

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Agriculture TITLE NUMBER: 61

CITE AUTHORITY 19-16A

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

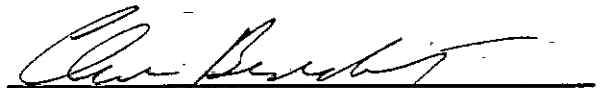
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 12B

TITLE OF RULE BEING PROPOSED: Licensing of Pesticide Businesses

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



SUMMARY OF LEGISLATIVE RULE 61-12B

This rule establishes a structure for the licensing of various types of pesticide businesses. It provides for the keeping of records for the use of pesticides, the sale of restricted use pesticides and the annual volume of sales for pesticides. The amounts of financial security required for liability is specified for each type of pesticide application business for hire.

STATEMENT OF CIRCUMSTANCE

The passage of the 1990 Pesticide Control Act repealed the earlier Pesticide Use and Application Act, thereby rendering ineffective all regulations in place. This rule reestablishes the licensing requirements of pesticide application businesses for hire and dealers of restricted use pesticides. The rule further provides for the registration of other types of pesticide businesses and dealers as required by the Pesticide Control Act of 1990.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Licensing of Pesticide Businesses

Type of Rule: Legislative Interpretive Procedural

Agency Department of Agriculture Address Guthrie Agriculture Center,
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 60,000	\$ 0	\$ 0	\$ 60,000	\$ 60,000
Personal Services	50,000	0	0	50,000	50,000
Current Expense	10,000	0	0	10,000	10,000
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

The above increase is for two (2) additional inspectors and their related expenses.

3. Objectives of these rules:

These rules comply with the Pesticide Control Act requirements to license all businesses applying pesticides in public places and require training for all persons applying pesticides in such places. The regulations further provide a mechanism to gain information of the volume of use of pesticides in the state and a mechanism to disseminate information to all dealers and applicators information regarding changes in pesticide registration and usage. These two (2) items are necessary and vital to the new groundwater protection activities of the state.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The economic impact for state government is a fiscal one of supplying adequate dollars for training and enforcement as outlined in the Pesticide Act of 1990.

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


Political subdivision will face a need to provide adequate training to those persons in their employment who apply pesticide in schools, housing authorities and public buildings. The private housing industry, restruant chains, nursing homes, utilities, etc. will also have to provide training for their employees applying pesticides or hire professional people.

C. Economic Impact on Citizens/Public at Large.

The regulations may result in some higher costs of doing business that will be passed on to the consumer. However, these costs will be offset by increased safety for the public and a reduction of clean up costs for incidents such as school contaminations as have been experienced in the past.

Date: May 30, 1991

Signature of Agency Head or Authorized Representative



DATE: July 26, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Department of Agriculture

LEGISLATIVE RULE TITLE: Licensing of Pesticide Business

1. Authorizing statute(s) citation 19-16A

2. a. Date filed in State Register with Notice of Hearing:

June 4, 1991

b. What other notice, including advertising, did you give of the hearing?

Letter to all licensed pesticide businesses and dealers

Press release to all newspapers in the state.

Copy to WV Farm Bureau and George Carenbauer, Steptoe & Johnson

c. Date of hearing(s): July 12, 1991 at lpm

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:
(be exact)

July 26, 1991

f. Name and phone number(s) of agency person(s) to contact for additional information:

Robert Frame 348-2209

Barbara Smith 348-2226

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached _____

Title 61
WEST VIRGINIA LEGISLATIVE RULE
SERIES XIIB

Title: Licensing of Pesticide Businesses

\$61-12B-1 General

1.1 Scope - This legislative rule establishes the requirements governing the operation of pesticide businesses in West Virginia.

1.2 Authority - W. Va. Code 19-16A-

1.3 Filing Date -

1.4 Effective Date

\$61-12B-2 Definitions

2.1 "Commercially" means a person conducting business activities relating to applying, selling, or recommending the use of pesticides on a routine basis as part of their job duties.

