection permits provide coverage for underground injection operations that could affect groundwater. These operations include brine disposal, secondary oil recovery and salt-solution mining.

The public is notified of the permit application by a Class I legal advertisement in the local newspaper. The advertisement begins the 30-day public comment period. Public participation may be extended from 30 days to 120 days depending on whether objections are raised and a public hearing must be held. A public hearing is conditional, based on the level of public interest in issues relevant to the draft permit.

Temporary Service Pit Permit

A temporary service pit permit is issued for the construction of a temporary service pit that is designed to collect, contain, and treat fluids generated during maintenance or plugging of oil and gas wells.

Landowner notification is the only requirement. Public participation is not required.

Flaring Permit

Anyone planning to use the flaring process on a natural gas well is required to apply for a flaring permit. Operators may not use natural gas flaring for disposal during the oil production process.

Landowner notification is the only requirement. Public participation is not required.

National Pollutant Discharge Elimination System Produced Water Discharge – General Permit

Anyone planning to operate a well in the stripper oil well category and planning to discharge produced water must apply for this permit. The permit covers operators planning to discharge any water produced into surface water.

Public comments are sought through a Class I legal advertisement with a 30-day public comment period in a local newspaper. A public hearing is conditional, based on the level of public interest relevant to the draft permit.

Associated Waste Management General Permit

An Associated Waste Management General Permit is issued for operations that generate and treat hydrocarbon contaminated soils, absorbent materials, waste crude, tank bottoms and paraffin.

The DEP solicits public comments on the permit by placing a Class I legal advertisement with a 30-day public comment period in a local newspaper. A public hearing is conditional, based on the level of public interest.

Division of Water and Waste Management

The Division of Water and Waste Management regulates the discharge of pollutants into waters of West Virginia. This is accomplished primarily through permit programs to limit surface water pollution discharged by municipal and industrial facilities, construction sites and non-regulatory control of improper land uses. This division also manages programs that protect groundwater, wetlands, and non-coal dams. It is responsible for setting the state's water quality standards, and additionally, regulates the safe disposal of hazardous and solid waste and the management of underground storage tanks.

The DWWM is responsible for many non-permitting programs such as West Virginia's State Revolving Loan Fund program for wastewater treatment systems, West Virginia's Total Maximum Daily Program, and the statewide Watershed Management Framework.

The division receives much of its funding through the federal Clean Water Act and manages many federally initiated programs, including the National Pollutant Discharge Elimination System and Underground Injection Control System programs.

The DWWM issues both individual and general NPDES permits. The NPDES program is the division's primary permitting program. Individual permits are required for most industrial, commercial or industrial landfills and wastewater treatment activities. The division administers 10 general permits for certain classes of activities. If an activity is covered under a general permit, the owner/operator simply needs to register for coverage by that general permit.

The division usually reviews and acts on applications for registration under a general permit within 30 to 45 days where public notification is not required. When public notice is required, the application processing time will increase to 45 to 60 days. The general permitting process is designed to be much faster and less expensive than the individual permitting process.

The Division of Water and Waste Management is guided by and implements the following laws and rules: the federal Safe Drinking Water Act and Clean Water Act; Chapter 22, Articles, 1, 11, 12, 13, 14, and 15 of the West Virginia Code; Chapter 22C, Articles 2, 11, and 12 of the West Virginia Code; Rules 46 CSR Series 1 and 12; 47 CSR Series 9, 10, 11, 11A, 13, 26, 32, 34, and 55-60; 33 CSR 1 and 2; and 60 CSR 5.

Individual Water Pollution Control Permit

Anyone acquiring, constructing, installing, modifying or operating a facility discharging treated or untreated sewage, industrial waste, other wastes or effluent from these wastes into state waters must apply for an individual water pollution control permit. This permit is to ensure that technology-based waste treatment requirements are in place and that West Virginia's water quality standards are protected from industrial waste, sewage treatment and disposal systems that generate greater than 50,000 gallons per day.

If the permit applicant is proposing a sewage facility that is not federally funded, a permit from the Department of Health and Human Resources also must be approved.

The public is notified of the permit application when the DEP places a Class I legal advertisement with a 30-day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the draft permit.

Industrial Solid Waste Landfill Permit

Any industry disposing of or proposing to dispose of non-hazardous industrial waste at an industrial landfill must apply for an industrial solid waste landfill permit. The permit is to ensure proper management and disposal of industrial solid waste at industrial landfills. For permit requirements for coal mining activities, NPDES permits and 401 Certifications are reviewed by the Division of Mining and Reclamation and submitted for final approval by the director of the DWWM.

The public is notified of the permit application when the DEP places a Class I legal advertisement with a 30-day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the permit.

Industrial Users of Sewage Treatment Facilities, Permit Modification

Any sewage treatment facility, otherwise known as a publicly owned treatment works, that is not operating an approved pretreatment program and seeking to accept a new contribution of industrial wastewater must apply for an industrial users of sewage treatment facilities permit modification. However, if an industry is seeking acceptance of wastewater at a sewage treatment facility with an approved pretreatment program, the industry must submit an application to the sewage treatment facility.

The permit for industrial users of sewage treatment facilities is to control contributions of industrial wastewater to the publicly owned treatment works and to ensure compliance with national pretreatment standards and discharge requirements.

Public notice for sewage treatment facilities with approved pretreatment programs is subject to the requirements of individual facilities. For public notice for sewage treatment facilities without approved pretreatment programs, the DEP places a Class I legal advertisement with a 30-day public comment period in a local newspaper. The applicant must pay costs. A public hearing is conditional, based on the level of public interest on issues relevant to the permit modification.

Small Sewage Facility Permit (maximum of 50,000 gallons per day)

The purpose of the small sewage facility permit is to provide expedited permit coverage for small sewage facilities. The general permit may be issued to anyone who operates a small sewage facility and accepts the conditions of the existing general permit. The applicant must receive a permit from the Department of Health and Human Resources for proposed small sewage facilities. Operators not accepting the conditions must apply for an individual NPDES permit.

First-time applicants applying for coverage under the general permit must place a Class I legal advertisement with 30-day public comment period in a local newspaper. A public hearing may be held based on the level of public interest on issues relevant to the permit.

Disposal of Sewage from Small Sewage Treatment Systems Serving Individual Residents (maximum of 600 gallons per day)

This permit is only for residential sewage treatment facilities. Anyone constructing and operating a new individual sewage treatment facility must obtain a wasteload allocation from the Permits section of the DWWM prior to submitting the registration application. The permit is to provide expedited permit coverage for individual residential sewage treatment facilities that will directly discharge treated wastewater into state waters.

Applicants must also receive a permit from the Department of Health and Human Resources.

Hydrostatic Water Testing From a Newly Constructed Pipeline Permit

Anyone discharging waste associated with hydrostatic water testing for newly constructed pipelines and who accepts the conditions of the existing general permit must apply for the hydrostatic water testing of a newly constructed pipeline. The testing is a one-time discharge every five years.

The agency solicits public comments on this permit every five years by placing a Class I legal advertisement with a 30-day public comment period in newspapers in counties where these activities are known or expected to occur. A public hearing is conditional, based on the level of public interest in issues relevant to the permit.

Because these discharges generally last only one day, applying for coverage under the general permit does not require public notification.

