

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #6

Do Not Mark In this Box

FILED

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OFFICE OF THE SECRETARY OF STATE  
SECRETARY

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.**

Division of Environmental Protection  
Office of Air Quality  
AGENCY: \_\_\_\_\_ TITLE NUMBER: 45CSR15

AMENDMENT TO AN EXISTING RULE: YES , NO \_\_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR15

TITLE OF RULE BEING AMENDED: Emission Standards for Hazardous Air  
Pollutants Pursuant 40 CFR 61

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) House Bill 2134

SECTION 64-3-1(i), PASSED ON March 10, 1995

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: May 1, 1995

Roger Hall  
AUTHORIZED SIGNATURE  
Roger Hall

**LEGISLATIVE HISTORY ABSTRACT**  
**45CSR15**

**EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS**  
**PURSUANT TO 40 CFR PART 61**

Bureau of Environment  
Division of Environmental Protection  
Office of Air Quality  
House Bill 2134, Section 64-3-1(i)

- 06/21/94     Filed Notice of Public Hearing with Secretary of State.
- 06/21/94     Initial Filing with Legislative Rule-Making Review Committee.
- 07/29/94     Held Public Hearing.
- 07/29/94     End of Public Comment Period.
- 08/15/94     Agency Approved Rule Filed with Secretary of State and Legislative Rule-Making Review Committee.
- 11/13/94     Hearing Before the Legislative Rule-Making Review Committee.
- 11/13/94     Rule Approved by Legislative Rule-Making Review Committee with Modifications.
- 11/23/94     Modified Rule Filed with Secretary of State and Legislative Rule-Making Review Committee.
- 12/21/94     Legislative Rule-Making Review Committee Recommends that the Legislature Authorize the Agency to Promulgate 45CSR15 as Modified.
- 03/10/95     Passed the West Virginia Legislature.
- 03/24/95     Approved by the Governor.
- 04/30/95     Rule Final Filed with Secretary of State.
- 05/01/95     Effective Date of Rule.

45CSR15

FILED

TITLE 45  
LEGISLATIVE RULES  
WEST-VIRGINIA-AIR POLLUTION CONTROL COMMISSION  
BUREAU OF ENVIRONMENT  
DIVISION OF ENVIRONMENTAL PROTECTION  
OFFICE OF AIR QUALITY

Nov 23 9 15 AM '94

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 15  
EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS  
PURSUANT TO 40 CFR PART 61

**§45-15-1. General.**

1.1. Scope. -- This rule adopts emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency under the federal Clean Air Act, as amended. It is the intent of the Commission Director to adopt these standards by reference. It is also the intent of the Commission Director to adopt associated reference methods, performance specifications and other test methods which are appended to such standards.

1.2. Authority -- W. Va. Code ~~§16-20-5~~ §22-5-1 et seq.

1.3. Filing Date -- ~~August 13, 1993~~

1.4. Effective Date -- ~~April 27, 1994~~

1.5. Incorporation by Reference -- Federal Counterpart Regulation. The Director has determined that a federal counterpart regulation exists and in accordance with the Director's recommendation, with limited exception, this rule incorporates by reference, 40 CFR Part 61.

**§45-15-2. Requirements.**

2.1. No person may construct, reconstruct, modify, or operate, or cause to be constructed, modified, or operated any National Emission Standards for Hazardous Air Pollutants (NESHAP) source which results, or will result, in a violation of this ~~regulation~~ rule.

**§45-15-3. Adoption of Standards.**

3.1. Standards. -- Emission standards for hazardous air pollutants including associated reference methods, performance specifications and other test methods which are appended to such standards promulgated by the United States Environmental Protection Agency pursuant to 42 U.S.C. 7412 (C.A.A. §112) of the Federal Clean Air Act, as amended, as of ~~May 1, 1993~~ July 1, 1994, and contained in 40 CFR Part 61 are hereby adopted in their entirety and incorporated herein by reference, except as follows:

a. 40 CFR Part 61.16 is amended to provide that information shall be available to the public in accordance with W. Va. Code ~~§16-20-5~~ §22-205-1 et seq., W. Va. Code §29B-1-1 et seq., and 45CSR31.

b. Sub-parts B, H, I, K, Q, R, T, and W; Methods 111, 114, 115 and Appendix D and E of 40 CFR Part 61 shall be excluded.

**§45-15-4. Chief Director.**

4.1. Any and all references in said 40 CFR Part 61 to the "Administrator" is amended to be the "Chief Director" ~~of the Office of Air Quality of the West Virginia Division of Environmental Protection~~ "except in the following references which such references shall remain "Administrator of the United States Environmental Protection Agency":

- a. Part 61.02.
- b. Part 61.04.
- c. Part 61.11.
- d. Part 61.14.