2.2 "Dealer of Restricted Use Pesticide" means a dealer commercially selling restricted use pesticides.

2.3 "Licensed pesticide application business" means a pesticide application business commercially applying pesticides for hire.

2.4 "Pest management consultant" means a person commercially recommending the use of pesticides to others.

2.5 "Registered pesticide dealer" means a dealer commercially selling general use pesticides.

2.6 "Registered pesticide business" means a business commercially applying pesticides not for hire.

§61-12B-3. General Requirements for all Business Licenses

3.1.A. Any pesticide business operating in West Virginia which sells, stores, recommends for use, mixes or applies pesticides shall obtain a valid pesticide business license or permit pursuant to these regulations.

3.1.B. An applicant for a pesticide business license shall apply for the license on a form to be obtained from the commissioner. All requested information shall be included on the form prior to issuance of the license.

3.1.C. All pesticide business licenses are issued on a calendar year basis and shall expire at midnight on December 31 of each year. Licensees shall renew their licenses annually by application to the commissioner and payment of any required annual fee at least 30 days prior to the expiration of their current license.

§61-12B-4. Pesticide Application Business

4.1 General

4.1.1 Any person who owns or manages a pesticide business, which is engaged in the business of applying pesticides upon the lands of another must qualify as either a Licensed Pesticide Application Business or a Registered Pesticide Business.

4.1.2 All pesticide application businesses shall maintain certified commercial applicators or certified public applicators in their employment for the various categories or subcategories of their operation. The categories or subcategories as detailed in the certification and training regulations will be used for determining the areas of pesticide application business operation.

4.1.3 All pesticide applications made by pesticide application businesses shall be made by certified commercial applicators, certified public applicators or technicians who have completed a training program approved by the commissioner that has led to their recognition and issuance of a certificate as a "registered technician".

4.1.4 Each location for which the business of applying pesticides for hire is carried on shall be licensed. This includes each branch office franchise location, sub-office or worker locations of a larger business entity.

4.2 Licensed Pesticide Application Business.

4.2.1 A licensed pesticide application business is a pesticide business commercially applying pesticides for hire.

4.3 Registered Pesticide Business

4.3.1 A registered pesticide business is a pesticide business commercially applying pesticides not for hire. Examples of such businesses include, but are not limited to, apartment complexes, office buildings, educational facilities, golf courses, right of way maintenance, etc.

4.3.2 Persons doing limited applications of pesticides are exempt from a registered pesticide business license for the following provisions.

4.3.2.1 The applicator is performing general pest control on their own rental property of four rental units or less, and is applying only generally available, ready to use pesticide products such as prepared baits, aerosols, foggers, and may only use non-pressurized pump applicators;

4.3.2.2 The applicator is engaged in applying disinfectants in the routine performance of their employment in the medical profession or in janitorial duties; or

4.3.2.3 The applicator uses non-restricted use pesticides and assists in applying pesticides for the production of an agricultural commodity.

4.4 Pesticide Dealer Business Licensing Requirements.

4.4.1 Any pesticide business which sells, distributes, stores or offers for sale any pesticide in West Virginia shall obtain a license as a Dealer of Restricted Use Pesticide or as a Registered Pesticide Dealer.

Leg. Rule
Series XIIB

4.4.1.1 Any business operating as a Dealer of Restricted Use Pesticides shall not allow any location or operation to sell restricted use pesticides without a certified commercial applicator present who shall bear immediate responsibility for the correct and safe operation of his or her location or outlet.

4.4.1.2 Each applicant or applicant designee for a license as a Registered Pesticide Dealer shall take a written examination to demonstrate their knowledge on the storage, display, distribution and transportation of pesticides.

4.4.2 Exemption from pesticide dealers licensing requirements.

4.4.2.1 Retailers of limited quantities of non-restricted use pesticides, including grocery stores, convenience stores, drug stores, veterinarians and other businesses which sell pesticides such as bleaches, disinfectants, aerosols, etc., for limited household or janitorial use are exempt from these business licensing requirements.

