

FORM #2

OFFICE OF THE VIRGINIA
SECRETARY OF STATE

SCANNED

ADMINISTRATIVE LAW DIVISION

JUN 10 9 42 AM '99
OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF DEFENSE

AGENCY: Division of Environmental Protection, Office of Air Quality TITLE NUMBER: 45

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: July 19, 1999 TIME: 6:00 p.m.

LOCATION OF PUBLIC HEARING: Office of Air Quality - Conference Room
1558 Washington, Street East
Charleston, WV 25311

COMMENTS LIMITED TO: ORAL____, WRITTEN____, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Mr. Edward L. Kropp, Chief

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

Office of Air Quality
1558 Washington Street, East
Charleston, WV 25311

The issues to be heard shall be limited to the proposed rule.

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL.

Karen G. Watson
Karen G. Watson, Attorney

SCANNED

\$8.00



Executive Office
10 McJunkin Road
Nitro, West Virginia 25143-2506
Telephone: 304-759-0515
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West Virginia Bureau of Environment

Cecil H. Underwood
Governor

Michael P. Miano
Commissioner

June 14, 1999

Ms. Judy Cooper
Director, Administrative Law Division
Office of the Secretary of State
Capitol Complex
Charleston, West Virginia 25305

RE: 45CSR7 - "TO PREVENT AND CONTROL PARTICULATE MATTER AIR POLLUTION FROM
MANUFACTURING PROCESSES AND ASSOCIATED OPERATIONS"

Dear Ms. Cooper:

This is to advise that I am giving approval to file the above-referenced rule with your Office as "Notice of Public Hearing/Comment Period."

If you should have questions or require additional information, please contact Carrie Chambers in my office at 759-0515. Your cooperation in this regard is very much appreciated.

Sincerely yours,


Michael P. Miano
Commissioner

MPM:cc

Attachment

cc: Skipp Kropp
Karen Watson
Carrie Chambers

**BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION
BRIEFING DOCUMENT**

RULE TITLE: 45CSR 7- "To Prevent and Control Particulate Matter Air Pollution from
Manufacturing Processes and Associated Operations"

A. AUTHORITY: W.Va. Code §§22-5-1 et seq.

B. SUMMARY OF RULE:

45CSR7 "To Prevent and Control Particulate Matter Air Pollution from Manufacturing Processes and Associated Operations" seeks to prevent and control emissions from the manufacturing source operations. The rule establishes particulate matter weight and visible emission standards for manufacturing processes and limits emissions of mineral acid mists. The rule limits emissions for duplicate source operations.

The revisions contained herein are intended to streamline the requirements of this rule. They also provide exemptions from the emission requirements for certain maintenance operations, operations that have de minimus emissions and a case-by-case exemption for start-up and shutdown. The changes provide added flexibility for allocating emissions from duplicate source operations.

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:

The purpose of 45CSR7 is to prevent and control particulate matter air pollution from manufacturing process operations in West Virginia by establishing weight and visible emission standards for manufacturing processes and associated operations. 45CSR7 is part of the West Virginia State Implementation Plan (SIP) approved by the USEPA to assure attainment and maintenance of attainment with the National Ambient Air Quality Standards for particulate matter. The revisions proposed herein were initiated by the Office of Air Quality as part of a broad effort to modernize and streamline all the Office rules. The current revision process is also intended to update and harmonize this rule with other rules of the Office of Air Quality. The proposed revisions are the result of a thorough review in a stakeholder process that was inclusive of the Office of Air Quality, representatives of the regulated community, concerned citizens and the environmental community.

D. FEDERAL COUNTERPART REGULATIONS - INCORPORATION BY REFERENCE/DETERMINATION OF STRINGENCY:

There is no federal counterpart regulation; therefore, a determination of stringency is not required.

E. CONSTITUTIONAL TAKINGS DETERMINATION:

In accordance with §22-1A-1 and 3(c,) the Director has determined that this rule will not result in taking of private property within the meaning of the Constitutions of West Virginia and the United States of America.

F. CONSULTATION WITH THE ENVIRONMENTAL PROTECTION ADVISORY COUNCIL:

At their June 10, 1999 meeting, the Environmental Advisory Council reviewed and discussed this rule - there were no substantive changes as a result of their discussion. (See attached minutes of that meeting.)

MINUTES

ENVIRONMENTAL PROTECTION ADVISORY COUNCIL

June 10, 1999, Director's Conference Room, Nitro

The sixteenth meeting of the DEP Advisory Council was held Thursday, June 10, 1999, in the Director's Conference Room located in Nitro. Chairman Mike Miano called the meeting to order at 10:00 a.m.

ATTENDING:

Advisory Council Members:

**Mike Miano, Chairman
Jacqueline Hallinan
William Raney
Rick Roberts
William Samples**

Environmental Protection:

Bill Adams	Pam Nixon
Andy Gallagher	Rocky Parsons
Tony Grbac	Cap Smith
Randy Huffman	Charlie Sturey
Mike Johnson	Barbara Taylor
Mike Lewis	Karen Watson
Robert Keatley	Mike Zeto

1) Review and Approval of March 22, 1999 Minutes. Chairman Miano called the meeting to order at 10:00 a.m. The first item on the agenda was approval of the minutes of the March 22 Advisory Council; they were approved as written.

2) Discussion of Proposed Rule Amendments - 2000 Legislative Session. In accordance with WV Code §22-1-1(c), and DEP's new rule-making procedure that was implemented by Director Miano in September 1998 to involve the Advisory Council in DEP's rule-making process as early as possible to enable the Council to review, comment, and make recommendations to the Director on DEP's proposed legislative rule changes before they are filed for public hearing, the following proposed rules were brought to the Council's attention.

Chairman Miano said he would like to begin by saying he hoped all Council members had received their draft rules by E-mail without any complications and they were able to review them before the meeting. He informed the Council that due to the large number of rules being proposed for the 2000 Legislative Session, DEP's program offices would review them with the

Council as thoroughly as possible, in the allotted time frame, and try to answer any questions or concerns the Council may have.

The following Office of Air Quality's proposed rule amendments were discussed by Karen Watson, OAQ, with assistance from Richard Keatley, also from the OAQ office:

- **45CSR1 - "TO PREVENT AND CONTROL AIR POLLUTION FROM COAL REFUSE DISPOSAL AREAS"**
- **45CSR2 - "TO PREVENT AND CONTROL PARTICULATE AIR POLLUTION FROM COMBUSTION OF FUEL IN INDIRECT HEAT EXCHANGERS"**
- **45CSR3 - "TO PREVENT AND CONTROL AIR POLLUTION FROM THE OPERATION OF HOT MIX ASPHALT PLANTS"**
- **45CSR4 - "TO PREVENT AND CONTROL THE DISCHARGE OF AIR POLLUTANTS INTO THE OPEN AIR WHICH CAUSES OR CONTRIBUTES TO AN OBJECTIONABLE ODOR OR ODORS"**
- **45CSR5 - "TO PREVENT AND CONTROL AIR POLLUTION FROM THE OPERATION OF COAL PREPARATION PLANTS, COAL HANDLING OPERATIONS AND COAL REFUSE DISPOSAL AREAS"**
- **45CSR6 - "TO PREVENT AND CONTROL AIR POLLUTION FROM COMBUSTION OF REFUSE"**
- **45CSR7 - "TO PREVENT AND CONTROL PARTICULATE MATTER AIR POLLUTION FROM MANUFACTURING PROCESSES AND ASSOCIATED OPERATIONS"**
- **45CSR10 - "TO PREVENT AND CONTROL AIR POLLUTION FROM THE EMISSION OF SULFUR OXIDES"**
- **45CSR12 - "AMBIENT AIR QUALITY STANDARD FOR NITROGEN DIOXIDE"**
- **45CSR16 - "STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES PURSUANT TO 40 CFR PART 60"**
- **45CSR17 - "TO PREVENT AND CONTROL PARTICULATE MATTER AIR POLLUTION FROM MATERIALS HANDLING, PREPARATION, STORAGE AND OTHER SOURCES OF FUGITIVE PARTICULATE MATTER"**
- **45CSR18 - "TO PREVENT AND CONTROL PARTICULATE AIR POLLUTION FROM DIRECT MEAT-FIRING DEVICES"**
- **45CSR23 - "TO PREVENT AND CONTROL EMISSIONS FROM MUNICIPAL SOLID WASTE LANDFILLS"**
- **45CSR25 - "TO PREVENT AND CONTROL AIR POLLUTION FROM HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES"**
- **45CSR33 - "ACID RAIN PROVISIONS AND PERMITS"**
- **45CSR34 - "EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS PURSUANT TO 40 CFR PART 63"**

Karen began by bringing the Council up to date on the status of two OAQ rules that were filed during the last session (or late in the session). 45CSR8 revised the ambient air quality for sulfur oxides and particulate matter, and 45CSR9 pertained to ambient air quality standards for carbon monoxide and ozone. The DC Circuit Court of Appeals has ordered EPA to show how they arrived at the new standards - EPA may go back to the previous standards. Karen also apprised the Council on the N_{ox} State Implementation Plan. The Circuit Court stayed the implementation of that rule and there are no plans to develop any other amendments in the

immediate future. 45CSR28, which is the emissions trading rule that was filed late in the 1999 Session, was not taken up by the Legislature, but plans are to put the rule on the July agenda of the Interim Legislative Committee.

