

During April, 2005, DEP hosted training sessions in Wheeling, Parkersburg, Morgantown and Martinsburg to provide instruction in completing the water use survey and to introduce the Administrative Procedures and Civil Administrative Penalty Assessment Rule 60 C.S.R. 6, and the Confidential Information under Water Resources Protection Act Rule, 60 C.S.R. 7.

The following is the PowerPoint presentation for those meetings.

WATER RESOURCES PROTECTION ACT



**WATER USE SURVEY
DEMONSTRATION**

west virginia department of environmental protection

April 2005



SURVEY WEB ADDRESS

<http://www.wvdep.org/dwwm/2005survey>

west virginia department of environmental protection



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Administrative Procedures and Civil Administrative Penalty Assessment

Water Resources Protection Act

60 C.S.R. 6

- ❖ This rule establishes a process for resolution of disagreements concerning interpretations or calculations made in the completion of the Survey
- ❖ It establishes a civil administrative penalty and enforcement procedure for failure to complete the Survey, falsifying information or failure to submit other required information



Administrative Procedures and Civil Administrative Penalty Assessment

Water Resources Protection Act

60 C.S.R. 6

❖ When the Secretary disagrees with a determination or calculation:

1. Discussions will be held
2. A written determination shall be issued
3. A minimum of 30 days shall be allowed for resubmission
4. A penalty shall not be assessed
5. The non-confidential version of the determination shall be posted on the water use website



Administrative Procedures and Civil Administrative Penalty Assessment

Water Resources Protection Act

60 C.S.R. 6

❖ A civil administrative penalty shall be assessed for:

1. A \$1,000.00 penalty shall be assessed for failure to submit information required by a determination
2. A penalty of up to \$5000.00 may be assessed for:
 - a. Failure to respond to a second notice of violation for failure to submit information from a determination
 - b. Failure to complete the survey



Administrative Procedures and Civil Administrative Penalty Assessment

Water Resources Protection Act

60 C.S.R. 6

❖ A civil administrative penalty shall be assessed for (CONTINUED):

2. (CONTINUED)

c. Providing false or misleading information on the Survey

d. Failure to provide any other legally required information

❖ For each 30 days of continued noncompliance, an additional \$5,000 may be assessed



Administrative Procedures and Civil Administrative Penalty Assessment

Water Resources Protection Act

60 C.S.R. 6

- ❖ The effective date of the rule is May 16, 2005
- ❖ A copy of the rule may be found on the Water Use Website by going to www.wvdep.org and clicking on the “water use” button at the top of the page
- ❖ A copy of the rule may also be found on the Secretary of State’s web site



Confidential Information under Water Resources Protection Act

60 C.S.R. 7

This rule establishes:

- Requirements for claiming confidentiality for information submitted to the Secretary
- Procedures for identifying and submitting such information
- Procedures for determinations of confidentiality



Confidential Information under Water Resources Protection Act

60 C.S.R. 7

- The proposed rule was filed with the Secretary of State on March 15, 2005
- The comment period for the rule ended April 18, 2005 at 5:00 p.m.
- A confidentiality claim must be made within seven days of the submission of the information to the Secretary



Confidential Information under Water Resources Protection Act

60 C.S.R. 7

➤ For hardcopy submissions:

- A. A copy must be submitted on colored paper
- B. Each page must be marked “CONFIDENTIAL COPY”
- C. All information claimed to be confidential must be highlighted or underscored
- D. A redacted copy must also accompany the submission
- E. The redacted copy must be on plain paper and have “REDACTED COPY” on each page



Confidential Information under Water Resources Protection Act

60 C.S.R. 7

➤ For Electronic Submissions:

- A. A cover document and written justification must be submitted
- B. A redacted form of the information may be required by the Secretary



Confidential Information under Water Resources Protection Act

60 C.S.R. 7

- Electronic and hardcopy submissions must have:
 - A. A cover document identifying a contact person for communications regarding the confidential information
 - B. A justification for each type of information claimed confidential
 - C. The period of time for which the confidentiality claim is made
 - D. If the cover document contains confidential information, a redacted version of the cover document must be submitted



Confidential Information under Water Resources Protection Act

60 C.S.R. 7

➤ Submission of the confidential claim:

- A. The confidential copy must be sealed in an envelope marked “CONFIDENTIAL” on both sides
- B. The “CONFIDENTIAL” envelope must be enclosed in another envelope that bears no markings indicating the information is confidential
- C. The package must be sent by some delivery method requiring a receipt of delivery



Confidential Information under Water Resources Protection Act

60 C.S.R. 7

- If the Secretary determines the information is not confidential, the claimant will be notified by certified mail
- If the Secretary agrees the information is confidential, the claimant shall be notified by certified mail
- A person who is adversely affected by the Secretary's decision regarding confidential information may appeal the decision to the appropriate circuit court
- The appeal must be filed within 30 days of receipt of the Secretary's decision.



Confidential Information under Water Resources Protection Act

60 C.S.R. 7

- Confidential information may be released to other government entities, their employees and agents
- Any entity requesting confidential information must submit a “Description of Intent” form and execute a “Non-Disclosure Agreement” (Appendix B of the rule)



Confidential Information under Water Resources Protection Act

60 C.S.R. 7

- A copy of the rule may be found on the Water Use Website by going to www.wvdep.org and clicking on the “water use” button at the top of the page
- A copy of the rule may also be found on the Secretary of State’s web site



The background features a large, faint circular logo with the word "clean" inside. Surrounding the logo are several stylized leaves in shades of green and brown. The text "THE SURVEY" is centered in a large, bold, black serif font.

THE SURVEY

west virginia department of environmental protection