4.4.2.2 Delivery services such as, but not limited to, the U.S. Postal Service, United Parcel Service, Federal Express, etc., and warehouses temporarily storing products for shipment to retailers, are exempt from these business licensing requirements.

4.5 Pest Management Consultants Business Licensing Requirements.

4.5.1 Any person or business which recommends any pesticide for use commercially shall register with the commissioner as a Pest Management Consultant.

4.5.2 The specialty categories for a pest management consultant shall conform to the certified commercial applicator categories established in the certification and training regulations, Series 12A. The pest management consultant shall meet the requirements of a commercial applicator in the specific category or subcategory in which he is making recommendations for pesticide use prior to being issued a business license.

Leg. Rule
Series XIIB

4.5.3 Retail sales personnel or certified applicators of any business which has obtained a pesticide application business license and company sales representatives certified in Category 10 Demonstration and Research shall be excluded from the provision of registering as a Pest Management Consultant.

\$61-12B-5. Record Keeping for Pesticide Business.

5.1 General

5.1.1 Each pesticide business shall maintain the following minimum records as a condition of obtaining and renewing a license, permit or certificate. Additional records may be required in other regulations for a specific type of pesticide application.

5.1.2 The commissioner shall have access to these records for the purpose of inspection for compliance and may require a licensed pesticide business to submit these records to his or her office.

5.1.3 The records of each type of following pesticide business shall be kept and maintained for a period of at least 2 years.

5.1.4 Failure to keep or to submit these records is grounds for revocation of a pesticide business license.

5.2. Pesticide Application Business Records.

5.2.1 Each licensed pesticide application business or registered pesticide business shall keep records detailing the application of all pesticides. The minimum information to be maintained shall be:

5.2.1.1 The pesticide used, including EPA registration number.

5.2.1.2 The formulation, dilution rate and the quantity used. In the case of businesses in the classification of General Pest and Ornamental and Turf pest control, the records for quantity used may be kept as the total quantity used per day by

Leg. Rule
Series XIIB

each applicator when less than 1 gallon of use dilution spray or 1 pound of dust, powder or prepared rodenticide baits are used at any one location. When more than these amounts are used at one location, the quantity for that location shall be kept.

5.2.1.3 The date and place of application.

5.2.1.4 The pest or pests against which the pesticide was used.

5.2.1.5 The applicators name and certification or registration number.

5.3 Pesticide Dealer Records

5.3.1 Dealers of restricted use pesticides shall keep and maintain records on the sale or other disposition of restricted use pesticides to include as a minimum:

5.3.1.1 Pesticides sold or otherwise disposed of, including formulation, for example Pest-A-Way 80% WP.

5.3.1.2 Quantity, in weight and/or volume.

5.3.1.3 Date of sale or disposition.

5.3.1.4 Name and address of the purchaser or receiver, including the certified applicators identification number.

5.3.1.5 Verification of intent to apply by a certified applicator in the sale of a restricted use pesticide to a non-certified customer for application by others. The verification of intent shall be on a form as provided by the commissioner.

5.3.2 All licensed pesticide dealers shall, on a calendar year basis, keep records on the volume of annual sales of all pesticide products. These records shall contain the following information:

5.3.2.1 The name and EPA registration number of the pesticide sold, including formulation. For example Pest-A-Way 80% WP., Registration No. 3215-314.

Leg. Rule
Series XIIIB

5.3.2.2 The quantity sold, in weight and/or volume.

5.3.3 The record keeping requirements of 5.3 above may be satisfied by invoices or bills of lading, provided they are kept separate from the licensees other sale records, are readily available and contain the above information.

5.4 Pest Management Consultant

5.4.1 A pest management consultant shall maintain for a period of 2 years records of each pesticide recommendation made. The information to be kept and maintained shall consist of:

5.4.1.1 Date of recommendation.

5.4.1.2 The name and address of the customer, including the site of application if different.

5.4.1.3 Name of the pest(s) being controlled.

5.4.1.4 Name or type of plants, animals or description of sites being treated.

5.4.1.5 Pesticide recommended, including common name and formulation.

5.4.1.6 Dosage rate of the pesticide recommended.

\$61-12B-6. Financial Security Requirement.

