



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9983-85-Region 3]

Clean Water Act: West Virginia's NPDES Program Revision

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of revision, public comment period, and opportunity to request a public hearing

SUMMARY: The State of West Virginia has submitted revisions to its authorized National Pollutant Discharge Elimination System (NPDES) program for the U.S. Environmental Protection Agency's (EPA) review. These revisions consist of amendments to the West Virginia Water Pollution Control Act codified in Senate Bill 357 (SB 357) and to West Virginia's Code of State Regulations codified as House Bill 2283 (HB 2283). The EPA has determined that the submitted revisions constitute a substantial revision to West Virginia's authorized NPDES program. Accordingly, the EPA is requesting public comment and providing a notice of an opportunity to request a public hearing. Copies of SB357 and HB2283 are available for public inspection as indicated below.

DATES: Comments must be submitted in writing to EPA on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments on the WV NPDES Program revisions should be sent to Francisco Cruz, Water Protection Division (3WP41), U. S. Environmental Protection Agency Region 3, 1650 Arch Street, Philadelphia, PA 19103-2019 or email to cruz.francisco@epa.gov. Oral

comments will not be considered. Underlying documents from the administrative record for this decision are available for public inspection at the above address. Please contact Mr. Francisco Cruz to schedule an inspection. The public, during the term of this Federal Register notice, can request a public hearing. Such a hearing will be held if there is significant public interest based on requests received.

FOR FURTHER INFORMATION CONTACT: For additional information, contact

Francisco Cruz at (215) 814-5734.

SUPPLEMENTARY INFORMATION: Section 402 of the Federal Clean Water Act (CWA) created the NPDES program under which the EPA may issue permits for the discharge of pollutants into waters of the United States under conditions required by the CWA. Section 402(b) allows states to assume NPDES program responsibilities upon approval by the EPA. On May 10, 1982, West Virginia received approval from the EPA to assume the NPDES program. EPA's regulations at 40 C.F.R. § 123.62 establish procedures for revision of authorized state NPDES programs. Under § 123.62(a) a state may initiate a program revision and must keep EPA informed of proposed modifications to its statutory or regulatory authority. On May 13, 2015, West Virginia notified the EPA of enactment of HB 2283. On July 10, 2015, West Virginia submitted SB 357 for formal review by the EPA. Following additional correspondence between the EPA and the West Virginia Department of Environmental Protection and the West Virginia Environmental Hearing Board, the EPA has determined pursuant to 40 C.F.R. § 123.62(b)(1) that it has received such documents as are necessary for its review under the circumstances.

Section 123.62(b)(2) requires the EPA to issue a public notice and to provide at least a 30-day public comment period whenever the EPA determines that a state program revision is substantial. Section 1233.62(b)(2) also requires the EPA to hold a public hearing regarding the proposed revision “if there is significant public interest based on requests received.” The EPA has determined that HB 2283 and SB357 constitute substantial revisions to West Virginia’s NPDES program.

According to the West Virginia Department of Environmental Protection, SB 537 amends West Virginia Code § 22-11-6(2) and § 22-11-8(a) to prohibit the incorporation or enforcement of water quality standards either expressly or by reference as effluent standards or limitations in West Virginia NPDES permits. SB 537 also adds West Virginia Code §22-11-22a to establish a mining industry specific procedure to collect civil or administrative penalties and to enjoin violations of the West Virginia Water Pollution Control Act. HB 2283 revises W. Va. CSR 40-30-5f to delete the following language: “The discharge or discharges covered by a WV/NPDES permit are to be of such quality so as to not cause a violation of applicable water quality standards promulgated by 47 C.S.R. 2.”

The 40 CFR 123.62(b)(3) states that the EPA will approve or disapprove program revisions on the requirements of this part. Furthermore 40 CFR 123.62(b)(4) indicates that a program revision shall become effective upon the approval of the EPA. Notice of approval of any substantial revision shall be published in the Federal Register.

The EPA will consider public comments received before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** when determining whether to approve the WV NPDES Program revision.

Catharine R. McManus,

Acting Director,

Water Protection Division,

U. S. Environmental Protection Agency, Region 3.

[FR Doc. 2018-20037 Filed: 9/14/2018 8:45 am; Publication Date: 9/17/2018]