Storm Water Associated With Industrial Activity Permit (except for construction and mining activities)

The purpose of this permit is to provide expedited permit coverage for storm water discharges associated with industrial activity in situations for which the U.S. Environmental Protection Agency hasn't developed guidelines. Anyone discharging storm water from an industrial activity must apply. However, operators who cannot or do not accept the conditions of this general permit must apply for an individual NPDES permit.

A first-time applicant applying for coverage under a general permit must place a Class I legal advertisement with a 30-day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the permit. You can also register online at www.wvdep.org or call to be put on an area mailing list to receive weekly notice of comments periods.

Disposal of Sewage Sludge and/or Domestic Sewage at Publicly Owned Treatment Works Permit

Anyone hauling sewage sludge and/or domestic sewage and who accepts the conditions of the existing general permit must apply for the disposal of sewage sludge and/or domestic sewage at publicly owned treatment works permit. Operators who don't accept the conditions must apply for an individual permit.

The applicant also must hold a valid septic tank cleaning permit from the county health department and receive an approval letter for disposal from the sewage treatment facility.

The purpose of the permit is to establish an efficient, environmentally safe procedure for the disposal of sewage sludge and/or domestic sewage from a publicly owned treatment works facility.

Haulers applying for the first time for coverage under the general permit must place a Class I legal advertisement with a 30-day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing is conditional, based in the level of public interest on issues relevant to the permit.

Land Application of Sewage Sludge and/or Domestic Sewage Permit

The purpose of the permit is to establish an efficient, environmentally safe procedure for land application of sewage sludge and/or domestic sewage.

Any hauler who applies sewage sludge and/or domestic sewage to land and accepts the conditions of the existing general permit must apply for the permit. However, operators who don't accept the conditions must apply for an individual NPDES permit.

Haulers applying for coverage under the general permit for the first time must place a Class I legal advertisement with a 30-day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing is conditional, based on the level of public interest on issues relevant to the permit.

The permit applicants also must hold a valid septic tank cleaning permit from the county health department and must receive an approval letter for land application from the sewage treatment facility.

Water Treatment Plant Permit

The purpose of a water treatment plant permit is to provide expedited permit coverage for wastewater discharges from water treatment plants. Operators of a water treatment plant who accept the conditions of the existing general permit must apply for the water treatment plant permit. Operators who do not accept the conditions must apply for an individual NPDES permit.

Applicants applying for coverage under the general permit for the first time must place a Class I legal advertisement with a 30-day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the permit.

Underground Injection Control Permits (Class I and V)

The underground injection control permits are issued to ensure that injection of fluids into the ground to treat the water is done in compliance with the Safe Drinking Water Act and is protective of the groundwater. Anyone proposing to inject fluids into the subsurface, including fluids from a domestic waste system that has the capacity to serve 20 or more people, must apply for the permit.

The UIC program is a federally-delegated program that allows the division to issue permits for underground injection of pollutants into Class I or Class V wells.

The agency places a Class I legal advertisement with a 30-day public comment period in a local newspaper. The permit applicant must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the permit.

The permit applicant must receive a construction permit from the county health department if the method of injection is a subsurface distribution system such as a drain field to a septic system.

Certificate of Approval for Construction of Dams Not Related to Coal Operations

A certificate of approval is required to ensure that a dam unrelated to coal mining activities is designed, constructed, operated and removed in compliance with state laws and rules protecting public health and safety. Anyone constructing, repairing, modifying, enlarging, reducing, removing, breaching or abandoning a dam, unrelated to coal mining activities, must obtain a certificate of approval from the Division of Water and Waste Management.

The division must place a Class I legal advertisement with a 15-day public comment period in a local newspaper. The applicant must pay the advertising cost. If someone requests a hearing during the comment period, the agency will hold a hearing within 10 days of the request.

Section 401 Certification For Federally Approved "Dredge or Fill" and Hydroelectric Power Activities

Section 401 of the Clean Water Act provides that any permit, certificate or license issued by a federal authority, such as the U.S. Army Corps of Engineers or the Federal Energy Regulatory Commission, must receive certification from

the state where the activity will take place. This 401 Certification certifies that the proposed, federally approved activity is consistent with the state's water quality standards.

Anyone applying for a U.S. Army Corps of Engineers Section 404 permit to place dredged or fill materials into state waters or a license from the Federal Energy Regulatory Commission for hydroelectric generating facilities must apply for the Section 401 Certification with the DEP.

For federal 404 permits, the U.S. Army Corps of Engineers places a public notice that describes the proposed activity. The Corps must notify the DWWM of its decision on state certification, and the general public of its right to submit comments and request a public hearing. A 401 Certification is valid for the life of a project, or for 10 years. It will include any special or general conditions.

For licenses under the Federal Energy Regulatory Commission, the applicant must place a Class II legal advertisement with a 30-day public comment period in a local newspaper, and must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the permit. Once approved, the certification is valid for up to 50 years.

A 401 Certification only certifies an activity to be permitted by a federal authority. Accordingly, the applicant must obtain a Section 404 permit from the U.S. Army Corps of Engineers. The applicant must also file a public land corporation stream activity application with the real estate office of the West Virginia Division of Natural Resources.

Office of Waste Management

The Office of Waste Management handles environmental safety issues related to the generation and disposal of waste. Compliance is monitored with permit conditions and regulatory requirements at hazardous waste facilities. It enforces technical and financial assurance requirements related to the processing and disposal of solid waste and coordinates federal Superfund cleanups with the Environmental Protection Agency and the Department of Defense. Oversight also is provided for the operation and closure of underground storage tanks, performing site inspections, coordinating cleanups and providing financial assistance.

The Office of Waste Management is guided by the following laws and rules: WV Code, Chapter 22, Articles 15-19; rules 33 CSR Series 20, 35-38. The rules require permit applicants to solicit public comments on proposed permits and major permit modifications.

Hazardous Waste Treatment, Storage and Disposal Facility Permit

Anyone constructing, operating, modifying or closing a hazardous waste treatment, storage, or disposal facility is required to apply for a hazardous waste treatment, storage and disposal facility permit.

Public notification is required. A Class I legal advertisement with a 45-day public comment period will be placed in a local newspaper, and it must be advertised on one AM and one FM radio station in the area. A public hearing is conditional, based on the level of public interest in issues relevant to the permit.

Notices also must be sent to individuals on the Hazardous Waste Management Section's mailing list, and to the state and federal agencies that are required by law or regulation.

Hazardous Waste Management Emergency Permit

The purpose of the hazardous waste emergency permit is to allow for emergency treatment, storage, or disposal of hazardous waste when an imminent and substantial danger to human health or the environment exists.

Due to the nature of an emergency permit, public notice is often published after the agency issues the permit. The notification is placed in a local newspaper as a Class I legal advertisement with a 10-day public comment period. Also, it must be advertised on one AM and one FM radio station in the area.

Solid Waste Permit

Any person installing, establishing, constructing, operating, modifying or closing a commercial or non-commercial solid waste landfill, transfer station, processing facility, material recovery facility, composting, waste tire monofill, recycling or other solid waste facility must apply for a solid waste permit. The permit is to ensure environmentally safe management of solid waste facilities.

Prior approvals for the solid waste permit must come from Public Service Commission certificate of need and the county solid waste authority siting approval. A public referendum approval applies only to a new Class A facility or the conversion of a Class B facility to a Class A facility.