6.1 General

6.1.1 All pesticide application businesses are required to furnish evidence of financial security with the commissioner prior to the issuance of a pesticide application business license.

6.2 Licensed Pesticide Application Business

6.2.1 The commissioner shall not issue a pesticide application business license until the applicant has filed evidence of financial security with the commissioner, which may consist of a surety bond or comprehensive general liability insurance policy or certification thereof from an insurance company authorized to do business in West Virginia. Such financial security shall be for the amount and kind for each category of licensed applicator as follows:

Leg. Rule
Series XIIB

6.2.1.1 Agriculture Plant Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death, and One Hundred Thousand Dollars (\$100,000.00) for property damage.

6.2.1.2 Animal Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death, and One Hundred Thousand Dollars (\$100,000.00) for property damage.

6.2.1.3 Forest Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death, and One Hundred Thousand Dollars (\$100,000.00) for property damage.

6.2.1.4 Ornamental and Turf Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death, and One Hundred Thousand Dollars (\$100,000.00) for property damage.

6.2.1.5 Seed Treatment - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death, and One Hundred Thousand Dollars (\$100,000.00) for property damage.

6.2.1.6 Aquatic Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death, and One Hundred Thousand Dollars (\$100,000.00) for property damage.

6.2.1.7 Right of Way Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death, and One Hundred Thousand Dollars (\$100,000.00) for property damage.

Leg. Rule -
Series XIIB

6.2.1.8 Industrial, Institution, Structural and Health-Related Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death, and One Hundred Thousand Dollars (\$100,00.00) for property damage.

6.3 Liability for Pesticide Use.

6.3.1 Liability for Pesticide Use.

Nothing in these regulations shall be construed in any way to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of the commissioner.

LICENSING OF PESTICIDE BUSINESSES

STATEMENT OF AGENCY RESPONSE TO COMMENTS

The agency made no changes in the regulations from that originally filed due to the written and oral comments received. The statement of the circumstances of the public hearing, persons attending and the one written comment received are attached.



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE

State Capitol
Charleston, WV 25305

Cleve Benedict
Commissioner

M E M O R A N D U M

TO: The Record

FROM: Robert E. Frame, Director, Pesticide Division

SUBJECT: Public Hearing for Rules Titled "Licensing of Pesticide Businesses", Title 61 Series 12B.

DATE: July 25, 1991

A public hearing was held July 12, 1991 at 1:00 p.m. in the conference room of the Guthrie Agricultural Center, to receive comments on the proposed rules on the Licensing of Pesticide Businesses. A Notice of Public Hearing was filed with the Secretary of State's office on June 4, 1991. A notice of hearing and summary of the proposed rule was sent to 365 known pesticide businesses and dealers. A general press release was also to announce the hearing. A copy of the proposed rules was mailed to all persons or parties making requests.

On July 12, 1991 at 1:00 p.m., 7 people were present for the hearing. Mr. Rex Bartlett of Monongahelia Power Company submitted written comments, and Mr. Ed Hartman of Helena Chemical Company indicated he wished to speak to the proposed rule. In soliciting Mr. Hartman's comments, it turned out he had questions about the rule rather than comments. Prior to opening the official transcript, questions were solicited for answers. After about 15 minutes of a general question and answer session the transcript was opened for comment. None were received.

Mr. Bartlett's written comment was based on a misconception the rule would require his company to obtain insurance in excess of their current levels. It was explained to him that additional insurance was not required. As such, his concerns were resolved. His written comment is attached for the record. No other comments were received prior to the hearing or to date.