Karen explained the reason for the unusually large number of DEP rules that are being filed for the next Legislative Session. She informed the Council that several of the rules were outdated and were amended for consistency and streamlining, and are a result of months of on-going meetings with stakeholders -- involving both the regulated community and citizens. A particulate matter and sulfur oxide work group was also involved. Those rule amendments as a result of the stakeholders process include: 45CSR1 (which is being repealed and replaced with language in 45CSR5), 45CSR2, 3, 4, 5, 6, 7, 10, 12, 17, and 18 (which is being repealed since the rule is no longer deemed necessary). The amendments to the remainder of the rules, 45CSR16, 23, 25, 33, and 34 were necessary to adopt by reference definitions, clarifications, technical amendments, etc., recently adopted by US EPA.

After several minutes of discussion, the Advisory Council recommended to the Director that the following amendments be made to the OAQ rules:

Mr. Samples pointed out that 45CSR2 and 45CSR7 contain different definitions for the term "opacity." The agency responded that this discrepancy was inadvertent and the language should be as it is in 45CSR2. The agency agreed to revise 45CSR7, subsection 2.23, accordingly.

Mr. Larry Harris was unable to attend the meeting; however, he expressed the following comments on 45CSR10 and 45CSR33 by e-mail. He stated that the State's rules should be more stringent than the federal counterpart regulations, since the State's streams are being adversely impacted. The agency responded that, at this point in time, it does not possess sufficient evidence to make the written finding that is required by WV Code §22-2-3a before promulgating a rule which is more stringent than a counterpart federal regulation.

Cap Smith and Mike Zeto discussed the following Office of Waste Management proposed rule amendments:

- 33CSR2 - "Sewage Sludge Management Rule"
- 33CSR20 - "Hazardous Waste Management Rule"

Mike Zeto briefed the Council on the proposed amendments to 33CSR2. He stated that in 1996 the Legislature mandated DEP to perform a study on soil limitations for sewage sludge land application sites. These amendments (as a result of the study) were to be proposed by June 30, 1999. Other amendments to the rule include specifying the analytical method used for soil analysis, placing conditions on variances from the soil limits for land application sites, providing an incentive for municipalities to produce higher quality compost products, and adjusting the sewage sludge limits for four metals. Mr. Zeto told the Council these amendments are being proposed to update other related areas of the rule in an attempt to provide better management of sewage sludge within the state.

Cap Smith discussed 33CSR20 with the Council. He informed the Council that amendments are proposed in section 2 of the rule that will allow the Office of Waste Management to delist hazardous wastes, which has previously been handled by EPA. The other significant amendments that are being proposed by adoption of the Federal Register pertain to revision standards for owners and operators of closed and closing hazardous waste management facilities, post closure permit requirements, and the closure process. These amendments are referenced throughout the rule and will hopefully expedite site cleanup while maintaining environmental protection.

There were several minutes of discussion on OWM's proposed rule amendments; however, no recommendations were made to the Director concerning the amendments.

Mike Lewis, Office of Oil and Gas, discussed the following new proposed rule:

- **35CSR7 - "Well Operations - Within and Around Gas Storage Reservoirs"**

Mike informed the Council that 35CSR7 is a proposed "new" rule for the O&G Office. The rule is needed to provide protection of the environment, the public, and the state's natural gas resources. It is the intent of the proposed rule to accomplish this by addressing certain operating procedures that oil and gas and gas storage operators are to use when drilling into or through a gas storage reservoir or the gas storage reservoir protective area. In order to assure absence of leaking gas, the proposed rule requires gas storage operators to conduct monitoring and inspections of gas storage wells.

There were no questions or discussion by the Council on this proposed rule.

The following proposed rules were discussed by the Office of Mining and Reclamation:

- **38CSR2 - "Surface Mining and Reclamation Rule"**
- **38CSR2A - "Rules for Mining and Restoration for Sandstone, Limestone, and Sand"**
- **38CSR2B - "RULES FOR MINING AND RECLAMATION OF MINERALS OTHER THAN COAL"**

Ed Griffith, Office of Surface Mining, discussed the proposed amendments to the Surface Mining and Reclamation Rule. Ed told the Council that there are only minor amendments being proposed to this year's rule. The proposed definition of "woodlands" in subsection 2.136 relates to the utilization of commercial woodlands in Approximate Original Contour variance areas. This change is being proposed in order for the state to meet the federal policy that is expected to change in July 1999. The proposed amendment to change the bonding requirements of mining operations that request variances from contemporaneous reclamation to the maximum amount per acre bond (\$5,000 per acre) is found in subdivision 14.15.f. All other amendments are being proposed in order to meet the requirements of the Office of Surface Mining's program amendments.

Rocky Parsons, OMR's Philippi Office, next addressed OMR's proposed rules 38CSR2A and 2B. Rocky explained to the Council members that 38CSR2B has been in place since 1983 and regulates all minerals other than coal. However, in accordance with the requirement that separate rules for limestone, sandstone, and sand are to be promulgated, DEP is proposing

38CSR2A which will regulate only those minerals - 38CSR2B will regulate all minerals other than limestone, sandstone, sand, and coal. Both proposed rules will regulate roads, blasting, drainage control, methods of operation, excess spoil disposal, revegetation, mapping, transfer of permits, permit renewals, revisions and incidental boundary revisions. 38CSR2A will provide provisions for restoration and 38CSR2B will include provisions for reclamation. Rocky gave the Council a brief history on the roadblocks the agency has encountered in the past several years in their attempt to amend the quarry statute. He said since the agency has been unsuccessful in that approach, it has become necessary to try to accomplish this through rule making. He informed the Council of a public meeting held the previous week to discuss the two proposed rules. He said the meeting was well attended and he believes the rules were well received by everyone in attendance.

The three OMR proposed rules were discussed by the Council members. Bill Raney said that although Rocky stated that the quarry rules have been well received by industry and the citizens, he is concerned about whether there has been enough time for the review of the proposed rules after they were drafted. He believes there would be a smoother transition into the rule making process, i.e., the public hearing/comment period, etc., if there had been more involvement from outside DEP during the drafting of the rules.

Mr. Larry Harris commented by e-mail 38CSR2A and 2B. His question is whether the siltation measures include silt fences where runoff might enter streams. He said it is not apparent what best management practices are for this situation, and he wonders if it needs to be spelled out. He knows of some operations in quarries where streams muddy after rainfalls, such as the Elkins and Waco quarries near Snowshoe, and he feels this is harming the streams. Do the new rules address this?

Rocky Parsons responded by saying that design criteria for drainage control structures is found in the technical handbook. Silt fences are not adequate for sediment control. The drainage system must be designed to hold .125 ac/ft of sediment for each acre of disturbed land. All runoff must pass through a drainage control structure. There is a provision for less sediment control (1/2 factor) for certain circumstances as approved by the Director. Effluent limits as established in the NPDES permit must be met.

