

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

Form #1

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11 00 MAY 11 PH 4: 36

OFFICE OF THE SECRETARY OF STATE  
STATE OF WEST VIRGINIA

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

AGENCY: WV Air Pollution Control Commission TITLE NUMBER: 45 CSR 22  
RULE TYPE: Legislative; CITE AUTHORITY WV Code Chapter 16, Article 20  
AMENDMENT TO AN EXISTING RULE: YES NO X Section 5

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 22

TITLE OF RULE BEING PROPOSED: Air Quality Management Fee Program

DATE OF PUBLIC HEARING: July 10, 1990 TIME: 9:15 a.m.

LOCATION OF PUBLIC HEARING: WV Air Pollution Control Commission  
1558 Washington Street, East  
Charleston, West Virginia 25311

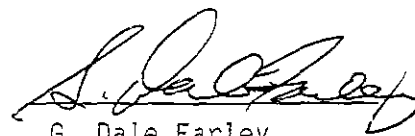
COMMENTS LIMITED TO: ORAL WRITTEN, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Same as above.

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

  
G. Dale Farley  
Secretary

[PROPOSED]

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45CSR22

1989 MAY 11 PM 4: 37

**SUMMARY**

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

This regulation establishes a program to collect fees for certificates to operate and for permits to construct, modify, or relocate sources of air pollution. Funds collected from these fees will be used to supplement the Air Pollution Control Commission's budget for the purpose of maintaining an effective air quality management program.

**45CSR22**  
**TITLE 45**  
**LEGISLATIVE RULES**  
**WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION**  
**SERIES 22**  
**AIR QUALITY MANAGEMENT FEE PROGRAM**

Index.

- §45-22-1. Intent and Purpose.
- §45-22-2. Definitions.
  - 2.1. "Air Pollution"
  - 2.2. "Chemical Processing Unit"
  - 2.3. "Commission"
  - 2.4. "Completed Application"
  - 2.5. "Director"
  - 2.6. "Emissions Unit"
  - 2.7. "Major Modification"; "Major Modification for Ozone"
  - 2.8. "Major Stationary Source"
  - 2.9. "Modification"
  - 2.10. "NESHAPs"
  - 2.11. "Nonattainment Review/Bubble Concept"
  - 2.12. "NSPS"
  - 2.13. "Person"
  - 2.14. "Process Unit"
  - 2.15. "PSD"
  - 2.16. "Source", "Stationary Source", and "Plant"
  - 2.17. "Toxic Air Pollutant"
- §45-22-3. Requirements for Permit to Construct, Modify or Relocate.
- §45-22-4. Certificate to Operate.
- §45-22-5. Collection.

[PROPOSED]

45CSR22

TITLE 45  
LEGISLATIVE RULES  
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 22  
AIR QUALITY MANAGEMENT FEE PROGRAM

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1990 MAY 11 PM 4:37

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§45-22-1. Intent and Purpose.**

1.1. This regulation establishes a program to collect fees for certificates to operate and for permits to construct, modify or relocate sources of air pollution. Funds collected from these fees will be used to supplement the Air Pollution Control Commission's budget for the purpose of maintaining an effective air quality management program.

1.2. Authority. — WV Code §16-20-5.

1.3. Filing Date. —

1.4. Effective Date. —

**§45-22-2. Definitions.**

2.1. "Air Pollution" has the meaning ascribed to it in Article Twenty, Chapter Sixteen of the WV Code, as amended.

2.2. "Commission" means the West Virginia Air Pollution Control Commission.

2.3. "Completed Application" means an application submitted with the appropriate fee paid to the commission and which contains all of the information required by the director to determine whether a permit or certificate should be issued or denied by the director.

2.4. "Director" means the Director of the West Virginia Air Pollution Control Commission.

2.5. "Facility" or "Plant" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent

## 45CSR22

properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended.

2.6. "NESHAPs" means National Emission Standards for Hazardous Air Pollutants as described in 45CSR15.

2.7. "Nonattainment Review/Bubble Concept" has the meaning as described in 45CSR19.

2.8. "NSPS" means New Source Performance Standards as described in 45CSR16.

2.9. "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, public, statutory, or private corporation or association organized or existing under the laws of this or any other state or country, and any firm, partnership, or association of whatever nature.

2.10. "PSD" means Prevention of Significant Deterioration, as described in 45CSR14.

2.11. "Stationary Source" means any building, structure, facility or installation which emits or may emit any air pollutant.