/bc

Attachment

NAME	ADDRESS	AFFILIATION	DO YOU WISH TO SPEAK?
<i>1</i> <i>Ed Taylor</i>	<i>1708 Bickley Blvd. Chas. WV 25302</i>	<i>Bruce Forminx</i>	<i>Questions</i>
<i>Rex L. BARTLETT</i>	<i>1370 FAIRMONT AVE. FAIRMONT, WV 26554</i>	<i>MONROEMAN Abuse Company</i>	<i>SUBMIT WRITTEN COMMENTS</i>
<i>John F MOORE/Histor</i>	<i>Pt 2 Box 339A & Dua, W. Va. 25545</i>	<i>Southern States Coop</i>	<i>No</i>
<i>James E. Taylor</i>	<i>P.O. Box 90 Milden, W.Va. 25305</i>	<i>Terra Care</i>	<i>No</i>
<i>GEORGE R. BOHACH</i>	<i>TERRA CARE P.O. BOX 90 MILDEN WV 25306</i>	<i>TERRA CARE</i>	<i>No</i>
<i>EDWARD J. SCURER</i>	<i>2192 WINFIELD RD. WINFIELD WV</i>	<i>DAVEY TREE</i>	<i>NO</i>
<i>Ed Hartman</i>	<i>P.O. Box 2438 Winchester, W. Va. 26201</i>	<i>Helena Chemical Co.</i>	<i>Yes!</i>

LEGAL DEPARTMENT



Monongahela Power Company

Part of the Allegheny Power System

1310 Fairmont Avenue
P. O. Box 1392
Fairmont, WV 26555-1392
(304) 366-3000

July 12, 1991

HAND DELIVERY

West Virginia Department of
Agriculture
State of West Virginia
Pesticide Division
1900 Kanawha Boulevard, East
Charleston, WV 25305

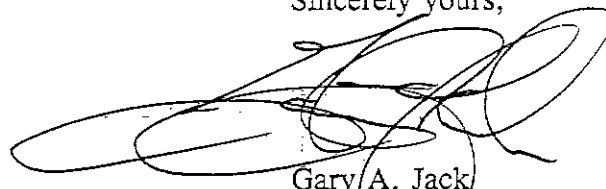
RE: **Comments on Licensing of Pesticide Businesses**
Title 61, Series 12B

Dear Department of Agriculture:

Enclosed herewith for filing are the original and twelve (12) copies of comments of Monongahela Power Company in connection with the Department's proposed rules on licensing of pesticide businesses.

Should there be any questions, please feel free to contact me or Rex Bartlett of our Company.

Sincerely yours,



Gary A. Jack
Attorney

GAJ:drf
Enclosures

**DEPARTMENT OF AGRICULTURE
LICENSING OF PESTICIDE BUSINESSES
TITLE 61, SERIES 12B**

Monongahela Power Company ("Monongahela") is a public electric utility providing electric services to customers in northern and central West Virginia and southeastern Ohio. Due to its miles of electric power lines that require the use of pesticides in controlling vegetative growth, Monongahela is directly impacted by these rules.

Monongahela has a suggestion concerning the financial security requirements. Those financial security requirements that are currently proposed are too limited in terms of proving to the agency that a given company does have financial security. More specifically, a letter of credit or self insurance should be acceptable proof of financial security. The United States Environmental Protection Agency and Ohio Department of Natural Resources has allowed multifaceted approaches for a company or entity to show financial security in connection with underground storage tanks. We attach, as an exhibit, an example of the self insurance provision Monongahela uses in connection with underground storage tank financial security. It is fruitless for Monongahela to have to procure and maintain liability insurance when its assets are of such significant proportion to easily cover any type of damages stemming from a pesticide problem. In fact, any insurance company that would likely insure Monongahela would likely not have the financial integrity or stability comparable to a large electric utility. Accordingly, our financial integrity or net worth should meet any requirements of financial security that the DOA should desire.