Tony Grbac, Office of Surface Mining, addressed the following rule:

199CSR1 - "SURFACE MINING BLASTING RULE"

Tony began by briefing the Council on the history of the Surface Mining Blasting Rule. This rule is being proposed to comply with SB681 - passed during the last session. This bill created the Office of Explosives and Blasting and the Office of Coalfield Community Development, which is under the West Virginia Development Office. The proposed rule will regulate blasting laws and rules associated with all surface-mining operations. All duties currently performed by OMR related to blasting, and all rules which now regulate blasting (38CSR2C) will be transferred to this new office. Besides regulating blasting on all surface mining operations, it will also implement and oversee pre-blast survey processes; maintain and operate a system to receive and address questions, concerns and complaints relating to mining

operations; determine the qualifications for individuals and firms performing pre-blast surveys; establish the education, training, examination and certification of blasters; administer a claims process for property damage caused by blasting; and conduct a study of blasting and make recommendations regarding any appropriate rule or code changes.

Tony explained that the revenue generated by the proposed fee in 199CSR1 (one-half cent times the number of pounds of explosive material used during the preceding month for any purpose on the surface mining operations) would fund both the offices, as required by SB681. After one year of collection, both offices are to report to the Legislature as to whether the revenue collected is sufficient to operate both offices.

After several minutes of discussion between DEP and the Council members, Bill Raney expressed his concern in filing the rule for public hearing in the specified time frame. Mr. Raney asked if anyone outside DEP has been involved in drafting the rule. OMR answered by saying the rule was drafted by several staff within OMR. Mr. Raney replied that he believes there will be serious concerns with this rule once industry has had an opportunity to review it. He believes the rule drafting process definitely needs input from firms and individuals outside DEP, and he thinks the process will go smoother once everyone has had the opportunity to address their concerns. Mr. Raney recommended that the Director withhold this rule from the list of rules DEP proposes to file for public hearing/comment period in the coming week to give all interested parties a chance to participate in drafting the rule.

After discussion of this recommendation, Chairman Miano said he believes the best approach would be to continue with the filing of the proposed rule for public hearing, start the rule in the normal process and time frame, and in the meantime he would commit to putting together a work group of interested parties to discuss the rule. If DEP feels that more time is needed once the group begins their work on the rule, he will consider the possibility of either extending the comment period or filing for another public hearing. He said he will also decide in the near future whether DEP will file the rule as an "Emergency Rule" since HB 681 will become effective on June 11.

Council members also pointed out a typographical error in subdivision 3.9.a.3. of the rule relating to cross-references that will be corrected by DEP.

Barb Taylor and Mike Johnson, Office of Water Resources, briefed Council on the following rules:

- 47CSR57A - "Groundwater Protection Standards at Steam Electric Generating Facilities"
- 47CSR26 - "Water Pollution Control Permit Fee Schedule"
- 47CSR31 - "State Water Pollution Control Revolving Fund Program Rule"

Barb described the proposed "new" rule relating to Groundwater Protection Standards at Steam Electric Generating Facilities. She noted that the rule is a result of a Notice of Intent filed on October 24, 1994, by the West Virginia Steam Electric Generation Industry, with the Director of DEP, in accordance with 47CSR57 to apply for a class variance for all West Virginia power stations and associated disposal sites. At that time, DEP provided AEP and AP with the

opportunity to conduct a four-year study to gather the necessary data to support their variance request. The objectives were met by assembling and reviewing data, estimating potential impacts to receptors, and performing an economic assessment impact analysis to the industry, commercial enterprises, and citizens at large if compliance with the Groundwater Protection Act were required without benefit of the variances. After review of the four-year study, the Director determined that granting this request for a variance at these locations would not pose adverse effects to human health or the environment. There are no human or environmental sensitive receptors between the coal storage areas or as ponds; therefore, it is unlikely there will be adverse affects. Barb gave each member a copy of the four-year study on which the Director made his determination.

Chairman Miano told Council that DEP is definitely willing to look at such cases where extensive research and study have been done by the regulated community to back up their findings before granting such variances, and believes DEP will see more studies like this in the future.

Barb next apprised the members on the proposed amendments of the Water Pollution Control Permit Fee Schedule. She stated that amendments are being proposed as a result of HB 2684, passed March 11, 1999, and effective ninety days from passage. The Director is required to implement an emergency rule to implement the fee schedule authorized by the amendments by July 1, 1999. This rule was filed as an "Emergency Rule" on June 7, 1999.

Mike Johnson, Office of Water Resources' Construction Assistance Office, briefed the Council on 47CSR31 - the Water Pollution Control Revolving Fund Program rule. The amendments to this rule are being proposed to allow the State Revolving Fund low interest terms to be extended from 20 years to 30 years for communities that qualify as "disadvantaged." There is only one other state in the country to receive such approval from EPA. Mike informed the Council that he was only recently made aware of this extension by EPA to extend the low interest loans from 20 to 30 years while attending a meeting out of state. This rule was filed as an "Emergency Rule" on May 24, 1999.

Council members unanimously agreed that Mike Johnson should be commended for gathering this information and proposing the amendment to the rule that will enable disadvantaged communities to immediately take steps toward constructing watershed projects that will provide affordable monthly sewer rates.

Open Discussion:

Chairman Miano and Council members expressed their compliments to the program offices for all their hard work, especially with the stakeholders process -- it is obvious a lot of hard work has gone into the process in order to make their efforts more productive.

Bill Raney asked a question relating to the "More or Less" Stringency statement that appears on the front of some DEP rules, but not on others, and voiced his concern if DEP is paying close attention to this, or if the same statement is appearing with all proposed rules. Carrie Chambers from the Director's Office explained that statement was once required to be included in the "General" section of each rule; however, it is now placed in the briefing document that is attached to each rule, and required by the Secretary of State's Office and the

Legislative Rule-Making Review Committee, before it is filed. She went on to explain that with the rush to get draft copies of the rules to Council members as soon as possible, some of the Briefing Documents had not been completed, but would be attached to all DEP rules before they are filed for public hearing. Chairman Miano went on to say it is his belief that all program offices are carefully scrutinizing each rule before that decision is made.

Chairman Miano thanked Council for taking time from their busy schedules to review the extensive list of DEP's proposed rules. He informed the Council that the minutes would be left open for comment until Wednesday, June 16, at which time the minutes will be attached to the rules and filed with the Secretary of State's Office and the Legislative Rule-Making Review Committee for notice of public hearing/comment period.

Before adjourning the meeting, the Council informed Chairman Miano that they would prefer beginning future meetings at 10:00 a.m., instead of the usual time of 1:00 p.m. The meeting was then adjourned at 3:30 p.m.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR7 - "To Prevent and Control Particulate Matter Air Pollution from
Manufacturing Processes and Associated Operations"

Type of Rule: X Legislative Interpretive Procedural

Agency: Office of Air Quality

Address: 1558 Washington Street, East
Charleston, WV 25311-2599

1. Effect of Proposed Rule	Annual		Fiscal Year		
Estimated Total Cost	Increase	Decrease	Current	Next	There- after
	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Personal Services	-0-	-0-	-0-	-0-	-0-
Current Expense	-0-	-0-	-0-	-0-	-0-
Repairs and Alterations	-0-	-0-	-0-	-0-	-0-
Equipment	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-

2. Explanation of above estimates: The revisions proposed to 45CSR7, contained herein, will have a negligible effect on the costs to the Office of Air Quality for continued implementation of this rule. Costs are covered under previous budget estimates.
3. Objectives of these rules: The objective of this rule is to prevent and control particulate matter air pollution from manufacturing processes by establishing weight and visible emission standards. This rule is part of the West Virginia State Implementation Plan approved by the USEPA for the attainment and maintenance of attainment of the National Ambient air Quality Standards for particulate matter.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

See Section 2.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

The revisions proposed to rule 45CSR7 will have a minimal economic impact for isolated industry entities and an easing of the impact on others. No impact is foreseen for any citizen group.

C. Economic Impact on Citizens/Public at Large.

The revisions proposed to 45CSR7 will have no effect on citizens or the public at large.

Date: 6/11/99

Signature of Agency Head or Authorized Representative

Karen G. Watson
Karen G. Watson, Attorney

TITLE 45
LEGISLATIVE RULE
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

FILED
JUN 16 9 42 AM '99

SERIES 7
**TO PREVENT AND CONTROL PARTICULATE MATTER AIR POLLUTION
FROM MANUFACTURING PROCESSES AND ASSOCIATED OPERATIONS**

OFFICE OF ENVIRONMENTAL PROTECTION
RECORDS MANAGEMENT

§45-7-1. General.