**§45-15-5. Permits.**

5.1. Nothing contained in this adoption by reference shall be construed or inferred to mean that permit requirements in accordance with applicable rules shall in any way be limited or inapplicable.

**§45-15-6. Inconsistency Between Regulations Rules.**

6.1. In the event of any inconsistency between this rule and any other existing rule of the ~~Commission Director~~, such inconsistency shall be resolved by the determination of the Chief Director and such determination shall be based upon the application of the more stringent provision, term, condition, method, or rule.

Bill-DEP, Emission Part 61

ESIT

H. B. 2153

(By Delegates Gallagher, Douglas, Compton,  
Linch, Faircloth and Riggs )  
(Introduced January 23, 1995 ; referred to the  
Committee on the Judiciary .)

45-15

A BILL to amend chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three-b, relating to authorizing the division of environmental protection to promulgate legislative rules relating to emission standards for hazardous air pollutants pursuant to 40 CFR Part 61.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three-b, to read as follows:

**ARTICLE 3B. AUTHORIZATION FOR BUREAU OF ENVIRONMENT TO PROMULGATE LEGISLATIVE RULES.**

**§64-3B-1. Division of environmental protection.**

1       The legislative rules filed in the state register on the  
2 twelfth day of August, one thousand nine hundred ninety-four,  
3 modified by the division of environmental protection to meet the  
4 objections of the legislative rule-making review committee and  
5 refiled in the state register on the twenty-third day of  
6 November, one thousand nine hundred ninety-four, relating to the  
7 division of environmental protection (emission standards for  
8 hazardous air pollutants pursuant to 40 CFR Part 61), are  
9 authorized.

10

11       NOTE: The purpose of this bill is to authorize the Division  
12 of Environmental Protection to promulgate legislative rules  
13 relating to emission standards for hazardous air pollutants  
14 pursuant to 40 CFR Part 61.

15

16       This section is new; therefore, strike-throughs and  
17 underscoring have been omitted.

SENATE BILL NO. 94

(By Senators Manchin, Anderson, Boley, Grubb and  
Macnaughtan)

[Introduced January 20, 1995; referred to the  
Committee on Natural Resources; and then to  
the Committee on the Judiciary]

1  
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9

45-15

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22 **PROMULGATE LEGISLATIVE RULES.**

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KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000



## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

FAX: (304) 558-0900

March 29, 1995

Tammy Mowrer  
DEP-Air Quality  
1558 Washington St. E.  
Charleston, WV 25311

**HB 2134** authorizing, **Title 45, Series 15, Emission standards for hazardous air pollutants pursuant 40 CFR 61**, passed the Legislature on **March 10, 1995**. It is was signed by the Governor on March 24, 1995.

You have sixty (60) days after the Governor signs HB 2134, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **HB 2134** section **64-3-1(i)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

**\*\*\*IMPORTANT: YOUR AGENCY MUST SUBMIT A CLEAN COPY OF THE LEGISLATIVE RULE ON DISK, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. THE DISK MUST BE ON A WORD PERFECT (5.1 OR 5.2 VERSION) OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM 3 1/2" DOUBLE DENSITY DISK. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL ENABLE US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You  
Administrative Law Division



**BUREAU OF ENVIRONMENT**  
10 McJUNKIN ROAD  
NITRO, WV 25143-2506

GASTON CAPERTON  
GOVERNOR

DAVID C. CALLAGHAN  
COMMISSIONER

April 26, 1995

Ms. Judy Cooper  
Director, Administrative Law Division  
Secretary of State's Office  
Building 1, Suite 157K  
Charleston, West Virginia 25305

RE: 45 CSR 15 - Emission Standards for Hazardous  
Air Pollution - Part 61

Dear Ms. Cooper:

This is to advise you that I am giving approval for the filing of the above-captioned rule as a final filing and adoption of a legislative rule authorized by the West Virginia Legislature.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please feel free to contact Roger T. Hall at 759-0515.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Callaghan", written over the typed name.

David C. Callaghan  
Commissioner  
Bureau of Environment

DCC;RTH:cc

Attachment

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

STEPHEN N. REED  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

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WILLIAM H. HARRINGTON  
Chief of Staff

WV DIV. OF ENVIR. PROTECT.  
OFFICE OF AIR QUALITY  
JUDY COOPER  
Director, Administrative Law

1995 SEP 25 A 11:46  
PENNEY BARKER  
Supervisor, Corporations

STATE OF WEST VIRGINIA RECEIVED

SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

(Plus all the volunteer  
help we can get)

TO: Tammy Mowrer

AGENCY: DEP-Air Quality

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: September 20, 1995

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 15 TITLE: 45 DEP-Air Quality

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Tammy S. Mowrer

TITLE OF PERSON SIGNING: Administrative Secretary

DATE: November 9, 1995

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE  
NOV 14 1 40 PM '95  
FILED