Notification for public participation must abide by the following requirements:

- Presiting requirements
- The applicant must place a Class II legal advertisement in a qualified newspaper
- A public hearing must be held in the community affected

Draft permit requirements

The Office of Waste Management must publish a Class II legal advertisement in a qualified newspaper serving the community affected.

A public hearing may be held if there is a significant degree of public interest on issues relevant to the draft permit. During the public comment period any person may submit written comments and may request a public hearing. If a public hearing is held, the comment period will be extended for an additional 10 days to receive more public comments. The applicant must respond to all written comments by certified mail.

After the agency makes a decision on the permit, interested parties not satisfied with the decision may file an appeal within 30 days to the Environmental Quality Board.

Requesting a Public Hearing and Meeting

The optimal time to request a public hearing is within the comment period following the public notice of application. It is necessary to submit a written request to the Public Information Office as soon as the public notice is made giving the office time to organize a meeting.

It depends on the regulation of permit or certification as to whether every permit or certification application requires the DEP to hold a public hearing. In some cases the director of the division in question has the discretion to grant or deny a public hearing based on the relevance of issues raised and the amount of public interest.

The policy of the Division of Mining and Reclamation is to grant a public hearing whenever a request is received.

The policy of Office of Oil and Gas is that the surface property owners, the coal owners, lessees, and/or operator whose land or minerals may be disturbed, are notified. Surface owners and coal owners are entitled to submit written comments to the Office of Oil and Gas within 15 days of the application's filing date.

If you review both the draft permit and the fact sheet, it may enable you to submit a more informed, concise letter of concern about the permit. It also will allow you to comment more effectively during the public hearing.

Please be respectful when writing your concerns to the agency. It is much easier for an angry complaint to be disregarded than a personal, carefully written, valid letter of concern.

An informational meeting can be requested at any time when there are concerns about any environmental issue within the DEP jurisdiction that needs to be clarified or addressed. The meeting may be held at a local DEP office or a location that is convenient to the public.

Public Hearings

In accordance with regulations, the DEP convenes a public hearing at a location near the proposed action. Those in attendance generally include the permit writer, a public information officer, company officials and the general public. The public hearing is audio taped during the formal session and DEP representatives do not answer questions. After the hearing, the host will often turn the tape off to respond to specific questions and allow an informal discussion to take place.

The divisions of the DEP may conduct the meetings under slightly different guidelines, but the agenda usually is as follows:

- You will need to register on a sign-in sheet upon entering the hearing in order to present oral/written comments.
- A public information specialist facilitates the hearing and is accompanied by the permit writer or someone from the program office to explain the permit.

- The hearing officer opens the meeting by turning on an audio tape so the conference may be recorded for later review. Audio tapes of the hearings are available for a cost of \$5 per tape.
- The hearing officer makes introductions and goes over the ground rules for the hearing.
- The permit writer discusses the application, giving a brief summary of the permit.
- The hearing officer calls the names of the individuals who signed up to present oral and written comments.
- All oral comments are taped. Depending on the number of people who wish to speak, there may be a time limit set.

Keep in mind that the hearing is a formal affair and there are steps to take that will help your comments have a valuable impact on the situation:

- Try to keep comments limited to the specific permit issue.
- Have notes to refer to so that your comments can be substantiated.
- Always try to submit your comments in writing.
- Be prepared for the defending argument and take the initiative to come to the hearing with suggestions. It is much more likely that a problem will be solved if the focus of the discussion is shifted from problems to solutions.
- Keep focused on your mission and comments. Try not to turn your nervousness into anger.
- If you are working with a large group such as a neighborhood association, you may want to plan and practice your presentation before the hearing. This will help you feel more organized and relaxed.
- After the hearing or meeting introduce yourself to the meeting host and participants. Speak with the DEP permit writer or regulation author and get his or her phone number.

Informal Meeting with DEP Personnel

Members of the public can request an informational meeting or public forum to discuss concerns or questions with the agency at any time. An informal meeting offers the opportunity to discuss issues, questions and concerns.

To have a successful meeting, you or your group should take time to plan the meeting. -Decisions should be made about the following:

- What do you want to achieve with the meeting?
- Be specific about the topic of the meeting.
- Who should attend the meeting? Contact those you want to attend the meeting.
- Where and when will the meeting be held?
- Who will conduct the meeting, the DEP or you?

Introductions should be made at the beginning of the meeting and a thank you at the close. If several people are in attendance, have a sign-in sheet for names, addresses and phone numbers for future reference. Bring a note pad to take notes. Soon after the meeting, follow up with a letter listing commitments and a summarization of the discussion.

Written Comments

Whether the comments are for permits or regulations, it is important to send your written comments to the appropriate DEP office before the deadline. The public notice, usually in the form of a legal advertisement, lists the contact person.

Most written comments on permit applications are reviewed by the DEP and its officers provide the responses. However, the Division of Mining and Reclamation and the Division of Water and Waste Management send copies of the written comments on permit applications to the applicant, and the applicant must provide proof of their response to the DEP.

The DEP is required to respond to all comments on proposed regulations and rules. The agency is not required to mail the response to each person who commented at the public hearing. Instead, proof of the DEP response is required to be sent to the Secretary of State's office and to the Legislative Rule Making and Review Committee.

Reopening a Comment Period

If a draft permit or regulation is changed significantly after the public comment period has ended, the DEP may be required to reopen the comment process. Unfortunately, there is not strong guidance on what is deemed significant; therefore, pay close attention to filed permit changes. You may get another opportunity to comment.

Inspections and Enforcement

It is important to familiarize yourself with the different characteristics and functions of the DEP divisions and program offices. Descriptions of each section can be obtained by contacting the Public Information Office, or by accessing the DEP on the Internet at (www.wvdep.org).

Because of the complexity of the laws and regulations enforced by the DEP each division has inspectors trained in a particular section of the environmental regulations. Although some cross training does take place, each section trains its inspectors to become experts in a particular field. For example, inspectors knowledgeable in air quality regulations may not be able to answer questions regarding water quality concerns.

Filing an Environmental Complaint

Before you file an environmental complaint it is important to understand that your name may be released by the agency. In order to remain anonymous, you must request for your complaint to remain anonymous.

Complaints received by phone are always accepted; however, it is recommended that you follow up the phone conversation with a written complaint. The written complaint starts a paper trail that is much easier for the agency to track and monitor.

You also should document the names of the people you contact, the dates of phone conversations, and the topic of the conversation. If you made a written complaint, keep a copy of your letter, and the written responses you receive.

When a complaint is called in, it is important that it is delivered to the appropriate field office. If you want to speak to the inspector personally, your call may need to be transferred to a field office. Be patient. It may seem as though you are being given the runaround, but we want to connect you to the correct office.

The response time for an inspector to visit the site of the complaint may depend on the urgency of the complaint. The inspectors are assigned to specific areas of the state, and most inspectors serve several counties and many facilities.

When filing a complaint, it is extremely helpful to the agency if you explain your problem in as much detail as possible. Include information like:

- The time and date the problem occurred
- The exact location to be investigated as well as directions to the site
- A phone number so the inspector can call you.
- Explicit details of the problem (odors, colors of fluids, time of blast, etc.)