1.1. Scope. -- The purpose of ~~Series 7~~ this rule is to prevent and control particulate matter air pollution from manufacturing processes and associated operations.

1.2. Authority. -- W. Va. Code §22-5-1 et seq.

1.3. Filing Date. -- ~~May 1, 1998.~~

1.4. Effective Date. -- ~~May 1, 1998.~~

1.5. Former Rules -- This legislative rule amends 45CSR7 "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations" which was filed on May 1, 1998, and which became effective May 1, 1998.

§45-7-2. Definitions.

2.1. "Air Pollution", 'statutory air pollution' shall have the meaning ascribed to it in W. Va. Code §22-5-2.

~~2.2. [RESERVED]~~

~~2.42.~~ "Air Pollution Control Equipment" means any equipment used for collecting or converting smoke and/or particulate matter for the purpose of preventing or reducing emission of these materials into the open air.

~~2.43.~~ "Blowing Tap" means any tap associated with ferroalloy submerged arc furnace in which an evolution of gas forces or projects jets of flame or metal sparks beyond the ladle, runner, or collection hood.

~~2.234.~~ "By-Product Coke Production Facility" means the production of coke by the destructive

distillation of coal in recovery type ovens in which gaseous and liquid distillates are separated and recovered as by-products, and includes any on-site coal preparation, charging, coking, coke pushing, hot coke transfer, coke quenching, coke handling and the separation and preparation of distillates.

~~2.305.~~ "Charging Emissions" means any smoke and/or particulate matter emissions from one or more charging ports, space between charging port rings and oven refractory, drop sleeves, larry car hoppers; or emissions from any devices used for the capture and cleaning of emissions resulting from charging operations, but shall not include emissions resulting from the temporary removal of a charging port lid for the purpose of sweeping coal spillage into the oven just charged after all lids have been seated over the charging ports following removal of the larry car.

~~2.286.~~ "Charging Operation" means any operation or procedure by which coal is introduced into a coke oven. For coke oven batteries employing larry cars, the charging operation shall begin when the gate(s) on the larry car coal hopper is (are) opened or the mechanical feeders start the flow of coal into the first charging port(s) until the oven is completely charged and the last charging port lid is seated.

~~2.297.~~ "Charging Port" means any opening through which coal is, or may be, introduced into a coke oven, whether or not such opening is regularly used for that purpose.

~~2.8.~~ "Ringelmann Smoke Chart" means the Ringelmann's Scale for Grading the Density of Smoke published by the United States Bureau of Mines or any chart, recorder, indicator, or device which is standardized method for the measurement of smoke density which is approved by the Director as the equivalent of said Ringelmann

Scale:

2.198. "Chemical Change" means, for the purpose of this rule, any change in a substance which does change the properties of the substance and by which a new substance is formed.

2.262. "Coke Battery Topside" means the top of the coke battery including, but not necessarily limited to, charging ports, charging port lids, inspection lids, refractory ceiling, offtake piping and the coke oven gas collector main.

2.310. "Director" means the ~~D~~director of the ~~D~~division of ~~E~~environmental ~~P~~protection or ~~his or her designated representative~~ such other person to whom the director has delegated authority or duties pursuant to W. Va. Code §§22-1-6 or 22-1-8.

2.45. "~~Division of Environmental Protection~~" or "~~DEP~~" means that ~~Division of the West Virginia Division of Environmental Protection which is created by the provisions of W. Va. Code §22-1-1; et seq.~~

2.3411. "Door Area" means the vertical face of a coke oven between two adjacent buckstays.

2.3512. "Door Area Emissions" means any smoke and/or particulate matter emissions from any door area including, but not limited to, emissions from the door, chuck door, door seal, jamb; or refractory.

2.2413. "~~A~~ Duplicate Source Operation" means any combination of two (2) or more individual source operations of any size that have the same nomenclature, either formerly adopted and/or commonly sanctioned by usage such as, but not limited to, two or more rotary driers, basic oxygen furnaces; or electric arc furnaces contained in the same plant.

2.3814. "Ferroalloy Electric Submerged Arc Furnace" means any furnace used in production of ferroalloys wherein electrical energy is converted to heat energy by transmission of current between electrodes partially submerged in the furnace charge.

2.4015. "Fuel" means any form of combustible matter (solid, liquid, vapor; or gas)

that is used as a source of heat.

2.916. "Fugitive Particulate Matter" means any and all particulate matter ~~generated by any manufacturing process~~ which, if not confined, would be emitted directly into the open air from points other than a stack outlet.

2.3917. "Furnace Charge" means any material introduced into a ferroalloy electric submerged arc furnace, and may consist of, but is not limited to, ores, slag, carbonaceous material; and limestone.

2.18. "Maintenance Operation" means maintenance activities that have zero process weight rate and that are not defined as a manufacturing process.

2.19. "Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

2.4520. "Manufacturing Process" means any action, operation or treatment, embracing chemical, industrial; or manufacturing efforts, and employing, for example, heat treating furnaces, by-product coke plants, core-baking ovens, mixing kettles, cupolas, blast furnaces, open hearth furnaces, heating and reheating furnaces, puddling furnaces, sintering plants, electric steel furnaces, ferrous and non-ferrous foundries, kilns, stills, driers, crushers, grinders, roasters, and equipment used in connection therewith; and all other methods or forms of manufacturing or processing that may emit smoke, particulate matter; or gaseous matter.

2.2421. "Non-Recovery Coke Production Facility" means the destructive distillation of coal in which the gaseous and liquid distillates are separated from coal, but not recovered as by-products, and includes any on-site coal preparation, charging, coking, coke pushing, hot coke transfer, coke quenching and coke handling.

2.2522. "Offtake Piping" means the piping that transports gaseous by-products of the coking

cycle from an oven to the coke oven gas collector main, such as standpipes, standpipe caps, goosenecks and slipjoints.

2.723. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

2.4324. "Oxygen Lancing" shall mean the burning open of a taphole to remove slag or product from the taphole associated with operations of a ferroalloy electric submerged arc furnace.

2.525. "Particulate Matter" means any material, except uncombined water, that exists in a finely divided form as a liquid or solid.

2.426. "Person" means any and all persons, natural or artificial, including the State of West Virginia or any other state ~~and all agencies or divisions thereof, any state political subdivision,~~ the United States of America, any municipal, statutory, public or private corporation organized or existing under the laws of this or any other state or country, and any firm, partnership or association of whatever nature.

2.4827. "Physical Change" means, for the purpose of this rule, any change in a substance which does not change the properties of the substance. Such changes include but are not limited to crushing, grinding, drying, change of state and sizing.

2.1428. "Plant" means and includes all equipment, grounds, source operations; and any manufacturing process(es) utilized in an integral complex.

2.4229. "Poling" shall mean pushing a log timer into the furnace taphole to clear slag from the furnace tapping channel associated with operation of a ferroalloy electric submerged arc furnace.

2.30. "Potential To Emit", for the purpose of subsections 10.5 and 10.6, means the maximum capacity of a source, on an hourly and annual basis, to emit any air pollutant(s) under its physical and operational design, prior to any air pollution control equipment.

2.4631. "Process Weight" means that total weight of all materials introduced into a source operation, excluding solid, liquid, and gaseous fuels used solely as fuels, and excluding all process and combustion air.

2.4732. "Process Weight Rate" means a rate established as follows:

2.4732.a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

2.4732.b. For cyclical or batch unit operations, or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

2.32.c. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

2.3233. "Pushing Emissions" means any smoke and/or particulate matter emissions resulting from the pushing operation.

2.3434. "Pushing Operation" means the removal of coke from a coke oven and shall begin when the coke mass starts to move and shall continue until the coke transfer car enters the quenching station.

2.3735. "Quenching Emissions" means any smoke and/or particulate matter emissions resulting from the quenching operation.

2.36. "Quenching Operation" means the process by which the combustion of hot coke is stopped by application of water or any other procedure achieving the same effect.

2.637. "Smoke" means small gasborne and airborne particulate matter emitted in sufficient numbers to be visible.