### **§45-22-3. Requirements for Permit to Construct, Modify or Relocate.**

3.1. For sources subject to 45CSR13 ("Permits for Construction, Modification or Relocation of Stationary Sources of Air Pollution and Procedures for Registration and Evaluation"), 45CSR14 ("Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration"), 45CSR19 ("Requirements for Pre-Construction Review, Determination of Emissions Offsets for Proposed, New or Modified Stationary Sources of Air Pollutants and Bubble Concept for Intrasource Pollutants"), and 45CSR15 ("Emission Standards for Hazardous

**45CSR22**

Air Pollutants"), no person may commence construction, modification or relocation without first filing a completed application and obtaining a permit.

3.2. Applications for permits for construction, modification or relocation shall be submitted in accordance with 45CSR13, 45CSR14, 45CSR19, and 45CSR15, whichever may be applicable.

3.3. Fee Payment.

a. A person applying for a permit to construct, modify or relocate shall pay a fee when submitting the application. The fee shall be paid by a negotiable instrument (check, draft, warrant, money order, etc.) made payable to the "West Virginia Air Pollution Control Commission Fund". Any application for a permit to construct, modify or relocate shall not be deemed to have been received nor complete unless payment of permit fee is included.

b. A permit fee paid hereunder is not refundable.

3.4. Fee Schedule.

a. All persons required to submit an application for a permit to construct, modify or relocate pursuant to 45CSR13 shall pay a fee of \$100.

b. In addition to the fee required in Section 3.4.a. of this regulation, all persons subject to PSD requirements (45CSR14), Nonattainment Review/Bubble Concept requirements (45CSR19), NSPS requirements (45CSR16), or NESHAPs requirements (45CSR15), shall pay additional fees as described below:

<u>Category</u>	<u>Fee</u>
NSPS or NESHAPs Source	\$ 500.00
PSD or Nonattainment Review/ Bubble Concept	\$ 5,000.00

c. Fees for each source category in Section 3.4.b. of this regulation are cumulative.

45CSR22

**§45-22-4. Certificate to Operate.**

4.1. Requirements.

a. No person may operate nor cause to operate a facility or stationary source of air pollution without first obtaining and having in current effect a certificate to operate.

b. Any person in possession of a certificate to operate shall maintain the certificate on the premises for which the certificate has been issued and shall make the certificate immediately available for inspection by the director or his duly authorized representative.

4.2. Nontransferability.

A certificate to operate is not transferable nor assignable.

4.3. Fee Payment.

A person applying for a certificate to operate shall pay a fee to the commission in accordance with the fee schedule of Sections 4.4. and 4.5. of this regulation. The fee shall be paid by negotiable instrument made payable to the "West Virginia Air Pollution Control Commission Fund".

4.4. Fee Schedule.

a.

	<u>Fee</u>
Group 1	
Integrated Steel Plant	\$10,000
Electric Utility Plan (rated 300 MW or greater)	
Group 2	
Primary Aluminum Plant	\$ 8,000
Furnace and Foundry Coke Production Plant	

45CSR22

Portland Cement Plant	
Kraft Paper Mill	
Group 3	\$ 5,000
Chemical Production Plant with Steam Plant (total design heat input greater than 350 mmBtu/hr)	
Hazardous Waste Incinerator	
Electric Utility Plant (rated less than 300 MW)	
Group 4	\$ 4,000
Petroleum Refinery	
Ferroalloy Production Plant	
Group 5	\$ 3,000
Chemical Production Plant (three units or greater)	
Primary Metals Plant (not otherwise listed)	
Group 6	\$ 2,000
Rocket Fuel Plant	
Chemical Production Plant (less than three units)	
Carbon Products Plant (not otherwise listed)	
Petroleum Storage and Distribution Facility (greater than 20 million gal/yr gasoline throughput)	
Glass Production Plant (total pull rate greater than 6,000 lb/hr)	
Commercial/Industrial or Commercial Infectious Waste Disposal Facility	



45CSR22

Group 7 \$ 1,000

Nonmetallic Mineral Products Processing Plant  
(500 tön/hr or greater primary crushing capacity)

Coil, Can or Sheet Coating Facility

Coal Preparation Plant with Thermal Dryer

Coal or other Solid Fuel-Fired Boilers or Process  
Equipment (total design heat input greater than  
100 mmBtu/hr, excluding all boilers less than  
10 mmBtu/hr design heat input)

Lead, Aluminum or Copper Recovery Plant

Asphalt Building Product Plant

Secondary Metals Plant  
(not otherwise listed)

Charcoal Plant

Lime Manufacturing Plant

Group 8 \$ 500

Hot Mix Asphalt Paving Plant

Wool Fiberglass Insulation Production Plant

Sewage Sludge Incinerator

Natural Gas Compressor Station  
(total reciprocating engine capacity  
greater than 1,000 h.p.)