Complaint Follow-Up

Each office within the DEP works hard to provide you with a punctual response to your complaint. Circumstances that pose an immediate threat to public health, safety and the environment are an immediate priority to any DEP inspector.

Inspectors travel as many as four to five days per week across the entire state investigating complaints and performing routine monitoring and sampling procedures. Anywhere from 500 to 3,000 complaint investigations are completed in one year by each office.

Many offices within the DEP have the internal priority of investigation within 24 hours. However, depending on the circumstance of your complaint, the investigation may take as long as two to four weeks. Every effort is made to respond quickly to complaints; unfortunately unavoidable delays may occur. If you do not feel you are getting a timely response to your complaint, make a follow-up inquiry a few days later.

You may not receive a follow-up response to you complaint unless it is requested by you. It will be mailed to the address given at the time of the complaint. If you filed an anonymous complaint, you may need to phone the DEP to receive a response. Not all of the responses to complaints are written responses; you may receive a verbal response.

NOTE: Under the federal and state Surface Mining Control and Reclamation Act governing coal mining, a citizen can request to accompany the inspector on the complaint investigation. This provision applies only to the Division of Mining and Reclamation and coal-related investigations. In accordance with coal mining laws, citizens have the right to appeal the inspector's determination and decision resulting from the investigation of their complaint to the Surface Mine Board.

DEP Programs for Communities

Construction Assistance

West Virginia communities may receive financial assistance for the construction and upgrade of municipal sewage treatment plants through the Division of Water and Waste Management's State Revolving Fund Loan Program. The program's low interest loans range from 0 percent to 3 percent and are available to complete the financing of community wastewater treatment projects.

The division's construction assistance section coordinates the State Revolving Fund Loan Program with other available state and federal funding sources. Each year, approximately \$30 million is available for loans to communities on a first-come-first-served basis. The revolving fund program was established in 1991 with federal seed money and state matching funds.

Save Our Streams

Citizen sampling information is valid for identifying a compliance problem to an inspector. It can help alert the DEP to a problem. Citizen sampling is almost always challenged in court or before the appeal boards. However, there have been times when the information was admissible as evidence.

Monitoring information and quality control data are invaluable in assessing water quality. It is useful in determining the development of problem areas in particular waters even months or years later.

The Division of Water and Waste Management has a volunteer monitoring program that trains West Virginia citizens of all ages to monitor and become watchdogs over their local streams and shallow rivers. The West Virginia Save Our Streams program is open to individuals, watershed associations and other civic groups. There are yearly training sessions.

The program uses a streamside biological approach to monitoring, which involves collecting a series of benthic macroinvertebrate samples, placing the organisms in trays of water, sorting them into look-alike groups, and calculating a stream condition index, which assigns a rating to the stream site. This information, along with a habitat assessment survey, provides the volunteer enough information to make a general assessment of the stream site. By monitoring additional sites along the stream, the volunteers can make an assessment of the stream's overall health.

Stream Partners

Another program housed within the Division of Water and Waste Management is Stream Partners, which helps organize community-based watershed associations.

A community-based organization is comprised of local citizens, industry, environmental groups, sportsmen, local government, or landowners interested in improving the quality of life in and around their stream and watershed.

Seed grants of up to \$5,000 are available to help watershed associations form partnerships to complete sustainable watershed improvement projects that have long-term effects on the local community and watershed. The grant must be matched 20 percent with in-kind service contributions and/or cash.

A watershed is a topographically defined drainage system that directs rainfall, spring outflows, and other surface water sources to a common waterway such as a stream, lake, wetland, or river.

Stream Partners is a cooperative effort among the DEP, the West Virginia Conservation Agency, the Division of Forestry, and the Division of Natural Resources.

Responsibilities of the program include:

- Assisting a watershed association in selecting and prioritizing improvement projects.
- Finding technical and financial resource assistance to complete sustainable watershed improvement projects.
- Assisting in the development of stakeholders and partnerships for the watershed association.
- Facilitating watershed association meetings.

Pollution Prevention Program

The Office of Innovation administers the Pollution Prevention Program throughout West Virginia. The Pollution Prevention Program provides free, voluntary and non-regulatory technical assistance and materials to business, industry, government, academia, non-profit groups, and individuals to prevent pollution.

Pollution prevention is source reduction and other practices that reduce or eliminate the creation of pollutants through the increased efficiency in the use of raw materials, energy, water or other resources. By reducing waste through increased efficiency, a business can increase its productivity significantly and thus increase its bottom line, which is profit.

Source reduction is reducing the amount of any hazardous substance, pollutant, or contaminant at its source. The waste is reduced or eliminated before it is recycled, treated, or disposed. The environmental and health benefits from pollution prevention are clear – waste that is never created does not pollute, and therefore cannot harm the public's health or the environment.

Water Education for Teachers

Water Education for Teachers, also known as Project WET, is a national program sponsored by the Division of Water and Waste Management. Project WET is a K-12 water education program that provides teachers with effective classroom materials and training workshops. It is a service network comprised of facilitators and a state coordinator whose goal is to help young people gain the knowledge and commitment they will need to make informed decisions about water.

The curriculum is coded for math, science, social studies, history, language arts, and other subject areas. Project WET is available to all educators including:

- Classroom teachers in public and private schools
- Home educators
- Preschool and day care workers
- Pre-service professors
- Boy Scouts, Girl Scouts and 4H leaders
- Park rangers

The Project WET Curriculum and Activity Guide is available through participation at workshops conducted by trained facilitators or the state program coordinator. The workshop and guide are free to attendees.

REAP Rehabilitation Environmental Action Plan Toll-free number: 1-800-322-5530

REAP- The Next Generation is comprised of the following cleanup programs aimed at beautifying the state:

Pollution Prevention and Open Dumps

Over the life of the program, PPOD has cleaned up over 9,000 open dumps, removing 110,000 tons of illegally dumped trash from the state's hills and hollows.

Adopt a Highway

This program is volunteer-driven, allowing individuals and groups to adopt stretches of highway for cleanup. Volunteers give time and energy. The state pays for garbage disposal and provides trash bags, safety vests and gloves.

Clean Streams West Virginia

Clean Streams is a new initiative to allow groups to adopt a stream for either a one-time cleanup or multiple cleanups. REAP provides trash bags, disposal costs and gloves, as well as highway signs promoting the stream adoption.

Make It Shine

Another volunteer driven program that gives kids and adults the chance to clean up their communities. The program sponsors Earth Day at the Capitol, the Ohio River Sweep, and the Great Kanawha River Cleanup.

Operation Wildflower

A program set up to accept donations to beautify state highways through the planting of wildflowers. Garden clubs and individuals donate \$500, which enables REAP to plant the wildflowers along state highways and put up a sign announcing the donation. The program also sponsors an annual calendar contest.

Statewide Recycling Program

A \$1/ton fee imposed on state garbage disposal funds grants made available to local and county governments to implement recycling programs. An office paper recycling program minimizes waste from government agencies.

Appendix A Freedom of Information Act Request

Sample letter

(Your name)
(Street address or PO Box)
(City, state, zip code)

(Your telephone number)
(Date)

Public Information Officer
WV Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304

RE: Freedom of Information Act Request

Dear Public Information Officer: (Write in a name, if you know it)

In accordance with the Freedom of Information Act (FOIA), I request copies of all documents which may relate to permit number _____ for company _____ located in or near (town and county) (Concisely describe the information you seek. Be as specific as possible by including permit application numbers, dates, and target phrases such as water quality.)