It is Monongahela's recommendation that Section 6.2.1 be modified at the end of the first sentence to include such forms of financial security as letters of credit and self insurance so long as net worth exceeds a certain level. With the example of underground storage tanks, a net

worth ten times the maximum liability is required. Since in these regulations the maximum amount of coverage for right of way liability is \$300,000, it would appear to be appropriate that net worth must be at least \$3,000,000. This would be acceptable to Monongahela. But DOA should not require Monongahela to have to go to the marketplace to procure general liability insurance that will not enhance the ability of the company to pay a claim, and, in fact, will detract negligibly from its ability to pay by having to pay an unneeded profit expense to an insurance company.

Monongahela Power Company appreciates the opportunity to comment on these very important regulations.

MONONGAHELA POWER COMPANY



M. W. Bomar
Director, Engineering and
Construction

Exhibit

UNDERGROUND STORAGE TANK FINANCIAL RESPONSIBILITY
Monongahela Power Company
1991
(Based on 1990 fiscal year)

I am the chief financial officer of Monongahela Power Company. This is in support of the use of the financial test of self insurance to demonstrate financial responsibility for taking corrective action and/or compensating third parties for bodily injury and property damage caused by sudden accidental releases and/or nonsudden accidental releases in the amount of at least \$500,000 per occurrence and \$1,000,000 annual aggregate arising from operating underground storage tanks.

Underground storage tanks at the following facilities (see attachment A) are assured by this financial test or a financial test under an authorized State program by this owner or operator.

[A financial test is also used by this owner or operator to demonstrate evidence of financial responsibility in the following amounts under other EPA regulations or state programs authorized by EPA under 40 CFR Parts 271 and 145:

EPA Regulation	Amount
Closure (Secs. 264.143 and 265.143)	\$. -0-
Post-Closure Care (Secs. 264.145 and 265.145)	\$. -0-
Liability Coverage (Secs. 264.147 and 265.147)	\$. -0-
Corrective Action (Sec. 264.101(b))	\$. -0-
Plugging and Abandonment (Sec. 144.63)	\$. -0-
Closure	\$. -0-
Post Closure Care	\$. -0-
Liability Coverage	\$. -0-
Corrective Action	\$. -0-
Plugging and Abandonment	\$. -0-
Total	\$. -0- ¹

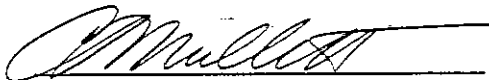
This owner or operator has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his financial statements for the latest completed fiscal year.

¹This paragraph is NOT applicable to Monongahela Power Company because it is not regulated by the citations given and does not own nor operate a hazardous waste TSD facility. This paragraph has been reproduced in this letter of financial responsibility solely for the purpose of compliance with 40 CFR, Part 280, Section 280.95.

Alternative I

- | | | | | |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----------------------|---------------|
| 1. | Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee | .\$ | <u>1,000,000</u> | |
| 2. | Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee | .\$ | <u>N/A</u> | |
| 3. | Sum of lines 1 and 2 | .\$ | <u>1,000,000</u> | |
| 4. | Total tangible assets. | .\$ | <u>1,054,497,000</u> | |
| 5. | Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6]. | .\$ | <u>560,481,000</u> | |
| 6. | Tangible net worth [subtract line 5 from line 4]. | .\$ | <u>494,016,000</u> | |
| | | | Yes | No |
| 7. | Is line 6 at least \$10 million? | | <u>X</u> | <u> </u> |
| 8. | Is line 6 at least 10 times line 3? | | <u>X</u> | <u> </u> |
| 9. | Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission? . . . | | <u>X</u> | <u> </u> |
| 10. | Have financial statements for the latest fiscal year been filed with the Energy Information Administration? . . . | | <u>X</u> | <u> </u> |
| 11. | Have financial statements for the latest fiscal year been filed with the Rural Electrification Administration? . . | | <u> </u> | <u>N/A</u> |
| 12. | Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met.]. | | <u>X</u> | <u> </u> |

I hereby certify that the wording of this letter is identical to the wording specified in 40 CFR Part 280.95(d) as such regulations were constituted on the date shown immediately below.



C. S. Mullett
 Secretary and Treasurer
 Monongahela Power Company

Date 4/15/91