Natural Gas Compressor Station  
(total turbine capacity greater than 8,000 h.p.)

Nonmetallic Minerals Processing Plant  
(primary crushing capacity greater than  
100 tons/hr but less than 500 tons/hr)

Sulfuric Acid Manufacturing Plant

Coal or other Solid Fuel-Fired Boilers or  
Process Equipment (with total design heat  
input greater than 50 mmBtu/hr but less than  
100 mmBtu/hr, excluding all boilers less than  
10 mmBtu/hr)

45CSR22

Refractory Manufacturing Plant

Metal Reclamation Furnace  
(wire, electrical equipment, batteries)

Miscellaneous Surface Coating (not otherwise  
listed and greater than 100 tons/yr maximum  
emissions of volatile organic compounds)

Coal Preparation Plant  
(wet washing or pneumatic cleaning not otherwise listed)

Clay Processing/Brick Manufacturing

Group 9 \$ 200

On-site Pathological/Infectious Waste Incinerator

Crematory Incinerator

Other Glass Including Specialty Manufacturing

Plastic Products Recovery Facility

Miscellaneous Surface Coating  
(not otherwise listed and greater than 25 tons/yr  
maximum emissions of volatile organic compounds)

Tank Truck and Railroad Tank Car  
Cleaning/Repair Facility

Metal or Ore Briquet Manufacturing/  
Recovery Facilities

Gray Iron Foundry

Coal Processing and Handling  
(not otherwise listed)

Nonmetallic Minerals Processing Plant  
(primary crusher capacity less than 100 tons/hr)

Natural Gas Sweetening Plant

Printing Facility  
(emitting greater than 150 lbs/day of volatile  
organic compounds)

45CSR22

b. If a plant is listed under more than one of the groups in Section 4.4.a., only the higher fee shall apply. No person shall be required to pay more than one fee for each plant or facility.

c. A fee paid hereunder is not refundable.

4.5. Operating Year.

a. A certificate to operate shall be issued for the period July 1 through June 30 of each year.

b. For those persons making application after July 1 of the current operating year for a certificate to operate in the current operating year, such person shall pay a fee or prorated fee in accordance with the following schedule:

<u>Month</u>	<u>% of Fee</u>	<u>Month</u>	<u>% of Fee</u>
July	100	January	90
August	100	February	80
September	100	March	70
October	100	April	60
November	100	May	50
December	100	June	50

4.6. Penalty.

Any person who operates a facility in violation of the requirements of Section 4 of this regulation shall be subject to a penalty equal to five percent (5%) of the permit to operate fee for each month of violation.

**§45-22-5. Collection.**

Any fee or penalty due under this regulation is a debt due the State of West Virginia and may be collected pursuant to law.

**ATTACHMENT 1**

**A. PROJECTED YEARLY FUNDS FROM FEES FOR PERMITS TO CONSTRUCT, MODIFY OR RELOCATE:**

<u>Permits</u>	<u>Number Projected</u>	<u>Projected Funds</u>
45CSR13 Sources	65	\$6,500
NSPS/NESHAPS	15	\$7,500
PSD or Non-Attainment Review/Bubble Concept	2	\$10,000
	<b>PERMIT TOTAL:</b>	<b>\$24,000</b>

**B. PROJECTED YEARLY FUNDS FROM FEES FOR CERTIFICATES TO OPERATE:**

<u>Category</u>	<u>No. Sources Affected</u>	<u>Projected Funds</u>
<u>Group 1</u>	11	\$110,000
Integrated Steel Plant		
Electric Utility Plant (rated 300 MW or greater)		
<u>Group 2</u>	3	\$24,000
Primary Aluminum Plant		
Furnace and Foundry Coke Production Plant		
Portland Cement Plant		
Kraft Paper Mill		
<u>Group 3</u>	14	\$70,000
Chemical Production Plant with Steam Plant (total design heat input greater than 350 mmBtu/hr)		
Hazardous Waste Incinerator		
Electric Utility Plant (rated less than 300 MW)		
<u>Group 4</u>	4	\$16,000
Petroleum Refinery		
Ferroalloy Production Plant		