If copying fees exceed the cost of _____ (example cost of \$25), please notify me via phone at (your phone number). We may decide to review the documents at your agency office.

If you have any questions or require additional information, please do not hesitate to call me. Thank you for your timely response and consideration of this request.

Sincerely,
(Your Name)

Appendix B

Divisions and offices of the Department of Environmental Protection

The following is a list of offices and phone numbers that may be of assistance to you.

Executive Office is the office of the Governor's Cabinet Secretary for the DEP.

Phone (304) 926-0440 FAX (304) 926-0446

Abandoned Mine Lands & Reclamation corrects hazardous conditions caused by coal mining practices prior to the passage of federal coal mining laws. The coal mining laws require the land to be reclaimed via restoration of the land and water sources. Public health, general welfare, safety, and danger to property are the first priorities of this office. Phone (304) 926-0485 FAX (304) 926-0458 Emergency: (800) 642-3074

Office of Administration provides technical assistance to program offices; ensures that the DEP adheres to statutory and policy directives regarding internal and personnel management; facilitates efficient use of available technology; oversees management of inventory, facilities, records, and vehicles, and develops and oversees various internal policies and procedures. Phone (304) 926-0480 FAX (304) 926-0483

Office of Environmental Advocate provides daily assistance to the public regarding information requests or complaints. The advocate also serves as an introductory point to DEP programs and processes; assists in the development of information requests, regulation and permit monitoring, preparation for public hearings and meetings with agency personnel; and works in conjunction with the public and DEP personnel to design informational workshops and public education forums. Phone (800) 654-5227 ext. 1328 FAX (304) 926-0474

Division of Land Restoration conducts remediation of contaminated sites to standards established by the use of sound science. It encourages voluntary remediation as an effective means of addressing historical contamination in order to protect the present and future public health, safety and welfare, and the environment. The primary objective of the office is to assure coordination of all remediation functions in an effort to avoid unnecessary duplication within the DEP. Phone (304) 926-0455 FAX (304) 926-0457 or 926-0477

Office of Explosives and Blasting regulates all surface mine blasting. Administers pre-blast surveys; trains, examines and certifies all surface coal mining blasters; and administers the claims/arbitration process regarding blasting damage. Phone (304) 926-0490 FAX (304) 926-0456

Office of Legal Services provides all legal services to the agency.

Phone (304) 926-0460 FAX (304) 926-0461

Office of Oil & Gas regulates West Virginia's oil and gas production and transportation industry, and ensures surface/groundwater protection in regard to oil and gas production. It oversees permitting, inspection, and mine safety issues which deal with location, construction, and plugging of oil and gas wells.

Phone (304) 926-0450 FAX (304) 926-0452

Office of Waste Management regulates the management of hazardous and solid waste with the goal of minimizing adverse effects on the environment and human health. It reviews existing permits and implements a compliance program that deals with the generation, collection, transportation, treatment, storage, and disposal of both hazardous and solid wastes. The office is charged with the safe closure of landfills and is involved in all aspects of the management of underground storage tanks. Phone (304) 926-0465 FAX (304) 926-0484

Division of Air Quality oversees West Virginia's air pollution laws by monitoring and controlling the release of air pollutants from industrial and commercial facilities. With permanent monitoring sites located throughout West Virginia, the office samples for air pollutants. The data allow the office to mandate compliance when issuing, enforcing and finding/restricting permits. Phone (304) 926-0475 FAX (304) 926-0478

Division of Mining and Reclamation regulates the mining industry in accordance with federal and state law. Activities include issuing and renewing permits of mineral extraction sites and related water quality, tracking ownership and control, and issuing and assessing violations. Phone (304) 926-0490 FAX (304) 926-0456

Division of Water and Waste Management establishes guidelines and provides assistance for the manufacturing industry, wastewater treatment plants, landowners and the general public to maintain reasonable standards of purity and quality of waters of West Virginia. The office guards water quality by administering permits, providing financial assistance for the construction of wastewater treatment facilities, and ensuring dam safety.

Phone (304) 926-0495 FAX (304) 926-0463 TTY/TTD (304) 926-0489

Environmental Enforcement Office promotes compliance with the Solid Waste Management Act, the Water Pollution Control Act, and the Groundwater Protection Act. This is performed by providing assistance and/or enforcing conditions required of municipalities, solid waste facilities, manufacturing industry, and the general public in order to advance the lawful management of solid waste and wastewater. Phone (304) 926-0470 FAX (304) 926-0488

Information Technology Office provides the DEP with data management and computer services.

Phone (304) 926-0440 FAX (304) 926-0498

Public Information Office provides public records, environmental information and education to the public and the media. Phone (304) 926-0440 FAX (304) 926-0473

DEP Field Offices

Fairmont	Division of Air Quality	(304) 368-3910
	Division of Water and Waste Management	(304) 368-3960
	Abandoned Mine Lands	(304) 368-3990
	Environmental Enforcement	(304) 368-3960
	Office of Environmental Remediation	(304) 368-3960
French Creek	Office of Environmental Remediation	(304) 924-6211
Logan	Division of Mining and Reclamation	(304) 792-7250
Oak Hill	Abandoned Mine Lands	(304) 465-1911
	Division of Mining and Reclamation	(304) 465-1911
	Division of Water and Waste Management	(304) 465-1911
	Environmental Enforcement	(304) 465-1919
	Office of Environmental Remediation	(304) 465-1919
Parkersburg	Division of Water and Waste Management	(304) 420-4635
	Office of Environmental Remediation	(304) 420-4635
Philippi	Abandoned Mine Lands	(304) 457-3219
	Division of Mining and Reclamation	(304) 457-3219
Romney	Division of Air Quality	(304) 822-7266
	Environmental Enforcement	(304) 822-7266
	Office of Environmental Remediation	(304) 822-7266
	Division of Water and Waste Management	(304) 822-7266
Summersville	Division of Water and Waste Management	(304) 872-3800
Teays Valley	Environmental Enforcement	(304) 757-1693
Welch	Division of Mining and Reclamation	(304) 436-2181
Wheeling	Division of Air Quality	(304) 238-1220
	Division of Water and Waste Management	(304) 238-1220
Emergency Line		(800) 642-3074*

*PLEASE NOTE: The DEP Emergency Spill Line number should be used only to report any immediate threat to health,

safety, or the environment. It is not to be used to report complaints that can wait until regular business hours.

Appendix C

Boards and Commissions of the Department of Environmental Protection

Air Quality Board hears appeals pertaining to the Division of Air Quality's enforcement and permitting actions. Citizens and the regulated community file appeals with the board. The board maintains records of pleadings, subpoenas witnesses, holds hearings, and rules on matters before it.

Phone (304) 926-0445 FAX (304) 926-0486 www.wvaqb.org

Environmental Quality Board hears appeals regarding the issuance or denial of permits, permit conditions, or enforcement actions rendered by the DEP's Division of Water and Waste Management.

