WEST VIRGINIA CODE CHAPTER 11 ARTICLE 6A

WV Legislature

§11-6A-1. Declaration of policy.

It is declared to be the public policy of the State of West Virginia to maintain reasonable standards of purity and quality of the water of the state and a reasonable degree of purity of the air resources of the state. In the exercise of the police power of the state to protect the environment and promote the public health, safety and general welfare, the Legislature has enacted the Water Pollution Control Act as article eleven, chapter twenty-two of this code and the Air Pollution Control Act as article five, chapter twenty-two thereof. It is recognized and declared by the Legislature that pollution control facilities, as hereinafter defined, are required for the protection and benefit of the environment and the general welfare of the people, are nonproductive, do not add to the economic value of a business enterprise and do not have a market value after installation in excess of salvage value.

WV Legislature

§11-6A-2. Definition.

As used in this article, "pollution control facility" means any personal property designed, constructed or installed primarily for the purpose of abating or reducing water or air pollution or contamination by removing, altering, disposing, treating, storing or dispersing the concentration of pollutants, contaminants, wastes or heat in compliance with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, the design, construction and installation of which personal property was approved as a pollution control facility by either the office of water resources or the office of air quality, both of the Division of Environmental Protection, as the case may be.

WV Legislature

§11-6A-3. Tax treatment of pollution control facilities.

The value of a pollution control facility first placed in operation subsequent to July 1, 1973, shall, for the purpose of ad valorem property taxation under this chapter, be deemed to be its salvage value, that is to say, the price for which such facility would sell in place if voluntarily offered for sale by the owner thereof.

WV Legislature

§11-6A-4. Regulations.

The State Tax Commissioner shall have the power and authority to promulgate regulations for the administration of this article. Such regulations may provide, among other things, for the identification and certification of pollution control facilities, the determination of the date upon which such facilities were first placed in operation, the determination of whether such facilities are real or personal property, a method for the allocation or separation of values where the pollution control facility produces a profitable by-product or where a part of such facility is required for the operation of the business without regard to the requirements of state or federal air or water quality standards and such other matters as may be related to the administration of this article.

WV Legislature

§11-6A-5. Coal waste disposal power projects.

(a) Notwithstanding any other provisions of this article, a coal waste disposal power project designed, constructed or installed to reclaim, burn and dispose of coal wastes in compliance with applicable air and water quality standards and which meets the criteria for financing under section twenty-one, article two-c, chapter thirteen of this code shall, for purposes of section three of this article, be subject to the provisions of this section.

(b) All items of personal property installed at a coal waste disposal power project shall be deemed a pollution control facility for purposes of this article, subject to an allocation of value as contemplated by section four of this article, as provided by this subsection. In allocating value, the Tax Commissioner shall accord salvage valuation to a portion of the total personal property at the project. The portion shall be equal to the ratio of tons of West Virginia coal waste burned and disposed of at the project to the total tons of coal and coal waste burned and disposed at the project during the previous calendar year: Provided, That with respect to a project placed in service prior to the effective date of this section at which project such ratio for the year ended the December 31, 1994, was less than seventy percent, the Tax Commissioner shall award salvage valuation to sixty-three percent of the total personal property at the project for tax years after the effective date of this section, notwithstanding the actual ratio for any calendar year. The remaining portion of the personal property at the project, but in no event less than twenty-five percent of that total, shall be valued without regard to this article: Provided, however, That the facility shall not qualify as a pollution control facility under this subsection if it burns coal, coal waste or fuel waste from outside the State of West Virginia after the effective date of this section.

This provisions of this section are not intended to be applied retroactively.

WV Legislature

§11-6A-5a. Wind power projects.

(a) Notwithstanding any other provisions of this article, a power project designed, constructed or installed to convert wind into electrical energy shall be subject to the provisions of this section.

(b) Each wind turbine installed at a wind power project and each tower upon which the turbine is affixed shall be considered to be personal property that is a pollution control facility for purposes of this article and, subject to an allocation of the value of project property determined by the Tax Commissioner in accordance with this section, all of the value associated with the wind turbine and tower shall be accorded salvage valuation: Provided, That the portion of the total value of the facility assigned salvage value in accordance with this section shall, on and after July 1, 2007, be no greater than seventy-nine percent of the total value of the facility. All personal property at a wind power project other than a wind turbine and tower shall not be accorded salvage valuation and shall not be considered to be personal property that is a pollution control facility. For purposes of this section, "wind turbine and tower" is limited to: The rotor, consisting of the blades and the supporting hub; the drive train, which includes the remaining rotating parts such as the shafts, gearbox, coupling, a mechanical brake and the generator; the nacelle and main frame, including the wind turbine housing, bedplate and the yaw system; the turbine transformer; the machine controls; the tower; and the tower foundation.

WV Legislature