Group 5 8 \$24,000

Chemical Production Plant  
(three units or greater)

Primary Metals Plant  
(not otherwise listed)

Group 6 23 \$46,000

Rocket Fuel Plant

Chemical Production Plant  
(less than three units)

Carbon Products Plant  
(not otherwise listed)

Petroleum Storage and Distribution  
Facility (greater than 20 million  
gal/yr gasoline throughput)

Glass Production Plant  
(total pull rate greater than  
6,000 lb/hr)

Commercial/Industrial or Commercial  
Infectious Waste Disposal Facility

Group 7 65 \$65,000

Nonmetallic Mineral Products  
Processing Plant (500 ton/hr or  
greater primary crushing capacity)

Coil, Can or Sheet Coating Facility

Coal Preparation Plant with Thermal Dryer

Coal or other Solid Fuel-Fired Boilers  
or Process Equipment (with total design  
heat input greater than 100 mmBtu/hr,  
excluding all boilers less than 10 mmBtu/hr  
design heat input)

Lead, Aluminum or Copper  
Recovery Plant

Asphalt Building Product Plant

Secondary Metals Plant  
(not otherwise listed)

Charcoal Plant

Lime Manufacturing Plant

Group 8

246

\$123,000

Hot Mix Asphalt Paving Plant

Wool Fiberglass Insulation Production Plant

Sewage Sludge Incinerator

Natural Gas Compressor Station  
(total reciprocating engine  
capacity greater than 1,000 h.p.)

Natural Gas Compressor Station  
(total turbine capacity greater  
than 8,000 h.p.)

Nonmetallic Minerals Processing Plant  
(primary crushing capacity greater  
than 100 tons/hr but less than  
500 tons/hr)

Sulfuric Acid Manufacturing Plant

Coal or other Solid Fuel-Fired Boilers  
or Process Equipment (with total design  
heat input greater than 50 mmBtu/hr but  
less than 100 mmBtu/hr, excluding all  
boilers less than 10 mmBut/hr)

Refractory Manufacturing Plant

Metal Reclamation Furnace  
(wire, electrical equipment, batteries)

Miscellaneous Surface Coating  
(not otherwise listed and greater than  
100 tons/yr maximum emissions of volatile  
organic compounds)

Coal Preparation Plant  
(wet washing or pneumatic cleaning  
not otherwise listed)

Clay Processing/Brick Manufacturing

Group 9

164

\$32,800

On-Site Pathological/Infectious  
Waste Incinerator

Crematory Incinerator

Other Glass Including  
Specialty Manufacturing

Plastic Products Recovery Facility

Miscellaneous Surface Coating  
(not otherwise listed and greater than  
25 tons/yr maximum emissions of volatile  
organic compounds)

Tank Truck and Railroad Tank Car  
Cleaning/Repair Facility

Metal or Ore Briquet Manufacturing/  
Recovery Facilities

Gray Iron Foundry

Coal Processing and Handling  
(not otherwise listed)

Nonmetallic Minerals Processing Plant  
(primary crusher capacity less than  
100 tons/hr)

Natural Gas Sweetening Plant

Printing Facility  
(emitting greater than 150 lbs/day of  
volatile organic compounds)

CERTIFICATE TOTAL: \$510,800

CERTIFICATE AND PERMIT TOTAL: **\$534,800**

*West  
Virginia*



DEPARTMENT OF COMMERCE,  
LABOR & ENVIRONMENTAL RESOURCES  
OFFICE OF THE SECRETARY

FILED

1990 MAY 11 PM 4:36

OFFICE OF WEST VIRGINIA

State Capitol

Charleston, West Virginia 25305

304/348-3255

May 3, 1990

Mr. G. Dale Farley  
Secretary  
West Virginia Air Pollution  
Control Commission  
1558 Washington Street, East  
Charleston, West Virginia 25311

Dear Mr. Farley:

I hereby authorize the Air Pollution Control Commission to initiate the rule-making process for a regulation to establish fees for permits and certificates to operate for designated stationary sources of air pollution in West Virginia.

The Commission is specifically authorized to file proposed WVAPCC Regulation 22 "Air Quality Management Fee Program" with the Office of the Secretary of State and to schedule hearings for the possible promulgation of this rule as an emergency and a permanent rule.

Sincerely yours,

*John M. Ranson*

John M. Ranson  
Secretary  
Department of Commerce Labor &  
Environmental Resources

JMM-GDF/tlm