2.2038. "Source Operation" means the last operation in a manufacturing process preceding the emission of air contaminants which operation:

2.2038.a. Results in the separation of air contaminants from the process materials or in the conversion of the process materials into air contaminants; and

2.2038.b. Is not an air pollution abatement operation.

2.2239. "Source Operation Type" means a categorization established as follows:

2.2239.a. Type 'a' means any manufacturing process source operation involving glass melting, calcination or physical change except as noted in Type 'c' below.

2.2239.b. Type 'b' means any metallurgical manufacturing process source operation. Gray iron cupolas located in the counties of Brooke, Hancock, Ohio, Marshall; and Kanawha; and the Magisterial Districts of Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County); and Union and Winfield (Marion County west of I-79) shall be classified as Type 'b' source operations.

2.2239.c. Type 'c' means any wet cement manufacturing process source operation which is used for the primary purpose of calcination. Gray iron cupolas located in the areas of the state other than those defined in subsection 2.2239.b shall be classified as Type 'c' source operations.

2.2239.d. Type 'd' means any manufacturing process source operation in which materials of any origin undergo a chemical change, and this chemical change results in the emission of particulate matter to the atmosphere, unless otherwise classified.

2.39.e. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of source operation type, the interpretation of the Director shall apply.

2.1340. "Stack", for the purpose of this rule, means, but is not be limited to, any duct, control

equipment exhaust; or similar apparatus, which is designed to vent gases containing particulate matter into the open air.

2.1241. "Standard Conditions" means, for the purposes of this rule, a temperature of 68 degrees F and a pressure of 29.92 inches of mercury column.

2.4042. "Tapping" means the removal of product and slag from a ferroalloy electric submerged arc furnace under normal operating conditions, such as removal of metal under normal pressure and movement by gravity down the spout into a ladle.

2.2743. "Topside Emissions" means any smoke and/or particulate matter emissions from one or more points on the topside of a coke oven battery excluding charging emissions.

~~2.44. [RESERVED]~~

2.3344. "Transport Emissions" means any smoke and/or particulate matter emissions which are emitted once the transport of the hot coke begins during the pushing operation and continues until the coke transfer car enters the quenching station.

2.45. Other words and phrases used in this rule, unless otherwise indicated, shall have the meaning ascribed to them in W. Va. Code §22-5-1, et seq.

§45-7-3. Emission of Smoke and/or Particulate Matter Prohibited and Standards of Measurement.

3.1. No person shall cause, suffer, allow or permit emission of smoke and/or particulate matter into the open air from any process source operation which is ~~darker in shade or appearance than that designated as No. 1 Ringelmann~~ or greater than twenty (20) percent opacity, except as noted in subsections 3.2, 3.3, 3.4, 3.5, 3.6, and 3.7.

3.2. The provisions of subsection 3.1 shall not apply to smoke and/or particulate matter emitted from any process source operation which is less than ~~No. 2 Ringelmann~~ or forty (40) percent opacity for any period or periods aggregating no

more than five (5) minutes in any sixty (60) minute period.

3.3. Existing By-Product Coke Production Facility--No person shall cause, suffer, allow; or permit the emission of smoke and/or particulate matter into the open air in excess of the following provisions from the operation of a by-product coke production facility in production on the effective date of this rule or a by-product coke production facility which is constructed as a replacement for a by-product coke production facility which shut down not more than three (3) years prior to the effective date of this rule:

3.3.a. Charging emissions from charging of any four consecutive ovens shall not exceed an aggregate time of more than one hundred (100) seconds.

3.3.b. Pushing emissions from pushing shall be vented into air pollution control equipment. Particulate matter emissions discharged from this air pollution control equipment shall not exceed a mass particulate rate as determined by the following formula:

$$E = C^{.09}$$

Where E = particulate matter emissions rate in pounds per push and C = actual charge of coal in tons per oven.

3.3.b.1. The smoke and/or particulate matter emissions discharged from this air pollution control equipment and noncaptured pushing emissions shall not exceed twenty percent (20%) opacity.

3.3.c. Transport emissions from an enclosed quench car shall not exceed twenty percent (20%) opacity. Transport emissions from an open quench car shall not exceed ten percent (10%) opacity except that batteries employing pushing emissions control systems that were constructed prior to July 1, 1982 and which do not involve enclosed quench cars during transport shall meet the provisions of subsections 3.1 and 3.2.

3.3.d. Coke side sheds and similar structures used to capture pushing emissions shall be designed and operated so as to prevent the

escape of smoke and/or particulate matter from points other than the stack of the air pollution control equipment.

3.3.e. Coke oven topside emissions shall not exceed the following:

3.3.e.1. No more than two percent (2%) of the charging ports or charging port lids shall have smoke and/or particulate matter emissions excluding the last oven charged.

3.3.e.2. No more than ten percent (10%) of the off-take piping shall have smoke and/or particulate matter emissions.

3.3.e.3. No smoke and/or particulate matter emissions are permitted from the coke oven gas collector main or any other topside point except as provided by 3.3.e.1 or 3.3.e.2.

3.3.f. No more than ten percent (10%) of the door areas of operating coke ovens shall have door area emissions, excluding the door areas representing the last oven charged.

3.3.g. Quench towers shall employ as a minimum good baffle design with make-up water from the receiving stream, except that the blowdown from scrubbers of a pushing emission control system, dedicated to a specific battery, may be used as make-up water for the quench tower of that battery so long as suspended solids do not exceed two hundred (200) milligrams per liter. For batteries which this section applies the receiving stream shall be the Ohio River.

3.3.h. Smoke and/or particulate matter emissions from combustion stacks shall meet the requirements of subsections 3.1 and 3.2 and shall not exceed a concentration of 0.040 grains per dry standard cubic foot.

3.3.i. Good operating practices must be maintained to prevent the atmospheric entrainment of particulate matter resulting from the spillage or other deposition of coal and/or coke.

3.4. New By-Product Coke Production Facility--No person shall cause, suffer, allow; or permit the emission of smoke and/or particulate matter into the open air in excess of the following

provisions from the operation of a new by-product coke production facility, other than a replacement by-product coke production facility that is constructed as per the provisions of subsection 3.3, that begins production after ~~the effective date of this rule~~ July 1, 1970:

3.4.a. Charging emissions from the charging of any four (4) consecutive ovens shall not exceed an aggregate time of more than sixty (60) seconds.

3.4.b. Pushing emissions from pushing shall be vented into air pollution control equipment. The particulate matter emissions discharged from this air pollution control equipment shall not exceed a mass emission rate of 0.04 lb/ton of coal charged. The smoke and/or particulate matter emissions discharged from this air pollution control equipment and non-captured pushing emissions shall not exceed twenty percent (20%) opacity.

3.4.c. Transport emissions from an enclosed quench car shall not exceed twenty percent (20%) opacity. Transport emissions from an open quench car shall not exceed ten percent (10%) opacity.

3.4.d. Coke side sheds and similar structures used to capture pushing and/or quenching emissions shall be designed and operated so as to prevent the escape of smoke and/or particulate matter emissions from points other than the stack of the air pollution control equipment.

3.4.e. Coke oven topside emissions shall not exceed the following:

3.4.e.1. No more than two percent (2%) of the charging ports or charging port lids shall have smoke and/or particulate matter emissions excluding the last oven charged.

3.4.e.2. No more than five percent (5%) of the offtake piping shall have smoke and/or particulate matter emissions.

3.4.e.3. No smoke and/or particulate matter emissions are permitted from the coke oven gas collector main or any other topside point,

except as provided by 3.4.e.1. and 3.4.e.2.

3.4.f. No more than eight percent (8%) of the door areas of operating coke ovens shall have door area emissions, excluding the door areas representing the last oven charged. Any battery affected by subsection 3.4 shall be constructed in a manner that will allow for the retrofitting of the battery with hooding to capture door emissions and air pollution control equipment designed to at least a ninety percent (90%) particulate control efficiency.

3.4.g. Quench towers shall employ, as a minimum, multiple row baffles and use make-up water not to exceed eight hundred (800) milligrams per liter of total dissolved solids and one hundred (100) milligrams per liter of total suspended solids.

