

WEST VIRGINIA CODE: §22-12-9

§22-12-9. Groundwater protection fees authorized; director to promulgate rules; dedication of fee proceeds; groundwater protection fund established; groundwater remediation fund established.

(a) The Director of the Division of Environmental Protection shall promulgate legislative rules in accordance with the provisions of chapter twenty-nine-a of this code establishing a schedule of groundwater protection fees applicable to persons who own or operate facilities or conduct activities subject to the provisions of this article. The schedule of fees shall be calculated by the director to recover the reasonable and necessary costs of implementing the provisions of this article as it relates to a particular facility or activity. In addition, the fee may include an appropriate assessment of other program costs not otherwise attributable to any particular facility or activity. Such fees in the aggregate shall not exceed \$1 million per year and shall be deposited into the groundwater protection fund established pursuant to this article: Provided, That any unexpended balance in the groundwater protection fund at the end of each fiscal year may, by an act of the Legislature, be transferred to the groundwater remediation fund created by this article: Provided, however, That if no action is taken to transfer the unexpended balance to the remediation fund, such moneys shall not be transferred to the General Revenue Fund, but shall remain in the groundwater protection fund. Such fees imposed by this section are in addition to all other fees and taxes levied by law. The director shall require such fees to be paid at the time of certification pursuant to section eight of this article, or at such more frequent time as the director may deem to be appropriate. The director may withhold certification pursuant to section eight of this article where such fees have not been timely paid.

(b) The Director of the Division of Environmental Protection shall also promulgate legislative rules in accordance with the provisions of chapter twenty-nine-a of this code establishing a schedule of groundwater remediation fees which in the aggregate shall not exceed \$250,000. Such groundwater remediation fees shall be assessed over a time period not to exceed two years from effective date of such rules and shall be deposited into the groundwater remediation fund established pursuant to this article. Such fees shall be assessed against persons who own or operate facilities or conduct activities subject to the provisions of this article in proportion to the groundwater protection fees assessed pursuant to subsection (a) of this section for the year in which such groundwater remediation fees, or any portion thereof, are assessed.

(c) The following two special revenue accounts are continued in the state Treasury:

(1) The "Groundwater Protection Fund", the moneys of which shall be expended by the director in the administration, certification, enforcement, inspection, monitoring, planning, research and other activities of the environmental quality board, Division of Environmental Protection, Bureau for Public Health and Department of Agriculture in accordance with legislative rules promulgated pursuant to the provisions of chapter twenty-nine-a of this

code. The moneys, including the interest thereon, in said fund shall be kept and maintained by the director and expended without appropriation by the Legislature for the purpose of implementing the provisions of this article. The director may withhold the payment of any such moneys to any agency whose groundwater protection program has been determined by the director, in consultation with the groundwater coordinating committee, not to be sufficient to satisfy the requirements of this article and where such agency has failed to adequately address such determination within the time period specified by the director. At the end of each fiscal year, any unexpended balance of said fund may not be transferred to the General Revenue Fund, but shall remain in the groundwater protection fund.

(2) The "Groundwater Remediation Fund", the moneys of which, to the extent that moneys are available, shall be expended by the director for the purposes of investigation, clean-up and remedial action intended to identify, minimize or mitigate damage to the environment, natural resources, public and private water supplies, surface waters and groundwaters and the public health, safety and general welfare which may result from contamination of groundwater or the related environment. The director or other authorized agency officials are authorized to recover through civil action or cooperative agreements with responsible persons the full amount of any and all groundwater remediation fund moneys expended pursuant to this article. All moneys expended from such fund which are so recovered shall be deposited in such fund. The director may expend moneys from said fund and the interest thereon without necessity of appropriation by the Legislature. All civil penalties and assessments of civil administrative penalties collected pursuant to this article shall be deposited into the said fund. In addition, said fund may receive proceeds from any gifts, grants, contributions or other moneys accruing to the state which are specifically designated for inclusion in the fund.