WEST VIRGINIA CODE: §22-27-10

§22-27-10. Exceptions.

(a) General rule. -- Any person who under existing law shall be or may become responsible to reclaim the land or treat or abate the water pollution or any person who for consideration or who receives some other benefit through a contract or any person who through a consent order and agreement or is ordered to perform or complete reclamation or treat or abate water pollution as well as a surety which provided a bond for the site is not eligible nor may receive the benefit of the protections and immunities available under this article.

(b) Projects near mining or coal refuse sites. -- This article does not apply to a reclamation project or a water pollution abatement project that is located adjacent to, hydrologically connected to or in close proximity to a site permitted under articles two, three or four of this chapter unless:

(1) The reclamation project or water pollution abatement project is submitted to the department in writing before the project is started; and

(2) The department finds:

(A) The reclamation project or the water pollution abatement project will not adversely affect the permittee's obligations under the permit and the applicable law;

(B) The activities on the project work area cannot be used by the permittee to avoid the permittee's reclamation or water pollution treatment or abatement obligations; and

(3) The department issues a written notice of its findings and the approval of the project.

(c) Projects in lieu of civil or administrative penalties. -- This article shall not apply to a reclamation project or a water pollution abatement project that is performed in lieu of paying civil or administrative penalties.

WV Legislature