3.4.h. Smoke and/or particulate matter emissions from combustion stacks shall meet the requirements of subsections 3.1 and 3.2 and shall not exceed a grain loading of 0.025 grains per dry standard cubic foot.

3.4.i. Good operating practices must be maintained to prevent the atmospheric entrainment of particulate matter resulting from the spillage or other deposition of coal/coke.

3.5. Non-Recovery Coke Production Facility--
No person shall cause, suffer, allow; or permit the emission of smoke and/or particulate matter into the open air in excess of the following provisions from the operation of a non-recovery coke production facility:

3.5.a. Charging emissions from charging of any five (5) consecutive ovens shall not exceed an aggregate time of more than fifty (50) seconds.

3.5.b. No more than two percent (2%) of the coal charging ports shall have smoke and/or particulate matter emissions.

3.5.c. No more than two percent (2%) of the coke oven doors shall have smoke and/or particulate matter emissions excluding the ovens being charged and/or pushed.

3.5.d. Pushing emissions shall be vented to air pollution control equipment. The particulate

matter emissions from this air pollution control equipment shall not exceed a mass emission rate as determined by the following formula:

$$E = C^{.09}$$

Where E = particulate emission rate in pounds per push and C = actual charge of coal in tons per oven.

3.5.d.1. The smoke and/or particulate matter emissions discharged from the air pollution control equipment and non-captured pushing emissions shall not exceed twenty percent (20%) opacity.

3.5.e. Transport emissions from an enclosed quench car shall not exceed twenty percent (20%) opacity. Transport emissions from an open quench car shall not exceed ten percent (10%) opacity.

3.5.f. Coke side sheds and similar structures used to capture pushing and/or quenching emissions, shall be designed and operated so as to prevent the escape of smoke and/or particulate matter emissions from points other than the stack of the air pollution control equipment.

3.5.g. Quench towers shall employ as a minimum, multiple row baffles and use make-up water not to exceed eight hundred (800) milligrams per liter of total dissolved solids and one hundred (100) milligrams per liter of total suspended solids.

3.5.h. Smoke and/or particulate matter from the combustion stack shall meet the requirements of subsections 3.1 and 3.2. The particulate matter emissions rate from combustion stacks shall not be greater than 0.060 grains per dry standard cubic foot or 1.0 lb/ton of coal charged, whichever is most restrictive.

3.5.i. Good operating practices must be maintained to prevent the atmospheric entrainment of particulate matter resulting from the spillage or other deposition of coal and/or coke.

3.6. Basic Oxygen Roof and Blast Furnace Cast House Roof Monitors--The provisions of subsections 3.1 or 3.2 shall not apply to smoke

and/or particulate matter emitted from the roof monitor(s) of a basic oxygen process or from a blast furnace cast house. The following provisions will apply:

3.6.a. Visible emissions from a basic oxygen process roof monitor shall not exceed twenty percent (20%) opacity except for a period or periods aggregating no more than three (3) minutes in any sixty (60) minute period where the average opacity for the aggregated period shall not exceed forty percent (40%) opacity.

3.6.b. Visible emissions from a blast furnace cast house shall not exceed twenty percent (20%) opacity except for a period or periods aggregating no more than five (5) minutes in any sixty (60) minute period where the average opacity for the aggregated period shall not exceed forty percent (40%) opacity.

~~3.7. No person shall cause, suffer, allow, or permit emissions of smoke and/or particulate matter into the open air from any storage structure associated with any manufacturing process.~~

3.7. No person shall cause, suffer, allow or permit visible emissions from any storage structure(s) associated with any manufacturing process(es) that pursuant to subsection 5.1 is required to have a full enclosure and be equipped with a particulate matter control device.

§45-7-4. Control and Prohibition of Particulate Emissions by Weight from Manufacturing Process Source Operations.

4.1. No person shall cause, suffer, allow; or permit particulate matter to be vented into the open air from any type source operation or duplicate source operation, or from all air pollution control equipment installed on any type source operation or duplicate source operation in excess of the quantity specified under the appropriate source operation type in Table 45-7A found at the end of this rule.

4.2. Mineral acids shall not be released from any type source operation or duplicate source operation or from all air pollution control equipment installed on any type source operation or duplicate source operation in excess of the

quantity given in Table 45-7B found at the end of this rule.

4.3. No person shall circumvent the provisions of this rule by adding additional gas to any exhaust or group of exhausts for the purpose of reducing the stack gas concentration.

4.4. If a duplicate source operation that meets the requirements of this rule is expanded or if a source operation that meets the requirements of this rule is expanded to form a duplicate source operation, the total allowable emission rate for the expanded portion shall be determined by the following formula:

$$R_e = \left(\frac{W_e}{W_{et}} \right) R_{et}$$

Where,

R_e is the total allowable emission rate in pounds per hour for the new expanded portion of the duplicate source operation;

W_{et} is the total operating process weight rate in pounds per hour of the source operation or duplicate source operation prior to expansion plus the operating process weight rate of the new expanded portion;

R_{et} is allowable emission rate in pounds per hour found in subsection 4.1 opposite the process weight rate, W_{et} ; and

W_e is the operating process weight rate in pounds per hour for the new expanded portion.

4.5. Separate stack emission rates for the new expanded portions of concern in subsection 4.4 shall be calculated as per subsection 4.9. The applicable stack emission rate(s) so calculated shall be additive with the existing emission rate for any stack used to vent both an existing source operation or duplicate source operation(s) and addition(s) or portion(s) thereof.

4.6. The operating process weight for new plants which will contain duplicate source operations shall include the total process weight of those duplicate units to be installed during the

initial five (5) year operating period.

4.7. Except as noted in ~~subsection~~ divisions 4.87.a through 4.7.c, the increase of the operating process weight rate of any manufacturing process source operation or duplicate source operation by the operation of new, replacement, reactivated; and/or altered source operation(s) shall be considered as an expansion and the allowable emission rates from the source operation(s) which resulted in the increase shall be determined as per subsection 4.4.

~~4.8:~~

4.87.a. Type 'b' duplicate source operations whose air pollution control equipment efficiency is a minimum of ninety-nine percent (99%) by weight and whose total process weight rate is less than two hundred fifty thousand (250,000) pounds per hour shall be exempted from the requirements of subsection 4.1 provided that smoke emitted into the open air from any such duplicate source operation is ~~not as dark or darker in shade or appearance than that designated as No. 1 Ringelmann~~ or less than twenty percent (20%) opacity. If a duplicate source operation is expanded by the addition of a new source operation(s) and the total operating process weight rate is then greater than two hundred fifty thousand (250,000) pounds per hour, the allowable emission rates from the source operation which resulted in the increase above two hundred fifty thousand (250,000) pounds per hour shall be determined as per subsection 4.4.

4.87.b. Primary aluminum reduction potlines which are equipped with a fluidized bed reactor or other similar gas cleaning device which utilizes particulate matter as a media or as a component of a media for collecting or reducing the emissions of gaseous fluorides, shall be exempted from the requirements of subsections 4.1 and 4.4 provided that:

4.87.b.1. At least ninety-nine percent (99%) of the gaseous fluoride is removed from the exit gas stream by such device prior to discharging the cleaned gas stream to the open air; ~~and~~

4.87.b.2. The particulate matter loading in the exit gas stream is not greater than

0.01 grains per standard cubic foot of dry stack gas; and

4.87.b.3. The smoke emitted into the open air from any such duplicate source operation is ~~not as dark or darker in shade or appearance than that designated as No. 1 Ringelmann or less than~~ twenty percent (20%) opacity. If a duplicate source operation is expanded by the addition of new source operation(s) and the total operating process weight rate is then greater than two hundred fifty thousand (250,000) pounds per hour, the allowable emission rates from the source operation which resulted in the increase above two hundred fifty thousand (250,000) pounds per hour shall be determined as per subsection 4.4.

~~4.8.c.~~

4.87.c.1. The emissions of gaseous fluorides and particulate fluorides from prebake cells within an existing primary aluminum plant in operation on or before January 26, 1976, shall be controlled by a system for continuous emission reduction which system shall achieve at least ninety percent (90%) fluoride emissions capture efficiency through its primary collection system and at least ninety-nine percent (99%) fluoride emissions removal efficiency through its primary removal system; and

4.87.c.d.2. Anode butts from such a plant which are recycled in an on-site anode bake plant shall be cleaned as necessary to minimize adherent fluoride bearing bath material.

