

Compliance Bulletin

The Office of Surface Mining Reclamation and Enforcement (OSMRE) announced in Federal Register/ 89 FR 2133-2139 the approval of the West Virginia Code in the following sections:

1. W. Va. Code Sec. 22-3-11(g) (1)
2. W. Va. Code Sec. 22-3-11(g) (2)
3. W. Va. Code Sec. 22-3-23(c) (3)
4. W. Va. Code 22-3-23(i)

All approvals are effective February 12, 2024.

Summary of WV-125

OSMRE approved WV-125 that has the legislative changes from SB 687 in 2017.

Changes include:

- The Special Reclamation Water Trust Fund have moneys to assure a reliable source of capital for O&M costs at water treatment sites where DEP has applied for, or obtained, an NPDES permit.
- Removal of the requirement for a flat rate of 25% to be retained at phase 2 release, but instead retain a sufficient amount of bond for a third party to revegetate the permitted area.
- Removal of the provision that requires, at application of release, for an AOC-variance permit, the permittee must have the necessary post-mining infrastructure established or financing completed.
- Removal of the requirement that phase 2 bond release cannot occur until at least 2 years following the last augmented seeding date, but instead allows phase 2 bond release when the Secretary determines a successful vegetative cover is established.



Note: OSMRE is deferring their decision on W. Va. Code Sec. 22-3-11(g) (2) until they have reviewed the 2022 proposed program amendment. However, they have approved the renumbering.

Current versions of the Division of Mining and Reclamation Codes and Regulations can be found at:

<https://dep.wv.gov/dmr/codes/Pages/default.aspx>