Phone (304) 926-0445 Toll-free (800) 568-6649 ext. 1682 FAX (304) 926-0486 www.wveqb.org

Oil and Gas Conservation Commission regulates the drilling of deep wells in the state. The commission approves drilling permits and conducts hearings on matters relating to the exploration for, or the production of, oil and gas from deep wells. Hearings are held to determine the spacing of wells and to pool the interests of royalty owners and operators of a drilling unit. The commission conducts hearings on matters dealing with pooling lands for the secondary recovery of oil and/or natural gas. Phone (304) 926-0450 FAX (304) 926-0452

Solid Waste Management Board develops solid waste management plans, makes loans and grants for solid waste disposal projects, and provides program implementation and technical assistance to West Virginia's 50 county and regional solid waste authorities and other governmental entities in solid waste management.

Phone (304) 926-0448 FAX (304) 926-0483 www.state.wv.us/swmb

Surface Mine Board conducts hearings on appeals in regard to coal mining and quarries. The board hears appeals presented by any party that believes it is aggrieved by a decision of the Cabinet Secretary of the DEP. Decisions appealed include permits issued, permit applications denied, notices of violation and failure to issue notices of violation for alleged violation of law or regulations. The board also hears appeals from parties asking to amend attorney fees when the appealing party believes it makes a substantial contribution to the decision of the board.

Phone (304) 926-0445 FAX (304) 926-0456 www.wvdep.org

Appendix D

Department of Environmental Protection Small Business Programs

The DEP has developed several free programs to help businesses comply with today's environmental regulations.

Pollution Prevention Service focuses on pollution prevention by providing free technical assistance in a multimedia, non-regulatory program such as the Environmental Management System program that is open to West Virginia businesses. Phone (304) 926-0475 FAX (304) 926-0484

Small Business Assistance Program helps small businesses meet air quality requirements by providing technical assistance. Phone (304) 926-0475 Toll-free (800) 982-2474 FAX (304) 926-0478

Small Business Ombudsman is the liaison between the small business community, DEP program offices, and other government entities. The Ombudsman assists small businesses throughout the state understand and comply with existing and pending state and federal environmental rules, enhance the environment, and prosper in West Virginia. Phone (304) 926-0440 ext. 1381 FAX (304) 926-0498

Small Operator Assistance Program is a federally-funded program that assists coal operators who mine less than 300,000 tons of coal annually. Phone (304) 926-0440 FAX (304) 926-0456

Appendix E

Glossary This section contains a few of the most frequently used acronyms and terms

Ambient air	Surrounding air, open air, the atmosphere
Background Investigation Disclosure Statement	A required statement, on a form prescribed by the director, filed by any person or persons who are an applicant, permittee, operator, owner or other person of a solid waste facility, containing all required information for the conductance of a background investigation
BACT	(Best available control technology) – An emissions limitation of pollutants through technology that takes into account energy, economic, and environmental impacts and other costs
CERCLA	(Comprehensive Environmental Response, Compensation, and Liability Act of 1980) – Authorizes EPA to clean up hazardous waste
CFR	(Code of Federal Regulations) – The collection of rules and regulations originally published in the Federal Register by various government departments and agencies. OSHA regulations are found in the 29 CFR, EPA regulations in the 40 CFR, and the Department of Transportation regulations in the 49 CFR.
Class A Solid Waste Facility	A commercial solid waste facility which handles an aggregate of between 10,000 and 30,000 tons of solid waste per month. A Class A facility includes two or more Class B solid waste landfills owned or operated by the same person in the same county, if the aggregate tons of solid waste handled per month by such landfills exceeds 9,999 tons of solid waste per month.
Class B Solid Waste Facility	A commercial solid waste facility which receives or is expected to receive an average daily quantity of mixed solid waste equal to or exceeding 100 tons, or serves or is expected to serve a population equal to or exceeding 40,000 persons, but which does not receive solid waste exceeding an aggregate of 10,000 tons per month. Class B facilities do not include construction/demolition facilities provided that the definition of Class B facility may include such reasonable subdivisions or subclassifications as the director may establish by legislative rule proposed in accordance with the provisions of WV Code § 29A-1-1 et seq.
Class C Solid Waste Facility	A commercial solid waste facility which receives or is expected to receive an average daily quantity of mixed solid waste of less than 100 tons each working day, and serves or is expected to serve a population of less than 40,000 persons. Class C solid waste facilities do not include construction/demolition facilities.
Class D Solid Waste Facility	Any solid waste facility for the disposal of only construction and or demolition waste and shall not include the legitimate beneficial reuse of clean waste concrete/masonry substances for the purpose of structural fill or road base material
Class E Solid Waste Facility	Any solid waste facility for the purpose of recycling at which neither land disposal nor biological, chemical, or thermal transformation of solid waste occurs
Class F Solid Waste Facility	Any industrial solid waste disposal facility
CAA	(Clean Air Act) – Passed in 1963, but our national air pollution control program is actually based on the 1970 version of the law. The 1990 Clean Air Act Amendments are the most far-reaching revisions of the 1970 law.
CWA	(Clean Water Act) – This contains the 1972 amendments to the Federal Water Pollution Control Act that provides the statutory basis for the National Pollutant Discharge Elimination System permit program and the basic structure for regulating the discharge of pollutants from point sources to waters of the United States.
CWAP	(Clean Water Action Plan) – A federal plan focused on achieving cleaner water by strengthening public health protections, targeting watershed protection efforts at high priority areas, and providing communities with new resources to control polluted runoff and enhance natural resource stewardship.
CO	(Carbon monoxide) – A colorless, odorless, very toxic gas that is formed by a product of incomplete combustion of carbon.
Commercial recycler	Any person, corporation or business entity whose operation involves the mechanical separation of materials for the purpose of reselling or recycling at least 70 percent by weight of the materials coming into the commercial recycling facility.
Commercial solid waste	All types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential wastes.

Commercial solid waste facility	Any solid waste facility that accepts solid waste generated by sources other than the owner or operator of the facility and does not include an approved solid waste facility owned and operated by a person for the sole purpose of the disposal, processing or composting of solid wastes created by that person or such person and other persons on a cost-sharing or non-profit basis and does not include land upon which reused or recycled materials are legitimately applied for structural fill, road base, mine reclamation, and similar applications
Completeness of a permit application	This phrase means the application contains all of the information necessary for processing the application. Designating an application complete for the purposes of permit processing does not preclude the Secretary from requesting or accepting any additional information.
Composite Liner	A system consisting of two components; the upper component must consist of a minimum 60-mil high density polyethylene and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-9} cm/sec. The high density polyethylene component must be installed in direct and uniform contact with the compacted soil component.
Composting	Aerobic, thermophilic decomposition of natural constituents of solid waste to produce a stable, humus-like material
Commercial composting facility	Any solid waste facility processing solid waste by composting – including sludge composting – organic waste or yard waste composting, but does not include a composting facility owned and operated by a person for the sole purpose of composting waste created by that person or such persons on a cost sharing or non-profit basis and shall not include land upon which finished or matured compost is applied for use as a soil amendment or conditioner.
Construction/demolition waste	Waste building materials, packaging, and grubbing waste resulting from construction, remodeling, repair and demolition operations on houses, commercial and industrial buildings and pavements, including, but not limited to, wood, plaster, metals, asphalt substances, bricks, blocks and concrete, other masonry materials, but does not include asbestos waste.
CSR	Code of State Regulation
DEP	(Department of Environmental Protection) – The state government agency established to protect, restore and promote a healthy environment in West Virginia.
Disposal	The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including groundwater.
DAQ	(Division of Air Quality) – A regulatory division of the Department of Environmental Protection that controls the amount of pollutants released into the air. It oversees the state's air pollution laws, enforces national air quality standards, and maintains information on more than 700 facilities.
DMR	(Discharge Monitoring Report) – The form(s) prescribed by the director and approved by EPA for the reporting of self-monitoring results by permittees.
DMR	(Division of Mining and Reclamation) – A regulatory division of the DEP that safeguards the environment during coal mining operations by ensuring prompt compliance and proper reclamation of mining sites. The DMR has access to a statewide database for mining operations.
DWWM	(Division of Water and Waste Management) – A regulatory division of the DEP that protects the surface and underground water sources by ensuring safe disposal of waste in connection with water. DWWM issues pollution control permits to regulate wastewater discharges, and offers a construction assistance program. The division also regulates proper storage and disposal of solid and hazardous waste.
Effluent	Wastewater released from a pipe or other point sources.
EHS	(Extremely hazardous substance) – Any chemical that could cause serious health problems if it were released into the environment.
Energy recovery incinerator	Any solid waste facility at which solid wastes are incinerated with the intention of using the resulting energy for the generation of steam, electricity or any other use not specified herein.
EPA	United States Environmental Protection Agency
Emissions	The release of substances into the environment (as by a smokestack or an automobile gasoline engine).
EMS	(Environmental Management System) – An ongoing voluntary management process tailored to improve business practices and enhance environmental performance

