

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

Form #1

**FILED**

JUN 21 4 14 PM '94

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF PUBLIC HEARING ON A PROPOSED RULE**

AGENCY: Division of Environmental Protection TITLE NUMBER: 45

RULE TYPE: Legislative; CITE AUTHORITY W.Va. Code §§22-5-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES x NO     

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 16

TITLE OF RULE BEING AMENDED: Standards of Performance for New  
Stationary Sources

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:                     

TITLE OF RULE BEING PROPOSED:   

DATE OF PUBLIC HEARING: July 29, 1994 TIME: 9:00 am

LOCATION OF PUBLIC HEARING: WVDEP - Office of Air Quality

1558 Washington Street East

Charleston WV 25311

COMMENTS LIMITED TO: ORAL     , WRITTEN     , BOTH x

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Office of Air Quality

1558 Washington Street E

Charleston WV 25311

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.

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

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

  
Authorized Signature

3.60

45CSR16

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

STATEMENT OF CIRCUMSTANCE

This rule adopts standards of performance for new stationary sources promulgated by the United States Environmental Protection Agency under the federal Clean Air Act, as amended, regulating the construction or modification of new stationary sources. It is the intent of the Director to adopt these standards by reference. It is also the intent of the Director to adopt associated reference methods, performance specifications and other test methods which are appended to such standards.

Any person who constructs, modifies, or reconstructs an affected facility after the effective date of any New Source Performance Standard (NSPS) under 40 CFR Part 60 must comply with the NSPS. The final adoption of the proposed rule amendment will enable the WVDEP to become the primary enforcement authority for NSPS subparts promulgated by USEPA as of June 1, 1994.

Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the federal Clean Air Act, as amended.

## APPENDIX B

### FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR16 - Standards of Performance for New Stationary Sources

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		
	Increase	Decrease	Current	Next	There-after
Estimated Total Cost	\$ -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: Costs incurred are covered under the budget estimates for implementing the Clean Air Act, as amended, under 45CSR30, promulgated by the Legislature during the 1994 Session.
3. Objectives of these rules: This rule adopts standards of performance for new stationary sources promulgated by the USEPA under the federal Clean Air Act, as amended.

Appendix B  
Fiscal Note For Proposed Rules  
Page Two

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.

No impact above that resulting from the currently applicable federal emission standards.

C. Economic impact on citizens/public at large.

No impact above that resulting from the currently applicable federal emission standards.

Date: June 21, 1994

Signature of agency head or authorized representative:

  
G. Dale Farley  
Chief, Office of Air Quality

## 45CSR16

### STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

#### SUMMARY

45CSR16, "Standards of Performance for New Stationary Sources", adopted by reference New Source Performance Standards (NSPS) promulgated by USEPA through May 1, 1993. This revision to the rule updates NSPS requirements through June 1, 1994.

42 U.S.C. 7411 [C.A.A. §111] charges the Administrator of USEPA with developing standards for sources if the sources cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. These standards are enforceable by USEPA. In turn, the State may request delegation from USEPA to implement and enforce such standards. To that end, federal standards, as contained in the proposed rule, are adopted by reference.

The following subparts and test methods have been added or amended in 40 CFR Part 60 since the previous revision of this rule.

#### Subpart

- O - "Sewage Treatment Plants"
- RRR - "VOC Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes"
- UUU - "Calciners and Dryers in Mineral Industries"

#### Appendix A - Test Methods

- Method 18 - "Measurement of Gaseous Organic Compound Emission by Gas Chromatography"
- Method 26 - "Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources--Midget Impinger Method"
- Method 25D - "Determination of VOC Concentration of Waste Samples"
- Method 26A - "Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources--Isokinetic Method"

FILED

45CSR16

JUN 21 4 13 PM '94

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

SERIES 16  
STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

**§45-16-1. General.**

1.1. Scope. -- This rule adopts standards of performance for new stationary sources promulgated by the United States Environmental Protection Agency under the Federal Clean Air Act, as amended, regulating the construction or modification of new stationary sources. 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 recommends incorporating the federal counterpart regulation by reference.

1.6. Determination of Stringency -- Federal Counterpart Regulation. This rule incorporates, with limited exceptions, the federal counterpart rule and is no more or no less stringent than the federal counterpart.

1.7. Constitutional Takings Determination -- The Director has determined that this rule will not result in a taking of real property.

**§45-16-2. Requirements.**

2.1. No person may construct, reconstruct, modify, or operate or cause to be constructed, modified, or operated a New Source Performance Standard (NSPS) source which results or will result in violations of this regulation rule.

**§45-16-3. Adoption of Standards.**

3.1. Standards. -- Standards of performance for new stationary sources 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. 7411(b) [C.A.A. §111(b)] ~~as of May 1, 1993~~ June 1, 1994, and contained in 40CFR60 are hereby adopted in their entirety and incorporated herein by reference, except as follows:

45CSR16

a. Part 60.9 is amended to provide that information shall be available to the public in accordance with W. Va. Code ~~16-29-1~~, §§22-5-1 et seq., W. Va. Code 29B-1-1, et seq., and 45CSR31.

b. Sub-parts B, C, Ca, Cb and Ea of 40 CFR 60 shall be excluded.

**§45-16-4. Chief Director.**

4.1. Any and all references in said 40 CFR 60 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 60.2.

b. Part 60.4.

c. Part 60.8(b)(2).

d. Part 60.8(b)(3).

e. That sentence of part 60.8(b) which deals with the authority of the Administrator to require testing under Section 114 of the Clean Air Act, as amended.

f. Part 60.11(e).

g. Part 60.13(c).

h. part 60.45(a).

i. Part 60.195(b).

j. Part 60.332(a).

k. Part 60.335(a)(1)(i).

**§45-16-5. 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 be in any way be limited or inapplicable.

**§45-16-6. Inconsistency Between ~~Regulations~~ Rules.**

6.1. In the event of any inconsistency between this rule and any other existing rule of the ~~Commission~~ West Virginia Division of Environmental Protection, 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, rule or regulation.