4.98. Where more than one source operation or combinations thereof, which are part of a duplicate source operation, are vented through separate stacks, the allowable stack emission rates for the separate stacks shall be determined by the following formula:

$$R_s = R_t \left(\frac{W_s}{W_t} \right)$$

Where,

R_s is the allowable stack emission rate for the separate stack venting the source operation(s) in question;

R_t is the total allowable emission rate for the duplicate source operation;

W_s is the operating process weight rate for the source operation(s) vented through the separate stack; and

W_t is the total operating process weight rate for the duplicate source operation.

4.102. The provisions of subsections 4.1, 4.4 and 4.98 shall not apply to the coking of coal.

4.110. The provisions of subsection 4.1 shall not apply to sinter processes, basic oxygen processes, blast furnace cast house operations, machine scarfing operations and hot metal transfer operations employed in the manufacturing of steel. The following provisions shall apply:

~~4.11.a.~~

4.110.a.1. Particulate matter emissions shall not exceed a concentration of 0.030 grains per dry standard cubic foot from a sinter strand windbox.

4.110.a.2b. Particulate matter emissions shall not exceed a concentration of 0.020 grains per dry standard cubic foot from a sinter strand discharge.

4.110.a.3c. Particulate matter emissions shall not exceed a concentration of 0.020 grains per dry standard cubic foot from the entry and exit ends of a sinter cooler.

~~4.11.b.~~

4.110.b.1d. Particulate matter emissions from the stack of the main (primary) air pollution control equipment of a basic oxygen process, including emissions from fuel firing in an integral waste heat boiler, shall not exceed 0.11 lbs/ton of steel produced.

4.110.b.2e. Particulate matter emissions from basic oxygen process secondary air pollution control equipment shall not exceed a concentration of 0.020 grains per dry standard cubic foot. The air pollution control device shall capture and control emissions from hot metal and

scrap charging, tapping, turndown, slagging; and as required to control slopping emissions.

4.1+0.ef. Particulate matter emissions from any blast furnace cast house air pollution control equipment shall not exceed a concentration of 0.020 grains per dry standard cubic foot.

4.1+0.dg. Particulate matter emissions shall not exceed a concentration of 0.040 grains per dry standard cubic foot from hot metal transfer from torpedo car to BOF charging ladle during periods when hot metal transfer is actually performed.

4.1+0.eh. Particulate matter emissions shall not exceed a concentration of 0.030 grains per dry standard cubic foot from a machine scarfing operation during periods in which scarfing is actually being performed.

4.121. The provisions of subsections 4.1, 4.4 and 4.98 shall not apply to petroleum coke calcining kilns in existence on April 1, 1982, provided that particulate matter vented into the open air from each kiln, measured in pounds per hour, shall not exceed the amounts as determined by the following formulas:

4.121.a. When manufacturing regular (amorphous) coke:

$$E = 3.64P^{0.67}$$

Where E = allowable emission rate and P = the process weight rate in tons per hour, provided, however, that no kiln manufacturing regular (amorphous) coke shall exceed a maximum emission rate of fifty (50) pounds per hour.

4.121.b. When manufacturing graphite (crystalline) coke:

$$E = 16.89P^{0.67}$$

Where E = allowable emission rate in pounds per hour, and P = process weight rate in tons per hour, provided, however, that no kiln manufacturing graphite (crystalline) coke shall exceed a maximum emissions rate of two hundred (200) pounds per hour.

4.11.c. Provided further that each such kiln is equipped with an incinerator that will be operated at a temperature of not less than 1600 degrees F and have a residence time of twelve (12) seconds or longer when calcining regular coke and twenty-four (24) seconds or longer when calcining graphite coke, and provided further that, in the event a plant has more than one kiln, such plant shall be operated so that only one (1) of such kilns shall calcine graphite coke at any one time.

4.132. Any stack serving any process source operation or air pollution control equipment on any process source operation shall contain flow straightening devices or a vertical run of sufficient length to establish flow patterns consistent with acceptable stack sampling procedures.

4.143. Potential Hazardous Material Emissions--Persons responsible for manufacturing process source operations from which hazardous particulate matter material may be emitted such as, but not limited to, lead, arsenic, beryllium; and other such materials shall give the utmost care and consideration to the potential harmful effects of the emissions resulting from such activities. Evaluations of these facilities as to adequacy, efficiency and emission potential will be made on an individual basis by the Director working in conjunction with other appropriate governmental agencies.

4.154. Flame Attenuation Fiberglass Process

4.14.a. No person shall cause, suffer, allow or permit the discharge of particulate matter in excess of 48.63 actual pounds per hour from all collection stacks in existence at any plant on June 1, 1993 which produces fiberglass insulation or other fiberglass products using the flame attenuation method.

4.14.b. The owner or operator of any facility subject to this subsection shall meet the following specific allowable emission rates for the designated collection stacks through which particulate matter is discharged; provided, however, the stacks may not exceed the total allowable emission rate set forth in paragraph subsection 4.154.a above. The particulate matter concentration discharged from any collection stack may not exceed .018 gr/dscf;

the source may, however, vary the emission rates among the stacks by filing written notice thereof with the ~~Chief of the Office of Air Quality~~ Director at least seven (7) business days in advance of any such alteration. The written notice shall contain the following: 1) the altered emission rates for each affected stack; 2) the rationale and supporting data, information or calculations used to derive the altered emissions rates; 3) an indication of whether any new product not previously produced by the plant will be made on the affected lines; 4) whether any new binder or resins not previously used by the plant will be used in the altered operating scenario subject to the notice; and 5) whether any other parameters and/or related recordkeeping forms are impacted by the alteration. Such changes must comply with the total allowable emission rate from all such stacks and may not exceed the per stack concentration limit set forth herein.

Stack ID	Proposed Emission Rate (lbs/hr-)
41N	3.25 (total)
41S	
42N	4.64 (total)
42S	
43N	4.88 (total)
43S	
44N	2.68 (total)
44S	
45N	9.25 (total)
45S	
46N	10.00 (total)
46S	
47	6.49
48	4.38
49	3.06

4.14.c. Source operations subject to this subsection shall not be subject to the other provisions of ~~S~~section 4 except for subsections 4.2,

4.3, and 4.14~~3~~.

§45-7-5. Control of Fugitive Particulate Matter.

5.1. No person shall cause, suffer, allow; or permit any manufacturing process or storage structure generating fugitive particulate matter to operate that is not equipped with a system, which may include, but not be limited to, process equipment design, control equipment design or operation and maintenance procedures, to minimize the emissions of fugitive particulate matter. To minimize means ~~that a particulate capture or suppression~~ such system shall be installed, maintained and operated to ensure the lowest fugitive particulate matter emissions reasonably achievable.

5.2. The owner or operator of a plant shall maintain ~~dust~~ particulate matter control of the plant premises, and plant owned, leased or controlled access roads, by paving, application of asphalt, chemical dust suppressants or other suitable dust control measures. Good operating practices shall be implemented and when necessary ~~dust~~ particulate matter suppressants shall be applied in relation to stockpiling and general material handling to ~~prevent~~ minimize ~~dust~~ particulate matter generation and atmospheric entrainment.

5.3. The provisions of subsections 3.1, 3.2, and 5.1 shall not apply to particulate matter emitted from the operation of a ferroalloy electric submerged arc furnace in existence prior to June 1, 1993 during blowing taphole events, poling; and oxygen lancing operations. Poling emissions shall not exceed five (5) minutes in duration during any poling operation.

§45-7-6. Registration.

After ~~the effective date of this rule~~ July 1, 1970 all persons owning and/or operating an existing manufacturing process source operation not previously registered shall register such source operation with the Director. The information required for registration shall be determined by the Director, and shall be provided in the manner specified by the Director.

§45-7-7. Permits.

7.1. No person shall construct, modify, or relocate any manufacturing process source operation without first obtaining a permit in accordance with the provisions of W. Va. Code §22-5-1; et seq., and ~~Series 13, 14, and 19 and 30~~ of Title 45.

§45-7-8. Reporting and Testing.