FIP	(Federal Implementation Plans) – Plans implemented by the United States government to achieve attainment of air quality standards when a state cannot develop an adequate plan.
FLM	Federal land manager
FOIA	(Freedom of Information Act) – A federal law written and developed to guarantee that citizens have access to documents in the public record.
Fugitive emissions	Small discharges from plant equipment such as sampling connections, valves, flanges, or pump seals. These emissions come from sources other than stacks or vents.
GIS	Geographic Information Systems
GPS	Global Positioning System
Groundwater	Any water occurring in the zone of saturation beneath the seasonal high water table, or any perched water zones, or water below the land surface in a zone of saturation.
HAP	(Hazardous air pollutants) – Chemicals that cause serious health and environmental effects. Health effects include cancer, birth defects, nervous system problems and death. HAPs are released by sources such chemical plants, dry cleaners, printing plants, and motor vehicles (cars, trucks, buses, etc.).
Household waste	Any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).
Incinerator	An enclosed device using controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials
Industrial solid waste	Any solid waste generated by manufacturing, or industrial processes that is not a hazardous waste regulated under subtitle “C” of RCRA . Such wastes may include, but are not limited to, waste resulting from factories, processing plants, refineries, fertilizer/agricultural chemicals; food and related products/by-products; non-organic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; slaughter houses, mills, tanneries, electric power generating plants, mines, or mineral processing operations; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.
Industrial solid waste landfill	Any solid waste disposal facility which is owned, operated, or leased by an industrial establishment for the land disposal of industrial solid waste created by that person or such person and other persons on a cost-sharing or non-profit basis. The term industrial solid waste landfill does not include land application units, surface impoundments, or injection wells.
Infectious medical waste	<p>Medical waste which is capable of producing an infectious disease. Medical waste is considered capable of producing an infectious disease if it has been, or is likely to have been, contaminated by an organism likely to be pathogenic to healthy humans, if such organism is not routinely and freely available in the community, and such organism has a significant probability of being present in sufficient quantities and with sufficient virulence to transmit disease.</p> <p>For the purposes of solid waste definitions from Title 33 Series 1 of the CSR, infectious medical waste includes the following materials: animal carcasses, body parts, bedding and related waste, contaminated animal carcasses, body parts, and the bedding of animals that are known to have been exposed to infectious agents during research, the production of biological items, or the testing of pharmaceuticals, or for any other reason.</p>
Blood/blood products waste	Liquid waste human blood, and blood products in a free-flowing or unabsorbed state
Laboratory wastes	<p>Cultures and stocks of infectious agents and associated biological items including, but not limited to, cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biological items, and discarded live and attenuated vaccines;</p> <p>Cultures and stocks of microorganisms and biological items – Discarded cultures, stocks, specimens, vaccines and associated items likely to have been contaminated by an infectious agent, discarded etiologic agents, and wastes from the production of biological items and antibiotics likely to have been contaminated by an infectious agent.</p>

Pathological waste – Human pathological wastes, including tissues, organs, body parts, and containers of body fluids exclusive of those fixed in formaldehyde or another fixative.

Sharps – Discarded articles that may cause punctures or cuts and that have been used in animal or human patient care or treatment, or in pharmacies or medical, research, or industrial laboratories, including, but not limited to, hypodermic needles, syringes with attached needles, scalpel blades, lancets and broken glassware.

Isolation Wastes – Wastes generated from the care of a patient who has or is suspected of having any disease listed as Class IV in “Classification of Etiologic Agents on the Basis of Hazard” published by the United States Centers for Disease Control.

Other Infectious Wastes – Includes, but is not limited to any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of any infectious medical waste, and waste contaminated by or mixed with infectious medical waste.

LAER	Lowest achievable emission rate
Land application of waste	The application of liquid wastes onto a soil surface or the incorporation of solid waste into the soil surface for treatment and disposal.
Landfill	Any solid waste facility or part of one at which solid waste, or its residue after treatment, is intentionally used for disposal on or in the land for the purpose of permanent disposal. Such facility is situated, for the purposes of this rule, in the county where the majority of the spatial area of the facility is located. The term landfill does not include a land application unit, or injection well.
Lateral expansion	A horizontal expansion of the waste boundaries of an existing solid waste land fill.
Leachate	Any liquid that has come into contact with, passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.
Materials recovery facility	Any solid waste facility at which source-separated materials or materials recovered through a mixed waste processing facility are manually or mechanically shredded or separated for purposes of reuse and recycling, but does not include a composting facility.
NAAQS	(National Ambient Air Quality Standards) – Standards established to protect the public from exposure to harmful amounts of ozone, lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, and respirable particulate matter
Noncommercial solid waste facility	Any approved solid waste facility owned and operated by a person for the sole purpose of disposing of solid wastes created by that person or such person and other persons on a cost-sharing or non-profit basis.
Nitrogen oxides	Pollutants that consist primarily of nitric oxide and nitrogen dioxide produced by the reaction of nitrogen and oxygen in the air, at high temperatures in internal combustion engines and furnaces.
NOV	(Notice of Violation) – A formal written notification to a business or an individual that an environmental rule has been breached.
NPDES	(National Pollutant Discharge Elimination System) – A water permit to control the discharge of pollutants
OEA	(Office of Environmental Advocate) – An office of the Department of Environmental Protection that provides citizens a voice in the development of environmental policies
OEE	(Office of Environmental Enforcement) – An office of the Department of Environmental Protection that promotes compliance with the Solid Waste Management Act, the Water Pollution Control Act, and the Groundwater Protection Act by providing assistance and enforcing conditions required of municipalities, solid waste facilities, manufacturing industries, and the general public in order to advance the lawful management of solid waste and wastewater.
OOG	(Office of Oil and Gas) – An office of the Department of Environmental Protection that monitors all actions related to the exploration, drilling, storage and production of oil and natural gas. It tracks more than 40,000 oil and gas wells in the state, manages the abandoned well plugging and reclamation program, and ensures surface and groundwater protection
OSM	(Office of Surface Mining) – A bureau of the U.S. Department of Interior with responsibility, in cooperation with the states and Native American tribes, to protect citizens and the environment during mining and reclamation, and to reclaim mines abandoned before 1977.

