



west virginia department of environmental protection

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DEP Establishes Permitting Guidance for Surface Coal Mining Operations to Protect West Virginia's Narrative Water Quality Standards

As the West Virginia Department of Environmental Protection committed to doing in March, the agency has developed a guidance document for implementing and enforcing West Virginia's narrative water quality criteria. The guidance document was developed in accordance with parameters set forth in the federal Clean Water Act and applied through the West Virginia Water Pollution Control Act.

The guidance document is a tool to be used by the DEP to develop National Pollutant Discharge Elimination System (NPDES) permits for the coal mining industry. The goals of the document are to advance water quality and assure that surface mining operations are conducted in ways that protect the narrative water quality standards.

Comments submitted by members of the public, as well as data and studies conducted by DEP staff were used in the development of the guidance document.

"We trust that EPA will give deference to West Virginia's guidance document, as it was created to satisfy requirements outlined in the Clean Water Act," DEP Cabinet Secretary Randy Huffman said.

The guidance document addresses matters such as reasonable potential analyses for aquatic impacts downstream and extensive monitoring before and during mining to ensure that aquatic life use is being adequately protected.

"This document will result in changes that are markedly different from how mining has been conducted for the last 30 years," Huffman said.

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The DEP considers the guidance a dynamic document that will likely be modified in the future as technology and best management practices develop and improve.

In addition, while this document specifically addresses concerns related to the mining industry, it is designed to be adapted in the future to address all discharges to water bodies that will cause, or that have the reasonable potential to cause or contribute to, excursions from narrative water quality standards.

Background

It became apparent in 2009 that the absence of a written plan to address narrative water quality criteria at the state level led the US Environmental Protection Agency to insert itself into the 404 and 402 permitting processes. Not only is EPA exercising its veto authority, it has completely taken control of all water-related permitting for mining activities.

On April 1, when the EPA issued its “comprehensive guidance” regarding requirements of the 402 and 404 Clean Water Act permitting programs, it allowed for the states to establish their own requirements. That is what West Virginia is doing.

Huffman said, “We developed this guidance document for West Virginia in a manner that we are confident is consistent with the Clean Water Act.”

The guidance document, an accompanying justification and background document and the comments submitted by the public in March are available on the agency’s website at www.dep.wv.gov under the Permitting section of the home page.