8.1. At such reasonable times as the Director may designate, the operator of any manufacturing process source operation may be required to conduct or have conducted stack tests to determine the particulate matter loading in exhaust gases ~~when the Director has reason to believe that the stack emission limitations(s) is/are being violated.~~ Such tests shall be conducted in such manner as the Director may specify and be filed on forms and in a manner acceptable to the Director. The Director, or his duly authorized representative, may at his option witness or conduct such stack tests. Should the Director exercise his option to conduct such tests, the operator will provide all the necessary sampling connections and sampling ports to be located in such manner as the Director may require, power for test equipment; and the required safety equipment such as scaffolding, railings; and ladders to comply with generally accepted good safety practices.

8.2. The Director, or his duly authorized representative, may conduct such other tests as he or she may deem necessary to evaluate air pollution emissions.

~~§45-7-9. Compliance Programs and Schedules.~~

~~9.1. In the event that process equipment or operations in existence prior to the adoption of this rule do not meet the emission limitations, an acceptable program to fully comply with the rule shall be developed and offered to the Director by the person responsible for the installation. This program shall be submitted upon the request of and within such time as shall be fixed by the Director. Once this program has been approved by the Director, the owner and/or operator of such installation shall not be in violation of this rule so long as the approved or amended program is observed. Compliance programs, schedules, and variances that have previously been issued by the Director under Series 7 (1974) shall remain in~~

~~effect until the expiration date of that compliance program, schedule, or variance.~~

~~9.2. In the event that an owner or operator of such process equipment fails to submit a program or an acceptable program and schedule, the Director shall, by order, determine the compliance program and schedule.~~

~~§45-7-10. Variance.~~

9.1. Due to unavoidable malfunction of equipment, emissions exceeding those provided for set forth in this rule may be permitted by the Director for periods not to exceed ten (10) days upon specific application to the Director. Such application shall be made within twenty-four (24) hours of the malfunction. In cases of major equipment failure, additional time periods may be granted by the Director provided a corrective program has been submitted by the owner or operator and approved by the Director.

~~§45-7-11. Exemptions.~~

10.1. Provisions of this rule shall not apply to particulate matter emissions regulated by Title 45, Series 2, 3, and 5 and 6 or to mobile internal combustion engines; and aircraft, ~~and air~~ entrained particulate matter from public or private carriers.

10.2. Fugitive particulate matter emissions from any manufacturing processes and associated operations which are subject to this rule shall be exempt from the provisions of 45CSR17, provided that such sources shall not be exempt from the provisions of W.Va. Code §§22-5-1 et seq., including the provisions of §22-5-3 relating to statutory air pollution.

10.3. Maintenance operations shall be exempt from the provisions of section 4 provided that at all times the owner or operator shall conduct maintenance operations in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Director which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance

procedures and inspection of the source.

10.4. An owner or operator may apply for an alternative visible emission standard for start-up and shutdown periods, on a case-by-case basis, by filing a written petition with the Director. The Director may approve an alternative visible emission standard for start-ups and shutdowns to the visible emission standard required under section 3. The petition shall include a demonstration satisfactory to the Director:

10.4.a. That it is technologically or economically infeasible to comply with section 3:

10.4.b. The owner or operator shall provide information to the Director including, but not limited to, monitoring results, opacity observations, operating procedures and source inspections to demonstrate the need for approval of a start-up or shutdown plan;

10.4.c. That the particulate matter weight emission standards under section 4 are being met, as determined in accordance with 45CSR7A - "Compliance Test Procedures For 45CSR7 - 'To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations'"; and

10.4.d. During periods of start-ups and shutdowns owners or operators shall, to the extent practicable, maintain and operate any manufacturing process including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Director which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures and inspection of the source.

10.5. The owner or operator of a manufacturing process shall be exempt from subsection 4.1 for source(s) of emissions that have a potential to emit less than one (1) pound per hour of particulate matter and an aggregate of less than one thousand (1000) pounds per year for all such sources of particulate matter located at the stationary source. Particulate matter, for the purposes of this subsection, will not include

particulate matter classified as hazardous air pollutants pursuant to 42 U.S.C. §7412(b).

10.6. The owner or operator of a manufacturing process shall be exempt from subsection 4.2 for source(s) of emissions that have a potential to emit less than one tenth of a pound (0.1) per hour of mineral acids and an aggregate of less than one hundred (100) pounds per year for all sources of mineral acids located at the stationary source. The Director may approve in a permit or consent order an alternative exemption from subsection 4.2 for source(s) of emissions that can demonstrate on a case-by-case basis that their emissions are insignificant.

10.7. Notwithstanding any other provisions in this rule, the Director may revoke any and all exemptions, except for subsections 10.1 and 10.2. The Director shall notify the affected source(s) in writing that an exemption will be revoked, effective date thereof, and the reasons therefore.

§45-4-11. Alternative Emission Limits for Duplicate Source Operations.

11.1. The owner or operator of a duplicate source operation subject to section 4 which has individual source operations discharging through separate stacks, may petition the Director to approve individual stack allowable emission rates differing from the proration calculated under subsection 4.8. The Director may approve such request in accordance with subsections 11.2 and 11.3 provided that there shall be no increase in the total allowable emissions from the duplicate source operation as previously provided under section 4. The Director shall not approve a relaxation of a technology-based emission limitation for a specific unit or stack within a duplicate source operation that has been established pursuant to any other rule nor shall the Director approve a relaxation in emission limits previously established for the purpose of avoiding the permitting requirements of 45CSR14 or 45CSR19.

11.2. A request for approval of alternative individual stack allowable emission rates made to the Director pursuant to subsection 11.1 shall be filed as an application for an existing stationary source operating permit as provided under 45CSR13 and shall contain such information as the

Director deems necessary for acting upon the request. Such information shall include, but not be limited to, an air quality impact analysis demonstrating that the alternative emission rates would not cause or contribute to a violation of any federal or state ambient air quality standard or any applicable maximum allowable increase over the baseline concentration of particulate matter in the area affected by the duplicate source operation.

11.3. Any approval of alternative allowable emission rates by the Director pursuant to subsections 11.1 and 11.2 shall be embodied in a permit issued as an existing stationary source operating permit in accordance with 45CSR13.

§45-4-12. Inconsistency Between Rules.

12.1. In the event of any inconsistency between this rule and any other existing rule of the West Virginia Division of Environmental Protection, such inconsistency shall be resolved by the determination of the Director and such determination shall be based upon the application of the more stringent provision, term, condition, method or rule.

TABLE 45-7A

Operating Source Operation or Total Duplicate
Source Operation Process Weight Rate in
Pounds Per Hour¹

Maximum Allowable Total Stack Emission Rate
in Pounds Per Hour For the Appropriate Process
Weight and Source Operation Type¹

	Type 'a'	Type 'b'	Type 'c'	Type 'd' ²
0	0	0	0	0
2,500	3	3	9	0.2
5,000	5	5	13	0.8
10,000	10	10	19	1.8
20,000	16	16	26	4.0
30,000	22	22	32	6.2
40,000	28	28	36	8.3
50,000	31	31	40	10.5
100,000	33	33	54	21.2
200,000	37	37	70	21.2
300,000	40	40	80	21.2
400,000	43	46	88	21.2
500,000	47	53	94	21.2
600,000	50	62	99	21.2
700,000	50	71	99	21.2
800,000	50	79	99	21.2
900,000	50	88	99	21.2
1,800,000 and above	50	176	99	21.2

1. For a process weight between any two consecutive process weights stated in this table, the emission limitation shall be determined by linear interpolation.

2. Type 'd' source operation stack emission rates do not apply to MINERAL ACIDS. See subsection 4.2.

TABLE 45-7B

Mineral Acid	Allowable Stack Gas Concentration in Milligrams Per Dry Cubic Meter at Standard Conditions from Source Operations or Duplicate source Operations in Existence on July 1, 1970	Allowable Stack Gas Concentration in Milligrams per Dry Cubic Meter at Standard Conditions from Source Operations or Duplicate Source Operations Installed After July 1, 1970
Sulfuric Acid Mist	70	35
Nitric Acid Mist and/or Vapor	140	70
Hydrochloric Acid Mist and/or Vapor	420	210
Phosphoric Acid Mist and/or Vapor	6	3