ODS	(Ozone depleting substances) – are compounds that contribute to stratospheric ozone depletions. ODS are generally very stable in the troposphere and only degrade under intense ultraviolet light in the stratosphere. When they break down, they release chlorine or bromine atoms that deplete ozone.
Open dump	Any solid waste disposal that does not have a permit under West Virginia Code 22-15-1 et seq., and is not otherwise authorized by an order of the director, or is in violation of state law; or where solid waste is disposed in a manner that does not protect the environment.
PAL	(Plant-wide applicability limitation) – A plant-wide federally enforceable emission limitation established for a stationary source to limit the potential to emit a source to a level such that major new source review is not required for changes made under the federally enforceable emission limit. The emissions limit must be established in a federally enforceable permit that includes all conditions needed to make the emission limit practically enforceable.
Particulates	Fine particles found in air emissions such as liquid mist, smoke, dust, smog, etc.
PM-10	Particulate matter with an aerodynamic diameter less than or equal to 10 microns
Post-closure of a solid waste facility	Activities after the closure of a solid waste facility which are necessary to ensure compliance with the provisions of the Clean Water Act and any rules promulgated thereunder including the application of final cover, grading, revegetation, groundwater monitoring, surface water monitoring, gas monitoring and control, leachate treatment, erosion control, and the abatement of any pollution or degradation to land, water, air, or other natural resources.
POTW	(Publicly Owned Treatment Works) – Any treatment works owned by the state or any political subdivision thereof, any municipality or any other public entity which processes raw, domestic, industrial or municipal sewage by any artificial or natural processes in order to remove or so alter constituents as to render the waste less offensive or dangerous to the public health, comfort or property of any of the inhabitants of this state, before the discharge of the plant effluent into any of the waters of this state, and which produces sewage sludge.
PPM	Parts per million
PSD	Prevention of significant deterioration
PTE	Potential to emit
Public comment period	The time allowed for citizens to express views and concerns regarding an action proposed by the DEP, either in writing or verbally. The comment period is provided during rule-making and environmental pollution control permit applications.
RACT	Reasonably available control technology
RCRA	(Resource Conservation and Recovery Act) – governs the management of solid and hazardous waste and underground storage tanks.
Recycle	The process by that recovered products are transformed into new products and includes the collection, separation, recovery and sale, or reuse of metals, glass, paper, and other materials.
Recycling facility	Any solid waste facility for the purpose of recycling at which neither land disposal nor biological, chemical, or thermal transformation of solid waste occurs: provided, that mixed waste recovery facilities, sludge processing facilities and composting facilities are not considered recycling facilities nor considered to be reusing or recycling solid waste within the meaning of WV Code 22-15-1 et seq., 22C-4-1 et seq., and 20- 11-1 et seq.
Resource recovery	Any solid waste facility at which solid wastes are physically, mechanically, biologically, chemically, or thermally transformed for the purpose of separating, removing, or creating any material or energy for reuse or sale and at which land disposal of solid waste does not occur. Resource recovery facilities include incinerators equipped with integral or separate heat recovery systems, and other such solid waste facilities not herein specified, but does not include sewage sludge processing facilities.
Sewage	Water-carried human or animal wastes from residences, buildings, industrial establishments, or other places together with such groundwater infiltration and surface waters as may be present.
Sewage sludge	Any solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage, scum or solids removed in primary, secondary or advanced wastewater treatment processes and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator.

Sewage sludge processing facility	A solid waste facility that processes sewage sludge for land application, incineration or disposal at an approved landfill. Such processes include, but are not limited to, composting, lime stabilization, thermophilic microbial and anaerobic digestion
Sludge	Any solid, semi-solid, or liquid waste, or residue, or precipitate, generated from, or separated from or created by a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar source, exclusive of the treated effluent from a wastewater treatment plant.
Solid waste	Any garbage; paper; litter; refuse; cans; bottles; waste processed for the express purpose of incineration; sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; and other discarded materials, including carcasses of any dead animal or any other offensive or unsightly matter; solid, liquid, semisolid, or contained liquid or gaseous material resulting from industrial, commercial, mining, agricultural operations, and community activities.
Solid waste disposal shed	The geographical area which the solid waste management board designates and files in the State Register pursuant to West Virginia Code 22C-3-9.
Solid waste facility	Any system, facility, land, contiguous land, improvements on the land, structures, or other appurtenances or methods used for processing, recycling, or disposing of solid waste including landfills, solid waste disposal surface impoundments, transfer stations, incinerators, recycling facilities, materials recovery facilities, mixed waste processing facilities, sewage sludge processing facilities, commercial composting facilities and other such facilities not herein specified, but not including land upon which sewage sludge is applied in accordance with West Virginia Code 22-15-20. Such facility is deemed to be situated, for purposes of this rule, in the county where the majority of the spatial area of such facility is located, provided that a salvage yard, licensed and regulated pursuant to the terms of West Virginia Code 17-23-1 et seq., is not a solid waste facility.
SWLF	(Solid Waste Landfill Facility) – A discrete area of land, or portion thereof, or an excavation that receives household waste, and that is not a land application facility, surface impoundment, injection well, or waste pile. A SWLF may also receive other types of RCRA subtitle D solid wastes, such as commercial solid wastes, nonhazardous sludge, small quantity generator wastes, and industrial solid wastes. Such a landfill may be a new SWLF, an existing SWLF, or a lateral expansion publicly or privately owned.
SIDS	Sample Information Database System
SIP	State Implementation Plan
SMCRA	(Surface Mining Control and Reclamation Act) – Allows citizens to monitor and become involved in permitting processes, thereby helping agency personnel and mine operators ensure that current and future operations are performed in environmentally responsible manner.
SWLF	Solid waste landfill
TAGIS	Technical Applications & Geographic Information Systems
TMDL	(Total Maximum Daily Loads) – A plan of action used to clean up streams that are not meeting water quality standards. The plan includes pollution source identification and strategy development for contaminant source reduction or elimination.
Transfer station	A combination of structures, machinery, or devices at a location where solid waste is taken from collection vehicles, and placed in other transportation units for movement to another solid waste management facility.
TRI	(Toxic Release Inventory) – Database of toxic releases in the U.S. as a result of SARA Title II section 313 reports
VOC	(Volatile Organic Compound) – Any organic compound that readily evaporates to the atmosphere and significantly adds to the production of smog
Water resources	Water on or beneath the ground surface, whether percolating, standing, diffused or flowing, within or bordering (within its jurisdiction) this state, and includes natural or artificial lakes, rivers, streams, creeks, branches, forks, brooks, ponds (except farm ponds, industrial settling basins and ponds and water treatment facilities) impounding reservoirs, springs, wells, watercourses, and natural wetlands.
Watershed	The geographical area that drains to a common waterway, such as a stream, lake, estuary, wetland, or ocean
Watershed Management Framework	A comprehensive approach to managing the state's waters and their surrounding ecosystem through a cooperative long-range planning effort.